

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 22 October 2003

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE CHAN KWOK-KEUNG, J.P.

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

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

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

THE HONOURABLE WONG YUNG-KAN

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

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

DR THE HONOURABLE YEUNG SUM

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

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

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

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

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

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

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

THE HONOURABLE MA FUNG-KWOK, J.P.

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

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

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

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

CLERKS IN ATTENDANCE:

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

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Securities and Futures (Contracts Limits and Reportable Positions) (Amendment) (No. 2) Rules 2003.....	221/2003
Dutiable Commodities Ordinance (Amendment of Schedules 1A and 1B) Notice 2003	222/2003
Import and Export Ordinance (Amendment of Schedules 2 and 3) Notice 2003	223/2003

Other Papers

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|--------|---|--|
| No. 10 | — | The Land Registry Trading Fund Hong Kong 2002/2003 Annual Report |
| No. 11 | — | Companies Registry Annual Report 2002-03 |
| No. 12 | — | Hongkong Post Annual Report 2002/03 |
| No. 13 | — | Environment and Conservation Fund Trustee Report 2002-2003 |

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Assisting Local Business Community Benefiting from CEPA

1. **MRS SELINA CHOW** (in Cantonese): *Madam President, although the local business community welcomes the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) signed between the Central Government and the Government of the Hong Kong Special Administrative Region (SAR) and considers that CEPA provides golden opportunities for entering the mainland markets, they have some doubts and worries about doing business in the Mainland. For instance, the lengthy quarantine and the complicated licensing procedures render Hong Kong businessmen unable to benefit from CEPA. In this connection, will the Government inform this Council:*

- (a) *how the authorities will, upon implementation of CEPA, assist the local business community in streamlining the complicated administrative procedures they have to go through when doing business in the Mainland; and*
- (b) *whether it has appealed to the Central Government for relaxation of foreign exchange control, so that the local business community can flexibly deploy their capital in the future; if so, of the progress to date?*

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

- (a) The SAR Government and the Central People's Government signed the main parts of CEPA on 29 June 2003. After three months of consultations, the two sides have reached consensus on the operational details of CEPA; and the six Annexes, which set out the implementation details, were signed in Hong Kong on 29 September 2003, marking the successful conclusion of the first phrase consultations.

Concessions in respect of value-added telecommunications services have already been implemented since 1 October. Other liberalization measures will apply as from 1 January 2004. The Government understands the importance of trade and investment facilitation to the successful implementation of CEPA, and it

constitutes one of our major objectives when formulating and implementing various measures under CEPA.

On trade in goods, Hong Kong's existing origin rules will be adopted as the CEPA origin rules for most of the 273 items covered in the initial phase. The procedures for issuing Certificates of Hong Kong Origin — CEPA (CO(CEPA)) will be largely the same as the existing arrangement in respect of issuance of Certificates of Hong Kong Origin. Traders can through electronic means apply to the Trade and Industry Department (TID) or one of the Government Approved Certification Organizations. Generally speaking, an application may be approved in 1.5 working days. These efficient and time-saving arrangements will facilitate the operations of manufacturers. Separately, the Government and mainland Customs have established a computer link and an electronic data exchange mechanism. Goods entering the Mainland will be released once information on CO(CEPA) matches the data the Government has transmitted to the Mainland, thus enhancing the efficiency of customs clearance for goods enjoying zero tariff preference.

On trade in services, the TID has set up a designated CEPA Branch to provide one-stop Hong Kong Service Supplier certification services for all the 18 service sectors. The CEPA Branch will also handle enquiries from the trade and the public, as well as co-ordinate the release of practical information relating to the application procedures for preferential treatment under CEPA in the Mainland. The Government notes that there are areas in the mainland laws and regulations which the trade may wish to seek clarification, such as the scope of liberalization, application procedures as well as the approving authorities in different provinces and cities. We have already conveyed these questions in detail to the mainland authorities; and relevant Policy Bureaux and departments are also liaising with their mainland counterparts with a view to seeking answers to these queries as soon as possible, so that the trade could start their preparations early. Moreover, we are proposing to the Mainland to set up designated enquiry points and one-stop service counters for individual service sectors in responsible ministries and departments to answer questions Hong Kong companies may have in

relation to doing business in the Mainland, as well as to facilitate relevant applications.

In this connection, the two sides have decided to establish an expert group on CEPA implementation under the Hong Kong/Guangdong Co-operation Joint Conference to enhance the exchanges and co-operation between Hong Kong and Guangdong authorities on the implementation of CEPA.

In addition, under the trade and investment facilitation framework in Annex 6 of CEPA, the two sides will strengthen co-operation in a number of areas, such as enhancing transparency in laws and regulations as well as co-operation in commodity inspection and quarantine, food safety, and quality and standardization.

On enhancing transparency in laws and regulations, the two sides have agreed to exchange information on the enactment and amendment of laws, regulations and rules in respect of investment, trade and other economic areas; disseminate in a timely manner information on policies and regulations through various media including newspapers, journals and website; to organize and support the organization of briefings and seminars on economic and trade policies and regulations. Moreover, the World Trade Organization (WTO) enquiry points and websites of "Invest in China" and "China Business Guide" of the Mainland will continue to provide advisory services to commercial and industrial enterprises. Co-operation in the above areas will help Hong Kong services suppliers in understanding relevant mainland laws and regulations, and obtaining the latest trade information, thus helping them develop their business in the mainland market.

On commodity inspection and quarantine, food safety, and quality and standardization, relevant departments of the both sides agree to strengthen communication and co-operation, on the basis of existing co-operation mechanisms, to protect the health and safety of mainland and Hong Kong people, and at the same time, ensure the uninterrupted flow of goods and persons.

Furthermore, the Commerce, Industry and Technology Bureau, the

TID, Office of the SAR Government in Beijing, Guangdong Economic and Trade Office (GDETO), and the Hong Kong Trade Development Council (TDC) will, at the governmental and enterprises levels, continue to actively collect information on mainland trade and economic laws and regulations, as well as business and commercial news. The latest information will be disseminated to Hong Kong businesses through websites, GDETO Newsletter, the TID's Commercial Information Circulars, as well as the TDC's website, research reports and newsletters. The information will help Hong Kong traders fully grasp the latest policies and commercial developments in the Mainland when formulating their business strategies. At the same time, through large-scale promotion activities, seminars and visits, we will encourage exchanges and liaison between businesses and trade associations in Hong Kong and relevant mainland authorities, which will be conducive to establishing linkage and enhancing understanding of relevant policies and regulations, as well as to expanding business co-operation opportunities.

- (b) On foreign exchange control, my response is as follows: the mainland authorities have gradually relaxed foreign exchange control in the Mainland in recent years. With the liberalization of the current account in 1996, Hong Kong businessmen can freely convert foreign currencies from and into Renminbi when engaging in import/export trade and current account transactions in the Mainland. Foreign and Hong Kong businessmen are also encouraged to invest in production plants or engage in general business in the Mainland and they are not subject to too many restrictions on the transfer of funds. Besides, the mainland authorities concerned have gradually simplified the application procedures for foreign exchange transactions in recent years, facilitating more flexible transfer of funds by those concerned.

On the integration and co-operation between financial markets in Hong Kong and the Mainland, the SAR Government and mainland authorities concerned have maintained constant contacts and reflected the views of the market to the mainland authorities. Views are exchanged on a wide range of issues, including the

development of financial markets and foreign exchange systems. The same applies to the issue of foreign exchange control in the Mainland, which is a subject of discussions occasionally between the SAR Government and the mainland authorities concerned.

Foreign exchange control is a policy adopted by the Mainland with regard to the overall status of its economic development. The mainland authorities concerned have also reassessed from time to time their exchange control measures and introduced some relaxation as appropriate. Examples include recent announcement of measures allowing mainland enterprises to invest directly overseas and revising foreign currency cash limits to be carried by individuals entering and leaving the Mainland. Where appropriate, the SAR Government will continue to exchange views with the relevant mainland authorities on the relevant issues.

MRS SELINA CHOW (in Cantonese): *Madam President, the Secretary has spent nine minutes on giving his reply. I hope the President would give us a little bit more time to raise our supplementary questions.*

About the one-stop Hong Kong service supplier certification services as mentioned in the second page of the main reply, many service suppliers are in fact very much worried that the existing barriers are not removed under CEPA. Will the Secretary inform us whether, when releasing information to Hong Kong service suppliers in this regard at a later stage, he would appeal to the authorities of various provinces and municipalities in the Mainland to streamline and reduce unnecessary and cumbersome procedures, so as to facilitate Hong Kong service suppliers in starting work and doing business under CEPA sooner?

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, CEPA is only a start. We will adopt a progressive approach. While learning the relevant procedures of various provinces and municipalities in the Mainland gradually, we will also request and appeal for a streamlining of procedures.

DR LUI MING-WAH (in Cantonese): *Madam President, as pointed out in the*

third paragraph of part (a) of the main reply, goods entering the Mainland would be released once information on CO(CEPA) matched the data the Government had transmitted to the Mainland, which meant that the mainland Customs would release the goods without carrying out any inspections. I wish to know if it is the case, as electronic data.....

PRESIDENT (in Cantonese): Have you raised your supplementary question?

DR LUI MING-WAH (in Cantonese): *I wish to explain that it is about the quality of the electronic data, but what about the quantity?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, the data mentioned here referred to the zero tariff preference enjoyed by certain items. If we have provided data on items enjoying zero tariff preference to the Mainland, the goods can be cleared once their quantity and quality are confirmed in full compliance.

PRESIDENT (in Cantonese): Dr LUI Ming-wah, has your supplementary question not been answered?

DR LUI MING-WAH (in Cantonese): *The Secretary has not answered as to whether the Mainland would conduct inspections.*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, each Customs authority has its own power to determine whether inspections should be carried out. We hope we can reach consensus on the goods enjoying zero tariff preference. However, if they receive information alleging irregularities, they will certainly search the goods in question.

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

of part (a) of the main reply, it has been mentioned that 273 items could enjoy zero tariff preference. For those goods manufactured in Hong Kong but not covered, which parties can the manufacturers consult? Besides, as negotiations are still in progress, when will consultations on this subject be initiated again?

PRESIDENT (in Cantonese): Mr Kenneth Ting, the goods to which you referred in your supplementary were not included in the 273 items, but are they covered in the framework of CEPA?

MR KENNETH TING (in Cantonese): *Yes, they are also products and they can be covered by CEPA.*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, with China's commitments upon accession to the WTO and the concessions for these 273 items, about 90% of the value of our exports to the Mainland are eligible for zero tariff, with the exception of only 10%. If the products mentioned by Mr TING fall in that category, a mechanism is in place for these products to apply for zero tariff treatment. However, in submitting applications, these products must be genuinely manufactured in Hong Kong and meet the CEPA rules of origin. As for the timetable for the next phase of consultations, we have in fact started negotiations with the mainland authorities on the way forward.

MR CHAN KAM-LAM (in Cantonese): *Madam President, the Secretary mentioned in the last paragraph of the main reply that foreign exchange control was a policy adopted by the Mainland and that the Government and the mainland authorities were having discussions on the subject of allowing mainland enterprises to invest in Hong Kong. Has the Government discussed with the Mainland on measures to facilitate mainland enterprises in setting up companies, making investment or even purchasing properties in Hong Kong? Also, whether mainland private enterprises can enjoy the same treatment?*

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, the subject of this question is the Mainland/Hong Kong Closer Economic Partnership Arrangement, does the

question raised by you have anything to do with CEPA?

MR CHAN KAM-LAM (in Cantonese): *Madam President, it is totally relevant, as it involves the issues of foreign exchange control and corporate governance.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the SAR Government and the mainland authorities concerned maintain communications in the co-operation between financial markets. According to my understanding, maybe I will answer Mr CHAN's question this way. From 2002 onwards, mainland enterprises in 10 pilot provinces and municipalities are allowed to make investments outside China without actually possessing any foreign exchange funds of their own. The aggregate limit for exchange branches in each pilot province and municipality is approximately US\$200 million. The exchange branch will, on the advice of relevant departments of the Provincial and Municipal People's Government, vet and approve requests on foreign currency buy-in for investment items outside China, thereby enabling more funds to be injected into overseas investment. I wonder if this answer has addressed Mr CHAN's question.

PRESIDENT (in Cantonese): Mr CHAN, has your supplementary question been answered?

MR CHAN KAM-LAM (in Cantonese): *No, Madam President. My question is: Whether further discussion will be carried out on liberalization, so as to enable more enterprises to invest, set up office and purchase properties in Hong Kong?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, we have regular discussions with the mainland authorities concerned on such issues as financial markets and foreign exchange. As we all know, a number of mainland enterprises are listed in Hong Kong, so we have in fact maintained substantial communications. We however welcome views from the market. If Members or the public have any opinions in this regard, they can reflect to us and we are prepared to relay them to the mainland

authorities concerned.

MISS CHOY SO-YUK (in Cantonese): *Madam President, from the main reply, I was given the impression that, on CEPA, the SAR Government had maintained considerable communication with Guangdong and the Central Government, and had held a number of discussions with major industries. Other provinces and municipalities as well as industries of a smaller scale, were indeed very much willing to discuss with the SAR Government. Their attitudes were proactive. What measures does the Government have in expediting the CEPA discussions with other provinces and municipalities so as to enable Hong Kong businesses to benefit from CEPA in the Mainland?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): *Madam President, I believe the work in respect of CEPA involves mainly Guangdong Province, so priority is placed in Guangdong. However, it does not mean that we will pay no attention to other provinces and municipalities. For instance, we will hold a meeting with Shanghai on Monday, to discuss various related issues under CEPA. As for other provinces, they have indeed come to Hong Kong and expressed an interest in CEPA. We will hold discussions with them in various aspects. However, as there are indeed many provinces and municipalities in the Mainland, if the discussions held with these places are as high level and complicated as that of Guangdong Province, we will have difficulties in deploying staff. Nonetheless, discussions will be held as soon as practicable, so that more provinces and municipalities can be benefited.*

PRESIDENT (in Cantonese): *We have spent 19 minutes on this question. Last supplementary question.*

MR JAMES TIEN (in Cantonese): *Madam President, I think the early implementation of CEPA is crucial and it will be meaningless if it were to be implemented in a couple of years. In the second page of the main reply, there is mention about 18 service sectors and that the Government noted that there were areas in the mainland laws and regulations which the trade might wish to seek*

clarification, such as the scope of liberalization. May I ask, in respect of the enactment of legislation as suggested by the Secretary, if the Government has discussed with the Central Government or its counterpart in Guangdong that whether it should be made on the level of local or Central Authorities? If, instead of enactment by the Central Authorities, the Guangdong authorities enact their own laws to deal with these issues, what would happen to other provinces and municipalities? May I ask the Secretary if the Central Authorities will make legislation in accordance with the law, so that various provinces and municipalities can have legislation for compliance?

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, CEPA is an agreement signed between Hong Kong and the Central Government, that is why general work in various areas has to be carried out direct on the Central Government level. For instance, our colleagues will go to Beijing with representatives of the telecommunications industry for direct discussions on the further promotion of CEPA among the telecommunications industry, and to brief them on the necessary licensing procedures. Recognizing the need of carrying out the majority of facilitation work for Hong Kong in the Pearl River Delta, we will discuss the relevant situation with the local officials concerned, with a view to materialize expeditiously and extensively the benefits of CEPA.

MR JAMES TIEN (in Cantonese): *Madam President, my supplementary question has not been answered. My question is: Whether legislation is necessary? Yet the Secretary considered discussions and arrangements would suffice. If no legislation is in place, which parties should the manufacturers approach? If legislation should be in place, whether it should be enacted by the Central Authorities, so that it would apply throughout the whole country?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, it depends on the issues. Under certain circumstances, amendments may be required for the existing laws. However, generally speaking, I do not think it is necessary, and only clarification on the application of law will suffice.

PRESIDENT (in Cantonese): Second question.

Crimes Committed by Mainland Visitors and Sentences Passed

2. **MR WONG YUNG-KAN** (in Cantonese): *Madam President, will the Government inform this Council of:*

- (a) *the respective numbers of crimes in which the suspects were mainland visitors who travelled to Hong Kong on individual visit endorsements, business visas and other types of documentation, together with a breakdown of such crimes by category; and*
- (b) *the number of mainland visitors convicted of criminal offences and the sentences passed on them*

in the past 36 months?

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) Statistics on mainland visitors who have committed crimes in Hong Kong kept by the Administration are by number of persons arrested instead of by number of crimes committed. Since August 2003, the relevant departments started to maintain separate statistics on the number of mainland visitors coming to Hong Kong under the Individual Visit Scheme and were arrested for having committed crimes. Before then, no complete set of separate statistics were maintained on mainlanders visiting Hong Kong using different types of travel documents who were arrested for having committed crimes. Since 2000, the numbers of mainland visitors arrested for crimes are as follows:

<i>Offences</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003 (January to September)</i>	
				<i>Individual Visit Endorsement¹</i>	<i>Other Travel Documents²</i>

Serious immigration offences (including offences related to forged documents)	302	374	373	0	200
Miscellaneous theft	138	180	302	1	267
Forgery and coinage	97	98	214	0	217
Shop theft	132	165	210	2	174
Deception	104	129	205	0	118
Theft from construction site	3	16	60	0	95
Wounding and serious assault	34	36	65	0	71
Pickpocketing	33	26	52	1	48
Prostitution	2 740	3 057	6 826	8	7 025
Illegal employment	1 853	2 210	3 031	2	3 534
Others	178	241	379	3	372
Total	5 614	6 532	11 717	17	12 121

Remark 1: The Individual Visit Scheme was implemented since 28 July 2003.

Remark 2: Other travel documents include other kinds of endorsement under Two-way Permits and Chinese passport, and so on.

- (b) Since 2000, the number of mainland visitors who were convicted are as follows:

<i>Offences</i>	<i>2000</i>	<i>2001</i>	<i>2002²</i>
Prostitution	2 307	2 016	4 751
Illegal Employment	1 053	1 236	1 878
Other Criminal Offences ¹	776	934	1 504

Remark 1: Figures on mainland visitors convicted for other criminal offences include those visiting Hong Kong on Two-way Permits only.

Remark 2: Due to the technical procedures involved in compiling statistics, figures were available up to end of 2002 only for the time being.

A significant majority of the convicted mainland visitors were sentenced to imprisonment, mostly for a period ranging from three months to three years. Other common sentences include fine

penalty (usually ranges from \$500 to \$5,000), suspended sentence and conditional release.

MR WONG YUNG-KAN (in Cantonese): *Madam President, the reply given by the Government shows that crime rates are constantly on the rise and the crimes committed include prostitution and illegal employment. For the period from January to September 2003 alone, there are some 12 000 cases. May I ask the Government whether there are suspicions that the rise in offences is due to some organized activities? If so, what measures will the Government use to solve this problem?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the matter is receiving much attention in the Government. In the middle of this year, an inter-departmental group was set up under the co-ordination of a Deputy Commissioner of Police. Other members in the group include colleagues from the Immigration Department, the Customs and Excise Department, the Correctional Services Department, the Labour Department and other departments. The group is tasked with studying the combat against commission of offences by visitors in Hong Kong. We have formulated three major strategies to this end, namely, first, enhancing communication with the public security authorities on the Mainland in the hope that the issuing units would exercise greater stringency in vetting applications for travel documents; second, in visitor clearance, our colleagues in the Immigration Department (ImmD) will inspect each inbound visitor more closely and visitors will be refused entry if suspicion is aroused; third, in law enforcement, the Hong Kong Police Force, the ImmD and other related departments will conduct raids on black spots of illegal employment and prostitution both on a regular and irregular basis.

As to whether there are crime syndicates involved, we cannot rule out such a possibility, so the information exchange between the ImmD and the police is not confined to information on such activities within the territory but we also hope that there will be information exchange with the authorities on the Mainland. In this way we can hope to bring these crime syndicates to justice both in Hong Kong and on the Mainland.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, the travel documents of mainland residents coming to Hong Kong on business endorsement*

or a two-way permit are all issued by departments on the Mainland, may I ask whether or not the ImmD here has any facilities to identify those who have committed crimes and so they can be refused entry? In addition, among those persons who are found to have committed crimes before, how many of them have committed crimes in Hong Kong again?

SECRETARY FOR SECURITY (in Cantonese): The two-way permit of the Mainland is issued by the public security units on the Mainland and not by the ImmD in Hong Kong. Our colleagues in the ImmD, especially the front-line staff, all have received proper training to identify genuine and forged documents. Over the past few years, we have noticed that some documents are authentic, but the bearer has used another name in making the application. It is because they wish to avoid being refused entry into Hong Kong on grounds of their undesirable record. Such incidents have been found in the past. If my memory has not failed me, some 300 such cases were discovered last year. We are very concerned about this and we have conveyed our concern to the mainland public security authorities in the hope that more effort will be exerted to ascertain the true identity of the applicants, and that more stringent vetting should be made before two-way permits are issued, so as to prevent people coming to Hong Kong by passing off as someone else.

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

MR CHAN KWOK-KEUNG (in Cantonese): *The Secretary has not answered the last part of my question, that is, how many people have committed crimes in Hong Kong again.*

SECRETARY FOR SECURITY (in Cantonese): I think I have said before that we will only know that these persons are second-time offenders when we have arrested them. Last year some 300 such cases were found.

MR JASPER TSANG (in Cantonese): *Madam President, there seems to be an impression among the public that the Individual Visit Scheme launched by the*

Mainland would lead to an increase in crimes in Hong Kong. However, the figures provided by the Secretary show that the number of people coming here under the Individual Visit Scheme and arrested for having committed crimes here is very small. May I ask the Government if analyses have been made to identify which types of visas, travel documents and place of issue concerning mainland visitors to Hong Kong have particularly high crime rates? Such information can enable special efforts be targeted on these types of people and that the mainland authorities can be urged to step up with their vetting work.

SECRETARY FOR SECURITY (in Cantonese): Madam President, what Mr TSANG has spoken are true facts, that is, the crime rate for people coming here under the Individual Visit Scheme is low. For some 100 000 to 200 000 people having come here under the Scheme, only 17 have found to have committed offences according to our records. We find that among those mainland visitors who have committed offences here, those holding a business endorsement and those holding a relatives visit endorsement have a relatively high crime rate. As for people from which province or municipality have a higher crime rate, we are still looking into the matter. We hope that when the study is complete, we can identify the problem and discuss it with the public security authorities on the Mainland with a view to tackling it.

Why is it that those visitors with an individual visit endorsement have a low crime rate? For the time being, we have not yet made a full-scale review, but looking at the matter from the surface, we would think that presently the Individual Visit Scheme is open only to 10 of the more affluent cities in China and the public securities authorities in these 10 cities may be more stringent in vetting the applications. Hence, first, people who come here under the Scheme are of a higher quality; second, the public security authorities are stringent in vetting applications; and third, the hardware is better. As far as we know, data of the permanent residents of these cities have been inputted into the computer and it would be more accurate in ascertaining the true identity of the applicants.

We hope that the experience gained from the Individual Visit Scheme can be applied to other issuing authorities such as those for the business endorsement, relatives visit endorsement and tourist endorsement. We will see if these authorities are being as stringent in their work as the authorities issuing visas under the Individual Visit Scheme and that they can assist us by intercepting at

the source those who are likely to cause trouble.

MR HOWARD YOUNG (in Cantonese): *Madam President, the Secretary has said just now that there are some 300 cases in which people are found to have used false names and come here not on their own travel documents. Does the Secretary mean that the document displays another name but the photograph is actually the bearer? I have noticed that when Hong Kong residents clear the mainland immigration, at times they are required to produce their identity cards to see if they are the same people as shown in the travel document. If a spot check system is adopted to check the identity cards of the visitors, would this help reduce this problem of using a false name in the travel document?*

SECRETARY FOR SECURITY (in Cantonese): *Madam President, the 300-odd cases which I have mentioned are mostly related to people who were arrested the first time they came here and then used another name to apply for a two-way permit to come here again. The documents are officially issued by a public security authority and so they are not forged. When our colleagues are presented with such a genuine document, they would have no grounds to suspect or to ask for the inspection of other documents. Unless we are suspicious, we will not ask the visitor to produce other documents for inspection. As Mr YOUNG has said, it is possible to verify their true identity by inspecting other documents they carry. In any case, I am grateful to Mr YOUNG for making such a good suggestion.*

MR JAMES TO (in Cantonese): *The Secretary has mentioned earlier that studies will be made to look into which provinces or municipalities have inadequacies in issuing travel documents and that some analyses will be made. I asked the Government publicly to do these more than a year ago, but maybe it has been so busy handling the enactment of laws on Article 23 of the Basic Law that nothing has been done. May I ask the Secretary, in the light of the rising figures for 2000 to 2002, how they compare to the number of mainland visitors to Hong Kong during the same period? Despite the fact that the threat felt by the public is absolute rather than relative, can the three major strategies as mentioned by the Government prove that at least the figures from marginal analyses are falling against the total number of mainland visitors, or that both the*

marginal values and the absolute values have been on the rise? What is the Secretary going to do about it?

SECRETARY FOR SECURITY (in Cantonese): Madam President, from the figures we know that both the offences of prostitution and illegal employment are on the rise, but their rates of increase do not differ very much from the increase in inbound visitors. Perhaps I would supply some figures to Mr TO. In the year 2000, the total number of mainland visitors to Hong Kong was 3 766 350; in 2001, the number rose to 4 425 107 and the rate of increase was quite significant. In 2002, that is last year, the rate of increase was tremendous and the number increased by some 2 million to 6 778 042. According to our estimate, the number this year will not be less than 8 million.

MR JAMES TO (in Cantonese): *What I asked was about ratios, that is, in 2002, some 11 000 people were arrested; in 2001 there were some 6 000, so by comparison, it seems that the marginal value is still on the rise. If both the absolute and the marginal values have been on the rise, does this show that the measures adopted by the Government are effective?*

SECRETARY FOR SECURITY (in Cantonese): The absolute value will certainly be on the rise, for the total number of visitors to Hong Kong has been rising. In terms of percentages, the proportion of visitors found to have engaged in prostitution was 0.073% in 2000; 0.069% in 2001 which was quite similar to that in 2000. In 2002, the percentage did rise, for it was 0.1%. However, as to whether our efforts in combating crimes are effective, that cannot be judged by looking at the figures for one particular year alone. We have set up an inter-departmental group this year headed by a Deputy Commissioner of Police and we will use the three major strategies to combat cross-boundary illegal activities. I hope these can bear fruit in the near future.

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

DR RAYMOND HO (in Cantonese): *Madam President, according to information provided by the Secretary, we know that the number of mainland*

visitors involved in theft from construction sites last year rose by as much as four times as compared to the year before, and 20 times as compared to two years ago. May I ask the Secretary whether guidelines have been issued to remind contractors of security matters on construction sites that they should take note of? Does the Government have any measures in place to help contractors reduce such theft cases on their sites?

SECRETARY FOR SECURITY (in Cantonese): The Police Force has liaised with the trade to urge contractors to take effective measures to protect their property. The figures cited by Dr HO just now do show an increase. With respect to theft from construction sites, there were only 38 such cases last year, but the same period from January to September 2003 saw an increase to 95 cases and that is an increase by a few times. The reason for this is that some people who come from the Mainland are stealing articles on the construction sites. We hope that the trade can co-operate with the police and step up security work on the sites.

PRESIDENT (in Cantonese): Third question.

Training for Medical Graduates

3. **MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, it has been reported that the Hospital Authority (HA) has reduced the intake of graduates in medicine due to its expenditure reduction, thus depriving the graduates of their chances to receive specialist training and placement in Hong Kong. They are thus unable to apply their expertise to serve the community and some even have to practise overseas, resulting in a waste of the public money spent on training the talents. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of graduates in Hong Kong in each of the past five years and, among them, the percentage of those who have been employed to receive specialist training by the HA;*
- (b) *as it has been reported that quite a number of graduates in medicine are offered to receive the Family Medicine Specialist Training of a*

shorter duration, of the criteria adopted by the HA for allocating graduates to receive such specialist training; and

- (c) *of the average cost of training a graduate in medicine, and the measures taken by the authorities to assist them in finding employment so as to avoid wasting resources?*

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

- (a) The number of graduates of University Grants Committee (UGC)-funded undergraduate programmes in medicine in the past five years are set out at Annex A.

After completion of internship and following registration with the Medical Council of Hong Kong (MCHK), graduates of UGC-funded medicine undergraduate programmes are fully qualified for medical practice. While many may wish to seek specialist training, not all doctors would like to become specialists. Over the past five years, an average of over 80% of the local medical graduates who apply for specialist training with the HA after completion of internship are offered resident positions each year. Recognized training in certain specialties is also provided by the Department of Health (DH), amongst other institutes. On the average, the DH employs about 26 doctors per year in the last five years.

- (b) The decision on the number of New Residents to be admitted for specialist training is made on the basis of a number of factors, including the projected specialist requirements, the projected supply of specialists in the light of number of trainees completing training, the turnover rates, the HA's plan on service development, the training capacities in the HA hospitals and the applicants' suitability for specialist training.

Over the past five years, the HA has been progressively increasing the number of family medicine trainees from 68 in 1999-2000 to 98 in 2003-04. The increase in the number of intake of family

medicine trainees is due to the projected increase in the need for such specialists which in turn arises from the emphasis we place on primary health care in recent years. Our policy objective is to develop a pluralistic primary care model in Hong Kong. Under this model, the Government is committed to providing more community-based, patient-centred and integrated health care services to the community. The objectives of the new model are to enhance the health of the population by promoting lifelong wellness and care, improve health outcomes through self management and care support, and make the health care system more cost-effective through rationalization of service delivery and fostering closer collaboration with other community-based health care providers. To cater for these needs, we aim to provide training in family medicine for about 50% of specialist trainee intakes in the HA.

- (c) The recurrent grants are allocated to the institutions by the UGC in the form of block grants. The institutions have flexibility to allocate resources among individual departments or programmes to suit their development needs. According to the information provided by the institutions, the average annual student unit cost (in full-time-equivalent terms) for students in the medicine academic programme category between 1997-98 and 2001-02 is set out at Annex B. As the accounts for 2002-03 are yet to be finalized, the figure for 2002-03 is not yet available.

Registered medical practitioners may seek employment in the public sector, with private medical institutions or engage in their own private practice. In addition to placing advertisements in newspapers and recruitment notices on their homepages, the DH and the HA maintain close liaison with universities on job openings in the public sector. The universities organize various workshops, including interview workshops, CV writing workshop, pre-internship training block, and so on, to offer advice and assistance to medical graduates in job hunting. At present, there are over 9 600 registered medical practitioners in Hong Kong, about 40% of whom are working in the private sector.

To ensure that the supply of doctors are broadly in line with the

longer-term requirements of the population and minimize short-term fluctuations in the labour market, the Government will regularly review the manpower situation for health care professionals based on careful considerations of the requirements of the population, changes and advances in medical technologies and in the context of the development of the local health care system.

Annex A

<i>Academic year</i>	<i>Number of graduates</i>
1998-99	300
1999-2000	313
2000-01	328
2001-02	345
2002-03	322

Annex B

<i>Academic year</i>	<i>Average annual student unit cost (\$'000)</i>
1997-98	566
1998-99	558
1999-2000	609
2000-01	623
2001-02	559

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, at present for those medical doctors under the HA, even though they have received training after graduation in medicine and are subsequently employed by the HA, they are only on contract terms. It is very often that when the contracts of these medical doctors are due, a majority of them will basically not be renewed. We can see that the medical doctors under the HA are very busy indeed. However, the contracts of the doctors who have received training are often not renewed upon expiry. And I find this practice a major contradiction. On the one hand, doctors have very long working hours, yet on the other, after receiving training worth a few million dollars, they are not offered renewed contracts upon expiry of their first contracts. Why has this contradictory situation appeared in the Government?*

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

Madam President, actually, we have to understand that the HA has no obligation to employ all the medical graduates in Hong Kong. Our contract system is to allow more doctors to have opportunities to receive training in public hospitals. Therefore, the design of the contract system is to enable us to have as many suitable doctors under training as possible so that they can become specialists. Besides, we will look at the local demand for specialists and try to provide each doctor with an opportunity to receive specialist training. Most of the positions of specialist trainees are within the framework of public hospitals, that is, under the HA. For private practice, there are also opportunities for specialist training, which however are rather limited. Take family doctors as an example, there are a lot of such positions in the private sector. And the Hong Kong Academy of Medicine is accredited to provide specialist training. Besides, according to our present estimation, around half of the specialists will become family doctors after training, and that is the training of doctors in family medicine. Under our policy, most of the specialists in family medicine should be working in the private sector, as that is the need of society, while our out-patient clinics account for about 10% of the market. After the specialist trainees have received training and obtained specialist qualifications, the HA would, depending on its own need, such as whether there are positions to absorb specialists into the framework of public hospitals, consider whether to renew their contracts, so that they can remain to serve the HA after becoming specialists.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Secretary has not answered my supplementary question, or maybe my question was not properly raised. My question to the Secretary asks mainly about the situation that medical graduates are presently employed on contract terms, but their contracts are often not renewed upon expiry. Nevertheless, doctors in the hospitals are very busy nowadays. Why is there such a situation? According to the figures provided to us by the Government, it needs a few million dollars to train one doctor, and all this is public money. But when these doctors have gained abundant experience, their contracts are not renewed upon expiry. However, we see that there are not enough doctors in the hospitals, and the working hours of doctors are very long.....*

PRESIDENT (in Cantonese): I think you have already raised your supplementary question. Secretary, please answer.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as I explained earlier on, in these few years, we actually have been increasing the number of doctors in public hospitals: from 2 000-odd in 1994 to 4 200 this year, that is, 2003. In terms of specialists, of course, the HA will strengthen the manpower in the light of need. However, we also have to consider whether public expenditure can afford our continuously employing so many specialists. The HA has conducted a review on demand as opposed to population, and we have already employed more doctors and other professionals, including nurses, due to SARS this year. Looking back at the figures concerning the existing doctor to discharged patients ratio and calculating the doctor to days of in-patient treatment ratio, we know that there has been improvement. Besides, the data from the HA also show that the working hours of doctors have been reduced. But certainly they have yet to reach our desired target.

DR LO WING-LOK (in Cantonese): *Madam President, young people have been provided with university programmes with the use of public money, but at the end are denied the chance to be employed, then their medical training is, of course, a waste. However, if specialist doctors have been trained up while neither the Government nor private institutions can employ them, it may be a bigger waste. In part (a) of the main reply, the Secretary said that 80% of the medical graduates are offered positions in the HA and the DH after completion of internship to receive further specialist training. May I ask the Secretary if he has estimated that in the past five years, for that group of medical graduates who were admitted for specialist training, what percentage of them, upon completion of specialist training, could continue to remain to serve the HA? If they were unable to remain to serve the HA, did the private market have any demand for these doctors?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, this supplementary question actually covers a lot of areas. If we talk about the overall demand for doctors, the private market will be rather difficult to assess. However, when we look at the overall doctor to population ratio, there are 1.5 doctors to 1 000 people in Hong Kong. Comparing with a lot

of areas in Asia, our doctor ratio is, of course, rather high, but is lower than those of the Western countries and Singapore. Therefore, people may think that we are short of doctors. Of course, it also depends on the customary practice of the general public in seeking consultation, and the mode of service of doctors. Visiting family doctors is not a mode of practice common in Hong Kong. Family doctors will spend a lot of time on their patients, and thus if we go by the mode adopted in the United Kingdom, our doctors are insufficient. Therefore, it often has to depend on the expectations of the general public and the practice of doctors in providing services, before we can make any judgement. And all this will affect our demand for doctors. Considering the general market demand as well as the surveys and the studies on population statistics conducted by us, it will be readjusted in future in the light of market demand.

In regard to the 80% of the medical graduates on specialist training, it only refers to the HA but not the DH. It is because when recruiting doctors generally, the DH will not employ them to receive specialist training. Instead, after they are employed and when there are training positions in future, they will be offered specialist training. In the past five years, the DH and the HA employ 330 medical doctors on average in one year. In 1996, the HA started implementing the contract system. Generally speaking, in the framework of public hospitals, doctors will receive four years' family medicine specialist training. For the last two years, they will practise in society and will join private practice upon completion of the training. Most of them will not be absorbed by the HA. I am aware that the HA has been offering contracts recently to those doctors who have completed specialist training. However, I do not have the official figures in this regard. This year, the HA has offered employment contracts to 30-odd doctors who have completed specialist training, so that they can continue to serve in the public sector framework. As regards the number of doctors who are not employed upon completion of specialist training, I do not have such information on hand, but I will provide a written answer to Dr LO Wing-lok. (Appendix I)

DR LAW CHI-KWONG (in Cantonese): *Madam President, I only wish to seek clarification on one piece of information. In part (a) of the main reply, the Secretary said that over the past five years, an average of over 80% of the local medical graduates who apply for specialist training with the HA after completion of internship are offered resident positions each year. Are all those local medical graduates who apply for specialist training admitted? Is it the case*

only 80% of those people apply and all the applicants are offered resident positions? If not, what are the actual percentages of the number of applications and the number of successful applicants?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as far as the official figure is concerned, this is the number of applicants admitted and not the number of all the applications. The number of applications is greater than this percentage. Upon completion of internship, most doctors will usually apply for positions with a few institutions. That is, apart from applying to the HA, they will also apply to the DH as well as private institutions. Generally speaking, they will definitely apply for certain positions. But of course, not every doctor is suitable to be a specialist. Therefore, the institutions to which they have made applications may not accept their applications, and thus offer them the chance to receive training. The so-called 80% means that when among the 320 graduates completing internship each year, the HA will absorb 80% of them and offer them resident positions, so that they can receive specialist training.

DR LAW CHI-KWONG (in Cantonese): *Part of my supplementary question is that if it is not 100%, then what is the percentage. The Secretary just said that he was unable to answer. Could he supplement such information to us later?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I can provide the relevant data in writing later. (Appendix II) The Honourable Member wants to obtain the data concerning the number of medical graduates who apply for positions with the HA after completion of internship. I can say that most of them will file applications, but I do not have the official figures on hand.

PRESIDENT (in Cantonese): Secretary, the Member asks you whether you can provide a written reply.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I will provide a written reply.

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

MS LI FUNG-YING (in Cantonese): *Madam President, reviewing the main question of Miss CHAN Yuen-han, I note it has particularly pointed out the need to avoid wasting training resources. From the figures provided to us by the Secretary, we can see that in the past five years, there are 300-odd medical graduates each year. May I ask the Secretary if the figures provided by him are fully in line with the longer-term requirements of the population and the medical development as mentioned in the last part of the main reply, or has the situation of wastage of resources already existed?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I believe it will not be a waste of resources to provide educational opportunity to anyone. I think that the training by universities is to provide our young people with the opportunities to receive education. In regard to serving the public by working as doctors, as I explained earlier, doctors in the private market account for 40%, and among the 40% of doctors, 80% of them are in private practice. Therefore, in the private sector market, most of the doctors run their own practice. Our study is to determine whether the number of doctors running their own practice in the private sector market in future will be too high or too low.

Besides, our annual demand will also be affected by a lot of factors. A few years ago, our MCHK previously would allow some doctors graduated from overseas universities to register in Hong Kong. Therefore, before 1996, apart from the 300-odd medical graduates from the two local universities, I remember that there were also 800 medical graduates from overseas coming back to register in one year, thus there were suddenly an additional 1 000 doctors in that year. However, this figure has been on the drop. At present, 80 doctors graduated overseas will return to register in Hong Kong each year. But after two to three years, the figure will become zero, as the MCHK has amended the legislation in 1996 to the effect that all doctors graduated overseas have to sit for and pass the registration examination before they can practise in Hong Kong. Hence, there will be no such doctors graduated overseas practising in Hong Kong, where there

will also be one less group of doctors.

Therefore, in working on the statistics on population, we have to take these factors into account. It is not possible that Hong Kong stops training up any doctors suddenly. Now we have much fewer doctors. In the past, we would rely on overseas training. But three years later, we will not have this group of doctors anymore. Thus, when we say that the existing supply of doctors is in excess of our demand, we have to be very careful. While we have to make adjustments according to the long-term need, we also should be able to cope with short-term fluctuations.

PRESIDENT (in Cantonese): Fourth question.

Adjustment to Prices of Dongjiang Water Supplied to Hong Kong

4. **MR FRED LI** (in Cantonese): *Madam President, according to the 1989 Water Supply Agreement, the prices of Dongjiang water supplied to Hong Kong are to be determined each year through consultation between the Governments of Guangdong Province and Hong Kong, and the adjustment range depends on the increase in operating costs, taking into account changes in relevant price indices of the two places, and the exchange rate between the Hong Kong Dollar and Renminbi. In this connection, will the Government inform this Council:*

- (a) *of the changes in the three factors just mentioned, namely "operating costs", "relevant price indices in Guangdong and Hong Kong" and "exchange rate", in each of the past five years; and, based on the changes in these factors, how the current Dongjiang water prices should be adjusted;*
- (b) *whether it has sought mediation or assistance from the Central People's Government during its discussion with the Guangdong authorities on formulating a new water supply agreement; if it has, of the reasons for that, and whether the Central People's Government has proposed to compensate the injured party by itself; and*
- (c) *whether its negotiation with the Guangdong authorities on the prices and amount of Dongjiang water to be supplied to Hong Kong is*

nearing completion; if so, of the major negotiation results; if not, the reasons for that?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President,

- (a) Regarding water price, since the commencement of the contract, the Government has engaged in several discussions with Guangdong Province in the past few years. As for the operational cost mentioned above, the operational costs of supplying water to Hong Kong and the expenditure on water resource protection are the internal information of the Guangdong authorities. We cannot release such information without the prior approval of the Guangdong authorities. For the five years from 1998 to 2002, the average deflation rate of Guangdong Province and Hong Kong was 1.3%. During the same period, Renminbi remained strong against Hong Kong Dollar, appreciating by 1.15% in total.

During the course of discussion on water price, we follow certain principles, that the Government of the Hong Kong Special Administrative Region (SAR) has repeatedly requested the Guangdong authorities to reduce the supply quantities and incorporate flexible supply arrangements into the agreement so as to conserve the precious water resources. At present, both sides have agreed to consider these issues together with the price of water. As such, the price of Dongjiang water cannot be determined solely by the changes in price indices of the two places and movements in the exchange rate between Hong Kong Dollar and Renminbi.

- (b) The Central People's Government fully understands the importance of Dongjiang water to Hong Kong and is thus concerned about our negotiations in this respect. Above all, the water resources of our country are state-owned and their management is within the ambit of the Ministry of Water Resources. In other words, water price of the entire country is determined by the Ministry of Water Resources but not local governments. Therefore, it is quite natural that the Central People's Government is concerned about this issue. However, concrete arrangements will still be decided by the Governments of

the two places through negotiations. The details of the latest agreement on the price and supply quantities of Dongjiang water have yet to be finalized. Thus, the relevant details and arrangements cannot be disclosed at this stage. We will certainly inform the public and the Members about these in due course when appropriate.

- (c) According to the 1989 Water Supply Agreement, the price of Dongjiang water is determined through consultation between the governments of the two places. The adjustment range depends on the increase in operational costs and takes into account the relevant price indices of the two places and movements in the exchange rate of Renminbi.

In the negotiations on the price of water in recent years, we repeatedly and strongly urged the Guangdong authorities to lower the price of water, citing the relevant price indices of the two places and movements in the exchange rate between Hong Kong Dollar and Renminbi. However, the relevant agency of Guangdong Province requested that the price be raised, believing that the continuous development of the Guangdong economy had led to a corresponding increase in operational costs and that the rise in expenditure on water resource protection should be taken into account in calculating the operational costs.

According to the 1989 Water Supply Agreement, the quantities of water supplied to Hong Kong in 1995 would be 690 million cubic metres (mcm) and thereafter would be increased by 30 mcm annually to 1 100 mcm in 2008. Water charge is also payable for the unused balance of quantity during a year on the basis of the agreed water price and cannot be carried forward to the following year. In making the projection on water supply at that time, the consideration we adopted may be too high, but we had already taken into account the scenarios of high, medium and low growths in water consumption. At last, the low growth scenario was selected. It is contrary to our expectation that the actual growth in water consumption deviated from our projection as a result of our industries moving northwards since the '90s. Therefore, in negotiating the loan agreement for the construction of a closed

aqueduct for the Dongshen Water Supply System in 1998, we strongly requested the reduction in supply quantities. Finally, it succeeded in reducing the supply quantity from 780 mcm to 760 mcm in 1998 and the annual increase in quantity thereafter from 30 mcm to 10 mcm until 2004. The supply quantities beyond 2004 would be subject to further negotiations. For the seven years from 1998 to 2004, the total reduction in water supply quantity is 560 mcm.

In negotiating the supply quantities in the subsequent years, we, on the principle of conserving precious water resources, will request the reduction in supply quantities. The Guangdong authorities may, therefore, through proper redistribution to other areas in Guangdong which are comparatively short of water supply, use the surplus quantities to promote their local development. Such reduction can also reduce the pressure and impact on the ecology in the rivers in the Guangdong area. In doing so, a win-win situation between Hong Kong and Guangdong can be achieved. Considering that the local water supply mainly comes from rainfall and that the catchment yield may not be adequate in times of drought, the Hong Kong Government has requested the incorporation of flexible supply arrangements into the new agreement. Although both sides have already agreed to consider these issues together with the price of water, we have not reached a new agreement yet.

However, I have to state here that, under the existing mechanism, in addition to the minimum quantities stated fundamentally in the previous agreement, we can request for increase in supply quantities, but the price for the additional supply has to be increased by 10%. Let me explain it further. In the past few years, the Government, all along, wished that the Guangdong authorities could reduce the supply quantities. What makes it so difficult to be achieved? The use of an open aqueduct in supplying water is the answer. Since water at the upper reach is cleaner than that at the lower reach, the Guangdong authorities must pump a certain volume of water from the upper reach to the lower reach and supply to Hong Kong via Shenzhen for only this can the water supplied meet our quality standard. However, with the completion of the closed aqueduct, the problem in this respect has been overcome. Now, water supplied to

Hong Kong by the Guangdong authorities is transferred directly from the upper reach, and no diluting process has to be done. That is why active discussions on water price and quantities are only started now.

Just like any other agreements, the agreement on the price and supply quantities of Dongjiang water can only be reached if there is consensus between the two parties. In negotiating the price and supply quantities of water in future, the Hong Kong Government will certainly bear in mind the overall interest of Hong Kong, and strive for a reasonable new agreement acceptable to both sides. Only that our water resources are protected, that the objective for sustainable development can be achieved.

MR FRED LI (in Cantonese): *Madam President, I have to raise a supplementary. But before I put it, I would like the President to make a ruling for the Secretary has clearly not answered part (b) of my main question. I would like the Secretary to answer that part of my question before I raise my supplementary question.*

PRESIDENT (in Cantonese): Mr Fred LI, in fact, similar situations did happen in the past. Maybe you can state your two questions at the same time and see how the Secretary will respond.

MR FRED LI (in Cantonese): *Fine. Thank you, Madam President. Part (b) of the my main reply asked whether the Hong Kong Government had sought mediation or assistance from the Central People's Government during its discussion with the Guangdong authorities on the new water supply agreement. The Secretary has not answered this. May I ask the Secretary whether she has made such a request? Whether or not such a request has been made? I hope the Secretary can give me an answer. Regarding my supplementary question, I wish that an agreement on new water price and supply quantities could soon be reached. If Hong Kong does benefit from the new agreement on water price as a result of a reduced price, will the Government pass on the benefit, the savings from the price cut, to the public direct to allow them to pay less water charges?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, regarding part (b) of the main reply, I believe I

have already answered it. Actually, the Central Government has been playing a part in the negotiation of water price for, in the Mainland, this is within the ambit of the Ministry of Water Resources. Therefore, there is no question of the Central Government participating or rendering mediation. I think this is the answer to that part of the question. We do not have to make any special request. This is my answer.

Regarding the savings from reduced water price and whether or not such savings will be returned to the public, it should be noted that half of the cost for water supply is subsidized by the Government. We are now studying the degree of subsidy, the actual amount of savings to be achieved and the impact on the overall situation, and a decision will be made after that.

DR YEUNG SUM (in Cantonese): *Madam President, may I ask the Secretary whether the Government has a timetable stipulating the completion date for the negotiation with Guangdong Province on the supply arrangement of Dongjiang water? If Guangdong Province insists that water price will remain unchanged, does the Hong Kong Government have any contingency measures?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Actually, the existing agreement is effective until 2004. Therefore, from our point of view, in the year 2004, the agreement will expire, and a new agreement must be reached. If a deadline has to be stated, this may be regarded as one. We believe that in the negotiation with Guangdong Province, a consensus has to be reached. Now, we are purchasing Dongjiang water from the other party, and we believe that every place has its own stance on the disposal of water resources, so the course of negotiation will be rather complicated. Moreover, Guangdong Province has sold the contract on the supply of Dongjiang water to Guangdong Investment, so the negotiations now have thus become commercial behaviour and have to go through this three-tier structure. Therefore, I hope Members can understand that what we have to do in this respect must be compliant with the principles of upholding the free market economy, but it is undeniable that water price cannot be an entirely commercial issue.

DR YEUNG SUM (in Cantonese): *Madam President, my supplementary question asked whether the Government had any contingency measures in place if*

Guangdong Province insisted to maintain the current water price? Madam President, the Secretary apparently has not mentioned this.

PRESIDENT (in Cantonese): Secretary, you may consider how to answer this question.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): As negotiation on the agreement is still in progress, I think it is not appropriate for me to disclose all the tactics we may apply.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, in the main reply, the Secretary said that flexible supply could achieve a win-win situation between Hong Kong and Guangdong. May I ask the Secretary, if a win-win situation can be achieved, why the negotiation has not yet been concluded? What are the difficulties?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I have mentioned some of the reasons briefly in my main reply. In the days prior to this year, as water supplied to Hong Kong from the Dongjiang river was required to attain a certain standard on entering the boundary of Hong Kong, water must be obtained from the upper reach. Before the completion of the closed aqueduct, we had to pump a large volume of water from the upper reach to dilute the relatively polluted water at the lower reach to ensure that water supplied to us meet our quality standard. However, at the beginning of this year, the closed aqueduct was completed and came into service, thus the above problem no longer exists. We can thus launch the formal discussion on flexible water supply. In fact, a similar arrangement has already been started at the same time. In other words, the water we do not need this year has not been wasted; this has been the case since the start of the second half of this year.

As for water price, in the past, water supplied was charged at minimum cost, we could not ask for 10 tons today, two tons tomorrow and then 20 tons the day after. The supplier of water also demands certainty, and thus a minimum supply quantity has to be set. The current issue we are discussing with them is

whether the minimum supply quantity can be reduced from 800 mcm to 600 mcm according to our drop in water consumption. This is also related to water price for we have to consider whether a reduction in supply in view of the prevailing decrease in water consumption may result in a higher price for additional supply requested when our demand increases. As the overall operation may be affected, such as an increase in staff deployment, we are now discussing the issues in this connection.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I am surprised that the Secretary stated in part (a) of her main reply that information related to water price was sensitive for I have managed to find such information clearly stated in the annual reports of the Water Supplies Department. For example, in 1992, the Government spent \$1.79 billion on purchasing Dongjiang water, and in the year 2001-02, \$2.445 billion was spent. However, the amount of water charges collected for the year 1992-93 and 2001-02 was only \$2 billion and \$2.4 billion respectively. In other words, the amount of water charges collected by the Government in the past decade has only increased by less than 20%, but the expenditure on water purchase has increased by over 200% from \$1 billion to \$2.4 billion, a more than double increase. Then, what is the crux of the problem? Was it because water price had increased significantly in the past decade, or because our consumption quantities had increased greatly, or that we had ordered too much water? Where does the problem lie?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, the price of water resources, like many other commodities, will naturally increase as the demand rises. Even for developed places like California where water is supplied by Colorado, disputes do arise and the price of water may even fluctuate during dry season. Our agreement with the Dongjiang covers a relatively long period of time. However, in view of the rapid development in Guangdong Province in the last 10 years, I think you all know that many local residents of Guangdong Province, like Heyuan and Xinfengjiang Reservoir, also worry about the shortage of water. The catchment area, I mean the water catchment area, for the water supplied to us has been enlarging. In Hong Kong, the construction of buildings and other developments are not allowed in the surrounding areas of many reservoirs. Therefore, the water supplier enlarges the catchment area correspondingly. And on our part, we also request them to reinforce the protection of the catchment areas to protect

them against sources of pollution that will affect the water quality of the river, in particular water at the upper reach. These are the reasons why I said just now that the actual cost or expenditure involved was a rather complicated issue. In the past decade, facing the economic growth and the pressure on the use of land, they have spent relatively more money on protecting the catchment area and water quality.

MR SIN CHUNG-KAI (in Cantonese): *I wish the Secretary to clarify her reply for she has not answered my question. My supplementary question asked about the reasons for the increase in water purchase expenditure by two and a half times. Was it because that the unit cost had raised by two and a half times, or was it because the amount of water purchased had increased by two and a half times? Which is the main reason for the increase?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): It is the unit cost.

PRESIDENT (in Cantonese): We have spent more than 19 minutes on this question. Last supplementary question.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, in the third last paragraph of the main reply, the Secretary mentioned that arrangement for flexible supply and changes in water price so resulted will also be included in the new agreement. As such, may I ask the Secretary whether there is a formula for calculating the level of flexible supply to ensure that water price will not be too expensive if tremendous additional supply is required?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, we of course wish to strike a balance. First, we have to consider the cost for minimum consumption; second, we have to calculate the increase in charges, that is, the unit cost, for additional consumption. At present, a 10% increase in unit cost has to be paid for additional supply, but we consider the 10% reasonable. We have to calculate carefully the level of minimum consumption. We should on the one hand ensure that there will not be

significant variations between dry seasons and rainy seasons, but on the other, we have to ensure that cost-effectiveness can be achieved.

PRESIDENT (in Cantonese): Fifth question.

Appointment of Retired Judges to Public Offices

5. **MR ALBERT HO** (in Cantonese): *Madam President, regarding the appointment of retired judges to public offices, will the Government inform this Council:*

- (a) *whether the authorities have, in appointing retired judges to public offices, an established practice of granting permission for them to receive their pension in addition to the remuneration for the public offices concerned; if so, of the rationale and criteria for adopting the practice, and relevant examples over the past five years; if not, the reasons and criteria for the authorities' granting permission, in appointing the present Chairperson of the Equal Opportunities Commission (EOC), for him to receive his pension in addition to the remuneration for the public office concerned; and*
- (b) *whether the authorities have consulted the Judiciary on their granting of permission for Mr Michael WONG Kin-chow to.....*

PRESIDENT (in Cantonese): Mr HO, I have asked you to revise the question you are asking and to re-submit another one, so you should read out the version that I have approved.

MR ALBERT HO (in Cantonese): *I am sorry, Madam President. Maybe I have made a mistake and read out the old version. (Laughter)*

PRESIDENT (in Cantonese): You can start anew.

MR ALBERT HO (in Cantonese): *Madam President,*

- (b) *whether the authorities have consulted the Judiciary on their granting of permission for the present Chairperson of the Equal Opportunities Commission to receive his pension in addition to the above remuneration; if so, whether the consultation was made before or after the granting of the permission?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, concerning part (a) of the question, the legislation on pension relating to judicial officers includes the Pensions Ordinance and the Pensions Benefits (Judicial Officers) Ordinance. The former concerns the Old Pension Scheme whereas the latter, enacted in 1988, concerns the New Pension Scheme.

Under the above Ordinances, the Chief Executive may suspend payment of pension to the judicial officer concerned in the following circumstances:

- (i) the officer is reappointed to the public service; and/or
- (ii) the officer has, within two years after his retirement and without the prior permission in writing of the Chief Executive, entered business on his own account; become a partner in a partnership; become a director of a company; or become an employee, and the principal part of such business or the business of such partnership or company or of his employment is carried on in Hong Kong.

The exercise of this power is discretionary rather than obligatory. In fact, it has been the Government's policy to exercise the discretionary power to suspend payment of monthly pension to judicial officers who have retired under the Pensions Ordinance or the Pensions Benefits (Judicial Officers) Ordinance and are reappointed to the public service. The criteria for suspension of payment of pension are not set out in the Ordinances. The Chief Executive may consider whether to exercise the discretionary power according to circumstances of individual cases.

Since there has been very few such cases for approval in the past, it is not possible to set an established practice. Where there is a need to appoint retired judges to the public service, the Government will consider, on the merits of individual cases, whether or not to allow the retired judges to continue to receive their pension in addition to the remuneration for the public offices concerned.

The Government has relied on a wide range of public sector advisory and statutory bodies to perform functions such as advising on government policies, handling certain appeals, managing trust funds, resolving disputes between the Government and an aggrieved party, and providing services to the public. At present, there are about 500 advisory and statutory bodies set up by the Government with nearly 5 000 members who are people with specialist knowledge from different sectors of society. These advisory and statutory bodies provide an ideal channel for the Government to collect public views on its policies.

In the appointment of chairpersons and members of advisory and statutory bodies, our primary aim is to select the best among the possible candidates (the merit principle) in order to meet the requirements of the advisory and statutory bodies concerned. We will consider the candidates' ability, expertise, experience, integrity and commitment to community service, while fully taking into account the need to maintain a reasonable balance of members' expertise, experience and background in the respective advisory and statutory bodies. In making the appointments, we will ensure, as far as possible, that people from all sectors of the community have the opportunity to participate in the work of advisory and statutory bodies. Needless to say, retired judges would be ideal candidates for appointment to certain public offices. We will deal with all such appointments in accordance with the relevant laws and procedures.

The EOC was set up in May 1996 under the Sex Discrimination Ordinance (SDO) to eliminate discrimination on the grounds of sex, disability and family status as well as promote equality of opportunities between men and women. The EOC shall comprise of one Chairperson and no more than 16 members. We attach great importance to the appointments to the EOC and ensure that its composition is broadly representative and conducive to performing its functions.

The Chairperson of the EOC is appointed by the Chief Executive. The SDO does not provide for the appointment or reappointment procedures. We attach great importance to the role of the EOC and see it as our partner. We have taken into account all factors pertinent to the appointment of the Chairperson of the EOC. Being a retired Justice of Appeal of the Court of Appeal of the High Court, the present Chairperson is highly reputable and widely respected. Apart from his strong legal background, he has also been involved in community services. We consider him an ideal candidate for the appointment.

The SDO clearly stipulates that the EOC Chairperson's remuneration and terms and conditions of appointment shall be determined by the Chief Executive. The EOC Chairperson is a special status and is tasked with important responsibilities. Therefore, the Chief Executive is empowered by law to appoint the EOC Chairperson as well as to determine the terms and conditions of appointment in order to ensure that the most suitable candidate can be found. In appointing the present Chairperson, we have taken into account that he has to withdraw from his retirement and resign from various offices in the public and private sectors in order to devote himself to work full-time for the EOC and to serve the community. After careful consideration of all the factors, the Chief Executive considered the present Chairperson the most suitable candidate and decided to accept his request of not suspending payment of his pension.

Concerning part (b) of the question, under the Pension Benefits (Judicial Officers) Ordinance, the Chief Executive may suspend payment of pension to retired judges. The exercise of this power is discretionary rather than obligatory. Therefore, the Chief Executive may consider whether to allow retired judicial officers to continue to receive their pension according to circumstances of individual cases. The appointment of the present EOC Chairperson and the arrangements regarding his pension have all been dealt with in accordance with the laws and procedures.

Before processing the application, the Administration had informed the Judiciary that the present Chairperson would like to continue to receive pension during his term of office as the Chairperson. The Judiciary has not advised the Chief Executive on the present Chairperson's case on receipt of pension and remuneration. The Judiciary is of the view that whether the present Chairperson can receive pension and remuneration should be dealt with by the Chief Executive as empowered by the relevant Ordinances.

MR ALBERT HO (in Cantonese): *Madam President, according to the main reply given by the Secretary and existing policy, if a judicial officer is reappointed to public service after retirement, under general circumstances, the Government will suspend payment of his pension. However, the Chief Executive can exercise his discretionary power not to suspend payment. There should be justifications in support of making a decision of exception when exercising such discretionary power. However, throughout the main reply, I cannot see any criteria and*

standards being applied in exercising this discretionary power and making a decision of exception. The Government did not even mention if it had any plan to formulate such criteria. Therefore, if there are no criteria and the Government exercises this discretionary power without any criterion, would this give the public the impression that the Chief Executive does not have to follow any standard and can appoint people whom he likes, including judicial officers, to certain public offices and give them additional benefits, that is, not to suspend the payment of pensions, without making reference to any standard and by merely following his personal preferences? Has it occurred to him that this will be detrimental? For example, there was a judge who assumed the Office of The Ombudsman after his retirement, but the Chief Executive did not exercise his discretion, so he had to stop receiving his pension. Did it occur to the Chief Executive that the dignity of these people would be injured?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the criteria for suspension of pensions payment are not set out in the Ordinances. The Chief Executive may consider whether to exercise the discretionary power according to the circumstances of individual cases. In appointing the incumbent Chairperson, we took into account the fact that he had to withdraw from his retirement and resign from various offices in the public and private sectors in order to devote himself to working full-time for the EOC and to serving the community. After careful consideration of all the factors, the Chief Executive considered the incumbent Chairperson the most suitable candidate and decided to accept his request of not suspending payment of his pension.

MR ALBERT HO (in Cantonese): *The Secretary has utterly failed to answer my question. I am asking the Secretary why there is no criterion at all. The Secretary has simply read out the main reply again, pointing out that the qualities of the person in this case, that is, those of the incumbent Chairperson made him the most desirable candidate for the appointment. However, the Secretary did not give an answer on the criteria adopted in exempting him from compliance with the conditions applicable to him under the existing policy. Would such a course of action have an impact on some people who were not granted the exemption, making them feel that this is being unfair or that their dignity has been injured? Madam President, the Secretary has not answered my supplementary at all.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I have in fact spelt out the criteria adopted by the Chief Executive in making this decision. However, if the policy is to be revised to incorporate the criteria, as Mr HO has suggested, this is not within the portfolio of the Home Affairs Bureau.

PRESIDENT (in Cantonese): Members, since there are still nine Members waiting to ask supplementaries, I hope Members will be as concise as possible in raising questions, so that more Members will have the chance to ask supplementaries.

MS AUDREY EU (in Cantonese): *Madam President, my supplementary is about part (b) of the main reply, which mentions the pension benefits of judicial officers, that is, the issue concerning the retirement of judicial officers. It is said in this part that the Chief Executive may consider whether to allow the payment of pension in accordance with the laws. Concerning this decision made by the Chief Executive, may I ask if the exercise of this power was actually transferred to the Chief Justice of the Judiciary? If so, why is it that the reply here, that is, the reply given by the Judiciary, says that the matter should be dealt with by the Chief Executive as empowered by the relevant Ordinances? On issues relating to the retirement of judicial officers, if the decision-making power was not delegated to the Chief Justice, then what role did the Judiciary actually play in the procedure? According to the answer of the Secretary, it seems that the Judiciary was simply notified. It was simply notified of the Chief Executive's decision or intention to do such a thing. Did it raise any objection? Was its role simply that of being notified and raising objections?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, in handling the question of whether or not the present Chairperson could continue to receive pension, we had communicated with the Judiciary and it was of the view that whether the present Chairperson could receive salary and pension at the same time should be dealt with by the Chief Executive as empowered by the relevant Ordinances.

MS AUDREY EU (in Cantonese): *Madam President, according to the law, the Chief Executive is the designated person, but in actual administration, was the power delegated to the Chief Justice? That is my supplementary.*

PRESIDENT (in Cantonese): It should be "empowered".

MS AUDREY EU (in Cantonese): *Was the Chief Justice empowered to do so? If so, why did the Judiciary reply that it should be decided by the Chief Executive? If there was no empowerment, may I ask what the role of the Judiciary is? The Secretary said in the main reply that everything had been dealt with in accordance with the laws and procedures. May I ask the Secretary if, firstly, any power was devolved procedurally? If no power was devolved, what was its role? Was it simply notified to see if it will object? Was this the case?*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we have consulted and communicated with the Judiciary and its view was that which I have already related.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, in fact, the Secretary has already given Mr Albert HO a reply to the effect that the only criterion in granting exemption is personal preference. Why is the Chief Executive or the Secretary, or the recommendation made by the Secretary to the Chief Executive, so favourably disposed to the incumbent Chairperson of the EOC? This is because according to the criteria cited by the Secretary, the ability, expertise, experience, integrity and commitment to community service of the person concerned will be considered. From this viewpoint, what is the expertise and experience of the incumbent EOC Chairperson in the domain of equal opportunities? The Secretary also mentioned commitment to community service. If he is willing to take up the job only if he can receive payment on two fronts, actually how great is his commitment to the community? Therefore, may I ask the Secretary or the Chief Executive what the basis for their preference is? It seems things have deviated completely from the criteria cited by the Secretary. Is it possible to comment on your criteria and the reasons for appointing this Chairperson of the EOC?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we

attach great importance to the role played by the EOC. In considering the candidate for the EOC, we had considered all factors carefully and we believed and thought that the incumbent Chairperson, being a retired Justice of Appeal of the Court of Appeal of the High Court, was highly reputable and widely respected. Apart from his strong legal background, he had also actively participated in community services. Therefore, we considered him the ideal candidate for appointment as Chairperson of the EOC. The Chief Executive did not suspend the payment of pension to the incumbent Chairperson and he is also empowered by the SDO to determine the remuneration as well as the terms and conditions of appointment of the EOC Chairperson. Therefore, in appointing the present EOC Chairperson, the laws and procedures have all been duly complied with. In exercising the discretionary power vested in him by the Pension Benefits (Judicial Officers) Ordinance, the Chief Executive has also taken into full consideration the relevant factors.

MR LEE CHEUK-YAN (in Cantonese): *Again as a rule my question has not been answered. May I ask the Secretary what the Chairperson's expertise and experience in equal opportunities and anti-discrimination are?*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I have nothing to add.

MISS MARGARET NG (in Cantonese): *Madam President, on the face of it, the main reply sounds very absurd, so I hope the Secretary can give a further explanation. I say so because the problem is, since the EOC Chairperson was to assume a public office, why did he make the request that he be paid two salaries? If the reason is the one mentioned in the main reply, that is, he had to withdraw from his retirement and devote himself to working full-time to serve the community, does it mean that even if he has a job and receives his remuneration, he still has to receive his pension? Has consideration been given only to whether he would be working full-time, his contribution to society and his withdrawal from his retirement? Has consideration been given to the impact*

that such a course of action has on the image of judicial independence and credibility?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, in offering the conditions to the present EOC Chairperson, we took into account the fact that he had to withdraw from his retirement and resign from various offices in the public and private sectors in order to devote himself to working full-time for the EOC and assuming the office of the EOC Chairperson. Whether retired judges can continue to receive pension after taking up public office is not related to the Government's policy on pensions or the independence of the EOC Chairperson. According to the SDO, the Chairperson shall not, without the specific approval of the Chief Executive, hold any office of profit other than his office as Chairperson or engage in any occupation for reward outside the functions of his office. Therefore, we have complied with the Ordinance in appointing the present Chairperson.

MISS MARGARET NG (in Cantonese): *Madam President, the Secretary has not answered my supplementary. My question is very simple. Was the impact on judicial independence and credibility taken into consideration in taking such a course of action? Was this factor considered?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we have communicated with the Judiciary before making this decision and its response was that the Chief Executive could exercise the discretion vested in him by the Ordinance.

PRESIDENT (in Cantonese): We have spent more than 22 minutes on this supplementary. Last supplementary question.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, according to the reply of the Secretary for Home Affairs, the present arrangement complies with the requirements of the law because the Chief Executive has the discretionary power. However, it seems that there are no clear criteria on the exercise of this discretion. Will the Secretary for Home Affairs convey our views to the*

Government and consider if there should be some clear criteria in future and whether the discretionary power should be removed? Can these views be conveyed to the Government?

SECRETARY FOR HOME AFFAIRS (in Cantonese): I thank Mr TAM Yiu-chung for his suggestion. However, this issue is not within the ambit of the Home Affairs Bureau. I will ask the Policy Bureau concerned to give a reply in writing. (Appendix III)

PRESIDENT (in Cantonese): Sixth question.

The Chief Executive Meeting Legislative Council Members

6. **MR ALBERT CHAN** (in Cantonese): *Madam President, according to my observation, the Chief Executive has had more meetings with Legislative Council Members from the Democratic Alliance for Betterment of Hong Kong, the Liberal Party, the Hong Kong Progressive Alliance and the Breakfast Group than with Members from the pro-democracy camp since the commencement of the current Legislative Council term in October 2000. This gives many people an impression that he listens to public opinions partially. In this connection, will the Government inform this Council:*

- (a) *of the total number of times the Chief Executive has offered to meet Legislative Council Members since the beginning of the current Legislative Council term, with a breakdown listing the number of invitations sent to each Legislative Council Member and the total number of hours of such meetings;*
- (b) *of the selection criteria based on which the Chief Executive offers to meet Legislative Council Members; and*
- (c) *whether the Chief Executive will consider enhancing communication with Legislative Council Members from the pro-democracy camp, so as to change the public's impression that he listens to public opinions partially?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President,

- (a) Whenever the need for extensive consultation arises, such as the consultation exercise prior to the delivery of the policy address each year, the Chief Executive would offer to meet with all Legislative Council Members from different parties, as well as independent Members, to listen to their views. The number and the total duration of past meetings between the Chief Executive and different groups of Legislative Council Members were approximately the same, and this serves to demonstrate that the Chief Executive listens to public opinions in a comprehensive manner. Incidentally, the Chief Executive is inviting Legislative Council Members from different political parties and sectors to meet with him in this week and the coming week to exchange views with them on the forthcoming policy address.

Individual Legislative Council Members, in their other duties and capacities than as Legislative Council Members (for example, as representatives of advisory bodies, professional groups or other organizations), may also meet with the Chief Executive on different occasions or in the course of various activities. As such, no statistics are available on the number and total duration of the meetings between each Legislative Council Member and the Chief Executive.

- (b) The Chief Executive regularly meets with representatives from various sectors (including Legislative Council Members, members of the labour and business sectors, academics, professional groups, and so on) to gauge their views on a wide range of issues of public concern. In deciding which Legislative Council Members or bodies he is going to meet, the Chief Executive mainly considers the scope of the issues to be discussed and his other work schedule and commitments.
- (c) The Chief Executive has stated that he would improve the Administration's style of governance. He and the Principal Officials would meet with various sectors (including Legislative Council Members from different political parties) regularly to

enhance communication. The Chief Executive would also communicate directly with the public through the media and other channels to listen to their views and address their concerns in a more proactive manner.

MR ALBERT CHAN (in Cantonese): *I am not sure if it was just coincidence or it was because the Chief Executive had made an effort to correct his past errors. Several days ago, the Chief Executive offered to meet with us this Saturday. However, the Chief Secretary has not answered my question in his reply. If the Office of the Chief Executive does not keep the records, is it because of the chaotic administration of the Office of the Chief Executive, or is it because the Government is trying to avoid my question? Even District Council members keep records of their interviews with members of the public, why should there be no records of meeting between the Chief Executive and Legislative Council Members? Madam President, I am requesting the Government to provide me with a breakdown listing the number of invitations sent to each Legislative Council Member. If the Office of the Chief Executive claims that it does not have such records, it would be the most ridiculous thing on earth. Take the White House of the United States as an example, there is a record for every single sentence uttered by the President.....*

PRESIDENT (in Cantonese): Please ask your question calmly.

MR ALBERT CHAN (in Cantonese): *Madam President, I am sorry. You know I am always so excited. But just because this is ridiculous: the Office of the Chief Executive does not keep records of the meetings arranged between the Chief Executive and the Legislative Council Members...*

PRESIDENT (in Cantonese): Please ask your question.

MR ALBERT CHAN (in Cantonese): *I think if any Chief Executive Officer should act like this, he will be dismissed by his company.*

PRESIDENT (in Cantonese): Please ask your supplementary question.

MR ALBERT CHAN (in Cantonese): *Can the Chief Secretary tell us if the Office of the Chief Executive really does not keep any such records, or instead it is afraid that once the statistics are compiled, it will make the people feel that the Chief Executive really listens to public opinions partially, so it refuses to compile the statistics?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I have just explained to Mr CHAN that sometimes the Chief Executive meets with Members by appointment, and sometimes they meet in many different situations: Some are in meetings with advisory committees and some are on unofficial occasions. If Members want us to provide accurate figures, we have not compiled such statistics. In fact, for similar statistics, the Chief Executive is not alone in the practice of not keeping such statistics, the Governors before 1997 also did not keep such statistics. Furthermore, the Chief Executive has made far more invitations for meetings with members of the non-government sectors and he has spent considerably more time in such meetings after 1997 than the Governors. Insofar as the statistics are concerned, I have told Members that, the meetings are not just confined to appointments initiated by the Government, there are also meetings with individual Members, and sometimes the Chief Executive meets with certain Members in his meetings with different advisory committees. So roughly speaking, there have been many such meetings. However, according to our information, the numbers of past meetings between the Chief Executive and different groups of Legislative Council Members were approximately the same.

MR MICHAEL MAK (in Cantonese): *Madam President, I would like to follow up part (c) of the main question raised by Mr Albert CHAN. In fact, there is a very simple way of enhancing the communication with the pro-democracy camp, that is, by appointing pro-democracy Members to the Executive Council. The voice of this demand was already very strong in the past, especially after the march on 1 July. May I know, before appointing our Honourable colleague Mrs Selina CHOW into the Executive Council, if the Chief Executive or the Executive Council had discussed the appointment of a Member with pro-democracy background to the Executive Council?*

PRESIDENT (in Cantonese): Mr Michael MAK, are you asking: In terms of enhancing communication, has the Chief Executive considered appointing Members from the pro-democracy camp?

MR MICHAEL MAK (in Cantonese): *Exactly. That is why I said I was following up part (c) of the main question. It is on enhancing communication, to make the communication more direct.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Thank you, Madam President, for guiding this supplementary question to the proper path and be consistent with the main question. In fact, in answering another question last week, I already pointed out that the Chief Executive had openly said that he had thought of reshuffling the entire Executive Council, but he had to take several major principles into consideration in the process: First, he has to maintain and continue to perfect the relationship between the Executive Council and the Legislative Council well; this is very important. Secondly, the major principle of "executive-led government" as stipulated by the Basic Law must be upheld. On the other hand, the accountability system for principal officials has just been implemented for one year. The Chief Executive feels that some more time should be given to this new arrangement, so as to allow it to be implemented fully. In fact, the next Legislative Council election will take place in September next year. The Chief Executive feels that it would be a more appropriate time to reorganize the entire Executive Council after the election.

MR ANDREW CHENG (in Cantonese): *Madam President, the Democratic Party had presented a policy proposal to the Chief Executive. But he seemed to have forgotten it completely, or even seemed to have no knowledge of it. As the Chief Secretary for Administration, how can you assist the Chief Executive in his governance, and how can you prevent the Chief Executive from "forgetting it completely after reading it" and prevent him from merely putting on a show by meeting with Members from the pro-democracy camp and then causing nothing to happen afterwards as if the meeting has never taken place? Besides, will you ask the Chief Executive to come out to reach the communities by holding residents' meetings so as to listen to their voices, if he really cares about the feelings of the people?*

PRESIDENT (in Cantonese): Mr Andrew CHENG, the question raised by Mr Albert CHAN is on the Chief Executive, but your supplementary question is asking whether the Chief Secretary for Administration intends to do certain things.

MR ANDREW CHENG (in Cantonese): *Madam President, regarding my supplementary question, of course it shall be answered by the Chief Secretary today, not the Chief Executive. Since the Chief Secretary is present, and he has just said that the Chief Executive would mainly consider the scope of the issues to be discussed when he decides whom he is going to meet, so I put forward this supplementary question to say that after the meeting with the Chief Executive, nothing happened as if the meeting had never taken place. The main emphasis is the hope that he could help the Chief Executive realize that if the Chief Executive really wishes to listen to public opinions, then he should hold residents' meetings, and that after he has held meetings with Members, he should not act as if the meeting has never taken place. May I ask the Chief Secretary, in this regard, if he knows whether the Chief Executive would prevent such things from happening?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I trust the Chief Executive will treat his meetings with Members a serious activity, and will definitely respect the opinions of Members. For Members' opinions, be they oral or written, he will certainly consider them carefully. However, Members must also have some sympathy for the Chief Executive. Take my wife as an example, every day and night, she would tell me to do this and not to do that. My wife and I love each other very much, but if you ask me whether I can do everything she has told me to, honestly, I cannot possibly do them all. But this does not mean that I do not respect my wife, or I do not love her enough. I think when the Chief Executive meets with Members, he may share the same feeling. *(Laughter)*

MR ANDREW CHENG (in Cantonese): *Madam President.....*

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

MR ANDREW CHENG (in Cantonese): *Of course not. The Chief Secretary just answered by discussing his relationship with his wife, but he has not answered by discussing his relationship with the Chief Executive. I am not asking about his relationship with the Chief Executive. The thrust of this supplementary question is requesting the Chief Executive not to listen to public opinions partially, and asking him not to act after meeting with Members in a way as if the meeting has never taken place. And it is also on the issue of holding residents' meetings. The Chief Secretary has not said a single word in reply to such issues.*

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

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Just now I was only using an analogy to illustrate that the Chief Executive would not turn a deaf ear to their views. I explained that the Chief Executive respects the views of Members. After listening to their views, he would carefully consider them. However, he may not follow the advice of Members on each and every issue. This was the meaning of my analogy. Residents' meeting is also one of the ways of communication. I think the Chief Executive is now trying to find many more ways of communicating with the people.

MR NG LEUNG-SING (in Cantonese): *I would like to follow up the point of not having compiled the statistics. Mr Andrew CHENG just said that, after meeting with some Members, the Chief Executive had acted as if the meeting had never taken place. I am not sure if this has anything to do with the statistics. May I ask the Government, if it will, for such a reason, proceed to compile the statistics in future and then see if there are any really good reasons? Or it shall continue not compiling the statistics in order to save some public funds and costs?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I think for some relatively formal meetings, we would surely have the record. But the question is, as I have just said, the Chief Executive may meet Members on different levels and different occasions, and there are different methods of discussion. I believe that if there is the need, we will definitely compile the

statistics. But if it is not necessary, then I feel there is no need to waste any resources to compile the statistics.

DR RAYMOND HO (in Cantonese): *The Chief Secretary said that the Chief Executive would improve the Administration's style of governance, such as enhancing the communication with Legislative Council Members. In the Legislative Council, there are altogether 60 Members, with one third of them being independent Members who represent different trades and sectors. I am not sure if the Chief Executive realizes that each of the different trades and professions has its unique situation. For example, the unemployment rate of a certain industry is 100% to 200% of the overall unemployment rate in Hong Kong, and the relevant Bureau Director has relatively less communication with the industry, and so on. If he realizes such a situation, would he enhance the communication with the relevant Members? If so, what method or action will be taken to enhance the communication?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Of course, the frequency and the levels of communication will depend on the needs arising from individual situations in society. Just as Dr HO said just now, sometimes it may involve certain special reasons, for example, the high unemployment rates will affect certain industries, or a particular incident may affect certain sectors, and so on. I believe the Chief Executive would note this point in his work schedule and enhance his communication accordingly.

MR JAMES TO (in Cantonese): *Madam President, the Chief Secretary just said that there were records for some formal meetings. May I ask if the Government could provide with us a written reply later to tell us which were the formal meetings that were recorded, for example, by someone present who would take minutes as a record of the meeting? Can it be provided in the format requested by Mr Albert CHAN, that is, a breakdown listing the number of invitations sent to each Member and the total number of hours of such meetings?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I have to consider the request of Members. But what good would it do? As far as I know, the Chief Executive has already been working very hard in enhancing his communication with Members and people from different sectors. This is a fact

that can be seen. The Chief Executive met with Members in July, and will be seeing them this week. From such facts, it can be proved that the frequency of our communication has been improved. And from the daily work of the Chief Executive, we can see that he has been making special efforts to communicate with the people. Not just the Chief Executive, but also all the principal officials are sharing the same attitude in doing this. Last time, I said that after 1 July, we fully came to the enlightenment that we must make some special efforts in communication and we shall make an all-out effort in this regard. We will surely continue to do so.

MR JAMES TO (in Cantonese): *My supplementary question is: Actually does he have such records and whether he is willing to make such records? The previous reply of the Chief Secretary was, his impression was that the numbers of the meetings were approximately the same. If the records do exist, we can verify whether he had been lying.*

PRESIDENT (in Cantonese): I think your last sentence was unnecessary.

MR JAMES TO (in Cantonese): *I could amend it as "misleading". Madam President, he was misleading the Legislative Council and the public, or providing an inaccurate reply.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I shall try to do some statistics, after returning to the office, on certain meetings, especially those with the presence of third parties. However, I believe we surely respect the opinions of Members. Also, I definitely will not say that Members "are lying". (Appendix IV)

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I do not know why the Chief Secretary should say "I shall try to do....." in his reply to us, the Legislative Council Members. It seems that he was not sincere enough. Is it because when Mr TUNG met with us, he was equally insincere? When Mr*

TSANG was the Financial Secretary, when he met with Legislative Council Members to discuss the Budget, I would like to quote an example.....

PRESIDENT (in Cantonese): Do not say too much now. Please come to your supplementary question direct.

MR SIN CHUNG-KAI (in Cantonese): *I have this question. In the past after we put forward suggestions on the Budget, we would receive a letter telling us which suggestions had been accepted and which had not. They were explicit replies. For meetings between Members and the Chief Executive on the policy address as well as the views put forward by us, can the Chief Executive consider them clearly and provide us with explicit replies as in the case of the Budget? Is it a good practice to provide no reply at all, and to impress us as if the meetings have never taken place? Will the Chief Executive consider providing us with responses after meeting with us in formal meetings to discuss his policy address?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I think the levels of work done by the Financial Secretary and the Chief Executive are very much different, and the suggestions on the Budget put forward by Members to the Financial Secretary are more concrete. Under such circumstances, it is easier to explain the matters. If the suggestions are more abstract and more macro, then the approach of handling them would be quite different. If Members can state their suggestions in a concrete manner in their meetings with the Chief Executive, I believe the Office of the Chief Executive will surely provide them with a positive reply or a more concrete reply on the relevant issues.

PRESIDENT (in Cantonese): This Council has spent more than 17 minutes on this question. Oral question time ends here.

WRITTEN ANSWERS TO QUESTIONS

Building Safety Loan Scheme

7. **MR WONG SING-CHI** (in Chinese): *Madam President, the Building*

Safety Loan Scheme (BSLS) administered by the Buildings Department (BD) provides loans to private building owners for carrying out maintenance and repair works for the purpose of restoring or improving the safety of their buildings and/or private slopes. Since the implementation of BSLS in July 2001, the BD has only granted loans of \$155.57 million as at July this year, with over \$500 million remaining in the fund for the BSLS, and the number of owners whose applications were successful is only 5 185. In this connection, will the Government inform this Council:

- (a) of a monthly breakdown of the number of applications received since the implementation of the BSLS, and the respective numbers of successful and rejected applications, as well as the respective amounts of loans involved;*
- (b) of the number of "statutory orders" such as investigation orders, repair orders, demolition orders, and so on, issued to private building owners by the BD over the past two years, the number of owners who have failed to complete the required works within the period specified in such orders, the percentage of such owners among all owners served with such orders, and the reasons for their failure to complete the required works; and*
- (c) of its plans to encourage private building owners to apply for loans under the BSLS to carry out maintenance and repair works, as well as assist owners of private buildings without Owners' Corporations (OCs) in applying for loans under the BSLS, so as to facilitate early improvement to their buildings; if so, of the details; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):
Madam President, it is the responsibility of owners to ensure that their buildings are properly maintained. However, we appreciate that some owners may need financial assistance to tide them over in this regard. The BSLS seeks to cater for this. Owners may decide whether to apply for a loan according to their needs and circumstances.

As regards take-up, on average there are 2 590 successful applications annually under the BSLS. This represents an eight-fold increase over the annual average number of 290 successful applications under the Building Safety Improvement Loan Scheme (BSILS) which ceased operation in July 2001.

Replies to the three parts of the question are provided below.

- (a) The relevant statistics in respect of the BSLS since its implementation are provided at the Annex.
- (b) The total number of statutory orders issued by the BD over the past two years is as follows:

<i>Year</i>	<i>Total</i>
2001	16 208
2002	58 878

The BD follows up the progress of each case but does not keep overall statistics on the number of owners who have failed to complete the required works within the period specified in the statutory orders.

According to the experience of the BD, the common reasons for owners failing to comply or delaying compliance with the statutory orders are as follows:

- (i) some statutory orders require joint compliance by different owners, and the owners concerned lack co-ordination or have not reached a consensus;
- (ii) owners consider that there will be a loss of or reduction in income or usage (for example, in terms of extra floor area) derived from the unauthorized structures following their required demolition;
- (iii) some orders, such as those relating to the removal of illegal

rooftop structures, entail relocation arrangements. Those affected may not be satisfied with the relocation arrangements (for example, regarding the location of public housing units offered);

- (iv) owners are unwilling to bear the costs involved in complying with the statutory orders;
 - (v) owners encounter financial difficulties;
 - (vi) the whereabouts of the owners cannot be traced.
- (c) Regardless of whether an OC has been formed for a building, its registered owners may apply for loans under the BSLS for carrying out various improvement works to enhance building safety.

To encourage owners of all types of private buildings to apply for loans under the BSLS, the BD has launched a variety of publicity and promotion activities. For example, the BD places advertisements from time to time on the BSLS at stations of the Mass Transit Railway and Kowloon-Canton Railway and bus stops. BD staff also encourage owners to use the BSLS through their regular attendance at meetings of OCs/owners, talks or seminars on building management, as well as their organization of owners' meetings while carrying out large-scale clearance operations. When serving advisory letters/statutory orders on owners, the BD will also enclose pamphlets on the BSLS for building owners to learn more about its application procedures. Moreover, the BD operates a telephone enquiry service for members of the public to learn more about the scheme.

Annex

BSLS

<i>Date</i>	<i>Number of</i>	<i>Number of</i>	<i>Amount of loan</i>	<i>No. of</i>	<i>Amount of loan involved</i>
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<i>(Month/Year)</i>	<i>applications received</i>	<i>applications approved</i> ^(Note 1)	<i>approved</i> (HK\$ Million)	<i>applications not approved</i> ^(Note 4)	<i>in applications not approved</i> (HK\$ Million)
August 2001	112	172 ^(Note 2)	6.28	17	1.91
September 2001	248	120	3.84	6	0.16
October 2001	239	161	5.45	10	0.36
November 2001	259	194	7.49	8	0.41
December 2001	119	280	7.94	16	0.33
January 2002	210	173	5.83	12	0.56
February 2002	80	167	6.05	20	0.83
March 2002	161	89	3.63	12	0.53
April 2002	137	113	4.35	14	0.56
May 2002	148	181	5.31	24	1.03
June 2002	127	149	4.12	12	0.41
July 2002	588	310	7.83	9	0.44
August 2002	323	272	7.43	18	1.05
September 2002	509	323	8.27	21	0.60
October 2002	410	592	17.46	19	0.52
November 2002	317	184	6.54	32	1.72
December 2002	397	278	7.07	15	0.37
January 2003	357	326	10.2	26	1.01
February 2003	118	236	7.16	30	1.21
March 2003	189	213	6.6	22	0.86
April 2003	202	175	4.39	17	0.80
May 2003	264	109	3.23	25	1.31
June 2003	231	215	3.87	39	1.45
July 2003	161	152	5.24	27	1.84
August 2003	234	211	7.14	23	0.79
Total	6 140	5 395 ^(Note 3)	162.72	474	21.06

Note 1: Applications received in the preceding month may be approved in the following month.

Note 2: As the old BSILS ceased operation in end July 2001, the loan applications not yet proceed on or before 27 July 2001 under the old BSILS were dealt with under the new BSLS.

Note 3: A small proportion of applications are still being processed.

Note 4: The main reasons for applications not approved are applicants' withdrawal of the applications or failure to provide the information required.

Penalties on Employers Who Employed Illegal Workers

8. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding the penalties imposed by the Court on employers for employing illegal workers, will*

the Government inform this Council of:

- (a) *the number of employers convicted of employing illegal workers and the details of such cases;*
- (b) *the number and percentage of cases in which convicted employers were sentenced to imprisonment; and*
- (c) *the average term of imprisonment imposed on these employers; whether the Court will be invited to consider reviewing the guideline on the term of imprisonment for such offence, with a view to strengthening the deterrent effect*

in the past three years?

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) In the past three years, the respective numbers of employers convicted of employing illegal workers were 264 (in 2000), 277 (in 2001), 303 (in 2002) and 287 (from January to September 2003).

Due to the substantial number of cases, it is difficult to set out details of employers convicted of employing illegal workers in the past three years. Furthermore, statistics kept by the Immigration Department (ImmD) cannot be broken down into the types of business in which the convicted employers are engaged. The ImmD has however analysed selected sample cases. The results reveal that the arrestees are mainly employed as decorators, building maintenance workers, restaurant labourers, food premises workers, salespersons, transportation labourers and cleaning workers.

- (b) The number and percentage of cases in which convicted employers were sentenced to imprisonment in the past three years are as follows:

<i>Year</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003 (January to September)</i>
Number of convicted	264	277	303	287

Employers				
Number of employers sentenced to imprisonment	12	29	25	40
Percentage	4.5%	10.5%	8.3%	13.9%

- (c) The average term of imprisonment imposed on employers for employing illegal workers in the past three years are as follows:

<i>Year</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003 (January to September)</i>
Average term of imprisonment	86 days	151 days	119 days	98 days

Generally speaking, the Court takes into account various factors in meting out sentences. Such factors include facts of the case, previous sentencing guidelines, individual mitigating petitions, and whether the defendant pleaded guilty and has any past criminal records. To target the problem at source, it has always been the view of the ImmD that stringent actions must be taken against employers hiring illegal workers. If the sentences of individual cases are reckoned manifestly inadequate, the ImmD will seek legal advice from the Department of Justice and consider applying for a sentence review or lodging an appeal, with a view to increasing the deterrent effect on employers.

Community Waste Recovery Projects

9. **MISS CHOY SO-YUK** (in Chinese): *Madam President, at present, non-profit-making organizations may apply for funding from the Environment and Conservation Fund for launching their community waste recovery projects. In this connection, will the Government inform this Council:*

- (a) *of the types of materials recovered and their respective weights, broken down by waste recovery project completed over the past two years;*

- (b) *of the unit cost of recovery (that is, the ratio between the amount of funding granted and the weight of the recovered materials) of the projects mentioned in (a) above, and the market price per tonne of the materials recovered, broken down by type of recovered materials; and*
- (c) *whether the organizers of the community waste recovery projects had offered the materials recovered in the past two years for sale in the market and forwarded the revenue so generated to the authorities; if so, of the sum received by the authorities; if not, how the organizers and the authorities have disposed of the materials recovered?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President,

- (a) So far, eight community waste recovery projects funded by the Environment and Conservation Fund have been completed. The types and quantity of materials recovered in these projects is at the Annex.
- (b) As some of the projects involved collection of more than one type of recyclables, it is not possible to provide the unit cost for each type of materials. The unit cost for recovering the materials as a whole in each project is also at the Annex.

The market price of recyclable materials fluctuates from time to time, and is also dependent on the quantity and quality of the materials. Generally, we understand that the current market price of waste paper is \$600 to \$800 per tonne, that of aluminium cans is \$3,500 to \$4,000 per tonne, and those of plastic bottles and old clothes are \$300 to \$500 and \$2,000 to \$2,100 per tonne respectively.

- (c) The total market value of all the materials recovered in the projects is approximately \$300,000. Most of the project teams have used the materials to offset all or part of the transportation cost in the projects.

Materials recovered by the community waste recovery projects
funded by the Environment and Conservation Fund

<i>Recipient organizations</i>	<i>Quantity of materials recovered</i>	<i>Unit cost of materials recovered</i>
Hong Kong Women Workers' Association	Plastic bottles – 640 kg	\$261.7/kg
Industrial Relations Institute	Plastic bottles – 120 kg	To be ascertained until the organizer has submitted the detailed account
Sham Shui Po Community Association	Plastic bottles – 80 kg	To be ascertained until the organizer has submitted the detailed account
New Territories Association of Societies	Waste paper – 165 888 kg Plastic bottles – 3 567 kg Aluminium cans – 9 525 kg	To be ascertained until the organizer has submitted the detailed account
Green Power	Waste paper – 43 514 kg Plastic bottles – 5 219 kg Aluminium cans – 963 kg	\$9.5/kg
Mongkok Kai-Fong Association Limited Chan Hing Social Service Centre	Waste paper – 35 858 kg Plastic bottles – 11 913 kg Aluminium cans – 586 kg	\$7.6/kg
Hong Chi Sui Choi Centre	Plastic bottles – 1 754 kg	\$52.7/kg
Hong Kong Eastern District Environmental Advancement Association	Waste paper – 59 677 kg Plastic bottles – 8 016 kg Aluminium cans – 1 314 kg Old clothes – 31 700 kg	\$4.3/kg

Details of Services Provided by Public Relations Firms Commissioned by the Government

10. **MR JAMES TO** (in Chinese): *Madam President, will the Government inform this Council of the details of the services provided by public relations (PR) firms which were commissioned by government departments in each of the past three years, including the government departments and the PR firms involved, the respective values and contents of the contracts, and the services provided by these firms?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, most bureaux and departments hire PR firms in order to strengthen and improve their communication with the public and the media. PR firms would be hired:

- (i) to train staff in the skills of communicating with the public or media;

- (ii) to review, advise on and plan strategies in developing relations and contacts with both local and overseas communities, in promoting an institution (for example, the Women's Commission), a concept (for example, Brand Hong Kong) or a campaign (for example, Clean Hong Kong Campaign); and
- (iii) to organize and deliver the activities in (ii) direct.

PR firms would also be hired for organizing events such as opening ceremonies, conferences and exhibitions.

Available details of the contracts involved since 2000-01 are at Annexes I to III.

Annex I

Contracts between Bureaux/Departments and PR Firms in 2000-01

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
Civil Engineering Department	PP Strategic Consultancy Limited	Provision of media training for staff.	\$593,160
Civil Service Training and Development Institute (CSTDI)	Burson-Marsteller	Design of Media Communications Module for leadership development programme and training for senior professionals.	\$125,000
	Burson-Marsteller	Design of Media Communications Module for leadership development programme and training for senior professionals.	\$125,000
	Burson-Marsteller	Design of Media Communications Module for leadership development programme and training for senior professionals.	\$127,000
	WorldBridge Holding Limited	Provision of media training for civil servants.	\$125,304
CSTDI (Cont'd)	PP Strategic Consultancy Limited	Provision of media training for civil servants.	\$158,360
	NA News Service Company	Provision of media training for civil servants.	\$108,000
Commerce, Industry and Technology Bureau (Hong	Edelman Public Relations Worldwide	To act as HKSAR Government PR adviser in the United States for two	US\$250,000

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
Kong Economic and Trade Offices)		years (contract terminated in December 2000).	
	Perceptions, Inc, Manila, The Philippines	Design and execution of PR strategy for Hong Kong to build up network in the Philippines.	US\$5,000
	Perceptions, Inc, Manila, The Philippines	Dissemination of information on the Chief Executive's policy address to the media in the Philippines.	US\$2,000
	Tokyu Recreation Company Limited	Organization of the Hong Kong Film Festival in Tokyo.	\$1,064,000
	Balmoral Marketing & Advertising	Organization of a multi-media project to promote Hong Kong and to launch the Brand Hong Kong in Toronto and Vancouver.	CAN\$51,500
Drainage Services Department	PA Professional Consultants Limited	Provision of media training and advisory service on media communication.	\$886,000
Electrical and Mechanical Services Department	DIYR Communications Limited	Provision of advice and support on PR and communication issues.	\$743,600
Environmental Protection Department	C K Lo & S Lam Limited	Development of a strategic communication plan to promote clean air in Hong Kong.	\$135,000
Fire Services Department	Metro Broadcast Corporation Limited	Production of a series of on-air programme for the Fire Prevention Campaign, including that for the Launching Ceremony.	\$450,000
Food and Environmental Hygiene Department	CLIC Limited	Development of a publicity strategy to promote the Clean Hong Kong message, including design of logo and creative concepts.	\$200,000
Hong Kong Post	Hill & Knowlton (Asia Limited)	Provision of PR-related services on retainer basis.	\$621,000
Information Services Department	Burson-Marsteller	Consultancy services for developing a strategy to reposition and promote Hong Kong internationally.	\$9,300,000
Invest Hong Kong	Burson-Marsteller	Provision of publicity support for the launch of the BT Global Challenge to create awareness of InvestHK and its sponsorship of the event.	\$1,300,000
Labour Department	NA News Service Company	Organization of a training workshop for staff.	\$54,000
Planning Department	Shandwick International Hong Kong	Consultancy services for formulation of an overall PR and public consultation strategy for the Hong Kong 2030, including arrangements	\$1,300,000

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
		for consultation events.	
	NA News Service Company	Organization of four workshops for staff on media operation and handling of the media.	\$224,000
University Grants Committee Secretariat	Sirius Pacific Consultants Limited & Link-Work Communications (Hong Kong) Limited	Provision of advice and support on publicity and PR matters.	\$816,000

Annex II

Contracts between Bureaux/Departments and PR Firms in 2001-02

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
Architectural Services Department	NA News Service Company	Design and conduct of three workshops on handling media and complaints for senior professionals.	\$57,000
Buildings Department	PP Strategic Consultancy Limited	Advice on PR strategies relating to enforcement actions against unauthorized building works and building safety maintenance, and training of front-line staff on media and community relations skills.	\$39,600
Civil Engineering Department	Golin/Harris Forrest International Limited	Provision of media training to staff.	\$147,530
	PP Strategic Consultancy Limited	Provision of media training to staff.	\$380,100
	PP Strategic Consultancy Limited	Provision of media training to staff.	\$131,810
Civil Service Training and Development Institute (CSTDI)	Burson-Marsteller	Design of Media Communications Module for leadership development programme and training for senior professionals.	\$120,000
	Burson-Marsteller	Design of Media Communications Module for leadership development programme and training for senior professionals.	\$120,000
CSTDI (Cont'd)	Burson-Marsteller	Design of Media Communications Module for leadership development programme and training for senior professionals.	\$150,000
	NA News Service	Provision of media training to civil	\$113,000

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
	Company	servants.	
Commerce, Industry and Technology Bureau	Weber Shandwick Worldwide	Provision of publicity and related services in connection with the organization of the "2001 Helping Business Awards Scheme".	\$570,000
CITB (Hong Kong Economic and Trade Offices)	Hill & Knowlton	To act as HKSAR Government PR adviser in the United States for two years.	US\$500,000
	Balmoral Marketing & Advertising	Organization of the Hong Kong Arts Festival in Toronto.	CAN\$44,400
	Spark PR Practice, Kuala Lumpur, Malaysia	Design and execution of the publicity plan to launch Brand Hong Kong in Kuala Lumpur, Malaysia.	US\$2,200
	NCC Management & Development Company Limited, Bangkok, Thailand	Dissemination of information on the 2002 budget to the media in Bangkok, Thailand.	SIN\$2,600
Environment, Transport and Works Bureau	Golin/Harris Forrest International Limited	Development of a PR and publicity strategy, including a review of the community's perception of the former Works Bureau.	\$675,000
Environmental Protection Department (EPD)	Weber Shandwick Worldwide (Hong Kong) Limited	Development and execution of a series of programmes to raise the community's understanding of the Harbour Area Treatment Scheme (HATS) and to build consensus among the community on the most appropriate way to tackle the water pollution problem in the harbour. (The programme has been extended to October 2003.)	\$1,264,400
	Weber Shandwick Worldwide (Hong Kong) Limited	Design and execution of a publicity programme for the pledging ceremony of "Wait Green, Engine Off" Campaign, including the venue set up.	\$745,300
	PP Strategic Consultancy Limited	Provision of service for the Public Reaction Risk Analysis of the Waste Management Plan	\$130,000
EPD (Cont'd)	Rising Communication Centre	Organization of large scale publicity programme to promote Waste Reduction.	\$881,000
	Rising Communication Centre	Organization of publicity programme to promote reduction/recycling at the 36th Hong Kong Products Expo.	\$700,000

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
Electrical and Mechanical Services Department	DIYR Communications Limited	Provision of advice and support on PR and communication issues.	\$743,600
Fire Services Department	U&P Interactive Company	Organization of the exhibition on the importance of early pre-hospital CPR in cardiac arrest and injury prevention at home.	\$300,000
	Metro Broadcast Corporation Limited	Production of a series of on-air programme for the Fire Prevention campaign, including that for the Launching Ceremony.	\$560,000
Food and Environmental Hygiene Department	CLIC Limited	Development of a publicity strategy to promote the Clean Hong Kong message, including the design and production of creative items.	\$200,000
Heath, Welfare and Food Bureau	CK Lo & S Lam Limited	Consultancy service for the public consultation on the proposed legislative amendments to the smoking legislation.	\$454,000
	PMP Advertising (International) Limited	Consultancy service and support for the publicity and public education campaign on gender issues, capacity building initiated by the Women's Commission and on the work of the Commission.	\$440,000
Home Affairs Bureau	Sirius Pacific Consultants Limited	Provision of professional advice and support to the Culture and Heritage Commission on publicity and PR matters for the purpose of soliciting public views in the formulation of policy recommendations.	\$183,333
Hong Kong Police Force (HKPF)	Shun Hing Advertising Company Limited	Development and implementation of the media publicity plan for the Police Recruitment and Publicity Campaign 2001/02, and design and set up of a police Booth in the Education and Careers Expo.	\$276,500
HKPF (Cont'd)	PMP Advertising (International) Limited	Consultancy service in formulation of publicity strategy for the Fight Crime Campaign 2002/03, including provision of creative ideas and media strategy for the publicity package.	\$75,000
Hong Kong Post	Hill & Knowlton (Asia Limited)	Provision of PR-related services on retainer basis.	\$622,500

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
Invest Hong Kong	Chelgate Limited	Development and execution of the media publicity plan to create awareness of InvestHK among the target audiences.	\$777,000
	Chelgate Limited	Development and execution of the overseas media publicity plan to support the sponsorship of the BT Global Challenge.	\$1,183,000
	Chelgate Limited	Development and execution of the publicity plan to create awareness of the Fortune Global Forum.	\$206,000
	APCO Asia	Development and execution of the media publicity plan to create awareness of InvestHK among the target audiences and to promote the advantages of doing business in Hong Kong. (A two-year contract from November 2001 to October 2003.)	\$2,400,000
Labour Department	Dun & Bradstreet (Hong Kong) Limited	Organization of a training workshop for staff.	\$20,000
Planning Department	NA News Service Company	Organization of four workshops for staff on media operation and handling of the media.	\$252,200
	NA News Service Company	Organization of three workshops for staff on media operation and handling of the media.	\$150,000
Transport Department	A-World Communications Limited	Provision of professional advice and other related services for the consultation and publicity plan for the public transport reorganization plan in connection with the commissioning of the MTR Tseung Kwan O Extension.	\$1,116,000
University Grants Committee Secretariat	Sirius Pacific Consultants Limited & Link-Work Communications (Hong Kong) Limited	Provision of advice and support on publicity and PR matters.	\$816,000

Annex III

Contracts between Bureaux/Departments and PR Firms in 2002-03

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
Civil Engineering	Golin/Harris Forrest	Provision of media training to staff.	\$590,111

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
Department	International Limited		
Civil Service Training and Development Institute	Burson-Marsteller	Design and conduct of two seminars on Issue Management for senior officers.	\$50,000
	Burson-Marsteller	Design of Media Communications Module for leadership development programme and training for senior professionals.	\$120,000
	Burson-Marsteller	Design of Media Communications Module for leadership development programme and training for senior professionals.	\$120,000
	Burson-Marsteller	Design of Media Communications Module for leadership development programme and training for senior professionals.	\$145,000
	Public Communication Strategic Consultancy Limited	Provision of media training for civil servants.	\$145,000
	NA News Service Company	Provision of media training for civil servants.	\$111,000
	Media Eye	Provision of media training for civil servants.	\$84,000
Commerce, Industry and Technology Bureau (Hong Kong Economic and Trade Offices)	LIVEpr Limited	Publicity and promotion of the Hong Kong Festival 2002 held in the United Kingdom from July to September 2002, including development of a website.	£ 11,750
	LIVEpr Limited	Publicity campaign to promote BrandHK.	£ 39,333
	Infinite Advertising Company Limited	Publicity for and organization of the opening of the Guangdong Economic and Trade Office, including the reception luncheon and a business seminar.	RMB 790,000 yuan
Environment, Transport and Works Bureau	Golin/Harris Forrest International Limited	A follow up study on the PR and publicity strategy developed in the light of the establishment of the Environment, Transport and Works Bureau.	\$200,000
Environmental Protection Department	Rising Communication Centre	Organization of publicity programme for the Plastic Bags (Domestic) Recovery Trial	\$336,800
	Rising Communication Centre	Organization of the Launching Ceremony for the Mobile Phone Battery Recovery and Recycling	\$91,200

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
		Programme.	
Electrical and Mechanical Services Department	DIYR Communications Limited	Provision of advice and support on PR and communication issues.	\$1,001,000
Fire Services Department	Wellfit Productions Limited	Organization of the exhibition on the importance of early pre-hospital CPR in cardiac arrest and injury prevention at home.	\$330,000
	Metro Broadcast Corporation Limited	Production of a series of on-air programme for the Fire Prevention Campaign, including that for the Launching Ceremony.	\$592,000
Food and Environmental Hygiene Department	Saatchi & Saatchi	Development of a publicity strategy and plans to promote Clean Hong Kong, including media consultancy advice.	\$850,000
Health, Welfare and Food Bureau	Meeting Planners International (Hong Kong) Limited	Organization and management of the symposium/exhibition and roving exhibitions on the "Challenges and Opportunities of an Ageing Population" to promote healthy ageing.	\$350,000
	Meeting Planners International (Hong Kong) Limited	Provision of professional advice and service in organizing the Women's Commission's conference held in 2002.	\$216,000
Home Affairs Bureau	Sirius Pacific Consultants Limited	Provision of professional advice and support to the Culture and Heritage Commission on publicity and PR matters for the purpose of soliciting public views in the formulation of policy recommendations.	\$619,667
Hong Kong Police Force (HKPF)	Shun Hing Advertising Company Limited	Development and implementation of the media publicity plan for the Police Recruitment and Publicity Campaign 2002/03, and design and set up of a police Booth in the Education and Careers Expo.	\$190,000
HKPF (Cont'd)	PMP Advertising (International) Limited	Consultancy service in formulation of publicity strategy for the Fight Crime Campaign 2002/03, including provision of creative ideas and media strategy for the publicity package.	\$100,000
Hong Kong Post	Hill & Knowlton (Asia Limited)	Provision of PR-related services on retainer basis.	\$424,000
Information Services Department	Burson-Marsteller	Provision of brand management and support teams to develop and	\$3,000,000

<i>Bureau/Department</i>	<i>PR Firm</i>	<i>Purpose and Service</i>	<i>Contract Value</i>
		implement an overall strategy and a programme for promoting BrandHK.	
Information Technology Services Department	Media Eye	Provision of eight one-day media training workshops for senior officers.	\$228,000
	Public Communication Strategic Consultancy Limited	Organization of a talk on communication skills for middle management staff.	\$15,000
Marine Department	International Conference Consultants, Limited	Management service, including provision of logistics support and secretariat for the 10th International Symposium on Vessel Traffic Services cum Exhibition in February 2004.	\$410,000
Office of the Telecommunications Authority	iPR Asia Limited	Provision of professional advice and service to promote ITU TELECOM ASIA 2002 among the mass media in Hong Kong and China, including the handling of media on site and the monitoring of media coverage on the event.	\$55,000
Transport Department	Y M YEUNG Limited	Provision of professional advice and other related services for the consultation and publicity programme for the public transport reorganization plan in connection with the commissioning of the West Rail.	\$1,280,000

Regulation of Dolphin-watching Activities

11. **MS EMILY LAU** (in Chinese): *Madam President, it has been reported that in May and June this year, more than 8 000 people, or roughly seven times the figure in April, took boat cruises for dolphin watching, with the peak number of boats engaged in such activities being at 30 a day. Some boats travelled very close to other boats, posing possible hazards; while some cut their way through schools of dolphins, causing serious disturbance to the habitat of dolphins. In this connection, will the executive authorities inform this Council:*

- (a) *of the measures in place to regulate dolphin watching activities;*
- (b) *of the number of operators of such boats prosecuted for breaching legislation on marine and wildlife protection in each of the past 12 months; whether the authorities have plans to step up law enforcement actions; if not, of the reasons for that; and*

- (c) *whether they plan to step up the regulation of dolphin-watching activities; if so, of the details of the plans; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President,

- (a) Operators of dolphin watching activities have to observe the Wild Animals Protection Ordinance (Cap. 170) which provides that it is an offence to cause wilful disturbance to dolphins. When operating within marine parks, they also have to observe the requirements in the Marine Parks Ordinance (Cap. 476) including the speed limit of 10 knots. Moreover, they are required to comply with marine control legislation applicable to all vessels including the safety requirements relating to vessel construction standards, navigation of the vessel, safety equipment, passenger capacity and qualifications for masters and engineers.

In the light of the increasing interest among members of the public to see the Chinese White Dolphins in Hong Kong waters, the Agriculture, Fisheries and Conservation Department (AFCD) is monitoring closely dolphin watching activities through patrolling the dolphin sanctuary at the Sha Chau and Lung Kwu Chau Marine Park and other waters in Hong Kong where the animals frequent. Since September this year, the AFCD has been sending undercover officers on commercial dolphin watching boat cruises to check that no activities that may affect the well-being of the animals are carried out. Enforcement actions will be taken where appropriate. Moreover, the AFCD is also organizing educational and publicity activities for operators of dolphin watching activities and members of the public through promulgating a Code of Conduct for Dolphin Watching, conducting seminars and making available educational and publicity pamphlets to teach people what they should do and what they should not do when participating in dolphin watching activities.

(b) and (c)

Over the past 12 months, the Marine Department (MD) prosecuted one operator of dolphin watching cruise for carrying passengers of an excessive number on his vessel in August this year. The MD is considering taking prosecution action against another operator involved in a collision incident for failing to keep a proper lookout.

The MD and the AFCD will continue their rigorous efforts in enforcing the law to enhance marine safety and protect the Chinese White Dolphins. The AFCD will also strengthen its educational efforts through organizing more seminars and training sessions for operators of dolphin watching activities and promoting the Code of Practice for Dolphin Watching in the community.

Review of Licence Fee and First Registration Tax for Vans

12. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, it is learnt that before 1991, as there were substantial differences between the first registration taxes (FRT) and licence fees for vans and private cars, and saloon cars with a carrying capacity of seven passengers were not yet widely available, some car owners had converted their vans into passenger carrying private cars. In order to curb such conversions, the FRT and licence fee for vans were increased in 1991. However, with the increasing popularity of saloon cars with a carrying capacity of seven passengers, the number of such conversions has decreased since the 1990s. In this connection, will the Government inform this Council whether:*

- (a) *the authorities have reviewed the FRT and licence fee for vans in the past two years; if so, of the review results; if not, the reasons for that;*
- (b) *it will consult the trade on the need to reduce the above FRT and licence fee; if so, of the details; if not, the reasons for that; and*
- (c) *it will reduce the above FRT and licence fee; if so, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, before 1991, some car owners took advantage of the low tax rate and licence fee of goods vehicles and used van-type light goods vehicles as private cars. This undermined the effectiveness of the measures aimed at discouraging private car ownership, and resulted in the proliferation of van-type light goods vehicles on the road which aggravated traffic congestion. To address this problem, the FRT rate and licence fee for van-type light goods vehicles were increased in 1991 to reduce the differential between the tax rates and licence fees of such vehicles and private cars.

The Hong Kong Union of Light Van Employees approached the Transport Department (TD) in early 2002 to request a review of the FRT rate and licence fee for van-type light goods vehicles. The Administration accordingly conducted a review which showed that the reduction in the FRT rate and licence fee differential between van-type light goods vehicles and private cars was effective in containing the growth of van-type light goods vehicles and curbing the use of van-type light goods vehicles as private cars between 1991 and 2002. The number of van-type light goods vehicles dropped from 66 200 in end 1991 to 44 928 in end September 2002, a decrease of 32%.

The review concluded that the present FRT rate and licence fee differential between van-type light goods vehicles and private cars should be maintained to prevent the recurrence of van-type light goods vehicles being used as private cars. The TD advised the Hong Kong Union of Light Van Employees in August 2003 that the licence fee of van-type light goods vehicle would not be varied while the FRT rate would be adjusted in line with that of private vehicles in the context of the 2003-04 Budget. The adjustment was subsequently approved by the Council.

Regulation of Non-franchised Bus Services

13. **MR ALBERT CHAN** (in Chinese): *Madam President, in reply to my question on 8 May last year, the Administration stated that it had issued warnings to the operators of the shuttle bus services for the Kingswood Ginza and Park'n*

Shop in Tin Shui Wai, and that it was considering means to tighten the regulation of free shuttle bus services. However, I have recently received complaints alleging that the police had time and again prosecuted the residents' bus operators at Tin Shui Wai for breaching the stipulations on the routing prescribed by the Transport Department (TD) and slightly breaching the requirement on the frequency and time of the services but they had not instituted prosecutions against the persons concerned in relation to the free shuttle bus services and the residents' bus services provided by the operators of Kingswood Ginza and Harbour Plaza Resort City respectively in the same district, which have been operating without the approval of the TD. In this connection, will the Government inform this Council:

- (a) of the reasons for the inconsistency in its yardstick for law enforcement against various types of non-franchised bus services; and*
- (b) whether it will consider relaxing the restrictions on residents' coach services, such as their routing and service hours, so that more residents may use such services?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, unauthorized non-franchised bus services affect the legitimate operation of authorized public transport services and cause traffic problems. The TD and the police have taken and will continue to take enforcement actions to tackle unauthorized non-franchised bus services. These enforcement actions include the issue of warning letters, fixed penalty tickets and summonses, and the conduct of inquiries in accordance with the Road Traffic Ordinance (Cap. 374) having regard to the circumstances of individual cases.

The TD is monitoring the operation of unauthorized free bus services and residents' services in the Tin Shui Wai area and has taken appropriate regulatory and enforcement actions against the operators of these unauthorized services. As a result, some of the unauthorized services have ceased. As for the unauthorized services mentioned in the latter part of the second sentence of the question, investigations are still ongoing.

To ensure the efficient use of Hong Kong's limited road space and taking into account environmental considerations, it is the Government's transport policy

to encourage the use of mass carriers *viz* railways and franchised buses as the main service providers of trunk services to and from busy areas. Residents' services are operated as a supplementary service primarily during peak hours to relieve the peak-hour demand on franchised buses and green minibuses, especially as feeder services to railway stations and major public transport interchanges. On this basis, the TD will look at the circumstances of each case carefully in considering matters relating to operation of residents' services.

Waste Recovery Scheme Differentiated by Three Colours

14. **MISS CHOY SO-YUK** (in Chinese): *Madam President, at present, the Government provides waste separation bins of three different colours in public places to recover plastic bottles, aluminium cans and waste papers respectively. In this connection, will the Government inform this Council:*

- (a) *of the amount of public money spent so far on the waste recovery scheme (with a breakdown of the costs of recovery bins, the fees payable to transport companies and recyclable waste collectors, and so on);*
- (b) *of the respective weights of the different types of materials recovered through the scheme so far;*
- (c) *of the unit cost of recovery (that is, the ratio between the amount of funding granted and the weight of the recovered materials) of each type of recovered materials, and the market price per tonne of the materials recovered, broken down by type of materials recovered; and*
- (d) *whether the recovered materials mentioned above have been offered for sale in the market; if so, of the revenue so generated by the authorities; if not, how the authorities have disposed of the materials recovered?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President,

- (a) The amount of public money that has so far been spent on the waste separation bin system is set out below:

<i>Year</i>	<i>Cost of Procuring Waste Separation Bins</i>	<i>Cost of the Recyclables Collection Services</i>
2000-01	\$4 million (cumulative figure from 1998 to 2001)	\$0.64 million/year
2001-02	\$2.5 million	\$1.83 million/year
2002-03	\$4.5 million	\$2.97 million/year
2003-04	Nil	\$4.15 million/year

It must be noted that the collection services mentioned in the table above only covers the bins which are placed in schools and public venues. These bins account for about 30% of all the waste separation bins in the territory, and they produce less than 1% of all the recovered materials. We believe these bins have lower yield because of the presence of scavenging activities.

- (b) The amounts of waste paper, aluminium cans and plastic bottles collected from the waste separation bins since 2000-01 are set out below.

<i>Year</i>	<i>Waste Paper (tonnes)</i>	<i>Aluminium Cans (tonnes)</i>	<i>Plastic Bottles (tonnes)</i>
2000-01	106 000	1 900	960
2001-02	116 600	4 300	870
2002-03	142 700	6 800	1 400

The above amounts have not included the recyclable materials that were taken away by scavengers.

- (c) As the collection service covers all three types of recyclables, it is not possible to provide the unit cost for each type of materials. The unit recurrent cost for recovering the materials as a whole is about \$27 per tonne.

The market price of recyclable materials fluctuates from time to time, and is also dependent on the quantity and quality of the materials. Generally, we understand that the current market price of waste paper is \$600 to \$800 per tonne, that of aluminum cans is \$3,500 to \$4,000 per tonne, and that of plastic bottles is \$300 to \$500 per

tonne.

- (d) For the recyclables collected from public venues and schools, the collection contractors are required to sell them to recyclers, and they can retain the revenue generated from the sale of the recyclables. The contract prices of the collection services have already reflected such revenue. For public housing estates, the cleansing contractors can retain the revenue generated from the sale of recyclables. The contract prices of the cleansing services have reflected such revenue.

Contractors' Claims on the MTR Tseung Kwan O Extension Project

15. **MS EMILY LAU** (in Chinese): *Madam President, will the executive authorities inform this Council whether they know if the contractors for the Mass Transit Railway Tseung Kwan O Extension project have made claims against the MTR Corporation Limited (MTRCL); if they have, of:*

- (a) *the number of such claims;*
- (b) *the nature and amount of each claim, and the percentage of the amount of each claim in relation to the value of the contract concerned; and*
- (c) *the number of claims still unresolved and the total amount being claimed?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Chinese): Madam President, the MTRCL received 508 claims at a total of \$423 million regarding its Tseung Kwan O Extension railway works mostly involving unforeseen ground and other conditions. The details of the claims involved contractual and commercially sensitive information and the MTRCL considers that it would not be appropriate to disclose such information.

The MTRCL has awarded \$227 million in finalizing all claims from its contractors for the Tseung Kwan O Extension railway works. According to the Corporation, there are no unresolved claims or liabilities raised by its contractors regarding this project.

Refusing Applications by and Entry of Mainland Residents Visiting Hong Kong Individually

16. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding mainland residents visiting Hong Kong individually, will the Government inform this Council:*

- (a) *whether it knows the total number of applications for endorsements to visit Hong Kong individually for leisure which have been rejected by mainland public security authorities since 1 July this year and the main reasons for their rejections; if so, of the details;*
- (b) *of the number of mainland residents holding endorsements for visiting Hong Kong individually for leisure who were refused entry by the Immigration Department (ImmD) at border control points in the past three months, together with a breakdown by the reasons for refusal; and*
- (c) *whether it has reviewed if there are loopholes in the reciprocal notification mechanism between the Mainland and Hong Kong in respect of the lists of persons who are forbidden to enter Hong Kong; if so, of the review results?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) The "Individual Visit" Scheme came into operation on 28 July. The ImmD has since been maintaining close liaison with mainland authorities on statistics regarding applications for "individual visit" endorsement. We understand that mainland authorities do not compile statistics on applications for documents/endorsements that have been rejected. Specific statistics are compiled on a case by case basis according to need. For example, the Guangdong Public Security Bureau published information on applications for "individual visit" endorsement on 13 October, which included the number of applications approved (470 000). Of these, 360 000 were applications to visit Hong Kong. Close to 30 applications were rejected because the applicants failed to meet the eligibility criteria.

- (b) Visitors who wish to enter Hong Kong must meet normal immigration requirements (such as holding a valid travel document, adequate funds to cover his/her stay in Hong Kong and document/entry permit with adequate returnability to his place of origin) before they are granted entry. If a visitor fails to meet the above requirements, or his *bona fides* are in doubt, he will be refused entry. Each case will be assessed on its own merits.

We do not keep separate figures on the number of visitors with "individual visit" endorsements who have been refused entry. During the past three months (July to September), a total of 4 741 mainland visitors were refused entry. The relevant figures, broken down according to main reasons for refusal, are set out below.

<i>Reasons</i>	<i>Number of visitors</i>
Doubtful intention of visit	3 899
Improper documentation	538
Forged documents	304

- (c) With further facilitation of mainland residents visiting and doing sightseeing in Hong Kong, the Government of the Hong Kong Special Administrative Region and mainland authorities have reached, at the policy level, a consensus on the handling of mainland residents involved in illegal activities in Hong Kong. Specific measures include the transmission of information on such mainland visitors by the ImmD to the Mainland Exit-entry Departments under the Public Security Bureau. This facilitates the latter to process, in accordance with the mainland law, applications from such persons to visit Hong Kong again. The ImmD will also consider classifying such persons as targets for monitoring. When they seek to enter Hong Kong again, staff at control points will process, in accordance with the law, their requests having regard to their past immigration record and their purpose for entering Hong Kong.

As persons found to be involved in illegal activities may enter Hong Kong through illegal means, mere tightening the control measures on visit applications may not be enough to prevent them from sneaking into Hong Kong to take part in illegal activities. In view of this, authorities of both sides have established effective liaison channels

to review the usefulness of the various measures so as to ensure the safety of Hong Kong residents and visitors.

Combatting Employment of Illegal Workers

17. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, regarding the efforts to combat the employment of illegal workers, will the Government inform this Council:*

- (a) *of the following over the past 36 months:*
 - (i) *the respective numbers of illegal workers arrested by law enforcement officers, including construction site labours, foreign domestic helpers engaged in non-domestic duties, and other types of illegal workers, together with a breakdown by the travel documents they held;*
 - (ii) *the number of operations against illegal employment executed by the officers of the Labour Department (LD) and the Immigration Department (ImmD);*
 - (iii) *the number of visitors who were suspected of attempting to enter Hong Kong for illegal employment and thus refused entry by the ImmD;*
 - (iv) *the number of reports made to the ImmD by members of the public on suspected employment of illegal workers; and*
 - (v) *the number of construction site controllers convicted of employing persons not lawfully employable (including illegal immigrants), and the average penalty imposed by the Court on such persons; and*
- (b) *of the new measures being considered by the Administration to step up efforts to combat the employment of illegal workers?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) (i) From 2000 to September 2003, the number of illegal workers (excluding those engaged in prostitution) arrested by law enforcement officers is set out below:

<i>Year</i>	<i>Mainland visitors</i>	<i>Illegal immigrants from the Mainland</i>	<i>Visitors of other nationalities</i>	<i>Foreign domestic helpers</i>	<i>Other illegal workers</i>	<i>Total</i>
2000	1 853	118	57	244	45	2 317
2001	2 210	156	46	196	73	2 681
2002	3 031	87	62	220	134	3 534
2003 (January to September)	3 536	119	44	151	135	3 985

The number of illegal workers arrested for taking up suspected illegal employment in construction sites is as follows:

<i>Year</i>	<i>Illegal immigrants</i>	<i>Visitors holding Permits for Travelling to and from Hong Kong and Macao</i>	<i>Total</i>
2000	89	267	356
2001	101	158	259
2002	20	332	352
2003 (January to September)	1	203	204

- (ii) The number of operations against illegal employment conducted by the ImmD and the LD is as follows:

	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003 (January to</i>
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				<i>September)</i>
Operations by the ImmD	2 080 (54)	2 896 (61)	3 580 (73)	3 792 (67)
Inspections by the LD	153 631 {0}	157 786 {1}	157 968 {15}	114 986 {20}

() Indicates the number of operations jointly conducted by the ImmD and other departments.

{ } Indicates the number of operations jointly conducted by the LD and other law enforcement departments.

- (iii) Statistics kept by the ImmD cannot be broken down to show the number of visitors who have been refused entry because of being suspected of attempting to enter Hong Kong for illegal employment. Generally speaking, visitors are refused entry at control points for the following three main reasons:

1. Doubtful intention of visit
2. Improper documentation
3. Forged documents

The number of visitors who were refused entry at control points is set out below:

	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003 (January to September)</i>
Mainland visitors	11 455	9 407	10 952	13 560
Other visitors	9 336	11 879	10 269	6 517
Total	20 791	21 286	21 221	20 077

- (iv) The number of reports received by the ImmD on suspected employment of illegal workers is as follows:

<i>Year</i>	<i>Number of reports on employment of illegal workers</i>
2000	2 946
2001	3 444
2002	6 508

2003 (January to September)	7 167
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- (v) Only one construction site controller was convicted of employing persons not lawfully employable and thus fined \$10,000 in March 2000. No other construction site controllers have been convicted of this offence.
- (b) The Administration is committed to combatting the employment of illegal workers in order to protect the employment opportunities for local workers. On the enforcement front, the ImmD will exercise stringent control at various control points to identify and refuse entry of visitors who are suspected of entering Hong Kong for illegal employment or other unlawful activities. The ImmD will also distribute notices on conditions of stay to all incoming visitors reminding them not to take up any employment in Hong Kong which is liable to prosecution.

To further tackle the problem of illegal employment, the Task Force of the ImmD will conduct inspections in factories, restaurants, business establishments and other black spots of illegal employment from time to time. It will also launch frequent inter-departmental joint operations with departments including the police and the LD against black spots of illegal employment such as shops, public places and construction sites. Actions are taken against illegal workers as well as their employers who have contravened the Immigration Ordinance. At the same time, more efforts will be spent on collecting intelligence to enhance the effectiveness of these operations.

Moreover, the ImmD will step up its exchange of intelligence with law enforcement authorities in the Mainland, with a view to combatting those who assist offenders using others' personal data to apply for travel documents for visiting Hong Kong. The ImmD will also regularly notify mainland authorities concerned of the particulars of mainland visitors who have contravened the Immigration Ordinance for follow-up actions, so as to prohibit those offenders including illegal workers from entering Hong Kong again within a specific period.

Apart from the above, the ImmD will step up publicity programmes against illegal employment and upgrade its hotline system for reporting employment of illegal workers to enhance its processing efficiency. If the sentences for those employers who are convicted of employing illegal workers are found to be manifestly inadequate, the ImmD will apply to the Court for review or appeal for increase of sentence so as to increase the deterrent effect.

Taxi Hiring Scheme for Official Duty Journeys

18. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that in order to promote business opportunities for the taxi trade, the Government has extended the Taxi Hiring Scheme for official duty journeys to 98 government departments since the end of February this year. In this connection, will the Government inform this Council:*

- (a) of the number of hirings made and the total amount of hire charges since the implementation of the scheme;*
- (b) of the evaluations of the scheme by the taxi trade; and*
- (c) how to balance the scheme with the expenditure-saving policy of the Government?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): Madam President, the reply to the three-part question is as follows:

- (a) Up to 30 September this year, the government departments have made 431 official duty journeys under the Taxi Hiring Scheme. The total amount of hire charges involved is \$143,000.
- (b) The Government has been in close consultation with the taxi operators on the implementation of the Scheme. We understand that the taxi trade generally welcomes and supports the Government's initiative for making greater use of hourly-hired taxis for official duty journeys. Since implementation, the number of taxi associations/radio stations joining the Scheme has also increased

from 35 to the present 41.

- (c) The Taxi Hiring Scheme aims at providing a flexible and cost-effective means of transport for duty journeys by government officials. In parallel with this initiative, the Government Logistics Department has withdrawn all the 10 medium saloons and deleted the 10 associated Motor Driver posts from its central transport pool. These measures are in line with the Government's policy to economize on public expenditure.

Providing Public Lockers at Beaches Managed by LCSD

19. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, at present, no lockers are provided by the Leisure and Cultural Services Department (LCSD) for public use on the beaches it manages. In this connection, will the Government inform this Council:*

- (a) *of the number of thefts on the beaches reported to the police and the number of suspects arrested for alleged thefts thereat over the past three years;*
- (b) *whether the LCSD plans to provide lockers for public use on the beaches it manages; if so, of the details; if not, the reasons for that; and*
- (c) *of the measures in place to further safeguard the property of beach-goers?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, my replies to the Honourable Member's questions are as follows:

- (a) In accordance with the records of the LCSD, 24 theft cases were reported and two suspects were arrested at the bathing beaches in the past three years.
- (b) The LCSD has no plan to provide lockers at the bathing beaches. However, contractors of food kiosks at some of the beaches have

provided custody services for swimmers. These are found at Stanley Main Beach, South Bay Beach, Repulse Bay Beach and Deep Water Bay Beach in Southern District; Upper Cheung Sha Beach in Islands District; Butterfly Beach, Cafeteria Old Beach and Golden Beach in Tuen Mun District; Lido Beach in Tsuen Wan District; Clear Water Bay Second Beach in Sai Kung District. As the demand for such services at bathing beaches is seasonal, it is more cost-effective to provide these services by contractors.

- (c) Announcement are made regularly on the bathing beaches to remind swimmers to take care of their personal belongings and LCSD staff also conduct patrols on the beaches to deter incidents of crime.

Eating and Drinking on Trains

20. **MR FREDERICK FUNG** (in Chinese): *Madam President, regarding the problem of eating and drinking on the trains of the Mass Transit Railway (MTR), Kowloon-Canton Railway and Light Rail, will the Government inform this Council whether it knows:*

- (a) *the number of complaints about passengers eating and drinking on the trains received by each of the above railway operators in each of the past five years, as well as the number of warnings issued and prosecutions instituted for such offences; and*
- (b) *the measures taken by these operators to reduce the nuisance caused to other passengers by those who eat and drink on the trains?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, the numbers of complaints, warnings and prosecutions in relation to passengers eating and drinking in train compartments of the MTR, Kowloon-Canton Railway (East Rail) and Light Rail over the past five years are listed at Annex.

The MTR Corporation Limited and the Kowloon-Canton Railway Corporation organize publicity campaigns every year to educate passengers not to eat and drink in railway premises including train compartments. The message is

also disseminated through various channels such as posters, notices, warning labels inside train compartments and public announcements in trains and stations. In addition, the two corporations deploy staff to patrol trains from time to time. The staff will issue warnings or take prosecutions against passengers where necessary. This helps to keep the trains clean and ensure that passengers can enjoy a comfortable journey.

Annex

Complaints, warnings and prosecutions in relation to passengers eating and drinking in train compartments of MTR, East Rail and Light Rail over the past five years

(A) MTR

<i>Year</i>	<i>Complaints (and suggestions)</i>	<i>Verbal warnings</i>	<i>Written warnings</i>	<i>Prosecutions</i>
1999	15	No record	7	0
2000	2		23	1
2001	4		97	0
2002	18		81	0
2003 (up to September)	3		57	0

(B) East Rail

<i>Year</i>	<i>Complaints</i>	<i>Verbal warnings</i>	<i>Written warnings</i>	<i>Prosecutions</i>
1999	3	No record	No record	7*
2000	5	No record	No record	3*
2001	5	3	0	6
2002	10	33	2	21
2003 (up to September)	4	26	2	19

*including cases of passengers eating or drinking at stations

(C) Light Rail

<i>Year</i>	<i>Complaints*</i>	<i>Verbal warnings*</i>	<i>Written warnings*</i>	<i>Prosecutions*</i>
1999	0	No record	45	33
2000	1	No record	44	33

2001	3	No record (January to May) 3 531 (June to December)	43	39
2002	1	7 134	30	27
2003 (up to September)	0	5 065	18	13

*including cases of passengers eating or drinking at stops

STATEMENTS

PRESIDENT (in Cantonese): Statement. The Financial Secretary will make a statement on "Hong Kong's Economy and the Management of Public Finances".

In accordance with Rule 28(2) of the Rules of Procedure, no debate may arise on the statement but I may in my discretion allow short questions to be put to the Financial Secretary for the purpose of elucidating it.

Hong Kong's Economy and the Management of Public Finances

FINANCIAL SECRETARY (in Cantonese): Madam President, Honourable Members, thank you for allowing me to make a statement today. Two and a half months ago, I was both honoured and privileged to have been appointed as the Financial Secretary of the Hong Kong Special Administrative Region. I said at that time, and I reiterate now, that my principal and immediate task is to revitalize our economy. I also said that an important part of that process would be to consult the community widely to ascertain your aspirations and priorities, and to devise effective measures to tackle the economic challenges that we face.

2. Indeed, since taking up this new job I have been holding informal discussions with various sectors, including Honourable Members. And now, when we are about to embark upon the more formal consultations that will help me craft my first Budget, I feel it important to explain the principles that will guide my decision-making. I would also like to take this opportunity to provide

Honourable Members with an overview of the way the economy has been performing, and to pose some questions about how we might go about tackling our budget deficit in the short to medium term.

Guiding principles

3. In embarking upon the budgetary process, I believe it is essential that our discussions and decisions be carried out in an open and transparent manner. It is important that members of the community are fully aware of how and why certain decisions are made. I hope that this approach will engender a spirit of informed, rational and constructive debate, during which a consensus can be forged on the best way forward. It is my sincere wish that we all work together to improve the state of public finances and the economy, and to promote a prosperous, harmonious and caring society.

4. The free market has been the bedrock of Hong Kong's success. Our entrepreneurs, small business owners and our productive workforce have been the major drivers of higher living standards and growing per capita Gross Domestic Product (GDP). I very much want that to remain the case. The Government's role in the economy should be kept to a minimum; and its size should also be kept as small as possible. "Big market, small government" is certainly the right way to go.

5. Hong Kong's success is also buttressed by a sound institutional framework — the rule of law upheld by an independent Judiciary, a level playing field for business, the free flow of information, and a clean, efficient Government. This provides business with the confidence to invest time and money in Hong Kong. We must continue to maintain a high degree of transparency in the process of policy formulation. We must also provide business with policy consistency and predictability so that informed, long-term business decisions can be made without fear of arbitrary change next week, next month, or next year.

6. These principles have served us well in the past, and I certainly want to uphold this winning formula. I believe the role of the Government should be to facilitate the market and its development; to provide a stable, predictable and business-friendly environment for investment; as well as to provide the institutional infrastructure, the essential services and facilities that the market cannot provide.

7. In terms of market facilitation, our Closer Economic Partnership Arrangement (CEPA) with the Mainland is a good example of how the Government can help the market develop, in this case by negotiating early and preferential access to the mainland market for Hong Kong manufacturers and service providers. The Government's efforts to allow individual tourists to visit from the Mainland is another example, and this has had a noticeable and positive effect on visitor arrivals. We have also been in discussion with the Mainland on developing Renminbi (RMB) banking services in Hong Kong. In this regard, we would, as a first step, focus on securing the successful trial run of RMB deposits, remittances, money exchange and credit card business for individuals in Hong Kong. I hope this will materialize very soon.

8. Of course, the Government also has solemn responsibilities towards its citizens. These include: protecting our basic rights and freedoms; maintaining law and order; educating our children; training, retraining and upgrading the skills of our workers to improve employment opportunities; providing for the needy and elderly; providing affordable and sustainable medical and health care; offering shelter to those who cannot afford their own; promoting environmentally sustainable development; and ensuring public services are value for money. Obviously, meeting all of these responsibilities has a major bearing on the budgetary process and my work as Financial Secretary. And that is why the Government will continue to listen carefully to the views of the public.

Building on Hong Kong's unique strengths

9. The principles and policies I have mentioned earlier are our greatest assets. They are what set us apart in Asia. I have often stressed that we should compete on our strengths. We should capitalize on the quality of our market and services, and position ourselves as a centre of excellence, not just for Asia but for the whole world. We do not need to reinvent the wheel. But we need to be innovative and determined to build on and continue to improve on what we are good at, and to make sure that we do it extremely well.

10. Financial services, transport and logistics, tourism, producer and professional services, and innovative, high value-added and technology-based manufacturing — these are the areas in which we enjoy a solid advantage; sectors that are currently driving our economic development. We should continue to compete on our market quality, and strive to improve it even further.

11. As regards financial services, we are committed to enhancing corporate governance and the regulatory environment. This will improve the quality of our market and, in turn, attract liquidity.

12. We will continue to uphold our robust protection of intellectual property rights, providing an environment in which creative, innovative and high value-added industries can flourish.

13. We will continue to invest heavily in education and training so that our citizens can acquire the skills necessary to find employment and to meet the challenges of a knowledge-based economy. At the same time, we will also maintain a liberal immigration regime so that we can attract the best and the brightest from around the world.

14. I place revitalizing the economy as my top priority because I believe that as the business environment continues to improve, local and overseas investors will have greater confidence in undertaking new or expanded projects in Hong Kong and this will in turn create more and better job opportunities for workers in all sectors. Needless to say, the Administration will continue to actively consider other measures that might help to improve the employment situation.

Economic situation

15. I would now like to talk about our current economic situation and the outlook for 2003 and the medium term.

16. There has been a visible upswing in economic activity and sentiment over the past month or two, giving me room for cautious optimism that the economy has bottomed out. But we must not be complacent. To reinforce this, we must allow market forces to operate freely, and encourage the public and private sectors to work hand in hand towards a steady and sustainable recovery.

17. Despite the Severe Acute Respiratory Syndrome (SARS) crisis, our external trade continued to grow strongly, and helped offset the sharp downturn experienced in other sectors such as tourism, catering and retail. In the more recent period, growth in real terms in exports of goods remained in double digits, while exports of services have also staged a sharp upturn.

18. In the past two months, we have seen a continuous inflow of funds into Hong Kong. This has led to the market exchange rate of the Hong Kong Dollar against the US Dollar moving more on to the strong side of the link. The stock market is at a 16-month high, and turnover has doubled from an average of \$6.1 billion a day in the first quarter, to \$12 billion a day in the third quarter. Property transactions are picking up — agreements for sale and purchase have risen from 17 500 in the second quarter to almost 22 500 in the third quarter. The number of homeowners in negative equity is expected to decrease to less than 100 000 with improved market sentiment. The number of bankruptcy petitions in September dropped by about one third compared with that a year ago.

19. Visitor arrivals have rebounded strongly after the SARS outbreak and, as you know, there has been a very strong increase in the number of mainland visitors following the start of the "individual visit" scheme. Local consumption sentiments have also improved. Retail sales have risen for the first time in seven months in terms of both value and volume. The unemployment rate is easing off, and has further reduced to 8.3%. I very much hope that the recovery we are seeing will further improve the job situation. There are signs lately that deflation is easing back, after deteriorating significantly due to the SARS outbreak. And again, further improvement on this front will hinge on the strength and speed of the recovery. (Chart 1 and Chart 2)

20. The fundamental strength and resilience of our economy going forward is reflected in the recent upgrade by Moody's Investors Services of Hong Kong's sovereign rating for foreign currency by two notches from A3 to A1.

21. With the current pace of the upturn, I reckon that the economy could attain a somewhat better performance for this year than was suggested in our earlier forecast of a 2% real GDP growth. Our latest forecast is for the economy to grow by around 3% for 2003. (Chart 3)

22. The outlook for the medium term is also positive. This will be underpinned by further reform and opening up in the mainland market, which will allow Hong Kong to play to its strengths as the pre-eminent services platform for the mainland economy. The signing of CEPA provides the opportunity of a lifetime for Hong Kong manufacturers and service providers to gain preferential access to the huge mainland market ahead of and beyond China's World Trade

Organization (WTO) commitments. CEPA should expand our businesses' horizon far beyond the physical boundary. It will provide the launching pad for our entrepreneurs to benefit from the Mainland's rapid economic development, particularly the burgeoning Pearl River Delta. CEPA will further add to Hong Kong's appeal as the premier international finance and business centre in the Asia-Pacific Region.

23. As Hong Kong's economic relations develop with the Mainland and other Asian economies, and with growing signs of renewed recovery in the global economy, we now forecast the trend growth rate of GDP to be half a percentage point higher at 3.5% for the medium term.

Managing public finances

24. I would now like to talk about public finances.

25. Here, I would like first of all to reiterate my commitment to upholding the important principles set out in the Basic Law: to manage public finances prudently, to live within our means and to strive to achieve a fiscal balance. I would also like to reaffirm my commitment to adhering to a low and simple tax regime and to maintain the stability and integrity of the monetary system.

26. As Honourable Members will know, we are facing a large budget deficit this year. Our original forecast was for a deficit of \$68 billion. But that was before SARS and the additional \$12.6 billion committed for the economic relief and support package released between March and June. I therefore envisage the deficit will go up to \$78 billion, plus or minus \$5 billion, for 2003-04. These figures will be fine-tuned in my Budget speech next March. This takes into consideration not only the negative impact of SARS on our fiscal position, but also the more positive signs emerging over the past couple of months.

27. I have very carefully considered the Government's previous commitment to balancing the Budget by 2006-07. I said on the day of my appointment that I thought this deadline was no longer realistic given the current circumstances. The discussions I have had with various groups and sectors over the past two and a half months have led me to believe that the community also favours giving the economy some more room to breathe in the next year or two.

28. Accordingly, I have set a new target to achieve fiscal balance by 2008-09. The Government is determined to control government operating expenditure and to bring it down to \$200 billion by 2008-09. On the recurrent revenue side, our aim is to attain \$200 billion by 2008-09. In this way, I expect to reach a balanced Operating Account by 2008-09. I also aim to restore balance in the Consolidated Account by the same year. We will review this target and the means to achieve it each year having regard to the prevailing economic situation. (Chart 4 and Chart 5)

29. In line with the principle of "big market, small government", we need to keep public expenditure in the economy at an appropriate level. In the 1980s and early 1990s, this averaged about 16%. It now stands at 23%. We have pledged to bring public expenditure to 20% of GDP or below, and I remain committed to this.

30. As Honourable Members are aware, we have been drawing down our fiscal reserves to fund the budget deficit. Our experience in weathering the various economic setbacks over the past few years has shown us the wisdom and importance of saving for a rainy day. I also believe it is reasonable and responsible for this Government to leave a prudent level of fiscal reserves for the next Government. Over the next few months, I will gauge the opinions of Honourable Members and other members of the community on what should be a reasonable level of fiscal reserves.

Improving our fiscal position

31. Improving our economy is the first step towards addressing our fiscal situation. The Chief Executive, in his policy address in January this year, set out a three-pronged approach to solving the deficit problem: boost economic growth, cut public expenditure, and raise revenue. The recent upswing in economic activities should help boost government revenue and ease our fiscal position. However, we cannot rely on economic growth alone to pull us out of our current fiscal difficulties. We must, and will, do more.

Reducing operating expenditure

32. Members of the public and the business community have rightly stated that before the Government looks for ways to increase revenue it should first look at ways to reduce expenditure, particularly operating expenditure. I agree.

33. Striving to restore balance to our Operating Account and maintaining strict fiscal discipline are essential at a time when the Government has been running successive years of operating deficits since 1998-99. For this reason, I am determined to keep to the target of reducing the Government's operating expenditure to \$200 billion. That said, in response to views expressed both within and outside this Chamber, I believe that we should allow ourselves two more years to achieve that objective by 2008-09.

34. Here, I must emphasize one point, which is that a reduction in operating expenditure will not affect government operations alone — it might also impact on a range of services provided to the public, as well as subsidies provided to subvented organizations. But I assure Members that there is a genuine desire within the Government to do more with less.

35. My Principal Official colleagues have each recently received an "operating expenditure envelope". Starting from 2004-05, the cuts will build up to 11% over five years, by an average increment of less than 2.5% each year. These cuts are moderate and are not uniform across all Policy Bureaux. In proposing these reductions, I have adopted a pragmatic and measured approach, balancing the requirements of different policy areas, and being sympathetic to the special needs and the human elements of different sectors. By the same token, Principal Officials have the full discretion to set spending priorities within their envelopes, and to conduct functional reviews across the programme areas under their responsibility. Indeed, they are already doing so. I hope that Honourable Members will also feel able to approach this difficult exercise in a similarly open-minded manner.

Capital expenditure

36. To reduce overall spending, we could also cut back on capital expenditure, scale back infrastructure projects or defer some capital works until the fiscal environment improves. However, this would have a knock-on effect on other economic sectors, particularly those associated with the construction industry. The pace of our economic growth, and our attraction as an international trade, transport and communications hub, might also be adversely affected if our physical infrastructure does not anticipate, or at least match the demands of the market. Hong Kong has an enviable reputation for world-class infrastructure and we will need to upgrade this continually if we are to live up to our positioning

as Asia's world city.

37. Hence, over the next few years, we have made provision for an average of around \$29 billion a year on capital works expenditure, as compared to the average actual capital works expenditure of \$27 billion per year since 1998-99. The question is: How do we meet this commitment without adding to the deficit or drawing further on our fiscal reserves?

38. The answer is to find alternative sources of funds for capital works projects or other capital investments. One way is to dispose of our assets selectively. My predecessor envisaged in the 2003-04 Budget that we would sell or securitize \$112 billion in assets over the next five years. For this fiscal year, we are on track to realize \$21 billion mainly from the sale of loans and securitization of revenues from the government toll tunnels and bridges. For the longer term, preparatory work continues on the proposed privatization of the Airport Authority and the desirability of proceeding with the rail merger.

39. Another possible source of funding for capital spending, I stress capital, not recurrent, spending is the issuance of bonds. This is one option that I have already raised since taking up this post. Given the current low interest environment, I see advantage in issuing bonds to fund capital projects that would bring long-term economic benefits to Hong Kong. The issuance of bonds will also help promote the development of our capital markets, as well as offering an additional investment avenue for members of the community. This is another issue that I will address in the next few months.

Revenue

40. Unlike expenditure — which we can estimate with a certain degree of accuracy — our revenue forecasts can be affected by unforeseen circumstances. Our revenue for this year will likely be smaller than forecast, after taking into account the revenue-raising measures announced in March, due mainly to SARS-related concessions, the negative impact of SARS and a worsening of the deflationary environment. In this regard, I would like to thank Honourable Members for their support in agreeing to the proposals to raise salaries tax and profits tax as well as the other budget measures. Thus far, we have already secured nearly \$13 billion of the \$14 billion revenue-raising package proposed in the 2003-04 Budget.

41. That just leaves the \$1 billion we had originally budgeted from the Boundary Facilities Improvement Tax. It is clear to me, from discussions with Honourable Members and other interested parties, that the public is not yet ready to accept this tax. I have therefore decided not to proceed further with it at the current juncture. I want to say, however, that the Government still believes there is a valid principle behind this particular proposal, and that is to expect all departing passengers to contribute to the provision of better boundary facilities and services, regardless of mode of transportation.

42. The difficulties of the past few years have also exposed the rigidity of our current tax system, which relies too heavily on a narrow base of salaries tax and profits tax. Between them, salaries tax and profits tax will account for almost half of the Government's recurrent revenue in 2003-04. However, only slightly over one third of the working population need to pay any tax on their salaries. Only 100 000, which is 3% of the working population, will contribute 59% of the salaries tax. Similarly, as few as 500 corporations, only 1% of the total number, will contribute 60% of the profits tax. Revenue from land sales, investments and stamp duty on property and stock market transactions can be difficult to forecast accurately, and can be subject to variations depending on local and overseas sentiment, underlying economic performance, and so on.

43. We therefore require a broader, sizeable and steady income source to underpin our revenue and meet our expenditure requirements in the long term. I believe that a broad-based consumption tax, such as a goods and services tax (GST), is a reasonable and equitable way to smooth out the bumps in our revenue stream. An internal committee has been set up to study the implementation of a GST. Details are being worked out and I will report more fully on this matter in the Budget.

44. I am keenly aware of the concerns expressed and the possible repercussions of a GST on the community. I want to assure Honourable Members that I would not contemplate the introduction of a GST or the like during a deflationary environment. GST would only be levied against the backdrop of a healthy and growing economy and we will strive to build a consensus with the community on how best to implement such a tax.

The way forward

45. Madam President, Honourable Members, I will end where I began.

- My primary concern is to revitalize the economy.

- Hong Kong's strengths are founded on the operation of the free market and a well-developed institutional framework.
- We must compete on our strengths and capitalize on our market quality.
- I am cautiously optimistic that our economy has turned the corner.
- Our latest forecast is for the economy to grow by around 3% in 2003.
- We must collectively do everything we can to promote sustained economic growth and to create jobs.
- I will continue to manage public finances prudently.
- The Government is determined to control government operating expenditure and to reduce it to \$200 billion by 2008-09.
- I have set a target to restore fiscal balance by 2008-09.
- I am committed to keeping public expenditure to 20% of GDP or below.

46. Together, we want to build an economy that is full of vitality and opportunities, not just for the coming years, but for our children and our children's children. We need your commitment and your participation to realize this vision.

47. Madam President, I shall shortly commence a round of formal consultations for the 2004-05 Budget. I shall be happy to elaborate on my thinking with Honourable Members and listen widely to views from the community. Thank you very much.

Chart 1

Incoming visitors

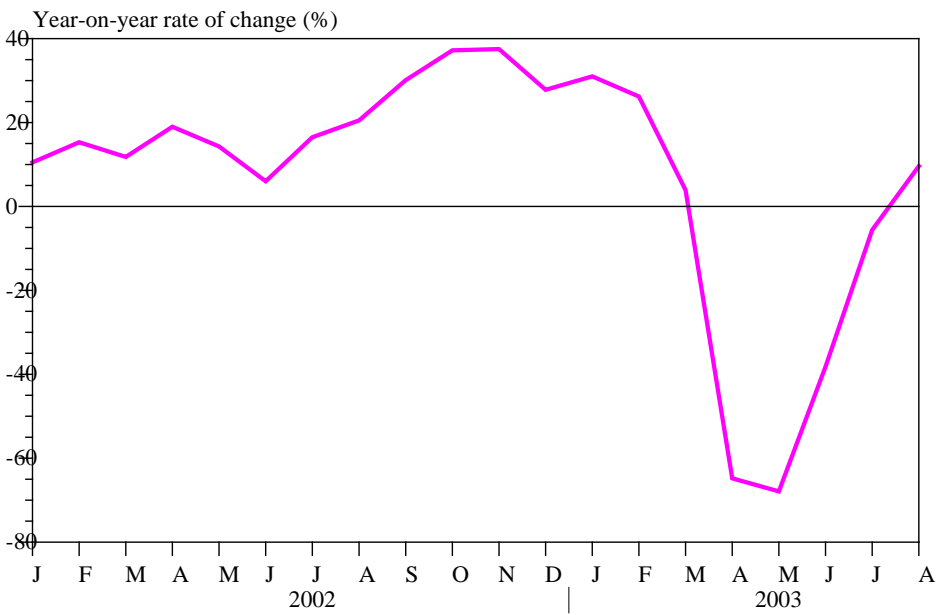


Chart 3

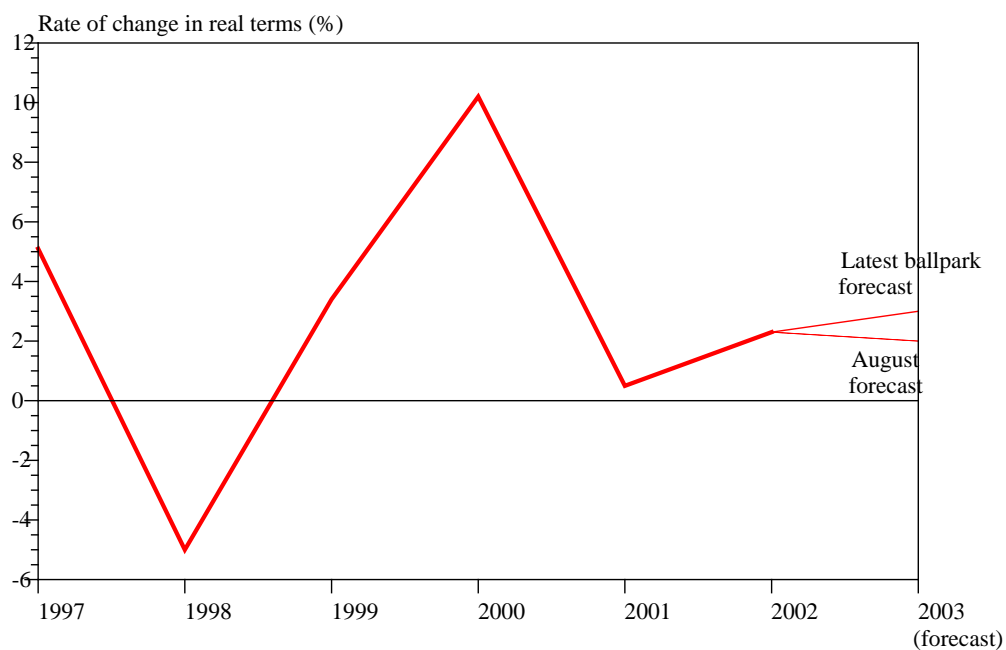
Gross Domestic Product

Chart 4

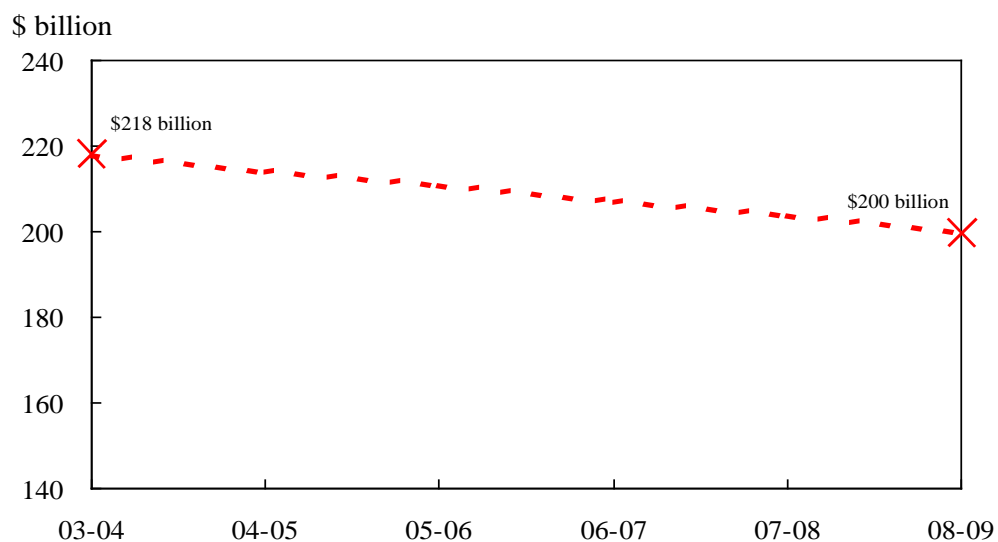
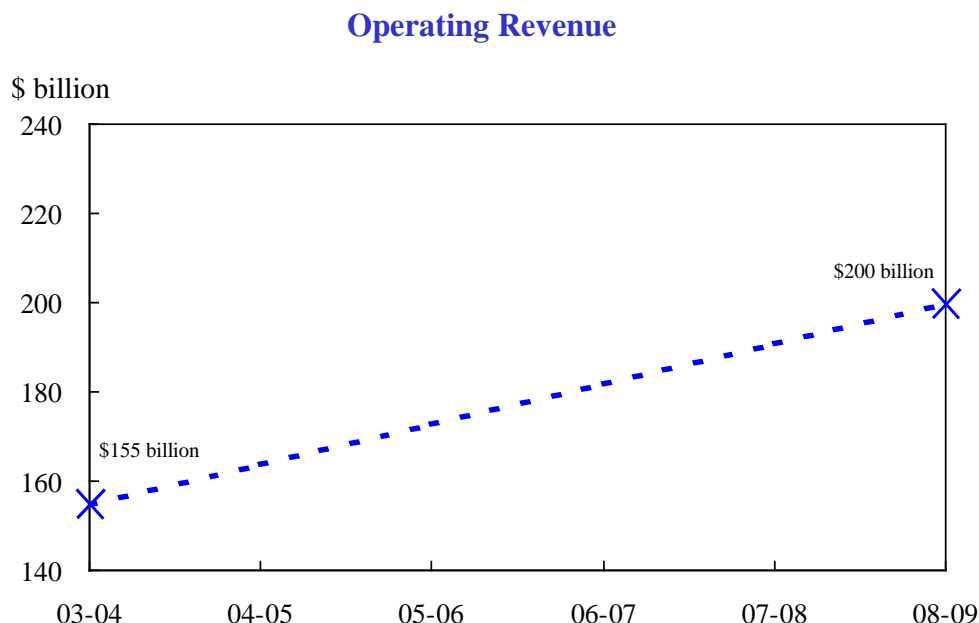
Operating Expenditure

Chart 5



PRESIDENT (in Cantonese): The ringing of the bell signifies the end of the Financial Secretary's speech. *(Laughter)*

As many as 11 Members have indicated a wish to seek elucidation. Will Members raising questions please indicate the paragraphs on which they would like to seek elucidation, or further elucidation, so as to save time. Please also refrain from stating your own views as far as possible, because this is not the time for you to do so.

DR YEUNG SUM (in Cantonese): *I hope the Financial Secretary can elucidate paragraphs 13 and 29 of his speech. It is stated by the Financial Secretary in paragraph 13 that the Government will continue to invest heavily in education and training, so as to tie in with the development of Hong Kong as a knowledge-based economy and to upgrade its competitiveness. In paragraph 29, the Financial Secretary says that he intends to bring public expenditure down from 23% to 20% of the GDP. It is also mentioned that public expenditure will be reduced by \$18 billion during the period from now to the year 2008-09. This will mean a reduction in education funding. Is it correct to say that this actually runs counter to the Chief Executive's education policy? Are there any conflicts?*

PRESIDENT (in Cantonese): Dr YEUNG Sum, this has nothing to with elucidation. If you wish to seek elucidation, I would suggest you to ask the Financial Secretary this question on paragraph 13 — "Does 'we will continue to invest heavily in education and training' mean that there will be huge investments in education and additional resources for it?".

DR YEUNG SUM (in Cantonese): *Madam President, it is because I have to look at paragraph 29 as well. I note from paragraph 29 that the Financial Secretary is determined to bring public expenditure down from 23% to 20% of the GDP. Madam President, I wish to describe this background first. Does this mean that against such a background, it will be basically impossible for the Government to invest heavily in education as mentioned in paragraph 13?*

PRESIDENT (in Cantonese): I am aware that there will be a special meeting at 2.30 pm next Tuesday, 28 October, and members of the Panel on Financial Affairs will meet with the Financial Secretary. Members may then ask further questions, and the meeting today is for the seeking of elucidation only. Therefore, Dr YEUNG Sum, I rule that although you have described the background, you should still confine your question to whether education funding will be increased or reduced if you wish to seek elucidation.

DR YEUNG SUM (in Cantonese): *Madam President, let me quote the background described in paragraph 13 and ask how the Government can still continue to invest heavily in education.*

FINANCIAL SECRETARY (in Cantonese): Madam President, thanks to Dr YEUNG Sum for his question. I say in paragraph 13 that the Government will invest heavily in education and training, and the rate of reduction we have in mind is very mild, not meant to be applied across the board. This is a pragmatic and realistic approach. I very much appreciate that the education of the future leaders of society is most worthy of investment. Therefore, as I have said, every Policy Bureau will try as much as possible to do more with less resources. This is only a very mild rate of reduction, at just 11% over a period of five years, and all of us must share the reduction. I believe his mild approach, not meant to be applied across the board, can strike a proper balance.

MR SIN CHUNG-KAI (in Cantonese): *I wish to ask a question on statistics, on the comparison depicted in Chart 4. The Chart shows that the operating expenditure this year is \$218 billion. But early this year, the former Financial Secretary said in the Budget speech that the operating expenditure this year would be \$213.6 billion. There is thus a difference of \$4.4 billion. This will be of considerable significance, because we do not know whether we are supposed to cut \$18 billion within the coming five years, or whether we can cut \$4.6 billion less, that is, whether we just have to cut roughly \$14 billion. What actually is the rate of expenditure reduction? May I ask whether there has been an increase in the operating expenditure in the first half of this year as depicted in the Chart which is unaccounted for? I have asked this question because other expenditure, such as that on SARS-related matters, should be accounted as non-recurrent expenditure. Does this mean that there was an increase of some \$4 billion in our recurrent expenditure in the six months concerned? On the one hand, I see the figure is 218, but on the other, I also see 213.6.*

PRESIDENT (in Cantonese): You wish to clarify whether the figure of \$218 billion as depicted in Chart 4 is correct, right?

MR SIN CHUNG-KAI (in Cantonese): *Yes. Also, is \$18 billion the amount of expenditure we are supposed to cut in the coming five years?*

FINANCIAL SECRETARY (in Cantonese): Madam President, the Chart depicts a straight line plotted with the total estimated expenditure this year, that is, \$218 billion, as the starting point, so the estimated figure is correct.

MR CHEUNG MAN-KWONG (in Cantonese): *Would the Financial Secretary please make an elucidation on paragraph 35? All principal officials will each receive a "big envelope" which asks them to cut their expenditure by 11% in the coming five years. Does this mean that departments connected with education will also have to cut their expenditure by 10%, or roughly \$5 billion, in the next five years? Does he think that the "slash" is really much too deep? In addition, will the Secretary elucidate whether there is any difference between his tight-fisted education policy and that of the Antony LEUNG era?*

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, I am sorry. The latter part of your question does not have anything to do with the statement. But I think the first half of the question is a request for further elucidation.

FINANCIAL SECRETARY (in Cantonese): Madam President, we are going to have a total reduction of 11% in the next five years, which means an average of less than 2.5% each year. We do not intend to bring in an "across-the-board" cut. By this, it is meant that a Policy Bureau does not necessarily have to cut its expenditure by 11%, and that it does not necessarily have to achieve the target within five years. Therefore, this approach can already cater for the different needs under various practical circumstances.

MRS SELINA CHOW (in Cantonese): *Madam President, I wish to seek elucidation on paragraphs 43 and 44, both of which concern a sales tax. In paragraph 45, the Financial Secretary says, "My primary concern is to revitalize the economy." But all of us have actually reached a common view on a sales tax; we all think that it will work against the revitalization of the economy. The Financial Secretary says in paragraph 44 that "GST would only be levied against the backdrop of a healthy and growing economy". Does this mean, may I ask, that the Financial Secretary will definitely introduce such a tax regardless of the voices to be heard during the consultation process?*

FINANCIAL SECRETARY (in Cantonese): Madam President, may I just draw Mrs Selina CHOW's attention to the end of this paragraph, that is, the words "we will strive to build a consensus"? This means that in the months to come, we will strive to build a consensus with the various sectors of society, including Mrs CHOW, naturally.

MRS SELINA CHOW (in Cantonese): *Madam President, the Financial Secretary has not answered my question. I wish to know whether the Financial Secretary will definitely introduce such a tax under all circumstances, even when there is no consensus.*

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

FINANCIAL SECRETARY (in Cantonese): Madam President, I suppose this legislature can serve as the best watchdog here. If we are to introduce such a tax, we must enact laws. Therefore, I would think that this will involve the division of responsibilities between the executive and the legislature. This is also a form of mutual checks and balances.

MR LAU KONG-WAH (in Cantonese): *Madam President, the highlights of the Financial Secretary's speech should be the Charts at paragraph 28. To determine whether he has accomplished his mission, we will have to look at these two Charts. He may perhaps manage to control operating expenditure, but in regard to operating revenue, he must bring in an additional revenue of several dozen billion dollars in the next five years. Will the Secretary please elucidate whether any tax increases and new taxes will be introduced to make up the sum of several dozen billion dollars?*

FINANCIAL SECRETARY (in Cantonese): Madam President, as mentioned in my speech, revenue projection and expenditure estimate are two different things. There is a greater degree of accuracy in achieving control over expenditure estimate. But for revenue projection, there are more variables, which is why it is stated at the end of the paragraph that "we will review this target and the means to achieve it each year having regard to the prevailing economic situation". In other words, we will review the target every year in the Budget. Chart 5 on operating revenue depicts a theoretical straight line. Of course, in reality, revenue can never be a straight line but should be a zigzagging curve. The theoretical straight line is just plotted for the purpose of indicating the target. In the review each year, we will check to see whether revenue is below or above the straight line. If revenue drops below the straight line, we can say that we have failed to achieve the target. In that case, having regard to the prevailing economic situation, we will have to consider whether it is necessary to increase taxes and what types of taxes can be increased. If revenue rises above the straight line, we can say that we have over-achieved. In that case, we may consider the possibility of increasing the fiscal reserves or reducing taxes.

MS EMILY LAU (in Cantonese): *Madam President, I wish to seek the Financial Secretary's elucidation on the last sentence of paragraph 5, which reads, "We must also provide business with policy consistency and predictability so that informed, long-term business decisions can be made without fear of arbitrary change next week, next month, or next year." Will the Financial Secretary please clarify whether he has received many criticisms from the business sector that the policy-formulation of the Government is one of arbitrary change next week, next month or next year?*

FINANCIAL SECRETARY (in Cantonese): *Madam President, I do not mean to say that many business people have criticized the government policy of being arbitrary. This is actually the wording used in the translation of my speech. In the English version, I use the expressions "policy consistency and predictability". In other words, I am talking about the need for a high degree of transparency in the process of policy formulation. Therefore, what is said in the English version is mainly that there must be transparency in the process of policy formulation. After the formulation of a policy, there should then be "predictability", meaning that there should not be any sudden changes.*

MR TAM YIU-CHUNG (in Cantonese): *Madam President, it is mentioned in paragraph 35 that starting from 2004-05, the expenditure cuts will build up to 11% over five years. Is the downsizing of the Civil Service included? Is this included in the expenditure cuts?*

FINANCIAL SECRETARY (in Cantonese): *Madam President, the Chief Executive has set down the target of downsizing the Civil Service by 10%, from 180 000 to 160 000. This remains our target.*

MR CHAN KAM-LAM (in Cantonese): *Madam President, I wish to seek the Financial Secretary's elucidation on what he says in paragraph 14: "The Administration will continue to actively consider other measures that might help to improve the employment situation". The Financial Secretary also says that he places revitalizing the economy as his top priority, so I wish to ask whether "全方位考慮改善就業措施" (holistically consider other measures that might help to improve the employment situation") will also cover the river bend industrial area and the liberalization of boundary lands discussed some time earlier?*

FINANCIAL SECRETARY (in Cantonese): *Madam President, I have said that*

the Government will actively consider any proposal that may help improve our economy and the employment situation. We will actively and positively consider all proposals, but this does not mean that the Government will always adopt all the proposals put forward. We do have many different measures to create jobs. But since ours is a market economy, we should mainly leave the creation of jobs to the market itself and seek to improve the economy as a first step towards improving the employment situation. However, we have still worked out many ancillary measures and detailed plans to create a business-friendly environment. I am prepared to give a detailed account of all these to the relevant panel next Tuesday.

MR WONG SING-CHI (in Cantonese): *Madam President, I wish to seek the Financial Secretary's elucidation on paragraph 34. It is mentioned in paragraph 34 that a reduction in operating expenditure might also impact on a range of services provided to the public, as well as subsidies provided to subvented organizations. It is also mentioned at the end of this paragraph that there is a desire "to do more with less". May I ask the Secretary whether this actually means that there will still be further reduction in subsidies for those welfare agencies which have accepted the lump sum grant system, and which have been granted much less resources under the enhanced productivity programme? Does "to do more with less" also involves civil service pay cuts or lowering the general pay levels in society? In other words, does it mean that the same services will continue to be provided without any change in the number of staff?*

FINANCIAL SECRETARY (in Cantonese): Madam President, last week, I met with several dozen people representing the welfare sector, academic circles, trade unions and students, and we discussed in detail how a reduction in operating expenditure would affect these organizations. At that time, we reached a sort of gentlemen's agreement whereby all would state their views separately without quoting one another. The agreement is based on the understanding that I will state my position on this point today. Paragraph 35 mentions a reduction of 11%, and this is to be achieved over five years. I think a reduction of 2.5% per annum is quite a mild rate, and since the cuts will not be "across the board", we will be able to provide services with less resources.

Madam President, I can recall Mr WONG Sing-chi's question on whether

there will be any civil service pay cuts. The answer is "yes". The Government and civil servants have reached an agreement whereby the latter's salaries will be reduced by 3% in 2004 and another 3% in 2005. We will continue to implement this agreement.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I wish to seek the Financial Secretary's elucidation on paragraph 14. It is said in this paragraph that "local and overseas investors will have greater confidence in undertaking new or expanded projects in Hong Kong and this will in turn create more and better job opportunities for workers in all sectors". Is the Secretary, may I ask, really very confident that the unemployment rate will drop? And, to what level is the rate expected to drop? I have asked this question because there is now a new jargon in the United States which is "jobless recovery". Hong Kong also faces a similar danger, meaning that there be more jobs lost than created. May I ask the Secretary, and will he also clarify, how confident he is about a drop of the unemployment rate? And, to what level does he think the rate will drop? Thank you, Madam President.*

FINANCIAL SECRETARY (in Cantonese): Madam President, the commercial sector's expectations of the Government are mainly about the following points. First, the market should be left to operate on its own, and there should be no government intervention as much as possible. Second, there must be a high degree of transparency, predictability and consistency in the process of policy formulation. Third, a liberal policy on manpower must be adopted, so as to attract the best and the brightest from around the world. Such are the commercial sector's expectations of the Government in respect of investment. Therefore, with respect to the platform of revitalizing the economy, I do not think that the Government should make any big moves, trying to achieve a lot. Rather, what it must do is to make the platform as open as possible, so that the business sector can be guided by market forces to attract more investors. On the day of my appointment, I was asked how much I would expect the unemployment rate to drop. In reply, I expressed the hope that when my office as Financial Secretary was over, the unemployment rate would be lower than that on my day of appointment, which was 8.7%.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Financial*

Secretary's expectation seems much too modest. But I hope he can make a further elucidation. He only said that the rate would not be worse than 8.7%. But is there actually a target? Or, will he please say clearly whether the unemployment rate will be lower than 8.7%? And, how much lower will it be? I have asked these questions because he has not told me how big his expected improvement will be.

PRESIDENT (in Cantonese): I permitted you to ask the question earlier because I hoped that the Financial Secretary could thus be induced to express his thoughts freely. But your question is not about any elucidation but rather about a guess on the rate in the future. Actually, even during the Question Time of an ordinary meeting, such a question is not allowed. Your question is about a guess. Mr LEE Cheuk-yan, I am sorry.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, I wish to seek the Financial Secretary's elucidation on paragraph 25. There, it is reiterated that the Financial Secretary is committed to upholding the important principles set out in the Basic Law: to manage public finances prudently, to live within our means and to strive to achieve a fiscal balance. In fact, we all know that there is a fiscal imbalance now, which is why the Financial Secretary has told us today that the target date of eliminating the fiscal deficit will have to be deferred for two years. But the problem is that while he says that he will manage public finances prudently, he also talks about flexibility in "across-the-board" cuts. What will be the degree of flexibility? In the prudent management of public finances, will he again lay all the emphasis on achieving a fiscal balance, rigidly setting the deadline at between 2006 and 2008, instead of allowing circumstances to develop on their own, making adjustment in the light of practical needs?*

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, what is the elucidation sought by you?

MR LEUNG YIU-CHUNG (in Cantonese): *Can he explain clearly, clarify what he means by "manage public finances prudently"?*

PRESIDENT (in Cantonese): To clarify what "manage public finances

prudently" covers?

FINANCIAL SECRETARY (in Cantonese): Madam President, I devoted considerable length to the prudent management of public finances in my statement. I think the basis of that can be found in the Basic Law, and the spirit of striving for a fiscal balance is very important. I will also insist on adhering to this spirit. I am sure the Honourable Member is not asking me to limit public expenditure to the target of \$200 billion at an earlier time before 2008-09. That is why in paragraph 28, I say that "we will review this target and the means to achieve it each year having regard to the prevailing economic situation". Since recurrent revenue may change, we think it is necessary to review the target in the light of practical circumstances. But I am confident that we can achieve fiscal balance in 2008-09.

MR LEUNG YIU-CHUNG (in Cantonese): *My question just now was about whether or not there would be any flexibility in the prudent management of public finances. As far as the "across-the-board" approach is concerned, since there is a rigid timeframe of two years, will there be any deferment if such need arises? I hope that the Financial Secretary can offer a clear explanation on this.*

PRESIDENT (in Cantonese): Please ask this question on the 28th of this month. I know that all Legislative Council Members have been invited to attend the meeting on that day. Of course, I will not attend the meeting.

MS CYD HO (in Cantonese): *Madam President, I wish to seek the Financial Secretary's elucidation on Chart 5, because the last Budget said that while an additional revenue of \$20 billion would have to be created, an expenditure of \$20 billion must be cut, and the rest of our revenue would have to come from the increased income generated by economic growth. In regard to this part of revenue, there must be \$45 billion between now and the year 2008-09. How much of this sum is expected to come from the increase in tax revenue generated by economic growth? If there is no economic growth, and we thus have to rely on new taxes, then, if we talk about a tax revenue of \$10 billion, and assuming that there are some 7 million people, each person will have to pay \$1,400 a year. If the entire sum of \$45 billion has to be derived from new taxes, each person will*

have to pay \$6,400 a year. I am naturally very worried about the grassroots. Therefore, will the Secretary please clarify how much of the revenue will come from the income generated by economic growth?

PRESIDENT (in Cantonese): Financial Secretary, please try to elucidate this. If you cannot do so now, you may give a reply on the 28th.

FINANCIAL SECRETARY (in Cantonese): Madam President, Ms HO's question is a bit theoretical. I can only say that the straight line we have drawn is theoretical. As I told Mr LAU Kong-wah when answering his question, we will conduct a review every year. Whether the revenue is below or above the straight line, we will definitely offer some kind of observation. If Ms HO wishes to have more detailed information, I am happy to discuss the theories involved with her at the meeting on the 28th.

MS CYD HO (in Cantonese): *Right, Madam President, a theoretical straight line will of course lead to discussions on theories. That is why I hope that at the meeting on the 28th, the Financial Secretary can refrain from talking about any more theory, because the last Budget also gave us a projection.....*

PRESIDENT (in Cantonese): You are no longer asking for any elucidation. Please wait until the 28th, because quite a number of Members are still waiting for their turn. Please sit down.

MS CYD HO (in Cantonese): *Thank you, Madam President.*

MR HOWARD YOUNG (in Cantonese): *Madam President, I wish to clarify the relationship between the middle and last parts of paragraph 38. The former Financial Secretary said that we would sell or securitize \$112.5 billion in assets over the next five years. But it is said at the end of this paragraph that "for the longer term, preparatory work continues on the proposed privatization of the Airport Authority and the desirability of proceeding with the rail merger". Are the privatization of the Airport Authority and the rail merger included in the \$112*

billion talked about by the former Financial Secretary? Or, are they new projects not covered by the \$112 billion?

FINANCIAL SECRETARY (in Cantonese): Madam President, the privatization of the Airport Authority and the rail merger are included in the \$112 billion. But for the \$21 billion in 2003-04, there should be no problem. As for the \$20 billion or so in 2004-05, there should also be no problem. In addition, since we will shortly resume land sales, I believe we will be able to attain the target in the next few years.

DR ERIC LI (in Cantonese): *Madam President, I also wish to ask a question related to this paragraph, that is, a question about the last sentence of this paragraph on rail merger studies. I wish to ask this question because the whole of paragraph 38 is about the sources of capitals. As the Financial Secretary is also aware, one of the two railway corporations is already listed, and the other is not. The 400 000 or so shareholders of the listed MTR Corporation Limited (MTRCL) are also very keen on knowing its prospects, and this is also a very sensitive topic in the market. If the rail merger is categorized as a source of capital, there seems to be the implication that the MTRCL may not be repossessed or acquired. Rather, as it is doing the rounds in the market, there is rumour that the assets of the Kowloon-Canton Railway Corporation (KCRC) may be injected into the listed MTRCL. The way in which the idea is put seems to give such an implication. Will the Financial Secretary please make it clearer? Is it implied that this is the only option? Or, are there any alternatives?*

PRESIDENT (in Cantonese): Financial Secretary, would you please clarify whether the studies on the desirability of the rail merger are connected with the sale of assets, and whether it will include the injection of KCRC assets into the MTRCL?

FINANCIAL SECRETARY (in Cantonese): Madam President, Dr Eric LI is really true to his profession as an accountant. Well, the ambiguity is intended. *(Laughter)* That is because when we use the word "desirability", the implication is that we have not quite decided on whether it is "desirable" or "undesirable", whether there should be any merger. However, the Government will make a

decision as quickly as possible.

MR JAMES TO (in Cantonese): *Madam President, I wish to seek an elucidation on paragraph 5. Ms Emily LAU has also asked a question on it. It is mentioned in this paragraph that "我們必確保政策貫徹始終、明確穩定，讓商界可根據政府的政策作出長遠的商業投資決定，而無須憂慮政策朝令夕改" (We must provide business with policy consistency and predictability so that informed, long-term business decisions can be made without fear of arbitrary change next week, next month, or next year). The expression used here — we may even look at the English version, because the Financial Secretary said that this might be a problem of translation — is "policy consistency and predictability". But at the end, there is also the expression "without any fear of arbitrary change". Would the Secretary please elucidate whether the Government has in fact received any criticisms that the business sector has found it difficult to make any long-term decision because there have been arbitrary changes in the Government's policies? Or, would he say that there has never been such a problem, and the expression is used without any special meaning?*

PRESIDENT (in Cantonese): Financial Secretary, Mr James TO is asking you to elucidate whether the expression "without fear of arbitrary change" actually implies that some people are worried about arbitrary changes on the part of the Government.

FINANCIAL SECRETARY (in Cantonese): Thank you, Madam President. No one has ever said to me that there is any arbitrary change in government policies. But I do understand the investor mindset. As I have pointed out, they expect to see high transparency in the Government's policy formulation, and this of course also means consulting the parties concerned. Then, they also expect policy consistency and predictability. But I must add that this should not be taken to mean that once a policy has been formulated, there should never be any change throughout. And, naturally, whenever any change is contemplated, there must also be sufficient consultation and transparency. That way, the business sector will be able to see predictability, and it will not fear that the Government may change a certain policy suddenly.

MR MICHAEL MAK (in Cantonese): *Madam President, I wish to seek an*

elucidation on paragraph 30 on a reasonable level of fiscal reserves. According to the Financial Secretary, a prudent level of fiscal reserves should be left for the next Government, but he will gauge the opinions of Members and other members of the community on what should be a reasonable level of fiscal reserves. Would the Financial Secretary please elucidate whether he would first work out what he thinks should be a reasonable level before he consults us?

PRESIDENT (in Cantonese): Are you asking a question or seeking an elucidation?

MR MICHAEL MAK (in Cantonese): *My only hope is that the Financial Secretary has not yet formed any idea of what the level should be.*

PRESIDENT (in Cantonese): Please try to give an answer, Financial Secretary.

FINANCIAL SECRETARY (in Cantonese): Madam President, one of my purposes of coming here today is to give a picture of the current economic situation, to explain some fundamental concepts and fiscal management philosophies and to look into the future. The other purpose is to create more opportunities of communication and discussion with Members. Therefore, I have intentionally left this question open in the paragraph. That way, before the commencement of formal consultation on the formulation of the Budget, Members can all express their opinions. I do welcome their opinions.

PRESIDENT (in Cantonese): There are still four Members waiting to seek elucidation. After they have done so, I will not allow any more questions.

MR ABRAHAM SHEK (in Cantonese): *Madam President, I wish to seek an elucidation from the Financial Secretary on paragraph 37. In the past few years, the Government told us that it would spend \$29 billion on capital works projects. But from this paragraph, we notice that the spending per year in the last five years was just about \$27 billion. In other words, in these five years, \$10 billion of the earmarked provision was not spent on capital works projects. Does the*

Financial Secretary know that this \$10 billion shortfall has led to a 20% unemployment rate among the workers concerned? May I ask the Secretary whether the provision of \$29 billion is just a mere wish? Or, is it the actual sum of money that will be spent in the next few years? Or, will the Government just spend about \$2.5 billion or \$2.6 billion a year on average, just like what it did in the past few years?

PRESIDENT (in Cantonese): Are you asking a question or seeking an elucidation? Elucidation means further clarification.....

MR ABRAHAM SHEK (in Cantonese): *I wish to seek an elucidation on whether or not as much as \$29 billion will really be spent on capital works. If yes, will a smaller amount be spent?*

FINANCIAL SECRETARY (in Cantonese): Madam President, this is our estimate for the next five years. I believe Mr Abraham SHEK is very familiar with capital works, and he should thus know that it will take several years before a capital works project can be launched. Therefore, I am very confident that the figure we have computed is very accurate. Second, it is not quite true to say that unemployment has resulted because \$10 billion out of the \$27 billion was not spent on housing construction over the past few years since 1998-99. During that period, the entire market actually saw the construction of less housing units, especially Home Ownership Scheme (HOS) flats. I do not know if Mr Abraham SHEK wants us to construct more HOS flats.

(The expression "public housing" was heard in the Chamber)

DR TANG SIU-TONG (in Cantonese): *I am pleased to learn that the Financial Secretary has finally paid heed to public opinions and dropped the idea of a Boundary Facilities Improvement Tax. I wish to ask a question on paragraph 29. In this paragraph, the Financial Secretary says that he will bring public expenditure to 20% of the GDP or below. And, he also says that in 2008-09, the Government's operating expenditure will be at the level of \$20 billion. At that time, will public expenditure also be lower than 20% of the GDP as mentioned by the Financial Secretary?*

FINANCIAL SECRETARY (in Cantonese): Madam President, we estimate that

if public expenditure can be kept below \$200 billion in 2008-09, and if the spending on capital works projects is about \$30 billion as estimated by that time, our total public expenditure will be below 20% of the GDP.

MR ALBERT HO (in Cantonese): *Madam President, I wish to go back to paragraph 30, on which Mr Michael MAK has asked a question. The paragraph is about the Government's plan to consult the community on a reasonable level of fiscal reserves which should be left to the next Government. May I ask the Secretary whether the outcome of consultation will produce any effects on the targets and policies set down in this statement? In other words, Madam President (let me put it more explicitly), if the consultation reveals a level higher than that expected by the Financial Secretary, which means that expenditure has to be reduced, will the \$29 billion capital works spending referred to by Mr Abraham SHEK, for example, be reduced or adjusted accordingly?*

PRESIDENT (in Cantonese): Mr Albert HO, I am sorry, but I really think that yours is a question instead of a request for elucidation. Maybe, after Dr LUI Ming-wah has asked his question, I may ask you whether you have any other questions for elucidation.

DR LUI MING-WAH (in Cantonese): *Madam President, I wish to seek the Financial Secretary's elucidation on capitalizing on our unique strengths, that is, on what is said in paragraph 9. There, it is said, "We should compete on our strengths. We should capitalize on the quality of our market services....." What is meant by "quality market"? Is it the local market or the overseas market?*

PRESIDENT (in Cantonese): Financial Secretary.

DR LUI MING-WAH (in Cantonese): *Paragraph 9.*

PRESIDENT (in Cantonese): Line 2, paragraph 9, which reads, "We should compete on our strengths. We should capitalize on the quality of our market

services....." Does "quality market" refer to the Hong Kong market or the overseas market?

FINANCIAL SECRETARY (in Cantonese): We are looking at Hong Kong as a centre of excellence, which is why I say "quality market". In the case of the financing market, for example, we need a quality market, a local quality market. If we are talking about the provision of services to other places, we will have to say "for the overseas market", or "the provision of quality services by the Hong Kong market".

MR ALBERT HO (in Cantonese): *Madam President, many of the targets stated by the Financial Secretary in his statement today are in the form of figures. Will these figures not be affected by the outcome of consultation on the reasonable level of fiscal reserves which should be left to the next Government?*

PRESIDENT (in Cantonese): Since this is the last question, I can be a bit more lenient. Financial Secretary, please answer this question.

FINANCIAL SECRETARY (in Cantonese): Madam President, Mr Albert HO's question is really a very complicated one. If I try to answer it in great detail, I do not think I will be able to catch the plane; rather, I think I can only see people off at the airport. Well, that is because I have to go to Beijing after this. To answer the question simply, I should say that we will basically be able to achieve the target mentioned today, that is, the target of keeping recurrent expenditure at the level of \$200 in 2008-09. As for revenue, I also believe that we can achieve the target. When it comes to the fiscal reserves, there are actually many different ways to increase them, one example being the issuing of bonds. From this, we can see that this is quite a complicated issue. On the definition of a reasonable level of fiscal reserves, what we have now is just a question mark. I do wish to hear more opinions. As to the question of how we can achieve the desired level, we will have to consult the community more widely before we can make any decision.

MR ALBERT HO (in Cantonese): *My question is very simple: Whatever the outcome of the consultation mentioned in paragraph 30 may be, can one assume*

that the targets laid down will not be affected? This is the elucidation I wish to seek. Will they or will they not be affected?

PRESIDENT (in Cantonese): Mr Albert HO, you may raise this question on the 28th.

The Financial Secretary's statement lasted 30 minutes, and Members' requests for elucidation and the Financial Secretary's replies have taken 39 minutes. So, I think we have spent enough time on elucidation. Other questions can be raised next Tuesday. We would like to thank the Financial Secretary for so patiently clarifying the questions raised by Members. Have a nice trip.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bill: First Reading.

ROAD TRAFFIC (AMENDMENT) BILL 2003

CLERK (in Cantonese): Road Traffic (Amendment) Bill 2003.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bill: Second Reading.

ROAD TRAFFIC (AMENDMENT) BILL 2003

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I move the Second Reading of the Road Traffic (Amendment) Bill 2003 (the Bill).

The Bill aims to relax the gross vehicle weight limit of light buses from 4 tonnes to 5.5 tonnes to accommodate the installation of new passenger protection

equipment in public light buses (PLBs), including seat belts and high back seats.

Since the accident rate and the rear seat casualty rate involving PLBs have been relatively high among all classes of vehicles, the Administration considers it necessary to install passenger protection equipment on PLBs to enhance the safety of passengers. In this connection, two Amendment Regulations, that is, the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 and Road Traffic (Safety Equipment) (Amendment) Regulation 2002, which set out in detail the standards required for the installation of passenger protection equipment in new PLBs were passed by the Legislative Council last year. To accommodate the installation of new passenger protection equipment on PLBs, it is necessary to relax the gross vehicle weight limit of light buses from 4 tonnes to 5.5 tonnes. The PLB industry has expressed support for the proposal.

In addition, the Bill also proposed that the powers vested in the Chief Secretary for Administration to appoint Transport Tribunals and to appoint members into the Transport Tribunals' Panel be transferred to the Secretary for the Environment, Transport and Works.

With these remarks, Madam President, I recommend the Bill to the Legislative Council.

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

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

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Western Harbour Crossing Ordinance to approve the Western Harbour Crossing (Amendment) Bylaw 2003.

PROPOSED RESOLUTION UNDER THE WESTERN HARBOUR CROSSING ORDINANCE

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I move that the resolution as set out under my name on the Agenda be passed.

The resolution seeks to relax the speed limit inside the conduits of the Western Harbour Crossing from 70 km per hour to 80 km per hour. Such relaxation will reduce the number of speed changes along the route between Central and the West Kowloon Highway via the Western Harbour Crossing which would help improve the efficiency of the relevant roads and enhance road safety.

The Legislative Council Panel on Transport, the Transport Advisory Committee, the Hong Kong Automobile Association and the Institute of Advanced Motorists Hong Kong have been consulted on the proposed relaxation and they are supportive of the proposal. Subject to Members' approval of the resolution, the proposed relaxation will take effect from 1 November 2003.

Madam President, I beg to move.

The Secretary for the Environment, Transport and Works moved the following motion:

"That the Western Harbour Crossing (Amendment) Bylaw 2003, made by the Western Harbour Tunnel Company Limited on 30 September 2003, be approved."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee. As Members should be familiar with the recommendations, I am not going to repeat them 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: Indoor air quality.

INDOOR AIR QUALITY

MISS CHOY SO-YUK (in Cantonese): Madam President, every citizen in Hong Kong will join the discussion when we see that outdoor air quality has deteriorated to such a terrible condition. However, not too many people, including Honourable colleagues in this Council, will pay attention to indoor air quality (IAQ) whenever it is brought up for discussion.

Members may blame outdoor air quality for causing lung and respiratory illnesses linked to air pollution. Actually, the prime culprit is indoor air, the subject of today's motion. In fact, the long-standing neglect for IAQ has cost us dearly. We should have learned a lesson as a result of the deaths of 300 people during the battle against SARS. In fighting against SARS, the Hospital Authority hastily carried out emergency works at public hospitals by introducing immediate improvements to ventilation and isolation facilities at hospital wards and operation theatres. I believe all this is still fresh in Members' memories.

Later, the report on the Amoy Gardens incident also clearly revealed that the indoor air environment of the buildings also played a critical role in the transmission of virus. Regrettably, the Government seemed to be totally unconcerned with the severity of the problem now that the SARS outbreak is over. It is distressing to see that, even in the exhaustive list of recommendations put forward by the Team Clean in May, little has been mentioned about the improvement of IAQ.

Members may probably not notice that, according to the Government, an average of 70% of our time is spent indoors in our daily lives. Considering the living habit of Hong Kong people, I think the percentage should far exceed 70%. Members might figure this: How much time do we spend outdoors, apart from going to and from public transport stations and restaurants or eateries to have our meals? In terms of its influence on our health, IAQ is far more important than outdoor air quality, and there is a greater need for us to address the problem of IAQ. Frankly speaking, if not for this motion moved today, I will not have in the least noticed anything the Government has done in recent years to address this issue. Even after the SARS outbreak, the Government is still focused on sorting out matters relating to environmental hygiene. No special attention has ever been paid to IAQ and the adequacy of ventilation.

Putting aside our concern about SARS transmission, poor IAQ is also the source of illnesses suffered by modern people. I believe Members should have heard of the "Sick Building Syndrome", an illness with no specific symptoms, apart from general discomfort including piercing pain in the eyes, nasal and throat irritation, running nose, cold symptoms, chest-tightness, occasional itchy skin, headache, fatigue, difficulty to concentrate and agitation. It is precisely these so-called "trivial" symptoms, though appear to be not gravely serious, that are easily ignored. But they have serious impact on the working ability, judgement and decision-making ability of every individual, and even the competitive edge of the entire community of Hong Kong every day. Even in this Chamber, I have often heard our colleagues complain of drowsiness after sitting here for too long. This is a serious problem too. If it is not addressed properly, pollutants in the air, such as fungus and virus, will cause acute respiratory illnesses. The resultant consequences must not be neglected because carcinogenic substances commonly found in indoor air, such as radon and formaldehyde, will increase the risk of cancer among human beings.

Madam President, the international community has already laid down a set of standards for IAQ a long time ago. In the latest guidelines established by the American Society of Heating, Refrigerating and Air-conditioning Engineers

(ASHRAE) and the standards formulated by the World Health Organization (WHO), apart from such objective standards as the concentration of a variety of particulate elements in the air, the subjective feelings of humans are also included as prime factors for consideration. Good air quality is expected to minimize contraction of illnesses, and to go further to make people feel comfortable.

Regrettably, the findings of a number of surveys revealed that Hong Kong not only lags behind international standards in terms of IAQ, and also fails to meet the basic requirement of protecting the health of individuals as well.

In a survey conducted in 2002 by The Chinese University of Hong Kong commissioned by the Occupational Safety and Health Council, it was found that, of the 60 offices and more than 1 000 white-collar workers polled, 30% of the offices were found to have a carbon dioxide concentration in excess of the United States standard, and nearly half of the workers were confirmed to have developed nasal allergy and suffered constantly from running nose, sneezing and blocking nose. In another survey published by the Hong Kong Productivity Council in September this year, it was also found that only 10% or so of the 20 surveyed buildings and shopping arcades met the excellent IAQ targets set by the Environmental Protection Department (EPD). Furthermore, in an opinion poll conducted by the Democratic Alliance for Betterment of Hong Kong (DAB) last week, it was revealed that at least 60% of the respondents were constantly disturbed by poor IAQ, with 15% of them complaining of suffering frequently from fatigue, eye irritation, and even airway ailments because of filthy indoor air, while another 45% of the respondents indicated that similar problems were occasionally encountered. This situation is indeed worrying.

In the final analysis, poor IAQ is usually associated with the following two factors.

The first one is that pollutants are released by objects stored indoors without being noticed. For instance, harmful pollutants can be released by a number of sophisticated electronic products. In addition, ozone can be released by photocopiers, virus and fungus are hidden in carpets, and organic compounds are released by cleansing agents made mainly from chemicals. Even marble material, despite its elegant and impressive appearance, is the source of radon, a carcinogenic agent. Coupled with the harm done by second-hand smoke, sources of air pollution are literally everywhere.

Moreover, many high-rise buildings in Hong Kong lack ventilation windows. As a result, the important functions of transporting fresh air and filtering air are often solely performed by air-conditioning systems. It is most intolerable that many property owners and management companies entirely lack an awareness of carrying out proper maintenance to air-conditioning systems. It is even more horrible that the ventilation ducts and filters of some buildings are never cleansed. How can we avoid being affected if the air we breathe all year round is transported through an air-conditioning system filled with pollutants?

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

Madam Deputy, there are two major means to improve IAQ: controlling the source of pollution and strengthening the effectiveness of ventilation. Nominally, up to 10 pieces of legislation enacted in Hong Kong are related to regulation of IAQ. However, they were drafted in a very slipshod manner — merely confined to setting up no-smoking zones, prohibiting the use of chemicals that will cause damage to the ozone layer, monitoring the use of environmental asbestos, regulating the air flow rate of air-conditioning systems, and so on. On the one hand, there is a lack of objective indicators with respect to IAQ, and on the other hand, the scope of regulation is too fragmented. Owing to the absence of specific policies to concentrate efforts on improving IAQ, the problem is still not truly ameliorated, even though it has existed for a long time.

Against this background, it was found in a survey conducted by the DAB that 60% of the respondents demanded the Government to regulate IAQ by legislative means, and half of them considered it necessary for a policy to be implemented to regulate IAQ in offices, and another half deemed it necessary to implement the policy on various modes of public transport. All this reflects that most citizens hope to strengthen the regulation of air quality in these places, and delays can no longer be tolerated.

Actually, six recommendations were already made in a consultation paper published by the Government on the management of IAQ in 1999. They include launching public education and publicity campaigns to enhance public awareness of IAQ; setting up an information centre; establishing a set of indicators for

indoor air grading; preparing guidance notes on practices; and implementing the voluntary IAQ Certificate Scheme, with an undertaking to conduct a review in three years to consider whether the system should be made mandatory. Apart from proposing a timetable for the implementation of an Indoor Air Quality Management Programme, the consultation paper even proposed that private building owners be invited to take part in the voluntary IAQ Certificate Scheme starting from 2000, and a full review be conducted in 2003.

According to this timetable, a full review should be conducted this year. However, I have recently discovered that it was not until last month, three years behind the original timetable, that the EPD quietly launched the IAQ Certificate Scheme whereby private building owners were invited to take part in the Scheme on a voluntary basis — I am not sure whether the timing of the invitation has anything to do with the fact that I succeeded in drawing a lot to sponsor a motion debate on this topic. If it is originally planned in the timetable that the trial period should last three years, it will mean that we have to wait another three years before a review can be conducted in 2006-07. Considering the time required for consulting the public again and formulating regulatory measures upon the completion of the review, I am afraid we have to wait 10 solid years before the Government can hopefully come up with a comprehensive set of initiatives for IAQ improvement.

Madam Deputy, apart from the unsatisfactory progress in taking forward the programme of monitoring indoor air, the Government originally planned to establish IAQ indicators for various public transport operators in 2000. Consequently, it is not until this year that the relevant guidance notes are issued. In addition to a delay of three years, the guidance notes are not legally binding. Public transport operators may even ignore the guidance notes or adopt a different set of standards. In the end, the guidance notes will only be reduced to a "toothless tiger". Under such circumstances, there is nothing commuters travelling to and from their workplaces can do but to continue to be tormented by filthy air. Incidents of passengers passing out inside modes of public transport due to suffocating air are therefore expected to happen again and again for quite some time.

Given all these signs, we can simply not help suspecting the sincerity of the Government in implementing the recommendations made in the consultation paper on management of IAQ. What is more worrying is whether these proposals will ultimately disappear into obscurity. I hope the Government can, in its response later, state its position clearly and give a specific account of its

current progress of work, the departments responsible for taking follow-up actions and the progress of its plans. No doubt some efforts have been made in launching publicity. However, those pamphlets, entitled *Formaldehyde and You* and *Radon and You*, are concerned with formaldehyde and radon. How can ordinary citizens be expected to have knowledge about formaldehyde and radon, not to mention the required level of concentration before IAQ and our health will be affected. Insofar as members of the public are concerned, particularly since it comes to radon odourless, how can they be expected to be aware of its existence? What is the use of the publicity campaign? Nevertheless, I believe the Government has treated these initiatives as its major efforts over the past three years.

To give the matter its fair deal, Madam Deputy, the DAB agrees with and supports the Government's introduction of a number of policies to improve outdoor air quality in recent years. Some of these measures have even started to bear fruit. But unfortunately, its pace of monitoring IAQ is obviously lagging behind. As a result, the effectiveness of its efforts to improve the overall air quality has been slowed down. Given that the voluntary "Indoor Air Quality Management Programme" has only just started, we hope the Government can expedite the review, and give the public and this Council an account of the results of the review so as to enable us to decide on the way forward.

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

Miss CHOY So-yuk moved the following motion: (Translation)

"That, as good indoor air quality is essential to healthy living and conducive to reducing the threat of the Severe Acute Respiratory Syndrome and other respiratory diseases, this Council urges the Government to expeditiously account for the progress in implementing the "Indoor Air Quality Management Programme", promptly and fully implement the relevant proposals, including formulating relevant laws and regulations, and at the same time educate the public extensively on the correct ways to keep the indoor air fresh, so as to prevent poor indoor air quality from doing harm to people's health."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Miss CHOY So-yuk be passed.

DEPUTY PRESIDENT (in Cantonese): Mr Howard YOUNG 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.

DEPUTY PRESIDENT (in Cantonese): I now call upon Mr Howard YOUNG to speak and move his amendment.

MR HOWARD YOUNG (in Cantonese): Madam Deputy, I rise to speak and amend Miss CHOY So-yuk's original motion.

The Liberal Party very much supports and agrees to the spirit behind Miss CHOY So-yuk's motion on urging the Government to expeditiously account for the progress in implementing the "Indoor Air Quality Management Programme", because in Hong Kong, a densely populated city with numerous tower blocks, many office workers actually spend more time indoors than outdoors. Therefore, it is only natural for us to be concerned about the health impacts of IAQ. This is also the viewpoint of the Liberal Party.

However, the Liberal Party has some reservations about part of, only part of, the contents of the motion. This explains why I am going to move an amendment on behalf of the Liberal Party today. In the following part of my speech, I shall explain the reasons for our proposing this amendment.

To begin with, although the overall economic situation now is better than that during the SARS outbreak, the business environment is still very critical. We fear that if the Government really enacts legislation immediately, requiring owners of private commercial buildings and public places to employ professionals to inspect and improve IAQ, the business costs will increase greatly. This will add to the burden of various business operators, who are already caught in difficulties.

Besides, the business environment is now already subject to excessive regulation by law; licensing procedures are complicated, making things increasingly difficult for business-starters and business operators. Licensing control over public places such as food establishments and karaokes, in particular, has become increasingly harsh. Obviously aware of this, the Chief Executive announced in the policy address early this year that a high-level working group would be set up to explore ways of further improving the business environment through the minimization of unnecessary regulation. If we now legislate on the

regulation of IAQ, are we not running counter to the spirit behind the proposal of the policy address?

What is more, we also think that legislation is no panacea, nor is it necessarily the best solution to the problem. In the case of the Indoor Air Quality Management Programme for offices and public places, for example, the voluntary participation of commercial buildings will also achieve the same objective, and there is simply no need to enact any legislation for everything. The reason is that the initial responses indicate that in the aftermath of SARS, the various sectors of the community have become more aware of the need to ensure good air quality. Many employers are willing to join the Programme and take voluntary steps to improve the air quality of their workplaces and business premises, so as to protect the health of their staff and customers.

But the costs of complying with the standards will vary from building to building, depending entirely on the age of a building, the quality of its existing ventilation installations, and so on. Therefore, we maintain that the Government should allow individual businesses to participate in the Programme on a voluntary basis, having regard to their own financial position and the conditions of their buildings. If the Government really makes it mandatory across the board, many businesses or employers will simply be unable to spare any money for improvement works. In the end, this will only force a greater number of shops and companies to close down.

In addition, the indiscriminate enactment of legislation to effect regulation will not only increase administrative costs but also make the structure of the Government more and more bloated, running counter to the principle of "big market, small government" advocated by the Chief Executive in the policy address, and reiterated by the Financial Secretary today. This is not to speak of the fact that the enactment of legislation will involve many technical problems and details of regulation. Enforcement will thus not be so easy. Another point is that there are numerous commercial buildings of various types in Hong Kong, so once legislation is enacted for regulation, can there be a prompt and adequate supply of professionals to provide inspection services?

Moreover, the points I wish to raise are of course not confined to the motion topic today, but discussions of the motion topic will easily lead us to the idea behind this Programme. Whenever people discuss IAQ, they will inevitably touch upon whether smoking should be totally banned in the office, which is quite a hot topic. Or, people will discuss whether smoking areas should be completely isolated from other facilities, and whether separate ventilation

systems should be considered. If all this is to be enforced by way of legislation, then public places, or proprietors of food establishments, for example, will have to spend huge sums of money on improving their ventilation systems for compliance.

I do understand that the banning of smoking on public transport and in offices, or the enforcement of legislative a ban by way of legislation, is less contentious. But in the case of food establishments, a great controversy will arise. If a total ban on smoking is enforced in food establishments — as revealed by a consultancy study jointly commissioned by Mr Tommy CHEUNG and the catering industry which he represents — if a total ban on smoking is imposed, the average revenue of all food establishments in Hong Kong will drop 10.6%, leading to a loss of \$7.9 billion and indirectly reducing the number of jobs by 20 000. In particular, the influx of individual travellers from the Mainland will bring huge business to local food establishments. But many of the mainland visitors will smoke while patronizing food establishments. So, if legislation is enacted, if even all this is put under regulation, the catering industry will suffer a very heavy blow.

The management of air quality inside buildings and on public transport, as I have pointed out, will not be very contentious. But there is still the question of voluntary participation; since many of the proposals are already being implemented, there should be no need for legislation. The Indoor Air Quality Management Programme for offices and public places has just been launched for a month or so. We should allow ample time for this voluntary programme to show its effectiveness and induce more businesses to take part. Also, we should implement the programme and other proposals step by step in other areas, in the light of its effectiveness.

Madam Deputy, lastly, I wish to respond to one more point. I heard Miss CHOY So-yuk talk about something not related to the motion topic. She said that even Legislative Council Members were often found dozing off in the Chamber, and she attributed this to air quality. Dozing off is of course a fact, but I do not think that it has anything to do with air pollution; rather, dull speeches should be the reason. Therefore, the culprit is not in the polluted air but hot air, and the culprit is in the ears, the mouths and the brains and not the lungs.

Madam Deputy, I so submit.

Mr Howard YOUNG moved the following amendment: (Translation)

"To delete ", promptly and fully" after "this Council urges the Government to expeditiously account for the progress in implementing the 'Indoor Air Quality Management Programme'" and substitute with "and, taking into account the pace of economic recovery and after assessing the impacts on the business environment, gradually"; and to delete ", including formulating relevant laws and regulations" after "implement the relevant proposals" and substitute with "on a voluntary basis".

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Howard YOUNG to Miss CHOY So-yuk's motion, be passed.

MS AUDREY EU (in Cantonese): First of all, Madam Deputy, I would like to thank Miss CHOY So-yuk for raising this frequently neglected issue today. I rise to speak in support of her motion, but against Mr Howard YOUNG's amendment. One of the priorities of the policy address delivered by the Chief Executive in 1999 was to ameliorate air pollution. However, the measures proposed in the policy address, such as reducing the use of diesel by vehicles, were targeted on outdoor air pollution. Over the past years, apart from setting up an inter-departmental working group to formulate guidelines and launch a voluntary inspection scheme, the Government has actually done not much in improving indoor air quality (IAQ).

As a matter of fact, an average of over 70% of our time is spent indoors. It has been confirmed by the medical profession a long time ago that poor air quality has negative impact on our health: possibly leading to eye, ear and nose irritations, respiratory discomfort, or headaches in the short run. Madam Deputy, this is a frequent suffering for me too. Coming into contact with air pollutants over a prolonged period of time might lead to respiratory problems, heart disease, or even cancer. The harmful effects of second-hand smoke, another source of indoor air pollution, on health should be familiar to Members, I believe, and it is not necessary for me to explain them in detail here.

Surveys on IAQ are rarely conducted in Hong Kong. In an on-site survey

conducted in 1996 by a consultancy commissioned by the Government on 40 offices, it was found that the air-conditioning systems of 90% of the offices failed to provide an adequate supply of fresh air. Moreover, the average level of carbon oxide over a period of eight hours in nearly 40% of the offices exceeded the safety standard of 1 000 ppm set by the Environmental Protection Department (EPD). During the survey, 2 000 wage earners were also interviewed; 32% of them indicated dissatisfaction with the IAQ of their workplace.

Moreover, it was found in a smaller poll conducted by the Hong Kong Productivity Council that only 30% of the surveyed buildings had a concentration of volatile organic compounds in indoor air in line or met the safety standards established by the EPD, and such compounds may cause cancer.

Madam Deputy, I believe it is not true that bosses or business operators do not care about their employees or customers, or they do not want to provide an environment full of fresh and clean air. It is only that there is a lack of relevant awareness and knowledge. Furthermore, surveys on IAQ are rarely conducted. As we are aware, it is very common for Hong Kong people to develop such respiratory illnesses as nasal allergy, trachea allergy, and even asthma. I believe many employers will realize that their employees often take sick leave because of respiratory illnesses.

Improving IAQ can surely bring economic benefits. Insofar as employers are concerned, overall productivity will certainly rise if their employees fall ill less frequently and take less sick leave. As for business operators, such as owners of eateries, restaurants or stall owners, keeping an environment filled with fresh and clean air can attract more customers and raise turnover. Insofar as the entire community is concerned, medical expenses can be lowered and the burden on public medical care relieved if the people develop respiratory illnesses less frequently.

With respect to improvement of IAQ, the Government has all along relied on such voluntary measures as the non-binding "Guidance Notes for the Management of Indoor Air Quality in Offices and Public Places" and the voluntary IAQ certificate scheme. However, these measures have proved ineffective. In any case, it is imperative to protect the health of the public. On this premise, I agree that a certain measure of legislative control is warranted. As for specific measures, we may consider turning the two-level IAQ objectives established by the EPD into law, requiring employers, operators or commercial

building management to carry out regular IAQ inspections, and imposing a complete ban on smoking in offices, including considering imposing a complete ban in restaurants too.

As for the amendment, I surely agree that the difficulties of the business sector must be considered. However, it is the fundamental responsibility of bosses to provide their employees with a safe workplace. Employers must not use higher business costs as an excuse to shirk this responsibility. I disapprove of Mr Howard YOUNG's amendment mainly because it has proposed to delete the part concerning formulating relevant laws and regulations. But still, I agree that we may give employers an adaptation or transitional period, or even consider implementing legislative control in phases in order to reduce the impact.

Madam Deputy, I so submit.

MR NG LEUNG-SING (in Cantonese): Madam Deputy, Hong Kong is not only densely populated, it also has a relatively high density of buildings. As enclosed air-conditioning systems are adopted by the great majority of commercial buildings, it is extremely important to ensure the quality of indoor air in terms of good ventilation and cleanliness. I believe the public in general, after learning a lesson as a result of the onslaught of SARS, is taking IAQ more seriously than before.

In order to promote improvement in IAQ, a relevant consultancy study was commenced as early as 1995 by using public resources. An inter-departmental IAQ management group was set up by the Government in 1998 to implement the recommendations made in the consultancy study, though no significant results have been seen so far. Actually, apart from such legislative control as the Smoking (Public Health) Ordinance, the Government has relied mainly on the implementation of the "IAQ Management Programme" as a key measure. However, this Programme is focused on the voluntary IAQ Certificate Scheme implemented in offices and public places. In addition to the voluntary nature of this Scheme, building owners or management companies are required to pay for the hiring of qualified persons for certification purposes. As such, I am afraid the Scheme *per se* might not turn out to be popular. We can note from the website of the IAQ Management Group set up by the Government that the certificate scheme, which was supposed to have been launched since the second half of 2000 according to the government's document, is still "processing

applications". Not a single building has so far been awarded the two-level IAQ certificate.

The simplest and most direct way to change this situation where progress is limited and results are not prominent is to replace voluntary participation with legislation to make it mandatory. However, I have certain reservations about this since business costs will inevitably be involved. This is because IAQ certification definitely involves the payment of charges on a regular basis. Charges will rise even further if the inspection results are found not up to standard. A crucial factor leading to strong opposition from the trade to a consultation carried out earlier by the Government with respect to the imposition of a complete ban on smoking in restaurants is the cost incurred in relation to the business environment. I am afraid enacting legislation on IAQ to make it mandatory might involve an even more extensive aspect of the business environment. Under the current economic situation, it is imperative for the Government to study the matter carefully and strive to reach a consensus in the community. In my opinion, the Government may possibly consider making a proposal to put in place a complaint mechanism on top of the existing voluntary mechanism. It may also consider such initiatives as certifying IAQ in a mandatory manner for specific buildings against which reasonable complaints have been received, and publishing a list of buildings that have failed to meet the certification standards. Even without making it mandatory for private owners or management companies to make improvement, the practice of publishing the names of buildings can, I believe, affect the value and rental value of the properties in some measure. Driven by such market force, it is expected that private owners and management companies will be encouraged in a more effectively manner to pay attention to the importance of improving or maintaining the IAQ of their properties.

Owing to the relatively high density of buildings in the major business areas, vehicular congestion and the great diversity of fuel used, outdoor air quality in Hong Kong is far from satisfactory. If we are to improve IAQ, there is obviously a need for us to pay attention to both indoor and outdoor air quality. In my opinion, it is not enough for indoor air to fare better on its own. This is because indoor air-conditioning has to rely on the so-called "fresh air" from the outside for recycling and replenishment purposes. If the "fresh air" from the outside is stale and foul, IAQ cannot be guaranteed even with the help of recycling and replenishment. For this reason, the Government is duty-bound to

undertake improvement work in areas where the quality of outdoor air is not as good. For instance, I have persistently called on the Government to consider my proposal of installing water sprinklers and wind-driven apparatuses in crowded areas to, coupled with the streaming of road traffic, maximize the effect of reducing suspended particulates in individual districts. Only by taking a multi-pronged approach can Hong Kong as an international city improve its environmental cleanliness, and the health of the public be truly protected.

Madam Deputy, I so submit.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, despite the fact that the SARS epidemic has left the territory for four months, Members should still remember vividly what happened when Hong Kong was plagued by the virus. Although it was said that the SARS virus is not air-borne, there is a much greater possibility of contracting SARS in places with poor air quality and ventilation. A resurgence of SARS is also possible with the approach of winter. As such, we must continue to pay attention to environmental hygiene. The issue of IAQ must not be neglected too. Besides, poor IAQ might lead to other illnesses such as bronchitis, posing serious threat to the health of those people who stay indoors for a prolonged period of time. In October 2000, the Government launched the voluntary "Indoor Air Quality Management Programme" to call on the public to improve IAQ in offices and public places. In September this year, the Government boosted its effort by launching the "Indoor Air Quality Certificate Scheme". However, the Scheme has failed to produce satisfactory results as not a single application has been received since its implementation. As higher costs will be incurred for the implementation of such IAQ improvement schemes on a voluntary basis, responding owners or property management companies are expected to be limited and eventually the schemes have existed in name only.

In my personal opinion, it is not feasible for such schemes to be implemented on a voluntary basis for the purpose of improving IAQ. Complementary measures such as laws and regulations are required. However, enacting law in a hasty manner might again deal a blow to the industry. As such, it is necessary for the Government to strike an equilibrium and consult the industry extensively before enforcing the requirements of the schemes in a progressive manner. I think the best option to implement the schemes is,

coupled with appropriate education and incentives, to enact legislation step by step.

Before taking the further step enacting legislation, it is necessary for the Government to examine the laws passed to determine if they have been enforced and monitored in an effective manner. It is generally recognized internationally that smoking is the major culprit that causes a number of ailments with the respiratory system. The law prohibiting smoking in public places has in fact been in place for a number of years. However, the strength of enforcement is obviously far from enough. Under the law, a complete ban on smoking should have been imposed in such indoor public places as amusement games centres, public elevators, shopping arcades, and so on. However, according to my observation, a number of people still defy the law and regulations by smoking publicly in these public places. Yet people responsible for managing these places can hardly enforce the law. As a result, we can see that the air quality of certain public places where smoking is banned is still not improved and as filthy as usual. Furthermore, the existing law requires that managers of restaurants with over 200 indoor seats must designate not less than one third of the restaurant areas as no-smoking areas. However, there is no marked separation between the smoking and no-smoking areas in these restaurants. Sometimes, the two areas are separated by a passage only. As a result, customers sitting in the no-smoking areas are still being forced to become passive smokers. For these reasons, I urge the Government to, in drafting new laws to monitor IAQ, take steps to boost the strength of enforcement with a view to rectifying the present situation.

Besides exercising legislative control, education plays a very important role in improving IAQ. The Government should, by way of education, bring home to the general public the harm done by poor IAQ to human health as well as educating the general public proper ways to keep indoor air fresh. In the aftermath of the SARS epidemic, the public has started to pay attention to the importance of environmental hygiene by taking the initiative to keep their homes clean and maintaining personal hygiene and the cleanliness of public places. All this shows that the public demonstrates a marked increase in incentive to maintain the cleanliness of the environment. Should the Government be able to take advantage of this favourable opportunity by taking further steps to bring the proactiveness of the public into full play to make the general public understand the impact of IAQ on personal health, it might achieve twice the result with half the effort in accomplishing its task of improving IAQ.

The Hong Kong Progressive Alliance is of the view that the ultimate objective of bringing full improvement to IAQ can definitely be achieved by strengthening existing laws and public education and enacting legislation in a progressive manner for regulation purposes.

Madam Deputy, I so submit.

MR IP KWOK-HIM (in Cantonese): Some friends of mine often told of their puzzling experience of having recovered from nasal allergy or asthma without taking any medications in a matter of several months after emigrating abroad. During the period between the '70s and the '80s, members of the community at large were not particularly aware of air quality. At that time, the scene of buses loaded with passengers puffing clouds of smoke was considered part of daily life. To date, air pollution, environmental protection, suspended particulates, passive smoking, and so on, are no longer merely trendy slogans. Instead, we must treat them with a serious attitude and determination. Being colorless, tasteless and odorless, air can be an invisible killer.

Let me cite passive smoking as an example. 85% of the smoke emitted during the burning process of cigarettes will turn into second-hand smoke, which contains a number of carcinogenic substances, adding to this are industrial solvent, insecticide, car batteries and such raw material as heavy metal. At the same time, these substances are fatal. People trapped in a passive-smoking environment might have their life expectancy curtailed by a couple of years. We can certainly feel it if someone next to us smokes. In places equipped with central air-conditioning systems such as commercial buildings and restaurants, the systems might help diffuse the smell of cigarette burning. However, the deadly ingredients of cigarette will still exist, thereby jeopardizing public health at risk.

At present, under the Smoking (Public Health) Ordinance, restaurants with over 200 seats must set aside no-smoking areas. However, central air-conditioning systems have made it possible for second-hand smoke to reach each and every corner. Doubtless, the designation of no-smoking areas has alleviated the problems caused by smoking in entertainment establishments. But in the end, the designation of such areas serves no function because they will similarly be affected by passive smoking. As such, the Government proposed in 2001 to follow the example of means of transport by imposing a complete ban on

smoking in restaurants throughout the territory, including karaokes and bars.

As Hong Kong economy is still in the doldrums, and restaurants and entertainment establishments are finding it difficult to keep their business going, it is feared that business operators can hardly bear the risk involved should a complete ban be imposed on smoking. According to a survey conducted by a consultancy commissioned by the Hong Kong Catering Industry Association, earnings will drop 10% or so should a complete ban be imposed on restaurants, with hotels and bars going to be the hardest hit. On the other hand, in a survey conducted by the Health Services Research Group of the Department of Community Medicine of the University of Hong Kong commissioned by the Government, three professors pointed out that inbound tourists will spend more should smoking be completely banned. While views remain divided on this issue, I think a complete ban on smoking in restaurants is going to be a general direction in the interest of public health. The crux of the problem is in what way the matter should be dealt with to minimize the impact on business operators.

On the one hand, we have to improve air quality and ban smoking in the interest of public health, and on the other, we have to take into account the views expressed by some operators of restaurants and entertainment establishments. For these reasons, the Democratic Alliance for Betterment of Hong Kong (DAB) suggests the Government to implement a licensing system whereby all operators of restaurants, karaokes and bars now covered by the Smoking (Public Health) Ordinance must, if consider it necessary to provide smoking services on their premises, apply for licences with the Government. The licences issued will then stipulate the IAQ standards required to be met and specifications for extraction and air filtering equipment to be installed. The smoke room provided in the Chek Lap Kok Airport at the moment can serve as an excellent example of achieving a balance between the need to ensure air quality and preferences of smokers. Of course, the public and the industry must be consulted on the licence fees, standards and timetables for implementation, and so on.

Improving air quality has become a matter of general concern, particularly in the aftermath of the outbreak of SARS. The DAB urges the Government to expedite the implementation of the "Indoor Air Quality Management Programme" and, at the same time, introduce measures to improve air quality in restaurants and entertainment establishments to enable the public to enjoy clean and fresh air.

Madam Deputy, I so submit.

MR MICHAEL MAK (in Cantonese): Madam Deputy, I have on innumerable occasions in this Council urged the Government to allocate more resources to reinforce and improve primary health services, and to strengthen school education and community publicity. In particular, members of the public should be taught to pay attention to health, sanitation and environmental hygiene in terms of mental health, environmental hygiene, fresh air, good eating habits, harmonious interpersonal relations, vocational safety, and so on, with a view to reducing incidence rate. In the long run, these measures will help alleviate the burden on public-sector health care organizations. Owing to the fact that maintaining indoor air fresh is an integral element of primary health services, I will definitely support the motion moved by Miss CHOY So-yuk on IAQ in an effort to urge the Government to address the IAQ problem.

Clean air is extremely important to good health. Despite the fact that there is no evidence to show that the Severe Acute Respiratory Syndrome virus is air-borne and that the two are not necessarily directly linked, a number of clinical experiments have shown that fresh air impacts positively on physical health. For instance, it can reduce the chances of contracting respiratory illnesses. In an exercise conducted by the Government in 1999 to consult various professional bodies and the public on IAQ management, it was revealed that the majority of the respondents would like to see legislation enacted earlier, a further ban on smoking, legislative control on public transport, and so on. The Government also indicated then that it would proceed to review existing laws and relevant options in a bid to strengthen law enforcement.

So far, however, it has all been thunder but no rain. We have not seen the Government introduce any substantial regulatory initiatives. Moreover, little has been done in implementing the "Indoor Air Quality Management Programme". For instance, the progress of the imposition of a complete ban on smoking in restaurants has been extremely slow. As a result, people dining in restaurants are frequently forced to become passive smokers. It was found in numerous surveys that inhaling second-hand smoke is hazardous to health. The Government must strengthen its effort in this area and expedite the imposition of a complete ban on smoking in restaurants. Let me give Members an example. The Legislative Council Panel on Health Services had actually requested the Government to make this issue one of the agenda items for discussion next month.

However, I was subsequently told by the Government that, due to the unavailability of adequate information, this topic had to be suspended again.

In the consultation carried out in 1999, the Government learned that the majority of the public considered it necessary for legislative control on IAQ to be extended to public transport facilities. In fact, the majority of the public rely mainly on public transport when they travel to and from their workplaces and take part in activities out of their homes. During peak periods, buses, mass transit railway trains and trains are extremely congested. Therefore, the air in means of transport must be kept fresh since this is important to the health of commuters. So, it is imperative for the Government to extend its legislative control on IAQ to public transport facilities.

The Government should ensure good co-ordination between IAQ and outdoor air quality because the two are closely dependent upon each other. Should the Government fail to strengthen regulation of outdoor air quality, all those measures aimed at protecting IAQ will be rendered useless. I hope the Government can keep on introducing a variety of initiatives to assure outdoor air quality by, for instance, encouraging drivers to switch to low sulphur diesel in order to reduce exhaust gas emission and to adopt a multi-pronged approach to keep outdoor air fresh.

Prevent is always better than cure. Besides implementing proposals relevant to the outdoor air quality management programme on a comprehensive scale, it is also necessary for the Government to make complementary efforts in education, such as enhancing the public awareness of ways to keep indoor air fresh with the help of schools, community centres and social organizations.

Owing to the close relationship between indoor air and good health, I find it impossible to support the amendment moved by Mr Howard YOUNG, for economic benefits must not take precedence before public health. As this subject involves the health of all people, it is imperative for the Government to expedite the full implementation of the proposals relevant to the "Indoor Air Quality Management Programme" to protect the lives and health of the public. With these remarks, I support the original motion.

DR RAYMOND HO: Madam Deputy, Hong Kong is a well-established cosmopolitan city. It is renowned for its financial services, infrastructure and

close linkage with mainland China which is an attractive market to businessmen worldwide. Nevertheless, Hong Kong is also a notorious city. It is notorious for its poor air quality. Improving air quality in Hong Kong, including indoor air quality, has been our concern for many years.

Some 20 years ago, Dr Sarah LIAO, the present Secretary for the Environment, Transport and Works, now sitting in front of me, and I both presented talks on indoor air quality with emphasis on radon at a seminar. That was the first time I met Dr LIAO. We must agree that we have the best person to help solve this indoor air quality problem.

In recent years, the Legislative Council has also discussed the ways to improve air quality with the Government many times. However, there is no apparent progress, let alone concrete results, in this area so far. I agree with some of our colleagues here that the air quality of this Chamber is poor.

Outdoor air quality is important to us, so is indoor air quality. Except for those people who are engaged in outdoor works, all of us spend most of our time indoor, for example, at home, in offices and in schools. If indoor air quality was poor, our health might be threatened, particularly most of us live and work in air-conditioned environment. Try to imagine if SARS came back and the indoor air quality of a hospital ward was poor, what would happen to the patients? I think their respiratory systems would be further worsened! Obviously, it is necessary for the Government to spend more efforts in improving indoor air quality and expeditiously implement the Indoor Air Quality Management Programme in order to safeguard our health and the image of Hong Kong as an international city. This is a basic requirement of a world-class city.

I appreciate the fact that the Government has launched some programmes to improve indoor air quality. For example, setting up an inter-departmental Indoor Air Quality Management Group to co-ordinate the development in the control of indoor air quality, and launching publicity campaign to raise public awareness about the negative impacts of indoor air pollution on health. However, to thoroughly improve indoor air quality, the Government has to do much more than that. For example, smoking in public areas such as restaurants, cinemas and shopping malls should be entirely and strictly prohibited, and more stringent laws should be enacted in order to make sure that the parties involved do observe the laws. Only setting up a non-smoking zone in public areas is meaningless as the air-conditioning system will expose non-smokers in the same

environment to passive smoking. On the other hand, if the laws were not strictly implemented, some people would be reluctant to observe them and consequently, indoor air quality could not be improved.

Although legislative measures can help improve indoor air quality, in the long run, the problem should be addressed by means of education. When people fully understand the impact of indoor air pollution on their health and living standard, they will be more enthusiastic about taking the measures proposed by the Government to improve air quality. Otherwise, the rest of the Government's efforts will become futile.

Hong Kong is an international city. Every year, a large number of tourists and businessmen come to Hong Kong for sightseeing, shopping and doing business. These people are a major source of revenue for Hong Kong. Recently, in order to combat government deficit, the Government has tried to cultivate another source of revenue by announcing the investment immigration plan. If indoor air quality was poor, the image of Hong Kong to tourists, businessmen and those people who are interested in emigrating to Hong Kong would be downgraded. Because of this, I believe that the economy would be affected. Therefore, improving indoor air quality not only concerns the living standard, but also the economy of Hong Kong.

In June 2000, the Indoor Air Quality Management Programme and its implementation plan were discussed at the Panel on Environmental Affairs. It was expected that the Programme would help improve indoor air quality in Hong Kong. Unfortunately, three years have already lapsed but it appears as if nothing has happened! For example, smokers can often be found in the non-smoking zone in restaurants. People are still suffering from passive smoking in the so-called "non-smoking zone". The progress of the implementation of the Programme is very disappointing. As good indoor air quality can safeguard our health and improve our productivity, even though reviving the economy is the Government's greatest concern, it is imperative for it to implement the Indoor Air Quality Management Programme more fully.

Even though we are praising the services of, for instance, the Mass Transit Railway, I have raised the question here more than once that we should really check and monitor the air quality in the station areas and inside the trains.

Madam Deputy, I think I have expressed my views very clearly on the importance of indoor air quality while trying to achieve the goal of becoming a world-class city. I so submit. Thank you.

DR LAW CHI-KWONG (in Cantonese): Madam Deputy, it is indeed perfectly appropriate for us to debate this question here, because this Chamber is not up to standard. I was once asked why there were not too many people in this Chamber. My answer was that the air quality of this Chamber would fall below standard should there be too many people. Some people also asked what would happen when Mr TUNG came to deliver his policy address here. The answer I gave was that this Chamber would be packed with people, including numerous government officials. As both floors would be filled with people, all of us would fall asleep easily. This is largely attributable to the fact that there is insufficient fresh air. The crux of the problem is, when talking about indoor air quality (IAQ), many people do not understand the relationship between IAQ and their health, or have no idea of any problems involved. For instance, some people often find worms breeding on the walls of their homes. This is because their air-conditioners have to be kept operating since there is a lack of fresh air inside their homes. So, what problems will be caused? Sometimes, we may find some public places where fresh air is in short supply. It is indeed unnecessary for me to cite these examples, because the Secretary should know them very well. Another example is that some buildings may be drawing fresh air from inappropriate sources, so the so-called fresh air may turn out to be most filthy. As such, the problem really lies in what can be done through extensive publicity to enable the public to understand the relationship between air quality and their health. I believe much can be done in this area.

Sometimes, I find myself probably suffering from an allergy to air quality. I have the experience of suspecting that I was being trapped in a place with all the doors and windows shut on certain occasions when I found the air-conditioners were not turned on. But why were the air-conditioners not turned on? Many people may not take notice because sensitivity to air quality varies from person to person. Let me cite another example. There are a lot of wooden embellishments in this Chamber. What air quality problems will be caused? Many people are not sure. As such, I totally subscribe to the point raised in the motion that it is extremely important for the public to be educated extensively on the problems possibly caused by poor air quality and what can be done to take

good care of our health.

The issue of prohibiting smoking was also mentioned by a number of Members just now. Actually, Dr LO Wing-lok and I drafted some private bills more than two years ago, and one of them was related to a smoking ban in workplaces. The Government said at that time that consultations and reviews would be carried out. Considering this a public issue, we agreed to let the Government draft a public bill because the Government should be in a better position to do so. However, no progress whatsoever was made after we had waited for a long time. Mr Michael MAK also raised the point that the Panel on Health Services was eager to bring up this issue again for discussion. However, this item was not mentioned when the Chief Secretary for Administration outlined this year's Legislative Programme in the first meeting held in this Session. I think the case has to be reopened. Although this year's Legislative Programme has not yet covered any initiatives to prohibit smoking, I hope the issue can really be brought up again for discussion. Very often, when we talk about smoking or prohibiting smoking in restaurants, we have to take into account, besides customers, employees as well, particularly those working in smoking areas. For the sake of performing their duties, they are forced to become passive smokers. This is grossly unreasonable. Why do we leave this problem unattended?

When it comes to improving facilities, I understand that a great number of buildings in Hong Kong are equipped with central air-conditioning systems. Improving air quality will invariably incur extra costs, or even involve retrofitting of existing air-conditioning systems. Furthermore, as I mentioned earlier, conversion will be involved when it comes to such issues as the source of fresh air. This might also be one reason for Mr Howard YOUNG to move an amendment. Notwithstanding this, I hope Members can refrain from looking at this investment from a short-sighted perspective. This is because the efficiency of our workforce can be upgraded and the days of sick leave reduced if a healthy working environment can be provided. I believe it is definitely more worthy, in the long run, for money to be spent on refurbishment and modification, as opposed to money spent on other associated items, such as medical insurance, medical expenses, and so on. This explains why I, on the contrary, think it worth considering should this be seen as an additional investment and, as Mr Howard YOUNG suggested, a fund be set up by the Government to provide loans for the purpose of carrying out renovation works to be repaid to the Government

in future. However, it will be inconsistent with the priority consideration given to the fundamental matter if it is decided not to carry out improvement on grounds of economic recovery. I believe such investment can definitely, in the long run, prove to be cost-effective in the end.

Having said that, I earnestly hope Members can, in reflecting upon the subject of improving IAQ, take into account the needs to improve IAQ for all people — whether at home or at workplaces — to ensure the basic IAQ standards are met. As such, we agree to the point raised by Miss CHOY So-yuk in her motion, that relevant laws and regulations have to be formulated. We have to start consulting, discussing and considering the provisions required to be made. Very often, individuals — particularly employees — are not necessarily capable of influencing their employers with respect to the measures required for the purpose of improving air quality. Moreover, our general knowledge might not be adequate. Under such circumstances, the Government is obliged to make efforts in education, laws and regulations and promotion simultaneously. Consulting the community on the enactment of legislation is in itself a significant process. This is because public concern can be aroused in doing so. In my opinion, laws and regulations will ultimately be required because there will still be black sheep in the herd. We have to consider ways to protect the relevant people because some people are simply unconcerned. For these reasons, the Democratic Party will support this motion. Though certain matters of concern are raised in Mr Howard YOUNG's amendment and we do understand that those matters warrant our concern, we find it difficult to support the amendment because it has proposed to delete the part concerning laws and regulations and take account of the pace of economic recovery. As such, we will abstain from voting. Thank you, Madam Deputy.

DR LO WING-LOK (in Cantonese): Madam Deputy, if I were given only one choice in 10 options for improving IAQ, I would definitely go for the prohibition of indoor smoking, especially in those indoor areas frequented by members of the public. Also, the Government should implement the prohibition as soon as practicable. Why? If we mix up the recommendations on factors affecting IAQ and the impact of indoor air pollution on health, it would be likely to cause confusions and distort the priorities. If the recommendation of a total ban on smoking indoors is adopted among the 10 options, it would in fact achieve 90% of the effect on health. The various regulations suggested by Miss CHOY So-yuk, such as improving the air-conditioning and ventilation systems, exercising control on other issues, and so on, all involve legislation and a

substantial volume of work. It would be simpler if we request the Government to expeditiously submit once again the legislation on smoking control to this Council for discussion. As long as this factor is under control, we are half way to success already.

Therefore, I would like to draw the public's attention from the confusing factors. Remember, remember and remember to control smoking, control smoking and again, control smoking. It is the one and only factor which is essential to controlling our IAQ. If we do not appeal to and put pressure on the Government in this regard, we are missing the crux of the problem. Thus, to set the record straight, I repeat, remember, remember and remember to control smoking, control smoking and again, control smoking. Thank you, Madam Deputy.

MS CYD HO (in Cantonese): Madam Deputy, I would to thank Miss CHOY So-yuk for moving this motion. While I subscribe to the content of the motion, I still have some reservations about the choice of such words as "promptly" and "fully". Actually, IAQ is very often closely related to the design and ventilation of a building. I understand what Miss CHOY meant when she said indoor air filtering systems could be installed. However, this option compares far less favourably than natural air circulation. I believe a very long transitional period will be required if the relevant proposals are promptly and fully implemented by way of legislation, given the existence of a number of old-style buildings. In particular, many of them are curtain-walled buildings with windows that cannot be opened. I have no idea when these buildings can be replaced. It is indeed terrible that this design is still adopted by newly-built buildings.

Nonetheless, I very much agree that IAQ is extremely important because every day we spend most of our time working in offices. Poor air-conditioning may lead to a number of chronic respiratory diseases that will result in a gradual deterioration in health, and this is definitely unacceptable. Madam Deputy, I would like to take this opportunity to recommend natural therapy to Members. Insofar as a number of allergies, western medicine might not be able to help us. As nothing can be done to change the environment for the time being, we have to strengthen our health and refrain from taking antibiotics frequently. Natural therapy will help us better.

Madam Deputy, I would also like to make it clear that I cannot subscribe to the amendment moved by Mr Howard YOUNG. It is mainly because I cannot

subscribe to his idea of using merely the pace of economic recovery and the impact on the business environment to assess the timing for implementing measures to improve air quality and promoting education. In my opinion, health cannot be measured against money. Of course, whether the Government is financially capable of affording all those facilities is definitely of great relevance to us. However, as in the case of every environmental protection initiative, nothing can be done if economic effectiveness has to be calculated right at the beginning. In the long run, we will benefit in balancing this against the entire community and the medical bill.

For these reasons, Madam Deputy, I will vote against the amendment but in favour of the original motion.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Miss CHOY So-yuk, you may now speak on Mr Howard YOUNG's amendment. You have up to five minutes to speak.

MISS CHOY SO-YUK (in Cantonese): Madam Deputy, I would like to say a few words on the DAB's view of the amendment moved by Mr Howard YOUNG.

We note from Mr Howard YOUNG's amendment that the relevant proposals are to be implemented "taking into account the pace of economic recovery and after assessing the impacts on the business environment" and "on a voluntary basis". That is to say, according to Mr Howard YOUNG's amendment, the voluntary participation scheme and guidelines for public transport which were introduced by the Government last month — in the absence of any publicity and as I have said, three years late — would all be unnecessary. For what Mr Howard YOUNG says is all these proposals should be implemented slowly and gradually, taking into account the pace of economic recovery and on a voluntary basis. That is also tantamount to saying that it is unnecessary for the Government to do what it is presently doing. Obviously, the DAB thinks that this amendment, which is very much conservative, is totally unacceptable.

(THE PRESIDENT resumed the Chair)

The amendment calls for an economic impact assessment and that the DAB does not object to, for such an assessment should be conducted in the formulation of any policy. However, public health must not be allowed to be subject to any risk because of financial reasons. Business environment should not be cited as an excuse to impede our efforts to protect the health of the public. This is more so the case when the proposals we make will improve the business environment substantially. As I have said, poor IAQ will make employees easily get sick, tired and lose their concentration, hence affecting the productivity and competitiveness of the company concerned. For some people, they may want to reduce the discomfort caused by stuffy air and so they simply turn on the air-conditioning colder. I recall when I said that the air quality here was not good, I also felt that the air-conditioning had been turned up. This kind of approach is only evading the problem, for not only can it not reduce the indoor pollutants, but it will also increase power consumption. Often the air-conditioning in the office is turned on very cold and the staff have to wear woollen clothes because the frigid temperature is thought to keep them awake. But that will actually consume a lot of electricity and add to the operation costs. This will not help improve the business environment at all. We think if only the owners and the management companies will conduct regular inspections of the air-conditioning system and clean up the ventilation ducts and the filters, that will easily bring the air quality up to the required standards and will not cause any serious adverse impact on the business environment.

As for some commercial buildings, if a high IAQ can be maintained, a higher rental can be charged. I know that some commercial buildings in Hong Kong are fitted with an indoor air purification system and their rental is very expensive, which is a few times higher than that of the ordinary commercial buildings. So this has nothing to do with the financial implications at all. If there are some limitations in the design of older buildings, we suggest that when legislative work is to proceed, those uncompleted buildings should be made the first targets of regulation. The DAB has never said that full-scale and across-the-board legislation should be made and we have never said that legislation should be made at once. We only hope that the voluntary scheme can be implemented as soon as possible and that a review should be made to determine what areas warrant legislation.

I therefore hope that Honourable colleagues will oppose the amendment moved by Mr Howard YOUNG.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, first of all, I wish to thank Miss CHOY So-yuk for moving this motion today. I also thank the other Members for their valuable input. The Government fully agrees that IAQ is a very important issue that has a direct bearing on the health of all Hong Kong people and the productivity of society as a whole. Poor IAQ may lead to discomfort, and in workplaces, absenteeism due to sickness or declined work efficiency. On the contrary, good IAQ will contribute to our comfort and health.

Indeed, IAQ is within the realm of control of every institution or unit, whereas outdoor air quality often involves a much larger domain, and when it comes to regional air pollution, long-term plans and many issues concerning control and regulation are even involved. So, the Hong Kong Government and the Environmental Protection Department (EPD) do appreciate very much the importance of this issue. In 1996, and it was actually from 1995 to 1997, a very detailed report on an indoor air quality survey was compiled. The survey, which included the measurement of air pollutants, was conducted by way of questionnaires. The survey was conducted in great detail and it took almost 20 minutes to complete the questionnaire in which employees were asked about their feelings on air pollution in workplaces. That was based on a questionnaire designed by the Medical School of the Harvard University, and the questions were not asked casually. Many of the questions could assess whether the interviewees were unbiased in answering the questions. The findings showed that there is room for improvement to IAQ in offices.

However, I wish to emphasize a point which was mentioned by several Members earlier on. While good IAQ is conducive to curbing the spread of diseases, it cannot prevent any specific diseases. We should implement preventive measures against SARS in accordance with the instructions of the Department of Health, and we cannot rely on enhancing control on IAQ alone. Steps to ensure hygiene, such as washing hands, should be followed at all times.

IAQ in hospitals was mentioned earlier. But I hope that Members will not confuse this with indoor air pollution in workplaces, which is a different matter. Hospitals apply specific standards which are higher than the air quality requirements generally applicable to workplaces, public places or restaurants. Fresh air replacement in hospitals should at least be 12 to 13 times per hour, compared to a general requirement of only two to three times per hour. So, we must not confuse them. The indoor air pollution or quality that we are discussing now refers to the air to which every member of the ordinary public can be exposed every day, whereas air pollution in workplaces concerns the working population (that is, people who are healthy enough to go to work), or air pollution in an office environment.

Members asked earlier what we have done after the report was completed in 1997. I will now briefly report on the work of the EPD in this area over the last few years. Firstly, the consultancy report is about IAQ in offices and public places. Having made reference to this report, we extensively consulted the industry and the public and introduced the Indoor Air Quality Management Programme (Management Programme). The Management Programme, the contents of which were reported to the Legislative Council Panel on Environmental Affairs in June 2000, comprises the following:

- launching a public education and publicity campaign to promote public awareness of maintaining good IAQ;
- setting up an Indoor Air Quality Information Centre to disseminate information and reference materials related to IAQ;
- adopting a set of IAQ objectives as a common benchmark for evaluating and assessing IAQ;
- publishing a set of guidance notes for the better management of IAQ in offices and public places;
- promulgating a voluntary IAQ certification scheme and invite owners and management of different types of premises, including government buildings, to participate in the scheme;
- conducting a review of legislative framework for the control of

indoor air quality in parallel with the implementation of the voluntary IAQ certification scheme; and

- publishing a set of professional practice notes for public transport facilities.

Apart from involving air pollutants which are a more complex issue, IAQ also involves many other professional aspects, such as engineering technology, scientific standards, building management, public health and occupational health. It also involves the functions and duties of many government departments. In this connection, the Government has set up an inter-departmental IAQ management group comprising three bureaux and 10 departments. Members can imagine that lots of efforts are required for the co-ordination and liaison work involved. There is no question of shirking responsibilities. Just that the formulation of IAQ standards will have an impact on different departments.

From the past information, I note that many laws which have implications on the amelioration of air pollution are already in place. To put it simply, concerning ventilation systems as mentioned by us earlier, the buildings legislation has actually provided for the amount of fresh air required for different purposes in a building. For example, for a room which is built to accommodate a certain number of people, how many times of fresh air replacement are required for each person in an hour? Regarding the design of the Legislative Council, I think Dr LAW Chi-kwong's earlier remarks may not be correct because this is the Legislative Council, and among the many government buildings, it should be the first to have met the standard. The standard should be 1 000 ppm, which means that the carbon dioxide concentration is 1 000 parts per million. That is on the assumption that all Members are present and breathe at the same time in this Council; and the carbon dioxide concentration of a human body will be higher after meals. I will ask the EPD to conduct another test again and then report the data to Members, because I also feel rather uncomfortable sitting here. *(Laughter)*

But why have I raised this point here? It is because some of the laws involved already exist. If we have to set another standard, we must ensure that there is no contradiction among the laws, or else enforcement will be utterly difficult.

On the progress of the proposals under the Management Programme over

the last few years, insofar as the public education and publicity campaign is concerned, the Management Group, that is, the inter-departmental and inter-bureau working group, has compiled many pamphlets and booklets on IAQ. Miss CHOY remarked earlier that she found the pamphlets difficult to understand. This, I do not agree. These pamphlets are, in fact, very educational. Formaldehyde is an example. Members may not know what it is even at hearing it. But Members should be able to understand from the pictures on the pamphlet that formaldehyde is a chemical emitted by furniture. In this regard, the worry expressed by Dr LAW earlier should be out of the question, because no renovation works have been carried out at the Legislative Council for years and so, even though the timber did contain formaldehyde, it should have been fully emitted by now. I can assure Members of this, for I have been assured by my nose. My nose can smell 0.01 ppm. (*Laughter*) Doctors cannot even smell it. Doctors are exposed to a relatively high level of formaldehyde since it is a preservative used in performing autopsies. So, they are exposed to a large quantity of formaldehyde which may exceed 10 ppm and therefore, they are less sensitive to it. But this is very important to the ordinary people.

We must educate the public on this, and estate managers must also pay attention to this. It is because whether in the office or at home, even though you are doing your part very well, renovation works carried out next door will subject you to the effects of pollutants produced in the course of renovation and the situation indoors will be even worse. If the pollutants enter your flat in daytime through the ventilation system, and if you sleep at night with the air-conditioner turned on but keeping the door and windows closed, then you will be inhaling a very large amount of chemical substances. That is why we have always asked estate managers to take controlling measures in respect of renovation works to address the problem of inter-flows of pollutants.

On the setting up of an Indoor Air Quality Information Centre, this centre was already set up in 2001 through the EPD to promote and publicize ways to maintain and improve IAQ. In this centre which is located at the Hong Kong Productivity Council Building in Kowloon Tong, a wide range of technologies, products and information for the improvement of IAQ is exhibited. Some model designs as well as construction and renovation materials are also exhibited in the centre. This centre has organized four seminars and 15 roving exhibitions to promote the message of maintaining good IAQ to different people at different places. The information centre has also provided a website for the public to view and download information on IAQ. So far, the public has made over 20 000 visits to the information centre and its website has registered a hit rate of

103 000.

With regard to the adoption of a set of IAQ objectives as a common benchmark for evaluating and assessing IAQ, the Management Group has introduced a two-level system under which good IAQ is classified into "Excellent Class" and "Good Class", and used it as an objective benchmark for assessing IAQ in offices and public places. I must stress that the purpose of this benchmark is to encourage owners and management of premises to strive for good IAQ. For premises that cannot meet the requirements of these two classes, they must still meet the air quality requirements prescribed for the protection of employees and they must also ensure against any adverse impact on users of their premises. In other words, the original requirements in the buildings legislation regarding the design of the air-conditioning and the ventilation systems still apply.

Regarding the two classes of IAQ, I think Members may ask why it has taken so much hard work and so long a time to formulate this system of classification. In fact, we must not be frivolous in setting any standard. Miss CHOY mentioned earlier some standards set by the WHO, but they do not cover all the standards that should be applied in Hong Kong, and ASHRAE also sets out some standards. After a standard is set, how many buildings are likely to be up to standard?

The standard to be set must be realistic. I am not suggesting that 100% of the buildings must meet the standard. But from the perspective of our studies on air pollution, the timing of setting a standard and how high the standard should be set under a policy of the Government must take account of acceptability, particularly when the standard does not concern the question of safety. If, after a standard is set, 90% of the buildings cannot comply with it or no one is willing to comply with it, and if everyone "failed", should we punish everyone then? So, we must work for a more practicable standard and we hope that after this standard is set, they will participate in the assessment scheme voluntarily. Yet, we have to look at the other side of the coin. We can see that many large-scale commercial buildings have adopted our guidance notes in their management, trying to meet the requirements of the "Excellent Class" and "Good Class" in accordance with our guidelines. With regard to the "Excellent Class" — it may not be expedient for me to mention the names, for I learned of them before I joined the Government and so, it may involve a question of business contract — many Grade A offices have in fact carried out work in this area and followed the

guidelines of the Government. They are also aware that the Government may legislate on this in the future and so, they have carried out the initial stage of work. But in most cases, they have been able to meet the requirements of "Good Class" only, but not the "Excellent Class", and they think that they will take part in the Government's assessment only when their standards can reach the "Excellent Class" for they are Grade A offices.

We are conducting an assessment to ascertain in what areas they have failed to meet the requirements and see if these are very important areas. It is because we hope to encourage and reward those flats or units that are willing to improve the air quality. The ventilation system, humidity, temperature, and so on, however, may constitute problems. Even within the same office, the situation will vary at different places, say, in a fully-packed conference room or in the computer room where people are closely seated. This is very different from the overall layout of an office. So, overall speaking, they may not be able to meet the requirements of "Excellent Class". Moreover, in the case of one storey of a building being partitioned, even if the principal management company, say, a large company in Central, has provided a very good system for its tenants, but if the tenant has partitioned his flat into many rooms on his own and hence caused the ventilation of his premises to deteriorate, who should be held responsible then? Should the occupant or tenant be held responsible? Or should it be the tenant or the owner? The owner will consider that the tenant is provided with "excellent" air conditions, but the tenant has changed the conditions to "good". All these problems warrant our attention.

On the voluntary IAQ certification scheme, it was actively launched in September this year. I have discussed with them the problem mentioned by me earlier, and owners and management of office premises and public places, including government buildings, have been invited to participate in the scheme voluntarily. Under the scheme, owners or management of premises are required to engage a competent examiner to conduct IAQ assessments at their premises on a yearly basis and certify that the premises are in compliance with the IAQ objectives. Premises which are certified as "Good Class" or "Excellent Class" will be issued a certificate. In the past month, the EPD held five seminars to introduce the certification scheme to owners and management of over 1 000 office premises/public places and the relevant professionals and professional bodies. Many people have expressed interest in joining the scheme.

As mentioned by Miss CHOY earlier, the certification scheme is not in the

least useful to the old buildings due to limitations of their archaic design and the fact that their air-conditioning system cannot be easily modified and so, we must particularly give them some thoughts. There used to be another grade below the "Good Class", and that was formulated in line with the occupational health standard. Any ordinary office environment can meet the standard, which is actually a requirement for the purpose of occupational health. Such being the case, is it worthwhile to spend money on conducting an assessment? This will be a relatively big financial burden particularly on small tenants or owners. So, we must determine the size and year of completion of an office which will be required to meet the standards of "Good Class".

Under the Management Programme, we have also drawn up a set of professional practice notes for control of IAQ in air-conditioned public transport facilities. We have completed the drafting of the practice notes and consulted franchised bus companies and railway corporations on the contents of the practice notes through the EPD to ensure that the operators can better manage IAQ in air-conditioned public transport facilities in accordance with the requirements of the practice notes. These guidelines will be published in the form of professional practice notes by the end of this year after the completion of consultation.

As far as I understand it, these public utilities, such as the MTR Corporation Limited (MTRCL) and Kowloon-Canton Railway Corporation, have carried out comprehensive air quality management programmes on their own initiative. Members can download the details of their work from their webpages. We have been discussing with them as to how they can meet higher standards, particularly in the wake of the SARS outbreak. I must commend the MTRCL because during the SARS outbreak, I had asked them to take relevant measures — I had also asked other companies to do the same but the MTRCL was most thorough in its work — and it turned out that they really managed to inject a greater amount of fresh air. They were able to lower the 5 000 ppm level of carbon dioxide concentration and so, we have now set the standard at 3 500 ppm, hoping that other public transport facilities can meet this objective. I think many citizens could feel the difference during the SARS outbreak. Moreover, I wish to mention in passing that during the several years of implementation of the scheme, it is not true that all the people have been unresponsive. In fact, many large and medium property developers have conducted many tests on their properties, in order to ensure that they can meet the requirements if legislation is really enacted in the future.

On the question of legislation, I am very glad that this motion is moved for debate today, for it gives me an opportunity to explain our thinking to Members. To control IAQ, be it in workplaces or other premises of living — I have always differentiated between these two types of places, for the legal definition of "workplace" is occupational in nature, which means relating to jobs and work. We must also be clear about the work carried out by a person in a workplace during the eight hours of work every day. For instance, is the use of chemicals involved and is the person required to use an electric saw or to perform welding? All these work processes must be clearly distinguished. However, the premises of living are different, for it is impossible for a person's activity to be regularized. He can cook congee today but may go barbecue tomorrow. There are a great many things that he can do. Similarly, in offices, there is also no deliberate control on, for example, the solvent used in correction fluid and the solvent used to clean the copying machine. Assuming that no such control is in place, what must we do?

Firstly, to ensure proper air quality management, we consider it necessary to start from controlling the source of pollution. There are many ways to control the source of pollution. The first is to find out what is most polluting. The answer is human beings. If we are not sitting here, there will not be any carbon dioxide. But of course, this is not a solution to the problem. So, we have to calculate the accommodation capacity of a place.

Secondly, as Dr LO Wing-lok said earlier, second-hand smoke is a major source of pollution. To solve this problem, the easiest way is to ban smoking. In this connection, we have just discussed this issue with Dr YEOH, Secretary for Health, Welfare and Food. The Smoking (Public Health) Ordinance enforced by them already covers public transport, lifts, amusement game centres, cinemas, theatres, concert halls, shopping malls, department stores, supermarkets and banks. Smoking is banned at these places, and restaurants with an indoor seating capacity of 200 persons or more are required to designate an area measuring no less than one third of the total area as the non-smoking area. However, to further protect the people, and as Secretary Dr YEOH wishes to protect non-smokers from exposure to second-hand smoke in public places, the Government is currently working on the proposed amendments to the Smoking (Public Health) Ordinance. The Health, Welfare and Food Bureau will submit the proposed amendments to the Legislative Council later. This is an effective way to eliminate the source of pollution and so, I support the enactment of

legislation on this.

Legislation is also necessary on, for instance, pesticide. We do not like seeing pests in our home and so, pesticide is used. We do have control over the use of pesticide. Some further control is effected by the Agriculture, Fisheries and Conservation Department by restricting the kinds of pesticide that can be imported into Hong Kong. This is precisely an instance of targeting actions on the source of pollution. We must impose control on those substances with persistent effects on the environment or those with a very high level of toxicity which will be inhaled by us unconsciously through indoor air pollution.

The third area in which I consider regulation is necessary relates to furniture. That is, the regulation of formaldehyde, as mentioned by me earlier. Formaldehyde is used in the production of new furniture — this may not always be the case and I would say that formaldehyde is used in most cases. This is a substance subject to statutory control in many countries. In the United States, for instance, new furniture must be placed outdoor or in places with ventilation systems, and the furniture can be moved into an office only when the concentration of formaldehyde has been reduced to a certain level. So, the case is different in Hong Kong, because when we enter a newly decorated flat, we cannot open our eyes due to the effects of formaldehyde. I am aware that there is a court case in Beijing in this connection: Someone had purchased a new wardrobe and his families had since been feeling sick but they did not know why. It so happened that their case was brought to my attention and finally, they had taken their case to court. In the Mainland, there is already legislation governing the concentration of formaldehyde. They have lodged their case with the consumer rights council or whatever, and I do not remember the name of the organization. But anyhow, they had taken their case to that organization and finally, the furniture shop had to make compensation and recall the goods. I think every piece of legislation serves a specific purpose, and we have to consider the effectiveness of the legislation. If we can control the source, that will be a very effective way to solve the problem. This is in any case better than measuring the level of formaldehyde after putting the furniture in our home, because the measurement of formaldehyde is quite costly. I think it will be more effective to control its use.

I said just now that many laws are already in place, but I will not give an account of them one by one because I believe they have been considered by

Members in past discussions. There are almost 10 pieces of legislation relating to air quality. I think Ms Audrey EU also appreciates that the conflicts among different aspects must be resolved before a new piece of legislation can be enacted, and this is a rather cumbersome process. I think if we adopt a broad-brush approach and set two standards for mandatory implementation, there are bound to be great difficulties. It is because inspection, say, conducting a test annually, is actually very expensive. Are such tests value for money? When countless polluting substances have yet been put under control, and if tests are conducted only at a very late stage and a conclusion is subsequently drawn that a premise has failed to meet the standard and punishment is then imposed, is it fair and practicable at all? So, I hope that legislation will not be enacted in a broad-brush manner. Rather, efforts must be focused on areas with greater cost-effectiveness, such as the three ways to control the source of pollution mentioned by me earlier, and this can effectively abate pollution to a very large extent.

As for the other issues that have to do with the standard, the EPD is very actively exploring more economical ways to conduct tests, in order to achieve greater effectiveness in implementation and in the enforcement of law. We will actively consider making legislation on these specific issues and products. Before a decision is taken on whether to make legislation on IAQ, we will certainly listen very carefully to the views of the public and the industry on the feasibility and study its correlation with the existing legislation, and we will proceed to make legislation only after that.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Howard YOUNG to Miss CHOY So-yuk'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)

Miss CHOY So-yuk rose to claim a division.

PRESIDENT (in Cantonese): Miss CHOY So-yuk has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Kenneth TING, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU and Mr Tommy CHEUNG voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr CHAN Kwok-keung, Mr WONG Yung-kan, Ms LI Fung-ying, Mr Michael MAK, Dr LO Wing-lok and Mr IP Kwok-him voted against the amendment.

Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr Bernard CHAN, Mr SIN Chung-kai and Dr LAW Chi-kwong abstained.

Geographical Constituencies and Election Committee:

Mr Andrew WONG voted for the amendment.

Ms Cyd HO, Mr LEE Cheuk-yan, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Chin-shek, Miss CHOY So-yuk, Mr TAM Yiu-chung, Ms Audrey EU, Mr NG Leung-sing and Mr YEUNG Yiu-chung voted against the amendment.

Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew

CHENG, Mr SZETO Wah, Dr TANG Siu-tong, Mr Albert CHAN and Mr WONG Sing-chi abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, six were in favour of the amendment, eight against it and five abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, one was in favour of the amendment, 11 against it and nine abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Miss CHOY So-yuk, you may now reply and you only have 55 seconds.

MISS CHOY SO-YUK (in Cantonese): Madam President, as a matter of fact, many Members mentioned the issue of legislation in their speeches earlier. What I would like to say on this are: the DAB has never raised the idea of broad-brush legislation, nor have we proposed that legislative work should commence at once. What the Secretary has said is that legislative work should begin selectively and at the source and it should have regard for the size and completion date of the buildings. That shows that full legislation is possible. Moreover, as I have made a detailed response earlier, legislation will not affect the business environment, and it will on the contrary improve the overall efficiency and our competitiveness. I hope therefore that Honourable colleagues will support this motion. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Miss CHOY So-yuk as set out on the Agenda 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)

Mr Howard YOUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Howard YOUNG 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:

Dr Raymond HO, Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Dr LAW Chi-kwong, Ms LI Fung-ying, Mr Michael MAK, Dr LO Wing-lok and Mr IP Kwok-him voted for the motion.

Mr Kenneth TING, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU and Mr Tommy CHEUNG voted against the motion.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Albert CHAN, Mr WONG Sing-chi, Ms Audrey EU, Mr NG

Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, 13 were in favour of the motion and six against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 24 were present and 23 were in favour of the motion. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

PRESIDENT (in Cantonese): Second motion: Elderly persons taking up permanent residence in the Mainland.

ELDERLY PERSONS TAKING UP PERMANENT RESIDENCE IN THE MAINLAND

MR CHAN KAM-LAM (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

In 2000, I moved a motion on the scheme concerning elderly persons who take up permanent residence in the Mainland. Three years have lapsed and I have moved the same motion again today. On the last occasion, I called on the Government to, among other things, extend the scheme to places outside Guangdong Province and address the medical needs of the participating elderly. Although the motion was passed with the support of Members, I have noted with disappointment that no improvement has been made over the years to the scheme under which elderly recipients of Comprehensive Social Security Assistance (CSSA) can choose to spend their old years in the Mainland. When I moved the motion three years ago, I had met an elderly person whose place of origin is in Fujian. But since the scheme was applicable only to Guangdong, he was unable to retire to his hometown. I said to him at that time, "I will move a motion today to ask the Government to extend the scheme to other provinces." He was very happy on hearing this. However, he has waited for three years and the scheme

still has not been improved in any way.

Madam President, I think the Government should respond to the aspiration of the community insofar as this issue is concerned.

Firstly, has the Government ever considered the views of the Legislative Council seriously over the past three years? We have come into contact with many senior citizens in the districts and we know that many elderly CSSA recipients do wish to return to their hometowns after retirement, particularly those with no families and relatives in Hong Kong. Even for those whose purpose is not to reunite with their families in the Mainland, a monthly CSSA payment of about \$2,000 is actually more than enough for them to spend in the Mainland and hence, they do not have to scrimp and save in Hong Kong. So, this scheme should be welcome by the elderly. As far as we understand it, the purpose of this scheme is to assist more elderly persons to take up permanent residence in the Mainland against an ageing trend of Hong Kong's population. This can enable these elderly persons to reunite with their families on the one hand, and allow elderly persons who have no families to look after them the choice of returning to their hometowns to spend their twilight years on the other. Nevertheless, I found that the number of applicants has been on the decrease since the implementation of the scheme in 1997.

At present, there are over 100 000 elderly persons applying for the CSSA each year and the number of applicants registers a steady annual growth of 3%. However, response from the elderly to this scheme which allows them to take up permanent residence in their hometowns has not been enthusiastic. In 1997, some 700 senior citizens participated in this scheme, and there were 600-odd elderly participants in 1998 and 1999 respectively. But in 2000 and 2001, the number of participants gradually dropped and by 2002, there were only 198 new participants in the scheme, which is only a quarter of the initial figure.

On the face of it, this scheme is poorly received and even appears to be unpopular. However, as we can see from the actual situation, the arrangement under this scheme is somewhat outdated, and this is particularly obvious in the medical aspect.

In 2000, the Social Welfare Department (SWD) commissioned the Red Cross to provide this service, and from some questionnaire surveys, it was found that while some elderly persons had the means to meet the expenses for curative

treatment of minor illnesses, they were worried about not being able to afford the medical costs of hospitalization. I would like to ask the Secretary this: Since these elderly persons, who have actually settled in the Mainland, have already stated their problems and worries, why do we not take all possible steps to address these problems of great concern to them?

As I said in moving the motion in 2000, the authorities must seriously consider initiating discussions with the relevant mainland departments on ways to solve the problems, so that the elderly could be provided with suitable care at reasonable costs. For example, arrangements could be made for their medical bills to be paid by the SWD or consideration could be given to setting up a fund and entrusting it to supervision by an intermediary organization to cover their medical expenses in the Mainland. In fact, the Government can seriously give consideration to and conduct studies of these measures. Besides, other colleagues had also put forward many insightful proposals. Unfortunately, it appears that none of our suggestions have been taken on board.

I remember the Secretary had also explained in his reply on the last occasion that these elderly CSSA recipients residing in the Mainland could be escorted back to Hong Kong through the intermediary organization to receive free medical treatment where necessary. While I do not question the provision of escort service to bring the ailing elders to Hong Kong for medical treatment because it is true that the elderly do require this service from time to time, I believe colleagues who have constant contact with the elderly will understand that they normally will not seek assistance unless their conditions are critical. Furthermore, if the ailing elders have to travel a long way back to Hong Kong for medical treatment, their conditions will inevitably be affected adversely. So, we hope that the Government can address squarely the medical problems encountered by the elderly in the Mainland to ensure medical protection for elderly persons who have returned to their hometowns under the scheme. This is obviously a fundamental principle that we must uphold in formulating this policy.

Madam President, I have said earlier that many elders who wish to spend their late years in the Mainland do not come from Guangdong Province. In this connection, I hope that the Government can earnestly consider extending this scheme to places outside Guangdong Province, such as Fujian Province.

In the last motion debate, we stated that a vast majority of Hong Kong

people aged 65 or above spoke Cantonese, and those who spoke Fukienese accounted for 2% only. That was actually cited from the 1996 bi-census. I managed to obtain some new statistics in the last couple of days. While I do not have the statistics specifically related to the age group of 65 or above, we found that the overall percentage of people who speak Putonghua as a daily language or a dialect has increased from 25.3% in 1996 to 34.1% in 2001; and people who speak Fukienese have consistently accounted for 3.9% over the years. These statistics show that a considerable number of Hong Kong residents come from outside Guangdong.

We do appreciate that the extension of the scheme to other provinces may involve other problems, such as the need to appoint an intermediary and a certain number of applicants will be required for the scheme to operate effectively. So, we suggest that the scheme be extended to some major mainland cities first, such as Fuzhou in Fujian Province. Given the scale of their development, these major cities can provide greater convenience for the management of the scheme and the relevant arrangements, and there will readily be a greater demand for such services. We suggest that the Government can consider liaising with the International Social Service (ISS) and asking it to extend its services to municipalities outside Guangdong Province.

In fact, according to the information of the ISS, home visits by ISS staff are arranged for about 20% of the cases every year, whereas the remaining cases are reviewed and checked by post, telephone or facsimile. We have enquired with the staff of ISS about what they have done in addition to conducting home visits, such as whether there are ISS staff stationed in the Mainland. They replied that the ISS does not have employees stationed in the Mainland to specifically deal with cases of elderly CSSA recipients living in the Mainland. But if these elderly persons have difficulties, they can contact their office in Hong Kong and of course, they can request for escort services, transport arrangements, and so on. Judging from the services currently provided by the ISS, I trust that they have the capacity to handle the requests of elderly CSSA recipients outside Guangdong Province.

Madam President, as discussed by us at the Elderly Commission last year, the Housing, Planning and Lands Bureau had stated in a preliminary study of elderly taking up residence across the border that elderly and middle-aged persons currently residing in the Mainland accounted for about 1% of each of the two age groups. In other words, there are about 17 000 people residing in the

Mainland, a number that should not be neglected. Besides, among elders and middle-aged persons residing or planning to reside in the Mainland, 30% have already purchased or rented residential properties in the Mainland. The report also pointed out that they choose to settle in the Mainland because the cost of living is lower and the living environment is better in the Mainland.

There is no denying that the standard of living in Hong Kong is higher than that in the Mainland. From a newspaper report, we have learned of a case about an old lady. This old lady receives a monthly "fruit grant" of \$700 and has moved to live in a privately-run elderly village in the Mainland. She has to pay only \$2,500 monthly for all the expenses covering food, accommodation, laundry, and personal care services. Free shuttle bus service to and from downtown is also provided. So, there is almost no other living expenses. But if she lives in Hong Kong, it is believed that she will have to spend at least \$3,500 or more a month on rental, food, and so on. In order to save \$1,000, she can only choose to live in the Mainland.

Is this old lady rich? No, she is not, and there is actually a story about her. She had sold an old apartment in Sham Shui Po and obtained about \$200,000 to \$300,000 for her "funeral expenses", so to speak, and this has already made her ineligible for CSSA. In the past when the interest rate was high, she could still have an income of a few hundred dollars from the interest of her savings, and with the \$700 "fruit grant", she only had to pay some \$1,000 monthly to cover her living expenses in the Mainland. But now, given the continued downward adjustments in the interest or the interest rate and by relying on the meagre "fruit grant" alone, she can no longer make her ends meet in Hong Kong.

Now she faces yet another difficulty and that is, she is not allowed to be absent from Hong Kong for over 180 days a year. In other words, she must live in Hong Kong for six months or more in a year to be eligible for the "fruit grant". We consider it absolutely necessary to relax this residence requirement of the "fruit grant". We propose that an applicant be required to live in Hong Kong for one full month only for the purpose of annual identity verification by the authorities to enable more elders to take up permanent residence in the Mainland.

Madam President, in recent years, a topical issue for discussion in the community has been Hong Kong's integration with the Mainland, particularly the Pearl River Delta Region. Since the restructuring of the economy in 1997 and with the signing of Mainland/Hong Kong Closer Economic Partnership

Arrangement, the foundation of co-operation has been further enhanced in respect of economic and livelihood issues in Hong Kong in the future. The Democratic Alliance for Betterment of Hong Kong (DAB) considers that the Government should cast away the old mindset of pursuing development within Hong Kong only. Rather, it should broaden its vision to the neighbouring provinces and municipalities in the Mainland.

With closer ties between citizens in Hong Kong and those in the Mainland, enhanced co-operation in medical and welfare matters has become all the more essential. It is most disappointing to note that the SAR Government still has not proposed any forward-looking measure in this regard.

The DAB considers that the Government can further foster co-operation with various major cities in the PRD in respect of community and medical services, with a view to facilitating the provision of elderly care services in the Mainland.

Thank you, Madam President.

Mr CHAN Kam-lam moved the following motion: (Translation)

"That, as the existing policy fails to meet the needs of the elderly persons who intend to take up permanent residence in the Mainland, this Council urges the Government to:

- (a) extend the "Portable Comprehensive Social Security Assistance Scheme" to places outside Guangdong Province;
- (b) solve the medical problems encountered by elderly persons who take up permanent residence in the Mainland and continue to receive Comprehensive Social Security Assistance; and
- (c) relax the limits of absence from Hong Kong for Old Age Allowance recipients."

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

MR WONG SING-CHI (in Cantonese): Madam President, the Democratic Party supports the extension of the Portable CSSA Scheme (the Scheme) to places outside Guangdong Province so as to provide elderly persons an additional choice of taking up permanent residence in the Mainland. Madam President, I wish to stress that this is meant purely as one more option for the elderly. This is a right of the elderly. But this is absolutely not intended to be a solution to such problems as the ageing population, the impoverished elderly, or even for reducing public expenditure.

Since the introduction of the Scheme in mid-1997, 2 961 elderly Comprehensive Social Security Assistance (CSSA) recipients have participated in the Scheme as at end of August this year, accounting for approximately 2% of all the elderly CSSA recipients. Most elderly persons choose to live in Hong Kong because they want to stay closer to their children, families or friends, so that they can take care of each other; or because they are accustomed to the way of life in Hong Kong and do not wish to leave. However, it could also be because their "hometowns" are outside Guangdong Province; or it is because there are inadequate medical services in the Mainland or the medical expenses there are too expensive, and so on, so they could not take up permanent residence in the Mainland as they would have wished.

According to statistics compiled by the Census and Statistics Department in 2001, among the present 740 000 elderly persons aged 65 or above, 2.3% speak Fujianese as their daily language, whereas 1.2% speak Shanghaiese or Putonghua. From this, we can see that, though Hong Kong is still a society comprising mainly Cantonese, there are still many elderly persons whose places of origin are not within Guangdong Province. Their "hometowns" or the places they are more familiar with are outside Guangdong Province.

Unfortunately, the scope of application of the present Scheme is confined to Guangdong Province only. Therefore, elderly persons who have to live on CSSA but wish to take up permanent residence outside Guangdong Province will find it very difficult to fulfil their simple wish of returning to their hometowns in their old age. For elderly persons with such a wish, it is really a great regret.

Another worry for the elderly persons taking up residence in the Mainland

is the medical arrangement. Apart from the standard of medical service, the heavy burden of medical costs is another major concern. At the moment, elderly persons living in Hong Kong can enjoy inexpensive medical services because the Hong Kong Government has allocated substantial public funds to subsidize over 90% of the medical expenses. However, the mainland authorities would subsidize only 10% to 20% of the medical costs. So mainland residents have to rely on their working units or medical insurance to meet their medical costs. Therefore, if Hong Kong people return to the Mainland for residence, they may have to pay as much as \$1,000 on most occasions. For some poor elderly persons, this is really a heavy burden, or a burden that they could hardly afford.

It is by no means easy to find a solution to this problem. For example, it has been suggested that mainland medical units could be hired to take care of the elderly persons or medical insurance can be taken out for the elderly persons, and so on. However, such arrangements could give rise to such problems as supervision or the principle of fairness. All these issues have to be considered and studied carefully by the Government, and talks should be held with the relevant mainland units to identify the solutions. Besides, the Democratic Party thinks that the Government should consult the elderly persons who are currently participating in the Scheme to find out what their actual needs are, so as to review the existing policies to allow the elderly persons to make the choice of whether or not to return to the Mainland and live there according to their own needs.

Madam President, basing on the major principle of allowing elderly persons to have one more option, the Democratic Party also supports the relaxation of restrictions on the elderly recipients of Old Age Allowance who opt to live in the Mainland. However, in order to ensure that public funds are used in an appropriate manner, the Democratic Party suggests that certain requirements should be added to these restrictions, so as to prevent public funds from being abused easily.

At the moment, "fruit grant" recipients cannot exceed the maximum absence limit of 180 days in a year. This in fact has made it very difficult for many elderly persons to realize their dream of returning to the Mainland and taking up permanent residence in their hometowns.

The Democratic Party suggests a relaxation of the restriction on elderly "fruit grant" recipients which requires them to stay for a minimum period of time in Hong Kong, thereby allowing them to apply to the Government for taking up

permanent residence in the Mainland without any duration restriction. However, in order to ensure that public funds are used in an appropriate manner, all participating elderly persons are required to return to Hong Kong to report in person to the relevant authorities to ensure that elderly "fruit grant" recipients would like to continue receiving the allowance. Meanwhile, participants are still required to satisfy the minimum residence requirement, so as to ensure that public funds are utilized in a reasonable manner.

Madam President, if elderly persons would like to return to the Mainland in order to live with their families or friends or to improve their standard of living, and if the Government is able to accommodate their request, why does it not do so? Ever since the implementation of the Scheme, the Government has always said that it will review it. However, no improvement has been made over the years. The Democratic Party hopes that the Government could listen to the views expressed by Honourable colleagues today and improve the existing arrangement, so as to realize the dream of many elderly persons who long for returning to the Mainland to enjoy their retirement.

Thank you, Madam President.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, the ageing population leads to decreasing productivity, thereby leading to the contraction and imbalance of the economy. Yet, unfortunately, this is exactly the critical issue we have to face today.

The population of Hong Kong is ageing rapidly, highlighting the hidden worries in the future development of the economy as well as welfare provision. The workforce keeps dwindling, whereas the dependent population keeps expanding. The rising trend is especially evident with the elderly population which has been increasing substantially, resulting in great demands for social welfare, elderly services, housing and medical services, and so on. It will bring about a heavy financial burden on both the family as well as the Government. Under the present tight financial constraints, the formulation of an effective population policy to alleviate the impacts brought about by the ageing population on such aspects as the local economy, the elderly services, medical facilities, and so on will become the focus of our future discussions.

Madam President, the Chief Executive already indicated his intention of formulating a comprehensive population policy in his inaugural speech delivered in 2002 and established the Task Force on Population Policy. We very much

welcomed this move. The Report of the Task Force on Population Policy (the Report) released on 26 February 2003 put forward a lot of insightful ideas. However, part of the elderly population policy was quite controversial. The Report suggests that the Government should tighten the criteria or conditions for entitlement to social welfare as a way of alleviating the impact and pressure brought about by the ageing population on society and the economy.

Elderly recipients of CSSA are actually elderly persons without family support who have lost their working ability and do not have much savings. CSSA is their only source of finance. At a time when they still have to worry about the next meal, is it not going overboard to make them wait for seven years before they are granted the required eligibility? In my opinion, instead of racking our brains on the eligibility for social benefits, we should consider the motion of Mr CHAN Kam-lam and extend the scheme that allows the elderly to return to their hometowns to spend their retirement life. It can serve as both a response to the aspiration of the elderly as well as a feasible measure under the medium-to-long term population policy in respect of the elderly.

When the Portable Comprehensive Social Security Assistance (PCSSA) Scheme was first implemented in 1997, it really brought us heartening joy. The Scheme reflects the aspiration for "falling leaves from a tall tree rest at the roots" in the Chinese tradition, and responds to the wish of the elders. It provides the room for them to take an alternative option. However, due to the many limitations of the Scheme, the response has been lukewarm during the six years of its implementation. According to the statistics released by the Social Welfare Department, as at end of August, there are only 2 961 cases in which elderly people have retired to their hometowns.

Madam President, in fact, there are a lot of advantages with the Scheme which allows the elderly persons to return to their hometowns after retirement. It is a package that can bring about a three-win situation. First, for the elderly themselves, it satisfies their strong desire of returning to their hometowns in their old age. In their hometowns where their roots are and where they dream of returning all their life, they have their own properties and relatives who can take care of them. They are also very familiar with the living environment and the ways of life there. Everything is so natural and comfortable. Furthermore, there is still a major gap between the Consumer Price Indexes of Hong Kong and the Mainland. So, their meagre allowances will enable them to lead a life of much better quality in the Mainland.

Secondly, for the Government of the Hong Kong Special Administrative Region (SAR), the Scheme will alleviate to the greatest extent the pressure generated by the ageing population on such aspects as medical, housing, welfare and elderly services, and so on. Presently, there are more than 600 000 elderly persons who are either receiving CSSA or Old Age Allowance (OAA), accounting for over 60% of that particular age group. If the Scheme is implemented successfully, a large number of elderly persons will opt for returning to their hometowns to spend their twilight years, and the Government will thus save considerable precious resources, which can then be used on enhancing productivity and investment in education for the sake of strengthening our competitiveness. Moreover, if more elderly persons are attracted to return to their hometowns, the demographic situation of Hong Kong can be improved. The Government may improve the quality of the population by implementing more schemes for admission of talents and professionals, thereby upgrading our international competitiveness and laying a good foundation for our long-term and sustainable economic well-being.

Thirdly, these homecoming elderly persons will help stimulate the local consumption of their respective hometowns.

Therefore, I think it is necessary for us to further extend the scheme of allowing elderly CSSA recipients to retire to their hometowns, instead of just confining it to Guangdong Province. When the policy was first introduced, it was understandable that Guangdong Province was used as the testing point for a great majority of the local elderly population came from Guangdong. However, six years have lapsed, it would seem unreasonable if this arrangement is not revised at all. This is because elderly people of origin in other provinces also have a very strong desire of returning to their hometowns in their old age. If the scheme is still restricted to Guangdong Province, it would be unfair to the elderly people from other provinces, and the Government will give people the impression of exercising favouritism and creating inequality in society.

However, to extend the scheme, we must remove two obstacles in the first place. First, the absence limit for elderly recipients of OAA who have settled in their hometowns. Second, medical services allowance.

The lukewarm response to the Scheme is attributable to the restricted applicability to Guangdong Province, thereby making elders of other origin

ineligible for participation. The OAA absence limit and the issue of medical services are really the major reasons which deter their participation. In these two aspects, many Honourable colleagues have already expressed invaluable opinions, and I am not going to rehash them. However, I have one little suggestion.

When the Scheme was first implemented, the concept of hiring an "intermediary agent" was introduced. I think the Government may continue to promote this concept. With reference to the present demographic situation, the Government should proceed to identify suitable "intermediary agents" in particular provinces to co-ordinate all the affairs related to the elderly persons, such as the controversial issue of extension. In matters concerning duration and procedures, they should be simplified as far as possible in order to provide greater convenience to the elderly persons. In consideration of their relative physical immobility, the simplified procedures would save them the trouble of having to make the long journeys to process the formalities. These intermediary agents could be local governments in the Mainland. The homecoming elderly people are Hong Kong citizens, yet they are also Chinese nationals. The SAR Government may, through negotiation with the mainland authorities, effect the payment of a nominal fee to cover the operating costs, so as to enhance the cost-effectiveness.

Madam President, I think the motion of Mr CHAN will bring about substantial benefit to the community and economy of Hong Kong in the future. Furthermore, relevant administrative channels are also available to cope with the new policy. Therefore, with these remarks, I support the motion.

MRS SOPHIE LEUNG (in Cantonese): Madam President, presently there are about 1 million elderly persons aged 60 or above in Hong Kong, accounting for 15% of the total population of Hong Kong. With the ageing population and the longer life expectancy of the people, the demographic projections of the Government reveal that the proportion of elderly persons in the total population of Hong Kong will increase drastically to 25% by 2015. With the increasing elderly population, there is all the more an urgent need for the Government to build more facilities for the elderly persons who spend their old age in Hong Kong. This is an issue that has to be addressed urgently. The Liberal Party is of the opinion that the Portable CSSA Scheme (the Scheme) could provide an alternative for the elderly in choosing the way of life for their retirement.

Among people of our earlier generation, many of them had emigrated to Hong Kong from the Mainland. It is natural for them to have the thought of retiring to the hometowns where they left there since their tender years. For elderly persons who live on CSSA, if they choose to continue living in Hong Kong, they may experience a tougher life financially. But if they could live in the Mainland, the situation will definitely be different. On top of that, if they are familiar with the neighbourhood of their hometowns and be taken care of by their families and friends, this plan is a perfect answer to their needs.

As for the motion of today which suggests an extension of the Scheme to places outside Guangdong Province, we think that it merits our consideration. The present Scheme is confined to Guangdong Province only, so a lot of elderly persons from places outside Guangdong Province, such as those from Fujian or other provinces, cannot enjoy the service. If it is not pursued just on such administrative reasons as difficulties in follow-up, and so on, it is unacceptable. Presently, there are about 140 000 elderly persons receiving CSSA, and among them, only 2% have participated in the Scheme so far, that is, less than 3 000 persons. The authorities once estimated that, if the Scheme is extended, the number of elderly persons who will be benefited will increase by just a hundred or so. I believe the resources required to follow up the cases will be limited. Basing on this assumption, we hope that the authorities can make arrangements to implement a scheme which will give the elderly an option of retiring to their own hometowns.

Secondly, the elderly persons generally think that the availability of medical services is a very important factor deciding whether they will return to their hometowns in their old age. If the problems could be solved smoothly, it will certainly encourage more elderly persons to settle in the Mainland. Of course, it will involve a lot of technical problems.

It has been suggested that the Government may take out medical insurance policies for the elderly persons. However, the older an elderly person is, the more expensive the premium will be. As estimated by some insurance companies, the insurance premiums for elderly persons aged 60 or above could amount to a thousand dollars a month. If the elderly persons concerned are suffering from certain illnesses or they are too old, it is most likely that the insurance companies will refuse to provide insurance coverage for them. If the authorities take out insurance policies for the elderly, the insurance expenditure

will be very substantial. Is this worthwhile?

Besides, there is also a suggestion that we should work together with the mainland authorities in providing inexpensive medical services to the elderly persons, with the costs to be met by the Hong Kong Government. If hospitals are built in the Mainland, can the services provided by the medical staff as well as the facilities in the hospitals concerned be used by the local residents? If so, how can the medical expenses be shared out? If the service targets are confined to the elderly persons of Hong Kong only, the utilization rate may become too low, and it is not cost-effective at all. Therefore, it will require a lot of thinking and planning to tailor-make a medical package suitable for elderly CSSA recipients who opt to return to their hometowns in their retirement.

Regarding the original motion which suggests the removal of the OAA absence limit, as this suggestion is different from the request raised last time, we think this could be considered in greater detail.

However, I would like to point out that, elderly persons aged between 65 and 70 are not required to go through a means test in their applications for OAA. Once the absence limit is relaxed in great measure, it could attract a large number of elderly persons to apply for the allowance, as a lot of elderly persons who have already emigrated overseas could be benefited as well. Therefore, we think that we should carefully consider relaxing the restriction in a suitable manner, and the extent of the relaxation warrants further consideration.

Generally speaking, the Liberal Party supports the proposal of allowing elderly CSSA recipients to take up permanent residence in their hometowns, because so doing will enable us to make proper preparations for the problem of the ageing population of Hong Kong, thereby taking care of the needs of the elderly in a holistic manner.

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

MISS CHAN YUEN-HAN (in Cantonese): Madam President, the Chief Secretary for Administration released the Report of the Task Force on Population Policy (the Report) in February this year. At that time, the Report suggested that the Government should conduct a study on the issues of the portability of welfare

benefits for Hong Kong residents who have taken up residence in the Mainland as well as the access to subsidized benefits by residents absent from Hong Kong for a long period of time. According to the Report, it is estimated that more and more Hong Kong people will go to the Mainland to live, work and retire there. However, as the year 2003 will soon come to an end, the relevant suggestions and study still have not brought about any concrete actions, despite so much noises.

As Hong Kong and the Mainland are drawing closer to each other, it has become a trend for elderly people taking up residence in the Mainland; and this is also the aspiration of the elderly. Many elderly people say that it is a good choice for them to acquire properties or take up residence in the Mainland in their retirement. Of course, there are many reasons for the senior citizens to make the choice of retiring to the Mainland. However, it is difficult for some poorer elders to take this option because they do not have substantial savings and also Hong Kong did not have any retirement protection scheme in the past. According to the statistics released by the Social Welfare Department (SWD), the number of applications for Comprehensive Social Security Assistance (CSSA) has risen from 98 000 in 1997 to 140 000 now, whereas the number of applications for Old Age Allowance (OAA) has gone up from 437 000 in 1997 to 454 000 now. Although Hong Kong is now facing a sustained deflation, some elderly persons will still choose to settle in the Pearl River Delta (PRD) Region or certain inland areas, in which the cost of living is lower, to spend their twilight years. Of course, their choice is also related to family reunion reasons.

On the other hand, we can also see that the population of Hong Kong is undergoing an ageing process. The trend will be even more evident in the period after 2015 when the proportion of elderly persons in the overall population will have increased from the present 11.2% to 24.3% in 2031. With the ageing of the population, the Government will have to allocate more and more funds to the expenditure on elderly services. The elderly people who have the means may choose to live in some better accommodation in the Mainland. For the less affluent or the poorer elderly, as the care homes or hostels for the elderly provided by the Government may not meet their needs, they will hope to have one more option such as returning to the Mainland in their retirement. This is their aspiration.

Madam President, since the SWD introduced the Portable Comprehensive Social Security Assistance Scheme (the Scheme) to provide an additional choice

to elderly CSSA recipients who prefer to live in Guangdong Province, a total of 2 973 elderly persons have participated in the Scheme as at September, accounting for only 2% of the total number of elderly CSSA recipients, which stands at some 140 000. Why are there so few elderly participants? I think there are many reasons for that. Some Honourable colleagues have mentioned some of the reasons just now. In fact, as a member of the Panel on Welfare Services, I can say that we have expressed our views on this issue repeatedly. Just as Honourable colleagues from different political parties have said, we have all expressed our opinions in the meetings of the Panel on Welfare Services, because we all want to give the elderly persons with an additional choice. Why should the Scheme be implemented in Guangdong Province only, but not other provinces?

Furthermore, the situation has remained unchanged for the last six years. With over 140 000 elderly persons receiving CSSA, only 2 000 or so have participated in it now. Among the grass-roots elders we have come into contact, many of them in fact hope very much to retire to their hometowns. However, unfortunately, the Government has not made too much progress in this aspect. I often think that maybe there really are a lot of problems. But after discussing it for such a long time, we still have not heard of anything so far in response to the calls for extending the Scheme to places outside Guangdong Province.

Besides, in recent years, some people request the Government to extend the concept of portability to housing, education and medical services. However, the Government says that the issue requires very careful consideration and thinks that it would involve substantial government expenditure, drain of local resources and lack of cost-effectiveness, and so on. Yet the Government has failed to consider the issue from the viewpoint of the elderly: They have been living in poverty, and that is why they have to live on CSSA; and to them, retiring to the Mainland is of course a very important decision. However, I think it is more important for the Government to consider the provision of medical facilities in the Mainland for the elderly. We know that, at the moment, the usual practice of mainland medical institutions is "Money first, treatment follows". The medical costs are rather expensive. For the elderly people, they stand a higher chance of falling ill than others. They need long-term medical care. If they have to rely on the CSSA payment or their savings to pay for such treatment, it is basically impossible for them to bear the prevailing medical costs in the Mainland.

This issue has been discussed in this Council many times already. We

hope that the Government can consider the concept of portability of benefits. Of course, I agree that there are many difficulties as mentioned by Mrs Sophie LEUNG just now. However, I think even if there are difficulties, it does not mean that the issue we have discussed for so many years could not be solved. I feel that it all depends on whether the Government would try its best to identify ways of implementing it. I strongly hope that, apart from removing the provincial restriction, the Government can appreciate that the provision of medical services is often a significant factor of consideration in the elderly's decision of returning to and settling in their hometowns. Besides, I have reiterated time and again that some elderly have told me that they trust the medical services run by Hong Kong people as the system would give them greater confidence. It will certainly be most satisfactory if we could provide them with such services.

Therefore, I hope the Government can take these views into consideration. I believe that, if these suggestions could be implemented, more elderly people will be willing to take up residence in the Mainland. Many friends of mine have told me that, very often, when the Government considers such issues, it would think that a lot of public expenditure will be incurred or it is being asked to do this or that. In fact, the Government could think from another perspective, from a more in-depth viewpoint: If we have established some medical facilities in the Mainland to serve the elderly, this will provide greater development for local medical workers. I believe this point had been raised before and after the SARS outbreak. Is it possible for the medical services of Hong Kong to provide a more comprehensive range of services (including services for the elderly)?

Madam President, when the Government of the Hong Kong Special Administrative Region (SAR) makes such arrangements for the elderly, it can deal with it in a more flexible manner. Just as mentioned by some Honourable colleagues just now, the absence limit of 180 days has been discussed for a very long time. I hope the Government can seriously consider the issues raised, otherwise, I am afraid, after today's discussion, the same issues will have to be debated again after a couple of years. Therefore, I would like to reiterate that, when the SAR Government was first established, it stressed on the spirit of caring for and respecting the elderly. On this point, I hope the Government can live up to this spirit, so that when some elderly people return to the Mainland to spend their twilight years, it could provide them with more facilitating conditions, thereby enabling them to have more choices in making the decision. I think this is very important, and I hope the Government can listen to opinions more extensively. Thank you, Madam President.

MISS CHOY SO-YUK (in Cantonese): Madam President, in fact, the subject of elderly persons returning to their hometowns after retirement — Secretary Dr YEOH is smiling right now, knowing that I have engaged him in such discussions on numerous occasions. I believe that, every time I go to meet him and to have some discussions with him, the discussion would invariably fall on this subject. I have grumbled over the issue on numerous occasions, and have explored in great depth how the Portable Comprehensive Social Security Assistance Scheme (the Scheme) could be extended to Fujian Province.

As far as I could remember, the Secretary had told me at least two or three years ago that he would make a commitment as soon as possible, which made me very happy. So I told people of my hometowns that the Secretary had promised that the policy would definitely be implemented as soon as possible. Whenever a discussion is over, even up to now, as Mr CHAN Kam-lam said, the hopes and expectations of our senior citizens would be dashed. Today, some elderly people told me, "The Legislative Council will soon pass it." In fact, even if it is passed, it is just passed by Honourable colleagues. For the part of the Government, I do not know when the issue could be passed by the Secretary.

I still remember that, in one of my discussions with the Secretary, I raised some specific questions. The first question is: the Secretary says that the Administration shall have to provide the service through an intermediary agent, that is the intermediary mentioned by Mr YEUNG Yiu-chung just now. Such intermediary should ensure the participating elderly people are still alive, and its staff would make visits to these elderly persons from time to time to ensure that they were well taken care of by their respective families, that is, the money received by the elderly is really used on them, and that they are not ill-treated. I have discussed these two questions with the Secretary in great detail. First, regarding the intermediary agent, we do not need to have any such intermediary agent. Let us take the Fujian Province as an example, I can suggest (I have personally talked to the provincial government on this) the Overseas Chinese Association and the Office of Overseas Chinese Affairs in the Fujian Province as the intermediary. They are all willing to act as the intermediary agent without charging any fee. There is no need for us to spend a single cent of the Government on financing these two organizations. They are willing to visit the elderly people from time to time on behalf of the Hong Kong Government, so as to ensure that they are well taken care of by their families. Secondly, I have

discussed with the Secretary and suggested to him that the elderly persons are willing to return to Hong Kong once a year, so as to present themselves as alive and well. If they are CSSA recipients, they may return to Hong Kong once a year, even meeting the transport expenses on a self-financing basis. Of course, I hope that the Administration can provide \$1,000 or \$1,000-plus to cover their return trip tickets, so that they can fly back to Hong Kong once a year to report to the Government. Even if the Government finds this difficult to implement, I think we can still conduct a discussion on it. I hope that the Government can do this, and will not reject the proposal altogether on the ground that an intermediary agent has to be hired. Even the money factor is not a good excuse.

In addition, the Secretary says that the issue is dependent on the response to the existing Scheme. I believe the Secretary would smile secretly to himself because the response to the present Scheme is not very good. However, I just wish to point out that, even if the response to the present Scheme is not very good, it does not imply that the implementation of the Scheme in other provinces will be bad. As a matter of fact, only people of Guangdong origin will settle in Guangdong Province. For elderly of Guangdong origin, even if they live in Hong Kong, they enjoy the same language and food culture here. And due to historical reasons, they have a lot of relatives and friends in Hong Kong. As they enjoy the best of everything in all aspects of their lives here, so they do not need to take up permanent residence in the Mainland. For most of them, they even have all their relatives and children in Hong Kong; there is no special reason for their return to Guangdong Province for permanent residence.

However, for people from Fujian, Shanghai and other places, the situation is just the contrary. Madam President, many elderly people of Fujian origin really do not speak the language commonly used in Hong Kong. A moment ago, Mr WONG Sing-chi mentioned that 2.3% of the population speak Fukienese as their native tongue. As far as I know, the Fujian population in Hong Kong must be far more than a hundred thousand. I believe in North Point and Quarry Bay alone, there must be more than a hundred thousand Fujian natives. I believe the 2.3% population mentioned by him just includes those elderly who cannot even utter a single sentence in Cantonese. These people encounter difficulties in communication. Really, many elderly people do have communication problems in their lives in Hong Kong. In addition, there are also historical factors; that is, at the time when they first arrived in Hong Kong in the '60s or '70s, many elderly people could not, through normal application procedures, bring their children to Hong Kong or at most each could only bring one child with them to Hong Kong. In other words, they still have many brothers and sisters, friends and children

staying in their hometowns. On top of that, their usual ways of lives (such as the food they take, and so on) are very much different from those in Hong Kong. Therefore, if these elderly people are allowed to return to their hometowns after retirement, the proposal will surely present great attraction to them. Of course, I hope that the Government could seriously consider one issue, that is, relaxing the requirement of having received CSSA for a continuous period of three years. In other words, as long as their applications for CSSA have been approved, they could immediately return and settle in their hometowns. As the Administration is prepared to approve their CSSA applications, it actually does not have to bother whether they are living in Hong Kong or in the Mainland. For some elderly public housing tenants, they are even willing to give up their public housing flats if they are allowed to return to their hometowns while they could continue receiving their CSSA.

Besides, there is the issue of the "fruit grant", that is, the Old Age Allowance (OAA). Presently, the "fruit grant" is useless to elderly people who do not have substantial savings. If this restriction is relaxed, they could make use of this "fruit grant" together with their meagre savings to lead a dignified life in the Mainland. These two policies will lead to a win-win situation. Therefore, I hope the Secretary will not procrastinate anymore, especially at a time when the SARS outbreak is over now. I hope that the Secretary can expedite the implementation of this.

With these remarks, I support the motion. Thank you, Madam President.
PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR TAM YIU-CHUNG (in Cantonese): Madam President, I would like to make a declaration of interest. I am the Chairman of the Elderly Commission. And I am also a Member of the Advisory Committee of International Social Service Hong Kong Branch, which is the agent for the Portable Comprehensive Social Security Assistance Scheme (the Scheme).

The topic of elderly persons taking up permanent residence in the Mainland, just as Mr CHAN Kam-lam has said, has been discussed in this Chamber for many times already. So, apart from Members of the DAB, other Members may feel that as the subject matter has been discussed many times before, many similar opinions have already been expressed. However, I would like to add

some points here: Why the community of Hong Kong should provide assistance to those elderly who want to take up permanent residence in the Mainland? I think there are four reasons.

First of all, Hong Kong lacks a sound retirement protection system. For a long time, only 20% of the people in Hong Kong could enjoy any occupational retirement protection. For the Mandatory Provident Fund (MPF) Schemes implemented at the end of 2000, the people have only made contributions for two to three years. It will take another 20 or 30 years to see the effect. To most grass-roots elderly persons, "retirement protection" is something unheard of. As for the source of finance to support their living in their old age, they always have to rely on two sources, namely, their own savings and the allowances from the Government. Therefore, if they can choose to live in a place which would impose a lighter financial burden on them, it would surely alleviate to a certain extent the pressure generated by the lack of retirement protection.

Secondly, taking up permanent residence in the Mainland has become a social trend now. According to a survey conducted by the Housing Society, 180 000 people of Hong Kong have bought properties in the Mainland. A general household survey conducted by the Census and Statistics Department also reveals that there are 41 300 Hong Kong people living in the Mainland, 20% of them aged 60 or above. The reasons for Hong Kong people opting to live in the Mainland include lower costs of living, better living environment, family reunion or relatives living in the Mainland or ownership of properties in the Mainland. With rapid social development in the Mainland, and the gradual improvement of various social facilities, the above incentives will surely produce increasing attraction, thereby making more Hong Kong people flock across the border and take up permanent residence there upon their retirement.

Thirdly, the autonomy of the elderly persons should be respected. Among the elderly persons aged 65 or above, nearly 80% of them were born in the Mainland. They have an unforgettable affection for their hometowns, and they have a strong craving to return to the Mainland to enjoy their retirement in their old age. On the other hand, in the financial aspect, 60% of the elderly persons are receiving OAA from the Government. Among these elderly persons, many of them do not have too much savings with them, nor are they willing to rely on CSSA from the Government. Therefore, the monthly "fruit grant" of \$705 has become the main financial support for their daily living. So they have to lead an

extremely frugal life. On one of my visits to the elderly people living in public housing estates, I found that an old lady was still using a kerosene stove for cooking. She explained that it was cheaper than using liquefied petroleum gas. Many elderly persons told me that they could be much better-off if they were allowed to live in the Mainland and spend the \$705 there. Since the payment of "fruit grant" will be made anyway, why should the elderly persons be restricted to living in Hong Kong? Why can we not allow them the autonomous right to choose? Why can we not make them live with greater dignity?

Fourthly, it is the responsibility of the Government to take care of the people of Hong Kong. Does it mean that the Government is leaving them all alone from now on or simply adopts a couldn't-care-less attitude towards them? A Government accountable to the people will certainly not act like that! And this is exactly why we urge the Government to discard the old mentality, and seek to enhance its co-operation with the social services and support units in different provinces and municipalities, thereby providing assistance to elderly persons taking up permanent residence in the Mainland in such aspects as medical and social services. In this way, the needy elderly persons could freely choose a living environment which is most suitable for them.

Madam President, on the issue of relaxing the OAA absence limit, I already raised the request to the Secretary for Health and Welfare in 1985 when I was working in the former Legislative Council. It was because the OAA absence limit then was just 90 days. After repeated requests made by me, the limit was eventually extended to 180 days. However, no further extension has been made since then. I hope the Government can remove the limit as soon as possible. As regards the technical or administrative problems, I believe they are not too difficult to resolve.

Apart from assisting elderly persons to settle in the Mainland, I think the Government should also identify ways of helping the impoverished local elderly persons who do not have any family support. Such ways should include the provision of more direct financial assistance. The problems with the present systems of CSSA and OAA lie in the fact that the amount of OAA is not sufficient for maintaining their daily living, whereas the application criteria for CSSA are far too stringent for the elderly persons. So, if we try to help the impoverished elderly persons, we must think carefully about what we can do with the "fruit grant" and CSSA, and what are the standards and the ways. The Government

started to conduct a review on OAA two years ago. However, due to the economic downturn faced by Hong Kong, it now seems that the review will see no definite date of completion. However, I hope and will continue to urge the Government to put forward more effective proposals, and to listen more widely to public opinions, especially those made by the elderly persons.

Although we face a serious fiscal deficit, society should give the elderly persons as little worries and as much care as possible, so as to enable impoverished elderly persons to enjoy their retirement without any worry.

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

DR LAW CHI-KWONG (in Cantonese): Madam President, I would like to thank Mr CHAN Kam-lam for moving this motion. This motion is very good for the elderly persons. So I find this a very good discussion topic for electioneering purpose. If this motion was moved by our Mr WONG Sing-chi, I believe it would not be reported in the newspapers tomorrow. However, I am quite curious to find out whether the name of Mr CHAN Kam-lam would be reported in the newspapers tomorrow.

I would like to discuss particularly the issue of "fruit grant". Some elderly persons are very interesting. In fact, I cannot say that they are interesting. In fact, they are unfortunate. They misunderstand the 180-day arrangement. They think that everything would be fine as long as they have not left Hong Kong each time longer than 180 days. So they leave Hong Kong for 179 days and return to Hong Kong for one day. In fact, the restriction is that they cannot leave Hong Kong for an accumulated total of more than 180 days in a year. Therefore, some cases will come up every now and then, in which some elderly people will find that their eligibility for "fruit grant" has been cancelled after their return from the Mainland. Some elderly people even have to return some money to the Government. Therefore, on the issue of "fruit grant" for elderly persons living in the Mainland, many elders may have misunderstood it. I have even come across a more tragic case: Having misunderstood the restriction as described above, he sold his flat in Hong Kong and proceeded to buy a property in Shanghai. Later, he discovered that his eligibility for "fruit grant" was cancelled, and he could not sell his house. The situation turned out to be a mess for him. Therefore, we must figure out a solution to this problem.

We understand that the issue of elderly "fruit grant" recipients taking up permanent residence in the Mainland does cause some worries in society. This is because some people, originally mainland residents and will soon be retiring, may think that the Hong Kong Government permits the people to continue receiving "fruit grant" even on their return to the Mainland, and the "fruit grant" of \$700 or so could enable them to lead a relatively cosy life in many parts of the Mainland. The question we need to consider is: If the elderly persons are allowed to live in the Mainland while receiving the "fruit grant", can abuses be avoided? Actually this problem could be solved without much difficulty as there are many examples of similar arrangements in overseas countries. Some countries require an elderly person to have at least 10 years' of residence prior to his 60th birthday. And for pension payments, they are required to have lived there for seven, eight or nine years prior to the payment date.

At the moment, the application requirement for "fruit grant" is five years, that is, prior to the application, the applicants should have resided ordinarily in Hong Kong for five years. The population policy suggests that this requirement be extended to seven years. The Democratic Party supports this point. However, if we consider that elderly persons may return to the Mainland while receiving "fruit grant", one of the considerations could be, if the elderly is receiving "fruit grant" and before their 60th birthday they have lived in Hong Kong for a specified period of time, say 10 years, which would suffice to prove that they are retired persons who have made contribution to Hong Kong, then they may settle and live in the Mainland.

Of course, another worry is the families or friends of the elderly person concerned may continue to draw "fruit grant" even after he has unfortunately passed away, as "fruit grant" is credited to the account of the elderly person concerned by autopay. In this connection, the Democratic Party has one simple suggestion, and this has already been mentioned by Mr WONG Sing-chi, that is, the elderly persons are required to return to Hong Kong to report to the authorities concerned in person once a year. This can prevent the occurrence of the above situation. For the elderly persons, this requirement is not too harsh either. In fact, they still have some connection in Hong Kong. On their return to Hong Kong, they can make use of the opportunity to visit their relatives and friends in Hong Kong, apart from reporting to the authorities. This is a suitable arrangement for the elderly persons.

We make this suggestion because it is a fact that many elderly persons will return to the Mainland frequently. In addition, they feel that their root is in the

Mainland. So they think that they could surely enjoy a better life in the Mainland than in Hong Kong if they are allowed to live in the Mainland while receiving the allowance of \$705.

In the meantime, from a policy perspective, as \$705 will not be sufficient for elderly persons to maintain a living in Hong Kong, so many of them apply for CSSA instead of "fruit grant". In fact, if they could receive \$705 and live in the Mainland, there is no need for them to apply for CSSA because the amount of money is sufficient for them to maintain a standard of living they wish to enjoy in most parts of the Mainland. I feel that, be it from the consideration of the overall utilization of resources or from the perspective of providing a choice to the elderly persons, the Government should seriously consider how it could assist the elderly persons, while pre-empting the worries (that is, the issue of abuse) just mentioned by me. I think this is a problem faced by many elderly persons. The Democratic Party strongly hopes that the Government can seriously consider the issue.

The Democratic Party supports the motion. Thank you, Madam President.

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

(No Member indicated a wish to speak)

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I am grateful to the Honourable CHAN Kam-lam for moving this motion, and for all the comments and suggestions made by other Honourable Members on this subject.

I would like to say from the outset that the Government's policy on care for elders is to support our elders to age in the community, which is where they prefer to be, for as long as possible. We do not have a policy of proactively encouraging elders to move to the Mainland. Although with the faster pace of integration with the Pearl River Delta (PRD), there has been a growing number of Hong Kong residents living or working in the Mainland or retiring to the Mainland, there is as yet no evidence to suggest that retiring across the boundary has become a significant trend. In a Thematic Household Survey conducted in 2001 to ascertain the Aspiration and Experience of Taking Up Residence in the Mainland, one of the findings shows that only 2% of all persons in the age group

aged 60 and above have the intention to take up residence in the Mainland in the next 10 years. This is understandable. Our elderly people are assets in our community. Hong Kong is their home where their family members and social contacts work, live and enjoy a style of living which they cherish. Therefore, it remains our policy to support our elders to age in the community for as long as possible.

I have to stress that the majority of our elders are healthy. In anticipation of the future generations of elders who will be healthier, live longer and be better educated, we will continue to encourage and recognize contributions by elders through our policies, services and programmes and make the best use of their resources for the benefit of our society. Using a life-course approach, we will continue our efforts to promote active and healthy ageing through public education and publicity; promoting more community participation; and encouraging volunteerism and lifelong learning. Since April 2003, the upgraded community services including District Elderly Community Centres and Neighbourhood Elderly Centres have been providing expanded functions such as carer support service, promoting lifelong learning and healthy ageing, and volunteer movement to serve elders and carers living in the community.

For elders with care needs, over 1 100 places have been created in the new Integrated Home Care Services Teams to provide enhanced care and services. This is in addition to over 2 100 enhanced home and community care services places providing home and centre-based tailor-made services to frail elders living in the community. For those frail elders who cannot be taken care of adequately at home, we will continue to develop a sustainable and quality residential care system with participation from non-governmental organizations and the private sector.

As the Report of the Task Force on Population Policy released in February this year has pointed out, moving to live in the Mainland should essentially be an individual's decision. The Government should not adopt policies which could be perceived as coercing people, particularly the elders, to move across the boundary. That said, in recognition of the wish of some elderly recipients of Comprehensive Social Security Assistance (CSSA) to retire to the Mainland, mainly we understand to reunite with their family or relatives who will take care of them, we do provide alternative arrangements under our CSSA Scheme to try to cater for these wishes. It is in this context that the Portable Comprehensive Social Security Assistance (PCSSA) Scheme was established in 1997 to provide an

alternative arrangement for CSSA elders who wish to live in Guangdong to continue to receive income support while they reside there.

Against the above background, I would like to explain our present position on the extension of PCSSA to other provinces, the medical services available to PCSSA recipients, and the absence limits of Old Age Allowance (OAA).

The PCSSA Scheme has been in place for over six years. There are currently about 3 000 elders participating in the Scheme, or 1.6% out of a total of 189 000 elderly CSSA recipients as at September 2003. As Honourable Members will note, the take-up rate is not high at all. Honourable Members have at various times expressed their views that the Scheme should be extended to accommodate the needs of those CSSA elders whose origins are outside Guangdong Province. However, as I have explained before in this Council, if we are to extend the Scheme, we must ensure that a sizeable number of CSSA elderly recipients would be willing to move to live in the province covered and at the same time, a competent implementation agent would need to be hired to help administer the Scheme in a cost-effective manner. According to the Social Welfare Department's survey on the native places of elderly CSSA recipients conducted in May 2000, Guangdong is the place of origin of 92.7% of the respondents. Fujian Province and Shanghai municipality come next, each accounting for about 2.5% of the respondents. On the basis of the current take-up rate of PCSSA (1.6 % of the total elderly CSSA recipients), we estimate that about 150 additional elderly CSSA recipients may join the Scheme if we are to extend it to both Shanghai and Fujian. On this estimation, it may not be cost-effective to extend the Scheme given the limited number of participants. But we will further study the feasibility of extending the Scheme to the neighbouring provinces in the Mainland.

I understand that Honourable Members are concerned about whether PCSSA recipients have access to appropriate medical services in the Mainland. There have also been proposals to provide assistance to cover the recipients' medical expenses in the Mainland. I would like to point out that before departure, PCSSA recipients are clearly briefed by our implementation agent on how to seek help as necessary when they retire to the Mainland. In fact, our experience of operating the PCSSA Scheme and the feedback from our implementation agent indicate that in view of the different cost of living, most recipients can cover ordinary medical expenses from within their allowance. In case of more major medical treatment or hospitalization, the recipient may, if he

or she prefers, return to Hong Kong to receive free medical treatment in our public facilities. Our implementation agent will provide escort services back to Hong Kong in these cases as necessary.

Regarding the OAA absence limit, we recognize that there are some views in the community in favour of further relaxation of the absence rule for OAA, so that recipients can take up residence in the Mainland and continue to receive the allowance. However, unlike PCSSA which provides an alternative to long-term CSSA elders whose dependence on welfare to meet their basic needs has been well established, OAA is meant to assist elders in Hong Kong to meet their special needs arising from old age. We need to ensure that the public funds paid out under the OAA Scheme which is currently provided to nearly 456 000 elders will be granted to those elders whose principal place of residence is Hong Kong. In fact, to provide greater flexibility for elders to arrange for their living outside Hong Kong, we have since 1993 relaxed the permitted period of absence to up to 180 days a year. This is already very liberal by international standards for a non-contributory and largely non-means-tested scheme funded entirely by general revenue.

As the Report of the Task Force on Population Policy has pointed out, because our public benefits are heavily subsidized, any move to extend the portability of the benefits needs to be carefully considered. Extensive study of the impact including cost-benefit analysis has to be conducted to weigh the net effect of such move to the Government's fiscal position, and the leakage caused to the local economy as a result should also be critically assessed. More importantly, we need to assess whether there will be any impact on the nature of the two schemes, namely, OAA and CSSA. Given the complexity of the issue, we will need to carefully examine the implications in the longer term on the Government's fiscal position and the local economy. In the meantime, we will continue to monitor our pace of economic and social integration with the PRD.

Thank you. Madam President.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, you may now reply and you have two minutes one second.

MR CHAN KAM-LAM (in Cantonese): Madam President, I think basically a consensus has been reached in the Legislative Council on the subject of elderly persons taking up residence in their hometowns. I think the Government should consider the suggestions put forward by Members in a more proactive manner.

Of course, I was very happy just now on hearing the Secretary say that he was willing to study how the scheme could be extended to other provinces. We surely understand that there is a cost-effectiveness consideration in commissioning an intermediary agent. However, the DAB had explored this issue with relevant officials of the civil affairs authorities of Guangdong Province two years ago. The impression we got was mainland officials welcomed the Portable CSSA Scheme (the Scheme) implemented by Hong Kong. They did not share the views held by certain people in the community to the effect that we were dumping to them some elderly people who had neither working ability nor productivity. As a matter of fact, on the issue of an intermediary agent, they were willing to co-operate with the Government of the Hong Kong Special Administrative Region (SAR). They strongly hoped that officials of the SAR Government could really exchange opinions with them so as to improve the implementation of the Scheme.

Through the debate today, I believe our elderly persons could have something to look forward to, and I hope that the Secretary can really take a step forward and initiate further talks with mainland officials. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by

functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 29 November 2003.

Adjourned accordingly at ten minutes to Nine o'clock.

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Health, Welfare and Food to Dr LO Wing-lok's supplementary question to Question 3**

As regards the number of doctors completing specialist training who have not been retained by the Hospital Authority (HA), in 2003-04, over 30 doctors completed their specialist training and all of them except three are currently working as Resident Specialists at the HA. For 2004-05, the HA plans to open over a hundred new Resident Specialist posts, which should be sufficient to absorb most of the doctors who will be completing their specialist training in that year.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Health, Welfare and Food to Dr LAW Chi-kwong's supplementary question to Question 3**

As regards the number of doctors recruited by the Hospital Authority (HA) for specialist training, below is a table setting out the number of applicants and the number of intakes over the past five years.

Number of doctors recruited by the HA for specialist training
(1999-2000 to 2003-04)

<i>Year</i>	<i>Applicants</i>	<i>Number Recruited</i>
2003-04	317	252
2002-03	337	258
2001-02	320	274
2000-01	299	269
1999-2000	316	236

Appendix III**WRITTEN ANSWER****Written answer by the Secretary for Home Affairs to Mr TAM Yiu-chung's supplementary question to Question 5**

As pledged, we have forwarded the question to the Secretary for the Civil Service and the Judiciary Administrator for comments. Their replies are that the matter has been subsequently discussed and addressed at the Panel on Administration of Justice and Legal Services and at the Panel on Public Service on 14 and 17 November 2003 respectively. Relevant discussion papers, LC Paper No. CB(2)325/03-04(-01) and LC Paper No. CB(1)296/03-04(03), are enclosed for Members' reference.

WRITTEN ANSWER — *Continued*

LC Paper No. CB(2)325/03-04(01)

**Paper for the Panel on
Administration of Justice and Legal Services of
the Legislative Council**

**Post-retirement Employment and Pension Benefits
and Acceptance of Advantages by Judges and Judicial Officers**

Purpose

1. The purposes of this paper are :
 - (a) To set out the provisions relating to the continued receipt by retired judges and judicial officers of their pensions while taking up post-retirement employment and appointments, and the approach and criteria adopted by the Judiciary in relation thereto;
 - (b) To inform Members that the Judiciary wishes to consider inviting the Chief Executive to delegate to the Chief Justice his discretion under s.28 of Cap. 401 where retired judges and judicial officers are appointed as deputies (usually for a period of not more than 3 months);
 - (c) To set out the provisions governing acceptance of advantages by judges and judicial officers, and the approach and criteria adopted by the Judiciary in dealing with applications by judges and judicial officers for permission; and
 - (d) To set out s.29(1) and s.31 of Cap. 401 relating to cancellation, reduction or suspension of pensions in relation to judges and judicial officers.

WRITTEN ANSWER — Continued

- 2 -

(I) Post-retirement Employment and Pension Benefits**The provisions**

2. Pension benefits of retired judges and judicial officers are governed by the Pension Benefits (Judicial Officers) Ordinance, Cap. 401^(Note 1). Two sections of Cap. 401 may be applicable in cases where retired judges and judicial officers take up employment or an appointment after retirement.

(a) The first is s.34 (1) which provides:

“The Chief Executive may direct that a pension granted to a person shall be suspended as from a date the Chief Executive shall specify if the person has, within 2 years after his retirement and without the prior permission in writing of the Chief Executive-

- (a) entered business on his own account;
- (b) become a partner in a partnership;
- (c) become a director of a company; or
- (d) become an employee,

if the principal part of the business or the business of the partnership or company or of his employment is, in the opinion of the Chief Executive, carried on in Hong Kong, and the Chief Justice shall forthwith notify in writing the person concerned of the direction.”

(b) The second is s.28(1) which provides:

“If an officer who is eligible for a pension or to whom a pension has been granted is re-appointed to the public service, or appointed to service in any subvented organization which is determined to be public service for the purposes of this section by the Chief Executive by notice in the Gazette, the payment of the pension may be suspended during the period of his service after his re-appointment or appointment, as the case may be.”

No subvented organization has so far been gazetted by the Chief Executive.

(Note 1) Where the retired judges and judicial officers were/are under the old pension scheme, their pension benefits are governed by the Pensions Ordinance, Cap. 89. In practice, pension benefits of most serving judges and judicial officers are not under the old pension scheme and are governed by Cap. 401.

WRITTEN ANSWER — Continued

- 3 -

3. Comparing the two provisions, the position is as follows:

S.34(1)

- (a) Applies to employment in HK in both the private sector and the public service.
- (b) Applies to employment within 2 years of retirement.
- (c) Discretion to suspend under the section if the person is employed without the prior permission of the Chief Executive.

See para 4 below.

- (d) The Chief Executive is expressly specified as the authority vested with the discretion to suspend.

See paras 5 and 6 below.

S.28(1)

- (a) Applies only to re-appointment to the public service and appointment to any gazetted subvented organization.
- (b) Applies after retirement with no limitation in time.
- (c) Discretion to suspend under the section if the person is re-appointed to the public service.
- (d) The section does not expressly identify the authority vested with the discretion to suspend.

The question of prior permission

4. It should be noted that:

- (a) Section 34(1) provides for the obtaining of the Chief Executive's prior permission in writing. If it is not obtained, the Chief Executive may direct suspension of the pension.
- (b) Under s.28(1):
 - (i) Where the person is re-appointed to the public service, the pension may or may not be suspended.

WRITTEN ANSWER — Continued

- 4 -

- (ii) The criteria the civil service has adopted for similar statutory provisions is that the pension would not be suspended if employment in the public service or a gazetted subvented organization is (1) for a full time job for a period of not more than 3 months or (2) for a part time job involving not more than 24 hours a week. In accordance with such criteria, the pension was not suspended in over 400 cases of retired civil servants in the past 3 years. (See the Administration's reply to a LegCo question on 12 November 2003).
- (iii) Although prior permission is not mentioned in s.28(1), in practice, the person concerned will usually wish to seek such permission and where it is obtained, would know for certain that the discretion to suspend will not be exercised.

The authority

5. S.34(1) of the Ordinance vests the authority to give permission for continuation of the pension in the Chief Executive. In April 1995, this authority was delegated by the Governor to the Chief Justice and such delegation continues to be effective. (See s.28 of the Hong Kong Reunification Ordinance, Cap. 2601). Although the power under s.34(1) has been delegated to the Chief Justice, the Chief Executive as the delegator retains the power, notwithstanding the delegation.

6. Section 28(1) is ambiguous as to who should in law be regarded as the authority. On the one hand, the view could be taken that it is the Chief Executive as he is mentioned in s.28(1) itself and he is specified as the authority in s.34(1). On the other hand, it could be argued to be the Chief Justice. After review in June 2003, the Judiciary has concluded that the better view is that the discretion under s.28(1) is vested in the Chief Executive. Such discretion has not been delegated to the Chief Justice. It is noted that this view is consistent with the Administration's view that the discretion under equivalent statutory provisions for the civil service is vested in the Chief Executive. (See the Administration's reply to a LegCo question on 12 November 2003). The history of the matter is as follows:

- (a) In 1994, as the authority is not expressly identified, the Judiciary took the view that the Chief Justice could exercise it. On this basis, in order to have flexibility to meet the

WRITTEN ANSWER — *Continued*

- 5 -

operational needs of the courts, the Chief Justice granted general permission for retired judges and judicial officers to be appointed as deputies without suspension of pension. (At about the same time, such general permission was also given by the Secretary for the Civil Service in relation to retired judges and judicial officers under the old pension scheme subject to the Pensions Ordinance, Cap. 89).

- (b) Pursuant to this general permission in 1994, one retired judge and three retired judicial officers were appointed as deputies without suspension of pension.
- (c) Consistent with such approach, permission was granted by the Chief Justice after 1997 for a retired High Court judge to act as Deputy Judge of the Court of First Instance for a period of 3 months without suspension of his pension. (See Case 3 in Annex A).
- (d) In June 2003, on reviewing the matter in connection with Mr Michael Wong's application for permission to take up appointment as Chairperson of the Equal Opportunities Commission without suspension of his pension, whilst the point was considered debateable, the Judiciary considered that the better view as indicated above is that s.28 by implication vests the discretion in the Chief Executive. Since both s.34(1) and s.28(1) appeared to be applicable, Mr Wong was advised that the Chief Executive is the proper approving authority.

The approach**Under s.34(1)**

7. In exercising the discretion delegated to the Chief Justice in relation to whether a pension should be suspended or continued under s.34(1), the relevant considerations include whether judicial independence, or the perception of such independence, may be compromised and whether the proposed employment may involve any conflict of interest or perception of conflict. The time that has elapsed between the proposed employment and the cessation of active service is also relevant.

WRITTEN ANSWER — Continued

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8. In considering applications under s.34(1), the Judiciary has referred to and taken into account the approach adopted by the Administration in dealing with applications by retired civil servants under statutory provisions similar to s.34(1) and s.28(1). The Administration's approach includes:

- (a) Considering whether the proposed employment would involve any conflict with the public interest;
- (b) Within the 2-year period, normally imposing a sanitisation period of 6 months from the cessation of active service for directorate civil servants; and
- (c) Where the employment is in the public service or a gazetted subvented organization, not suspending the pension if such employment is (i) for a full time job for a period of not more than 3 months; or (ii) for a part-time job involving not more than 24 hours a week. (See para 4(b)).

Under s.28(1)

9. In relation to the discretion conferred by s.28(1), the Judiciary's view is that the considerations referred to in paras 7 and 8 above are similarly relevant.

The cases since 1 July 1997

10. Since 1 July 1997, there have been 5 cases where retired judges and 1 case where a retired judicial officer were given permission under Cap. 401 by the Chief Justice to continue to receive their pension while taking up other employment or appointments after their retirement. It is not appropriate to provide the names of the judges or the judicial officer concerned. A summary of the 6 cases is at Annex A. (References to cases below are to the cases in Annex A).

Annex A

11. In relation to the 6 cases, it should be noted that:

Case 3

- (a) 5 of the 6 cases involved part time work. The remaining case of the deputy judge was an ad hoc temporary appointment for 3 months.
- (b) In each case, the Chief Justice, taking into account the relevant considerations referred to above (paras 7 and 8),

WRITTEN ANSWER — *Continued*

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was of the view that judicial independence and its perception would not be compromised and that there would be no conflict of interest and no perception of any such conflict.

- Cases 1 and 3 (c) In relation to a judicial officer becoming a consultant in a solicitor's firm and the appointment of the deputy judge for 3 months, precedents before 1997 were examined and taken into account, bearing in mind that generally, there should be broad consistency in the exercise of a discretion.

12. Further, it should be noted that:

- (a) In each of the 6 cases, the Chief Justice granted permission under s.34(1).
- Case 3 (b) Further, in the case of the appointment of the deputy judge, in accordance with the view then held by the Judiciary (see para 6), the Chief Justice proceeded on the basis that the discretion under s.28(1) was vested in him. The Judiciary's view is that there is no question of exercising the discretion to suspend the pension because the appointment as a deputy judge, being for a period of 3 months, met the criterion mentioned above. (Para 8(c)).

Possible delegation under s.28 to the Chief Justice in relation to temporary judicial appointments

13. As explained above, the Judiciary considers that the better view is that s.28 vests the discretion in the Chief Executive by implication (para 6). Since it is desirable for the Judiciary to have the flexibility of appointing retired judges and judicial officers to act as deputies for a period of say 3 months without suspension of pension in order to meet its operational needs, the Judiciary wishes to consider inviting the Chief Executive to delegate his discretion under s.28 to the Chief Justice solely for the purpose of making such appointments. As such appointments would not exceed a period of 3 months, they would meet the criterion mentioned above (para 8(c)). These are considered matters relating to the Judiciary's operations which should be dealt with by the Chief Justice.

WRITTEN ANSWER — Continued

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Court of Final Appeal

14. The question has been raised whether non-permanent Hong Kong judges of the Court of Final Appeal are subject to s.28(1). Such judges are invited to sit usually for a short period of about a month a year. Prior to July 1997, when the court was being established, the Administration and the Judiciary agreed that their pensions would not be suspended as their sitting as a non-permanent judge, being usually for a period of less than 3 months, would meet the criterion mentioned above. (Para 8 (c)).

(II) Acceptance of Advantages by Judges and Judicial Officers**Prevention of Bribery Ordinance, Cap. 201**

15. The acceptance of advantages by judges and judicial officers is governed by the Prevention of Bribery Ordinance, Cap. 201 ("POBO"). In particular:

- (a) Section 3 provides that any prescribed officer ^(Note 2) who, without the general or special permission of the Chief Executive, solicit or accepts any advantage shall be guilty of an offence.
- (b) Section 4(2) provides that it is an offence for a public servant^(Note 3) to solicit or accept any advantage as an inducement to or reward for or otherwise on account of, among other things, his performing or abstaining from performing any act in his capacity as a public servant.

Acceptance of Advantages Notice 1992

16. The Acceptance of Advantages (Governor's ^(Note 4) Permission) Notice 1992 ("the Notice") is given for the purposes of section 3 of the POBO.

^(Note 2) Under s.2 of POBO, "prescribed officers" include judges and judicial officers.

^(Note 3) Public servants are also defined under s.2 of the POBO to include any "prescribed officer".

^(Note 4) Construed as the Chief Executive in accordance with the provisions of the Hong Kong Reunification Ordinance, Cap. 2601.

WRITTEN ANSWER — *Continued*

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Contractual Obligation

17. In the Memoranda on Conditions of Service governing employment of judges and judicial officers, a standard clause is included which states that a judge or judicial officer “must not solicit or accept advantages such as gifts, loans of money, discounts and passages except those for which general or special permission has been given under Section 3 of the POBO.”

Procedure and Criteria

18. By the Notice (clauses 3 to 7), general permission is given for certain advantages to be solicited or accepted in certain circumstances, such as advantages from relations (clause 3), from tradesmen (clause 4), from close personal friends (clause 5), from other persons (clause 6), and from Government (clause 7). Where general permission is not given by the Notice, the Notice requires special permission to be obtained from the approving authority (clauses 8 and 9).

19. Where permission from the approving authority is required, judges and judicial officers are required to apply in writing, providing adequate information including the nature of advantage(s), the estimated value(s), relationship between the judge/judicial officer and the offeror of the advantage(s), whether the offeror of the advantage(s) has any official dealings with the judges and judicial officers or with the Judiciary, etc.

20. In considering applications for permission to accept an advantage by judges and judicial officers, the relevant considerations include whether judicial independence, or perception of such independence, may be compromised; and whether this may give rise to any conflict of interest, or perception of such conflict.

21. Further, in processing such applications from judges and judicial officers, reference may be made by the Judiciary to the criteria laid down by the Administration for similar applications.

Approving Authority

22. The approving authority is the Chief Justice as Head of the Judiciary responsible for its administration as provided for by s.6(2) of the Hong Kong Court of Final Appeal Ordinance, Cap. 484, and the Judiciary Administrator who is accountable to the Chief Justice.

WRITTEN ANSWER — Continued

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23. In the case of the Chief Justice, the approving authority is the Chief Executive. Where gifts to the Chief Justice are disposed of by established methods such as donating the gifts to a charitable organization, the approving authority has been delegated from the Chief Executive to the Judiciary Administrator.

(III) Sections 29(1) and 31 relating to cancellation, reduction or suspension of pensions

24. The entitlement of judges and judicial officers to a pension is governed by the Pension Benefits (Judicial Officers) Ordinance. Where the statutory conditions are satisfied, that Ordinance makes entitlement to pension benefits a legal right. Accordingly, a judge or judicial officer who is otherwise qualified to receive a pension, can only be refused his pension or have it cancelled, reduced or suspended in the circumstances provided for by that Ordinance. Apart from s.34(1) and s.28(1) discussed above, there are two relevant provisions.

25. The first is s.29(1). In each case after considering the advice of the Judicial Officers Recommendation Commission (“JORC”) and subject to following the procedures set out in s.32, a designated officer ^(Note 5) (appointed by the Chief Executive) :

- (a) can refuse to grant a judge or judicial officer a pension “if it is shown to the designated officer that the officer wilfully suppressed facts that are material to the grant of a pension;” or
- (b) can cancel or reduce a pension granted to an officer “if it is shown to the designated officer that the pension was obtained by the wilful suppression by the officer of facts, or that it was granted in ignorance of facts, which were such that had they been known before the retirement of the officer the pension would not have been granted in full or in part.”

26. Section 29(2) also provides for the possible refusal to grant a pension and the cancellation or reduction of a pension granted in certain situations involving retirements during or when threatened by disciplinary proceedings.

^(Note 5) A designated officer must be an officer holding judicial office (s.2 of Cap. 401).

WRITTEN ANSWER — *Continued*

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27. The other relevant section is s. 31 which applies to officers who have been granted a pension and provides that the pension may be cancelled, suspended or reduced where such officer is convicted of an offence falling within any of three specified categories, namely :

- (a) an offence in connection with public service under the Government, and that offence is certified by the Chief Executive to have been gravely injurious to Hong Kong or to be liable to lead to serious loss of confidence in the public service;
- (b) an offence under Part II of the Prevention of Bribery Ordinance (Cap. 201), and that offence is related to the person's previous public service under the Government; or
- (c) treason under section 2 of the Crimes Ordinance (Cap. 200).

Judiciary Administration
13 November 2003

WRITTEN ANSWER — ContinuedAnnex A

**Cases since 1 July 1997 of Retired Judges and Judicial Officers
who were granted permission to
continue to receive their pensions while taking up
employment and appointments after their retirement by the Chief Justice**

1 Case 1

- 1.1 A retired judicial officer (a Magistrate) was given permission to work part-time as a consultant in a solicitor's firm.
- 1.2 District Judges and above (with a retirement age of 65) have to give an undertaking to the Chief Executive on appointment not to return to practise as a barrister or solicitor in Hong Kong after leaving the Judiciary. However, judicial officers (normally with a retirement age of 60) are not subject to such an undertaking and can return to private practice.
- 1.3 In granting permission in this case:
 - (a) The Magistrate was asked to confirm and duly confirmed that he had no professional contacts with the firm over the previous 2 years.
 - (b) Before 1997, permission had usually been granted to judicial officers to return to private practice subject to a 6 months' sanitisation period after cessation of active service. In 1995, before delegation of the discretion to the Chief Justice, the Governor, on the recommendation of the Chief Justice, granted permission to two judicial officers (who had been working in tribunals where lawyers have no right of audience) to return to practise as barristers and to dispense with any sanitisation period. In 1996, the Chief Justice granted permission to a judicial officer to return to practise at the Bar subject to a 6 months' sanitisation period.
 - (c) A sanitisation period of 6 months from cessation of active service was imposed.

WRITTEN ANSWER — Continued

- 2 -

2 **Case 2**

2.1 A retired High Court Judge was permitted to take up the position of non-executive director of a company, a part-time position.

2.2 In granting permission, it was noted that:

- (a) The judge had confirmed that he had not dealt with any case involving the company or any company in the group to which it belonged.
- (b) The appointment would commence after 12 months from cessation of active service.

3 **Case 3**

3.1 A retired High Court Judge was permitted to act as Deputy Judge of the Court of First Instance of the High Court for 3 months. This was an ad hoc temporary position, although it involved full time work during the period of appointment. (The appointment was effective 6 months after cessation of active service).

3.2 In granting permission, it was noted that:

- (a) Deputy Judges of the Court of First Instance are paid an honorarium (which does not involve any contractual gratuity).
- (b) In 1994, in order to have flexibility to meet the operational needs of the courts, general permission was granted by the Chief Justice for retired judges and magistrates to be appointed as deputies without suspension of pension. (At about the same time, the Secretary for the Civil Service similarly granted such general permission in relation to those retired judges and judicial officers under the old pension scheme governed by the Pensions Ordinance, Cap. 89). See para 6(a) of the paper.
- (c) Pursuant to such general permission in 1994, one judge and three judicial officers were appointed deputies without suspension of pension. See para 6(b) of the paper.

WRITTEN ANSWER — Continued

- 3 -

4 **Case 4**

4.1 A retired High Court Judge was granted permission to take up an appointment as a non-executive director of a company, a part time position.

4.2 In granting permission, it was noted that:

(a) The judge confirmed that he had not dealt with any case involving the company or any company in the group to which it belonged.

(b) The appointment would be effective some 17 months after cessation of active service.

5 **Case 5**

5.1 A retired High Court Judge was granted permission to take up appointment as Chairman of the statutory Administrative Appeals Board, a part time position. (The appointment was effective within 1 month after cessation of active service).

5.2 It is doubtful whether the appointment to such an office is subject to any provision of Cap. 401, but for the avoidance of doubt, permission was granted.

5.3 In granting permission, the condition was imposed that as Chairman of the Board, the retired judge should not handle any case which he had previously dealt with as a judge. It was noted that the Chairman is paid an honorarium (which does not involve any contractual gratuity).

6 **Case 6**

6.1 A retired High Court Judge was granted permission to take up a part-time teaching appointment with a tertiary education institution, a part time position. (The appointment was effective 3 months after cessation of active service).

WRITTEN ANSWER — *Continued*

LC Paper No. CB(1)296/03-04(03)

For discussion
on 17 November 2003

LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE**Pension suspension policy for retired civil servants****PURPOSE**

This paper sets out our current pension suspension policy applicable to retired civil servants who are re-appointed to the public service or appointed to service in subvented organisations determined to be public service for the purpose of pension suspension under the pensions legislation.

BACKGROUND

2. The civil service pension schemes comprise the Old Pension Scheme (OPS) and the New Pension Scheme (NPS). Civil servants appointed before 1 July 1987 on terms which attract pension benefits belong to the OPS and their pension benefits are governed by the Pensions Ordinance (Cap.89). The NPS is applicable to officers appointed on or after 1 July 1987 on terms which attract pension, or officers appointed before this date who opted to transfer to the NPS when it was introduced. Their pension benefits are governed by the Pension Benefits Ordinance (Cap.99). Civil servants are entitled to receive pensions upon retirement under the relevant pensions legislation. Specifically, they will receive a one-off commuted lump sum gratuity on retirement and a recurrent monthly pension thereafter.

PENSION SUSPENSION POLICY

3. Entitlement to pension benefits for those whose terms of appointment attract pensions is a right as provided for under Section 5 of both the Pensions Ordinance and the Pension Benefits Ordinance. At the same time, Section 26 of

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the Pension Benefits Ordinance provides that if a retired civil servant is re-appointed to the public service, or appointed to service in any subvented organisation which is determined to be public service for the purpose of pension suspension by the Chief Executive (CE) by notice in the Gazette, his pension **may** be suspended during the period of such service. There is a similar provision in Section 11 of the Pensions Ordinance, which stipulates that the pension of a retired civil servant **may** be suspended under the same condition. It should be noted that the exercise of this authority to suspend pension is discretionary but not mandatory. The CE may determine whether or not to exercise his discretion to suspend pension payment depending on individual circumstances.

4. The policy to suspend the pension of a retired civil servant on re-appointment to the public service has been in place for a long time. In this regard, we refer to full-time paid employment which requires the carrying out of executive duties/functions. The rationale for pension suspension under such condition is that, under normal circumstances, there is no specific reason from the public finance angle to grant a recurrent monthly pension to a retiree if he is still gainfully employed in the Government with a stable monthly income financed by the public purse.

5. The pension suspension policy was extended to cover employment in subvented organisations in 1987 when the NPS was introduced. The rationale forwarded in support of this is that since these organisations receive substantial subventions from the Government, under normal circumstances, retired civil servants employed by these organisations should not receive both monthly pension and salary from the same public coffers. This policy was first implemented in 1991 following the setting up of the Hospital Authority. As and when a new organisation is set up to execute new statutory functions or as a result of the disestablishment of a Government department, consideration would be given whether that organisation should be determined as public service for the purpose of pension suspension. Factors to be considered include, among other things, the source of funding of the organisation (e.g. the mode and level of government subventions to the subvented organisation) and the mode of operation of the organisation (e.g. whether it operates on prudent commercial principle). At present, a total of 16 subvented organisations have been declared and gazetted as public service for the purpose of pension suspension. Details are at **Annex**.

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Exceptions to the pension suspension requirement

6. Over the years, the pension suspension policy has been applied to suspend the pension of retired civil servants who are re-appointed to the public service or appointed to the gazetted subvented organisations. Exceptions to this arrangement have been applied to two categories of retired civil servants as set out below.

**Civil servants appointed as Principal Officials
under the Accountability System**

7. The first category involves those retired civil servants who have reached the earliest permissible retirement age under respective pension schemes and who were appointed as Principal Officials under the Accountability System. This special arrangement aims at facilitating the implementation of the Accountability System so that civil servants who are considered suitable for appointment as Principal Officials by the CE will not be inhibited by the transfer arrangements in considering such appointments. In allowing these officers to receive their pensions during their tenure as Principal Officials, the CE had taken into account the fact that the remuneration package of the Principal Officials appointment does not contain any gratuity or retirement benefits (other than the statutory minimum mandatory provident fund) and that there is no security of tenure. This special arrangement is only applicable during the relevant persons' terms of office as Principal Officials. Once these persons step down from the position of Principal Officials and if they are re-appointed to the public service or appointed to gazetted subvented organisations, payment of their pension may be suspended in accordance with the normal rule. This arrangement was fully explained to the Legislative Council in the context of implementation of the Accountability System.

Part-time and short-term employment

8. The second category involves retired civil servants who take up part-time (i.e. not more than 24 hours per week) or short-term employment (i.e. not more than three months) in the public service or one of the 16 gazetted organisations. Examples of such appointments include those who are appointed on an ad hoc basis to help conduct inquiries on conduct and discipline matters under the Public Service (Administration) Order; those who are appointed to assist in the prompt implementation of cleansing operations arising from

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recommendations made by Team Clean following the SARS outbreak; part-time shroff for Sunday/public holidays and evening clinics; part-time lecturers for short courses in the tertiary institutions, etc. Taking into account the short-term and ad hoc nature of such appointments, and in order not to unnecessarily discourage retired civil servants to continue to contribute their expertise, we consider it appropriate not to suspend pension under such circumstances. This arrangement not to suspend pension had been in place since the 1970s before the criteria clearly defining what constitutes a part-time or short-term appointment for approving such waiver were formalised in 1994.

9. There are currently about 74 000 retired civil servants. Against this backdrop, in the past three years, the total number of cases where pension suspension has been waived under the first category is five while that under the second category is 442 (comprising 340 cases involving re-appointments to the Government and 102 cases involving service in the gazetted subvented organizations). Out of the 442 cases, 29 and 413 cases were from retired civil servants formerly holding directorate and non-directorate positions respectively.

10. As seen from the above statistics, the current pension suspension policy will apply to all re-appointments in the public service and appointments in the gazetted subvented organisations other than for short-term or part-time appointments or under exceptional circumstances. We consider that this policy remains broadly appropriate.

Civil Services Bureau
November 2003

WRITTEN ANSWER — Continued**Annex****Subvented organisations determined and gazetted as public service
for the purpose of pension suspension**

<u>Organisation/Institution</u>	<u>Effective Date</u>
1. Hospital Authority	25.1.1991
2. City University of Hong Kong	1.8.1991
3. Hong Kong Baptist University	1.8.1991
4. The Hong Kong Polytechnic University	1.8.1991
5. Lingnan University	1.8.1991
6. The Chinese University of Hong Kong	1.8.1991
7. The Hong Kong University of Science and Technology	1.8.1991
8. The University of Hong Kong	1.8.1991
9. Vocational Training Council	1.8.1991
10. Hong Kong Housing Authority	30.4.1993
11. Hong Kong Monetary Authority	12.11.1993
12. The Hong Kong Institute of Education	29.4.1994
13. The Legislative Council Commission	29.4.1994
14. Equal Opportunities Commission	5.1.1996
15. Office of the Privacy Commissioner for Personal Data	5.1.1996
16. Office of The Ombudsman	14.2.1997

Note : The list originally also included the Urban Council (effective date 30.4.1993) and the Regional Council (effective date 30.4.1993) until the disbandment of the two Councils on 1.1.2000.

Appendix IV**WRITTEN ANSWER****Written answer by the Chief Secretary for Administration to Mr James TO's supplementary question to Question 6**

As regards the total duration in term of hours of the meetings which had formal records between the Chief Executive and individual Legislative Council Members, according to the information provided by the Chief Executive's Office, the Chief Executive will determine the mode of communication with Members in the light of the need on each occasion. Generally speaking, whenever the need for extensive consultation arises, the Chief Executive would offer to meet with all Members from different parties, as well as independent Members. The number and the total duration of past meetings between the Chief Executive and different groups of Members were therefore approximately the same. Individual Members, in their other duties and capacities than as Members, may also meet and communicate with the Chief Executive on different occasions. As such, despite strenuous efforts to check through our records, the Government is unable to provide statistics on the number and total duration of the past meetings between each Member and the Chief Executive.