

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 12 November 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 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.

MEMBER ABSENT:

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

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

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

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

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/Instrument	<i>L.N. No.</i>
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Pension Benefits Ordinance (Established Offices) (Amendment) Order 2003.....	244/2003
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Other Papers

No. 22 — Report of the Board of Trustees for Sir Edward Youde Memorial Fund for the period from 1 April 2002 to 31 March 2003

No. 23 — Secretary for Home Affairs Incorporated
Audited Statement of Accounts and Auditor's Report for the year ended 31 March 2003

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

West Kowloon Cultural District Development Project

1. **MR JAMES TIEN:** *Madam President, the Government has advised that it will award the construction and operation of the entire 40-hectare West Kowloon Cultural District development project to a single developer by tender. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed if the scale of the project will reduce the number of developers capable of bidding to only a few, and will result in restricting the choice of bidders, an undesirable tender price, and the Government placing itself in an unfavourable position in negotiating the details of the project with the successful bidder;*

and of the reasons for not considering dividing the project and inviting separate tenders, or putting up the part of the land earmarked for commercial uses for sale by tender, so as to use the land sale proceeds for developing recreational and cultural facilities;

- (b) as the culture and art sectors have expressed concern that assigning the development of the cultural district to a profit-oriented developer might eventually turn it into a place unworthy of its name, whether the Government plans to conduct a new round of consultation with these sectors on the approach to be adopted for the development; if so, of the details of the consultation; if not, the reasons for that; and*
- (c) of the monitoring measures in place to avoid the project deviating from its original objectives, in terms of construction and long-term operation?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, first of all, I would like to thank Mr James TIEN for raising this question, for the issue is of great concern to the public. Although Mr James TIEN has put this question in English, I would like to give my reply in Chinese.

Before I address Mr TIEN's specific points, perhaps it would be helpful to Members if I elaborate a little on the underlying philosophy and intentions of the Government in inviting the private sector to submit proposals for the development of the West Kowloon Cultural District.

The Chief Executive set out clearly in his 1999 policy address that the Government intended to enhance the provision of arts, recreational and entertainment opportunities which will enrich Hong Kong's quality of life and fascinate tourists with Hong Kong's unique culture, a blend of Chinese and Western elements. It is also our objective to establish Hong Kong as not only a major Chinese city, but also the most cosmopolitan city in Asia, with great depth of cultural talent, among other things. To this end, the southern part of the West Kowloon Reclamation was earmarked for development into an integrated arts, cultural and entertainment district. West Kowloon Reclamation is perhaps the most important and precious remaining site at a prominent part of our harbour. We must make the best use of this valuable asset in the widest

interests of not only ourselves but also our future generations. We cannot afford to have a development on this site, not matching the best in the world.

In 2001, we have since held an open competition to find a suitable concept plan for the development of the West Kowloon Cultural District and have since adopted the first prize winning concept plan, created by one of the world's most renowned architects, as the basis for the development.

Members are aware that, in Hong Kong, major new arts and cultural facilities have traditionally been provided by the Government. We think that it is time for a change. In August 2003, we published a document called "Serving the Community by Using the Private Sector", which made it clear that, in the face of our current major budgetary difficulties, we planned to utilize the private sector more in delivering and improving government services. And indeed one of the stated arts and cultural objectives of the West Kowloon Cultural District development is the encouraging of private sector participation in the rendering of cultural services in Hong Kong. So not only does the Government's fiscal position make it difficult to allocate funds for development of major new arts and cultural facilities, but we believe that such facilities can and should be run with greater commercial expertise than the Government is able to provide.

Traditionally, people do not see the development and operation of major arts and cultural facilities as a profit-making venture. From the outset, even before launching the concept plan competition in April 2001, we have believed that intelligent integration with a certain amount of commercial development is not only necessary to achieve financial viability in developing this district, it also enhances the general appeal, richness and creativity of what the district may offer in the promotion of arts in culture in Hong Kong. It may also enable Hong Kong to create a new architectural icon on its world renowned waterfront. The invitation for development proposals that we issued on 5 September 2003 has been framed accordingly.

Turning to Mr TIEN's specific questions:

- (a) In offering this substantial project as a single package, the Government must be sure that the successful proponent has the financial strength and management experience necessary to see the project through satisfactorily. Proponents also have to be able to attract the participation of parties experienced in the design and

operation of arts, cultural and entertainment facilities. This is not an unreasonable requirement given the nature and scale of the project. Nor has this shown to be unreasonably restrictive. We have now received written indication from 11 substantial entities expressing interests in undertaking this development. We must assume that they consider that they meet the experience requirement and intend to submit a proposal in due course.

There is no question of the Government placing itself in an unfavourable negotiating position because the scale of the project is large. Regardless of how many proposals we receive by the closing date next March, we will negotiate for arrangements that meet our objectives and are in the best interests of the community. Failing such arrangements, we shall not conclude any deal.

As regards achieving a fair price for the land, the invitation for proposals states that we expect the project to be run on a self-financing basis and that financial proposals should include details of payments to the Government, such as land premium. This is consistent with inviting the private sector to devise a financially viable scheme and makes it quite clear that the exercise is not about generating the highest possible return to general revenue. The exercise is about producing a scheme that best meets our objectives for the site as a world-class cultural and entertainment district. If this could not be achieved, we would rather abandon the project.

Dividing the project into smaller packages and inviting tenders would first require the Government to draw up a master layout plan based on uncertain assumptions of what would be commercially viable. As the Government cannot fund construction of the arts and cultural facilities, they would have to be distributed among different packages, thereby losing the opportunity for integrated and complementary design of these facilities. Also, the Government would have to design the canopy, the automated people mover and other infrastructural features that serve the whole development without knowing how they would interface with the design of buildings in the district. Conducting multiple tender exercises would leave us with the extremely difficult task of drawing up multiple sets of complex interlocking land leases. And we would

have to allocate substantial additional resources to project management and, in due course, venue operation, at the expense of other priorities.

We are satisfied that dividing the project into multiple packages is an undesirable way of implementing it. The result would simply be a cacophony of separate facilities. Tendering out smaller packages with a view to using the land sale proceeds for developing the cultural facilities is impractical and this would involve hypothecating general revenue. The prospect of securing public funds of the size required for providing these arts and cultural facilities is remote given the many other competing claims. We consider that the single package approach is the optimal way forward and in the wider public interests of Hong Kong.

- (b) The Government shares the concern of the arts and cultural community and others who have expressed similar views that pursuit of development profits should not be allowed to compromise our objectives for a world-class cultural district. I can assure Members that we are prepared to abandon the current exercise if no proposal meets our expectations for the cultural provision. We will not let the project proceed as a real estate development with second-rate cultural facilities or half-hearted commitment to their operation and programme content.

Consultation with the arts and cultural community over the facilities, their operation and their content has been an essential part of our strategy in developing the way forward. In 1999, that is before launching the concept plan competition, we consulted the real estate sector, professional institutes and the arts and cultural sector. In September 2002, we consulted the arts and cultural community before deciding upon the core arts and cultural facilities to be included as mandatory requirements in the invitation for proposals. Since issuing the invitation in September this year, we have held discussions with professional institutes and engaged in a number of public consultation sessions, such as those held recently by the Hong Kong Arts Development Council and other bodies. And we will continue to listen to views from members of the arts and cultural community on the governance and operation of the core arts and cultural facilities.

- (c) The Government will ensure that monitoring measures are put in place to ensure that the cultural district is built and operated as envisaged.

The invitation for proposals requires among other things that the successful proponent should submit certain important design components, such as the master layout plan and schematic design of the major buildings, for the Government's approval and appoint an independent checker to certify design work and achievement of construction milestones. It also requires proponents to submit detailed business plans, including the proposed modes of governance and operation, mission statement, programme policy, business strategy, operation plan and human resources strategy for the Government's assessment. We will study all the proposals carefully and assess whether they can achieve the expected service quality.

As regards operation of the cultural facilities, we recognize that developers alone are unlikely to be able to deliver high quality arts and cultural facilities and programmes. The construction and operation of such facilities require specialist expertise and experience. We therefore expect proponents to engage the services of parties with proven experience and competence in the relevant arts and cultural fields and forge partnerships with local and international cultural institutions to assist them with the design, planning, operation and management of the arts and cultural facilities. The Government will monitor the future operation, maintenance and management of the cultural facilities. We shall develop matching monitoring mechanisms when we have seen the proponents' proposals.

Madam President, we accept that divided views are inevitable in pursuit of a world-class development of this kind in any open society. Masterpieces such as the pyramid at the Louvre in Paris, the Opera House in Sydney and the Guggenheim Museum in Bilbao were not built without generating a healthy amount of controversy, but built they were and they stand now as highly successful cultural icons. With careful planning and conscious effort to stress the wider public interest, Hong Kong can reach the same cultural heights at West Kowloon.

PRESIDENT (in Cantonese): Honourable Members, there are altogether 13 Members waiting for their turn to ask supplementary questions and as the Chief Secretary for Administration has used 13 minutes to answer this question, so I would use my discretion to extend the time for this question.

MR JAMES TIEN (in Cantonese): *Madam President, first of all, I would like to thank the Chief Secretary for Administration for giving such a detailed reply. The main reply has mentioned many times that the project would be abandoned if the objectives are not met. Madam President, as the Protection of the Harbour Ordinance is in operation, there would be little chances of further reclamation in the harbour in the future, so this piece of land in West Kowloon is in fact the only remaining piece of land reclaimed from the harbour that can be utilized for the benefit of future generations. May I ask the Government, in the context of consultations and studies to be made in the future, if the relevant panels of the Legislative Council will play a due role in future discussions? There is a view around that the Government will not meet any legislation, nor any appropriation of funds and the approval of the Town Planning Board, and that it will go ahead with its plans under the current arrangement. Can the Chief Secretary please clarify these misapprehensions?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): We think that insofar as this development project is concerned, it is very important that a partnership relationship be forged with the Legislative Council. We must get the support of Members in order that this project of such an enormous scale can proceed smoothly. After the proposals are received and after they have undergone vetting and approval, and after we have held comprehensive examinations and negotiations with the successful proponent of the selected proposal, the final arrangements will be submitted to the relevant panel of the Legislative Council for deliberation in the hope that the proposal will get the understanding and support of Members. After that, the views will be conveyed to the Executive Council for final approval. A provisional agreement will then be signed. This is our plan. We will strive to make the entire deliberation process highly transparent and we will co-operate with the relevant panel of the Legislative Council.

MRS SOPHIE LEUNG (in Cantonese): *Madam President, I am grateful to the Chief Secretary for allaying many of my misapprehensions by saying that if no proposal for development meets the demands of the Government, and I hope the demands of the community as well, then the current exercise of inviting proposals for development will be abandoned. The Chief Secretary also mentioned that 11 substantial entities have expressed interests in undertaking the development. Indeed, due to the enormous scale of the project, how will the Government assess the strengths of the developers at this moment? It may be that when the invitation for tender commences, only a few developers may be left in the race and that is the last thing we wish to see. We do not wish to see a drastic reduction in competition. Then how are the strengths of the developers assessed at this stage in order to determine if they are really substantial entities?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): The proposal will set out the recognized requirements we want and the most important one is experience in constructing major public infrastructure of a similar nature. Moreover, the proponents will also have to give an account of their financial strength. It is only when such information is given then we will formally consider their proposals. This is our mandatory requirement and it is a requirement which must be met. Therefore, I would ask Mrs LEUNG not to worry, for when we explain the matter to this Council later, we will state that the developer, that is, the proponent concerned, will have the financial strength, the required engineering and technical capabilities, as well as the experience in the construction of arts facilities. The developer will have its own representatives in the project before we will consider the other details.

MR WONG SING-CHI (in Cantonese): *Madam President, the Chief Secretary mentioned in the main reply that the Government had held discussions with professional institutes and engaged in a number of public consultation sessions. May I know the outcomes of such consultation activities attended by the Chief Secretary? Did these bodies agree to this plan, or did they oppose it? Or did they have a lot of worries? Besides, the Chief Secretary also mentioned that the invitation requires the developers to furnish details on the operation of this project, but as the Government is currently engaging in consultation, how will the Chief Secretary reconcile the views gathered from the consultation with the specific recommendations presented in the proposals?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): In the course of our consultation, we will continue to hear views from individuals and those from the consortia interested in the project. At present, I do not know how many consortia will submit proposals in the end, but I believe the number would certainly be not more than 11. Regardless of the number of proposals we would receive, and as I have mentioned in the main reply, we will strive for results commensurate with our needs, and failing that, we shall not proceed with the project. As to the question of how these views can be heard, I can say that views from individual groups, professionals and the arts and cultural community would be of great help to our work in assessing these proposals. We have laid down the criteria for such assessment, but there are still many details which need to be fine-tuned. We hope that after listening to the views from the public, they can be incorporated into our assessment framework. In this way, the views expressed in our assessment will not only be those of the officials and experts in the arts and culture within the Government, but those from members of the public and the related professionals. That will be the approach we take.

MR WONG SING-CHI (in Cantonese): *The Chief Secretary has not answered my supplementary question. I asked what the views gathered after the consultation exercise were? Did the groups consulted express any approval, opposition or doubts? The Chief Secretary has not given a reply on the concrete details.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I am sorry, I could have spent more time answering this supplementary question, but I wished to find some time. For a project of such a large scale, there are bound to be many different views. Many people support this proposal and they are encouraged by it. However, there may be other people who think that as this is a big project, so they have doubts about the financial, planning and artistic commitment involved, especially when we have also consulted the artists. As artists are very adamant about their views, it would not be reasonable to ask artists to make compromises. We therefore cannot ask artists to reach a consensus on anything. What we can do is to listen to them, gauge their views and collect the merits, then all these will be blended into a project acceptable to all. That is the most important point. Having said that, I would still think that it is not reasonable to ask artists to come to a consensus in an arts project. But I know that artists are very interested in it. We respect their views seriously and

their views will be reflected in the tender document and in the assessment of the tenders.

MR ABRAHAM SHEK: *Madam President, there is a famous saying by FORD when he asked his executive, "Tell me the colours of the car you want to have. Any colour you want, tell me. You can have any colour you want as long as it is black." So, when it comes to listening to all the proposals from the developers, or from the art sector, the Government is not listening because the only answer the Government wants is one single development by one single developer.*

My question is, in part (a) of his reply, the Chief Secretary for Administration said that "Nor has this shown to be unreasonably restrictive." In the tender document, the Government is very restrictive because only developers who have had the experience of undertaking a project with a construction cost of not less than \$3 billion in Hong Kong can submit their proposals, and there are not too many developers who have undertaken construction projects of less than \$3 billion.

PRESIDENT (in Cantonese): Mr SHEK, would you tell me briefly what is your supplementary question?

MR ABRAHAM SHEK (in Cantonese): *Put it simply, Madam President, if the Government wants to be fair and open, then why is the project restricted to developers with an experience in undertaking a construction project worth \$3 billion? If this is not such an enormous project and if it can be divided into smaller packages, then it will not be necessary to impose such a condition. This condition indeed bars many developers from taking part in the project.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): It is true that public works projects, especially infrastructural projects, can be divided into large and small in terms of scale. Those small-scale projects can be undertaken by smaller developers; but for the large-scale projects, they would be beyond the capabilities of the small developers. Having said that and with respect to this particular project in question, we do permit small and medium developers to group themselves together for bidding and that can be done. However, in order

to safeguard public interest and as the construction cost would exceed \$20 billion, we cannot award the project to a developer without sufficient experience and financial capabilities, lest the risk would be very significant indeed. And I do not think the Legislative Council would approve of this as well. As to why this project cannot be divided into smaller packages, I have made my point clearly in the main reply. I hope the President would forgive me for not repeating it.

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

MR ABRAHAM SHEK (in Cantonese): *I wish to follow up on that. The Chief Secretary said that the small and medium developers could group themselves together for bidding purposes, but the tender document has imposed restrictions on many small and medium developers so that they cannot form a conglomerate. It is because there is a clause called the joint and several guarantee in the tender document. As I have said, what he is doing is thus different from what he professes to be. Why?*

PRESIDENT (in Cantonese): You may only ask a question on the contents mentioned in the supplementary question raised earlier. But the question you asked just now is not part of the earlier supplementary question. You are only expressing a different view from that of the Chief Secretary, in my opinion. So I am sorry, I have to ask another Member to raise his question.

MR ABRAHAM SHEK (in Cantonese): *Madam President, I would like to follow up. Just now the Chief Secretary said that small and medium developers could take part in the project, but the fact is that they are barred from doing so as there are clearly such conditions in the document.*

PRESIDENT (in Cantonese): This is not a follow-up question but a supplementary question, one which is based on the reply given by the Chief Secretary.

We have spent 25 minutes on this question. Last supplementary question.

MR JASPER TSANG (in Cantonese): *Madam President, earlier on two Honourable colleagues said they were glad to hear the Chief Secretary say that if no proposal which meets the objectives of the Government, the project will be abandoned. Unless such a view is purely bluffing, for if not, the Government must have considered the meaning of abandoning the project should such a situation really arise. What in fact is meant by abandoning the project? Will this mean that there will be no West Kowloon Cultural District? Or do we have to wait for a longer time? Or is there in fact a contingency plan up the sleeves, such that when no proposal meets the requirements, another plan will be adopted to provide this cultural and arts centre? It would be impractical if the project is abandoned in the absence of a contingency plan and it will not solve the problem at all. Besides, abandoning the project as the Chief Secretary means it also..... Madam President.*

PRESIDENT (in Cantonese): So you would only like the Chief Secretary to explain what is meant by abandoning the project? Then you do not have to present other views.

MR JASPER TSANG (in Cantonese): *No, what he said by abandoning the project would imply operation in addition to construction. So the project will have to be abandoned if its operation is impossible. However, if the project has been launched, how can it be abandoned?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, right from the outset of this project, many people want us to abandon it. Many consortia and developers have exerted so much pressure on us and in various ways, using their financial and other strengths, trying to divert our attention by mockery and lies. In such circumstances, I fully appreciate the concern of Members. However, we know very well that this piece of land in West Kowloon, the western part has been left vacant for nine years and grass is growing there. Of this valuable 40-hectare lot which is most precious, the eastern part is now a stretch of yellow earth. And on this entire 40-hectare lot,

only two ventilation ducts are erected, one for the West Rail and the other for the Mass Transit Railway. In such circumstances, we have to examine how we can use more than \$20 billion to undertake such a gigantic cultural and arts project there. In view of our financial stringency, how can this project compete with other items in security, education, medical and health, and so on for resources? I am convinced in the next four or five years to come, it will not be possible for us to spare a huge amount of resources to undertake this project. But are we going to abandon it?

However, to undertake this project, I think the approach outlined by me appears to be the only option. What will happen if we do not undertake this project? Despite our stringency in resources, there are as much as \$3,000 billion of capital roaming about in the market looking for a place to anchor, or trying to find a project for investment. Besides, interest rates are very low insofar as investment is concerned. Obviously, there should not be any hesitation as to the adoption of an approach, that is, the injection of private sector resources into this project. In addition, we can see that the project will help improve the employment situation and as soon as the project commences, it will mean jobs for more than 500 professionals. When the project is in full steam and the works get going, that will mean 5 000 jobs after 2006. But if we are stuck here debating whether or not to divide the project into smaller packages, that will just mean that no resources are being put in and the entire project is deferred indefinitely. That is certainly inconsistent with public interest.

For this reason, despite the blames and pressures, and even if Members will say that we are only asking for trouble, and we feel that we are not giving full consideration to the interests of the public at large (if we do not proceed with it), we will still want to go ahead. What we have said about relocation and postponement is that, if we do not have the support of Members and if we have to proceed with the project on our own, then it has to be abandoned. Circumstances leading to such a decision would include unsatisfactory operation or investment. But the most important consideration is if the arts and cultural facilities fail to meet our requirements, then the present approach will have to be abandoned and be replaced by another. Then we will have to face the problem in resources mentioned by me just now. I would think that under the present circumstances, resources would be a difficult problem to solve if we have to undertake a development project of such a gigantic scale.

PRESIDENT (in Cantonese): Mr Abraham SHEK, do you have a point of order?

MR ABRAHAM SHEK (in Cantonese): *I am not sure if this is a point of order, but can I ask you a question?*

PRESIDENT (in Cantonese): Yes, if it is a point of order, but if it is not, then please do not ask it.

MR ABRAHAM SHEK (in Cantonese): *Yes, it is a point of order. The remarks made by the Chief Secretary earlier have done injustice to some developers. I would like to tell the President that the Real Estate Developers Association of Hong Kong supports this project, this is not*

PRESIDENT (in Cantonese): Sorry, Mr Abraham SHEK, this is not a point of order. Although there are still eight Members waiting for their turn to ask questions, I cannot allow them to do so for, as we all know, the length of the question time is limited. If Members are very much concerned about this matter, there are other channels through which they can follow up. They may also propose a Members' motion for a debate.

Second question.

APEC Business Travel Card Scheme

2. **DR DAVID LI:** *Madam President, our State President stated at the 11th informal meeting of Asia-Pacific Economic Co-operation (APEC) leaders in Bangkok on 20 October 2003 that the Chinese Government would officially implement the APEC Business Travel Card Scheme (the Scheme) from November this year. This allows a business traveller from an APEC economy participating in the Scheme to travel to mainland China without a visa, and enjoy streamlined immigration clearance. At present, only those Hong Kong residents holding a Hong Kong permanent identity card may apply for an APEC Business Travel Card. In this connection, will the Government inform this Council:*

- (a) *whether it knows if a Hong Kong resident holding an identity card, be it the Hong Kong permanent identity card or the Hong Kong identity card, and a valid national passport can take advantage of the Mainland's implementation of the Scheme to enter and exit the Mainland for business purposes; and*
- (b) *if Hong Kong residents holding a Hong Kong identity card and a valid national passport cannot benefit from the Scheme, whether the Administration knows if the mainland authorities will introduce a similar scheme for these Hong Kong residents to travel between Hong Kong and the Mainland?*

SECRETARY FOR SECURITY: Madam President,

- (a) The aim of the Scheme is to enhance the mobility of business travellers who are nationals or permanent residents of the APEC economies participating in the Scheme (participating economies) in order to promote business within the APEC region. A business person residing in Hong Kong who is interested in joining the Scheme has to meet the following criteria:
 - (i) holds a Hong Kong permanent identity card and a valid national passport;
 - (ii) has not previously been denied entry to any of the participating economies;
 - (iii) has never been convicted of a criminal offence; and
 - (iv) is a *bona fide* business person who needs to travel frequently on short-term visits within the APEC region to fulfil business commitments.

Hong Kong Special Administrative Region business persons who are "non-permanent Hong Kong residents" do not meet the eligibility criteria and will not be able to benefit from the Scheme.

At present, a total of 11 APEC economies (comprising Australia; Brunei Darussalam; Chile; Chinese Taipei; Hong Kong, China; Japan; Malaysia; New Zealand; the Philippines; the Republic of Korea and Thailand) have implemented the Scheme. According to an earlier announcement, China will soon implement the Scheme. We are making enquiries about this with relevant mainland authorities and further information is not available at this stage.

- (b) Currently, Hong Kong residents (including permanent and non-permanent) who are Chinese citizens may use the Hong Kong and Macao Residents Entry and Exit Permit (commonly known as Home Visit Permit) to travel to the Mainland. The Hong Kong and Macao Resident Entry and Exit Permit is valid for 10 years and holders are not required to present other travel document when seeking entry into the Mainland. Since mid-2002, foreign nationals who are holders of the Hong Kong permanent identity card may apply for a multiple-journey visa with a validity up to three years for visiting the Mainland. Mainland authorities have thus far not indicated to Hong Kong any plan to extend this arrangement to cover "non-permanent Hong Kong residents" who are foreign nationals.

DR DAVID LI: *Madam President, I note that the Secretary for Security has chosen to ignore the second part of my question. Hong Kong has spent a considerable amount of public money selling itself around the world as an ideal location to conduct business with the Mainland. Yet, with the extension of the Scheme to China, foreign nationals in Hong Kong holding a Hong Kong permanent identity card will find it considerably harder to travel to the Mainland than residents of countries like Australia, Malaysia or even Chile. While the Secretary for Security explained how the enormous amount of public money that we spent on promoting Hong Kong as a business hub for China can be justified, what will he say if his Bureau is unable to enter a dialogue with the relevant authorities on the Mainland to ensure that those foreign investors and entrepreneurs who have chosen Hong Kong as a place of residence, enjoy at the minimum equal treatment with the business travellers of any other territories while entering or exiting the Mainland?*

SECRETARY FOR SECURITY: Madam President, I think, contrary to Dr the Honourable David LI's statement, the Government has spent a lot of efforts in cultivating a dialogue with the Chinese authorities to enhance the mobility of the Hong Kong business people entering China. I think the result was that in mid-2002, we were able to convince the Chinese authorities to issue multiple entry visas valid for three years to Hong Kong permanent residents who are non-Chinese nationals. Of course, under the Scheme, there are rules to abide by. One of these rules is that the Scheme will only apply to nationals of the participating economies, and in Hong Kong's case, the Scheme will cover only the permanent residents who are non-nationals of China. By joining this Scheme, I think the Chinese Government has to abide by the rules of the Scheme and there is no question of Hong Kong not trying its best to fight for the rights of Hong Kong non-permanent residents entering China. I think at an appropriate time, we will take up the matter with the Central Government.

MR HENRY WU (in Cantonese): *First of all, I have to declare interest for I also have a similar travel card. May I ask the Secretary, since the implementation of the Scheme in Hong Kong, how many applications have been received during the past period, say the past year or two? How many applications have been rejected? Have complaints against rejection been lodged? If the number of complaints is numerous, should the Secretary find a solution to the problem?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, as our figures show, from 1998 — for Hong Kong joined the Scheme in 1998 — to October this year, 1 420 applications were received. Among these, 1 140 were approved, 13 were rejected and 81 were withdrawn by applicants. And the number of applications being processed is 186. Regarding the rejected applications, applicants were rejected mostly because they were only temporary residents but not permanent residents of Hong Kong, do they did not satisfy the application criteria set out under the APEC Travel Card Scheme.

MR HENRY WU (in Cantonese): *The Secretary has not yet given an answer on the number of complaints lodged.*

SECRETARY FOR SECURITY (in Cantonese): The applicants rejected have not lodged any complaints, but we do have a channel for complaints.

MR JAMES TO (in Cantonese): *Madam President, perhaps I may try to grasp the crux of Dr David LI's question. That is, if the Scheme or similar scheme offered by the Mainland by certain ways is open to non-permanent residents of Hong Kong, they do not have to queue up too long to cross the Lo Wu Control Point at Shenzhen, as both places have assigned special clearance counters for them. If this is the case, may I ask the Government whether it has conducted any survey to find out the number of foreign nationals, except those who are permanent Hong Kong residents, who genuinely use Hong Kong as their main business centre and need this special arrangement since the implementation of the Scheme in Hong Kong in 2002? If this special arrangement is not open to them, how Hong Kong will be affected? Has the Government conducted any research in this respect or made some judgement at least?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I think the concern of Dr David LI and Mr James TO is whether there is a scheme to facilitate foreign nationals who are non-permanent residents of Hong Kong in their entry into the Mainland.

At present, the Business Travel Card Scheme is a scheme participated by member economies of APEC. The rules of game of the Scheme have already been set. A major rule of the Scheme, aiming to facilitate business travellers in border crossing, is that it is only applicable to nationals of participating economies. This is the main criterion. However, Hong Kong is in a special position. At that time, in addition to our nationals, that is holders of Hong Kong Special Administrative Region (SAR) Passport, we managed to secure the same arrangement for residents who are non-nationals of China with permanent right of abode in Hong Kong.

We have tried to extend this arrangement to non-permanent Hong Kong residents, but the proposal was rejected. Therefore, according to the existing rules, only those expatriates who are holders of SAR Passport or Hong Kong permanent identity card can join the Scheme.

Since China is now a participant of the Scheme, then will the Scheme be also opened to the so-called non-permanent residents of Hong Kong? According to the rules of the Scheme, the arrangement is not applicable to them; that is, it cannot be extended to this type of non-permanent residents. As to whether there are ways that we can facilitate their entry into the Mainland for business, we have to consider two aspects:

Firstly, Mr James TO wonders whether a special counter can be assigned for these non-permanent residents, so that they do not have to queue up with other visitors at the Lo Wu immigration checkpoint. The answer is in the affirmative. Since these non-permanent residents, though not permanent residents, are in fact Hong Kong residents holding Hong Kong identity cards, we do have a special counter for them. Thus, like other Hong Kong residents, they enjoy great convenience in crossing the border.

Secondly, I think what Members striving for is the facilitation of their entry into the Mainland for business. This is not an issue that the Hong Kong Government can resolve unilaterally, but one that involves the formulation of an immigration policy on the part of the Mainland. A few years ago, we began to think about how we could facilitate business persons who are non-nationals of China residing in Hong Kong to fulfil business commitments. After a period of time, in the middle of last year, we succeeded in obtaining the agreement from the Chinese Government on the issuance of a multiple-journey visa valid for up to three years to foreign nationals who are holders of the Hong Kong permanent identity card. As to whether the arrangement will be extended to cover expatriates who are not permanent residents, we will hold discussions with the mainland authorities again later at an appropriate time.

MR JAMES TO (in Cantonese): *Part of my question has not been answered. The Secretary has not stated whether the Government has assessed the number of persons falling into this category, and the fundamental impact it will have on Hong Kong if such convenient arrangement cannot be secured?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, information about these figures is not available now.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary has already addressed most of my concerns. My main objective is to facilitate the entry of expatriates residing in Hong Kong to the Mainland. There are people who have resided in Hong Kong for over 20 years and wish to naturalize but are only denied the opportunity for not being fluent in Cantonese. These people are thus also not eligible for applying APEC Card. May I ask the Secretary if there are any other ways that can help them, for it seems that no means are offered to facilitate their entry to the Mainland? Will the Secretary take up the matter with APEC again? Since not many countries have the differentiation between permanent and non-permanent residents, so given the special situation in Hong Kong, could the authorities negotiate with APEC again, or could it review the requirement for naturalization?*

SECRETARY FOR SECURITY (in Cantonese): *Madam President, naturalization is basically unrelated to this question. However, if my memory is not wrong, fluency in Cantonese is not an absolute requirement for English is also an official language in Hong Kong. I think, to be eligible for applying for naturalization, one must have resided in Hong Kong for a specific period of time, whose stay is unconditional and have certain association with Hong Kong.*

As to whether we will propose to the APEC again in future to lower the threshold of the so-called criteria for joining the Scheme to open it to non-permanent residents of Hong Kong, I will not rule out this possibility. I can tell Members that we did strive for the extension with APEC when we first joined the Scheme. However, at that time, only our permanent residents, that is, non-nationals of China who are permanent residents, were granted such arrangement.

PRESIDENT (in Cantonese): We have spent more than 15 minutes on this question. Last supplementary question.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I would like to raise a supplementary on part (b) of the main reply. Since China began to issue the said visa in 2002, have the authorities drawn any comparison between this type of visa and the APEC travel card in terms of their degree of convenience and efficiency? Does the authorities have this type of figures or has it conducted any assessment? Moreover, how many people have successfully applied for this type of document?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I must point out that, though China has announced its intention to join the Scheme, this has not been implemented in China, and China has not yet started to accept application.

As for the number of non-nationals of China residing in Hong Kong with permanent identity card who are holders of multiple-journey visa, we do not have such figures for they are issued by the Chinese Government, not Hong Kong. Besides, we are not in a position to comment on the degree of convenience in crossing the border with this visa. In my main reply, I have stated that discussion with China is still ongoing. As to how the Scheme will be extended to Hong Kong after China has joined the Scheme, it is still under discussion.

PRESIDENT (in Cantonese): Third question.

Controversies Surrounding Equal Opportunities Commission

3. **DR LAW CHI-KWONG** (in Cantonese): *Madam President, it has been reported that the appointment procedures and employment terms of the Chairperson of the Equal Opportunities Commission (EOC) who has just resigned, as well as the recent dismissal of the Director of Operations designate, who was to report for duty this month, has aroused controversy among the public and called into question the independence and credibility of the EOC. Moreover, according to the principles relating to the status and functioning of national institutions for the protection and promotion of human rights (the Paris Principles) endorsed by the United Nations, an institution responsible for human rights affairs should be independent, not be subject to government interventions, given as broad a mandate as possible and adequate funding for performing its functions and have pluralism of membership. In this connection, will the Government inform this Council whether:*

- (a) *it has assessed if the authorities have acted in accordance with and adhered to the Paris Principles in the appointment of the chairperson and members of the EOC; if it has, of the assessment results;*

- (b) *it will follow other countries' practice of formulating codes requiring statutory organizations responsible for human rights affairs to have adequate transparency, impartiality and accountability in their operations; and*
- (c) *it has plans to take measures to safeguard the reputation of EOC and restore public confidence in the EOC?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, taking Dr LAW's questions *seriatim*:

- (a) The Paris Principles relate to the status and functioning of national institutions for the promotion and protection of human rights. The EOC is not such an institution, in that it is not national, and it does not have a broad mandate in respect of all forms of discrimination. Its mandate is limited to discrimination on the grounds of sex, pregnancy, marital status, disability, and family status. While the Paris Principles do not strictly apply to the EOC, we believe that we have largely conformed with the Paris Principles relating to appointment of members to these national institutions and the composition of such institutions. The relevant principles also require guarantees of independence and pluralism.

The Paris Principles relating to the actual act of appointment require that:

"In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured."

The power to appoint the Chairperson and members of the EOC are clearly set out in legislation. Each appointee has a clear term of office and may be reappointed. Thus, we can clearly state that the appointment of the Chairperson and Members of the EOC is and always has been in accordance with the above stated principles.

The Paris Principles prescribe some directions for the composition of national institutions in terms of their membership. In the quest for pluralism, they provide that such institutions shall be established with a procedure that affords all necessary guarantees to ensure the representation of social forces involved in promoting and protecting human rights, particularly by powers that will enable effective co-operation to be established with, or through the presence of, representatives of the following five categories:

- "(i) Non-governmental organisations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organisations, for example, associations of lawyers, doctors, journalists and eminent scientists;
- (ii) Trends in philosophical or religious thought;
- (iii) Universities and qualified experts;
- (iv) Parliament;
- (v) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity)."

The present membership of the EOC clearly demonstrates that the Commission comprises members from almost all these categories. The EOC is empowered to implement the Sex Discrimination Ordinance, the Disability Discrimination Ordinance and the Family Status Discrimination Ordinance. The membership of the EOC comprises persons whose expertise and background are relevant to the Commission's mandate. As with all appointments to the Government's statutory and advisory bodies, our primary aim is to select the best 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 taking into account the need to maintain a balanced composition. The EOC presently comprises members representing women's interests, rehabilitation

groups, the labour as well as business sectors, academics and professionals. The Paris Principles provide for government representation. Our legislation stipulates that no public officer should be appointed as a member of the EOC. We consider that we have even gone beyond the Paris Principles in this regard and this better safeguards the Commission's independence from the Government.

The Paris Principles also require that national institutions have an infrastructure suited to the smooth conduct of its activities, in particular adequate funding. We have examined the position of the EOC against that of national human rights institutions in other jurisdictions and believe that — by comparison — the Commission is amply endowed in terms of its finances and its human, and other, resources.

Other requirements are that national institutions should:

- (i) freely consider any questions falling within their competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;
- (ii) hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
- (iii) address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;
- (iv) meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;
- (v) establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;

- (vi) maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions);
- (vii) develop relations with non-governmental organizations; and
- (viii) hear and consider complaints and petitions concerning individual situation. In so doing, they should be able to seek amicable settlement through conciliation, inform the petitioners of their rights, including the remedies available to them, hear complaints or petitions or refer them to other competent authorities, and make recommendations to the competent authority.

These requirements closely encapsulate the operational functions of the EOC within its mandate as prescribed in the relevant legislation.

- (b) We have examined the practices of statutory human rights commissions in several other jurisdictions. Most of them do have some requirements in regard to transparency, impartiality, and accountability. However, we are unable to ascertain whether they have codes of practice for ensuring transparency, impartiality and accountability. Like them, the EOC in Hong Kong is established by statute. Its powers and functions are clearly set out in the law and it operates independently of the Government. The law in Hong Kong also stipulates that the EOC shall not be regarded as a servant or agent of the Government. The EOC can decide what measures it wishes to adopt to enhance its transparency. It currently has its own website; it publishes an annual report in accordance with the law; and periodically attends the Legislative Council to inform Members about its work.
- (c) The EOC is an independent statutory organization set up since 1996. It has a proven track record and its credibility has been built up in the last seven years. While the recent incidents may have had some impact on how people perceive the Commission, we are

grateful that its staff have continued capably to carry out its functions. It still has 16 members, some of whom have been with the Commission since its establishment. The best course of action now is to be forward looking. We will try to appoint the new Chairperson as soon as possible. The new Chairperson — with the support of other members — will as soon as practicable continue to safeguard the reputation of, and ensure public confidence in, the EOC. The Government will continue to respect and safeguard the EOC's independence. We will also ensure that the composition of the EOC remains pluralist and representative. Last but not least, we will ensure that the EOC remains adequately funded.

DR LAW CHI-KWONG (in Cantonese): *Madam President, in part (a) in page two of his main reply, the Secretary mentioned that having examined the position of the EOC against that of national human rights institutions in other jurisdictions, it was found that, by comparison, the EOC was amply endowed in terms of its finances and its human, and other, resources. Will the Secretary inform us of the countries and jurisdictions with which comparison has been drawn to arrive at that conclusion? Also, whether the comparison has taken account of the cut in the EOC recurrent expenditure?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Madam President, the annual disposable funding of the EOC in Hong Kong amounted to \$81 million last year. Among its 80 or so staff, 77 of them are employed on a full-time basis. A comparison has been made with that of Australia where a Human Rights and Equal Opportunity Commission employs 95 staff, and its annual expenditure is equivalent to HK\$60 million. We have also made reference to the situation in New Zealand where there is a Human Right Commission with an annual funding of HK\$22 million.*

MS CYD HO (in Cantonese): *Madam President, according to the main reply, as our mechanism is more open and transparent compared to other places, our EOC should be sound and perfect and no problem should arise. However, the EOC's dismissal of an appointee before assumption of duty last month did undermine seriously all at once the credibility of the EOC. May I ask the Secretary of the*

reason in his view? If the problem is merely personal, then are there any shortcomings in the procedures related to the selection and appointment by the Chief Executive, thus arousing much controversy even with such a perfect mechanism? Is there any room for improvement?

PRESIDENT (in Cantonese): Ms Cyd HO, can you explain to me how your question is related to the main question and the Secretary's reply?

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

As the main reply talked about the openness, impartiality and transparency of the EOC, and it was also mentioned in the last part, that is, part (c), that the recent incidents might have had some impact on how people perceive the EOC, then on this basis, I would like to know what has gone wrong with our perfect mechanism.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, as with all appointments to the Government's other statutory and advisory bodies, our primary aim is to select the best candidates (the merit principle) in order to meet the requirements of the EOC. Thus, we aim at selecting the best candidate in appointing the Chairperson. We hope that the new Chairperson can uphold the goal and accountability of the EOC, leading the Commission to new horizons. As for the former Chairperson, the Chief Executive had balanced the requirements in various aspects in the selection process and we were sure that he would be the best and ideal candidate in making the appointment.

MS CYD HO (in Cantonese): *Madam President, my question was: Are there any shortcomings in the procedures of selection and appointment? The Secretary only needs to tell me if there are any shortcomings; if the answer is in the affirmative, what improvement can be made?*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, my reply remains the same. We have endeavoured to meet the requirements in all aspects when making the appointment, and we have appointed the candidate with the credibility and capability to discharge the duties of the EOC.

MR IP KWOK-HIM (in Cantonese): *Madam President, the Secretary has indicated in part (c) of the main reply that a new Chairperson would be appointed as soon as possible. As we see that there have been considerable disturbances in the EOC earlier on, the public are also worried whether our confidence in the EOC would be affected. May I ask the Secretary how soon a new Chairperson will be appointed? If a new Chairperson cannot be appointed, how the EOC is going to operate under such circumstances to ensure public confidence in the EOC?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the credibility of the EOC has been built upon its obvious achievement in the last six to seven years since its establishment, and it has gained extensive support from the public. Thus, its credibility is built up in the community as a whole and not by pieces of work done by individuals. The EOC is a body with sound organization, while the post of Chairperson is vacant, it still has 16 members and more than 70 full-time staff providing services to ensure that its operation will continue as usual.

MR IP KWOK-HIM (in Cantonese): *Madam President, the Secretary has not answered as to how soon the new Chairperson would be appointed.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, "as soon as possible" means we are trying day and night to identify a suitable candidate as the Chairperson.

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

MR ALBERT HO (in Cantonese): *As far as we all know, the Paris Principles should be applicable to signatories of the International Covenant on Human Rights or protected regions. Thus, it is inaccurate to say that the principles do not apply to Hong Kong from a restrictive definition. However, I wish to ask a question on the subject of pluralism. In the last part of the main reply, it was mentioned that the composition would remain pluralist and representative in future, but according to the record, among the 16 existing members, half of them have been appointed for more than six years. As stipulated by the Government, the appointment term would not exceed six years in general. Yet the appointment terms of these members have been in breach of the six-year rule most of the time, and worse still, there is no member representing the interests of ethnic minorities and the disabled. Take Prof Stevenson FUNG as an example, he is a person with a disability who should be able to represent the disabled. Nonetheless, his appointment was not renewed lately. How the appointment of the EOC can be pluralist without any representative of the two abovementioned groups, namely, the ethnic minorities and the disabled?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, when I said that the Paris Principles did not apply to the EOC in general, it was because the relevant principles should apply to national institutions or national organizations, which are not very appropriate in the case of Hong Kong. Nevertheless, as an independent administrative region or a separate customs territory, the EOC can be perceived in a broad sense as a national institution. However, the most important principle among the Paris Principles is the broad mandate in legislation on human rights. While the EOC is only empowered to enforce three pieces of legislation, it does not have a broad mandate in respect of human rights. If it is the case, we have to set up a Commission on Human Rights. We can hold discussions on the relevant development in future. Regarding the representativeness of the EOC composition, it comprises members representing women's interests, rehabilitation groups, the labour as well as business sectors, academics and professionals. As to why some members' term of office has exceeded seven years, it is meant to ensure the pluralism of the EOC's membership, while taking into account the need to maintain a reasonable balance of members' expertise and background in reappointment. We need a normal transition on the one hand, and new blood to join the EOC on the other. That is why the term of office of some experienced members would be extended. As they have served on the EOC for so long, if they were replaced at one time, then all its members will be new. We need a one-year transitional period in the interest of continuity.

MR ALBERT HO (in Cantonese): *The Secretary has not answered why there is no representative for the ethnic minorities and the disabled. The Secretary has not accounted for the reason why there is absolutely no such representative.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): As to the ethnic minorities, the legislation does not relate to the regulation of ethnic minorities or racial discrimination. Our three pieces of legislation relate to discrimination on grounds of sex, family status and disability.

PRESIDENT (in Cantonese): Fourth question.

Development of Bond Market in Hong Kong

4. **MR AMBROSE LAU** (in Cantonese): *Madam President, it has been reported that the Central Government supports the development of a bond market in Hong Kong, and our country has chosen Hong Kong to be the first stop of the international tour to promote this year's global issuance of foreign currency national bonds amounting to US\$1 billion and 500 million Euro. In October this year, the Vice-Minister of Finance came to Hong Kong to promote the bonds to local officials and over 200 fund managers. This batch of national bonds will be put up for off-market listing in the Hong Kong Exchanges and Clearing Limited. Moreover, the low interest environment has also generated a great demand for bonds in the market. In this connection, will the Government inform this Council:*

- (a) *of the progress in streamlining bond issuance procedures; whether the authorities have plans to introduce measures for enhancing the work in this respect; if they have, of the details;*
- (b) *of the incentives and related measures to attract local and overseas institutions and enterprises to issue bonds in Hong Kong; and*
- (c) *whether it has plans or measures to develop Hong Kong into a centre for China's foreign currency national bonds and for mainland enterprises to issue foreign currency bonds; if it has, of the details?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, in a bid to further strengthen Hong Kong's status as an international financial centre, the Government has taken a number of measures to promote the development of Hong Kong's financial markets. Of these efforts, the promotion of the development of the bond market is a priority item. From a macro perspective, the development of the bond market would give public and private sectors an additional channel for long-term capital raising, distinct from bank loans and the stock market. It would also help attract overseas companies in need of fund raising. Diversification of investment products would also make it easier to attract overseas investment. To an individual, a more developed bond market would offer him more investment choices that might suit his investment needs and risk appetite. For Hong Kong as a whole, the promotion of the bond market would thus be conducive to the development of the financial industry and its employment and hence the economic well-being of Hong Kong.

The Government has done a lot in relation to the promotion of the bond market, including providing the necessary financial infrastructure, simplifying the issuance process and offering tax incentives. All these should help create a favourable environment that is conducive to the development of the bond market.

- (a) In respect of simplification of the issuance process, the Government plans to overhaul the existing regime of offer of shares and debentures in three phases.

The Securities and Futures Commission (SFC) has implemented the first phase in February 2003, including the issue of the following three Guidelines:

(1) Guidelines on awareness advertisements

In the past, awareness advertisements made by issuers might be regarded as prospectuses and thus these advertisements would have to comply with relevant requirements under the Companies Ordinance. In other words, issuers had to supply voluminous information and documents and register the prospectuses in accordance with relevant procedures. With the issue of the guidelines by the SFC, an issuer may now, in accordance with the guidelines, issue awareness advertisements prior to a public offer of

shares or debentures without being subject to prospectus-related requirements. Awareness advertisements allow potential investors more time to arrange their own finance, thereby facilitating greater retail investor participation.

(2) Guidelines on "dual prospectus"

In the past, if an issuer offered shares or debentures on a continuous or repeated basis, it had to prepare and register a comprehensive prospectus before each offering. The prospectus included basic information about the company which did not require frequent updating. After the introduction of the "dual prospectus" mechanism, an issuer may register a "programme prospectus" which contains information on the issuer's business, financial and other basic information. In its subsequent offerings of shares or debentures, an issuer does not have to prepare the comprehensive "programme prospectus". Instead, it will only have to register an "issue prospectus" which contains offer-specific information such as interest rate and settlement matters. This arrangement significantly reduces the burden of registering and issuing prospectuses, and shortens the lead time required for preparing an offer of shares or debentures.

(3) Guidelines on relaxation of procedural requirements for registration of prospectuses

In the past, an issuer had to submit to the SFC the definitive prospectus (the version that is to be distributed to the public) together with the original of any expert's consent letter for registration purposes. However, an issuer might have engaged an overseas-based expert in some cases and it would take more time to get hold of the original of the expert's consent letter. With the introduction of the new guidelines by the SFC, an issuer may submit to the SFC a faxed copy of expert's consent letter for registration purposes. This measure has facilitated issuers in offering shares or debentures.

Members may be aware that, since the SFC issued the guidelines in February this year, a number of companies have issued retail bonds

in the past few months in Hong Kong which have in turn offered more choices for investors and further facilitated the development of the bond market.

In addition, we have gazetted the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2003 in March this year to exempt the issuer of bonds from providing information that is unnecessary to investors and/or that will impose an unnecessary burden on the issuer in the prospectus.

In the second phase, legislative amendments relating to prospectuses are proposed in the Companies (Amendment) Bill 2003 mainly in response to specific requests from market participants. Among other things, the proposals aim at simplifying the procedures for the registration and issue of prospectuses, thereby fostering the development of retail bonds and other financial products. The Bill was introduced to the Legislative Council in June 2003 and is being examined by the Bills Committee.

As regards the third phase, the SFC will conduct a comprehensive review of all local laws and procedures governing public offers of securities with reference to regulatory reforms introduced in other leading international financial centres, with a view to putting in place a framework that provides the most efficient, competitive and fair environment for issuers and investors alike. The SFC has commenced the review and aims to put forward proposals for public consultation by September 2004.

- (b) In respect of tax incentives, the Government proposed in the 2003-04 Budget speech to increase the tax concessions on trading profits and interest incomes derived from qualified debt instruments (QDIs). The new measure will reduce the eligible maturity period of QDIs for 50% tax concession from not less than five years to not less than three years; and will increase the tax concession for QDIs of not less than seven-year maturity period from 50% to 100%. This proposal has the support of the financial sector and was passed into law by the Legislative Council on 5 November. The increased tax concessions for QDIs should be conducive to the supply and

trading of medium- and long-term debt instruments, thereby facilitating the overall development of the bond market.

- (c) In fact, among Asian countries, Hong Kong is well-positioned to become a bond centre. Our sound legal system, free flow of information, simple and low tax regime, open capital markets and first-class human resources inspire confidence in companies and investors. Apart from these fundamental factors, the Government also plays an active role in establishing a bond clearing and settlement system. For example, to further reduce settlement risk, the Central Moneymarkets Unit (CMU) operated by the Hong Kong Monetary Authority (HKMA) has established linkages with Hong Kong's payment systems for the Hong Kong Dollar, the US dollar and the Euro. This enables simultaneous settlement of funds and bonds to be carried out during Hong Kong hours, thus removing settlement risk arising from time difference. These measures would help Hong Kong gradually develop into a bond centre for this region not only for China.

Madam President, since taking up office, I have been encouraging the public corporations to take the lead in launching debt issuance programmes, including Hong Kong Dollar bonds with longer maturity periods and particularly at the retail level. Last year, we saw Hong Kong Dollar bonds, including retail bonds, with maturities ranging from seven to 15 years issued by the Airport Authority, the MTR Corporation Limited and the Kowloon-Canton Railway Corporation (KCRC). The response from investors has been good. These bonds provide benchmark yield curves for the reference of the market and offer additional choices for investors. As at the end of September 2003, the outstanding amount of Hong Kong Dollar bonds, including the Exchange Fund Bills issued by the HKMA, amounted to \$556 billion. The Government will continue with its multi-pronged approach to developing the bond market. We will keep up our efforts by, among other things, encouraging the public sector to issue bonds, in particular retail bonds; promoting bond investment education; and exchanging views with the financial services industry on how to stimulate the development of the market. Apart from promotional efforts buttressed by government policies, I also hope we can count on the support and participation of both the

markets and the media. Let us work together to develop Hong Kong's bond market and strengthen our status as an international financial centre.

MR AMBROSE LAU (in Cantonese): *Madam President, the Secretary mentioned in the main reply that in respect of the simplification of the issuance process, the Government planned to overhaul the existing regime of offer of shares and debentures in three phases — the exercise would be carried out in three phases. The measure in the first phase was to issue three Guidelines. In this connection, may I ask the Secretary if market participants had been consulted before these three Guidelines were issued; if they had been, which of their views were not adopted by the Government; and if they had not been consulted, then why?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *Madam President, a working group was set up under the then Secretary for Financial Services to examine the development of the bond market. Apart from members of the SFC, this working group was also comprised of market participants. Therefore, before introducing these measures, the views of market participants had been fully considered and we had heard and taken on board many views from the market before making the decisions. I also meet frequently with members of the Hong Kong Capital Markets Association to understand in what areas they think the Government can do more to develop the bond market. Therefore, the exercise is ongoing and will not stop after the work has been completed.*

MR ALBERT CHAN (in Cantonese): *Madam President, when the airport was to be built in 1990, we already suggested to the Government then that the capital could be raised by issuing bonds. A number of Financial Secretaries in office said that this would be examined. However, so far we cannot see any actual result. The Secretary has touched on many areas and given explanations on a number of cases, but the most important thing is the outcome. Can the Secretary tell us when the Government will use the issuance of bonds as a principal means of financing large-scale infrastructural projects, that is, when this will be implemented and should bonds be issued to raise capital, can bonds of smaller denomination be issued so that the general public can purchase them as a way of saving?*

PRESIDENT (in Cantonese): Mr Albert CHAN, the subject of this question is the issuance of bonds by the Government, that is, the simplification of the issuance process for bonds, however, you are asking the Government when it is going to issue bonds, am I right? What is the relationship between the two?

MR ALBERT CHAN (in Cantonese): *Madam President, when things are simplified, naturally things can be done faster. In other words, can the Secretary comment on when the process will be simplified to such an extent that this can be done as soon as possible?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the relevant process is already very simplified and although the relationship between simplification and the timing of bond issuance is rather remote, still I will try to tackle Mr Albert CHAN's supplementary. The Financial Secretary mentioned in the Legislative Council meeting on 22 October that insofar as the issuance of bonds to fund investments in infrastructural projects is concerned, the Government would adopt a proactive approach. In this regard, I can assure Members that the Government will frequently review this matter and will do the appropriate thing at the appropriate time. I have also mentioned in the main reply that, although so far the present Administration has not issued any bonds, as Members all know, we very much encourage public corporations such as the KCRC and the Airport Authority, which are organizations wholly owned by the Government, to issue bonds, in particular retail bonds. These organizations have worked on this area with great success. Therefore, although the Government itself has not issued any bonds so far, these public organizations have made investments in infrastructural projects and issued bonds that were well-received by the market.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, the Secretary mentioned in part (a) of the main reply that an issuer may issue awareness advertisements so long as the relevant guidelines are complied with. In this connection, may I ask the Secretary if information such as the fundamental risks involved in buying bonds or the charges to be borne by the buyer are prescribed in the guidelines, so that retail investors can grasp the basic information before they make investments?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, as far as I can remember, when the Airport Authority issued bonds, it placed an advertisement in the newspapers setting out the interest rates, the term of bonds, and so on. At present, generally speaking, information in many areas, such as the ratings of retail bonds, have to be made public. We believe that in this regard, plenty of information is already available to the public in purchasing bonds. Furthermore, the SFC will also step up its monitoring in this area.

DR TANG SIU-TONG (in Cantonese): *Madam President, the Secretary mentioned in the last paragraph of the main reply that the Government will continue to promote the development of the bond market, in particular that for retail bonds. Will the Government impose restrictions on the issuance of debentures and establish a rating system in Hong Kong, so that debentures rated as junk will not be offered at the retail level in Hong Kong?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the issuance of bonds is a market activity. However, concerning the tax incentives I have mentioned, for example, when institutional investors buy bonds from us, if the bonds are of a poor rating, as Dr TANG Siu-tong has said, they would not be entitled to any tax incentives. Moreover, when issuing bonds, especially retail bonds, the financial institution responsible for issuance has to explain the rating to investors. However, we always hope that the public will understand that the purchase of bonds carries risks, that is, a great deal of risk is involved as far as the rating is concerned. Therefore, we must not merely look at the interest rate but also the rating of the company concerned when purchasing bonds. That was what I meant when I said in my main reply that we hoped the SFC and various institutions concerned would step up publicity and education on bond investment. We should not think that buying bonds is definitely risk-free. The ratings of some bonds may change or be downgraded and there is some risk. Of course, there will not be any problem in buying bonds issued by the Hong Kong Government. *(Laughter)*

DR TANG SIU-TONG (in Cantonese): *Madam President, I wish to seek elucidation on one point. The Secretary said just now that the ratings of some bonds would render them ineligible for tax incentive. May I know if the rating criteria are spelt out clearly?*

PRESIDENT (in Cantonese): Dr TANG Siu-tong, I am sorry, this is not a follow-up but a supplementary. I do not think you will have any chance of raising any further questions today, since 19 minutes have been spent on this question. I will now allow the last supplementary.

MR HENRY WU (in Cantonese): *Madam President, I would like to thank the Secretary for coming before us and introducing the many areas of work done by the Government. I also hope that the Secretary can give an account on how, although this is not the subject of the question today, more small and medium brokerages can be allowed to take part directly in the sale of bonds in future, albeit this is another subject. More importantly, in the entire main reply, the Government tells us that it has done a lot and the time for making preparations has been shortened with regard to awareness advertisements, dual prospectus and other areas. May I ask the Secretary if, after all this work, he knows the length of lead time shortened compared with the past?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I believe Mr Henry WU will understand that the lead time in each case is different because many details are involved, so we cannot say that three months were needed in the past, whereas only one month is now required. However, I can share with Members some of my personal experience. Take the issuance of retail bonds by the KCRC as an example, at that time the Board of Directors was also a bit worried. I would say that the lead time, which was measured in terms of months, would be somewhere between one month or two months. It turned out it only took us 10 days on that occasion to give the approval. I am aware that recently, some issuers of bonds have sung high praises of the efficiency of Hong Kong, that is, of the SFC.

PRESIDENT (in Cantonese): Last oral question.

Staffing and Expenditure of Prisons

5. **MR ABRAHAM SHEK**: *Madam President, will the Government inform this Council:*

- (a) *of the current ratio of Correctional Services Department (CSD) staff to prisoners, and how this ratio compares with that five years ago;*
- (b) *of the CSD's expenditure on prisons in the past financial year, broken down into expenses on various items including staff remuneration, facilities and equipment, and the provision of medical services for prisoners, as well as the respective average daily costs of confining a male and a female prisoner in the year; and*
- (c) *whether the total expenditure on the confinement of prisoners has increased over the past five years; if so, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) As at 31 October 2003, the ratio of CSD staff^{Note} to prisoners is 1:2.13 as compared with 1:1.83 five years ago (that is, 31 October 1998). Details are as follows:

<i>Dates</i>	<i>Number of CSD staff</i>	<i>Number of prisoners</i>	<i>Ratio of CSD staff to prisoners</i>
31 October 1998	6 293	11 488	1:1.83
31 October 2003	6 135	13 086	1:2.13

- (b) In 2002-03, the operating expenditure of CSD was \$2,647 million and the average daily penal population was 12 449 persons, of whom 9 924 were male and 2 525 were female.

Of the operating expenditure of \$2,647 million, an amount of \$2,286 million was for departmental staff remuneration while the remaining \$361 million for other expenses including general departmental expenses, expenses on meals for prisoners, wages for prisoners and expenses on machinery and vehicles. The expenses on the provision of medical services for prisoners, which totalled \$22 million in 2002-03, were borne by the Department of Health.

^{Note} disciplined services staff of the CSD

It is very difficult to provide an exact estimation of the average daily cost of detaining a prisoner and the CSD has not made such estimation. This is because apart from detaining prisoners, the day-to-day operation of the CSD includes the admission and discharge of prisoners, escort of prisoners to and from courts and hospitals, transfer of prisoners in custody between penal institutions, handling visits to prisoners, provision of training and supervision in workshops, as well as medical and welfare services for prisoners. In addition, there are on average 3 000 discharged prisoners receiving aftercare counselling/supervision every day. Some of such services are not applicable to the penal population. If an estimation has to be made on the average daily cost of detaining a prisoner, a rough calculation is to divide the operating expenditure by the penal population and the corresponding figure is \$582.

- (c) The operating expenditure incurred by the CSD has increased from \$2,550 million five years ago (that is, in 1998-99) to \$2,647 million in 2002-03, representing an increase of 3.8%. This was mainly due to civil service pay adjustments and staff salary increments during the period.

MR ABRAHAM SHEK (in Cantonese): *Madam President, may I ask whether the average daily cost of \$582 is reasonable? Has the Government considered lowering the figure by, for example, outsourcing some of the less direct services?*

SECRETARY FOR SECURITY (in Cantonese): As to whether the figure is reasonable, I have explained in the main reply that besides the supervision of the penal population, the CSD has to provide many other services, such as helping discharged prisoners to integrate into society again. Naturally, in view of the resource stringency of the Government, we would try all means possible to pare down the cost. As to whether we would outsource some of the services, the CSD is currently studying the outsourcing of some correctional services with a view to cutting expenditure, but we have not yet come up with any specific decision.

MR MICHAEL MAK (in Cantonese): *Madam President, I could see that the penal population has been rising in recent years, but the number of CSD staff has been going down. May I ask the Secretary whether this tilted and inverse ratio will increase the probability of CSD staff sustaining injuries at work and increase the incidence of accidents among prisoners, such as jailbreak or fightings or the like? May I ask whether the authorities have statistics on this?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, there is no evidence to substantiate that there has been an increase in the number of incidents such as jailbreak, owing to the increase of the penal population in recent years without a corresponding increase in CSD manpower. Certainly, the increased penal population has brought some increased pressure on our CSD colleagues. However, just as I have explained, taking into consideration the Government's tight finances in recent years, every department has to improve its efficiency, and the CSD is no exception. In recent years, our colleagues have hope to do more work with less resources. Just because the CSD is a well-trained disciplined service, therefore our staff have been exerting great efforts in this respect.

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

MR MICHAEL MAK (in Cantonese): *Madam President, the Secretary has not answered whether the number of injuries at work of CSD staff has increased as a result.*

SECRETARY FOR SECURITY (in Cantonese): Madam President, there is no figure to indicate a rise in the number of injuries at work of CSD staff, nor a rise in the number of CSD staff being assaulted at work due to an increase in the penal population. There is no figure to prove these circumstances.

DR RAYMOND HO (in Cantonese): *Madam President, besides providing us with the relevant figure of \$528, which is quite a rough figure of the average daily cost of detaining a prisoner, has the Secretary ever considered carrying out*

the estimation on the daily per capita cost as the penal population changes every day? Or will he provide us with a more reasonable estimation as reference by making reference to the calculation method of foreign countries?

SECRETARY FOR SECURITY (in Cantonese): Madam President, as I said just now, the CSD has not kept such figures. The \$528 cited by me earlier was a rather rough estimation, which divided the operating expenditure of the entire department by the penal population. If Honourable Members need a more detailed figure, perhaps I should go back and think it over, and the outcome would be different from this one if we carry out the estimation on the basis of the manpower and penal population of a specific correctional institution. Perhaps I should go back and study whether we can do the calculation in that way. If we do it in that way, it is possible that the figure of each individual penal institution may be different from each other.

MR HENRY WU (in Cantonese): *Madam President, the Secretary provided the overall figures on the ratio of CSD staff to prisoners in part (a) of the main reply, may the Secretary provide the breakdown of male and female prisoners? In the first paragraph of part (b) of the main reply, we could see a significant difference between the number of male and female prisoners. As far as I know, in recent years, the number of female penal population has increased noticeably. Under such circumstances, will such increase bring enormous pressure on CSD staff? What is the local figure when we compare it with that of overseas' countries?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I wish to talk about the situation five years ago, that is, the figure of the year 1998. At that time, the ratio of CSD staff to male prisoners was 1:1.88; the ratio of CSD staff to female prisoners was 1:1.51. It can be seen that there were more male prisoners at that time. This year, that is, in 2003, the ratio of CSD staff to male prisoners is 1:1.94, which is higher than the figure in 1998; while the ratio of CSD staff to female prisoners has increased to 1:3.27, which has doubled the number of the female penal population five years ago.

As to the comparison with other countries, I can say that our CSD staff ratio to prisoners is similar to that of developed countries or regions. Here are

some examples: in Canada, it is 1:1.1, that is, one correctional officer to 1.1 prisoners; in Australia, it is 1:2.0; in New Zealand, it is 1:2.2; in the United Kingdom, it is 1:2.4.

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

MR HENRY WU (in Cantonese): *Madam President, yes, part of it was not answered. Just because the number of female prisoners would increase, therefore my supplementary asked whether more pressure would be put on female staff of the CSD?*

SECRETARY FOR SECURITY (in Cantonese): My reply to this part of the supplementary is that the pressure will certainly increase, because the ratio was 1:1.51 five years ago, but the ratio has been doubled now, which is 1:3.27. In view of this, the CSD has recently converted a number of correctional institutions for male prisoners into correctional institutions for female prisoners. Furthermore, the Government has recently granted permission to the CSD to recruit 30 female CSD staff, which is mainly a result of the increase in the female penal population.

MR LAU KONG-WAH (in Cantonese): *Madam President, according to the figures provided by the Secretary, the average daily cost of detaining a prisoner is more than \$500, thus the monthly cost will be as much as \$17,000. Is this figure a bit too high in comparison with our neighbouring countries or developing regions? If so, what measure can the Secretary take to reduce it?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I do not have the figures of our neighbouring countries at hand, I could not provide such information off the cuff. I believe if we compare the cost of living of the SAR with our neighbouring countries, of course the cost of living in Hong Kong is higher. In my opinion, our figure would be higher in this respect. However, I do not have here the average daily expenditure of detaining a prisoner in our neighbouring countries or regions. I do not have the information on this now.

MR TOMMY CHEUNG (in Cantonese): *Madam President, just now the Secretary mentioned that the latest ratio of CSD staff to female prisoners has increased drastically. May I ask whether the increase in the ratio was due to the increase of female penal population while the CSD was short of female staff; or whether it was due to the fact that some female prisoners had just committed certain minor offences, or they were just overstayers, therefore the authorities considered the ratio appropriate and manageable?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, the increase in the proportion is certainly a result of the increase in the female penal population. This is mainly because of the increase in the number of mainlanders, especially two-way exit permit holders being arrested or charged by our law enforcement agencies for prostitution, breach of conditions of stay or working illegally, and so on.

MR TOMMY CHEUNG (in Cantonese): *Madam President, the Secretary has not answered my supplementary. Did the shortage of manpower cause the raise in the ratio; or did the Secretary find the ratio acceptable and appropriate, as these people had not committed serious crimes?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, just now I have explained that in view of the increased female penal population now, we therefore have to improve our facilities and increase the manpower. Just now I have mentioned that some of the correctional institutions for male prisoners would be converted into correctional institutions for female prisoners, and we have recruited 30 female CSD staff recently to supervise these female prisoners.

MR JAMES TO (in Cantonese): *Madam President, some members of the public have teasingly said that convicting a person for prostitution is in fact penalizing the Government, as the Government has to bear a cost of a couple of hundred thousand dollars. Taking the daily cost of a few hundred dollars into consideration, this saying is indeed true. With regard to the issue of reducing the penal population, in particular the number of female prisoners, what is the progress of the negotiations on sending them back to the Mainland to serve their*

sentences? Will there be any good news soon, so as to alleviate the pressure on CSD staff?

SECRETARY FOR SECURITY (in Cantonese): Madam President, I believe the CSD is in a somewhat passive position in respect of the penal population, because it really depends on the number of people arrested by law enforcement agencies in their operations, and whether the Judiciary will sentence the accused to the correctional institution. In this respect, the CSD could not take the so-called initiative to reduce the penal population.

Furthermore, Mr James TO mentioned the issue of the negotiations between the SAR and the Mainland on the transfer of prisoners. I can inform Members that the consultation is underway, and we hope that an agreement can be reached as soon as possible, so that we could send mainlanders being jailed in Hong Kong back to the Mainland to serve their sentences; conversely, Hong Kong people being jailed in the Mainland can be sent back to correctional institutions in Hong Kong to serve their sentences. However, I wish to point out clearly that even if we could reach such an agreement, it would not necessarily significantly reduce our current penal population, because according to agreements we concluded with other countries or regions in the past, a prisoner could be sent back to his home country to serve the sentence only with the consent of the three parties concerned. In this respect, which three parties' consent should be obtained? That is, a prisoner could be sent back to his home country to serve the remaining sentence only with the consent of Hong Kong, the receiving country or region, and the prisoner himself. For that reason, the consent of a mainland prisoner should be obtained before he could be repatriated to the Mainland.

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

WRITTEN ANSWERS TO QUESTIONS

Payment of Tun Fu Fees Arising From Fung Shui Concerns

6. **MR ALBERT CHAN** (in Chinese): *Madam President, it is learnt that in undertaking public works projects, the Government may pay Tun Fu fees to the*

people concerned when they claim that the projects will adversely affect the "fung shui" of their villages. In this connection, will the Government inform this Council of:

- (a) the total amount of Tun Fu fees paid out over the past three years and, among those payments, the sum paid through contractors of government projects, together with the project name, reasons for paying the fees, amount paid and name(s) of payee(s) in each case;*
- (b) the measures in place to ensure that public officers approve Tun Fu fees in accordance with the established criteria; and*
- (c) the monitoring measures in place for ensuring that the contractors make full payment of Tun Fu fees to the intended payees?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):
Madam President, my replies to the three parts of the question are as follows:

- (a) Since 1960, Tun Fu fees have been paid prior to the construction work of government projects normally involving land acquisition and clearance, and the work may affect the "fung shui" of the villages concerned. The purposes of such payment are to expedite the progress of government projects and to maintain an amicable relationship with villagers. Tun Fu payments are discretionary in nature. Each case has to be considered on its own merits and particular circumstances. The payments are normally agreed through negotiation with villagers concerned.

Tun Fu fees are not paid through contractors of government projects. In most cases, they are paid to the Village Representatives or Rural Committee Chairmen who are accountable for the expenses incurred in the Tun Fu ceremonies. For a few claims submitted by the clans of indigenous villagers in the New Territories, the clan representatives are accountable for the expenses incurred.

Given that each case is considered on its own merits and involved negotiation with villagers concerned on their claims, the Administration is not in a position to disclose details of each claim.

For Members' reference, a summary of the total payments effected in the past three financial years are set out below:

<i>Financial year</i>	<i>No. of projects involving Tun Fu payment</i>	<i>No. of total claims</i>	<i>Total Tun Fu payment</i>
2001-02	17	29	\$1,120,000
2002-03	13	26	\$2,810,000
2003-04 (up to 30 September 2003)	6	9	\$1,412,000

- (b) All claims of Tun Fu fees must be justified and a list of itemized costs in respect of the Tun Fu ceremonies must be provided for consideration. In determining the level of Tun Fu payment, the authority will take into account the reasonableness of the claim with reference to previous similar claims, the distance between the project site and the village or locality where "fung shui" is alleged to be affected, the deity spots where the Tun Fu ceremonies are to be performed, and so on. The advice of relevant District Officers will also be sought.

To ensure consistency, officers handling Tun Fun claims are issued with established guidelines which are reviewed regularly. As a financial control measure, claims for different level of payments are approved by different authorities. Payment for a claim under \$20,000 is approved by the relevant District Lands Officer. Payment between \$20,001 and \$30,000 has to be approved by the Director of Lands. A claim above \$30,000 has to be approved by the Secretary for Financial Services and the Treasury.

- (c) As explained above, Tun Fu fees are not paid through contractors of government projects.

Tightening of Drink Driving Legislation

7. **MS MIRIAM LAU** (in Chinese): *Madam President, the drink driving legislation has been amended to tighten the statutory limit for blood alcohol*

concentration from 80 mg to 50 mg of alcohol per 100 ml of blood, and the amendment has come into effect since 1 October 1999. In this connection, will the Government inform this Council:

- (a) of the number of accidents involving drink driving and its percentage in all traffic accidents in each of the past three years; and*
- (b) whether it has assessed if the tightening of the drink driving legislation has helped reduce traffic accidents; if so, of the assessment results; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, the legal limit of blood alcohol concentration was tightened in October 1999 from 80 mg to 50 mg of alcohol per 100 ml of blood. To tie in with the revised legislation, the police have strengthened their enforcement against drink driving. The numbers of traffic accidents with casualties involving drink driving and their percentages in all traffic accidents with casualties in the past three years are as follows:

<i>Year</i>	<i>Number of Traffic Accidents with Casualties</i>	<i>Number of Traffic Accidents with Casualties Involving Drink Driving</i>	<i>Percentage of Traffic Accidents with Casualties Involving Drink Driving</i>
2000	14 949	73	0.5
2001	15 631	59	0.4
2002	15 576	81	0.5

Since the tightening of the drink driving legislation in 1999, the percentage of traffic accidents with casualties involving drink driving has remained steady at around 0.4 to 0.5. In addition, as revealed by the screening tests conducted for drivers involved in traffic accidents (including accidents with vehicle damage only), the percentage of drivers found to have consumed excessive alcohol decreased from an average of 3.3% in 1997 to 1999 to 2.3% in 2000 to 2002. Such a decreasing trend indicates that motorists have become more alert to the danger of drink driving. Details are listed below:

<i>Year</i>	<i>Number of Drivers Involved in Traffic Accidents who had Received Screening Tests</i>	<i>Number of Drivers Involved in Traffic Accidents with Alcohol Consumption Exceeding the Legal Limit</i>	<i>Percentage of Drivers Involved in Traffic Accidents with Alcohol Consumption Exceeding the Legal Limit</i>
1997	18 754	861	4.6
1998	25 398	812	3.2
1999	40 822	919	2.3
2000	45 075	1 050	2.3
2001	43 675	991	2.3
2002	43 807	985	2.2

We shall continue to closely monitor the future trend of the number of traffic accidents involving drink driving so as to assess the effectiveness of the tightened drink driving legislation in the longer term.

Manpower Deployment of the Customs and Excise Department for Implementing CEPA

8. **MR KENNETH TING** (in Chinese): *Madam President, will the Government inform this Council how the Customs and Excise Department (C&ED) will deploy its manpower to deal with the work required for implementing the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA), such as the verification of places of origin and factory inspections?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): Madam President, with the implementation of CEPA, products being imported into the Mainland and claiming zero import tariff under CEPA must be accompanied by a Certificate of Hong Kong Origin - CEPA (CO(CEPA)) issued by the Trade and Industry Department (TID) or any of the five Government Approved Certification Organizations in accordance with the CEPA rules of origin.

Under the above arrangement, manufacturers must first register with the TID in respect of the products they produce before they are eligible to apply for CO(CEPA). Officers of the C&ED will conduct inspections on factories to verify all materials supporting their applications for registration.

C&ED officers will conduct physical checks on consignments covered by CO(CEPA) to verify the accuracy of material particulars declared on the certificates. Inspection on goods will also take place at boundary exit points. Suspected malpractice will be subject to full investigation.

Apart from consignment checks, C&ED officers may conduct costing checks on certain goods whose origin is determined on the basis of a value-added percentage threshold to ensure that they are eligible for zero tariff under CEPA.

At this stage, we are unable to estimate the concrete number of CO(CEPA) applications. The C&ED estimates that the control work relating to CO(CEPA) applications may be met in the initial period by internal redeployment of staff now engaged in other duties. However, after the actual implementation of CEPA, and in the light of other developments affecting manpower resources, the C&ED will be in a better position to assess the need for additional resources for CEPA-related duties.

Studies on Establishment of Border Industrial Zone

9. **MRS SOPHIE LEUNG** (in Chinese): *Madam President, in a motion debate at the Council meeting on 3 July this year, I urged the Government to expeditiously set up a border industrial zone. The Secretary for Commerce, Industry and Technology responded at the meeting that he and his colleagues in the Special Administrative Region Government would seriously consider the issue further. It was reported that some members of the business community had recently proposed to the Chief Executive that a special border industrial zone should be set up. On 19 October, this year, the Chief Executive told the media that the proposal would be studied seriously with a new way of thinking. In this connection, will the Government inform this Council:*

- (a) *whether the Administration and public bodies have so far conducted studies or assessments on the utilization or development of the border areas; if they have, of the timetables and the progress of such*

studies or assessments; if the studies or assessments have been completed, of the results; if no study or assessment has been conducted, the reasons for that;

- (b) whether the studies or assessments in (a) above include the study that the Chief Executive referred to; if not, of the details of the Chief Executive's study and the government department that is responsible for the study, as well as the timeframe for releasing the findings; and whether the authorities will consider setting up an inter-departmental task force to co-ordinate the study; if not, the reasons for that; and*
- (c) whether the authorities, when conducting the studies or assessments mentioned in (a) and (b) above, have taken into account the views of the parties and organizations concerned, such as local and foreign investors, the Guangdong Provincial Government, the Shenzhen Municipal Government and the relevant departments; if so, how their views were collected and assessed; if not, the reasons for that?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): Madam President, the border area features a wide geographical spread and is in a unique location in view of its proximity to Shenzhen. In considering development of the border area, the Government will take into account the characteristics of the area and base its decision on the best overall interests of Hong Kong. As regards the specific issues raised, I would like to respond as follows:

- (a) The Planning Department is conducting a long-term planning study known as "Hong Kong 2030: Planning Vision and Strategy" (HK2030 Study). One of the issues examined in the study is the long-term development of the border area. The scope of the study includes the development constraints and potential of the area (including the natural environment, geographical location, supporting infrastructure, and so on) as well as the use of the area in the long run. The HK2030 Study comprises four stages. The Planning Department has now completed the third stage of the study and will consult the public on the findings at the end of this month. It is expected that the whole study will be completed in 2004-05.

- (b) The HK2030 Study will look into the long-term planning of the border area, and make preliminary assessment on the possible uses of the area, including proposals for industrial uses. The HK2030 Study and the associated public consultation are co-ordinated by the Planning Department. Views collected during the consultation period will be forwarded to the relevant bureaux and departments for further consideration. As the Chief Executive stated on 19 October this year, the Government welcomes any good proposals that can benefit the economy and provide more employment opportunities. Such proposals will be considered and studied seriously with a new mindset. The Government has an open mind on the use of the border area and will consult the public before formulating concrete proposals.
- (c) Extensive consultation was conducted by the Planning Department last year over the content of the HK2030 Stage Two Study, including the development of the border area. Relevant mainland authorities were also briefed on the latest progress of the Study through the Town Planning Special Panel set up under the Hong Kong/Guangdong Joint Working Group on Sustainable Development and Environmental Protection. Views collected during the consultation are set out in the HK2030 Stage Two Public Consultation Report, which was submitted to the Legislative Council last November. The report has also been uploaded onto the HK2030 Study website at < <http://www.info.gov.hk/hk2030> > . In the forthcoming Stage Three consultation exercise of the HK2030 Study, the Planning Department will continue to collect public views through various organizations (including the Legislative Council and other professional bodies) and channels (including briefings, focus group meetings, roving exhibitions).

Studies Commissioned and Exhibitions Organized by Trade Development Council

10. **MISS CHAN YUEN-HAN** (in Chinese): *Madam President, will the Government inform this Council whether it knows, in respect of the past three years:*

- (a) *if the Hong Kong Trade Development Council (TDC) engaged private organizations to conduct studies; if it did, of the names of the organizations, the respective names of the studies, the time and amount of money required, and the percentage of the study fees in the TDC's annual operation costs;*
- (b) *how the number of exhibitions organized by the TDC each year compared to that of the exhibitions held locally by the private sector during the same year;*
- (c) *the criteria or assessment mechanism adopted by the TDC for deciding whether an exhibition should be organized, and whether they included if private organizations had organized similar exhibitions; and*
- (d) *among the exhibitions organized by the TDC, the number of those which had themes and target audiences similar to those organized by private organizations during the same period?*

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

- (a) To keep Hong Kong businessmen informed of the changes in international trade regulations, as well as the development trends in various markets and industries, the TDC engages academic institutions, market research companies and experts with relevant expertise to assist it in gathering market intelligence and conducting detailed studies.

Information and findings consolidated will be disseminated by the TDC to local businessmen through study reports, regular newsletters, e-newsletters or e-mails. Its research, survey and monitoring efforts focus on the following two areas:

- (i) Market, product and sectoral development: the TDC's Research Department commissions experts and market research companies around the world to carry out special

studies on the latest development in various markets, new trends in industries, market entry strategies and marketing opportunities. The objective is to help Hong Kong businessmen map out their corresponding business strategies. These studies take about three to 12 months to complete (please refer to Annex 1 for details). The expenses involved and its percentage in the TDC's expenditure for the years concerned are set out as follows:

<i>Year</i>	<i>Expenses on market, product and sectoral development studies/ the TDC's overall expenditure for the year HKD'000</i>	<i>Percentage in the TDC's overall expenditure for the same year (%)</i>
2001-02	7,585 / 1,393,660	0.5443
2002-03	5,333 / 1,487,860	0.3584
2003-04	2,721(up to September) / 1,523,464	0.1786

- (ii) Survey on buyers and exhibitors in local exhibitions: the TDC hires independent market research companies to conduct interview surveys on buyers and exhibitors in its major international trade fairs launched in Hong Kong. These surveys take about three to four days, to be followed by reports after the fairs to update local businessmen on the latest market, product and sourcing trends of individual products. The TDC uploads these reports onto the Internet for the information of the business community (please refer to Annex 2 for details).

<i>Year</i>	<i>Year Expenses on surveys on buyers and exhibitors in local exhibitions/ the TDC's overall expenditure for the year HKD'000</i>	<i>Percentage in the TDC's overall expenditure for the same year (%)</i>
2001-02	1,184.9 / 1,393,660	0.085
2002-03	1,383 / 1,487,860	0.092
2003-04	230 (up to September) / 1,523,464	0.015

Studies under the above two areas incurred a total expenditure of HK\$8.769 million in 2001-02, HK\$6.716 million in 2002-03 and HK\$2.951 million up to September of 2003-04, which respectively accounted for 0.629% (2001-02), 0.451% (2002-03) and 0.194% (up to September of 2003-04) of the annual overall expenditure of the TDC.

- (b) According to the figures provided by the Hong Kong Convention and Exhibition Centre (HKCEC), the number of exhibitions organized by the TDC against the total number of exhibitions held in the HKCEC in the past three years are as follows:

Exhibitions held in the HKCEC (All exhibitions included)

	<i>Total</i>	<i>TDC Exhibition</i>	<i>Percentage</i>
2001	129	20	15.5%
2002	105	20	13.3%
2003* (up to 31 October)	111	23	20.7%

* Many exhibitions held by private organizations were cancelled because of SARS. In contrast, the TDC organized a supplementary exhibition in July to help local businessmen receive orders after the incident.

The above figures are compiled on the basis of statistics about exhibitions held in the HKCEC. Owing to commercial reasons, the relevant figures on other exhibition venues are not available. If the latter figures are also taken into consideration, the number of exhibitions held by the TDC will account for an even lower percentage of the exhibitions held in Hong Kong.

Furthermore, the percentage of new exhibitions organized by the private sector at the HKCEC has far exceeded that of the TDC in recent years. For example, of the 14 new exhibitions held at the HKCEC in 2002, only one was organized by the TDC.

As a pioneer in organizing many types of exhibitions, the TDC welcomes the private sector to organize more exhibitions for

promoting various trades and industries. The TDC believes that with proper scheduling and co-ordination, it can work with the private sector to expand Hong Kong's exhibition industry, and reinforce Hong Kong's status as an exhibition capital.

- (c) The prime consideration for the TDC in organizing a new exhibition is the potential of the exhibition to assist individual industries in promoting and increasing their exports, rather than to make a profit. This is the major difference between the TDC and the private sector. In considering whether to organize an exhibition, the TDC will also assess whether similar exhibitions have been organized by the private sector.

Over the past five years, in view of the needs of the film and television industry, the licensing sector, information and communication technology industry, as well as the lighting industry, the TDC organized new trade fairs to help them with promotion.

In fact, some new exhibitions of the TDC are outgrowths of the existing ones. For instance, lighting was one of the special sections of the Hong Kong Electronics Fair. Since the lighting industry has been developing rapidly, the TDC singled it out for a fair of its own, so as to provide the industry with a dedicated promotion platform.

Besides, in light of the shortening life cycle of a number of products, particularly those in the electronics, toys and gifts industries, the TDC considers it necessary to provide these industries with more marketing opportunities.

The toys, houseware and gifts industry is a case in point. The supplementary fair held in last July and the subsequent comprehensive survey that followed demonstrated to the TDC the marketing and sourcing demand in summer. Thus, the TDC decided to stage an additional trade fair for these three industries in July next year.

Organizing a new exhibition requires a great deal of resources. The TDC has to conduct extensive surveys to ensure there is a

demand for it. For the additional trade fair to be held in July next year, the TDC conducted a number of surveys by questionnaire, face-to-face interview and group discussion to ascertain the demand before making the decision.

- (d) Of the exhibitions now staged by the TDC, most began as the only one of its kind for that particular industry. In other words, the TDC is the fore-runner of many trade-specific exhibitions in Hong Kong. In the case of the fashion and clothing industry, the TDC launched the Hong Kong Fashion Week as early as in 1970. Besides, it also organized the first Hong Kong Toys and Games Fair in 1975, the first Hong Kong Electronics Fair in 1981 and the first Hong Kong Watch & Clock Fair in 1982. All these exhibitions were launched 10 to 20 years ahead of those organized by the private sector.

In the past decade, the exhibition industry has gradually developed in the private sector, fuelled by the robust development of all trades, the change of the international sourcing cycle as well as the completion of Phases I and II of the HKCEC. Exhibitions in Hong Kong have expanded in scale with increasing commercial values.

Please refer to Annex 3 for the dates of the first exhibitions for various trades and industries initiated by the TDC, the dates of those initiated by the other organizations and the themes of such exhibitions.

The TDC is a facilitator of Hong Kong's exhibition industry, not a competitor with the private sector. It is the duty of the TDC to enhance our external trade and organizing trade fairs is the most effective means to achieve this end. Organizing trade fairs is a basic function of the TDC. The TDC believes that it can co-exist with exhibition organizers in the private sector because of their different roles. Exhibitions held by the TDC aim at promoting Hong Kong's export trades. They are scheduled with an adequate time gap from those with similar themes held by other organizations in accordance with the international practice of the exhibition

industry. Above all, the TDC is very willing to co-operate with the private sector, and there is no question of direct competition.

Annex 1

Details of the TDC's Study Reports
2001-02 to 2003-04 (up to September)

<i>2001-02</i>	
<i>Project</i>	<i>Responsible Organization</i>
Positioning Hong Kong as Asia's Exhibition Capital	A.T. Keaney (Hong Kong) Limited
Study of Branding Hong Kong Product	Grey Advertising Hong Kong Limited
Study on perception of main end-users on Hong Kong's IT services	ACNielsen (China) Limited
Competitiveness and export potential of Hong Kong's design services	ACNielsen (China) Limited
United States Business Alert (12 issues in total)	Sandler, Travis & Rosenberg, P.A.
European Union Business Alert (12 issues in total)	Van Bael & Bellis
Distribution and Sourcing of Garment in the European Union	GfK Markforschung GmbH
Distribution system of consumer goods in the Pearl River Delta	Sinomart Development (Holdings) Limited
Survey on China's clothing market	Consumer Search Hong Kong Limited
Specified service supplied by medical and health research network	The University of Hong Kong
Export potential of Hong Kong's music industry	Media Station
Export potential of Hong Kong's HR recruitment and training industry	Mutual Partner Resources Limited
Total for 2001-02	HK\$7,585,000
Overall Expenditure of TDC for 2001-02	HK\$1,393,660,000
The percentage of research expenses in the overall expenditure of TDC for 2001-02 was 0.5443.	

<i>2002-03</i>	
<i>Project</i>	<i>Responsible Organization</i>
Study of licensing business in mainland China	Character Databank Limited
China infrastructure and building project news for Hong Kong companies	Scott Wilson Limited
United States Business Alert (12 issues in total)	Sandler, Travis & Rosenberg, P.A.
European Union Business Alert (12 issues in total)	Van Bael & Bellis
Survey on Hong Kong as a sourcing centre for mainland products	Taylor Nelson Sofres Hong Kong Limited
Research project on success stories of brand-building on the Mainland	Lu Taihong
Study of marketing services market in mainland China business opportunities for Hong Kong companies	Grey Insight Company Limited
Survey on garment shoppers in second and third tier China cities	Consumer Search Hong Kong Limited
Hong Kong Guangzhou synergy study	Sinomart Development (Holdings) Limited
Survey on leather shoppers in major China cities	Oracle Marketing Research Limited
Survey on China's jewellery market	Consumer Search Hong Kong Limited
Survey on watch shoppers in major China cities	Consumer Search Hong Kong Limited
The development of private enterprises in China and opportunities for Hong Kong	The Academy of Macroeconomic Research
China Business Alert Supplement on Pearl River Delta	Sino Development Holdings Limited
Updating: "Guide to doing business in China"	Sinomart Development (Holdings) Limited
Survey of FilmArt 2002	ACNielsen (China) Limited
Study of the mainland publishing market for Hong Kong companies	Public Communication Strategic Consultancy Limited
Updating: "Guide to working and living in China"	Cai Fuqiu
Total for 2002-03	HK\$5,333,000
Overall Expenditure of TDC for 2002-03	HK\$1,487,860,000
The percentage of research expenses in the overall expenditure of the TDC for 2002-03 was 0.3584.	

<i>2003-04 (up to September)</i>	
<i>Project</i>	<i>Responsible Organization</i>
Business strategies of Hong Kong logistics company in mainland China	Arthur D Little Asia Pacific Limited
China infrastructure and building project news for Hong Kong companies	Scott Wilson Limited
Customer expectation survey on service industries	ACNielsen (China) Limited
United States Business Alert (12 issues in total)	Sandler, Travis & Rosenberg, P.A.
European Union Business Alert (12 issues in total)	Van Bael & Bellis
Study on the rising demand for green products and environmental friendly production	Business Environment Council Limited
Telephone survey of the impact of SARS on Hong Kong exports	Oracle Marketing Research Limited
Survey on European companies in Pearl River Delta/Guangdong	Consumer Search Hong Kong Limited
Total for 2003-04 (up to September)	HK\$2,721,000
Estimated Annual Expenditure of the TDC for 2003-04 (up to September)	HK\$1,523,464,000
The percentage of research expenses in the estimated overall expenditure of TDC for 2003-04 (up to September) is 0.1786.	

Annex 2

The TDC's Surveys on Exhibitors and Buyers in Local Exhibitions

2001-02

<i>Exhibition</i>	<i>Research Company Commissioned</i>
Hong Kong Gifts and Premium Fair	ACNielsen
Hong Kong Watch and Clock Fair	ACNielsen
Hong Kong Electronics Fair	ACNielsen
Hong Kong Toys and Games Fair	ACNielsen
Hong Kong Fashion Week (Fall and Winter)	ACNielsen
Hong Kong International Jewellery Show	Oracle
Total for 2001-02	HK\$1,184,900
Overall Expenditure of TDC for 2001-02	HK\$1,393,660,000
The percentage of expenses on surveys on exhibitors and buyers in local exhibitions in the overall expenditure of TDC for 2001-02 was 0.085.	

2002-03

<i>Exhibition</i>	<i>Research Company Commissioned</i>
Hong Kong Houseware Fair	ACNielsen
Hong Kong Watch and Clock Fair	Oracle
Hong Kong Electronics Fair	ACNielsen
Hong Kong Toys and Games Fair	ACNielsen
Hong Kong Fashion Week (Fall and Winter)	Oracle
Hong Kong International Jewellery Show	Oracle
Hong Kong's Exhibition Industry	Business Strategies Group
Total for 2002-03	HK\$1,383,000
Overall Expenditure of TDC for 2002-03	HK\$1,487,860,000
The percentage of expenses on surveys on exhibitors and buyers in local exhibitions in the overall expenditure of TDC for 2002-03 was 0.092.	

2003-04 (up to the end of September)

<i>Exhibition</i>	<i>Research Company Commissioned</i>
July supplementary show, 2003	ACNielsen
Hong Kong Book Fair	ACNielsen
Hong Kong Watch and Clock Fair	ACNielsen
Total for 2003-04 (up to September)	HK\$230,000
Estimated Overall Expenditure of TDC for 2003-04	HK\$1,523,464,000
The percentage of expenses on surveys on exhibitors and buyers in local exhibitions in the estimated overall expenditure of TDC for 2003-04 is 0.015.	

Annex 3

The TDC's exhibitions assisting in promotion of Hong Kong's major industries

<i>TDC Exhibitions</i>	<i>Year of Establishment</i>	<i>Exhibitions organized by other fair organizers</i>
<i>Hong Kong Fashion Week</i> The TDC has added a Spring and Summer version of the show since 1994.	1970	The APLF Show, organized by the Asia Pacific Leather Fair Limited, has been staged since 1984.

<i>TDC Exhibitions</i>	<i>Year of Establishment</i>	<i>Exhibitions organized by other fair organizers</i>
To further promote Hong Kong's brand names in the fashion sector, the TDC created the "World Boutique, Hong Kong" in 2003, which was staged concurrently with Hong Kong Fashion Week.		
<i>Hong Kong Toys and Games Fair</i>	1975	A show promoting toy, gifts and houseware has been organized by Kenfair since 1992.
<p><i>Hong Kong Electronics Fair</i></p> <p>The TDC staged the electronicAsia, a fair focused on the promotion of parts and components in 1997. It was staged concurrently with the Electronics Fair.</p> <p>The TDC will stage a Spring version of the electronics show from 2004.</p>	1981	Asia Elenex organized by Hong Kong Exhibition Services Limited was founded in 1984.
<i>Hong Kong Watch and Clock Fair</i>	1982	A watch and clock show organized by another organization does not allow OEM/ODM exhibitors.
<p><i>Hong Kong Houseware Fair</i></p> <p>(Originally named as Hong Kong Gifts and Houseware Fair which was splitted into two consecutive fairs in April)</p>	1986	A show on toys, gifts and houseware organized by Kenfair was founded in 1992.
<p><i>Hong Kong Gifts and Premium Fair</i></p> <p>(Originally named as Hong Kong Gifts and Houseware Fair which was splitted into two consecutive fairs in April)</p>	1986	A show on toys, gifts and houseware organized by Kenfair was founded in 1992.
<i>Hong Kong International Jewellery Show</i>	1987	<p>The "June HK Jewellery & Watch Fair" was founded by CMP Asia Limited in 1998.</p> <p>Another jewellery show organized by the Hong Kong Jewellery Manufacturers Association was founded in 1993.</p>

<i>TDC Exhibitions</i>	<i>Year of Establishment</i>	<i>Exhibitions organized by other fair organizers</i>
<p><i>Hong Kong Book Fair</i></p> <p>(The fair was originally organized by the local publishing sector. It was handed over by the industry to the TDC in 1990. Major publishing organizations in Hong Kong assist in organizing the event)</p>	1990	A private organization plans to stage the Hong Kong Book Festival in December 2003.
<i>Food Expo</i>	1990	The Restaurant & Bar Hong Kong, organized by Restaurant Events Limited, was firstly staged in 2002.
<i>Hong Kong Optical Fair</i>	1991	Apart from the TDC's Hong Kong Optical Fair, there is no trade fair specifically organized for the industry.
<i>Education and Careers Expo</i>	1991	Apart from the TDC, there is no organization focusing on Hong Kong's career and education opportunities.
<p><i>Hong Kong International Stationery Fair</i></p> <p>(Originally named as Pen & Paper)</p>	1996	There is no other show specifically focused on promoting the stationary industry.
<i>Hong Kong International Hardware and Home Improvement Fair</i>	1997	Jointly organized by Koelnmesse Pte Limited and Adsale Exhibition Services Limited, the InterSource Hardware Asia will firstly be staged in 2004.
<i>Hong Kong International Film and TV Market (Filmart)</i>	1997	There is no other show specifically focused on promoting the local film and TV sector.
<p><i>International ICT Expo</i></p> <p>(Originally named as Hong Kong Information Infra Structure Expo)</p>	1998	Asian IT Expo, organized by Adsale Exhibition Services Limited, was firstly staged in 1989. The show used to run in September, which is five months after the TDC's IT show. The show promotes IT products in Asia while the TDC's show aims at promoting Hong Kong's IT services.
<i>Hong Kong International Lighting Fair</i>	1999	A number of local trade fairs include the lighting sector, but the TDC's lighting show is the only trade fair dedicated to the industry.

Chief Executive's Exercise of Discretionary Power on Continued Payment of Pensions to Retired Civil Servants or Judicial Officers During Reappointment to Public Service

11. **MS EMILY LAU** (in Chinese): *Madam President, if civil servants or judicial officers to whom pensions have been granted are reappointed to the public service, or appointed to service in any subvented organization, the authorities usually suspend the payment of the monthly pension to them during the period of their service. However, the Chief Executive may exercise his discretionary power to allow them to continue to receive their pensions during the period concerned. In this connection, will the executive authorities inform this Council:*

- (a) *of the factors the Chief Executive normally takes into account before deciding whether to exercise the discretionary power;*
- (b) *of the number of cases in which the Chief Executive exercised the discretionary power in the past three years and, in respect of each case, the name of the retired officer, the public service taken up by him and the reasons for his being allowed to continue to receive his pension; and*
- (c) *as there have been comments that the continued receipt of pensions by the officers concerned during the periods of their service amounts to double benefits and abuse of public funds, whether the authorities will consider amending the legislation to abolish or tighten up the provisions on the Chief Executive's exercise of the discretionary power; if so, of the timeframe for introducing such amendments; if not, the reasons for that?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): Madam President, the question raised by the Honourable Emily LAU touches on the arrangements for civil servants and judicial officers. In respect of judicial officers, we have consulted the Judiciary and have obtained the relevant information from them. Detailed reply is as follows:

- (a) The civil service pension schemes comprise the Old Pension Scheme and the New Pension Scheme which are governed by the Pensions Ordinance and the Pension Benefits Ordinance respectively. Both Ordinances are administered by the Secretary for the Civil Service. Under section 11 of the Pensions Ordinance and section 26 of the Pension Benefits Ordinance, if a retired civil servant is reappointed to the public service, or appointed to service in any subvented organization which is determined to be public service by the Chief Executive by notice in the Gazette, the Chief Executive may exercise his discretion to suspend the payment of monthly pension to the officer concerned. The exercise of this authority is discretionary but not mandatory. The Chief Executive may determine whether or not to exercise his discretion to suspend pension payment depending on individual circumstances.

The pensions legislation which are applicable to judicial officers include the Pensions Ordinance and the Pension Benefits (Judicial Officers) Ordinance. The former is related to the Old Pension Scheme while the latter is related to the New Pension Scheme. The Pensions Ordinance is administered by the Secretary for the Civil Service while the Pension Benefits (Judicial Officers) Ordinance is administered by the Chief Justice.

In respect of judicial officers, under section 28 of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401), if a retired judicial officer is reappointed to the public service, or appointed to service in any subvented organization determined by the Chief Executive by notice in the Gazette as public service, the Chief Executive may suspend the pension of the relevant officer. The Ordinance does not specify the criteria for pension suspension. The Chief Executive may determine whether or not to exercise his discretion to suspend pension payment depending on individual circumstances.

- (b) In respect of civil servants, in the past three years, the Chief Executive has only waived the pension suspension for five cases.

These five cases involved 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. In allowing these officers to receive pensions while appointed as Principal Officials, the Chief Executive had taken into account the fact that the remuneration of the Principal Officials does not include any gratuities or retirement benefits (other than the statutory minimum mandatory provident fund) and there is no security of tenure. This approval 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 are appointed to the public service as stipulated under the pensions legislation, 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.

In addition, in the past three years, under delegated authority from the Chief Executive, there were 442 cases (340 cases were reappointments to the Government; 102 cases involved service in the relevant subvented organizations) involving retired civil servants taking up employment on a part-time (for a period of not more than 24 hours a week) or short-term basis (for a period of not more than three months) who were allowed to receive their pensions. The major consideration for allowing retired civil servants appointed to the public service on a part-time or short-term basis to continue to receive pensions is the short-term nature of these appointments. This arrangement has been a long-standing practice and was formalized in 1994.

In respect of judicial officers, in the past three years, the Chief Executive has only waived the pension suspension arrangement on one case which is the case already publicly known involving ex-Chairman of the Equal Opportunities Commission. In that case, the Chief Executive had taken into account the fact that the individual had to retreat from his retirement and to resign from various other public and private sector appointments in order to take

up the full-time employment of the Commission. The Chief Executive therefore acceded to the individual's request not to suspend his pension. In addition, according to information provided by the Judiciary, during the past three years, there were two cases involving retired judicial officers taking up positions in the public service on a part-time or short-term basis who were allowed to continue to receive their pensions.

To protect individual privacy, we do not consider it appropriate to disclose the names and the appointment of those concerned in the abovementioned cases.

- (c) It should be noted that the grant of pensions to civil servants and judicial officers after retirement is a right as provided for under the pensions legislation. The current policy on pension suspension, as shown from the cases under (b), is that if a retired civil servant or judicial officer is appointed to the public service after retirement, the pension suspension arrangement will apply other than for short-term or part-time appointments or under exceptional circumstances. We consider that this policy remains broadly appropriate.

Prescription List Prepared by Hospital Authority

12. **MR MICHAEL MAK** (in Chinese): *Madam President, it has been reported that the Hospital Authority (HA) is preparing a prescription list and plans to require doctors of public hospitals to refer to the list when making prescriptions. In this connection, will the Government inform this Council whether it knows:*

- (a) *the reasons for the HA's preparing the list and the process of its preparation, as well as the contents of the list;*
- (b) *the HA's timetable to put the list into effect;*
- (c) *the criteria adopted by the HA in determining the drugs to be included in the list;*

- (d) *if the HA will formulate guidelines whereby doctors may prescribe drugs not on the list upon the request of patients; if so, of the details of such guidelines; and*
- (e) *if the HA has assessed whether its expenditure on drugs will be reduced with the adoption of the list; if that is the case, of the reasons for that and the magnitude of the reduction?*

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

- (a) The purpose of developing a standard Drug Formulary is to standardize the use of drugs in all HA hospitals. The use of a standardized drug list will ensure the provision of safe, rational, equitable, efficacious and cost-effective drug treatment to patients, which will in turn contribute to quality patient care. It will also ensure that patients in public hospitals would have similar access to drug therapy.

The standard Drug Formulary is being prepared by the HA Central Drug Utilization Review Committee. A total of 10 expert panels comprising specialist clinicians, pharmacists and academics in pharmacology have been set up under the Drug Formulary Committee, which is a subcommittee of the HA Central Drug Utilization Review Committee, to deliberate on the usage and screening of drugs for each clinical specialty. A proposed standard Drug Formulary will be submitted to the HA Central Drug Utilization Review Committee for approval before implementation.

- (b) Depending on the actual progress of the deliberations at the expert panel level, the initial standard Drug Formulary will be put into effect in 2004 or 2005, but the Formulary will be under constant review and development in view of the rapid advance in pharmaceutical technology.
- (c) The screening of drugs for inclusion on the standard Drug Formulary is conducted in accordance with the principles laid down by the HA Central Drug Utilization Review Committee. The main

criteria for drug selection include: the available evidence on efficacy and safety; clinical data; cost-effectiveness; and current practice. Overseas as well as local clinical opinions and research findings will be taken into consideration. In addition, consideration will be given to include a number of options for each class of drugs.

- (d) The HA will formulate guidelines on the prescription of drugs outside the standard Drug Formulary. The details of the guidelines have yet to be worked out.
- (e) The purpose of developing the standard Drug Formulary is to standardize the use of drugs in all HA hospitals and is intended to promote the quality of patient care by ensuring safe, rational, equitable, efficacious and cost-effective drug treatment to patients. This initiative is, therefore, not expected to have a significant effect on reducing the overall expenditure on drugs and no assessment has been made in this regard.

Licences for Private Cars From Hong Kong/Macao to Enter/Exit the Mainland

13. **MR NG LEUNG-SING** (in Chinese): *Madam President, will the Government inform this Council whether:*

- (a) *it knows if the Guangdong authorities prohibit the private transfer of the licences they issue for private cars from Hong Kong/Macao to enter/exit the Mainland; if so, whether the relevant mainland authorities have discussed with the Government of the Hong Kong Special Administrative Region (SAR) how they would curb such illegal transfers or collaborated with the SAR Government in this respect, and if there have been discussions or collaboration, of the achievements; and*
- (b) *the Administration has received any views from the public on issues such as the Guangdong authorities' procedure for granting licences, application eligibility and the adequacy of the number of licences granted to meet the cross-border economic and trade needs; if so, whether it has reflected such views to the Guangdong authorities*

and the responses it has received; if not, whether the Administration will take the initiatives to look into the issues and present its views to the Guangdong authorities?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, at present, for Hong Kong people to drive their private cars across the boundary into the Mainland and back, it is necessary to obtain a "Hong Kong and Macau Private Car Boundary-Crossing Licence" (the Licence) from the Public Security Bureau of Guangdong Province and a "Closed Road Permit" (the Permit) from the Transport Department of the SAR Government for crossing the boundary at designated Boundary Control Point. The issue of the Licences and Permits are subject to the control of a quota system which is designed to ensure smooth cross-boundary traffic flow at all the land crossings. Under the existing quota system for private cars, the Guangdong and SAR authorities have been allocating a certain amount of quotas per month for eligible Hong Kong private car owners to apply. The mainland authorities are responsible for setting the procedures and application criteria for issuing the Licences, which are determined with regard to mainland situations and considerations. To our understanding, the private transfer or trading of the Licences is illegal in the Mainland. So far, the SAR Government has not received any request from the mainland authorities for assistance to curb the illegal transfer of such Licences.

We have received views from members of the public on matters regarding the issue of quotas and Licences, mostly on quota allocation. In order to meet the increasing demand for quotas, the authorities of both sides will continue to issue a certain number of quotas every month and closely monitor the operation of the quota system. We would allocate additional quotas when the situation warrants and if the handling capacities of our Boundary Control Points and associated road networks allow us to do so.

Locating Fuel Storage Facilities Outside Territory

14. **MR FRED LI** (in Chinese): *Madam President, the Government invited tenders for the sale of five petrol filling station (PFS) sites in June this year, and abolished the requirements that bidders should hold an import licence and supply*

contract. Newcomers interested in entering the retail markets may therefore opt to purchase oil from other market players, or have their fuel storage facilities located outside the territory. In this connection, will the Government inform this Council:

- (a) of the number of successful bidders that have indicated that their fuel storage facilities would be located outside the territory; and the estimated amount of fuel that these companies will store outside the territory for supply to Hong Kong in the coming year;*
- (b) whether it has assessed if the result of this tender exercise will intensify competition in the fuel retail market; if so, of the assessment result;*
- (c) given that oil companies can have their fuel storage facilities located outside the territory, of the measures it has in place to ensure that fuel stored in Hong Kong will be maintained at a level sufficient for 30 days' consumption; and*
- (d) whether there are agreements between the Government and the oil companies requiring the latter to store a sufficient level of fuel to meet the demand of Hong Kong; if there are, of the details of the agreements?*

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

- (a) None of the successful bidders in the tender exercise held in June 2003 have given any indication of an intention to set up oil storage facilities outside Hong Kong to supply oil to the Hong Kong retail market.
- (b) As stated in our briefing for Members on the new tendering arrangements for PFS sites at the meeting of the Legislative Council Panel on Economic Services held on 23 June 2003, we would conduct a review of the new tendering arrangements, including the impact, if any, on pump prices.

We intend to conduct the review when the tender for the last batch of PFS sites in the 2003-04 PFS Tender Programme scheduled for February 2004 is completed.

(c) and (d)

There is no stipulation, statutory or otherwise, which requires oil to be stored locally.

As gas oil and naphtha are important fuels for the transport industry and the production of town gas respectively, and their supply has a significant impact on the community, the Director of Oil Supplies (that is, the Director of Electrical and Mechanical Services) has drawn up a code of practice with the four major oil companies and the Hong Kong and China Gas Company Limited requiring these companies to maintain a minimum supply of gas oil and naphtha for 30 days. This is to ensure that sufficient reserves are available in case of a temporary disruption of oil supply.

Separately, the Oil (Conservation and Control) Ordinance provides that the Director of Oil Supplies may, if necessary, direct the oil suppliers to comply with specified requirements in respect of storage, supply, use or disposal of any oil, or where he considers it expedient for conserving and making the best use of oil supply in Hong Kong, requisition any stock of oil and give directions.

Co-operation of Two Franchised Bus Companies

15. **MR HOWARD YOUNG** (in Chinese): *Madam President, the major shareholder of the holding company of the New World First Bus Services Limited (NWFB) acquired the holding company of the Citybus Limited (Citybus) in June this year, and indicated its intention to commission an independent professional consultant to review the feasible options for co-operation of the two franchised bus companies. In this connection, will the Government inform this Council whether:*

- (a) *it has assessed if the savings to be achieved by the co-operation of the two bus companies will provide room for downward adjustment*

of their bus fares; if it has, of the assessment result; if not, the reasons for that; and

- (b) it has received proposals from the two bus companies concerning bus route rationalization, and whether it will ask the two companies to extend their respective bus routes into the districts which are now served by the other company only, and jointly launch concessionary bus-bus interchange schemes?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, when Chow Tai Fook Enterprises Limited (CTF) acquired Citybus in June 2003, CTF announced that it would consider co-operation possibilities between Citybus and NWFB.

CTF has engaged independent professional advisers to study ways to achieve synergy in terms of management structure, operations and staff resources. Up till now, CTF has not decided on the detailed way ahead, and hence it is premature to assess whether co-operation between the two bus companies will provide room for downward adjustment of bus fares.

Franchised bus operators are required to submit annually a Route Development Programme (RDP) which sets out proposed changes to their bus network for the next few years. We understand that in the context of the coming RDP exercise, Citybus and NWFB are developing and refining their proposals to rationalize their services to improve the efficiency of their networks. In line with past practice, the Government will take into consideration all the relevant factors to assess service rationalization proposals. Such factors include passenger demand, impact on passengers and the need to minimize duplication of services to improve bus network efficiency, traffic condition and the environment, and so on. The affected District Councils will be consulted before the RDP is finalized for implementation.

In considering whether bus routes of Citybus and NWFB should be extended into the districts which are now served by the other company only, the Government will take into account the aforesaid factors and will also evaluate the impact on competition and assess the impact on the staff of the bus companies concerned. The Government will also need to be satisfied that proper and efficient bus services will be maintained, and the proposed change would benefit the passengers as well as Hong Kong as a whole.

We have encouraged Citybus and NWFB to consider introducing joint concessionary bus-bus interchange schemes. The two bus companies are now exploring the feasibility of such joint schemes.

Implementation of Copyright (Amendment) Ordinance 2003

16. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, the Copyright (Amendment) Ordinance 2003 will come into operation on 28 November this year. Under the Ordinance, civil and criminal liabilities pertaining to the parallel importation of and subsequent dealings in articles which have embodied in them a computer program will be removed, except for a few specified types. In this connection, will the Government inform this Council whether, for implementing the Ordinance, it will:*

- (a) step up enforcement actions against copyright piracy activities, so as to prevent the exploitation of this opportunity to fake pirated goods as parallel imports; if it will, of the details; if not, the reasons for that; and*
- (b) enhance public education and publicity work, such as educating consumers in distinguishing if articles with embodied computer programs are parallel imports or pirated goods; if it will, of the details?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): Madam President, my reply to the two parts of Mr SIN Chung-kai's question is as follows:

- (a) The Customs and Excise Department (C&ED) has always been committed to combating copyright piracy activities. As at end September 2003, the C&ED had seized 4.8 million pirated optical discs worth about HK\$103 million, and a total of 949 persons had been arrested. In the course of enforcement operations, the C&ED maintains close co-operation with copyright owners so that where necessary, the latter can assist Customs officers in distinguishing between infringing and legitimate copies. Copyright owners also provide training to Customs officers from time to time to enhance their knowledge of copyright products.

With the implementation of the Copyright (Amendment) Ordinance 2003, the C&ED will closely monitor the latest market situation in the sale of computer software products, maintain close liaison with copyright owners, enhance intelligence gathering and take appropriate enforcement action with a view to preventing the exacerbation of copyright piracy.

- (b) We appreciate that apart from effective legislation and vigorous enforcement action, public education on awareness of and respect for intellectual property rights is equally important. Therefore, the Government has all along been promoting intellectual property education, which also includes publicity about the legislative provisions for parallel importation.

With respect to the Copyright (Amendment) Ordinance 2003, we issued a press release when the commencement notice was gazetted on 3 October this year. We also updated the frequently asked questions and answers posted on the homepage of the Intellectual Property Department (IPD) to explain changes brought about by the Ordinance. We have also informed the relevant organizations of the imminent commencement of the Ordinance.

The IPD and the Business Software Alliance will jointly organize a seminar on "Software Asset Management" for small and medium enterprises in early December this year. The topics of the seminar will include guidance to enterprises on how to distinguish legitimate copies (including parallel imported legitimate copies) from infringing ones and other issues that they need to pay attention to when purchasing computer software products. In similar or appropriate seminars that may be organized in the future, the IPD will continue to include such guidance.

Application for Hong Kong Permanent Resident Status by Non-ethnic Chinese

17. **MISS CHOY SO-YUK** (in Chinese): *Madam President, will the Government inform this Council of the number of non-ethnic Chinese persons who applied for the status of Hong Kong Permanent Resident in each of the past*

three years and the number of those whose applications were approved, as well as the successful applicants' original nationality and the number of years they had resided in Hong Kong when making their applications?

SECRETARY FOR SECURITY (in Chinese): Madam President, eligibility of non-Chinese nationals as Hong Kong permanent residents is set out in Paragraph 2(d), (e) and (f) of Schedule 1 to the Immigration Ordinance (Cap. 115). Persons meeting the relevant requirements may apply to the Immigration Department (ImmD) for verification of eligibility for permanent identity card (VEPIC).

From 2000 to October 2003, the ImmD received a total of 52 558 VEPIC applications from non-Chinese nationals. During the same period, the ImmD approved 45 436 such applications. Statistics on the original nationality of successful applicants and the length of their residence in Hong Kong when making their applications are not kept by the ImmD.

Yearly breakdown of the number of VEPIC applications received and approved is set out below:

<i>Year</i>	<i>Received</i>	<i>Approved</i>
2000	11 853	10 471
2001	12 667	11 289
2002	14 231	12 788
2003 (January to October)	13 807	10 888

Public Light Bus Driver and Passengers Being Robbed

18. **MR LAU KONG-WAH** (in Chinese): *Madam President, late at night on the 26th of last month, the driver and passengers of a public light bus (PLB) in motion were robbed by two criminals posing as passengers. In this connection, will the Government inform this Council:*

- (a) *whether there is any information indicating that the two criminals might have been mainlanders; if so, whether the exchange of*

intelligence with the relevant mainland authorities has been enhanced to crack down on such cross-border crimes; and

- (b) *of the measures in place to assist the PLB trade in preventing the recurrence of similar robbery?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) The police are now undertaking a thorough investigation of the robbery case that took place last month on a PLB in motion. For the time being, there is no information revealing the identity of the perpetrators. The police will continue to trace all lines of clues, including liaising with the mainland authorities as necessary to solve the case as soon as possible.
- (b) To assist the industry in preventing recurrence of similar robbery cases, the Police Crime Prevention Bureau and the Transport Department jointly organized a seminar for the PLB industry on 6 November 2003 to discuss effective preventive measures. With the assistance of the Transport Department, more than 100 representatives from the trade were invited and a total of 65 representatives attended the seminar. At the meeting, the police introduced effective security devices and emergency responses in case of a robbery. They also agreed to continue to set up roadblocks and strengthen patrol at appropriate locations having regard to the crime situation with a view to preventing such crimes. In addition, the police will meet representatives of bus companies shortly to exchange views on prevention of similar robberies.

Regulation of Converted Goods Vehicles

19. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that a traffic accident occurred when I-beams fell out from a moving platform truck which had been converted from a container truck. In this connection, will the Government inform this Council:*

- (a) *of the total number of traffic accidents involving converted goods vehicles in the past three years;*
- (b) *whether legislation is in place to regulate converted goods vehicles; if so, of the details; and*
- (c) *whether guidelines on conveyance of goods are issued to drivers of goods vehicles; if so, of the details; if not, whether the authorities will consider issuing such guidelines?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, alteration of vehicle body is allowed under the law, provided that the converted vehicle complies in all aspects with the relevant provisions under the Road Traffic Ordinance (Cap. 374) and Regulations. The Administration does not have separate statistics on the number of traffic accidents involving converted goods vehicles.

At present, the design and construction of all motor vehicles registered in Hong Kong, including goods vehicles, have to comply with the Road Traffic (Construction and Maintenance of Vehicles) Regulations. Any person who uses, or causes/permits to be used, on the road any vehicle which does not comply in all aspects with the provisions of these Regulations commits an offence, and is liable to a maximum penalty of a fine of \$10,000 and six months' imprisonment.

Under Regulation 18 of the Road Traffic (Registration and Licensing of Vehicles) Regulations, the registered owner of a motor vehicle, including a goods vehicle, shall notify the Commissioner for Transport of any alterations made to the vehicle. When required by the Commissioner, the registered owner has to produce the vehicle for examination by the Transport Department (TD). Any person who contravenes this provision without reasonable excuses commits an offence and is liable to a maximum fine of \$2,000.

Goods vehicles are also required to undergo an annual examination before renewal of their vehicle licences. Under section 25 of Cap. 374, the Commissioner for Transport may refuse to license or cancel the licence of the vehicle if the registered owner fails to produce the vehicle for examination, or it is found upon examination that the vehicle fails to comply with the requirements stipulated in Cap. 374.

The driver of a motor vehicle, including a goods vehicle, is required under Regulation 57 of the Road Traffic (Traffic Control) Regulations, to ensure that any load/goods on board is properly secured to and contained inside the vehicle. Offending drivers are liable on first conviction to a fine of \$5,000 and three months' imprisonment and on second or subsequent conviction to a fine of \$10,000 and six months' imprisonment.

The Code of Practice for the Loading of Vehicles has been prepared by the TD to provide guidance on the safe transport of goods and reminds goods vehicle drivers of their obligations in accordance with the law. It covers all relevant aspects about safe transport of goods, including choice of appropriate vehicles, arrangement of loads, conveyance of loads of excessive dimensions, towing of vehicles, location of loading and unloading activities and maintenance of goods vehicles. The Code is available at all Licensing Offices of the TD and has been uploaded to the TD's homepage.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Improving public transport fare system.

IMPROVING PUBLIC TRANSPORT FARE SYSTEM

MR ANDREW CHENG (in Cantonese): Madam President, I move that the motion, which has been printed on the Agenda, be passed.

Madam President, many people would frown when the topic of public transport fares in Hong Kong is raised. The reason is simple: fares are very expensive. Over the past few years, despite the constant calls from the community on public transport operators to lower fares by 10%, the results are only fare discounts or one ride free for every 10 rides, and so on. Such discounts and concessions remain trivial when compared to the exorbitant transport fares which most people pay each month.

The Democratic Party is of the view that since public transport operators have been reluctant to reduce fares in the light of poor economic conditions, the problem of unreasonable fares should be tackled at the system and fare structure. Over the past couple of years, we have proposed that fares should be made flexible, that is, both increase and decrease should be enabled. We are glad that the Government is moving in this direction and a related mechanism has been proposed. However, it is believed that negotiations will have to be made between the parties before it can become a reality. Besides the mechanism, the Democratic Party thinks that there are other measures which can rationalize public transport fares. The bus fares, in particular, are not reasonable in some respects and there is room for improvement.

According to official replies given by the Government over the years in this Council, bus fares for individual routes are determined by complicated factors like the operation of the route itself, distance of the journey, nature of service, bus types and operating costs, pattern of passenger demand, and fares charged by comparable modes of public transport. Such criteria are applicable to fares for buses running on the same route with and without air-conditioning. Therefore, only the bus company itself knows what standards are applied in setting the fares for each route and as a result of the complicated computation of fares, the fares charged are very unreasonable in some cases. In some bus routes, the fare charged for each kilometre is 80 cents, while the fare charged in some bus routes is some 40 cents per km.

The Democratic Party thinks that the drawback of the current bus fare system is that it has two deficiencies: First, passengers who board a bus at the terminal may also be charged a full fare. Under the current bus fare system, fares are unreasonably charged on some passengers, especially for those who do not ride the whole trip, for they have to pay the full fare or a fare which is higher than that paid by other passengers.

The most obvious example is, as I have just said, those passengers who board a bus at the terminal. They have no choice but to pay the full fare even if they alight in the middle of the entire journey. But for those passengers who get on a bus in the middle of the journey, it does not follow that they can pay sectional fares. For example, in the cross-harbour routes, irrespective of passengers getting on a bus at the bus stop at the Hung Hom cross-harbour tunnel or the stop at Canal Road East on the Hong Kong side, even if they get off at the first stop at the other side of the harbour and short though the distance travelled may be, they have to pay the full fare.

Madam President, the second deficiency is that the complicated route groupings and the scarce application of sectional fares. A deficiency of the fare system is that the route groupings are too complicated. The amendment to be moved by Mr LAU Kong-wah later mentions the scale of fares under the Public Bus Services Ordinance. The fares currently charged are the ceiling fares determined by the route groupings and according to our estimate, there are more than 10 such groupings in the routes operated by the Kowloon Motor Bus (KMB), the New World First Bus (NWFB) and the Citybus. Some of these groupings are, in our opinion, drawn rather arbitrarily and hence the scale of fares is made unnecessarily complicated. Mr Albert HO will explain these numerous route groupings later. Madam President, the number of sections where sectional fares apply are too few under this scale of fares. For cross-harbour routes and long-distance routes with a journey of some tens of kilometres, there are only three sectional fares. There is no sectional fare at all in some of the urban routes, such as route No. 11 of the KMB. Even if there are sections, the fare differences charged between sections are so minimal that it is just a matter of 10 cents or 20 cents, such as those in routes No. 6 and 82X of the KMB. The current sectional fare structure, in terms of the number of sections and the difference between fares charged, does not give passengers an impression of value for money.

The Democratic Party is of the view that the current bus fare structure is not sound and it must be improved. After making reference to the experience in other cities, including London, Singapore and Sydney, we think that the fare determination mechanism for each bus route should be simplified. What should be adopted as the main basis for fare determination is the distance of the journey concerned. Riders on longer distance trips will pay more while those on shorter trips will pay less. In this way, fares will be set in a transparent and reasonable manner and easily understood by the public. It will also make the fares paid proportionate to the distance travelled.

Madam President, the Democratic Party suggests that with the exception of airport buses and overnight routes for which different pricing criteria can be adopted, all other major bus routes in Hong Kong should be divided into those running on cross-harbour routes and those which do not. If a passenger pays by the Octopus card, a section can be set for every 4 km and the fare for shorter journeys can be set at around \$3. We suggest that the minimum fare for each bus journey be set at \$3. Having said that, however, the pricing for cross-harbour routes should be set differently from those non-cross-harbour routes and the difference between fares charged for sections on these routes should be smaller.

The existing Octopus technologies are definitely capable of calculating bus fares according to the length of the distance travelled and that can minimize over-payment or under-payment of fares by passengers. The bus companies should consider installing Octopus card readers at both the entrance and exit of the bus compartment to calculate accurately the distance travelled and charge the fares payable. Madam President, I have talked with the bus companies on the installation of two Octopus card readers in each bus. The greatest concern of the bus companies is passengers playing this trick of pressing their Octopus card at the entrance and going straight to the exit to press the card again so as to pay the lowest fare. I agree that it would be difficult to eliminate this practice, but if the bus companies should use this as an excuse for not giving consideration to solving the problem of over-payment of fares, then I think the bus companies are just evading their responsibilities without taking the benefit of passengers into account. In fact, the problem will be solved if the bus companies can hire some inspectors and check the Octopus cards of passengers, in much the same way as the Kowloon-Canton Railway deploying inspectors in the first-class compartments of its trains and in the compartments of the light rail.

The second point mentioned in the motion is to ask various public transport operators to issue daily, weekly and monthly tickets that can be commonly used on various modes of public transport. Similar arrangements are actually found in major cities of the world. In London, for example, passengers may buy a travel card that can be used on all modes of public transport in London, including buses, the underground, trams and the light rail. The travel card divides the city of London into six districts and it can be used in all the districts. Rates in 2003 for adult travel cards are: £6 for daily tickets, £142.9 for monthly tickets and £340 for yearly tickets. In addition, there are also weekend passes available as a choice for passengers. In Hong Kong, although there are some concessions for transfers made between different modes of public transport, fares are charged for each trip on a different mode of public transport. For those people who use different modes of public transport frequently or those who use public transport many times a day like some unemployed people, those who travel a lot as part of the job, or tourists, if fares are charged for each trip on various modes of public transport, that would mean a substantial amount of money and it is costly as well. The Government should therefore talk with the various public transport operators and launch some unrestricted passes which are valid for a specified period. These will mean more convenience to the public and alleviate their financial burden.

With respect to Mr LAU Kong-wah's amendment, we agree with its general approach. Mr Albert HO will propose a further amendment on behalf of the Democratic Party and he will explain our arguments for the issuing of passes to be commonly used on various modes of public transport.

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

Mr Andrew CHENG moved the following motion: (Translation)

"That, in regard to public transport fare system, this Council urges the Government to:

- (a) discuss with various franchised bus companies ways to improve their existing fare structures and the setting of full and sectional fares of each bus route according to the distance of the journey, so that the fare structures become more transparent and reasonable and fares paid by each passenger are as fair as possible; and
- (b) examine jointly with various public transport operators the feasibility of issuing daily, weekly and monthly tickets that can be commonly used on various modes of public transport, so as to facilitate local passengers and tourists who need to use them to commute frequently, as well as to alleviate the burden of travelling expenses on them."

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

PRESIDENT (in Cantonese): Mr LAU Kong-wah will move an amendment to this motion, Mr Albert HO will move an amendment to Mr LAU Kong-wah's amendment. The two amendments have been printed on the Agenda. The motion and the amendments will now be debated together in a joint debate.

I will first call upon Mr LAU Kong-wah to speak and move his amendment, to be followed by Mr Albert HO who will speak and move his amendment to Mr LAU Kong-wah's amendment. Then Members may debate on the original motion and the two amendments.

PRESIDENT (in Cantonese): I now call upon Mr LAU Kong-wah to speak and move his amendment.

MR LAU KONG-WAH (in Cantonese): Madam President, I move that Mr Andrew CHENG's motion be amended, as printed on the Agenda.

Madam President, the issue of transport fares is a subject on which the Democratic Alliance for Betterment of Hong Kong (DAB) and the Democratic Party can have the best consensus. During the past few years, we have joined hands to request the Government and the various transport operators to help the people ride out the storm. In fact, every year, if a motion is not moved by Mr LAU Kong-wah to be amended by Mr Andrew CHENG, it would be a motion moved by Mr Andrew CHENG to be amended by Mr LAU Kong-wah. This year, it is the turn for Mr LAU Kong-wah to move an amendment. This amendment is meaningful. In fact, it is complementing the original motion. After reading the motion proposed by Mr Andrew CHENG, I felt that it was insufficient to the people, because the motion failed to carry or reflect the aspirations of the people. And insofar as aspirations are concerned, I have set them out in my amendment explicitly. Such significant aspirations are very important to the people or will bring about some short-term benefits to the people. Therefore, I have no alternative but to propose this amendment.

Firstly, the people are still in great need of a direct reduction in transport fares by 10%. I feel that this aspiration to a fare reduction is the strongest and most extensive aspiration in society during the past few years since I began to serve in the Legislative Council. Therefore, I cannot refrain from putting forward this aspiration in today's motion debate.

In fact, several months ago, some transport operators introduced a 10% fare reduction for long distance bus routes. Of course, to long-haul passengers, this has surely brought about some benefits. However, to short-haul passengers, we feel that they have gained nothing from this reduction, and they have voiced some discontents. Therefore, we must speak for this group of passengers in the hope that the transport operators, including the two railway corporations, can reduce the fares across the board. Madam President, you may recall that we have been making this request for several years. Although the bus companies have made certain responses, the two railway corporations have only responded

to the aspirations of the people by offering some concessions, instead of reducing the fares direct. All such so-called concessions were subject to some time limits. The effect of such concessions was valid on a case-by-case basis. If a certain concessionary fare scheme expired, we had to make repeated requests again before any such concessions could continue. To the people, such an arrangement may not benefit them direct. Therefore, I feel that, instead of offering any concessions subject to time limits, the transport operators had better reduce the fares directly by 10%. This would save a lot of costs.

Madam President, from the perspective of society, the transport fares still mean a great burden to the people. In terms of expenditure, it is unreasonable if some people have to spend as much as 10% to 20% of their incomes on transport. Now, we can see some signs of an economic recovery. For some grassroots, they may not be willing to take up certain jobs if they find that the places of work are very far away from their homes, and that it would incur a lot of travelling expenses. In fact, this may have some impact on the employment situation. Therefore, from the perspectives of reducing the burden of the people and boosting employment, a direct reduction of transport fares is the most effective solution.

Madam President, on the other hand, I would like to discuss the issue of bus-bus interchange. The bus companies have offered a lot of bus-bus interchange benefits. This is a fact. However, such benefits are by no means comprehensive. In the districts, many people sometimes ask us directly why a certain route cannot be used together with another route in the provision of bus-bus interchange concession. Why that route does not match with the other route? Therefore, I have to ask the Secretary why the bus-bus interchange cannot be implemented in a comprehensive manner. This question is raised especially for the absence of interchange concessions for bus routes operated by different companies. In other words, the concessionary schemes should not be confined to bus routes operated by the same bus companies. Instead, the interchange concession should be applied to all routes of all the different companies.

Madam President, let me quote a very simple example. Recently, the Legislative Council Panel on Transport attended the test run of the West Rail. I felt that all the facilities in the lobbies of the stations are very good; they may well be described as "first-class". We visited the Nam Cheong Station. The facilities were very good. We could see that the interchange concourse was

very convenient. However, this is just the provision of interchange convenience in terms of hardware. But in terms of interchange concession, the public may not necessarily enjoy any major benefit. Therefore, though the MTR Corporation Limited (MTRCL) says that there will be a three-month trial period, I would like to make a call on the Government, with Secretary Dr LIAO being a director on the Board of the MTRCL, for I hope the MTRCL can provide certain interchange concessions to passengers using the West Rail in crossing the harbour at the Nam Cheong Station. If this can be implemented, it will definitely help to alleviate the burden of residents of the New Territories West, and it will also help to boost the future passenger volume of the West Rail. If the two railway corporations can provide some joint concessions at this interchange station, then, in other words, the same can be implemented at Kowloon Tong Station. Therefore, I hope Secretary Dr LIAO could work harder in urging the two corporations to offer joint concessions as soon as possible, thus benefiting long-haul passengers (that is, residents of the New Territories East or the New Territories West) as soon as possible.

Thirdly, it is about the scale of fares, which was also mentioned by Mr Andrew CHENG. In fact, this scale of fares should be negotiated by the Government and the bus companies on a regular basis. Yet the scale of fares was last reviewed in 1997 when Hong Kong economy was at its best. The fares fixed at that time have remained unchanged during the past six years. That explains why the fares are so expensive. All prices in Hong Kong have been dropping during these years, but the fares in this scale have remained unchanged, and have not been reviewed. Please imagine, with so much recession and deflation during these six years, this scale of fares has not changed a bit. Under such circumstances with no change at all, is it necessary to introduce changes as soon as possible? I still remember that Secretary Dr LIAO had promised in an oral reply in this Council that a review would be conducted by the end of the year. I strongly hope that the scale of fares can be changed to effect a reduction of the fares before the end of this Session.

As for the proposal of sectional fares put forward by Mr Andrew CHENG, I think that, as a matter of principle, it is a worthy proposal that merits further study. I say this from the perspective of fairness. Technically, this should pose no problem. Other countries have done this already, and I have seen it in Korea, where everyone observes the rules. Although the bus companies say that an additional Octopus machine has to be installed on each bus, this is not a major problem. So technically speaking, it should pose no problem. I am just

concerned about one issue. At the moment, the fares are charged on an averaging method, that is, certain categories of passengers may be subsidizing other categories of passengers. In other words, the long-haul passengers may relatively pay less. However, if the fares are charged in proportion to the number of sections they have travelled, the long-haul passengers may have to shoulder a heavier burden. This is a situation which I do not wish to see. I do not hope to see that, soon after the sectional fares are implemented, passengers living in Ma On Shan, Tin Shui Wai, Tai Po and Tuen Mun are made to pay higher fares. I do not wish to see that they have to pay more expensive fares. That is why I have to add a rider to my amendment, saying that if a study is to be conducted, the long-haul passengers must not be affected, and their burden must not be increased. Otherwise, I shall have reservations about the motion. In fact, this mechanism will bring about a major change. We are saying that the mechanism which allows increases and decreases in fares may bring about major changes. However, the sectional fares proposal, that is, the fares are charged according to the number of stops a passenger has travelled will also bring major changes. And I feel concerned about the impact on long-haul passengers. Under such circumstances, I think that, in the process of conducting studies, it is necessary for the Government to hold public consultations. If the Government eventually puts forward some proposals, it also has to conduct detailed public consultations. Even if 50%, 60% or 70% of the people support the sectional fares proposal, and then only 20% or 30% people who are long-haul passengers are affected, I am still unwilling to see that happen.

Madam President, the last point I would like to raise is about the student half-fare travel cards, which I have mentioned during the past few years. We have the so-called travel subsidy, but it involves a very complicated application procedure with multiple levels of vetting. And it incurs high costs as well. Why can they not issue the half-fare travel cards directly to the students? The students could also make use of this half-fare travel card even on Saturdays and Sundays. In fact, according to the education reform, students are also encouraged to take part in activities during weekends, not just on weekdays. Therefore, in short, the half-fare cards should be restored, so that the students could enjoy half-fare concessions whenever they take the buses or ferries, regardless of the companies operating such services. I think this is not just the responsibility of the Government, but it should also instruct all the transport operators to offer such half-fare concessions, thus benefiting the students as well as reducing the heavy burden on the Government.

Thank you, Madam President.

Mr LAU Kong-wah moved the following amendment: (Translation)

"To delete "in regard to public transport fare system," after "That,"; to add "expeditiously discuss with various public transport operators to seek a 10% reduction of fares across the board and the re-introduction of half-fare travel concessions for students, and to encourage them to co-operate in offering more joint concessions and, in regard to public transport fare system, to" after "this Council urges the Government to"; to delete "and" after "(a) discuss with various franchised bus companies ways to improve their existing fare structures" and substitute with ", expeditiously revise the scale of fares under the Public Bus Services Ordinance as well as reformulate existing guidelines on the setting of fares, and study"; and to add "on condition that the burden on long-haul passengers will not be increased" after "the setting of full and sectional fares of each bus route according to the distance of the journey"."

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

PRESIDENT (in Cantonese): I now call upon Mr Albert HO to speak and move his amendment to Mr LAU Kong-wah's amendment.

MR ALBERT HO (in Cantonese): Madam President, I move that Mr LAU Kong-wah's amendment be amended, as printed on the Agenda.

Madam President, during the last couple of years, the Democratic Party has repeatedly requested various public transport operators to effect a 10% reduction of fares across the board and this is actually not the first time this motion is moved in the Legislative Council. The amendment moved by Mr LAU Kong-wah this time around has in fact reiterated the past demands of Legislative Council Members, and we will certainly support it. Originally, the motion only focused on the bus fares and bus tickets, but the amendment has almost covered all transport fare items that can be improved in one go. However, I think there is still room for some more amendments.

My further amendment mainly focuses on two points, the purpose of which is to add a number of omissions in the amendment. Firstly, we think it is very important to urge the Government to put in place a set of procedures and a mechanism that cater for both upwards and downwards adjustments in public transport fares. When Secretary Dr Sarah LIAO first came into office, she said that the transport fares of Hong Kong were too expensive and this greatly aroused the concern of the people and won her great acclaims. The Democratic Party subsequently expressed the hope that a price-ceiling mechanism for transport operators can be set up to regulate the increases and decreases in local transport fares. We were also very glad to see that the Government had finally decided to adopt this ceiling concept and indicated that it was willing to discuss with various transport operators on how to draw up and implement such a mechanism. However, I cannot see any progress in this relation to date. Actually, the public would like very much to see the establishment of a transparent and objective mechanism, so we all hope that the Secretary can tell us about the progress in this area when she makes a reply later on. The Democratic Party hopes that this mechanism can be implemented as soon as possible so that reasonable adjustments can be really made in the transport fares of Hong Kong in the light of the ups and downs in the economy.

As regards the second point, I agree that under the existing Public Bus Services Ordinance, there is still room for improvement in respect of the scale of fares. In addition to the guideline on bus fares, I would also like to emphasize one point and that is, problems brought about by the arrangement in the groupings of routes. The existing scale of fares was endorsed in 1997, and it has listed the groupings of routes and fare ceilings of various franchised bus companies. First of all, I think there are serious problems with the arrangement on the grouping of routes. To list some of such groupings, they are namely, urban routes, New Territories urban routes, urban express routes, express routes, suburban routes, tourism routes, tunnel routes, Mid-Level routes, special routes, overnight routes, regular service routes, and so on. The groupings are far too numerous to be listed in full. Given that the routes are divided into so many groupings, there is naturally different ceilings for the relevant fares, for example, there are differences between the fare scales of the rural and urban areas and that of the Mid-Levels and the urban areas are also not entirely similar. In fact, there is already no clear demarcation between our local urban and rural routes, but so many groupings of routes are divided still and the fares are determined in accordance with different groupings based on mileage and consideration of factors like alternative modes of transport. So eventually, only the bus

companies will know how to calculate the relevant fare levels. It can be said that it is very complicated and cumbersome. As Hong Kong, Kowloon and the New Territories gradually merge into one city entity, I think it is really high time for the Government to review whether the existing groupings of routes is appropriate to the times, whether they should be merged, simplified, or it is no longer necessary to retain such groupings? According to our proposal, the sectional fare levels being determined on the basis of mileage, the public will be able to understand the rationale of the pricing policy and the unfairness in the existing fare levels will be reduced.

Madam President, as regards Mr Andrew CHENG's earlier proposal on monthly tickets that can be commonly used on various modes of public transport, he quoted the example of London, the United Kingdom. I would like to say that London is not the only example and if we would only ask the Secretary or other government officials about their understanding and experience in other countries and regions, we will know that similar examples abound. Similar arrangements can be found in Blackpool of the United Kingdom, Helsinki of Finland and Paris of France. Given our wish to develop into an international metropolis, we should do more for tourists and adopt certain measures to attract them to make more use of our public transport, travel more around our city, visit more tourist spots, and spend more money to give impetus to our economy. In fact, the MTR has now made arrangements for tourists to purchase one-day tickets, but after paying \$50, they can only visit places along the MTR lines, and if they wish to visit other places and ride on other modes of transport, then they will have to pay extra fares. Therefore, if the Government is willing to take the initiative to contact various public transport operators to study the feasibility of issuing daily, weekly and even monthly tickets that can be commonly used on various modes of public transport, I trust this will be a benevolent policy to tourists. For people who need to travel many times on all modes of transport on certain special days, their financial burden can also be really reduced.

With these remarks, Madam President, I move the further amendment.

Mr Albert HO moved the following amendment to MR LAU Kong-Wah's amendment: (Translation)

"To delete "and" after "the re-introduction of half-fare travel concessions for students,"; to add "and to expeditiously implement a procedure and

mechanism for public transport fare adjustment which allow increase as well as reduction in fares" after "to encourage them to co-operate in offering more joint concessions,"; and to add "and the groupings of routes in the scale" after "expeditiously revise the scale of fares".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert HO to Mr LAU Kong-wah's amendment, be passed.

MS MIRIAM LAU (in Cantonese): Madam President, at present, even though many people only ride for one stop, they have to pay fares for the whole bus journey. Even if sectional fares are implemented on a certain route, people will still have to pay full sectional fare even if they alight after one stop if they have boarded the bus after the section. Short-trip passengers think that this mode of charging is unfair for they have to pay more. Of course, the ideal situation is to set the fares according to the distance of the journey, with passengers only paying fares according to the number of stops ridden. However, though superficially, this mode of charging appears to be very reasonable, there may be certain difficulties in implementation given the existing mode of bus operation in Hong Kong.

The Citybus's sectional fare scheme for Stanley routes can actually give us some inspirations. Routes operated under this scheme are divided into more sections as compared to other routes and it is very close to setting the fares according to the distance of the journey. In order to determine how much fare passengers have to pay for a bus journey, they only need to press their Octopus cards against the card reader on boarding the bus and press their cards again on alighting. To ensure that passengers will alight after pressing their cards, the readers are installed at the front gate close to the driver and all passengers must board and alight from the buses at the front gate. As passengers can only board and alight at the front gate, this mode of charging is only applicable to routes with few passengers, otherwise it will affect the duration of the bus journey and road surface traffic conditions.

Perhaps someone will ask, "Why are Octopus card readers not installed at both the front and rear gates for the convenience of passenger?" I understand

that bus companies have explored the feasibility of this arrangement and visited Singapore for this purpose. Buses in Singapore use a system that is similar to the Octopus card system in Hong Kong, and two sets of smart card readers are installed respectively at the front and rear gates of the buses and passengers need to press their cards once both on boarding and alighting. However, since card readers installed at the rear gates are outside drivers' view, some passengers will press their cards before they alight and even if the bus companies often conduct inspections, according to the estimate of the Singapore bus company, their losses still amount to about 10% of their income.

If the buses of Hong Kong adopted Singapore's mode of fare collection, in order to eradicate dishonest passenger conduct, bus companies might need to restore their former practice of employing conductors to monitor whether passengers have alighted from buses after pressing their cards. However, as the saying goes, the fleece comes off the sheep's back, if bus companies suffer any losses in income or need to employ conductors, then what most law-abiding passengers gain from this system may not be able to offset their losses. The fares they have to pay may even be higher than the existing fares.

Though there may be technical difficulties in determining the fares according to the distance of the journey, I think bus companies should continue to explore possible measures. And before that becomes a reality, I propose that bus companies can improve its present mode of charging sectional fares, for example, the sectional fares for various cross-harbour bus routes are still higher than that of other bus routes after crossing the harbour. If the sectional fares for tunnel buses are rationalized to bring them on par with that of other bus routes, then passengers will be given more choices.

As regards the second point of the original motion, individual public transport operators have actually issued different types of tickets, for example, the MTR issues one-day and three-day tickets for tourists. And, \$20 of the stored value for three-day tickets can be used for riding on other modes of transport; the tram company and the Hong Kong & Kowloon Ferry also issue monthly tickets for their passengers. Passengers only need to pay a fixed fare for unlimited trips on these two modes of transport within one month and their burden from travelling expenses can thus be reduced.

However, transport tickets issued by various public transport operators are restricted to one mode of transport only. For the convenience of the people and

tourists, various operators are exploring the possibility of issuing transport tickets that can be commonly used on various modes of transport. While this merits encouragement, I would like to raise one point and that is, since various operators have different cost structures, how proceeds can be shared among various public transport operators is a major issue. Even if an agreement can be reached among them, it is doubtful whether transport tickets can greatly reduce the public's burden from travelling expenses as administrative and other costs are involved.

Madam President, as regards the amendment's proposal on seeking a 10% reduction across the board, the Liberal Party has never ruled out the possibility that individual public transport operators may have room for a fare reduction. However, if we ask all public transport operators for an "across the board" 10% reduction without taking into consideration their operational conditions, then this is not realistic. As regards the issue of reducing transport fares, the Liberal Party still adheres to the consensus of the eight-party coalition, and that is, to urge the Government to discuss with various public transport operators and encourage them to reduce their fares or offer concessions to customers in accordance with their respective operational conditions. I understand that the bus companies have actually implemented this proposal and the burden of the public has thus been alleviated.

Furthermore, the amendment also proposes that on the condition that the burden on long-haul passengers will not be increased, studies should be conducted on setting bus fares according to the distance of the journey. If the burden on long-haul passengers are not to be increased and the fare payable by each passenger must be made as fair as possible, that is, short-trip passengers pay less in fare while long-haul passengers are not required to pay more, then frankly speaking, it will mean that the loss in income has to be borne by bus companies which have to reduce their fares as a whole. However, the operational conditions of various bus companies are actually different. Some public transport operators are still incurring losses and some are making very little in profit, so I think it is unrealistic to include this condition in the study on setting the fares according to the journey distance. However, the Liberal Party still hopes that various bus companies can try their best and do as much as possible according to their respective conditions of operation.

With these remarks, Madam President, I support the original motion.

DR RAYMOND HO (in Cantonese): Madam President, during the past six years, Hong Kong has been suffering from a sustained economic downturn. Affected by the deflation, the prices of goods and services have been dropping. In spite of these, the fares of public transport have remained at a high level without any downward adjustment. The travelling expenses account for a substantial proportion in the spending of the ordinary public, especially those low-income earners. The impact is particularly on for those people who have to travel a long way to work. They may have to spend over \$1,000 monthly on travelling expenses. Looking at the issue against the present wage level, it could be one fifth or even more of the income of some people. No wonder the issue of travelling expenses has been one of the subjects about which the people are most concerned.

I believe Dr Sarah LIAO, the Secretary for the Environment, Transport and Works, as one of the accountability officials would surely understand the aspiration of the people in this regard. The remarks she made on travelling expenses soon after she had assumed office had left a good impression among the people to some extent. If Secretary Dr LIAO wishes to maintain her high popularity rating, she must strive to achieve some concrete results in improving the public transport fare system.

In view of the heavy burden of travelling expenses on the people, as well as the consideration of safeguarding the overall interest of the public, the authorities concerned should expeditiously open discussions and negotiations with various public transport operators and encourage them to improve the existing fare structures, so as to alleviate the burden of the people in this regard.

In fact, some of the public transport operators have already responded to the aspiration of the people by introducing such measures as the Bus-Bus Interchange Scheme, the Elderly Concession Scheme, and so on. We welcome these initiatives. However, from another perspective, these are just some trivial concessions, and some are even temporary in nature. But I think such concessions offered by individual companies should be extended to become concessions applicable to all the different transport companies, thereby extending the scope of routes that would offer such concessions and providing more route options to passengers in bus-bus interchange. In this way, most people who rely on public transport can really benefit from the concessions.

Besides, I also support the restoration of half-fare travel concessions for students so as to lessen the burden of travelling expenses on students and their families. However, I do not agree that the fares should be reduced by 10% across the board because this violates the principles of free economy in Hong Kong, and will affect the investment desire of certain organizations.

In fact, public transport operators may also consider the suggestions made in this motion and examine the feasibility of issuing travelling tickets that can be commonly used on various modes of public transport subject to specified time limits. Such tickets may be issued for visitors or local residents who have a need of making multiple trips on public transport. Such an arrangement may on the one hand reduce the travelling spending burden of these people, and on the other, encourage some people originally deterred by the high travelling expenses and chosen to travel less on public transport to go out more by travelling on public transport and making use of the travelling concession tickets. This will in turn increase the passenger volumes of public transport, thus increasing the revenues of the operators.

Madam President, the Government should try its best to persuade the various public transport operators with all the justifications and encourage them to change the existing fare structure, so as to strike a balance between the operating profits of the companies concerned and the service fare level. In this way, we can ensure that the people can enjoy quality and safe transport services at a reasonable fare level. I so submit.

MR LAU CHIN-SHEK (in Cantonese): Madam President, before I came to this meeting, a worker who lives in Yuen Long reminded me that I had to tell his true story. He told me that he was making some \$4,000 a month (not even \$5,000) and that the daily travel expenses for him would be \$40. So transport fares take up as much as more than 20% of his earnings and that does not include the fares paid by members of his family. He asked me how on earth he could bear it any longer.

Madam President, when quite a substantial portion of the population has 20% or more of their income eaten up by transport fares alone, I think that what any responsible government and any public transport operator with any sense of social responsibility has to do will not merely be the provision of partial

concessions or the application of sectional fares, nor the issuing of weekly and monthly tickets, but an immediate reduction of fares across the board to alleviate the burden of travelling expenses on the public. I hope that the Secretary will work hard to this end.

Thank you, Madam President.

MR TOMMY CHEUNG (in Cantonese): Madam President, the thrust of the original motion moved by Mr Andrew CHENG is in fact the public transport fare system, that is, a review of the fare structure, sectional fares and looking into the feasibility of concessionary passes that can be commonly used on all modes of public transport. The Liberal Party thinks that this is agreeable, for it can make the fare system more reasonable and the flexible concessions can attract more passengers and tourists for the benefit of both the transport operators and passengers. It is only because of Mr LAU Kong-wah's amendment and Mr Albert HO's further amendment to the original motion, calling for fares to be reduced by 10% across the board, that the Liberal Party has reservations.

On the issue of fare reduction, many public transport operators have offered various concessions in recent years, but just as suggested by Mr LAU Chin-shek, many people think that these are inadequate. There are views that these arrangements are too indirect and an outright fare reduction would be much better. But does this mean that we should demand a fare reduction of 10% from all public transport operators across the board? Even if we looked at it by common sense, we would know that this across-the-board kind of demand is inconsistent with any laws of market economy.

The reason is that the operating conditions of various companies do vary. To demand a fare reduction of 10% from all public transport operators may mean an instant turn from a profit position to loss for some companies, or a drastic slash in profits, thereby rendering them unable to answer their shareholders. Take the Star Ferry Limited as an example. The company has managed to achieve a balance in the books only in recent years and once fares are reduced by 10%, the company may incur losses at once. For the New World First Bus Services Limited, though in recent years the company has begun to register an annual profit to the tune of \$100 million, the company expended \$2 billion in purchasing the China Motor Bus Limited in 1998 and there is still a

long way to go before this capital outlay can be offset by revenue. If we demand that these companies which have made huge investments or are beginning to make profits to reduce their fares, then who would want to finance any business? For the Kowloon Motor Bus (1933) Limited, once their fares are reduced by 10%, that would mean a drastic cut of their profits by 75%. Profits for the Citybus Limited will fall by 65%. Would this be fair and reasonable to the investors? So I think that the best solution is to ask various operators to reduce the fares or provide more concessions as much as they can, taking into account their own conditions, as a manifestation of the will to overcome the adversity together with the public.

Furthermore, once public transport fares are cut by 10%, a domino effect may be produced and taxis, minibuses, and so on may engage in cut-throat fare reductions in order to compete for survival. When taxi or minibus drivers suffer a drastic fall in income, they may be forced to extend their service hours. Will this create any impact on passenger safety? Will taxi and minibus licences plummet in value as a result of the fall in fare revenue? Will the interest of those small vehicle owners suffer? All these issues warrant our careful consideration. Once these small owners are forced to cease operation or out of their work as they are out-competed by the big operators, I think it is likely that many unfortunate events will happen in society.

Having said that, however, I think that the proposal in the further amendment to the amendment on implementing a mechanism for public transport fare adjustment which allows increase as well as reduction in fares, would still be desirable. It is because we believe the public are sensible and they will not ask public transport operators to operate their businesses in losses. The mechanism will bring in greater transparency to the fare structure, which is very important especially when transport operators wish to adjust the fares, the public will like to see more objective data presented by the operators to justify their proposals. This will also serve to reduce unnecessary disputes or decisions based on subjective opinions.

With these remarks, Madam President, I support the original motion.

MR IP KWOK-HIM (in Cantonese): Madam President, there used to be a time when all the people wanted was a "low-cost housing flat" to live and that the building would be fitted with a lift, then they would be very happy about it.

The public housing blocks nowadays are comparable to private residential buildings. The flats there are bright and the view is open. Some of these flats are so good that they cannot be found in the private sector market. However, many people do not want to live in these public rental flats for the reason that these flats in the rural areas are too remote. It looks as if the people are asking too much, but from the many requests for assistance received by me, the people complain that the flats in the new towns which have been allotted to them are too remote and that the transport fare for one trip will cost more than \$10. Mr LAU Chin-shek has mentioned a similar case earlier. We can imagine that if one has to use more than \$40 a day in travel expenses, the total amount for one month would be some \$1,000 and that is quite a sum of money. It seems that working day in and day out would come to nothing. That is why some people would rather live in a partitioned room costing \$20 per sq ft. In some of the cases, I know that some social workers have advised the help seekers to move into the new towns and then resign from their jobs and apply for Comprehensive Social Security Assistance (CSSA) in order to solve the problems of accommodation and expensive transport fares at the same time. Hong Kong has been caught in a deflation for the past few years, when fares for public transport have remained exorbitant. The problem has long since grown to a dimension beyond that of individuals leading a frugal life and scrimping on everything, it has become a community-wide problem of productivity and wastage of public resources.

Ever since the Asian financial turmoil, prices of clothing, food and accommodation have fallen by a great margin. Boutiques are calling big sales almost every day, lunch boxes costing \$10 can be found on sale everywhere, and rents of private residential buildings have dropped more than 30%. The only exception is the transport fares, which are not much different from the days of the bubble economy. One has to spend more than \$1,000 if he commutes between his home and office every day taking the underground. Travelling expenses for residents of the new towns are even higher. Now when the working class are finding their jobs insecure, and with the meagre income of some \$3,000 to \$5,000 they make every month, they can barely make ends meet even if they work all the time. If they have to pay some \$1,000 to meet the travelling expenses, they will find no incentive to work. As they cannot choose the place of work, they can only find a job near the place they live and they may even settle for a casual job. They do not care what kind of jobs they find, the most important thing for them is a job, for they want to save the expensive transport fares. But can jobs be found so easily in the neighbourhood?

On the contrary, the public transport operators have been spared the attacks of the financial turmoil and they are still making huge profits to the tune of hundreds of million dollars a year. Take the MTR Corporation Limited as an example. Its after-tax profits for 2002 are as much as \$4.2 billion. Profits for the Kowloon Motor Bus (1933) Limited are more than \$900 million. Half-fare travel concessions for students were cancelled in 1988 and no student half-fare travel passes have been issued since. Ever since that time, students have to undergo a means test before they are given an allowance. It looks as if there is no need for students to engage in social activities. What is more outrageous is that the cross-harbour tunnel buses are charging exorbitant fares in the name of tunnel tolls. The No. 108 cross-harbour tunnel route, for example, charges a fare of \$0.38 per km, with an additional \$5 being charged per trip. Just three passengers will offset the tunnel toll of \$15. The bus company will reap a staggering profit of \$5 from every passenger starting from the fourth passenger. Even when the tunnel buses are on the other side of the harbour, the sectional fares are at least 25% more expensive than buses running on other comparable routes. Air-conditioned buses are another cause of complaint by Members. These routes charge fares at more than 100% of those fares charged by ordinary buses. In wintertime when there is no need for air-conditioning, the air-conditioned buses are still charging expensive fares and many people are unhappy about it.

Earlier on when Ms Miriam LAU talked about sectional fares, she cited the experience of Singapore. Although I have not been to Singapore to study the transport situation there, after listening to the account made in respect of the arrangement, I think the problem can be completely solved. The passengers should be allowed to board the bus from the rear gate and exit in the front gate and the problem is gone. If a passenger boarded the bus from the rear and did not press the Octopus card, so when he exits in the front, he will be charged the full fare or else not be allowed to alight. This will solve the problem with charging sectional fares. I therefore cannot see why sectional fares cannot be charged.

In the short run, the Government should negotiate with the public transport operators and reduce the fares by 10% across the board, restore half-fare concessions for students and encourage operators to offer more joint concessions. In the long run, the Government should amend the Public Bus Services Ordinance expeditiously and redetermine the fares. When the scheme of control agreements expire, the fare structure should be reviewed comprehensively. At a time when the Hong Kong economy is plagued by a

persistent deflation and the unemployment rate perches on a high level, public transport fares should be revised to meet public demand, so as to enable our economy to regain vitality and thrive again.

Madam President, I so submit.

DR TANG SIU-TONG (in Cantonese): Madam President, despite the signs of economic recovery in Hong Kong recently, the grassroots still have to wait for a certain period of time before they can be truly benefited. In the interim, the public may still face the ordeal of salary cuts or continued salary freezes. The fact that deflation has persisted for 58 months has caused the prices of various daily necessities to come down substantially. But transport fares have not been adjusted accordingly and have anchored at the high level. Secretary Dr Sarah LIAO said on assuming office that she hoped to bring about a downward adjustment of transport fares, and this had won unanimous applause from the public. This proves that as an economic downturn prevails, transport fares constitute a heavy burden to the general public. The Hong Kong Progressive Alliance agrees with the principle and direction that reasonable adjustments should be made to transport fares in accordance with the actual economic conditions. As to what method should be used to reduce the fares, this is open to further consideration and discussion.

Buses are a means of public transport most frequently patronized by members of the public. Therefore, the level of bus fares has a direct bearing on the standard of living of the working masses. Although the four bus companies, namely, the Kowloon Motor Bus Company (1933) Limited (KMB), New World First Bus Services Limited (NWFB), Citybus Limited (Citybus) and Long Win Bus Company Limited, began to offer concessions for long-haul passengers for a period of one year on 1 October, the concessions are only selective and subject to time limits, hence unable to benefit the general public. The bus companies must draw up a concrete proposal on fare reduction to benefit all passengers. The motion proposes that the bus companies should set the level of fares according to the journey distance. While this proposal is fair and reasonable in principle, implementation will be difficult. Firstly, to charge fares according to the distance travelled, the installation of Octopus machines is required technically at the entrance and exit of the bus. Members of the public have to swipe their Octopus card when they board and disembark from the bus, just as they do when travelling on the MTR, in order to calculate the fares accurately. But this will lead to many problems. For example, since the bus compartment

is already very narrow, if passengers are required to swipe their card again when they get off the bus, the time for passengers to disembark from the bus will be greatly prolonged during peak hours and this will indirectly aggravate traffic congestion. The bus companies will also have to hire conductors to monitor passengers boarding and disembarking from the bus. This will even cause the operating costs to rise and create pressure for increases in fares, thus undermining the justifications for fare reductions. Therefore, at the present stage, there may be implementation difficulties in charging fares according to the distance travelled.

Regarding the charging of sectional bus fares, bus routes are generally divided into a maximum of three sections at present. While there are criticisms that the existing system of sectional fares is too simple and cannot truly reflect the journey distance in the fares, another difficulty may arise if the number of sections of a bus journey is increased. It is because, at present, the operation of sectional fares on buses mainly relies on manual adjustments to the Octopus machines by the driver. If a bus route is divided into too many sections, it might add to the burden of the driver in operating the machines and might court dangers in driving. Therefore, this should be studied carefully or the technology should be upgraded to the effect that the fare charging machine can automatically make adjustments according to the mileage *vis-a-vis* the different sections of a journey.

We consider that racking our brains to devise a new fare charging system in a bid to reduce bus fares cannot be a solution to the pressing problem. The most effective way to solve the pressing problem faced by the public is an immediate reduction of transport fares. We propose that public transport operators should effect substantive fare reductions on the basis of the existing fare charging system, in order to take up their social responsibility as public utilities and return some benefit to the public. However, we must stress that we are not suggesting an across-the-board fare reduction of 10% by all public transport operators. We only hope that public transport companies that are making reasonable profits and operating in sound conditions can reduce their fares in the light of the economic conditions. As for the rate of reduction, it can be considered flexibly on a case by case basis.

If we look back on the last few years, we will note that major public transport operators, such as the MTR Corporation Limited, the Kowloon-Canton Railway Corporation, the KMB, Citybus, and so on, all have made sizable

returns. The KMB and Citybus have even reaped profits exceeding the maximum return of 13%. Therefore, we consider that public transport operators, which operate in the form of monopolies, already enjoy guaranteed profits and so, they absolutely have the means and room for fare reductions. They should go by their social conscience and be compassionate to the plights of the people. They must not turn a blind eye to the public's aspiration for fare reductions.

Madam President, I so submit.

DR DAVID CHU (in Cantonese): Madam President, transport fares in Hong Kong have in recent years risen to a level that ranks the third in the world, only after London and Tokyo. Since 1998, a deflation has prevailed in Hong Kong and so far, the only thing that has not come down is transport fares. At present, many people are faced with salary freezes or salary cuts. If transport fares are not reduced, they will add to the financial burden of the people, particularly residents in the New Territories who have to spend \$30 to \$40 daily travelling to and from the urban areas. The average wages in Hong Kong have now fallen to below \$10,000. Under such circumstance, transport fares may very likely account for about 10% of the people's income, and this is indeed a very heavy burden on them.

Therefore, I think this topic today is a topic that truly thinks in the way people think. The Government should expeditiously put in place a mechanism which allows increase as well as reduction in fares, so that transport fares can be adjusted in accordance with the economic conditions and price indices, thereby replacing the existing profit guarantee system which allows no flexibility at all. This can pre-empt the emergence of a scenario where there are fare increases only but not fare reductions. Public interests can then be protected having regard for the profit of transport operators, thereby allaying the concern of the sector that reductions would be easy but increases would be difficult.

With these remarks, Madam President, I support the original motion and the amendments.

MR TAM YIU-CHUNG (in Cantonese): Madam President, as a Member of the Legislative Council for New Territories West, I found from my contact with residents in the district that the exorbitant transport fares are an issue on which

the residents have expressed the most opinions, and which has aroused the strongest reaction from and struck a responsive chord in them. Over the last few years, public transport operators have never effected any fare reduction, while the people's income has continued to fall. Honourable colleagues have already spoken at length on this point. So, travelling expenses have put an increasingly heavier burden on the people.

Thanks to the efforts of Secretary Dr LIAO, a number of bus companies have offered fare discount or concessions to passengers since 1 October. But there is still a very big gap between these concessions and the public's wish for an across-the-board — and I stress, across-the-board — reduction of 10% in fares. To many residents in New Territories West, these concessions are not helpful to them at all. I wish to cite some examples to illustrate this point. Take the Kwai Ching District and Tsuen Wan as examples. The fares of a bus ride from these two districts to Kowloon, Tuen Mun, Yuen Long or New Territories East are less than \$10 and so, commuters who travel on these routes cannot benefit from the concessions at all. For example, the fares of both route 69M from Kwai Fong to Tin Shui and route 269M from Cho Yiu to Tin Shui Wai town centre are \$9.1, whereas the fare of route 49X from Tsuen Wan to Kwong Yuen is \$7.5. These bus routes are residents' only option of public transport to travel to and from work, but residents are not given any due discount or concession.

Secondly, the concessions in bus fares are quite a trickery. For residents who need to make interchanges, even if their bus fares cost more than \$10, they still may not enjoy any fare concession. This is a serious exploitation to commuters living in places without direct bus services and therefore need to interchange to other routes. Take a journey from Tin Heng Estate in Tin Shui Wai North to Tsim Sha Tsui as an example. Residents first have to take a bus on route 265M to the interchange at Tai Lam Tunnel, and this half of the journey costs \$9.1. Then they need to take the 269B bus to reach Tsim Sha Tsui, and this half of the journey costs another \$7.4. Although the whole journey costs \$16.5 in total and should therefore be given a 10% discount, residents do not enjoy a discount because the payment of the fares is split into two parts. Moreover, for a journey from Tin Heng to Hong Kong Island, residents also have to take the 265M bus to the interchange at Tai Lam Tunnel first and then interchange to route 968, and the whole journey costs \$20.7. According to the principle of the fare concessions, the fares should be discounted to \$18.6. But since interchange is involved in this journey, commuters have to pay \$20.1, which means an actual discount of a mere 3%. So, for fairness's sake, bus companies must immediately extend such concessions to all passengers who need to make interchanges.

To ease the burden of transport fares on the people, apart from effecting fare reductions across the board, it is also necessary to make adjustments to the existing unreasonable charging methods in order to rectify the irregularities, so that the people will not be made to pay unreasonable fares. According to a survey conducted by the Democratic Alliance for Betterment of Hong Kong, the fares of cross-harbour routes per kilometre are 50% higher than non-cross-harbour routes on average. Take the Kowloon Motor Bus Company (1933) Limited as an example. For the existing 253 air-conditioned non-cross-harbour routes, the average fare per kilometre is \$0.38, but the average fare for 45 of its cross-harbour routes is \$0.57, which is 50% higher than non-cross-harbour routes. Some routes even charge 1.3 times higher than the average fare per kilometre for non-cross-harbour routes. The only difference between cross-harbour routes and non-cross-harbour routes is the tunnel toll. Could a tunnel toll that costs tens of dollars only justify a substantial increase in the actual bus fares?

On the other hand, Mr IP Kwok-him also mentioned earlier the need to review the fares of air-conditioned buses. I think one of the main factors that determined the level of fares of air-conditioned buses back then was a consequential increase in fuel consumption because of the air conditioning system. But according to members of the industry, apart from the New Lantau Bus Company (1973) Limited, the air-conditioning systems of air-conditioned buses of other companies are powered by the main engine, thus fuel consumption is significantly reduced compared to those powered by a separate engine. This is therefore a great deviation from the basis for calculating the level of bus fares of air-conditioned buses in the past. So, I hope the Transport Department will give the public an explanation on this and take prompt actions to rectify such irregularities in the fare structure.

Furthermore, under the existing legislation on fares of public buses, the fares of bus journeys not exceeding 9 km are capped at \$3 for non-air-conditioned buses and \$7 for air-conditioned buses, meaning a difference of 1.3 times. The limits are too lax and have indirectly allowed bus companies to reap even greater profits through the air-conditioned buses, and this arrangement has nevertheless added to the burden of transport fares on the people.

To alleviate the plights of the people, it is imperative to sense the urgency of the people, and a downward adjustment in public transport fares is precisely of the utmost concern to the people. At first, I had wished to also talk about the situation of Tung Chung, for residents in Tung Chung have strongly demanded

fare reductions by bus companies. I have with me a list of residents' signatures. I will now give it to the Secretary for her to gain an understanding of this strong view of the residents. I hope the Government can positively respond to these aspirations. I so submit.

MR ALBERT CHAN (in Cantonese): Madam President, when it comes to transport fares, particularly the expensive transport fares, there will be seething public anger and grievances. The fare structure in Hong Kong is extremely unreasonable and utterly unfair, and to the grassroots in particular, transport fares mean a very heavy burden to them.

The bus companies, particularly the KMB, have made huge profits, but the grassroots are made to pay increasingly more. To members of the public, paying expensive transport fares is a very harsh demand on them. To put it more sternly, the bus companies, particularly the KMB, are "snatching rice from the beggar's bowl", for they have been fed on the flesh and blood of the grassroots and fattening on profits.

The Transport Department has unshirkable responsibilities for allowing this problem, or to be exact, such an unreasonable fare structure to exist. Insofar as the planning of the fare structure is concerned, there is a grave dereliction of duty on the part of the Transport Department. The Secretary is duty-bound to rectify this historical problem.

At present, the entire transport planning, particularly the planning of bus services, is like a scramble for advantages. Several companies are scrambling for "territories" which they consider to be their own sphere of interest. They agree among themselves what belongs to this company and what belongs to that company, and see who can get the lion's share, condemning the people to an even more miserable situation. The whole idea is entirely unreasonable and entirely irrational. For example, Tung Chung has been ceded to Long Win and the Citybus, while Tin Shui Wai has been ceded to the KMB and the Citybus. Each district is "shared out" by some bus companies. Other companies interested in the provision of bus services are barred from the market even if their fares are lower, resulting in oligopoly. Members of the public will suffer at the end of the day, while those well-financed and powerful bus companies will turn out to be the beneficiaries.

The persons-in-charge of many of these bus companies are retired senior officials. Have these senior officials used their influence to help bus companies reap unreasonable profits continuously? Only those senior officials themselves know best. It is strange indeed that most public utility companies, particularly bus companies, are managed by retired senior officials.

Recently, the concessions as mentioned by the Secretary are somewhat ironic indeed. The concessions are applicable only to fares on the higher ends, or fares that cost more than \$10, but not for fares on the lower ends. This seems to be suggesting that fares exceeding \$10 are profitable enough and so, it is acceptable to forego a bit of the profit. But fares below \$10 are not profitable enough for any concession to be offered. However, short or medium journeys that cost less than \$10 usually attract the largest ridership, and as passengers on these journeys often need to make interchanges, even though the fare of one journey may cost less than \$10, the combined fare will exceed \$10 whenever they make interchanges and so, they have to pay extra fares.

To rectify this problem, I think the fare structure must be revamped in order to be fair to the people. Recently, we have actually let slip of many opportunities. With regard to the Tung Chung routes, for example, the authorities have granted a 10-year franchise to the Citybus and Long Win. So, we can do nothing about them within this 10-year period. In fact, comprehensive reforms should be carried out and the fare structure revamped upon the expiry of the franchise.

A simpler way is to set fares according to the distance of the journey or the mileage, and this can be easily done through the Octopus system. Fares can be set at \$1 or \$0.5 per kilometre based on which fares can be calculated according to the distance of the journey, instead of the type of buses or luck. For example, for a journey from point A to point B, if a passenger can reach point B in one bus journey without interchange, the fare may be more reasonable or may not be so harsh or in other words, the fare may not be so unreasonable. But if it so happens that one cannot reach point B direct from point A and interchange is needed once with a stroke of luck, or twice or even thrice with no luck, then one has to pay the fare for each of his interchange journeys. In fact, the passenger may not have travelled through the whole bus journey, that is, he may not need to travel to the bus terminus. But owing to the existing unreasonable and unfair fare groupings, members of the public are indirectly made to pay the fares of one,

two or even three additional journeys as a result of interchange. This situation is resulted purely from bureaucracy in the Transport Department which turns a blind eye to public opinions and public sentiments. Consequently, members of the public are seething with anger and complaints are heard everywhere.

To rectify this problem, I hope the Secretary will truly consider firstly, making it compulsory to introduce interchange schemes in granting new franchise to transport operators. All bus operators and all organizations and companies must have in place interchange schemes. Companies which do not accept these interchange arrangements will have to go. For companies which accept such arrangements, interchange services can be arranged to facilitate interchange by passengers between buses of company A and those of company B, with fares being charged in accordance with the distance of the journey, and this will be reasonable. A passenger who travels 10 km will pay a fare for 10 km; one who travels 5 km will pay a fare for 5 km, rather than paying a fare for 15 km when he has travelled 5 km only, which is the case for interchanging passengers now. Basically, the entire design now varies from company to company and the decision rests with the Transport Department, which means that the Government is responsible for deciding which companies should be given the right to operate which routes. How can the people be made to shoulder additional expenses because of their interchange needs?

Moreover, the Secretary can give consideration to another option. I used a monthly ticket when I was a primary student; four holes were punched on it, and this method is quite good. When I took a bus, a hole was punched on the ticket and four holes were punched on it each day. I do not remember if the monthly ticket cost \$6 each or how much it was exactly. My families bought me a monthly ticket with which I could go to school freely. But now, the people are suffering badly. The exorbitant transport fares are already beyond the affordability of the people. If monthly tickets are restored, the people would know clearly what share transport fares will account for their living expenses and hence, the pressure faced by the people in daily lives would be abated accordingly. So, whether it be the light rail, the KCR, the MTR or buses, it may not necessarily be impracticable to restore the most primitive monthly tickets with holes punched on them. Certainly, high technology can be applied to punch holes by electronic means. I think this may be a way to allay public grievances and discontent.

I hope that under a lame duck government or at a time when public anger is surging, the Secretary can provide some relief to the people by adopting some benevolent policies, so that the meagre remains of the people's income will not subject to continuous extortion by consortiums operating public transport services. I hope the Secretary can consider these problems in detail. Thank you, Madam President.

MR MA FUNG-KWOK (in Cantonese): Madam President, in recent years, the prices of goods and services have been dropping and the accumulated deflation amounts to over 10%. In spite of these, the travelling expenses have remained at a high level without any downward adjustment. This has constituted a heavy burden on the people. However, Hong Kong is a free economy. It is impossible for the Government to exert pressure on commercial companies to make them reduce the fares, as this would violate the principle of free economy. The most effective solution would be for the Government to act as an intermediary to urge the major transport operators to streamline the services so as to minimize vicious competition. In addition, a fare determination mechanism, acceptable to the public, operators and the Government, has to be implemented expeditiously to allow increase as well as reduction in fares, so as to determine reasonable fares in the light of the economic circumstances.

At present, one of the main causes for expensive travelling expenses is that the overall supply of service is far greater than the demand, thereby resulting in vicious competition. Taking the bus service as the example, the daily bus passenger volume is about 4 million persons/trips. However, the total daily bus carrying capacity amounts to over 8 million persons/trips. Bus service is provided at a capacity which is nearly double of that required for serving the actual total passenger volume. On the major roads, such as the Nathan Road, King's Road, Hennessy Road, and so on, it is a common sight to us that there are too many buses and too few passengers. Before the merger of the New World First Bus Services Limited and the Citybus Limited, duplicated routes occur in over 40% of all the bus routes, with 15% of them running to the same destinations. So the competition among bus companies was very keen. The surplus bus service also caused unnecessary road congestion, thus indirectly undermining the effectiveness of bus services.

Apart from the competition among bus companies, bus service is also competing with various other transport services provided by minibuses, estate

coaches and railways. This often leads to a duplication of services and eventually there are insufficient passengers for all the individual modes of public transport, thus leading to higher operating costs. In addition, public transport operators often have to make fixed capital investments, for example, bus companies have kept purchasing new buses in recent years. So even if they do not have enough passengers, they still have to keep increasing the frequencies of bus service, and even increase the number of air-conditioned buses in their fleets so as to compete for more passengers on duplicated routes.

In order to minimize the duplication of routes and the vicious competition among various modes of public transport, the Government must act as the mediator. The Government should co-ordinate the various operators to hold negotiations with a view to reducing the excessive frequency of certain routes. Reduction of duplicated routes is also necessary. Such actions will naturally bring down the operating costs of transport operators, thus providing an incentive for fare reduction. It may be technically difficult to charge fares according to the distance travelled. For example, it may be difficult to ensure that all passengers have paid the right fares. It may incur additional operating costs if Octopus machines have to be installed at both the entrance and the exit of buses, and if additional staff have to be deployed to check the fares paid by passengers.

In order to motivate public transport operators to make long-term investments, the Government should introduce a return rate system for such companies, fixing the profit rate at 30% of their respective fixed assets. However, this system will in effect encourage the companies to boost their capital investment because the higher the asset value is, the higher the return will be. Eventually, they will find better excuses for applying for an increase in fares, while ignoring the significance of increasing productivity and efficiency. Even at a time when the economy of Hong Kong has entered a period of deflation, the incomes of the people falling considerably, prices dropping and production costs making downward adjustments, public transport fares are still going in a different direction from that of the local economic circumstances.

Recently, the Government has proposed a mechanism for public transport fare adjustment which should allow increase as well as reduction in fares. With this mechanism, the extent of fare adjustment will be determined on basis of such information as changes in cost price and productivity, and so on. This will facilitate the adjustment of fares in the light of changes in the economic

circumstances, thereby making it possible to increase fares in case of inflation and reduce fares in case of deflation. This has basically taken both the interests of the people and the operators into consideration. As the mechanism specifies the regulations that have to be complied with, it can prevent the rise of arguments over increases or reductions in fares. The operators would understand that they would make less money in time of economic adversity, whereas the people would accept suitable fare increases in time of economic prosperity.

Hong Kong is a free economy. Public transport operators run their businesses according to commercial principles and they have the right to fix their fares. The Government cannot violate the free market principles due to political pressure. Of course, under the present economic climate, the public transport operators should introduce more concessions in order to tide over the hard time with the people. The existing concessions offered by the two railway corporations can benefit long-haul passengers only, whereas short-haul passengers could hardly enjoy such concessions. Public transport operators should provide more concessions to short-haul passengers. As to the issue of daily, weekly or monthly tickets that can be commonly used on various modes of transport, theoretically they could reduce the burden of the people. However, there might be difficulties in actual implementation. Obviously, the most difficult problem would be: How should the revenue be shared among the operators?

As for the offer of concessions to attract more visitors to Hong Kong and motivate them to stay in Hong Kong for spending, such concessions could be considered for implementation as they would involve a relatively lower administrative cost. Presently, the MTR Corporation Limited, KMB and other bus companies have already introduced some concessions for passengers. If all such concessions could be combined together, it will be even more convenient to passengers.

Perhaps I should stop here. Thank you, Madam President.

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

MR ABRAHAM SHEK: Madam President, 12 million commuter trips are made every day in Hong Kong. 40% of these trips are on buses. Although

most passengers are happy with the reliable services provided by the bus companies, there is some concern about fares which many view as unnecessarily high and expensive. Today's motion provides a timely opportunity for a discussion on the issue.

As members of the public transport network, bus operators are expected to adopt a community-conscious attitude in their fare policies. It is important that they take into consideration the public's opinion and their affordability whenever they seek to adjust their fare levels. In a time of economic difficulty, it is only reasonable that bus operators do their utmost to act reasonably and responsibly for the good of the community.

Under the able leadership of our transport Supreme, Sara, there have been some encouraging developments recently. Three bus operators have shown their social commitment by agreeing to adopt this community-oriented principle when they renewed their expiring contracts in mid-2003. From now on, they will be contractually obliged to take into consideration the burden and the affordability of their passengers. This sets a good precedent, since the franchises of the three other bus operators will expire either in 2006 or 2007.

In addition, a recent business merger involving the two bus companies operating on the Hong Kong side should provide a chance for the relevant operator to reconsider and restructure redundant bus routes. At present, as many as 40% of the island routes overlap each other. It is hoped that an increase in efficiency and productivity as a result of the restructuring could facilitate fare reductions.

But having said that, I must oppose and speak against the original motion and the two amendments. What they seek to do contravenes a fundamental principle in free economies like Hong Kong. That is, they seek to negate the spirit of contract.

Fare adjustments are commercial decisions. They must not be imposed by a government unilaterally under political pressure. Even the regulatory system awarding the franchises recognizes that bus operators are financially independent entities. The franchise agreement explicitly states that bus operators may, depending on market situation or operational needs, submit fare adjustment applications to the Government. On the other hand, it is within the power of the Government to approve or reject such applications. Put it simply,

any change to fare levels must be agreed to by both parties. The Government must respect the autonomy of the bus companies over fare, and adhere to the rules of the game.

Furthermore, bus fare adjustments must be made according to the "modified basket of factors approach" stated in the regulatory mechanism. Along with public affordability, stipulated factors such as changes in operational costs and a reasonable rate of return must be taken into account. Even under the new fare adjustment mechanism, the proposed price-cap formula would only serve as an additional reference factor to the existing assessment criteria.

Also, let us not forget that the bus companies are privately run, listed companies. They bear market risks just like any other private corporation. It is simply unacceptable that the Government could abruptly seek an across-the-board reduction of fares. Bus companies should adjust their fares, or offer concessions, according to their respective financial situations. The truth is, bus companies have been offering various individual or joint concessions, such as interchange schemes and long-distance fare concessions.

Similarly, any change to fare structures must be acceptable to both parties, as I have said earlier. Today's motion urges the bus companies to introduce sectional fares for short-haul passengers while capping long-haul passenger fares. Obviously, the proposal is not financially viable for the bus companies, although it would benefit passengers. Any such proposal would require a delicate balance between public interests and the interests of the companies, and such negotiation must be carried out in an open and honest manner. The motion does not allow such fair-minded negotiation to even take place.

In conclusion, Madam President, I again reiterate to the Government the importance of upholding the spirits of contract and free enterprise. To deviate from its non-intervention approach, the Government's action could be potentially destructive to the economy. It could undermine investors' confidence not just in our bus companies, but also in the Hong Kong economy. Thank you.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Andrew CHENG, you may now speak on the two amendments. You have up to five minutes to speak.

MR ANDREW CHENG (in Cantonese): Madam President, Mr LAU Kong-wah is now not in the Chamber. In his speech moving his amendment, he mentioned that it was indeed rare for the Democratic Party and the Democratic Alliance for Betterment of Hong Kong (DAB) to act on a consensus on this social issue. I would of course welcome this very much. In fact, though the major battles of the District Council elections are already around the corner, the Democratic Party and DAB do share a lot of common beliefs on many issues relating to the people's livelihood and district concerns.

Having said that, though, Mr LAU Kong-wah has sought to amend my original motion because he seems to feel that my motion has failed to carry certain public aspirations. Madam President, I hope you would understand that, I also hope Mr LAU would appreciate that as well, I moved a motion on 23 October last year precisely requesting the various public transport operators to reduce their fares. At that time, unfortunately, the motion was not passed just because it could not secure a majority of votes among Members returned by functional constituencies. Later on, I believe the Liberal Party will not support the amendment of Mr LAU Kong-wah as well. Therefore, the motion moved by me this time around has focused on the unfairness of the public transport fare system as well as the fare structures. Through this motion, I also wish to awaken Secretary Dr Sarah LIAO, who has to address so many areas of work. She has to look after too many policy areas, and insofar as transportation is concerned, I believe the issue of bus fares alone has already caused her enough headaches. Therefore, basically, my motion just intends to focus on how best the existing unfair fare structures can be improved.

As Mr Albert CHAN said just now, I should pay for the 5 km if I have ridden a bus trip for 5 km, and I should pay for 10 km if I have taken a trip of 10 km. This is the spirit of the original motion today. The amendment moved by Mr LAU Kong-wah proposes to reduce the fares by 10% across the board. This is actually the stand of the Democratic Party, so we will surely support it. However, I hope Mr LAU Kong-wah will appreciate that we have a common belief on this. Although my original motion has not deliberately mentioned the proposal of a 10% reduction, this does not show a failure to carry the aspirations of the people, nor does it show that we are not keeping tabs on the pulse of the public.

As for the amendment moved by Mr Albert HO to Mr LAU Kong-wah's amendment, Madam President, we did not include the mechanism for fare reduction in our motion at the outset because we knew the Government was studying a procedure and mechanism for public transport fare adjustment which would allow increase as well as reduction. Madam President, just reading out the name of this mechanism is already a complicated task like saying a tongue-twister. I think you must understand, and I believe too, the complexities and challenges to be faced by Secretary Dr LIAO. Unfortunately, we have been hearing about this mechanism for a very long time, but it seems to have taken centuries and yet nothing has happened so far. In fact, the public transport operators must be racking their brains to get around the mechanism with Dr LIAO and they want to stonewall it as long as they could. They must be trying to make use of all kinds of pretexts such as profit, structure or even their status as listed companies, in order to see how they could work out with the Government a mechanism for adjusting public transport fares which could allow increase as well as reduction under the free economy. This is indeed extremely difficult, but we really hope that the Government can remove all the obstacles and implement such a mechanism.

In Mr Albert HO's amendment to the amendment moved by Mr LAU Kong-wah, specific reference was made to revising the groupings of routes in the scale of fares, which should not be used anymore. Many Members have also said just now that the names of these groupings of routes are quite daunting. For example, the KMB has the "Border Service Line", or the "New Territories Express Line" or the "New Territories Special Service Line". We really do not know what are the differences between them. They try to make use of the many different groupings of routes as excuses to actually charge excessive fares. I feel that in the present society which stresses fairness, the public transport operators should not make use of such arrangement of route groupings to determine the fare structures.

Therefore, Madam President, I support the two amendments.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, today I am very glad to have this opportunity of listening to a lot of valuable opinions from Honourable Members on the public transport fare system. It is also a rare and much cherished occasion for me to hear that the DAB and the Democratic Party can come to a consensus on this

social issue related to the livelihood of the people. As Mr LAU Kong-wah said, it is indeed rare for them to see eye to eye. In the meantime, I also appreciate that Mr Andrew CHENG really understands the difficulties faced by us, Directors of Bureaux. I do have lots of headaches in my work. During this year, I have spent a lot of time addressing public transport problems, such as the fare system and motivating bus companies and the railway corporations to provide more concessions. I fully understand the people's difficulties in their public transport expenditure. The reduction of fares and the provision of concessions are especially important at a time of economic recession in Hong Kong. Meanwhile, in our discussion, we could also see contradictions in many different aspects. I also shared such a feeling during the past year. There are really some contradictions in the motion and the amendments moved earlier in the debate. For example, Mr LAU Kong-wah said that the fares should be charged according to the mileage travelled, on the condition that the burden on long-haul passengers will not be increased. But the contradiction is, do we need to increase the fares for long-haul routes? If the fares are charged in proportion to the distance travelled, then we should increase the fares for long-haul routes. However, the amendment stipulates that long-haul passengers should not be made to pay higher fares.

Besides, Mr Albert CHAN mentioned that the transport fares are very expensive, and that it was very reasonable in the past to have a monthly ticket sold at \$6. However, the level of comfort and overcrowdedness on the buses then were far worse than what we have now. Presently, we want to pay cheaper fares, but the vehicles have to be comfortable. And we want to have first-class public transport. It is really difficult to achieve both. Will the people now be willing to travel on extremely crowded buses? I can say that, if this does happen, we shall receive complaints every day. If the frequency of bus service is inadequate, and passengers have to stand all the way on overcrowded buses with no vacant seat, I believe they will not be able to tolerate such conditions now as they have previously enjoyed better services. So, this is a contradiction.

Moreover, we have the issue of serving either district interest or the overall interest of Hong Kong. The District Councils would invariably put forward requests at each meeting for more bus routes providing point-to-point services. They request that the bus routes should reach sites such as the Central, Nathan Road, Cheung Sha Wan and Lai Chi Kok direct. If an interchange is required, then it could be acceptable if some concessions are offered. However,

on the whole, the congestion on the busy and main roads is a problem. Of course, in this whole consideration, the important factors are the free economy and the contract spirit. From the business point of view, our various modes of public transport, as we can all agree, have already reached world-class standards. What kind of role should the Government play in the entire system? What shall we do in order to make both sides satisfied and accept what we have done? This is very difficult. Therefore, in the past year, our prime objective was to review and reform the system. This takes time. I also understand that Members are all very anxious.

In the meantime, our target is to help those most needy passengers. Generally speaking, long-haul passengers are required to pay more in transport fares, which account for a higher proportion of their total income. We often see that some people may not be able to take up certain jobs with a monthly salary of \$4,000 to \$5,000 just because of the exorbitant travelling expenses incurred. Regarding the two objectives, namely the review and reform of the system as well as fighting for fare concessions on long-haul routes, the Government has been negotiating actively with public transport operators. We have been encouraging them to lower their fares and provide concessions as far as possible. During the past year, altogether over 40 fare concessions have been offered by the railways, franchised buses, maxicabs and ferries, and most of such concessions have enabled the passengers to save some travelling expenses. Some Members may think that such concessions are no more than trivial benefits, yet many people have told me that they have really been helped in this regard.

Regarding the scale of fares of bus services, I have not heard of many of the names cited by Members. I know that the scale of fares, which determines the bus fares, was drawn up in 1997. In replying a question in the last meeting of the Legislative Council, I told Members that the scale of fares was being reviewed. My colleagues know that many names have been used after years' of application, and I also agree that some terms are useless. Competition does exist among various bus companies, and the types of bus routes operated by them are very different, so the fares they charge are determined by various factors such as the length of the routes, service categories, service areas, the types of bus used as well as the needs of passengers. As a passing remark, I would like to mention that we have required franchised bus operators to provide services for the people, that is, they cannot only operate bus routes with heavy passenger patronage. On the other hand, they also need to operate bus routes to serve the

more remote areas. This is our basic requirement for franchised bus operations.

Besides, I would like to point out that there are no guaranteed profit rates for bus services. Instead, we have a profit cap, that is, when their profits exceed 13%, they have to share them with the Government and deposit the amount into passengers funds. But the Government does not provide any profit guarantee for them. The bus fare system is founded on maintaining the overall bus networks, so that some routes which are loss-making yet needed by society can be maintained. Presently, when we examine fare adjustment applications, we would at the same time consider whether it is possible for us to simplify or change the scale of fares.

Regarding the sectional fares for bus services, as I pointed out in my reply to an oral question raised by Mr Andrew CHENG on the 15th of last month, sectional fares are implemented by bus companies subject to the feasibility in all aspects. At the moment, of all the 593 bus routes, with the exception of 57 short routes, 80% of them have already introduced such sectional fares. Of course, passengers boarding a bus at the terminus will not enjoy the sectional fares. I had already explained this during the last meeting. Many Members, especially Ms Miriam LAU, have also advanced detailed explanations on this today. Some of her speaking notes is nearly identical to the information contained in two pages of my speech. It is on the issue of sectional fares of Singapore. Passengers have to wipe the Octopus cards or the smart cards over the machines both when they board and alight the bus to see how much fare should be charged. This does not just increase the workload of the drivers, but also prolong the time required for passengers to get on and off the bus. We have also studied the situation mentioned by Mr IP Kwok-him, in which passengers should wipe the cards both at the rear entrance as they get on the bus and at the front exit when they alight. In this way, the driver will be able to ensure that passengers having wiped the cards over the machine at the front exit would really alight the bus. However, the bus companies mention that, if someone does not wipe the card over the machine while he gets on the bus and only does so when he alights the bus, then the driver will not notice.

In conclusion, if we need to ensure that all passengers will honestly wipe the Octopus cards over the machine in the required manner, then we may have to study the possibility of adopting a bus conductor system. But it would mean a significant cost implication to the bus companies. Therefore, we shall continue

to explore and identify some good methods. My suggestion is, the bus companies may now start implementing the method mentioned above on a trial basis. I feel that the quality of Hong Kong people may not be so bad as cheating on bus fares. But of course we have to convince the bus companies that this mode of operation is feasible, and we are pursuing to implement it on a trial basis.

Regarding multiple-journey cards, Mr Albert CHAN mentioned the monthly tickets just now, whereas Ms Miriam LAU also supplemented some information on the multiple-journey passes of the MTR and the tram. We have also discussed this issue with the public transport operators. However, they still have not figured out how great their companies will be affected financially by the concessions offered on such monthly tickets. We shall continue with the work in this regard. As for tourism, we know we have some tickets specially issued for tourists valid for one to three days. We may quote this example to convince the operators of other modes of public transport to do the same.

In the area of joint concessions, we have been encouraging the public transport operators to implement such concessions in the series of bus-bus interchange concessionary schemes. As mentioned by Ms Miriam LAU, it would be quite complicated in working out the proper way of sharing the fare proceeds. I believe this is not impossible. But when it involves so many companies in offering such interchange concessions, we must consider how best the profits and concessions can be shared among them. We shall continue to encourage the public transport operators to provide more joint concessions as far as possible. Some Members have also mentioned the issue of allocating routes. Presently, when we allocate new routes, we would require the provision of interchange concessions. This has nearly become a standard requirement.

As for student travel concessions, we have no plan of restoring the past arrangement. The government policy is to ensure that all qualified students would not be deprived of education because of financial difficulties. The half-fare student travel concession provided half-fare discount to all students regardless of whether they have financial difficulties. We think this arrangement, under the principle of financial prudence, is not a suitable way of using public funds. The present Student Travel Subsidy Scheme provides assistance to students according to their financial needs. If students can pass the means test and qualify for other assistances, they may get 50% or full subsidy to meet the expenses required for travelling to and from their schools. This

practice is consistent with our present tight financial situation. We have to exercise caution in granting subsidies so as to ensure that the needy students can get 50% or even full subsidies to cover their travelling expenses.

As regards the reduction of public transport fares, many people would bring up this subject in each and every discussion or on different occasions. In the many speeches delivered by Members, a very explicit expectation was expressed for a fare reduction. In fact, this is an issue of enormous concern to us. During the past year, we have done a lot of work in motivating the transport companies to provide concessions and reduce their fares. I do not wish to reiterate all the concessionary schemes here. Today, some Members mentioned that it was not adequate to provide a 10% discount on all transport fares at \$15 or above. Some Members mentioned that, in many cases, as the people have to interchange to other routes, so even if the total amount they have to pay is more than \$10, they still would not be able to enjoy the discount as the cost of each individual journey does not exceed \$10. We are reviewing the issue, and we are studying the situation of the bus companies after the offer of fare discount in November. After this, we shall hold further discussions with them. As for the elderly people, they can now travel on most bus routes on Sundays and public holidays by paying the concessionary fare of \$1. Besides, franchised bus companies have so far implemented 116 bus-bus interchange concessionary schemes covering 365 routes. Taking the example of some long-haul bus routes running from the New Territories, a passenger can save about 38% on the fare per journey. The bus companies plan to implement 28 new bus-bus interchange concessionary schemes. After consultation with the District Councils, these schemes will be implemented in the next 15 months.

Finally, I would like to discuss the transport fare adjustment mechanism. In many such discussions, we all hope that we can have a mechanism to improve the fare system, enhance the transparency of fare determination and use some objective indices to determine the fares, so as to minimize the lengthy arguments arising from each fare increase or reduction. Meanwhile, we also hope to have an objective triggering mechanism which may resolve the disputes between Members and the Government. This is because Members sometimes may not understand why there is no progress on every issue even though the Government has pursued such issues for a long time. We think that we cannot do anything if there is no mechanism in place. Therefore, we are as impatient as Members are, in hoping that a public transport fare adjustment mechanism can be drawn up as

soon as possible. In the negotiations so far, it seems that an initial consensus has been reached on the mode of price cap. As for the method of calculating the data involved, we need some more time to conduct further negotiations. Apart from the fare mechanism, I wish to reiterate that it is necessary for the Government to rationalize its role in the operation of public transport, so as to maintain a balance among the many different modes of public transport in Hong Kong. Apart from the large corporations, such as the two railway corporations and the bus companies, we still have other modes of transport such as the red minibuses, the green minibuses, taxis, estate coaches, and so on. We hope they can continue their operations in a reasonable manner so that, on the one hand, they can continue to make a living out of their businesses, and on the other, they can provide the people with modes of public transport in a convenient, smooth and affordable manner. Under the framework of a free economy, our operations have been functioning very smoothly, and are capable of facilitating the economic development and continued stability of Hong Kong. These are exactly the expectations of the people. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Albert HO to Mr LAU Kong-wah's amendment, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hand raised)

Ms Miriam LAU rose to claim a division.

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

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Timothy FOK, Dr LAW Chi-kwong, Mr Michael MAK and Mr IP Kwok-him voted for the amendment.

Mr Bernard CHAN voted against the amendment.

Mr Kenneth TING, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU and Mr Henry WU abstained.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Albert CHAN, Mr WONG Sing-chi and Mr YEUNG Yiu-chung voted for the amendment.

Mr MA Fung-kwok voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 14 were present, seven were in favour of the amendment, one against it and six abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, 20 were in favour of the amendment and one against it. Since the

question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

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

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Improving public transport fare system" or any amendments thereto,

this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now put the question to you and that is : That Mr LAU Kong-wah's amendment to Mr Andrew CHENG'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)

Ms Miriam LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Miriam LAU has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Timothy FOK, Mr Michael MAK and Mr IP Kwok-him voted for the amendment.

Mr Kenneth TING, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU and Mr Henry WU abstained.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Albert CHAN, Mr WONG Sing-chi, Mr YEUNG Yiu-chung and Mr MA Fung-kwok voted for the amendment.

Mr Andrew WONG voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 14 were present, eight were in favour of the amendment and six abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, 20 were in favour of the amendment and one against it. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was carried.

PRESIDENT (in Cantonese): Mr Andrew CHENG, you may now reply. You have six minutes.

MR ANDREW CHENG (in Cantonese): Madam President, Mr LAU Kong-wah said at the beginning of the debate that the Democratic Party and the DAB could see eye to eye with each other on transport issues. And the Secretary said that she was glad that the two major political parties could see eye to eye on this issue. Later on, I hope this "eye-to-eye" spirit could continue into the motion on election of the Chief Executive and all Members of the Legislative Council by universal suffrage, as Chairman Jasper TSANG had previously pledged his support for these. Therefore, I hope that motion could also be passed smoothly, and that the DAB would not "chicken out". Mr Albert HO asked me to put down this "do not chicken out" reminder.

Madam President, I am very glad that 13 Members have spoken on the motion. As I have said in my speech on the amendments, in fact the motion focuses on the present unfair fare structure of the bus companies. On the other hand, Secretary Dr LIAO also mentioned that Mr LAU Kong-wah's amendment seemed to have some slight contradiction with the original motion. This is because Mr LAU Kong-wah has added "on condition that the burden on long-haul passengers will not be increased". However, even after this "condition" has been added, the Democratic Party still supports this amendment because of the reason which is known to all, that is, if we want to change an unfair system, we think, to a certain extent, the bus companies which used to charge excessive fares have to eat the humble pie and return some of the profits they made to the people — such profits, in our opinion, are unreasonably excessive profits. Just as Mr Albert CHAN said, they had reaped excessive profit in the past, it is impossible that such a practice should go on forever. This is the major premise about the unfairness. Therefore, there is no contradiction. If the sectional fares are eventually adopted, and then, as a result, long-haul passengers are affected, this is a situation we do not wish to see.

In the debate, many Honourable colleagues have focused their discussions on sectional fares, saying that it may not be possible to implement the proposal because of the problem with the Octopus system. However, I wish to stress that the impossibility is not an excuse for not conducting any studies. As far as I understand it, Ms Miriam LAU, Mr IP Kwok-him and the Secretary have all mentioned that it seems Singapore has decided to adopt the practice of wiping the smart cards when passengers get on and off the buses. Although they understand that they may incur certain losses, the Singaporean Government and the bus companies are contemplating two solutions to the problem. One of the solutions has already been mentioned by some Honourable colleagues, that is, the passengers are made to get on the bus by the rear gate and alight by the front gate. Failing this, if someone gets on the bus by the front gate and does the trick of wiping the card right after he gets on the bus by the rear gate, in the hope of telling others that he has taken the ride on the bus for one stop only, then they are studying the possibility of using infra-red light to tackle the problem. If a person does not pass through the infra-red light and alight the bus after a certain period of time after a card has been wiped, then the wipe record would become invalid. And once his wipe record has become invalid, he will be charged the fare for the full bus journey. It is as simple as that. Secretary Dr LIAO

mentioned just now that, be the system installed at the front or in the rear, some people would give others the impression that they would like to cheat the system. Regarding such a cheating spirit, I believe Hong Kong people have already cultivated a higher sense of civic responsibility. In addition, more than 8 million Octopus cards have already been sold so far, and the interests accumulated amount to over \$400 million. Madam President, I feel that the operator of the Octopus system, Creative Star Limited, absolutely has the reasons and the capital to conduct research to identify a method that can address all sorts of administrative problems just mentioned by Members. Therefore, I hope we can make use of this method to solve the problem with the collection of fares as raised by Members.

Madam President, I just wish to mention one more point. Both Dr TANG Siu-tong and Dr David CHU are now in this Chamber, and both of them belong to the Hong Kong Progressive Alliance (HKPA). It is very strange that the speeches delivered by them seemed to contradict each other, and there seemed to be no co-ordination between them. Dr David CHU said in the beginning that he would support the motion because the travelling expenses in Hong Kong were now the third highest in the world, just after Tokyo and London. But Dr TANG Siu-tong had presented some very different opinions. For example, he said some problems and operating difficulties might arise, and he further elaborated that our motion today was just like a distant solution that could not solve our imminent problems. Dr David CHU did not even cast his vote just now. Therefore, I really do not know the voting intention of the HKPA. I hope the political parties would not say a lot grand ideas in their speeches, and yet disappear when the time of voting comes. I really do not know the real intentions of these political parties.

As for the contract spirit mentioned by Mr Abraham SHEK, I hope Mr SHEK will understand that there is only one rationale in today's motion, namely, fairness. According to the principle of fairness, people taking longer bus journeys should pay more, whereas people taking shorter bus journeys should pay less. Therefore, this is really a different issue, which absolutely has nothing to do with contract spirit or the finance of listed companies. Madam President, I do not wish to cause any extra delay to the ensuing significant debate on political development. I am indeed very glad that 13 Members have made suggestions to the Secretary on this issue. The Secretary will surely have a lot of headaches and find it quite a challenge to identify suitable solutions.

However, as the amendment to today's motion has been passed, I hope that the mechanism that will allow increase as well as reduction of fares can be implemented as soon as possible. Thank you, Madam President.

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

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Election of the Chief Executive and all Members of the Legislative Council by universal suffrage.

ELECTION OF THE CHIEF EXECUTIVE AND ALL MEMBERS OF THE LEGISLATIVE COUNCIL BY UNIVERSAL SUFFRAGE

MR JAMES TO (in Cantonese): Madam President, I move that the motion, as printed under my name on the Agenda, be passed.

The Democratic Party proposed in May this year a motion on "Expediently implementing the election of the Chief Executive and all

Members of the Legislative Council by universal suffrage". As that was only less than six months ago, some colleagues asked why we should propose a similar motion again. The reason is in fact very simple. The people expressed their strong aspiration loud and clear in the mass rally on 1 July and yet, the Government has not positively responded to their aspiration for return of the political power to the people.

The Democratic Party conducted an opinion poll early this month and found that nearly 80% of the respondents supported the election of the Chief Executive by universal suffrage of "one person, one vote" in 2007, and 78% of the respondents supported the election of all Members of the Legislative Council by universal suffrage in 2008. In fact, the surveying bodies of many tertiary institutions or political parties have conducted similar surveys before. In this recent survey conducted by the Democratic Party, the percentage of supporters is the highest as the figure in past surveys was some 70%. The figure in this opinion poll is a record high.

Under the Basic Law, the Hong Kong Special Administrative Region (SAR) upholds "a high degree of autonomy" with "Hong Kong people ruling Hong Kong". To truly realize the principle of "Hong Kong people ruling Hong Kong", the wish of Hong Kong people, rather than the wish of the Central Government or other people, should prevail. The aspiration expressed in the march on 1 July is clear and that is, the Government should return the political power to the people by allowing Hong Kong people to elect the Chief Executive and all Members of the Legislative Council by themselves. We should proceed in this direction.

Two years ago when I was having a haircut, I heard a member of the public sitting next to me who was also having a haircut discuss social issues with his hairdresser. Normally, people in that environment may engage in casual chats, sometimes about gossips. But on that occasion, they had probably seen me and so, that person discussed an issue with his hairdresser. I remember that I was deeply impressed by his remarks. The exact wordings used by him then are rather vulgar, and some cannot even go "on air" under the Rules of Procedure. I can only quote his words as far as possible within the limits of the Rules of Procedure. He said, "This 'old Tung' (that is, TUNG Chee-hwa) is not elected by us, but handpicked by JIANG Zemin. He knows only to favour the consortiums. Had he been elected by me, I would blame myself for being as blind as a bat and resign to fate. But since it was you people who picked this

"numbskull" to dump us in this hell, it is perfectly justifiable for the Central Authorities to find ways to help us out."

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

I beg your pardon, Madam Deputy, and I have already tried my best to tone down the vulgarity of his remarks indeed. But from these few lines of comments, I can figure out several key points. That is, in the mind of this person or many other people, election is our due right, but now, our Chief Executive, TUNG Chee-hwa, and our Government are not elected by us. Nor are all Members of this Council. In the mind of this person, such a handpicking system and small circle elections will easily be considered by the public as instances of favouritism to the consortiums. He said that if the Chief Executive was elected by himself, only that his choice unfortunately turned out to be wrong, then he would resign to fate. Why? It is because after some time, he can vote for another person to rectify his mistake; and people returned by elections are particularly willing to listen to the people. It is not our wish to see that we must resort to a procession of hundreds of thousands of people every time in order to tell the Central Authorities the situation in Hong Kong and compel TUNG Chee-hwa and his administration to make transient adjustments to their policies. This is indeed unhealthy, and even a violation of "one country, two systems", because it means that the people have to exert pressure on the Central Authorities which will then exert pressure on the Chief Executive. This is not a healthy system at all. Nor is this a stable system.

If a government or a Chief Executive or even a parliamentary assembly is returned by small circle elections and has no mandate and political acceptability, what problems will arise? In fact, we have already seen the gradual surfacing of the problems. Take our recent discussion on the fiscal deficit as an example. In the last couple of days, we heard some students say that they would boycott classes; teachers and university chiefs, though reluctantly, have also come out to voice support, for they are aware of the serious consequences. Speaking of the fiscal deficit, the Government will always tell us to see what consensus can be reached and in what areas a reduction is possible in order to solve the problem together. But if the Government is not returned by the people, which means that it does not have a popular mandate, credibility and the ability to rally support, and if it cannot command trust from the people, how can the people sacrifice

some of their immediate interests at the request of the Government with regard to a particular policy, and how can they stand united with the Government and be willing to suffer some immediate losses for the greater, longer-term interests and stability of society as a whole?

It is precisely because the Government is not returned by the people that few of its policies can readily obtain support from all or most people. When the Government implements policies, sometimes, a policy may injure the interests of a particular sector of the community, while another policy may have a bearing on another social group. In a pluralistic society, a diversity of policies will paint a dynamic picture. But if the government is a weak government, or if it does not have the people's mandate, the government may, in the course of its work, back away in the face of opposition from 30% to 40% of the people over an issue, and when dealing with another issue, it may meet opposition from other people. What can the Government do for it will face opposition from different people at different times?

Recently, officials have heaved such a sigh too. They said, "Alas! It is really difficult to be officials nowadays. We must listen to what the media will say every morning because they are leading public opinions, and leading the Government by its nose." After discussing this with them, I would think that if the media really can reflect public opinions, then, to put it crudely, that would be a hell of good luck for the Government. If the Government knows what public opinions are, it can make responses and in that case, there will not be any problem, for the Government must answer the public's aspirations.

However, a democratic system allows reviews to be conducted regularly to determine if the Government has been doing a good job, and it also enables the striking of a balance between the interests of the majority and those of the minority on different issues. After a certain period of time, a review can be conducted again to examine whether the Government or certain political parties still have the people's mandate to rule or whether they should step down. This may probably be a mechanism that can rectify mistakes, enable a mandate to be conferred on the government at regular intervals, and provide opportunities for rectification of mistakes. If a government does not have the mandate from the people and is not returned by a full universal suffrage, once it has made mistakes in a policy, the media will certainly jump on the government. In that case, how can the government implement policies? If a government fails to command

respect, support and trust from the people, how can its policies be implemented smoothly?

Some people said, "Alas! Other than the Central Government, there is also a problem with the business sector, for there will be opposition from some in this sector." Some members of the business sector (I also know some of them) used to rely on "free political luncheons". They thought that as long as the Government and the Central Government were "fixed", everything could then be "fixed" and they could do business in a stable environment. They also believed that this conservative small circle system could better protect the interests of their consortiums or businesses. But recently, I have heard that more and more friends in the business sector now feel that the Government cannot get anything done. In saying that the Government "cannot get anything done", they mean that the Government is weak and does not have political mandate; that it is afraid of everything since it is caught in fear in doing this or doing that; and that it flinches easily and has failed to draw up policies that are more stable and predictable, policies that can be implemented with resolve, as referred to by Financial Secretary Henry TANG, so as to give the business sector a feeling of stability and predictability in all aspects.

Certainly, the developments in recent years such as the Cyberport project and even the West Kowloon Cultural District now have made many people feel that the existing system does not in any way favour the business sector. While the general masses think that it is biased towards the business sector, the business sector itself feels that it favours only some members of the sector, some families and some consortiums. With such a system and such a Government, how can anything be done? So, more and more people who used to have reservations about universal suffrage and a fully democratic system now feel that things are leading nowhere and that progress must be made. Certainly, they still have some misgivings, perhaps because they do not know too well the rules of the game in uncharted waters.

Here, I can only make an appeal to these friends. In fact, business communities in the world all have to take part in this game of democracy and to upgrade policy standards. We can see that some organizations have started to set up policy research funds for political parties and think-tanks to conduct studies on social policies. I think this is because they have come to realize where the problem lies and they have come to see that this appears to be the

global trend and hence, it is impossible for them not to take part in it. So, they are obliged to consider whether they should participate openly or privately, and how political agents can be identified and how they can proceed with all this. If everything should end with hundreds of thousands of people taking to the streets and public grievances rising to boiling point, how can we preserve a stable system? If we cannot protect a fair, predictable and stable social system, how can we claim to be an international financial centre?

In a Question and Answer Session, I asked the Chief Executive whether he thought that Hong Kong people deserved a faster pace of democratization or they deserved no democracy after 1 July. The Chief Executive replied that he had an answer but he would not tell us this answer. How can he, being a political leader, show only such temperament, breadth of mind and vision, not daring even to speak out for his basic political conviction in the face of an aspiration expressed by hundreds of thousands of people? In fact, before I asked this question, a colleague in this Council had already said that asking this question would only be a waste of time, and that the Chief Executive would unlikely say that he was against democracy and he would certainly pledge support for democracy. However, he was unwilling even to give us this answer. Why? It is precisely because he was returned by a small circle. I suspect that he personally has great reservations about a democratic system and he does not in the least believe in democracy. He is probably a stumbling stock to democracy. He may even loathe democracy. But since the Basic Law provided for orderly and gradual progress, he can only drag his feet. He personally does not believe in democracy. He has no such beliefs and so, he did not dare to even say this.

Do Hong Kong people not deserve democracy at a faster pace? In fact, our rational, peaceful and orderly behaviour showcased in the march on 1 July have been praised in many editorials, government reports and by political figures all over the world. From our contact with visitors from many different countries, we learn that they all have gasped in admiration. They were surprised to find that here in Hong Kong, the people can demonstrate such quality and performance. Hong Kong people absolutely deserve democracy at a faster pace. But what is the situation now? It may only be our Directors of Bureaux, Secretaries of Departments or the Chief Executive — I do not know if the state leaders are included as well — who think that Hong Kong people do not deserve democracy, or seek to make it more difficult for Hong Kong people to achieve democracy using stalling tactics given their various concerns. The Basic Law provides for a gradual and orderly progress, but from 1985 when

Legislative Council elections first started to the year 2007, the progress will span more than 20 years. Could it be that Hong Kong people do not deserve a fully democratic electoral system in 2007 for us to elect our Government and members of all parliamentary assemblies to monitor the Government? The appointment system in District Councils (DCs) is a retrogression in democracy. Many people are waiting to be appointed, and when they are appointed to DCs, they do not have to be responsible to the public. I hope that the Government can abolish this system as soon as possible. If the Government can appoint an extremely small number of DC members in the forthcoming DC election, it is actually a response from the Chief Executive.

With regard to consultation, I hope the Government can come up with a comprehensive consultation document. I believe the aspiration of Hong Kong people has been clearly expressed: The people are asking for full democracy by 2007 and 2008. I hope that the Government and the other people can answer this aspiration for democracy and cease to be a stumbling block anymore, or else they will only be eaten up by the wave of democracy.

Mr James TO moved the following motion: (Translation)

"That this Council urges the Government to publish a green paper on the reform of the political system of the Hong Kong Special Administrative Region by the end of this year so as to implement the election of the Chief Executive and all Members of the Legislative Council by universal suffrage in 2007 and 2008 respectively, and expeditiously abolish the appointed and ex-officio seats in the District Councils to return the political power to the people."

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

MR BERNARD CHAN: Madam Deputy, there will certainly come a time when the people of Hong Kong elect the Chief Executive and the whole of this Council by universal suffrage. There may be some people who resist this idea, but I think they are probably declining in numbers and in influence.

The question is not "If?" but "When?" and of course "How?"

As the Honourable James TO's motion recognizes, the annexes to the Basic Law lay down earliest possible dates. We will hear plenty of arguments in the future about whether we should do everything as soon as possible, or whether we should phase in full democracy in more than one stage from 2007 and 2008.

This will be a debate of historic importance for Hong Kong. The public deserves ownership of this process, and I would urge the Government to start public consultation as soon as it can. Let us get it into the open, and let us talk about it.

There is one particular point I would like to make today.

Rights come with responsibilities. In the modern world, the right to full and equal political representation cannot be totally separated from the duty to pay tax, usually in line with what you can afford.

Now, we have a problem here. We have a middle class who pay tax, but they have little or no participation in the Government. We also have a less wealthy section of the community who receive public subsidies. In some cases — though certainly not all — the grassroots seem better organized to influence government policy than the middle class.

There is an imbalance. The special representation given to business and professional groups in the Legislative Council partially compensates for that imbalance. But, of course, Article 68 of the Basic Law gives the Functional Constituencies an unspecified lifespan.

The fact is that when people fully choose their government, they will have to assume some responsibilities for paying for the Administration's policies. Will they be ready to do that by 2007 and 2008? I will keep an open mind on that.

Thank you.

DR YEUNG SUM (in Cantonese): Madam Deputy, popular and equal elections are a legitimate civil right of the people. The current method for selecting the Chief Executive, that for forming the Legislative Council and the appointment

system for District Councils violate, however, the principle of popularity and equality.

Currently, the Chief Executive is elected by the 800-member Election Committee under a system of open nomination. A Chief Executive elected by a coterie of 800 people is bound to be deficient in exposure to democratic politics and experience in politics. The recent Michael WONG incident can aptly reflect the incumbent Chief Executive's cronyism. It also shows that when making the appointment, the Chief Executive's sole concern was how to make the Equal Opportunities Commission less defiant of the Government, to make similar organizations more submissive. This incident reflects not only the problems with the Chief Executive's judgement, but also, more importantly, the fact that such an electoral system is bound to see the election of such a Chief Executive. The question is that under the existing system, we can never dismiss the Chief Executive however badly he has performed. The only way out is to reform the method for electing the Chief Executive as soon as possible, so as to return the political power to the people. A recent survey conducted by the Democratic Party finds that 80% of the respondents agree that the Chief Executive should be returned by universal suffrage of "one person, one vote" in 2007. This is indeed a record-high percentage. Actually, the governance crisis faced by the Government now is largely attributable to its deficient acceptability. If the Chief Executive is elected by "one person, one vote", it will be easier for the policies to obtain popular support.

The current method for forming the Legislative Council is similarly inconsistent with the principle of popularity and equality, because with the existence of 30 functional constituency seats, some people are entitled to more than one vote, which violates the principle of equality. What is more, due to the effect of the separate voting system on Members' motions, the public opinions represented by directly elected Members will be basically distorted after voting in the Legislative Council, so the current Legislative Council can hardly reflect public opinions. It is only by returning all Members by universal suffrage that the Legislative Council can represent the interests of the people genuinely and fully.

The demonstration on 1 July has turned the issue of political review into a task that can brook no more delay. However, the Government still employed a stalling tactic until very recently, until October, when Secretary for Constitutional Affairs Stephen LAM finally responded to the repeated appeals of

the Panel on Constitutional Affairs and made known the time for announcing the schedule for political review. The time for announcement is the end of this year. According to Secretary Stephen LAM, the schedule for political review will be announced at the end of this year; views and opinions will be collected in 2004; in 2005, the voting procedures required under the Basic Law and the mechanism for electoral reforms will be activated; and, the enactment of local legislation will take place in 2006. Frankly speaking, for an issue as significant and complex as political reforms, such a schedule is really much too tight. What is more, the Secretary has not disclosed any further details, such as whether a consultation document will be published to consult the people, whether the review will cover the election of the third term Chief Executive, and whether any concrete plan will be proposed. The Democratic Party has been urging the Government to start consultation at the end of this year because we think that Secretary Stephen LAM's schedule cannot allow sufficient time for discussions by the people. The Government must conduct a genuine and honest consultation exercise by publishing a green paper to consult the people and by collating the findings in an impartial and objective manner.

Like the election of the Chief Executive and the formation of the Legislative Council, the appointment system and ex-officio membership of District Councils also violate the principle of popularity and equality. Recently, when I was in the districts helping District Council candidates in their campaigns, many residents said to me, "I will definitely vote in this election." A resident also told me that he had registered as an elector for the first time only very recently. I can actually sense that the people are now much more aware of the importance of participating in social affairs, and that they also wish to exert their due influence through the ballot box. The Chief Executive pledged after the 1 July demonstration that he would open up more channels of political participation. Well, one way for him to honour his pledge promptly is to amend the relevant legislation as soon as possible and abolish the appointment system and ex-officio membership for District Councils.

I learn from the press today that according to Mr Jasper TSANG, Chairman of the Democratic Alliance for Betterment of Hong Kong (DAB), the DAB has always supported the election of the Chief Executive by universal suffrage in 2007. However, last time, 21 May this year, when Mr Albert HO moved a motion demanding the early introduction of universal suffrage for the election of the Chief Executive and all Members of the Legislative Council, the DAB opposed the motion. Since Mr Jasper TSANG now says that they have

always supported the election of the Chief Executive by universal suffrage in 2007, I must call upon the DAB to support the motion today. If they do not do so, they should give us a reason for their opposition, or even abstention.

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

MR LEUNG YIU-CHUNG (in Cantonese): Madam Deputy, the District Council elections will be held next week, so we can now see the electioneering materials of many candidates everywhere. But if we are more observant, we will find that apart from candidates' electioneering materials, there are also many advertisements put up by the Independent Commission Against Corruption, advocating clean and fair elections and advising people not to be hoodwinked by advantages, not to accept bribes, but to elect the candidates who can truly represent them.

Madam Deputy, why is there such an emphasis on clean and fair elections? What is the significance of that? One of the reasons, I believe, is our conviction that we should all enjoy equal rights and opportunities to participate in public affairs on a fair basis. What is more, one should try to win an election with proof of one's achievements and views and proposals on various policies, for this is the only way to do a positive service to society. Unfortunately, such a conviction is totally dismissed by the SAR Government. Why? Because the Chief Executive can still appoint 102 District Council members, and the latter can in turn elect from among themselves 42 people to the Election Committee which selects the Chief Executive. This is in effect a way of enabling the Chief Executive to select his own constituents. Is it fair? What is even more unacceptable is that the people still have to pay some \$30,000 a month out of the public coffers to each of these so-called constituents of the Chief Executive, so as to "maintain" them. Therefore, we cannot but say that this is against the spirit of fair and clean elections we are talking about now. This also aptly reflects the Government's double standards in its handling of the matter: on the one hand, it asks the people not to accept election bribery, and on the other, it condones the Chief Executive's vote-buying in disguise. How can there be a good Chief Executive for Hong Kong? How can there be a Chief Executive who can represent public opinions?

Madam Deputy, I believe not only the common people but also Secretary Stephen LAM and the Chief Executive can see the above problem. But they

have both refused to make any changes and allowed the situation to continue. At a meeting of the Legislative Council last month, when questioned by Mr CHEUNG Man-kwong why the appointment system for District Councils had to be retained, the Chief Executive went so far as to claim that there were voices in society for its retention, even stressing that many community figures, professionals and individuals dedicated to community service were willing to accept appointment. Madam Deputy, this is really a very odd argument; why should people refuse offers of appointment anyway? There will be fame and gain, especially gain, because the people have to pay them money under the law. So, why should they refuse anyway? And, back to the point on dedicated individuals, if these people are really prepared to contribute to the well-being of society, why do they not run in direct elections? The fact is that under the appointment system, they simply do not have to hold themselves accountable to anyone, and they can get fame and gain without doing any work at all. That being the case, there are bound to be people who would like to retain the appointment system. How would they possibly oppose the system?

I really find the situation extremely regrettable, because for years, we have repeatedly stressed our demand for the full implementation of popular elections, and for discarding the appointment system. However, the Government has all along turned a deaf ear to our appeals. In the last Chief Executive's Question and Answer Session, Mr TUNG admitted that the Government had been weighed down by the 1 July demonstration, and that it would draw lessons from the valuable experience. He even said that a people-oriented approach to all matters would be adopted in the future. But just what lessons has the Government learnt during the last several months? In the Harbour Fest and in the Equal Opportunities Commission incident, we only saw how Mr TUNG tried to stay away from trouble and how he passed the blame onto others instead of attempting to identify the problems for rectification. How can this be called a people-oriented approach?

The concept of "the people's precedence over the ruler" was already advanced in China as far back as more than 2 000 years ago. Regrettably, even today, haughty leaders are still found, not only in the Mainland but also in Hong Kong. This is precisely because we do not have a democratic political system. Although our country may become rich and strong, although it has launched a rocket into space, although Hong Kong was returned to the Motherland in 1997, as long as a fully democratic system is not established, the status of Hong Kong people can never be upgraded. For this reason, when we discussed the issue of

universal suffrage last time, I made it a point to say that a new form of colonial rule had emerged in Hong Kong. Secretary Stephen LAM really treated me with "great respect"; having listened to my remark, he gave a very lengthy reply. Secretary Stephen LAM said that the SAR Government had made tremendous efforts to implement "one country, two systems" and "Hong Kong people ruling Hong Kong". He went so far as to criticize me for gainsaying the efforts of Bureau Directors, civil servants and others. But let us be calm and look at the facts here. All that the people can see so far is the continuation of a coterie election to select the Chief Executive, something which makes people think that the Chief Executive is still under the direct control of the Central Authorities. Can this be called an effort? Can this be called an effort to improve our political system? We have been demanding the Government to work out a scheme of political reform, but Secretary Stephen LAM has stalled year after year, saying that studies will be conducted. But so far, he has failed to give us any information, not even one single word. We cannot but conclude that over the issue of "Hong Kong people ruling Hong Kong", Secretary Stephen LAM is just a student who has turned in a blank answer sheet. He has failed to show us any results at all.

Madam Deputy, during the Chief Executive's Question and Answer Session on 16 October, Mr TUNG talked about how our beloved country had been trampled on by other countries over the past century or so due to its weakness and poverty caused by corruption of the Qing Dynasty. However, what have struck us more are the abundant instances of our own people trampling on one another. The situation in the Mainland today makes us realize that economic development alone will never enable a country to break away from corruption and weakness. More importantly, we should pay heed to the people and build up democracy, or else our people will continue to be trampled on by other countries. I very much hope that Secretary Stephen LAM can learn from the example of YANG Liwei and take this important step in the democratization of Hong Kong: to put forward today a democratic reform proposal that is acceptable to us.

Madam Deputy, I so submit.

MISS MARGARET NG (in Cantonese): Madam Deputy, the Hong Kong Special Administrative Region (SAR) shall be the vanguard of China's democracy. I call upon all Hong Kong people to adopt this slogan as our aim

and objective today: Hong Kong shall be the vanguard of China's democracy. "Arms in hand, the king charges forward", reads an ancient Chinese poem that I read as a child. In the context of a modern-day democracy, where sovereignty resides with the people, "king" is the symbol of the state, which is owned collectively by the people. So, "arms in hand, the king charges forward" means that in the democratization of our state, we must stand boldly at the forefront and clear the path leading to democracy. Hong Kong shall be the vanguard of China's democracy.

Madam Deputy, I urge Members to discuss Mr James TO's motion on this very basis.

In a speech delivered last month in Canberra, Australia, State President HU Jintao made repeated references to the prospects of democratization in China, confirming, "Democracy being the common aspiration of all mankind, all countries should genuinely seek to safeguard the rights of their people." He went on to assert that "democracy has been an impregnable goal of China over its past 20 years of reform and opening", and that "China will continue to promote democracy in the light of its actual situation".

We have complete faith in President HU Jintao's determination and earnestness to promote democracy in China. At the same time, though, his reference to democracy was rather vague and may need further definition. The democratization of the SAR may, at this critical moment, play a crucial role in the development of the state.

The prospects of democratization in Hong Kong are, however, not altogether vague but extremely tangible, because the room for that is clearly provided for in the Basic Law.

Under Article 45 of the Basic Law, provision is made for the selection of the Chief Executive by universal suffrage upon nomination by a nominating committee in accordance with democratic procedures. And, under Article 68 of the Basic Law, provision is also made for the election of all Members of the Legislative Council by universal suffrage. For the timeframes concerned, flexibility is provided for under both Articles, where "in the light of the actual situation in Hong Kong" and the principle of "gradual and orderly progress" are set down as the pre-conditions. As for whether these two pre-conditions are satisfied, it shall be entirely the right of the SAR to make its own judgement.

Annex I and Annex II also provide even more clearly that the SAR shall be free to make its own decisions after 2007 and needs only to report them to the Standing Committee of the National People's Congress (NPC) for approval. Perhaps still fearful of any further doubt, Mr JI Pengfei, former Director of the Basic Law Drafting Committee, when submitting his report on the drafting of the Basic Law, even went so far as to stress in his speech that in the first 10 years after the reunification, the SAR shall be free to exercise this reserved power.

During the earlier debate on Dr YEUNG Sum's motion, I already stated by my views on the election of the Chief Executive in 2007, so I shall make no repetition here. As for the election of all Legislative Council Members by universal suffrage in 2008, the justification is even more straightforward. Nowadays, can we still find any "functional constituencies" in any democratic elections in other parts of the world? It is, in the very first place, against all principles of democracy to give political privileges to any organizations, industries or groups with vested interests. Worse still, such a practice has even given rise to a morbid situation where the voting results of the Legislative Council are frequently at variance with the opinions of society as a whole. There is simply no decent reason to support the continuation of such an outdated system.

Those who advocate the retention of functional constituency seats can only argue that this is conducive to social stability. However, the Legislative Council's failure to reflect public opinions, or precisely, its defiance of public opinions, has rapidly become a major factor undermining the stability of society, posing increasing dangers.

Madam Deputy, two decades ago, that is, when Sino-British negotiations on the future of Hong Kong were underway, the state policy of China was still on the whole economically liberal but politically conservative. That has changed, however, ever since the 1989 pro-democracy movement and down through the 1990s. Today, political liberalization and democracy are no longer so unattainable. Director JI Pengfei's decision to make Hong Kong people wait 10 more years after 1997 was already very conservative, and today, this decision looks 120% conservative, or even excessively conservative. If we still stall, how can we face the international community which supports the Sino-British Joint Declaration? How can we face our compatriots and Hong Kong people?

Democracy is the aspiration of Hong Kong residents; democracy is the pursuit of all mankind; difference in the degree of democratization is the main obstacle to the reunification of the two sides of the Strait. Whatever private agendas the powers that be may have, once the problem of democratization is solved, the people's psychological barriers to reunification will be removed.

Madam Deputy, Hong Kong shall be the vanguard of China's democracy. It is only natural to support Mr James TO's motion for the good of both Hong Kong and China. Not only this, we must take positive actions and work relentlessly until the mission is accomplished. Thank you, Madam Deputy.

MR AMBROSE LAU (in Cantonese): Madam Deputy, political development is a matter that involves Hong Kong's fundamental interests. It should be handled prudently in strict accordance with the Basic Law and in the light of the actual situation in Hong Kong.

Under the Basic Law, if there is a need to amend the electoral systems of the Hong Kong Special Administrative Region (SAR) after 2007, such amendments must be made with the endorsement of a two-thirds majority of all the Members of the Legislative Council. For this reason, Members belonging to different political parties and factions may discuss Mr James TO's motion as much as they desire and then seek common grounds while accommodating minor differences.

Madam Deputy, when it comes to reaching a consensus, we should first look at the recent changes in public opinions in Hong Kong. Since the 1 July demonstration, the Central Authorities, with a full understanding of Hong Kong's economic hardship and aspirations, have implemented a whole series of measures to assist Hong Kong, including the removal of restrictions on individual visits made by mainlanders, a higher maximum amount of cash they can bring to Hong Kong, the Mainland/Hong Kong Closer Economic Partnership Arrangement, the enhancement of co-operation and division of labour between Hong Kong and Guangdong and between Hong Kong and Shanghai, the decision to construct the Hong Kong-Zhuhai-Macao Bridge, the consideration given to turning Hong Kong into an RMB offshore centre, the active studies on QDII, and so on. All these measures have achieved obvious results and won the approval of all social sectors in Hong Kong. Public opinions have thus undergone some changes once again lately: people now trust the Central Authorities and the State;

and, they wish to maintain social stability and spend their valuable time and energy on revitalizing the economy and improving their own lot. The recent visit of YANG Liwei and the aeronautic deputation to Hong Kong was warmly received by the people. The visit has enhanced Hong Kong people's national confidence, deepened their understanding and acceptance of the State, fostered social cohesion in Hong Kong and made Hong Kong people more confident than ever before in overcoming their difficulties. This gives further proof that the broad consensus which Hong Kong as a society is seeking is all for the maintenance of stability, the revitalization of the economy and the improvement of the people's livelihood.

Madam Deputy, Hong Kong's political development should be oriented to serving the future interests and common good of society. At present, our economy is still in a poor shape; in particular, following the onslaught of SARS, all trades and industries are yet to be revitalized; and, we are still being plagued by many problems, such as unemployment, negative equity assets, fiscal deficits and a sluggish property market, which must all be tackled urgently. When we are still faced with these problems, and before listening to and collecting any public opinions, it will be much too hasty and rash to ask the Government to publish a green paper on political reforms for the SAR at the end of this year. Such a demand also ignores the latest changes in public opinions in Hong Kong.

Madam Deputy, the abolition of appointed and ex-officio membership for District Councils (DCs) should be looked at in conjunction with their functions and role. DCs are not organs of political power. Since the inception of district boards (now renamed DCs) in 1983, their role has been to advise the Government on various district affairs. In recent years, in order to support district activities, the Government has set aside some funds for DCs to organize activities at their own discretion. However, as far as public policies are concerned, the role of DCs has all along remained advisory in nature. The retention of appointed and ex-officio membership can ensure the presence of people with different backgrounds in DCs. Moreover, the several thousand members of the 400 or so advisory committees of the Government are not returned by elections either. Therefore, it is reasonable for DCs to retain a certain number of appointed and ex-officio seats.

Madam Deputy, given the actual situation in Hong Kong, and as far political reforms are concerned, it is only by first improving the economy and the people's livelihood that we can ever hope to foster a stable and harmonious social

environment conducive to the seeking of major common grounds while accommodating minor differences, and to come up with a scheme of political development consistent with the overall interest of Hong Kong. On this, the Hong Kong Progressive Alliance maintains that the Government should adopt a positive attitude of listening more to dissenting views, of liberal-mindedness and of accommodation. Then, on the one hand, it should try to develop the economy and improve the people's lot, and on the other, it should adhere to the Basic Law and seek to safeguard the various rights and freedoms of Hong Kong people through the gradual and orderly introduction of democracy.

Madam Deputy, I so submit.

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

MR JAMES TIEN (in Cantonese): Madam Deputy, the Liberal Party has several views on the motion today.

First, we notice that many members of the Legislative Council Panel on Constitutional Affairs are urging the Government to launch consultation as soon as possible, or earlier than scheduled. The Government has replied that consultation will not be launched until 2004. Certainly, 2004 is such a long time. Is consultation going to be launched at the beginning of the year, in the middle of it, or after the Legislative Council Election? We are still awaiting a reply from the Government. However, to the Liberal Party (and we have been saying so since 2000), the appropriate time for full consultation should be 2003. Why do we say so? Actually, there are many divergent views from the various functional sectors. Some individual functional sectors support the abolition of all functional constituency seats, but do all the other functional sectors think likewise? Not necessarily, I must say.

This is even the case with the common masses. If we ask them whether they support the full implementation of direct elections, most of them will certainly answer in the affirmative. But if we instead ask them whether they support the abolition of all functional constituency seats, I do not think all of them will necessarily answer in the affirmative. Besides, from the actual operation of the Legislative Council, we can in fact notice that Functional Constituency Members have also been offering lots of useful advice on many

issues, ranging from bills to motion debates. And, a Member's representativeness is not necessarily related to whether he or she is directly elected. This is especially true in the case of many legal issues. For example, during the scrutiny of bills, many Members from the professions (such as accounting, engineering and technology) are often able to offer insights which can help us perfect the whole piece of legislation. For this reason, regarding the full implementation of direct elections for the Legislative Council in 2008, that is, the abolition of all functional constituency seats, I think there is a need to launch consultation as soon as possible.

But the Democratic Party has actually implied that there is no need for any consultation, because they think that since the people have clearly stated their demand for the full implementation of direct elections, that is, for the abolition of all functional sectors, there should be no more need for any consultation at all. They think that if the aim of consultation is to gauge opinions, and since very clear views have already been expressed, any further consultation is "bogus". Maybe, we should not say "bogus", but to them, there has already been consultation; or, they simply think that since the outcome is already known, it is not necessary to conduct any consultation at all. They simply wonder why we should not proceed direct to writing up a paper on the full implementation of direct elections.

Their motion makes no mention of how the Chief Executive is to be elected by universal suffrage in 2007. The Liberal Party agrees with them in this respect. Can one interpret "after 2007" as mentioned in the Basic Law as also covering the year 2007 itself? The Government says that legal advice has to be sought, and I hope that it can give us an answer as soon as possible. As we pointed out at the very beginning, a transition period of 10 years, that is from 1997 to 2007, is already long enough, so the Liberal Party is of the view that if a transition period of 10 years is really deemed long enough, then regarding the Chief Executive Election, "after 2007" can in fact be interpreted as also covering the election in 2007. We hold this view because we look at the functional constituency seats in the Legislative Council in the same way. However, the Chief Executive is a human being, and so we cannot possibly demand that half of the Chief Executive be returned by direct elections and the other half by functional constituencies. Even under the principle of gradual and orderly progress, sooner or later, there will be a nominating committee and then universal suffrage. We therefore do not think that "after 2007" must necessarily be interpreted to exclude the term from 2007 to 2012. We think that

judging from the wording of the text, the term from 2007 to 2012 should also be included.

The last point is about the appointment system for DCs. I think this may not be the thrust of the motion, because the pro-democracy camp also knows that although 25% of DC members are appointed, these members have not posed any obstacles in respect of any specific livelihood issues. These members have only been providing advice as a kind of assistance. In fact, as far as voting is concerned, since 75% of DC members are returned by "one person, one vote" and only 25% of them are appointed, people simply do not have to fear that appointed members can prevail over directly elected members. I notice that in the past four years, in the Central and Western DC, there was seldom any voting. Most of the time, members just discussed things among themselves and then asked the Government to follow up the matters concerned. And, in most cases, the Government did not really do so. But in any case, there were seldom any conflicts as such between appointed DC members and their elected counterparts. Quite the contrary, the appointed members of a number of DCs have offered some useful advice for the reference of their elected counterparts. In Kwun Tong, for example, there are many industrial activities, so it should be acceptable to appoint members from the industrial sector. And, in the Central and Western DC, an appointed member is an accountant, and he even served as the Chairman of the Finance Subcommittee of the DC in its last term, providing professional management of the funds allocated by the Government.

Therefore, having looked at all these considerations, should we still think that all appointed seats in DCs should be abolished and replaced by directly elected seats? I would not say that the abolition of appointed membership would really bring forth anything so bad. I also do not think that the retention of appointed members will adversely affect the operation of DCs, or prevent residents from voicing their views. Nor do I think that the retention of appointed membership should be used as an excuse of any highly negative comments.

Madam Deputy, for all these reasons, the Liberal Party opposes the motion.

MR MARTIN LEE (in Cantonese): Madam Deputy, I think a quorum is not present now. Would you please count the number of Members present?

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please count the number of Members present.

(The Clerk counted the number of Members present)

DEPUTY PRESIDENT (in Cantonese): There are only 15 Members present. Since a quorum is not present, will the Clerk please ring the bell to summon Members.

(THE PRESIDENT resumed the Chair)

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr Martin LEE, you may speak now.

MR MARTIN LEE (in Cantonese): Madam President, why did I ask Members to come downstairs? When I was eating upstairs just now, I wanted to switch on the television and listened to the remarks being made by Members downstairs, so that I could know whether I had to give any responses. Unfortunately, everybody was watching the news in the Dining Hall. I wanted to switch the channel back to the Chamber, but Mr LAU Kong-wah refused, saying that he was watching the news. What should be done then? Naturally, those who were already watching the news should be allowed to go on doing so. That is why I have asked him to come downstairs. Oh, he is gone again?

I saw that many Members belonging to the DAB were upstairs, and they were not listening to what was going on in the Chamber. So, I just wondered how they could possibly vote later on. That was why I found it necessary to have more Members here to listen to the debate, particularly more Members from the DAB, because they are theoretically in support of the direct election of the Chief Executive in 2007 and the direct election of all Legislative Council Members in 2008. I say "theoretically" because while this is written in their party constitution, they have all been evading the topic recently. They have been absent from all occasions where views can be expressed on democratic

elections. They have not been seen in the many recent seminars organized by various universities.

Actually, many years ago, when I was still the Chairman of the Democratic Party, I already discussed this topic on numerous occasions with Chairman Jasper TSANG and Chairman James TIEN. In the past few years, they said repeatedly that they supported the direct election of the Chief Executive in 2007 and the direct election of all Legislative Council Members in 2008. And, I was a bit more radical than they were, and I insisted that it must be done much earlier by amending the Basic Law. But it is no longer possible to make it any earlier now. It can be said that this was the common aspiration of ours. I mean, the three major political parties were all in support of the direct election of the Chief Executive in 2007 and the direct election of all Legislative Council Members in 2008.

What a pity, however, that the Liberal Party subsequently backed out and even amended its party constitution, enraging its then Chairman, Mr Allen LEE, who eventually withdrew from the Party. I have heard how Mr James TIEN repeated the same old argument just now. According to him, "after 2007" may be interpreted to exclude the year 2007 itself, so nothing can be possible until 2012. I simply do not want to argue with him any more, because our point has been made many times before in the Chamber. During the last debate on that, Miss Margaret NG explained very clearly the concept of "year", saying that 2007 would naturally mean the period up to the very end of the term, and that the same should apply to 1997. What about "before 1997"? Should it just mean 1996? If so, what about the first half of 1997? The second half of 1997? Are we not going to include January 1997? To sum up, he is just trying to stir up trouble, and I would not argue with him anymore, because the four senior legal experts of the Chinese Government, that is, the four experts who drafted the Basic Law together with us when we were still Basic Law drafters, also agreed at that time that under the Basic Law, the Chief Executive can be elected by direct election in 2007. Therefore, I hope that Chairman James TIEN can stop teasing Secretary Stephen LAM, who already likes to delay things as much as possible. Please do not tease him into doing this again, because even the four senior legal experts do not support it.

Frankly, what kind of a system is the existing one? Nothing, it is simply nothing at all! We may look back on what this Accountability System for

Principal Officials has been like since its inception. Miss Margaret NG moved two motions on vote of no confidence. The first was directed at Secretary for Justice Elsie LEUNG for the Sally AW incident. What happened at that time? The then Chief Secretary for Administration Anson CHAN led the whole team here and refuted the accusations *seriatim*. At least, there was still some kind of team spirit, still a show of collective responsibility. Then, there was a more recent motion on vote of no confidence, again moved by Miss Margaret NG, but directed at the then Financial Secretary, Antony LEUNG. But gee, just a handful of principal officials turned up, and he even had to do his own defence. We can see that given the way in which it is operating, the system is doomed to failure. To whom are these officials accountable? Everybody is so scared. Just look at the funding cuts for the universities recently! It seems that the Secretary concerned and the Financial Secretary simply cannot come to any agreement. What kind of a system is this? This explains why it will never achieve anything at all.

As pointed out by many Members, and also by Mr James TO, whatever the Government says now will invariably meet with opposition. In particular, whenever there is any opposition from those "famous talk show hosts", the Government will certainly yield. Hey! What kind of government is this? In all fairness, however, one cannot lay all the blame on them, because the system itself is such a complete mess: there is no mandate from the people. What should be done then? In order to have the people's mandate, there must be elections. When there are elections, candidates will put forward their election platforms, in which proposed solutions to Hong Kong's woes, the economic ills, are offered. Every political party will field its own candidates, and every candidate will have his or her own set of proposals. The candidates cannot possibly please everybody, of course, and there is bound to be pressure on them. What if the Government wishes to increase taxes? Tax increases will lead to complaints, and so will expenditure reduction. This means that people must be very serious with what they advocate and propose what they think are the most workable policies. Having done so, they may run in an election. When a candidate wins, he will have to follow his own platform unswervingly.

In contrast, the existing system is doomed to failure, because it is led by such a Chief Executive. We can all see that the Chief Executive is so very, very, very unpopular. But the Central Authorities still want to back him up. What can Hong Kong people do? Well, just cast him aside.

Basically, Hong Kong is still functioning well because society is still stable. But this is only because Hong Kong people themselves are capable, not because the Chief Executive has done well. All is due to the fact that despite the very poor performance of the Chief Executive, Hong Kong can still manage so well. It is frankly no longer possible to hold back this current trend of democratization. There used to be three conservative politicians in Hong Kong, dubbed by us as the "Three Knights", namely, Sir S.Y. CHUNG, Sir T.L. YANG and Sir Gordon WU. All of them now say that there should be democracy. Sir T.L. YANG for one even burst into tears twice when watching on television how so many people were marching in the streets, admitting that he had erred and failed to grasp the general wishes of the people. The situation as such, who should still stand in the way of our democratization? The DAB people will not say "no", and they will definitely employ a stalling tactic. But why do they not render their warm support and request the Government to launch a review immediately? The Secretary is still insisting that a schedule will not be available until the end of this year. Oh, my goodness! This is nothing but an insult to the wisdom of Hong Kong people.

Thank you, Madam President.

MR FREDERICK FUNG (in Cantonese): Madam President, before I deliver my speech, I would like to clarify the stance of the Democratic Alliance for Betterment of Hong Kong (DAB) to Mr Martin LEE.

At the last meeting of the Sham Shui Po District Council (DC), a motion was moved to call on the Government to work for democratic universal suffrage in 2007 in tandem with its efforts to develop the economy. At that time, the three DC members from the DAB voted against the motion. So, I do not know whether they are support or oppose universal suffrage in 2007. If Legislative Council Members from the DAB support universal suffrage, why did DC members from the DAB voted in opposition? This is just inexplicable.

There are many, many reasons to oppose universal suffrage. I remember that before 1997, some people said that Hong Kong people were not politically mature and so, there should not be universal suffrage. Later, it was said that public opinions were diverse and so, there should not be universal suffrage. Now, the tune has changed, as it is said that the economy has yet recovered and so, there should not be universal suffrage, and that since the Severe Acute

Respiratory Syndrome (SARS) epidemic has just subsided, there should not be universal suffrage. Since Mr TUNG took office, we have seen major incidents happen every month and every year, and these incidents can then become reasons for not implementing universal suffrage. The "Harbour Fest" is a big fuss, so let us not go for universal suffrage; the Equal Opportunities Commission has caused an uproar in society, so we had better not go for universal suffrage. This shows that a reason can be found every month to tell the people not to go for universal suffrage. But these are really no reasons at all.

There is a strong fact or evidence to prove that the argument against the implementation of universal suffrage and the conduct of public consultation at present simply cannot hold water. On 1 July, more than 500 000 people took part in a march peacefully. We can see that the people were dissatisfied with their Government in the implementation of policies, in its handling of SARS, and over the enactment of legislation on Article 23 of the Basic Law. These hundreds of thousands of people have made us feel that a democratic system can be set up in Hong Kong, because during the many hours of the march when huge crowds of people gathered in such sweltering heat, there were no chaos, no riots, and there were not even quarrels or fights. What happened in Hong Kong has never happened in any mass rally of this scale in any other society. Hong Kong people are very rational. They know clearly what they are doing. They know even more clearly that they will not use this to exert pressure on the Central Government. Indeed, this is political wisdom and acumen. Who else can say that Hong Kong people are not politically mature and that it is not time for universal suffrage to be implemented? In fact, we think that we should gauge whether the existing political system in Hong Kong is democratic based on a principle of democracy, and this fundamental principle is "one person, one vote of equal value".

We can see that the previous elections of the Chief Executive actually make the greatest mockery of and constitute a bottleneck in democratic systems. Insofar as a democratic system is concerned, apart from one person, one vote, it is most important to allow the people to vote freely according to their own free will in the implementation process. However, the existing system whereby only the 800-member Election Committee is qualified to nominate and elect the Chief Executive is precisely hilarious. In the last election of the second-term Chief Executive, this small circle election is a gross absurdity. Apart from giving the impression that the principle of "one person, one vote of equal value"

was not observed, since there was only one candidate, the nomination process had virtually become the election process because nomination was conducted openly. Given that the vote was also conducted openly, this may not necessarily reflect the true will of each voter. This is a violation of a fundamental principle of democratic systems, that every person can choose his leader according to their free will.

Moreover, I also wish to point out that in the two-tier parliamentary assembly system, 30 seats in the Legislative Council are returned by direct elections. Of course, I have no criticism of this because basically, whether it be "single-seat, single-vote" or proportional representation, it is still a form of direct election. But if the 30 functional constituency seats were retained in the future, then this would be inconsistent with the principle of democracy mentioned by me just now, that is, the principle of "one person, one vote of equal value". This system only reflects that some sectors are more superior. This is entirely a mentality of elitism, which violates "one person, one vote of equal value" as I said just now, and also the democracy value of equality for all.

The second tier of the parliamentary assembly system is District Councils. A full direct election was already implemented in 1995, but I do not understand why the SAR Government turned the clock back after 1997 by restoring appointed seats. Mr James TIEN explained earlier the merits of appointed seats. "What harm could it do to have the opinions of professionals, since most issues do not need to be put to the vote anyway?" he asked. In fact, professionals cannot give play to their expertise in the DCs, and as he has said, their opinions may not be taken on aboard eventually. Then, to which venue should the professionals be appointed by the Government? The professionals should be appointed to professional advisory bodies. To enable them to bring their expertise into play, the professionals should not be appointed to DCs, for DCs are a forum of public opinions where public opinions should be reflected to the full. If appointed members are included, their professional advice may not be consistent with public opinions. So, when a conclusion is reached in a DC, public opinions may eventually be voted down because 25% of its members are appointed members, and as a result, the views of DC members cannot be reflected. Therefore, I think that if the professionals really wish to contribute their professional advice as well as their expertise, the Government should not appoint them to DCs. Rather, they should be appointed to sector-specific advisory bodies.

I would like Mr James TIEN to know that not all of the incumbent appointed DC members are professionals. Some are members of the general public who are residents of the district, only that they are leaders of the residents who are pro-government and may also be pro-DAB. No supporter of the democratic camp has ever been appointed. So, we can see some stratagem and some political implications in the appointment system. So, I think that in DCs, a venue purely for expression of views, not even one single appointed seat is needed.

Madam President, the march in which 500 000 people took part on 1 July still leaps up vividly before our eyes, and we all have heard that the Chief Executive had vowed to implement reforms. While his words still ring in our ears, we have yet seen any result of any reform, and we have yet seen any policy being reformed. Has the Government really heard the aspiration of the 500 000 people? Here, I hope that the Government will soon publish a green paper on the reform of the political system by the end of this year, setting out different options to implement democratic reforms to different degrees and at different paces, thereby stimulating rational discussions among the public and building up a consensus on the development of the political system in the future. I also wish to remind the Government that it must be humble and impartial in conducting consultation on democratization. It must not listen to only one side of the opinions and act stubbornly. It must not be self-opinionated, thinking that something is true and something is good and hence thinking that the people will definitely agree with it. In fact, the march on 1 July has reflected the view of the people, that is, the Government is detached too far away from the people. Thank you, Madam President.

MS AUDREY EU (in Cantonese): Madam President

MR MARTIN LEE (in Cantonese): Madam President, a quorum is again not present now.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the meeting.

(After the summon bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Ms Audrey EU, you may speak now.

MS AUDREY EU (in Cantonese): Madam President, the march on 1 July has led us to believe that people power can change everything, and it can change the impossible into possible. The attitude of the SAR Government towards constitutional reforms has also appeared to be less insistent. In his address at the National Day cocktail reception on 1 October, Mr TUNG described it as an unshirkable duty of the Government during the current term to promote democratization. Secretary Stephen LAM also said for the first time last month that public consultation on constitutional reforms would commence early next year. Besides, Secretary LAM also mentioned the need to enhance participation from political parties in the Government's policy-making machinery. I am very glad to learn from the newspapers that a veteran local Deputy to the National People's Congress, Mr NG Hong-man, also supported the election of the Chief Executive by universal suffrage in 2007. Moreover, I have learned from press reports that two colleagues from the Liberal Party, Mr James TIEN and Mrs Selina CHOW, have stated that they are actively considering taking part in direct elections in geographical constituencies in next year's Legislative Council Election. I hope that they can set a good example for the business sector, telling the sector that direct elections are nothing to be held in fear.

All these changes are encouraging. But still, they may not keep tabs on the social pulse and demands. In fact, the voices from all sectors of the community have been crystal clear and that is, to reverse this quagmire of a weak government, the only way is to implement universal suffrage and to return the seats in the Legislative Council by direct elections.

Insofar as the recent performance of Mr TUNG and his administration is concerned, from Mr TUNG's admission of the four mistakes made by himself in a Question and Answer Session in the Legislative Council, to Mr TUNG's initiative to appoint a commission of inquiry into the "Harbour Fest" and the recent incident in which he "deserted", so to speak, the former Chairman of the Equal Opportunities Commission, Mr Michael WONG Kin-chow, we can see that greater weight has been attached to public opinions and sentiments. They no longer adopt a take-it-for-granted attitude and charge forward without having regard for anything. But so long as the Government lacks acceptability, it is difficult for it to break away from the quagmire.

In fact, a weak government is set to face scores and scores of difficulties in implementing any policy, irrespective of the nature of the policy — good or bad. Take the boundary facilities improvement tax recently proposed by the Government as an example. Its impact on the people's livelihood is actually minimal, for it is proposed to be \$18 only and is consistent with the fiscal management principle of user pays. But the proposal eventually aborted. Come to think about this. If we have a government returned by universal suffrage and if it has explained to voters its fiscal philosophy and proposals on taxation during the election, the implementation of policies by this government in the future will naturally be plain sailing. So, I believe a government elected by the people is also helpful to revitalizing the economy and solving the fiscal deficit.

Some people consider that a full implementation of universal suffrage will ultimately benefit the democrats only. They said that this is actually a conspiracy of the democrats and that the agenda is to seize power. Madam President, I personally think that the result will just be the opposite. It is because when democracy is truly in place in Hong Kong, that would be a test to the democrats. By then, the most fundamental difference between democrats and other factions will no longer exist, in which case the democrats will have to compete with other factions for public support over issues relating to the people's livelihood or the economy. For example, political parties that are often labelled as "royalists" would not have to worry anymore, for they would no longer have to carry on their back this negative asset or baggage of being "royalists", and they could then focus on policy research and on their work relating to the people's livelihood. This, I think, is a good thing. As for the business sector, I believe they will also have an advantage in direct elections, because as long as they can come up with ways to revitalize the economy, I believe all Hong Kong people will throw weight behind them.

Therefore, I believe the election of the Chief Executive by universal suffrage or the return of all seats in the Legislative Council by direct elections will benefit all in the community. On the question of the abolition of appointed seats in District Councils (DCs), since the scrapping of the two Municipal Councils by the Government, DCs have become the only venue where people with potentials for a career in politics are nurtured through elections. Retaining the appointment system will only impede the development of a democratic political system. Further, we can see that in the forthcoming DC elections,

many of the contesting candidates are professionals and members of the business community. I trust that those people from the professional or business sector who wish to serve the public absolutely have the capability and qualification to claim a place in the parliamentary assemblies through a fair and open election to serve the people.

After the march on 1 July, members of the public have stronger aspirations for democracy. All sectors of the community have now adopted a more open attitude towards universal suffrage. It is now opportune to embark on a constitutional review and reforms. I sincerely hope that the SAR Government and Secretary LAM will seize this golden opportunity and work in concert with the people to map out a proposal on constitutional reforms which is most suitable to Hong Kong, thereby laying down the foundation for the continued prosperity and stability of Hong Kong.

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

MR LAU PING-CHEUNG (in Cantonese): Madam President, I thank Mr James TO for proposing this motion on constitutional review which again enables Members to hold in-depth discussions on this issue of concern to us.

As I have pointed out in this Council before, the methods for electing the first and the second Chief Executives and also the first, second and third terms of the Legislative Council are not democratic enough. I, therefore, agree that the Government should expeditiously conduct consultation on the methods for electing the Chief Executive in 2007 and the Legislative Council in 2008 so as to foster the widest consensus in the community. As regards whether this should be done in one step or in a gradual and orderly manner, it should be reviewed and decided by Members of the Legislative Council to be returned in 2004 in due course in accordance with the provisions of the Basic Law.

In the discussions on the electoral arrangements for these two major components of the constitutional system, members of the public often split into two opposing camps. Supporters demand for the immediate implementation of universal suffrage, whereas opponents have refused to make the slightest concession. So, amidst the din of contentions we can hear no co-ordinated or consensus views, and this is regrettable indeed.

Whether or not the Chief Executive and all Members of the Legislative Council are returned by universal suffrage is certainly a touchstone of democratization. However, it is not the only yardstick. Take the electoral systems in Britain and in the United States with which Hong Kong people are more familiar as examples. In Britain, the Prime Minister is elected from among the 659 Members of the House of Commons, and this is obviously not universal direct election. The Prime Minister is the leader of the majority party and yet, whether he should step down or remain in office is not decided by the voters, but subject to challenges from inside and outside the party. Mrs Margaret THATCHER, the former Tory Prime Minister, had stepped down for failing to secure majority support in her party. While her successor, Mr John MAJOR, who did not enjoy high reputation and had repeatedly faced motions of no confidence from the opposition party, had time and again threatened to advance the general election, thus forcing members from within his party to support a motion of confidence in him.

The United States adopted a different electoral system. While the President of the United States is returned by universal suffrage, he is not returned by one-person-one-vote direct elections. For historical reasons, the President of the United States is returned by the electoral college of 50 states in a vote. The number of votes of the electoral college of each state depends on the size of the state's population, and there are a total of 538 electoral college votes. The electoral college is morally obliged to vote for the winning candidate in its state in accordance with the wish of the voters in that state. But theoretically, the electoral college can disregard the voting result. For example, in 1976, the electoral college of Washington refused to vote for the winning candidate from the Republican Party, Gerald FORD. Subsequently, laws were enacted in some states to oblige the electoral college to vote for the winning candidate in accordance with the voting result. However, not every state has followed suit. So, we can see that "winner wins all" may sometimes distort the voting result. In the 1992 presidential election, for instance, while candidate Ross PEROT obtained 18.9% of ballots from the people, he did not have any electoral college vote.

From these two examples, we can see that while universal suffrage is certainly important, it is not the only option of a democratic system. Consideration should also be given to the other major components of the constitutional system, such as the judicial system, opinions in society, and so on.

Take the election of the Chief Executive as an example. Paragraph 2 of Article 45 of the Basic Law provides that the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures. From this, we can see that in the election of the Chief Executive, nomination is an important constitutional procedure. At present, the Election Committee is concurrently the nominating committee, and in the Election Committee, there are ex-officio seats, elected seats, and seats returned by consultation with varying terms of office. This is obviously undesirable. Disregarding whether the Chief Executive is returned by direct elections, the method for the formation of the nominating committee should be regularized, so as to make this part of the election more open and transparent.

On the election of all Members of the Legislative Council by universal suffrage, the Legislative Council to be returned in 2004 will comprise 30 directly-elected geographical constituency seats and 30 functional constituency seats. To further increase the number of directly-elected seats, does it follow that we have no other choice but to abolish all functional constituency seats and hence make all the 60 seats directly-elected geographical constituency seats? In recent years, there is a view in the community that there are other options for the election of the Legislative Council to move towards the goal of universal suffrage. At least the Basic Law does not strictly provides that the Legislative Council must be made up of 60 seats only as it is now, and it does not stipulate against an increase or reduction in the number of seats. We should not rule out the other options for no reason at all.

On the part concerning the abolition of appointed seats in District Councils (DCs) mentioned in the motion, I have reservations about it. It is because appointed members can complement the DCs with their professional input. In fact, given limited resources, professionals with no political affiliation will encounter considerable difficulties when they take part in direct elections. But through appointment, they can contribute their expertise. For example, if the Central and Western DC comprises a planner in its membership, it would be easier for the other members to grasp the key points of the reclamation project which has recently aroused many controversies. Similar appointment systems can also be found in Europe. In Germany, half of the Members of the Parliament are recommended by political parties in accordance with the number of votes won. Members appointed by political parties do not have to be members of these political parties. Nor do they have to follow the stance of these political parties in casting votes. Most of these Members of Parliament are professionals.

Madam President, in citing the above examples, I only wish to point out that there are various options of constitutional reform within the parameters of the Basic Law. It is most important to seek the widest consensus in society, or else the community may easily run to the extremes. As a result, those whose aspirations are not met will feel frustrated and grievances will hence develop in them. This is not in the least beneficial to social stability.

While Mr James TO's motion has called on the Government to publish a green paper, the wording has limited the reform options and even restricted the scope of reforms. For this reason, I cannot support his motion. But anyway, I still support that the Government be urged to publish a green paper on the reform of the political system as soon as possible, and in this green paper, the more options to be included, the better, for this will enable the public to draw comparisons and debate on these options. After extensive debates in the community, a majority consensus can gradually be formed. Disregarding whether this consensus is in line with the wish of Mr James TO, it will be easier for Members of the Legislative Council to be returned in 2004 to respond to this consensus and carry out suitable reforms. It is indeed unnecessary to impose a frame at this stage, for this will drag us into an internal struggle which will only burn us out, a scenario from which no winner will emerge.

I so submit.

MR HOWARD YOUNG (in Cantonese): Madam President, I wish to speak mainly on two points in relation to the comments made by two Members on the speech of Mr James TIEN, the Chairman of our party.

Firstly, when Mr Frederick FUNG said that he did not agree with Mr TIEN's view on the appointment system, he suggested that the professionals be appointed to industry-specific committees. I think this cannot solve the problem. Certainly, if there are many industrial or business committees specifically handling industrial and business issues in a District Council (DC), the professionals can have a part to play insofar as the development of their industries or fields is concerned. But the problem is that a DC does not look at one aspect only. Rather, it handles a host of district-based issues, such as transport. In an industrial district, what are the concerns of an industrialist? He should be concerned about the safety of workers at work, where should a

zebra crossing be provided, whether there are sufficient bus services, and so on. These are transport issues, not purely industrial issues. He may also be concerned about environmental pollution in the vicinity, which is more than an industrial issue. An industrialist will also be concerned about whether or not he will be affected by these issues. So, it may not necessarily be a solution to the problem by simply appointing the professionals to specific committees.

Secondly, I have noticed that in his speech earlier, Mr Martin LEE appeared to have misunderstood Mr TIEN's remarks. I was there listening, and so was he. Regarding Mr TIEN's remarks on the question of whether the year 2007 is included when the Government referred to "subsequent to the year 2007", which is still pending legal opinions, as far as I understand it, Mr LEE's views were criticisms, and he even alleged that Mr TIEN had been paving the way for the Secretary to conclude that it should not be included. Mr TIEN actually did not say this. I listened very carefully to what he said. Mr TIEN said that on the question of whether the Chief Executive for the term from 2007 to 2012 could also be covered in the review, we in the Liberal Party considered that it could be included. We have not said that it could not be included.

MS CYD HO (in Cantonese): Madam President, in the context of the promotion of a democratic political system, the discussion on the distribution of power between the two camps, that is, the pro-Beijing camp and the camp rejected by Beijing has now taken on a new element of fighting for economic power. There is at least a little change and a minor step forward.

Mr Bernard CHAN mentioned earlier that the middle class has to pay tax, but that no one would them together and thus politically, they are in a weak position. If direct elections are implemented, their situation will not be favourable. However, I wish to spell out one point and that is, what the middle class actually wants is not a safety net. The middle class does not wish to strive for social welfare resources with the underprivileged. The middle class is full of competent and learned people. What they want is a system of fair competition, where there is space for them to give play to their expertise, there is a good educational system for their children to grow in a pleasant environment, there is clean air, quality potable water. More importantly, under this system, the government had better not to do too much, not to change its policies drastically and frequently, so that the middle class will not fall to the grass-roots

level, so that when they wake up one day, they will not suddenly find that they have to fight for resources with the grassroots, that they are in an underprivileged position. Nevertheless, since our Government, unfortunately, is not returned by democratic election, the middle class has nearly been eliminated and has turned into a weak social group.

In my opinion, the middle class also has very good reasons to demand a democratic political system. First of all, if different classes expel each other, it is really detrimental to social stability. If public sentiment in a society is not stable and the people are full of grievances, just like the polluted air, everyone will suffer. We can also see that at present, when we are devoid of a democratic political system, the power, be it or economic, is concentrated in a small circle of people. Under this political system, the small circle will only shrink increasingly, instead of growing bigger and bigger, to the extent that it can safeguard the interests of an average member of the middle class. Now that a lot of people in the middle class can realize that they need a fair political system to protect themselves, and a democratic election to monitor, to check and balance the Government. Democracy and the rule of law provide the fairest system to safeguard that the efforts spent by the people can be reasonably rewarded. At least the assets of the people will not suddenly "shrink" drastically due to certain policies of the Government being led by some consortia. Therefore, a political system that can provide fair protection to everyone is indeed beneficial to every class in society. For this reason, I urge those who reckon that now is not the desirable moment to promote democratic politics not to divide society with class conflicts which may impede people's determination in establishing a democratic political system.

In the United Kingdom, Mr TUNG said that he would announce very soon how the consultation was going to be conducted. We are very worried, that this time we are not to plead or urge the Government to do something, but to warn the Government, warning the Government not to try to use the distorted consultation approach in procrastinating on the introduction of a democratic political system. In fact, the direction of whether or not to implement election by universal suffrage is very clear. The result has been clearly shown in many opinion polls over the years, only that the Government does not believe, or that the Government says it does not know. Therefore, there are only two methods to make the Government accept the truth. There are only two methods in making the Government realize the public aspiration for a democratic political system: First, to conduct a referendum with the aid of money. This is only

done to make the Government accept the truth. But in fact, this is not necessary for the community, as everyone already knows it quite well. Second, if a referendum is not conducted, then we can only vote with our feet again. How many people have to take to the streets in order to make the Government face up to this fact? Consultation is not a way to delay the implementation of a democratic political system.

We reckon that the major direction of consultation is not necessary, for only this small aspect of structure is involved, such as the political system mentioned by Mr LAU Ping-cheung not long ago, the relationship between the executive and the legislature, how the power is divided, how the right of monitoring the Government by the media and the community outside the system can be protected under a democratic election system, whether our electoral system should be a proportional representation system or a single-vote, single-seat system, and so on. Anyway, the community really has to be very, very, very careful. Do not let the Government delay the pace of democratization by consultation. Mr LAU Ping-cheung has just mentioned a few kinds of political systems. I believe that a lot of people will agree that whatever system is adopted, there will not be a problem. The key is implementation, instead of the merits of individual systems. Lest in the 2007 Chief Executive Election, the Chief Executive will still be returned by a small circle system.

Madam President, I would now like to talk about the appointed seats in the District Councils (DCs). In the briefing session of the Electoral Affairs Commission on the rules of election introduced by Justice WOO Kwok-hing, a participant asked: if two candidates got the same number of votes and had to draw lots in deciding winner, would that be very unfair? Candidates running in the election must have spent a lot of efforts and got the support of the public. Each of them must at least have a few hundred votes. If it has to resort to drawing lots, then could Mr TUNG appoint one less DC member? Why does he not need to run in the election and manage to get 100 people to represent him? These 100 appointed seats actually are very political, as the DCs can elect 42 persons into the Election Committee responsible for selecting the Chief Executive. With the addition of these 100 appointed members, it will allow an inclination of power and interests on the part of these 42 members whom we deem are returned by indirect election. It is not reasonable that an elect can be responsible for appointing other persons, and then the latter are required to monitor the Chief Executive. Here, there is a very basic conflict of roles. However, the Government has gone too far as to conceal the political role of the

DCs in the advertisement. Instead, it only mentions that the one vote can improve the environment, render the transportation more convenient and the daily lives more colourful. I urge the Government to add in this message immediately, telling the public that through the DCs, 42 DC members can join the Election Committee that selects the Chief Executive. Otherwise, when those above behave unworthily, those below will do the same. And the entire society will be misled. Thank you, Madam President.

MR SIN CHUNG-KAI (in Cantonese): Madam President, Mr LAU Ping-cheung just mentioned that Germany has an appointment system. However, I opine that he should read clearly the constitution and the electoral system of Germany. What he said just now was not an appointment system. Instead, it involves a small constituency under a proportional representation system. In Germany, the electoral system is that: there is a small constituency and in which, there are different political parties. About 200-odd seats will be divided on the basis of the proportion of votes won by each political party, and there are 300-odd seats being the so-called directly elected seats. The present election method of Japan is very similar to that of Germany. There is also a so-called "party-list system". However, the seats in this system are not appointed, and the votes are cast on the basis of electors' wishes. So, please do not mix things up.

The second point that I would like to talk about concerns the appointed seats just mentioned by Ms Cyd HO. On one occasion, Ms Emily LAU and I attended an activity organized for young people and the theme is about the appointed seats in the DCs. When the discussion nearly came to an end, someone asked whether we supported the appointed seats. I hope I do recall correctly that Mr MA Lik expressed that he was in support of the abolition of the appointed seats. After he had stated that he supported the abolition of the appointed seats, I immediately told him that when the Legislative Council discussed the District Councils Ordinance a year ago, we moved a motion seeking the abolition of the appointed seats. Then what was the voting intent of those Members belonging to the Democratic Alliance for Betterment of Hong Kong (DAB)? They voted against the motion, that is, they voted against the abolition of the appointed seats. In simple terms, they were in support of appointed seats. When they met the young people on other occasions, they said that they were in support of the abolition of the appointed seats. This sounded how democratic and how open they were. However, the voting here was another story. What does that mean? Are they misleading the electors?

On this question, I find that I really have to commend those members of the Liberal Party for at least showing that they are really mean. They have stated clearly that the constitution has to be amended. They have said it very categorically that their party constitution has to be amended, and that they do not support the implementation of election by universal suffrage in 2007. Members of the Liberal Party have at least shown that they are really mean, but members of the DAB are hypocrites. It is because their souls have been split with their bodies. Outside, they told people that they were in support of the abolition of the appointed seats (a political party should have such character and has to run in the geographical elections). However, the voting here is another story. I hope that the DAB can put up a good show to the public by expressing clearly in the voting today whether it is for or against the appointed seats. Outside the Council, they said that they supported the abolition of the appointed seats. But in the Council, they voted against the abolition. I find that they should give a thorough account to the electors. Mr MA Lik is the General Secretary of the DAB. In the Communist Party, the General Secretary holds a very high position. The position of General Secretary at least immediately comes after the Chairman and the Deputy Chairman. So does he have representativeness? Certainly, he has. However, his remarks outside are different from the voting intention of his political party in the Council.

This incident happened during the last Session. And I now turn back to the following Session, that is, the District Council Election in November. According to the Government, the single vote of TUNG Chee-hwa equals more than 110 seats in the DCs. No matter how many representatives that the general public of Hong Kong have elected, and no matter how many votes that the public have cast, they cannot beat the single vote of TUNG Chee-hwa. For the so-called one person, one vote, when his one vote at least weighs more than 500 000 or 600 000 votes of the general public, is this election a fair one? Furthermore, this is a contradictory election method, albeit it has now become outdated as TUNG Chee-hwa will not run for re-election. TUNG Chee-hwa appointed some DC members, that is, he appointed some DC members during the last Session before 2002, and these DC members can run in the functional constituency elections. In simple terms, they can indirectly cast a vote for him. The persons appointed by him can cast a vote for him. How can that be explained away? This is a contradictory political system. Under such a system, will it not be easy to make illicit transfers? This situation may not have happened, and had better not to happen. Otherwise, some sort of investigation may have been going on already. However, what the Government has to do at the least is not to give people an impression that it has a chance to do so.

Madam President, I hope that Members belonging to the DAB can categorically say today whether they are really mean or hypocritical. Thank you.

DR LUI MING-WAH (in Cantonese): Madam President, since the reunification, Hong Kong has seen the full and successful implementation of "one country, two systems" and "a high degree of autonomy". Besides it has also been able to democratize in a gradual and orderly manner in accordance with the blueprint drawn up in the Basic Law. All this is something which Hong Kong people are happy to see.

Still, for many years, some in society have been demanding the Government to expedite the full implementation of universal suffrage for the election of the Chief Executive and the Legislative Council. Democracy is admittedly valuable, but given its political and objective context, it is not appropriate for Hong Kong to push through any drastic political reforms over a short period of time. Rather, a gradual and orderly approach is preferred. Such is the fundamental principle underpinning the continued prosperity and stability of Hong Kong.

The Basic Law provides expressly that Hong Kong should proceed with its democratization in the light of the actual situation and in accordance with the principle of gradual and orderly progress. The Basic Law specifies only that in the first and second terms respectively, the Chief Executive shall be elected by an Election Committee of 400 and 800 members from the labour, social services and religious sectors, the professions and the industrial, commercial and political sectors. As for the electoral arrangement for the third term, the decision is left to Hong Kong people themselves. With regard to the directly elected elements in the Legislative Council, there shall also be gradual increases according to the Basic Law. In the first term of the Legislative Council, half of the seats were returned by functional constituency elections. As for seats returned by direct elections in geographical constituencies, the number also increased from 20 in the first term to 24 in the second term, and it will also increase further to 30 in the third term. The number of Election Committee seats in the first term was 10, but in the third term, such seats will all be abolished. The electoral system for the fourth term and thereafter shall be decided by Hong Kong people on their own.

Some in society now hold the concept that "one person, one vote" is the most democratic. But the essence of democracy should be that all trades and industries and all walks of life in society should be given opportunities to take part in political and social affairs, so that all divergent views in society can be reflected effectively and the interests of all balanced, thus improving the efficiency of government and better catering for the needs of society. Hong Kong is a pluralistic society. If all functional constituency seats in the Legislative Council are abolished in 2008 and all Members are then returned by direct elections, I believe that people from the commercial and industrial sectors, who are used to working laboriously and silently, may not be willing to run in direct elections. The representativeness of a Legislative Council with such a composition will be open to question, which is a great pity.

Madam President, the democratization of Hong Kong should continue to progress. The Government should launch an extensive consultation exercise as soon as possible to seek a consensus in society. When conditions are ripe, the direct election of the Chief Executive and the Legislative Council will come naturally and smoothly. But it is improper to set down a schedule before any consultation is launched. Rash actions will only produce the opposite results, endanger the people's livelihood and undermine our stability and prosperity. This will not do good to Hong Kong people.

I so submit. Thank you.

DR RAYMOND HO (in Cantonese): Madam President, during the colonial era of Hong Kong, there were no direct elections to the Legislative Council until as late as 1991. Admittedly, there were direct elections to the Municipal Councils and District Boards (now renamed District Councils), but strictly speaking, it was just a couple of years ago that we began to see a genuine quickening in the pace of our democratization. This is largely due to our realization that we must move forward, and that the faster the pace, the better. We of course also understand that the political system of a place must depend on the local situation, its historical background and the opinions of the people. These are all important factors.

In 1986, I wrote an article, discussing how the first Legislative Council and subsequent ones should be formed and how the first Chief Executive and subsequent ones should be returned. The full text of the article was published

in the press on three consecutive days and submitted to the then Basic Law Drafting Committee (BLDC). At the first meeting of the BLDC, that was the Xiamen meeting, an article written by two of my colleagues and me was attached to the documents for the meeting. I was very delighted to have the opportunity of taking part in the work of the BLDC, and I was elected by the Council of the Hong Kong Institution of Engineers. I benefited greatly from my five years of work on drafting the Basic Law, and as my interest in political systems gradually grew, I came to realize that Hong Kong people needed to look at democratization more clearly to see how fast the pace should be.

I also published another press articles on drastic democratization and gradual and orderly democratization, comparing their pros and cons. I am actually of the view that there can be no definite criteria governing the two, and that the definitions of "fast" and "slow" may vary constantly from time to time.

At present, Legislative Council Members are returned by three types of election. Only two of them, functional constituency elections and direct elections, will be left next year, and I wish to talk about them. Although some dismiss functional constituency elections as coterie elections, many others do not think too badly of these elections. Personally, I would not say that they are entirely undesirable or entirely desirable. As far I am personally concerned, I am at least happy that I was elected the representative of the engineering sector in the first and second terms of the Legislative Council. If all professionals in my functional sector register as electors, there will be more than 10 000 electors in my functional sector. Last time, 6 000 people registered, and close to 10 000 may well register next year. I have always encouraged members of my functional sector to participate more in elections and register as electors. And, I also had the experience of signing letters until 3 am or 4 am (for more than two nights, perhaps). The letters were mailed in batches after signing, and there were some 2 000 letters in each batch, each complete with an application form. My aim was to encourage more eligible electors in the engineering sector to register. I have always tried to encourage them as much as possible.

To us, this was almost like a direct election. I did all that should be done: handing out information leaflets in the streets, putting on a colourful belt and shaking hands with people in restaurants (children included), pasting posters on car bodies and broadcasting campaign messages through the loud-hailer. I even made door-to-door visits and conducted group publicity in the streets, in the hope

that people could get to know my political platform. Therefore, I think all this was almost like a direct election. If functional constituency elections are to be abolished immediately, many professionals may not necessarily agree. Why do I still wish to remain an independent Member? Actually, I was involved in the organization of two political groups as one of their founders, but I subsequently withdrew because I knew that despite all my efforts of promotion, encouragement and explanation, my functional sector would not want its Legislative Council representative to have any political party affiliation or to join too many political groups or activities of this sort. They may be conservative, or just some of them are conservative, but that is not their fault because it is always so hard to define right and wrong. For this reason, since they can accept the existing arrangement as a stop-gap practice, one may well accept this as another form of "one person, one vote". After all, they can still make their own decisions and elect their representatives. If they favour one candidate, they can vote for him or her. If not, they can always choose another one. This is also democracy.

However, should we stick to this arrangement forever? I believe not, because the Basic Law provides (and I agreed then) that in the light of the actual situation, and as soon as possible, all Legislative Council Members may be directly elected, and so may the Chief Executive. As for what is meant by "as soon as possible" — it is most difficult to define this expression, I must say many factors are involved. But then, should we take it to mean "immediately"? I initially very much wished to support the motion today, but since it asks for immediate implementation, I am scared. Is there really a need for immediate implementation? If I support the motion, the functional sector I represent would definitely say I have done wrong, and I will certainly be given a good scolding. Therefore, in the end, I conclude that I should follow my own standpoint. The Government should publish a consultation document as soon as possible for Members' discussions, so as to ascertain people's desired pace of democratization and of implementing universal suffrage to elect the Chief Executive, to gauge their views on the schedule concerned and the way forward in respect of the method for forming the Legislative Council. In any case, extensive and in-depth discussions must be conducted as soon as possible.

Last month, I raised a point with Secretary Stephen LAM. I said to him, "Any schedule will be basically unrealistic in the present circumstances." The Government will not give us a schedule until the end of this year. Consultation can only start early next year. And, following the completion of consultation,

the information has to be collated before a bill can be drafted. Then, the bill must be scrutinized and passed by the Legislative Council, and the final decision must be implemented, before the end of the 2007 Session. Such a schedule is unrealistic. But since time past is time past, I hope that the Secretary can do as much as possible. Such are my personal opinions. Thank you, Madam President.

MR NG LEUNG-SING (in Cantonese): Madam President, the Government has recently made it clear that a public consultation on constitutional development will commence within 2004 and procedures related to the Annexes to the Basic Law are expected to be dealt with in 2005, with the enactment of local legislation expected to commence in 2006 according to the need. The Government has also indicated that a specific timetable will be finalized by end 2003, or this year, with respect to the constitutional review and the public consultation. I cannot see any major difference between this proposal made by the Government and the timetable set by Mr James TO in his motion.

Nevertheless, the proposal made in Mr TO's motion seems to have dictated the specific ways in which political reform should be carried out. Actually, a so-called tune has been chosen, and there is only one option — to implement the election of the Chief Executive and all Members of this Council by universal suffrage respectively in 2007 and 2008. Given this pre-set position, it is indeed questionable as to whether the so-called public consultation can be carried out fairly and whether this is an ideal way for the public consultation to commence. At present, even the community has agreed that administration by the Government should be based on public opinions. This is particular so when it comes to the subjects of political development and gradual democratization. Will the Government be criticized for holding a so-called bogus consultation should it fail to present a consultation paper accommodating a number of proposals for public discussion with an objective, neutral and impartial position and in a fully liberal manner, and, instead, come up with only one way out, just as proposed by Mr TO?

The Basic Law has provided for universal suffrage as the ultimate goal to be achieved in a gradual and orderly manner. As the saying goes, every road leads to Rome. The most practical and feasible approach is for, various sectors of the community to consider in a very detailed manner the proper ways to achieve this ultimate goal. These should include ways to enable the future constitutional arrangement to better reflect the interest of various trades and

industries as well as strata in the community, and to handle various political disputes in a very effective manner so as to maintain governance efficiency, ensure the investment environment of Hong Kong as an international commercial city, and maintain the relationship between the Hong Kong Special Administrative Region and the Central Government, and so on. In my opinion, the future constitutional review that lies before Hong Kong is not, as is believed by Mr TO, confined to one direction only. Neither is it a yes or no question. Instead, it is a multiple choice question with a number of options.

Under the Basic Law, the DCs as regional organs should function as advisory bodies. At present, DC members are returned either through election or appointment. Members thus returned are basically able to reflect local opinions and work in a more professional and experienced manner. If DC members must be elected by universal suffrage, does it mean that all the advisory frameworks and organs in Hong Kong will have to be returned by election as well? Compared with the past, I am of the opinion that the present arrangement is essentially unique and effective. It is even enlightening to note that there are numerous cases of appointed DC members being ultimately elected as DC Chairmen.

Madam President, I so submit.

MR TAM YIU-CHUNG (in Cantonese): Madam President, as the spokesman of the Democratic Alliance for Betterment of Hong Kong (DAB) on constitutional affairs, my speech will not be ambiguous, so long as it is not interpreted out of context.

Paragraph 1 of Annex I to the Basic Law, the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region, reads: "If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval." Chapter III of Annex II, Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures, also reads: "With regard to the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and

motions after 2007, if there is a need to amend the provisions of this Annex, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for the record."

According to these provisions, any amendment to the methods for the selection of the Chief Executive and this Council subsequent to the year 2007 can be made in accordance with the relevant provisions of Annexes I and II to the Basic Law. At present, a relevant mechanism has been provided for in the Basic Law. As Members are aware, the Basic Law is a constitutional document that fully manifests the spirits of "one country, two systems" and "Hong Kong people ruling Hong Kong". Every provision was drafted after long-term and extensive consultation. This constitutional document has not only fully reflected the aspirations of the people of Hong Kong, but also safeguarded the rights and interests of the people in a pragmatic manner.

If we look back at the consultation period of the Basic Law, we will find that the method for the selection of the Chief Executive and this Council attracted more diversified views because of its controversial nature. It was only after repeated discussions and studies that the Basic Law Drafting Committee (BLDC) finally managed to come up with the existing provisions, in which a long-term goal, a progressive and orderly timetable, and a mechanism for amendment are provided for. Being a member of the BLDC, I support the relevant arrangement prescribed in the Basic Law and consider this the best way to resolve divided views.

To amend the Basic Law is an important matter, and a stringent procedure is thus warranted. Article 159 of the Basic Law has not only stipulated the procedure to be followed for amendment of the Basic Law, it has also clearly stated: "No amendment to this Law shall contravene the established basic policies of the People's Republic of China regarding Hong Kong." As far as I understand it, the development of democracy in a gradual and orderly manner is one of such fundamental policies. As such, the interests of various strata of the community must be taken into consideration in any amendment to the Basic Law. Not only is it necessary to retain the proven parts in the original constitutional system, a democratic system suitable for Hong Kong has to be developed in a gradual and orderly manner as well.

Article 45 of the Basic Law has already made this clear: "The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." In addition, Article 68 set out clearly that "the method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage." In the party platform of the DAB, it is also clearly stated to the effect that "the DAB believes that the full implementation of the Basic Law, the development of a democratic system in a progressive manner, and the striving for the early attainment of the ultimate goal to which we are committed are the fundamental guarantee for the development of democracy in Hong Kong. In addition, we advocate that a constitutional review be conducted before 2007, and we will strive for the return of the Chief Executive of the following term by universal suffrage, and the return of all seats of the Legislative Council by universal suffrage of proportional representation". In order to achieve the "goal of election by universal suffrage" in a responsible manner, a comprehensive review of the political system is warranted so that a full discussion can be held among various sectors in the community with a view to formulating a proposal that can meet the interest of various strata of Hong Kong society and that is consistent with the actual circumstances of the Hong Kong.

As for the composition of the District Councils (DCs), we are of the opinion that DCs as district advisory organs do not necessarily — yes, not necessarily — have to be returned by full direct elections. In such non-political district organs as the DCs, if representatives from various strata in the community can be elected by an integrated method to enable them to perform their individual functions and represent the interest of different groups, each small community will become more diversified and, as a result, they can be prevented from inclining towards populism, which is relatively narrow. With the development of our political system, we naturally agree that the number of appointed seats in the DCs can be reduced gradually. However, the DAB still has reservations about the abolition of the ex-officio seats in the DCs. This is because the Basic Law and the legitimate traditional rights and interest of the indigenous residents of the New Territories must be respected, not to mention the fact that, with the return of village representatives by election, the ex-officio

seats in the DCs have become, to a certain extent, representative. For the reasons mentioned above, the DAB cannot fully support the original motion. We will therefore abstain from voting.

Thank you, Madam President.

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

MR MICHAEL MAK (in Cantonese): Madam President, the Chief Executive made an undertaking after the 1 July march that he would actively address and improve governance. He once remarked to this effect: "The style and mindset of governance, as well as the people and affairs related to the entire leadership team, have to keep pace with the times." He also indicated that he would maintain close contact with the public through different channels to listen directly to their aspirations. I hope the Chief Executive can act immediately after listening to the appeals and aspirations of people from various sectors in the community with respect to political reforms by expeditiously launching the reforms in response to the aspirations of the wider community.

According to Articles 45 and 68 of the Basic Law, the Chief Executive and all the Members of the Legislative Council should ultimately be elected by universal suffrage in accordance with the principle of gradual and orderly progress after 2007. Political reforms are an important matter. As numerous levels of complexity are involved, it is necessary for early preparations to be made. I solemnly call on the Government to expeditiously set out a timetable for the reform and refrain from delaying the matter indefinitely. Furthermore, a green paper on political reforms should be published for the SAR by the end of this year.

In his book entitled *On Democracy*, Robert A DAHL talked about effective participation, vote equality, enlightened understanding, control of the agenda and inclusion of adults. In retrospect, the election of the Chief Executive of the SAR was entirely a small-circle election held behind closed doors, with the Chief Executive being returned by a 800-member Election Committee. Given that members of the Election Committee were not elected by universal suffrage, how can they be expected to represent the wider community?

Today, we end up with a government which is neither concerned with the plights of the people nor accountable to the people because the election of the Chief Executive is entirely lack of acceptance and members of the public are fundamentally denied opportunity of an equal vote and effective participation in politics. Unfortunately, or perhaps fortunately, more than 500 000 people took part in a mass protest in the streets on 1 July to voice their demands for the Government to return the political power to the people.

The state leader, HU Jintao, once stressed in a meeting held by the politburo of the Central Committee of the Communist Party that government officials must properly exercise the power conferred upon them by the people and accept surveillance by the masses. I hope the SAR Government can bear in mind these words by the leader of the Central Government by expeditiously implementing reforms of the political system and truly accept surveillance by the masses.

Due to the limitations imposed by the Basic Law, the functions of Members of this Council in proposing motions have been impacted strongly. In addition, we can see in recent years that both the Government and Bureau Directors have often shown no respect at all to this Council by bypassing it and instead releasing information through the media. Had this Council be returned by universal suffrage, I think the Government would not have been bold enough to disrespect us, the representatives of the people.

Though I was returned by functional constituency election, I remain a staunch supporter of the direct election of this Council by universal suffrage. I made it very clear in my election platform three years ago that I support democratization. Even now, I will not forget the promises I made in running for the elections. All the people of Hong Kong have the right to demand the election of the Chief Executive and the direct election of this Council by universal suffrage. Being Members of this Council, we have to act on our conscience. We should also fulfil our obligations by striving for the legitimate interest of the people of the territory. It was said that only Members from functional constituencies can express concern for the problems and matters related to their respective constituencies. Such an argument is indeed ridiculous — for it is founded on the assumption that other Members are not able to or will not show interest in those matters. Should Members of this Council be returned by universal suffrage, I am sure candidates will cater to the wishes of voters by proposing election platforms tailored to their targeted voters.

Actually, it is very likely that Members wishing to retain functional constituencies lack confidence in their general acceptance. As a result, they dare not accept the challenge of coming out for election by the whole community in a fair, equitable and holy manner.

Madam President, I reckon that you will run for a seat in this Council through direct election next year. Your courage, performance in this Council, political stand as well as the degree of public support you have gained can be used as positive teaching material for those Members who reject the direct election of this Council by universal suffrage or those who are worried about their own acceptance in the community. I hope you will teach and consul them, and tell them not to be afraid of the direct election of this Council by universal suffrage.

When it comes to the DC elections, the Government has, since the abolition of the two Municipal Councils, failed to honour the promise it made with respect to the functions of the DCs. The retention of appointed seats in the DCs represents a major retrogression in democracy. I hope the Government can think twice about this and refrain from saying "many interested people would like to be appointed to the District Councils", as stated by the Chief Executive, Mr TUNG Chee-hwa. I would like to tell the Secretary that I think capable people should be allowed to do the job. Why does the Government not allow them to be baptized by the community so that they will know that they are more capable than they think and that they do not need appointment by the Government? People of high calibre and having a wide range of expertise will not find it impossible to take part in direct elections because of certain tasks, as insisted by some Members. This is utter fallacy. I hope the Secretary can think twice and give the public a satisfactory account and explanation.

Thank you, Madam President,

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

MS EMILY LAU (in Cantonese); Madam President, I rise to speak in support of Mr James TO's motion. However, I feel very sorry that this motion is not likely to be passed today, for I can hear the fallacy in the speeches delivered by a number of Members earlier (as commented by Mr Michael MAK).

Madam President, when I met with the Chief Executive last month, I told him that he was hailed by some people as "the father of democracy and freedom" for what he did had succeeded in uniting people from a number of factions to fight for democracy and freedom. I told the Chief Executive that he had to continue with his efforts. At the same time, the people of Hong Kong had to continue working hard too. Madam President, I was not trying to threaten the Chief Executive in telling him that a mass procession was going to be held on 1 January. We hope it is going to be a big one. However, the scale of the procession will, to a large extent, hinge on what the Chief Executive and the Secretary, Mr Stephen LAM, are going to do.

Madam President, I believe the people of Hong Kong cannot be "provoked". This explains why a procession took place on 1 July. Whether the same thing will happen on 1 January will depend on how the Secretary is going to handle the matter. Madam President, the people of Hong Kong have truly waited too long. I really cannot recall how many thousand times this matter has been discussed in this Council. The same stuff has been brought up for discussion again and again. I cannot tell the names — Mr Ambrose LAU argued that it was too hasty, whereas Dr LUI Ming-wah argued that reforms could not be carried out in a rush within such a short period of time. These arguments were all repeated in the last debate. Madam President, it has been two decades since the discussion started in the '80s. Can it be argued that it is still too hasty and rushed? I find this really problematic. Mr Bernard CHAN was marvellous for he had not stated his position. What he dreads most is being forced by me to state his position. Let us see if he will come back and state his position. The paparazzi sitting upstairs have been busy counting votes. When I entered this Chamber, I asked them whether there were not enough votes. The answer must be "no". How can there be insufficient votes when Members are prepared to either abstain from voting or cast an opposing vote? However, as indicated by Mr Bernard CHAN, the number and influence of Members who are prepared to cast opposing votes are reducing. I hope Mr CHAN is right. But judging from the speeches delivered by Members earlier, the number does not appear to be very small.

Therefore, Madam President, this is really serious. Both Mr James TIEN and Mr NG Leung-sing shared the view that this consultation has a pre-set position — in other words, it is a sham. Madam President, the findings of a

number of relevant opinion polls show that more than 70% of respondents expressed their hope for the election of the Chief Executive and all Members of this Council by universal suffrage in 2007 and 2008 respectively. This was clearly laid on the deck a long time ago. This is quite different from what happened when consultation on direct elections was conducted in 1988. Madam President, I believe you would remember it because you were also in this Council at that time. The findings of some surveys conducted at that time were not as clear as what we have at the moment. Everything was distorted at that time. The questions were put in such a way that the interviewees did not know exactly what the questions were about even after going through all of them. This explains why the United Nations Committee on Human Rights made its censure at that time. I have no idea what "tricks" will be employed this time around. Should the questions posed be considered part of a bogus consultation? Are the answers to all the questions and even the wishes of the general public already known, as Mr James TO and Mr NG Leung-sing concurred? However, the consultation might end up with several outcomes, as Mr NG Leung-sing insisted that a number of options have to be provided. This is indeed possible. However, will such questions be asked? Are all votes cast equal, or is it necessary to first evaluate the assets of the voters first? In the event that one voter can represent 100 000 or 200 000 voters, how can choices and decisions be made? I believe the Secretary has to explain this.

The first thing must be decided is: Will it be acceptable to the authorities? The public opinions are extremely clear. Second, how will the consultation be conducted, given that the situation is crystal clear, and will public opinions be distorted intentionally? This is my greatest worry. I am a keen supporter of the consultation. However, we can see that the outcomes were always the same, even in similar polls conducted by a number of universities, newspapers and institutions. Under such circumstances, how can it be said that a number of options have to be provided? Of course, it is possible to do so. I can even advance the appointment system as an option. However, this is in breach of the Basic Law. What can be done as the problem now stands?

In my opinion, a clear explanation is warranted. We cannot say we should not worry too much or make up other excuses. What does a bogus consultation really mean? The consultation has actually started a long time ago. It is therefore said that the outcome is actually known. We only have to find out the means of implementation.

Members have spent nearly the whole evening waiting for the DAB to speak. I even put on the earphones when listening to the speech delivered by Mr TAM Yiu-chung. I am not going to make a deliberate interpretation out of context. However, it seems to me that the DAB does not support universal suffrage in 2007. Instead, it supports a review in 2007 and in the following term, that is, the year 2012 — I hope I have not misinterpreted the speech delivered by the DAB, and I wonder if someone from the DAB will speak later on in the debate, as I am hoping. In my opinion, in the District Council (DC) Election — Madam President, the Election is going to be held on the 23rd of this month — the public should know the position held by a certain party and faction. This is particularly important, because DC members can elect among themselves representatives to this Council. Moreover, a host of issues will be involved too. Therefore, I am really sorry, Mr TAM Yiu-chung, though you have made it very clear. Madam President, he made it very clear, but what I heard is that 2007 is not possible, but a review in 2007 is

MR TAM YIU-CHUNG (in Cantonese): Madam President, I would like to make an elucidation. Can I repeat that part of my speech?

PRESIDENT (in Cantonese): Do you wish to elucidate your speech or that of Ms LAU?

MR TAM YIU-CHUNG (in Cantonese): I wish to elucidate my speech.

MS EMILY LAU (in Cantonese): Madam President, I would welcome that. I very much do.

PRESIDENT (in Cantonese): Mr TAM, you may elucidate your speech later when Ms LAU has finished hers.

MS EMILY LAU (in Cantonese): Madam President, can I first listen to Mr TAM's elucidation?

PRESIDENT (In Cantonese): No. According to the Rules of Procedure Mr TAM Yiu-chung, please sit down first.

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

PRESIDENT (in Cantonese): According to the Rules of Procedure, if Mr TAM wishes to elucidate the part of his speech that has been misunderstood, he can do so only after you have finished your speech.

MS EMILY LAU (in Cantonese): Fine, I will try to finish it quickly. Thank you, Madam President. (*Laughter*) Well, I very much hope Mr TAM can make an elucidation.

What I want to say is: All candidates must show their positions by stating what they support to enable voters to make their choice. I very much agree with this. I think he will clarify later.

Lastly, Madam President, I would like to say a few words on the District Council Election. I did hear the remarks made by Mr James TIEN and other colleagues. However, I feel that we should no longer enjoy free political lunches nowadays. Those who are competent, be they professionals or whatever, can run for the election. Why must our political system deliberately reserve some seats for the privileged few? This I oppose. I feel most sorry that such a mild motion proposed by Mr James TO is going to be vetoed by this group of people. Such being the case, I think people have to get to know them well — they must take a close look at their background before casting their votes wisely this year and next. I so submit.

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, do you wish to clarify the part of your speech that has been misunderstood?

MR TAM YIU-CHUNG (in Cantonese): Yes, I do. It is because I think Ms Emily LAU still did not quite catch my point after listening to my speech and so, I will read it out again. This part of my speech is explicitly stated in the party

platform of the DAB: The DAB believes that the full implementation of the Basic Law, the development of a democratic system in a progressive manner, and the striving for the early attainment of the ultimate goal to which we are committed are the fundamental guarantee for the development of democracy in Hong Kong. In addition, we advocate that constitutional review be conducted before 2007, and we will strive for the return of the Chief Executive of the following term by universal suffrage, and the return of all seats of the Legislative Council by universal suffrage of proportional representation. Thank you, Madam President.

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

MR ALBERT HO (in Cantonese): The platform of the DAB is so difficult to comprehend that I believe only a linguist can understand what it is all about. However, if I have not understood it this time, I guess they meant that a review could be conducted in 2007 and then in the following term — I do not understand what the word "following" really means — universal suffrage could be introduced. If the benefit of doubt is given to them this time, it will mean that they are going to support the election of the Chief Executive by universal suffrage in 2007 and another election by universal suffrage in 2008. Although they have made no mention of electing the Legislative Council by universal suffrage in 2008, I believe they should logically hold this goal of democratization. In my opinion, they can state that with even greater confidence, and there are no reasons for them not to support this motion today. It is disappointing that they still prefer to act evasively and make a lot of incomprehensible remarks. In the end, they are even prepared to abstain from voting. Madam President, I am really puzzled.

Madam President, I saw that *Wen Wei Po* quoted an article from the English edition of *China Daily* this morning. I find the content of the article very amusing, albeit not worth discussing. The theme of the article is: Democracy is not exclusive to the pro-democracy camp. One of the points raised in the article is that not only the pro-democracy camp can talk about democracy. Instead, only the Basic Law can give us democracy. The pro-democracy camp is merely engaging in empty talks. After reading this article, I have this feeling: Do we really want to enjoy this exclusive right? Frankly speaking, I do not. I hope Mr TUNG Chee-hwa, Bureau Directors, the DAB

and the Liberal Party can share this exclusive right with us, instead of leaving us to be the only one to enjoy this right. To date, I am still worried by what I have heard. It is my belief that the pro-democracy camp has to justify its name in the end and continue to enjoy this exclusive right in a solemn and stirring manner. This is because many people can still not accept the reality that it is only right and proper to implement democracy. Some people merely engage in false, big and empty talks by saying that they share the same goal. However, when it comes to championing for it, they will act like Lord YE, the one who professed his passion for dragons. Yet, when the dragon paid him a visit, he was so frightened that he hid away, despite his claims that he truly loved dragons. Madam President, this proverb actually came from a story about a Lord YE, who was very fond of dragons. When a dragon knew of this, it decided to pay Lord YE a visit. Upon the dragon's arrival, Lord YE, who immensely enjoyed drawing dragons, was so frightened that he hid himself under a table after finding out that the dragon was so dreadful.

Madam President, I am going to raise a point that was mentioned in this debate and the last. If it is said to be a consultation, why is there a pre-set position and debate? Actually, the Secretary made a mountain out of a molehill on the last occasion. I would like to discuss a fundamental issue concerning the basic integrity required of a person involving in politics. First, he must have clear political ideas and vision. He must know his own convictions, what is correct or wrong, and what is valuable. These convictions are not going to change in the light of prevailing circumstances. Instead, the general public must be told in unequivocal terms. This is particularly necessary when one has to command recognition and support from the general public. He must not talk in an ambiguous and equivocal manner, for this is to me an act of dishonesty. It is wrong and devoid of integrity for him to pull wool over the public by treating every matter with an equivocal and evasive attitude.

Second, after establishing his political ideas and vision, a person involving in politics — not a political commentator, has to do his utmost in fighting for the realization of his own convictions. To do this, he will have to lobby, influence and secure support from other people. Actually, all groups involving in politics must act in this way. Otherwise, why is it necessary for the Democratic Party, the DAB and the Liberal Party to have their own platforms? However, some political groups change their platforms very easily. They do so when there is a change in prevailing circumstances. Some have their platforms written in an incomprehensible manner, while some act in a way different from their own

platforms. I think this is wrong. A person involving in politics should not behave in such a manner.

Given that we already have these ideas and political commitments, does consultation make any sense? I can say that it does make sense. Why? It is because, in the present-day political environment, a person involving in politics is essentially an actor. Given the current general trend, his role is to influence, lead, and even pursue in collaboration with public opinions, a mainstream view in society or a broad consensus for the purpose of pushing history forward. I can hardly imagine how a government can have no opinions on major issues of principle. Instead, it has to be told by the public what should be done. How can it be considered a leader? This is something the Government has to avoid. A person involving in politics must definitely not behave in this manner should he wish to play an active role. Does it mean that someone with political ideas is unable to conduct an objective consultation? No. With adequate transparency, the consultation can still be conducted in a scientific and objective manner. Indeed, professionals can be invited to conduct consultation at different levels. Except for yes or no questions and such questions as whether democracy can be implemented, democracy can indeed take many forms. Why can we not do this?

Madam President, we have talked about a gradual and orderly approach for more than two decades. As an international cosmopolitan, Hong Kong has been dragging its feet on this issue for two decades. To date, many people are still making excuses for their refusal to implement democracy. They have indeed brought shame to Hong Kong and sorrow to us. It is our hope that democracy can be implemented expeditiously. We will be deprived of our rights if democracy can still not be implemented in 2007 or 2008.

Lastly, I would like to appeal to Members not to repeat that the commercial and industrial sectors will dread, evade and choose not to take part in politics, for such remarks will only give them an impression that they have no future and ambitions. I believe the commercial and industrial sectors can, like any other sector, form themselves into political parties to take part in politics. I so submit.

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

MR LEE CHEUK-YAN (in Cantonese): Madam President, I had not realized that today is the birthday of Dr SUN Yat-sen until I asked my daughter why she did not have to attend school today. Secondary school students are having a school holiday today for the same reason too. After listening to the anti-democracy speeches delivered today, I cannot help asking why today is designated a holiday. Why is today a holiday when many in this Council are trying to humiliate Dr SUN's ideology? I told secondary school students that today is designated a holiday to mark the birthday of Dr SUN Yat-sen, the Father of our nation. However, many Members in this Council have devoted their entire speeches to opposing democracy in the debate earlier. When Dr SUN delivered a talk in the University of Hong Kong (HKU) 80 years ago, he shouted to the students: "My fellow students: you and I have studied in this English Colony and in an English University and we must learn by English examples. We must carry this English example of good government to every part of China". After the gathering, he was lifted up in the air amid the applause from several hundred people. The photographs taken at that time in which 200 people gathered at Loke Yew Hall have since been kept by the HKU as its treasure.

Despite the passage of eight decades, disputes are still going on and the same stuff can still be heard today. Eight decades ago, everyone was talking about China, saying that the entire nation wanted democracy. Nevertheless, China is still devoid of democracy today. In Hong Kong, disputes over such issues as a gradual and orderly approach, the retention of functional constituencies, and the retention of the appointment system are still going on. I feel terribly ashamed because the Hong Kong Government ought not appeal to secondary school students to remember Dr SUN Yat-sen. It is simply pointless to do so when the words of Dr SUN no longer apply. What is the point of bearing the words of Dr SUN in mind when they are not applicable? Let us put them aside. I wonder whom we should worship. Maybe Mr MAO Zedong. He is a good choice for political power grows out of the gun barrel. Long live autocracy! Why do we not designate the birthday of Mr MAO Zedong a holiday for secondary school students in Hong Kong? I am indeed very upset by such remarks. Frankly speaking, Madam President, we are still engaging in disputes today.

Miss Margaret NG remarked earlier that Hong Kong had to be the vanguard of democracy in China. I think she is right that this is what Hong Kong should do. However, I would like to say it in a more fashionable manner — Hong Kong has to become China's Shenzhou V of the flight to

democracy. During the May Fourth Movement, science seemed to advance at a much faster pace than democracy. When can our Shenzhou V that symbolizes democracy be launched? Nevertheless, I have no idea who in Hong Kong can play the role of YANG Liwei. Definitely not Secretary Stephen LAM, nor Mr TUNG Chee-hwa.

The comments made by Mr TAM Yiu-chung from the DAB earlier impressed me that the DAB had made the right choice in asking him to speak on its behalf. After listening to his speech, I have the feeling that the DAB is as slippery as an eel. What is more, the most slippery fellow of the party was given the task to speak. There was virtually nothing the audience could get from what had been said. After listening to his speech, I eventually understood why Ms Emily LAU said she had to ask him to clarify his remarks. He was truly unpredictable in the sense that one can never tell his position. After listening to his clarification, I began to understand more, though I remained somewhat confused. Both his position and the party platform revealed the DAB's fight for the early fulfillment of the undertaking made in the Basic Law. However, the undertaking made in the Basic Law is concerned with what will happen after 2007. A number of legal experts concur that the expression "subsequent to the year 2007" should cover 2007, and definitely 2008. According to the undertaking made in the Basic Law, the Chief Executive and Members of this Council can therefore be elected by universal suffrage within 2007 or 2008. As it has already been stated in the DAB's party platform that it will strive for an early implementation, it is definitely not referring to the term "subsequent to the year 2007", even though the parameters imposed by the Basic Law must be observed. 2007 and 2008 are definitely earlier than 2012. So how should we interpret the DAB's party platform, as it is said that the DAB will strive for an early implementation? There is something I really do not understand. Nevertheless, as I remarked earlier, how can an eel be caught easily? Eels are not easy to catch, and this is indeed natural. I am not going to waste any efforts catching them, because this is meaningless.

I would like to specially tell Members a story today. This story, called *The Emperor's new clothes*, has indeed been told by many people before. Members should be familiar with the content of the story. It is about two dressmakers who claimed to have invented a new fabric. After helping the emperor into his new clothes supposedly made from the fabric, the dressmakers told him that the clothes were invisible to anyone who was stupid or incompetent.

Since no one was willing to admit their incompetence, the emperor was told that his new clothes looked magnificent. As the story unfolds, as Members should have known, it was a child who finally innocently exclaimed: "Your Majesty, but you have nothing on!"

The Chief Executive, returned by the 800-member small circle, is actually like an emperor with no clothes on. Though he is unmistakably lack of representativeness and acceptance, he claimed himself to be brilliant and wise. He has even resorted to distorting the fact by saying that the 800 people are representative, and so is him. He then went on to say that he had heard the voices of the people, and indicated that he would sense the urgency of the people and think in the way the people think, and that he was supported by the Central Authorities. The truth is now being revealed, like the story in which the emperor was revealed by an innocent child that he was naked. The fact that more than 500 000 people took to the streets to call for the return of political power to the people has actually revealed that the Chief Executive, Mr TUNG, has got no mandate from the public, that he is devoid of acceptance and representativeness.

Looking back, Members can see that this Government, devoid of acceptance, is indeed a lame duck. There is virtually nothing it can do. Recalling a debate programme shown on the Television Broadcasts Limited when the Government proposed to raise fees and charges last time, it was said that the problem was originally not so serious when the middle class were asked to pay more in tax. However, they were dissatisfied with the proposed tax increases because the Government was useless and had shown no competence in governance. The middle class were extremely dissatisfied. Should this remain unchanged, there is virtually nothing we can do. Neither can we reduce expenditure nor increase revenue; even measures to stimulate the economy are feared to create unfairness. In the end, it will be impossible for the entire community to move forward. In my opinion, Hong Kong must follow the path of democracy and the Government must gain acceptance if the territory is to move forward. Hong Kong must be able to do this in order not to let Dr SUN Yat-sen down. It has to be done before we can take a day off today.

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

(No Member indicated a wish to speak)

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, constitutional development is an important subject. It has been debated a couple of times in this Council in the past year too. I would like to take this opportunity today to once again elaborate the Government's position on this issue.

The Basic Law has outlined a blueprint for the constitutional development in Hong Kong in the first decade after the reunification. According to the Basic Law, our ultimate aim is to elect the Chief Executive and all the Members of this Council by universal suffrage in accordance with the principle of gradual and orderly progress and in the light of the actual situation in Hong Kong. If necessary, the methods for returning the Chief Executive and Members of this Council have to be amended in accordance with the relevant Annexes of the Basic Law.

On the National Day this year, the Chief Executive made it clear that it is the clear duty of the current Administration to pursue democratic advancement according to the Basic Law. Being the Secretary for Constitutional Affairs, I will apply myself fully in discharging this duty.

Madam President, the Administration will make full use of the coming three years to carry out the review on constitutional development and to conduct public consultation in a serious and proper manner. We will commence public consultation on constitutional development within 2004, and start listening to and gathering views early next year. We will also, as necessary, deal with the procedures stipulated in the relevant Annexes to the Basic Law in 2005 and enact any local legislation as necessary in 2006.

We will make a decision before the end of this year on the detailed timetable, and thereafter report to the Legislative Council and the public.

We will also give an account of the detailed arrangements for the relevant consultation when releasing the timetable. We will listen to the views of people from various sectors of the community through a variety of channels.

I understand that Members who are seated here and people from various sectors of the community are very much concerned about the scope of paragraph 7 of Annex I to the Basic Law with respect to whether the method for selecting the third term Chief Executive is subject to review.

The Constitutional Affairs Bureau has conducted careful and detailed internal research on this issue, and has sought legal advice from the Department of Justice. Our conclusion is that if there is a need, amendment to the method for selecting the third term Chief Executive may be considered. However, any proposal thus put forth must be handled in accordance with the principle of gradual and orderly progress and in the light of the actual situation in Hong Kong as stipulated in the Basic Law, and according to the procedures and requirements set out in Article 45 of the Basic Law and Annex I to the Law.

I trust that a clear view from the Government on Annex I to the Basic Law will assist us in the future handling of the issue of constitutional development.

Madam President, in pursuing constitutional development, it is necessary for a consensus to be reached among various parties. For the purpose of introducing any amendment to the method for returning the Chief Executive and Members of this Council after 2007 in accordance with the Basic Law, endorsement and support from two thirds of Members will be required as a prerequisite.

This is definitely no easy task, because this is related to Hong Kong's future constitutional arrangement, and a very important foundation for the long-term development of the territory. As such, the Government would like to engage in co-operation with various parties. We will not listen to or take side with any political party or organization.

In order to promote consensus on constitutional development both inside and outside this Council, all parties have to communicate with one another frankly, and be prepared to listen to different views. Furthermore, individual political parties and factions have to be willing to put aside their established views and adopt an open attitude.

I noted that Mr James TO's motion appeared to have predetermined an outcome for the consultation. Mr TO has proposed that a green paper be published by the Government in order to put universal suffrage into effect in 2007 and 2008. As a consultation paper is going to be published, it is not advisable to rule out other possible options or conclusions before the commencement of the public consultation exercise.

I would like to emphasize that at this stage the Government does not have any predetermined package of proposals or final conclusion in respect of the constitutional development after 2007. We are of the view that the proper and responsible way is to consult widely and to consolidate the views gathered from various sectors of the community, before putting forth our final recommendations.

The position held by Mr TO and his friends in the Democratic Party is obviously very clear. As remarked by Mr Albert HO, a person involving in politics has to demonstrate a clear position. While I respect this view, the truth is that Hong Kong is a pluralistic society, and certainly different views have emerged in respect of the pace of constitutional development. For instance, several Members today have expressed their views on behalf of the functional constituencies represented by them, that the retention of functional constituencies should be considered, given the current situation. However, this is just their own view. If we are to properly handle views from various parties in the hope of reaching a consensus, the support from at least two thirds of Members for a certain proposal must be secured. We certainly have to accommodate various views, and Members have to be willing to listen to one another before there is a chance for a consensus to be reached.

In respect of the District Councils (DCs), Madam President, an undertaking was made by the Government earlier to conduct a review of the functions, role and composition of the DCs, after the elections this year. We have indeed stated our position with respect to appointed members, that they have to be people with expertise and experience, or community leaders. It will be helpful to community affairs if they are enabled to take part in district affairs through this system. Detailed discussions had been held before the relevant legislation was enacted a couple of years ago. The law was enacted after people from inside and outside this Council had all expressed their views. Nevertheless, we have made an undertaking to conduct a review of the functions, role and composition of the DCs after the elections this year.

Ex-officio seats are taken up by representatives of rural residents to take part in DC affairs. They will be instrumental in making the overall operation of DCs to be conducted in a more comprehensive manner. A similar view has indeed been raised by a number of Members before.

Madam President, I would like to take this opportunity to respond to some of the viewpoints raised by a few Members. I wonder if *The Chronicle of Heaven Sword and Dragon Sabre* shown on the television recently has reminded Mr Martin LEE of ZHANG Sanfeng. However, I have to make it clear that I can definitely not match up to Mr LEE in terms of political strength. In my opinion, Martin can compare himself to "Dong Xie, Si Du, Nan Di, Bei Gai, and Zhong Shen Tong" at any time by virtue of his internal strength and experience. I had better leave these titles to him, for I think I do not deserve them.

Incidentally, Mr James TO said that the Government of the Special Administrative Region (SAR) and Members who are seated here must not make another attempt to resist the tide of democracy. Instead, they have to properly deal with the subject of constitutional review into the flow with this tide. Actually, I believe every Member who is seated here did accept and uphold the Basic Law during the elections and swearing-in ceremony. Not only do they share the notion of democracy, they all hope to contribute to the good cause of Hong Kong too.

I can definitely not identify with or subscribe to the saying that Hong Kong people were apolitical. I think the mere fact that 66% of eligible persons have registered as voters can already illustrate that the people of Hong Kong have, to a certain extent, formed their own views and held their concerns with respect to the socio-political development of the territory itself. Of course, we can always continue with our efforts to raise the level and ratio of voter registration. However, I think it is evident that the people of Hong Kong are concerned about their own affairs.

The 1 July demonstration has enabled us to see clearly that the people of Hong Kong love freedom, respect the rule of law, and aspire to democracy. We have no doubt about these aspirations. As such, in the process of handling the constitutional review, we will fully listen to and consider the views expressed by the community before making the final proposal.

Madam President, Ms Audrey EU did raise the point that she hoped the political parties and people involving in politics in Hong Kong could one day secure public support mainly through their policies on the economic development, people's livelihood and society in Hong Kong. I have, on previous occasions, handled external economic and trade affairs in Britain and Canada on behalf of

Hong Kong and the Hong Kong Government. I saw that in many of the national or provincial elections held in these countries, people involving in politics had managed to solicit support from the public mainly through expressing their views on policies pertaining to society, the livelihood of the people and the economy, as well as other social policies. With respect to the subject of the constitutional development after 2007, Madam President, I very much hope that the SAR Government, as well as this Council and different parties, factions, and organizations in the community, can deal with this issue seriously. In the end, we should be able to come up with a direction fundamentally recognized by and acceptable to all Members. This direction should be followed after 2007. As we will no longer have to expend our energy on this issue, we will be able to concentrate our energy on relaunching Hong Kong and reviving the economy, community and the livelihood of the people of the territory.

Madam President, Mr LEE Cheuk-yan mentioned Dr SUN Yat-sen earlier in the debate. Incidentally, I have recently watched a drama series entitled *Zou Xiang Gong He* (or "Towards Republicanism"). I saw that a century ago, during the Republic of China period and the Ching Dynasty, there were already a lot of discussions on institutional reforms and democracy in our country. This has reminded me that we are still dealing with such important subjects at the moment. Nevertheless, Madam President, I hold greater hopes for the future of Hong Kong, and there are three reasons.

First, a "tripartite", transparent system established according to the law has already been put in place in Hong Kong. Second, democratization has already started for we have direct and indirect elections. Every election in the community has been held in an extremely high degree of transparency, and participation has been satisfactory too. Third, a highly effective anti-corruption system has been set up in Hong Kong. The current situation in Hong Kong is much better compared with China a century ago. As such, I believe democratization in Hong Kong carries bright prospects.

Madam President, Mr LEUNG Yiu-chung suggested that we should follow the example of YANG Liwei, while Miss Margaret NG proposed that we have to become a vanguard of democracy. I have a concrete proposal for Members. I would like to invite all Members who are seated here to foster a spirit of consensus and jointly follow the path of democracy in accordance with the Basic Law in the interest of Hong Kong.

Madam President, I would like to reiterate that, in dealing with the subject of constitutional development, the Government will adopt an open and receptive attitude. I also believe that Members who are seated here and various political parties are willing to embrace the spirit of "building consensus" in dealing with the subject of constitutional development after 2007.

Madam President, we all share the responsibility of accomplishing the task of holding consultation and reflecting the views of the community. We have to build a consensus and not to predetermine a position and conclusion for the outcome of the consultation. With these remarks, I oppose the motion.

PRESIDENT (in Cantonese): Mr James TO, you may now reply. I am sorry that you have only 27 seconds.

MR JAMES TO (in Cantonese): Madam President, the people have already come to a consensus. In the last Session when we debated the enactment of legislation to implement Article 23 of the Basic Law, I said to the then Secretary for Security that if she acted wantonly against the people's wishes, any distortion of history will be put right again by history itself. Today, I also wish to say something to the Secretary for Constitutional Affairs and the Chief Executive: "He who stands in the way of democratization and bars the people from exercising their legitimate rights will certainly meet a tragic end. Any distortion of history will be put right again by history itself."

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

(Members raised their hands)

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

(Members raised their hands)

Mr James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO 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:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the motion.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Dr Eric LI, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Henry WU and Mr LAU Ping-cheung voted against the motion.

Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr WONG Yung-kan and Mr IP Kwok-him abstained.

Geographical Constituencies and Election Committee:

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

Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr Ambrose LAU and Mr MA Fung-kwok voted against the motion.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr TAM Yiu-chung and Mr YEUNG Yiu-chung abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, five were in favour of the motion, 14 against it and four abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 16 were in favour of the motion, five against it and four abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 19 November 2003.

Adjourned accordingly at three minutes past Nine o'clock.