

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 10 December 2003**

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

## **MEMBERS PRESENT:**

THE PRESIDENT

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

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

THE HONOURABLE 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 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.

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

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

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

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

THE HONOURABLE MA FUNG-KWOK, J.P.

**MEMBERS ABSENT:**

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE SIN CHUNG-KAI

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

**PUBLIC OFFICERS ATTENDING:**

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

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

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

THE HONOURABLE JOSEPH WONG WING-PING, G.B.S., J.P.  
SECRETARY FOR THE CIVIL SERVICE

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

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

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

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

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

**CLERKS IN ATTENDANCE:**

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

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

## TABLING OF PAPERS

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

- No. 34 — Emergency Relief Fund  
Annual Report by the Trustee for the year ending  
31 March 2003
- No. 35 — Report by the Controller, Government Flying Service on  
the Administration of the Government Flying Service  
Welfare Fund for the year ended 31 March 2003
- No. 36 — Police Welfare Fund  
Annual Report 2002/2003
- No. 37 — Annual Report on The Police Children's Education Trust  
and The Police Education and Welfare Trust for the period  
from 1 April 2002 to 31 March 2003
- No. 38 — Hong Kong Sports Development Board  
Annual Report 2002-2003

Report of the Bills Committee on Public Officers Pay Adjustments  
(2004/2005) Bill

## ORAL ANSWERS TO QUESTIONS

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

### Wastage of Police Officers

1. **MR LAU KONG-WAH** (in Cantonese): *Madam President, regarding the wastage of police officers, will the Government inform this Council:*

- (a) *of the number of police officers who left the Force in the past three years, whether the main reasons for their departure include work pressure, and the estimated loss of resources caused to the Force by such wastage each year;*
- (b) *of the impact of the wastage of police officers on the day-to-day operation of the police in the past three years; and*
- (c) *how the authorities will improve the wastage situation; and whether there is a dedicated department in the Force for assessing and following up the psychological conditions of police officers in terms of their sense of belonging, job satisfaction and work pressure, as well as assisting them in solving any problems in these areas, so as to reduce the wastage of police officers?*

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

- (a) The wastage figures of police officers of the officer ranks (Inspector and above) and junior ranks (Station Sergeant and below) in the past three years are as shown in the main reply that has been distributed to Members.

Annex I

	<i>Officer Ranks</i>			<i>Junior Ranks</i>		
	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>
Number of officers who left the Police Force	71	64	76	534	560	749
Wastage during the year as % of the strength at relevant ranks	2.5	2.3	2.8	2.1	2.2	2.9

The reasons for wastage of police officers in the past three years include retirement/premature retirement/completion of agreement; dismissal/compulsory retirement; resignation and other reasons. Detailed statistics have been provided in the main reply distributed to Members.

## Annex II

	<i>All police officers</i>		
	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>
retirement/premature retirement/completion of agreement	396	409	585
dismissal/compulsory retirement	44	40	60
resignation and other reasons	165	175	180
Total:	605	624	825

The figures in Annex II show that the main reasons for the departure of police officers were retirement at normal retirement age; premature retirement at the age of 45 under the Old Pension Scheme; or completion of agreement. In general, the reason for resignation given by police officers was "personal reasons". The police do not have details of such "personal reasons". Hence, there is no data showing that the police officers chose to resign because of work pressure.

At present, the police do not have in place a mechanism to accurately calculate the resources spent on police officers who took early exit. Therefore, we are not able to provide information on the loss of resources.

- (b) The figures in Annex I presented in part (a) of this reply show that in recent years, the wastage of police officers has remained at a low level. Moreover, the Force has a well-established posting system which enables police officers to acquire different knowledge and experience in various posts. As a result, the wastage of police officers had not caused any negative impact on the day-to-day operation of police departments and formations.
- (c) As explained in part (b) of this reply, the wastage of police officers has remained at a low level in recent years. The Service Quality Wing and Personnel Wing of the Police Force are specifically responsible for examining, evaluating and following up issues



concerning the sense of belonging, job satisfaction, work pressure, and so on, of staff.

The Force has always attached great importance to internal communication. Commanding officers at all levels hold regular meetings with their staff to explain to them the policies of the Force and to seek a better understanding of the problems and concerns of the staff. The Personnel Wing follows up issues and opinions relating to staff morale as shown in the monthly staff relations reports, and reflects them to the Commissioner of Police and the Major Formation Commanders. These efforts help enhance two-way communication between the management and the staff.

In order to keep up and further enhance staff morale and efficiency, the Force has implemented a series of programmes and measures in recent years, including the promotion of a healthy life style; holding workshops on reduction of stress, Family Day, seminars on financial management, seminars on psychological well-being; encouraging voluntary service by police officers, and so on. There is also a specific column for the Psychological Services Group in the Force's internal publication, *Offbeat*. Various information on psychological well-being is provided in the column.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, the table in Annex II shows that the number of police officers who left the Police Force due to dismissal/compulsory retirement has risen by 50% last year as compared to the year before. I would like to know the reasons for this. Is this mainly due to the question of personal conduct? Take the example of the SIN Kam-wah case, police officers may have to be often in contact with undesirable elements in the course of their daily work. May I ask the Secretary, are there guidelines issued to police officers in this respect? The new Commissioner of Police will assume office today, does he have any new guidelines on that?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, it is true that figures of police officers who were dismissed or compelled to retire in 2002-03 have exceeded those in 2001-02 by 20 persons. In terms of proportion, and as Mr LAU Kong-wah puts it, it is an increase by 50%, but that does not

mean that there has been anything seriously wrong in the police. For in the Police Force, there is a stringent management system which stipulates that any police officer, irrespective of his or her rank, who has breached the internal disciplinary guidelines, will be liable to dismissal or compulsory early retirement. As for the case mentioned by Mr LAU Kong-wah, as the related party is now lodging an appeal, it would not be appropriate for me to make any comments here.

**DR LUI MING-WAH** (in Cantonese): *Madam President, may I ask the Secretary do police officers at the officer ranks and junior ranks include all persons serving in the police or do they include only police officers in uniform?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, these refer mainly to uniformed officers at the Inspector ranks as well as the rank and file.

**MR IP KWOK-HIM** (in Cantonese): *Madam President, in the table found in Annex II, I notice that the figures for the category of retirement/premature retirement/completion of agreement have arisen from 409 persons in 2001-02 to 585 persons in 2002-03, that is, an increase close to 200 persons. I would like to know whether this is due to the problem of ageing in the police and would this affect the quality of service of the police in future in any way?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I think the increase is related to the expansion in the police at the end of the 1960s to the beginning of the 1970s. During the 1970s and the 1980s, the police recruited a large number of police officers to meet the needs of the time then, for example, in controlling the border areas and so on. We know that from the end of the 1960s to the beginning of the 1970s, illegal immigration was rampant and as the police were required to control the border areas, so a lot of police officers were recruited at that time. As for the developments in the districts and the new towns — a new police station would be set up in every new town — and so the number of police officers had to be increased as well. Today after 20 or 30 years, those police officers recruited at that time have reached retirement age and so the figures have increased. We can also see that a significant percentage of increase can be found in the figures for 2001-02 over those for 2000-01. Such

an increase can also be found in the figures for 2002-03. This is mainly due to the fact that the police expanded at that time and so 30 years later, those police officers employed have now reached retirement age.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, the Government points out in the last part of the main reply that the Police Force has implemented a series of programmes and measures in recent years, including the promotion of a healthy life style and holding seminars on financial management. From media reports we know that many police officers have engaged in illegal activities due to financial reasons. That is a kind of conduct leading to self-destruction. In this regard, does the Government think that such seminars on financial management have not been successful?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the management in the Police Force is aware that a minority of police officers do have problems in financial management and this can be seen in the increase in the number of bankruptcy cases in recent years. So the management in the Police Force has addressed this problem, and assistance, seminars and even counselling are provided to those officers who run into financial problems. The management has also been thinking of ways to help these officers overcome their problems such as by helping them to borrow from the co-operative societies. In this regard, I would think that enough has been done by the Police Force.

**MR HENRY WU** (in Cantonese): *Madam President, although the Secretary has not provided any information on the loss of resources, has the Government made any assessment in this regard? I am not referring to retirement, but has any assessment been made with reference to dismissal, resignation or other reasons, by a breakdown of districts or years of service and so on, to see if there are police officers who have resigned due to the greater pressure they faced when working in some districts?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, we do not have any information in this regard. As far as I know, other reasons include a number of different reasons, for example, some police officers may have been transferred to other government departments and this is also included in the

category of other reasons. Besides, some officers have left the Force before the retirement age for health reasons and a few might even have died. As for detailed information in this category, we do not have any analysis on that.

**MR HENRY WU** (in Cantonese): *The supplementary question which I have just asked is whether or not any assessment has been made. The reply which the Secretary should have given is whether or not assessment has been made. Has he made any assessment with respect to districts and years of service?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I would think that no such assessment has been made. We do not have any information on that.

**MR MICHAEL MAK** (in Cantonese): *Madam President, the Secretary in his main reply mentions twice that the wastage of police officers has remained at a low level, but he has not replied on the part in the main question raised by Mr LAU Kong-wah on whether or not assessment has been made on job satisfaction and work pressure. However, a low level of wastage does not mean that job satisfaction, work pressure or morale are not affected.*

**PRESIDENT** (in Cantonese): What would you like to ask?

**MR MICHAEL MAK** (in Cantonese): *Madam President, I am about to ask my supplementary question. Actually, it is a serious thing even if there is the wastage of one person. For example, some time ago, a senior police officer has committed suicide, this will definitely affect morale or job satisfaction. May I ask the Secretary, has any assessment been made on the departure or wastage of an important person on the morale or job satisfaction in the Police Force?*

**SECRETARY FOR SECURITY** (in Cantonese): We would of course feel sad and regret at the death of any police officer, but we believe that the Hong Kong Police Force is a professional team with high quality and the performance of the Force will not be affected by the departure of any police officer or constable. I

can say to Mr Michael MAK that we do have assessment on the morale of the Police Force. The Commissioner of Police has said to me that currently morale in the Police Force is relatively high.

**MR FRED LI** (in Cantonese): *Madam President, on figures in the category of retirement/premature retirement/completion of agreement, there is an increase by 40% of the figures for 2002-03 as compared to those for 2001-02, but there is no breakdown on the number of premature retirement. Will the Government inform this Council, do the figures include a lot of police officers who retire early at the age of 45 but they are then employed by the Police Force again as contract staff, that is, they are called "fan yim" in colloquial Cantonese which means literally "re-castrated"? Is there a lot of persons falling into this category?*

**PRESIDENT** (in Cantonese): Mr Fred LI, from now on there is no need to mention a colloquial term. You have made it very clear in your supplementary question already. *(Laughter)*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I am sorry I do not have any breakdown on that. I will give the information to Mr Fred LI some time later. *(Appendix I)*

**MR LAU KONG-WAH** (in Cantonese): *Madam President, though we may not know the reasons for resignation by police officers, we do know for cases of dismissal. Could the Secretary talk about the 60 cases of dismissal last year with respect to their grounds and breakdown? In addition, I would still want to know about the guidelines on contacts with undesirable elements. I am referring to general information, not about information on individual cases.*

**SECRETARY FOR SECURITY** (in Cantonese): Dismissal/compulsory retirement cases are certainly related to disciplinary or criminal offences. As to a breakdown by the law or internal regulations contravened, I do not have any information on that now, nor do I know if any information on that is available. I have to talk with the Commissioner of Police about this. *(Appendix II)* I have forgotten the second supplementary question.

**MR LAU KONG-WAH** (in Cantonese): *It is about guidelines on preventing police officers from having contacts with undesirable elements.*

**SECRETARY FOR SECURITY** (in Cantonese): All along, the Police Force has issued guidelines to police officers. As far as I know, reviews would be made in accordance with changes in social conditions. I do not have the latest guidelines at hand, but we do issue guidelines to our colleagues.

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

**Unauthorized Occupation of Government Land by Green Island Cement Company Limited**

2. **MS EMILY LAU** (in Cantonese): *Madam President, it has been reported that the Green Island Cement Company Limited (GIC) has been occupying without authorization a piece of government land in Hung Hom since 1992. In this connection, will the executive authorities inform this Council of:*

- (a) the details of the case and why the company could have occupied government land without authorization for as long as 11 years; and*
- (b) the follow-up actions taken and to be taken by the authorities?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, my reply to the two parts of the question is as follows:

- (a) The Government granted the Kowloon Marine Lot No. 113 to the GIC for industrial use in 1977. In 1978, the adjacent Kowloon Permanent Pier (KPP) No. 90 was also granted for use in connection with the adjoining industrial lot. The term of both lots is up to 2047. There is no question that the lot concerned has been occupied by the GIC without authorization since 1992.

However, there was a complaint in 1992 against the GIC for breaching the lease condition with the operation of a concrete batching plant at KPP No. 90. The Lands Department (LD) issued warning letters to the grantee in the same year requesting compliance with the lease conditions.

Notwithstanding the above, the LD did not take further action. This was due to resource constraints and the priority in handling cases of breaches of lease conditions, and the fact that there were oil depot, power station, sewage treatment plant and other industrial uses, with few residential developments, in the vicinity of the plant.

The LD had not received any further complaint against the concrete batching plant between 1992 and October 2000. Since 2000, a number of residential developments were completed in Hung Hom (such as Laguna Verde). With the increasing population in the area, the public were concerned with the health impact on residents caused by the concrete batching plant. In November 2000, the LD received a complaint again from a member of the public against the concrete batching plant at KPP No. 90. The major issues of the complaint were about the dust and noise nuisances caused during the process of concrete production.

The environment of the area around the site has changed substantially as compared with 1992. Having consulted the Kowloon City District Management Committee and with its support, the LD decided to take lease enforcement action.

- (b) In June 2002, the LD re-entered the lot under the provisions of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126). The re-entry notice was gazetted on 26 July 2002.

On 27 September 2002, the GIC applied to the Court against the LD's re-entry action on the ground of a breach of the lease conditions, and requested government compensation for the loss incurred by the company. The Government is contesting the GIC's application. The case is pending hearing.

**MS EMILY LAU** (in Cantonese): *Madam President, according to the Secretary's reply, the GIC has not occupied government land without authorization, but has breached the lease conditions by turning the pier into a concrete batching plant without authorization. Madam President, my question is why was the case not followed up despite that letters had been issued in 1992 when a complaint was received? The Secretary said that no follow-up action was taken due to the priorities of the Department at the time and the fact that there were probably many other sources of pollutants in the vicinity, such as oil depot, power station and sewage treatment plant. I would like to know if the then Director was aware of the situation and whether it was the case that everyone did understand the situation and as there were such priorities, it was decided that no follow-up action be taken, or was dereliction of duty involved? Moreover, Madam President, the Secretary remarked that there were few residential developments there. Does he mean that only a few people were living there? I do not know that there was a time when few people were living in Hung Hom. What was the population then and what is it now?*

**PRESIDENT** (in Cantonese): You have asked a total of four supplementary questions.

**MS EMILY LAU** (in Cantonese): *Madam President, they all belong to the same paragraph. Please allow me to ask these questions.*

**PRESIDENT** (in Cantonese): Indeed, they all belong to the same paragraph. Alright, you have my permission. *(Laughter)*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, the LD certainly has a lot to do in the enforcement of lease conditions. So, the urgency and priorities of work will depend on a diversity of factors. What I have just said is about the factors that had been taken into consideration in this case. Broadly speaking, the Government, in considering enforcement actions, would take into account the following factors: First, the operation of dangerous or obnoxious industries in residential premises or how



obnoxious it is; second, the operation of dangerous or obnoxious industries in existing or new non-industrial premises; third, the operation of industries in other residential premises; fourth, the operation of industries in non-industrial premises; fifth, the misuse of parking lots inside industrial premises; and sixth, the use of industrial premises for commercial or office purpose. Besides, the LD would also consider the views of the District Councils and the District Management Committees before deciding on the priorities of individual cases. These were the criteria adopted by the Government at that time. So, with regard to this specific case, as I have explained earlier, the environment at that time was a factor for consideration. When referring to Hung Hom at that time, I do not mean the outer areas of Hung Hom now, but the more inner parts of it and there was no property development then. So, as I pointed out in the main reply, there were oil depot, power station, sewage treatment plant and other factories in that district. Certainly, as there were so many factories, residents in that district were in a relatively small number. However, I do not have the specific statistics about the number of residents there at that time up my sleeves. If the Member requires such information, I can check the relevant information later (Appendix III). That was the situation back then. So, having considered these factors and given constraints in resource allocation, no further action had been taken and the case had "faded out" under the circumstance. As I have said, it was only in 2000 when a second complaint was received that further follow-up actions were taken.

**MS EMILY LAU** (in Cantonese): *Madam President, the Secretary has not explained this clearly. He said that "they" had not taken this into consideration. Did the Director give his permission not to follow up the case despite that letters had been issued?*

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

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I have no major points to add. I mainly wish to say that looking back on this case, I am not sure whether the then Director was personally aware of this case. Nonetheless, this decision was certainly made on behalf of the Department.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, it was mentioned in the Secretary's main reply that Hung Hom had a small population in 1992 and so the conditions were acceptable then, but there were great increases in the number of residents in Hung Hom by 2000. In fact, the situation is undesirable because there are now many people there, and the presence of a concrete plant is undesirable. However, re-entering a lot on the ground of a breach of rules or a breach of lease conditions is also a very undesirable way to deal with an industry. I would like to know and will the Secretary tell us whether the Government has negotiated with the relevant company on the removal of the plant, including the relocation of the entire plant elsewhere or the provision of compensation as appropriate?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): *Madam President, as far as I understand it, after receiving the complaint, we have contacted the GIC asking for their immediate compliance with the lease conditions. As I also mentioned in the main reply earlier on, the GIC was granted two sites then, one being an industrial site and the other for pier purposes. The pier is used to provide support services to the industrial site. So, the site originally designated for the construction of a pier is now used for industrial purposes and hence constituting a breach of lease conditions. The Government has negotiated with the GIC asking it to relocate its operation and has sought legal advice on the actions to be taken. Finally, given that the GIC has ignored our warning even after our several rounds of negotiations with it, we therefore resorted to legal actions. As I said in the main reply, in response to the legal actions taken by the Government and upon receipt of the re-entry notice from the Government, the GIC applied to the Court against the Government's action, asking the Government to withdraw its order and make compensation. They certainly have their legal basis, and this case is now pending court proceedings. I do not consider it appropriate for me to disclose the details involving the legal proceedings on this case.*

**MR WONG SING-CHI** (in Cantonese): *Madam President, the Secretary mentioned in his main reply that a complaint was received in 1992 with regard to this lot, but the LD received no complaint concerning this concrete batching plant between 1992 and 2000 and so, no follow-up action whatsoever had been taken during this period of time. The Secretary also mentioned that the*

*Department had allowed the case to "fade out" because no complaint had been received. My question is: According to normal procedures, if a complaint is received and if it is not followed by a second complaint over a long period of time, will the departments simply allow the complaint to "fade out" as easily as in this case? Is there a practice such as this? If not, can the Secretary tell us during the time after the first complaint is received and before a second complaint is received, what procedures should the Department have in place to follow up these complaints and how such cases of breach of rules should be handled?*

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

Madam President, I think Mr WONG Sing-chi has made a correct point in his supplementary question. There was indeed negligence on the part of the government departments, for the complaint should not be allowed to "fade out". In fact, we must tell Members one thing, although Members' questions have not touched on this aspect. The Ombudsman has in fact conducted investigations into this case. The Ombudsman also considered that there was mishandling on the part of the Department and has made a series of recommendations on procedural improvements. The Department has accepted all the recommendations. So, although actions are taken only after problems have arisen, I think this serves as a very good reminder to us that we cannot allow these cases to "fade out" continuously and we should more actively follow up these cases.

**MR ALBERT HO** (in Cantonese): *Madam President, in part (b) of the main reply, it was mentioned that in June 2002, the Government re-entered the lot under the provisions of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126) and the re-entry notice was gazetted. I have read this Ordinance and found that a lot of work should have been completed upon the gazettal of the re-entry notice, including registering the so-called memorial of re-entry in the Land Registry. Under this Ordinance, after such registration in the Lands Registry and the gazettal of the notice, the ownership of the site, including the land and the structures above it, shall belong to the Government. Such being the circumstance, I do not understand how possibly can it not be considered an unlawful occupation of land if the GIC continues to occupy the land and refuses to return it to the Government? If it is an unlawful occupation, why is it stated in the first paragraph of part (a) of the main reply that "there is*

*no question that the lot concerned has been occupied by the GIC without authorization"? Is this not completely self-contradictory? It appears that the Secretary is rather uncertain about whether or not to resume the land and dares not affirm the Government's legality in the resumption process. Does it reflect that the Secretary, in handling the entire case, appears to have shown fears for and even bias towards this major consortia of the GIC? Right at the outset, the Government did not handle the complaint and now that the Government has exercised its powers, it seems that the Government does not even dare to affirm the validity of its claim or actions, as it still says that the case is pending court judgement. May I ask the Secretary whether he will amend what he said in part (a) of his reply? Is there a case of unlawful occupation as things now stand?*

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

Madam President, I will not withdraw my reply, for this question draws a line at 1992 as the starting point. As I already explained, this site belonged to the GIC in 1992 and so, there is no question of unlawful occupation, for the land was granted to the GIC then and the right in land was also in its hands. It was only in 2002 that the Government resumed that lot and as the lot can since be considered government land, their occupation is therefore unlawful. But this may not be so in reality as this case is pending hearing and so, follow-up work is possible only when the result of the proceedings and a court judgement are available. That is why I was very careful in my reply to this part of the question and I said, "there is no question that the lot concerned has been occupied by the GIC without authorization since 1992". There is no question of unauthorized occupation since 1992. It is because between 1992 and 2002, the land still belonged to the GIC, only that the company had used the land for purposes in breach of the lease conditions, and I have already explained this earlier. But this is entirely different from unlawful occupation of government land.

**MR ALBERT HO** (in Cantonese): *Madam President, I think the Secretary has failed to see clearly the crux of the question. He said "since 1992" and that actually includes today.....*

**PRESIDENT** (in Cantonese): Mr Albert HO, this is the Question Time. I must remind you again that if you wish to express your personal opinions, you will have the opportunity to move a motion to that effect.

**MR ALBERT HO** (in Cantonese): *Yes, Madam President. In fact, he has not answered my supplementary question. That is, as at today, is this lot being occupied unlawfully? I am talking about today. I wish to ask the Secretary this: Insofar as the Government's position is concerned, does it think that the GIC is occupying this lot unlawfully today? The question is just this simple. Thank you, Madam President.*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, had Mr Albert Ho asked his follow-up question this way in the first place, I certainly would not have answered it in the way as I did earlier. *(Laughter)*

**MR ALBERT HO** (in Cantonese): *He still has not answered my question. The Secretary still has not answered as to whether that company is occupying this lot unlawfully today.*

**PRESIDENT** (in Cantonese): Mr Albert HO, as other Members may also notice, if your supplementary question is too long, the Secretary will not be able to make out where your focus is. Mr Albert HO, are you asking whether there is a case of unlawful occupation today in your supplementary question that you have repeatedly asked?

Secretary, do you have anything to add?

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I have nothing to add, because I have already given an answer. However, I will repeat it for I fear that members of the public may think that I am evading this question and therefore do not give a reply.

The Government re-entered the lot in 2002, but legal proceedings are still in progress. In the proceedings, the GIC argued against a breach of lease conditions on its part and so it is asking the Court to pass a judgement that it has not breached the conditions, and it is also asking for government compensation. The proceedings are in progress and for this reason, we will put this case aside for the time being.

**PRESIDENT** (in Cantonese): We have spent over 18 minutes on this question. Although there are still many Members waiting to ask their questions, this question shall end here because obviously, this question will not be sorted out within this very short span of time allocated to it in this Question Time. So, Members please follow it up through other channels.

Third question.

### **Cross-border Co-operation Measures to Reduce Air Pollution**

3. **MISS MARGARET NG:** *Madam President, it was reported that on 3 November this year, the Air Pollution Index (API) recorded at the Mong Kok Roadside Station of the Environmental Protection Department reached 181, which was the highest since 1998. In response to media's questions on that day about the worsening air quality, the Secretary for the Environment, Transport and Works said that it was a regional problem and had to be tackled from the source. In a speech delivered on the same day, she explained the cross-border co-operation measures that the Government of the Hong Kong Special Administrative Region (HKSAR) and the Guangdong Provincial Government would take to reduce the emissions of the four major pollutants in the air. She also said that the Government was examining with the mainland authorities how to take forward emissions trading among power plants in the region using a trading pilot scheme, with a view to launching the scheme in three years' time. In this connection, will the Government inform this Council:*

- (a) *of the progress of the discussions with the mainland authorities on the trading pilot scheme, and the level of air pollution reduction which the scheme expects to achieve;*
- (b) *as the Secretary has been advocating emissions trading between Hong Kong and Guangdong to reduce air pollution in Hong Kong since she took up the post in July last year, why three more years from now are required for the implementation of the scheme; and*
- (c) *of the other cross-border co-operation measures which are currently or will be put in place to reduce air pollution?*

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

Madam President, I will attempt to answer parts (a) and (c) of the Honourable Member's question first, then to be followed by part (b). I would also take the opportunity to explain the high API recorded on 3 November this year.

(a) and (c)

The cause of that high exposure was the result of a combination of meteorological conditions. In the fortnight preceding that date, the territory was under the influence of a weak anti-cyclone to the north. Between 1 and 3 November, the territory was also affected by Tropical Cyclone Melor which moved very slowly in the Luzon Strait. As a result of these meteorological systems, air from the upper atmosphere subsided over Hong Kong and the rest of the Pearl River Delta Region, inhibiting the upward movement of air which normally helps to disperse pollutants generated in the Region. The long period of stable atmosphere was joined during daytime by strong sunlight which promoted the photochemical reactions of the pollutants accumulated in the air to form ozone and the situation was aggravated. All those three factors contributed to the high API on 3 November. Satellite pictures showing pollutant concentrations clearly illustrated the migration of the plume from Guangzhou southwards within a span of 24 to 36 hours.

Hong Kong faces such meteorological conditions and the resultant serious regional air pollution problem only occasionally. The episode referred to by the Honourable Member was the worst the territory has experienced for years. Nevertheless, we are committed to tackling the problem of regional air pollution in conjunction with Guangdong. In this connection, the HKSAR Government and the Guangdong Provincial Government reached a consensus in April last year to reduce, on a best endeavour basis, by the year 2010 the regional emissions of the four main pollutants in the ambient air, namely sulphur dioxide, nitrogen oxides, respirable suspended particulates and volatile organic compounds by 20% to 55%, using 1997 as the base year. To achieve those emission reduction targets, the two governments are drawing up a regional air quality management plan which will set out in detail the

improvement measures which Hong Kong and Guangdong will take. For Hong Kong, we already have a comprehensive programme to reduce motor vehicle emissions. To further reduce emissions from other local sources, we have to control the emissions of volatile organic compounds from petrol filling stations, printing operations, paints and consumer products which contain volatile organic compounds. We also have to achieve the emission reduction targets in respect of sulphur dioxide, nitrogen oxides and respirable suspended particulates through reducing their emissions from power plants in Hong Kong. For Guangdong, measures would have to be taken to reduce emissions from their power plants, motor vehicles and various industrial operations, such as cement factories.

In the area of reducing power plant emissions, in order to allow our power plants to meet the emission reduction targets in a more cost-effective manner, we believe they should be provided with the option of emissions trading. Emissions trading would provide a win-win situation for the power plants and the consumers if the power companies find it cheaper to buy emission credits from other power companies in the Region, rather than carrying out their own physical works to reduce emissions from their own plants. As emissions trading is an arrangement not yet tried out in Hong Kong and Guangdong, it is necessary to convince the mainland authorities that an emissions trading pilot scheme should be introduced as a first step. We have made suggestions to and obtained the support of the State Environmental Protection Administration for introducing the pilot scheme because it is within their purview. We are currently examining and working out with the Guangdong Provincial Government the details of the pilot scheme. How much reduction in the emissions of the three relevant pollutants will be achieved through emissions trading, as one of the means, will depend on the power companies' level of participation in the scheme.

- (b) We have set ourselves a target of working out a detailed emissions trading pilot scheme within three years. We have to sort out a whole host of highly complicated issues with our Guangdong counterparts. For instance, we have to work out a detailed enforcement regime to check that the selling power company



honours the emission credits it has sold. We have to determine what penalties should be imposed on it if it fails to honour the commitment. We have to work out and set up a comprehensive continuous monitoring system to check emission such that effective enforcement can be carried out. Equally important is, of course, the price of the emission credits traded. All these issues are highly complex, particularly as the scheme has to be implemented in two jurisdictions. Therefore, we have to allow ourselves adequate time to examine and work out all these details to ensure that the scheme will operate in an orderly manner.

Emissions trading is one of the possible tools for implementing the measures required to reduce emissions of the three relevant pollutants from power plants in a more cost-effective manner. What will bring about the actual reduction in emissions will be the improvement measures themselves. Therefore, while the details of the pilot scheme are being worked out, the Guangdong authorities and we are discussing with power companies all other possible options in addition to emissions trading, such as actual physical works to reduce emissions and the sulphurization plants, which may enable them to achieve the reduction targets. The assessments will help us analyse which option or combination of options would be the most cost-effective. At the end of the day, some power companies would try to carry out physical works to reduce emissions from their plants. The works will take time to complete, and they need time for preparation.

On the other front, we are pushing ahead with the improvement measures required to achieve the emission reduction target in respect of volatile organic compounds. Following consultation with oil companies and this Council's Environmental Affairs Panel earlier, we will introduce legislative amendments to require the installation of vapour recovery system at petrol filling stations to reduce the emissions of volatile organic compounds during vehicle refuelling. We are also working on a public consultation document to control the emissions of volatile organic compounds from printing operations, paints and certain consumer products. We will consult the relevant panels of the Legislative Council on our proposals in due course.

**MISS MARGARET NG:** *In her answer, the Secretary referred to the high API on 3 November this year as only an occasional occurrence. How occasional was it? Does the Secretary mean that it is not frequent enough to require extra efforts and she can just happily follow the timetable of three years mentioned in the last part of her answer?*

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

Madam President, in terms of air pollution, the occasion on 3 November is an unusual episode. By unusual, we mean that such occurrence may only take place three or four times every year. The reason for quoting it is to alleviate some of the fears Members here may have — that it is happening all the time, and not for the reason for not doing more work to reduce air pollution in Hong Kong and in the Region. Indeed, we are making every effort to expedite all the measures we have laid down in the regional air quality management plan which we are working out with the Guangdong authorities. Three years may seem a long time, but as with all air pollution problems, it does take many years to solve the problems, especially when they have been there for many years already. Many habits and industries which are already in place but which require improvement would involve investment and analysis on economic impact. In our case on power generation, it affects a tariff situation. That is why we have drawn up a three-year timetable. Of course, within the timetable, we will try our best to speed up.

**MS CYD HO** (in Cantonese): *Madam President, though emissions trading, involving judicial and enforcement assistance between the two places, is immensely difficult, it is still worth exploring and implementing. However, in the event of disputes, do we have a set of indicators for measuring how we should collaborate, with a view to enabling the two legal systems to converge and be acceptable to societies in the two places? Will the Secretary widely consult people, including members of green groups and the legal profession in Hong Kong, before devising the indicators?*

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

(in Cantonese): Madam President, issues relating to emissions trading definitely involve the legal systems of the two places. But what is most important is that,

a pilot scheme is under discussion at the moment. As it is impossible for us to bring about a convergence of the legal systems of the two places which are so markedly different, we can only, like other countries, use such data as emissions, air pollution indexes, and so on, as a standard since these data are objective. As regards the question of law enforcement and under what circumstances will it be considered non-compliance, we can only act according to these indexes, but it is impossible for us to enable the two legal systems to be merged into one.

Before the commencement of this task, what we can do expeditiously is to set up a number of monitoring centres with Guangdong Province. It is hoped that in the near future — the relevant work has been carried out for more than a year — a comprehensive monitoring network can be established to achieve a unity in technology. However, there must be a consensus in the method of measurement lest disputes would arise out of measurement data. For these reasons, 10 stations have been set up jointly by Guangdong and our colleagues in the Environmental Protection Department. This is the first step. As for the second step, we will agree on the total amount of emissions. If they have sold a certain amount of credits, we will have to maintain an appropriate amount, and this explains why measurement is crucial. As for law enforcement, there must be an agreement between both parties stating under what circumstances prosecution can be instituted. Insofar as this point is concerned, discussions with Guangdong Province are in progress. We will certainly be accountable to this Council to enable Members to discuss and monitor the situation.

**DR YEUNG SUM** (in Cantonese): *Madam President, in the interim review between the Government and the power companies conducted towards the end of this year, has the recommendation of the emissions trading scheme been discussed? If so, what is the outcome? If not, can the reasons be stated? This is because the three-year period will soon expire. Furthermore, what policies and measures will the Government adopt to help the power companies to participate in the emissions trading scheme?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, during the interim review, we have held active discussions with the two power companies, not only on the emission credits trading scheme, but also on the entire proposal for reducing air pollution.

They were fully aware of the signing of the regional air pollution management proposal between Hong Kong and Guangdong Province. Both companies have been notified by us last year, will be reminded again this year that the target of reducing emissions by 22% to 55% has to be met by 2010. They are also fully aware of the fact that, under the major principle of sustainable development, we have to reduce emissions while bearing economic effectiveness in mind. The proposal of trading emission credits is one of these options. This option may also benefit both parties — making it unnecessary for excessive investment to be made for the purpose of installing emission reduction facilities, while emissions reduction can be achieved through the more economically-effective method of emissions trading. We have reflected the whole picture to the two power companies. In addition, the regional air quality improvement scheme has been proposed in the course of the interim review.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, the problems cited in the main answer, I believe, will take a long period of time to resolve. In particular, it will take some time before emissions trading can be achieved. In this connection, will the Government consider adopting such measures as making use of rain or wind devices in relatively dense areas or areas where there is a particularly high concentration of suspended particulates, with a view to reducing the chances of people falling ill because of the inhalation of polluted air or poor air quality?*

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

(in Cantonese): Madam President, I still wish to further elaborate on emissions trading. The purpose of implementing the trading of emission credits is not merely to expedite the scheme for improving air pollution in Hong Kong. Instead, it is hoped that by these economic means, the programme launched by Guangdong can be expedited. With the lack of capital, the programme can be expedited if we can make effective use of capital in this area. As for Hong Kong, we have already made a lot of emission efforts to tackle a number of local pollution problems, and have also devised a comprehensive programme for organic chemical substances.

I am absolutely against the rain-inducing method mentioned by Mr NG Leung-sing earlier, though "cloud dispersion" is a favourable method adopted in

many places on the Mainland. Of course, they have their own reasons for doing so. This is because rainfall is considered crucial in an agricultural society. As such, silver iodide will be used to form nuclei for the purpose of bringing rain. This method, though probably helpful in resolving serious drought, will impact seriously on the meteorological conditions as a whole. Moreover, the chemical substance is toxic, and should not be used indiscriminately. I do not believe the people of Hong Kong will prefer inhaling toxic chemical substances in order to reduce air pollution. Despite occasional occurrences of very high air pollution, improvements have been seen on the whole. We prefer using a comparatively normal method to improve air pollution. A gradual and progressive approach is essential to improving air pollution. It is impossible for us to solve the problems in one day by wind or rain.

**PRESIDENT** (in Cantonese): This Council has spent more than 19 minutes on this question. Last supplementary question.

**MISS CHOY SO-YUK:** *Madam President, I think a pilot project or a pilot scheme would be a sensible start for emissions trading. I would like to ask the Secretary whether both Governments have chosen the power plants to be involved in this pilot project? If yes, whether the Governments have already conveyed the concept of emissions trading to those power plants? If yes, are they acceptable to this kind of arrangement? If not, when would the Governments actually approach the power plants and have the pilot scheme pushed through as soon as possible?*

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

The Government's role is to ensure that the system will work when it comes into place. I have already mentioned all the monitoring systems which have to be in place, the method of enforcement for the two jurisdictions, and that we have to have a common standard which we both agree on. As for the pilot participants, they would be strictly voluntary. We are now going around Guangdong to have a look at the various power plants. We first have to have their indication of their willingness to participate. In Hong Kong, we are doing the same with our two power companies.

As far as Guangdong is concerned, the new energy regulatory regime is still being worked out, and it involves major changes with respect to quota for total emission cap. This has caused a great force in the market because if you have emission credits, you are more likely to be allowed to build new plants. So, these credits are very hard to come by. Although the Central Government has promulgated the policy that Guangdong should not build any more plants and should be importing electricity from the western region instead, this involves huge political and policy changes — I mean fights within their own cities and prefectures. So, with Hong Kong coming in and offering to buy their credits, it will take time to sort out how we are buying it, for what period of time, and how much. We are working in parallel within the government system to make sure that enforcement, standards and all the rest are being set. On the other hand, we are talking to the various possible participants to see if they are prepared to do it on a commercial basis because it involves a price for trading.

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

### **Fire Service Installations in Toll Road Tunnels**

4. **MR ANDREW CHENG** (in Cantonese): *Madam President, regarding the respective quantities of various types of fire service installations and equipment installed in toll road tunnels, will the Government inform this Council:*

- (a) *of the criteria and factors adopted for determining the types and quantities of fire service installations and equipment to be installed in each toll road tunnel;*
- (b) *of the respective quantities of various types of fire service installations and equipment installed in each toll road tunnel; and*
- (c) *of the date(s) at which the existing quantities of various types of fire service installations and equipment installed in Hung Hom Cross-Harbour Tunnel (CHT) was (were) stipulated; whether it has assessed if the quantities of these installations and equipment are adequate to cope with fire and emergency incidents in the tunnel caused for various reasons; if so, of results of the assessment?*

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

(in Cantonese): Madam President, the Code of Practice for Minimum Fire Service Installations and Equipment (Code of Practice) issued by the Fire Services Department (FSD) stipulates the requirements for fire service installations and equipment as well as issues regarding their application in road tunnels. The tunnels in Hong Kong are equipped with fire protection and fire fighting installations which comply fully with the requirements of the FSD.

The provision of fire fighting installations in each tunnel are set out in the Annex to the written reply. The differences in the number of fire service installations in the tunnels are attributable to the specific design and site constraints of each tunnel.

Upon the commissioning of the CHT in 1972, its fire service installations have often been replaced and upgraded to meet up-to-date standards and requirements. The tunnel operator has engaged a registered fire service installation contractor to conduct regular surveys on the various equipment to ensure that they meet safety standards. In addition, the CHT is carrying out a large-scale improvement project and the improvement items to be completed in the coming three years include:

- (i) upgrading of the Traffic Control and Surveillance System;
- (ii) replacement of fire hydrants;
- (iii) installation of illuminated signs for pedestrian cross-passage and enclosed fire safety installations; and
- (iv) replacement of the radio communication system within the tunnel.

The requirements for fire service installations in the Code of Practice are the most feasible arrangements, which have made reference to experience and relevant international safety standards. Fire service installations are but part of a whole fire protection regime. In addition to the hardware, the tunnel operators have established procedures for handling fire incidents and have arranged regular fire fighting training for their staff. The tunnel operators also hold regular joint fire drills with the FSD to ensure quick responses and good co-ordination in handling fire incidents in tunnels.

## Fire Fighting Equipment in Toll Tunnels

<i>Tunnel</i>	<i>Cross Harbour Tunnel</i>	<i>Eastern Harbour Crossing</i>	<i>Western Harbour Crossing</i>	<i>Aberdeen Tunnel</i>	<i>Lion Rock Tunnel</i>	<i>Shing Mun Tunnel</i>	<i>Tseung Kwan O Tunnel</i>	<i>Tate's Cairn Tunnel</i>	<i>Tai Lam Tunnel</i>
Tube Length (km)	1.9	2	1.97	1.9	1.4	2.6	0.9	4	3.73
Date of operation	2 August 1972	21 September 1989	30 April 1997	12 March 1982	14 November 1967(S) 18 January 1978 (N)	20 April 1990	9 November 1990	26 June 1991	25 May 1998
No. of break glass devices (each tube)	78	78	62	38	16	100	16	80	75
No. of emergency telephones (each tube)	78	54	42	38	28	100	16	78	76
No. of emergency exits (each tube)	18	27	21	3	—*	23	8	24	36
No. of fire extinguishers (each tube)	117	162	84	114	28	200	32	160	152
No. of ventilation/jet fans (each tube)	10	15	23	4**	34	44	20	16	20 (S) 19 (N)
No. of recovery vehicles and patrol cars	10	8	9	6	5	7	6	7	11
No. of hose reels (each tube)	—#	51	41	—##	16	51	17	42	75
No. of fire hydrants (each tube)	38	27	21	38(S) 37(N)	16	25	8	40	76
No. of CCTVs (each tube)	12	15	21	15	15	14	9	22	21

*Notes*

\* Owing to site constraint, there are insurmountable technical problems to install emergency exits in Lion Rock Tunnel. To enhance the safety standard, a drencher system was installed in the Lion Rock Tunnel in 1997 upon the recommendation of the FSD. The Tunnel is also equipped with many jet fans for fast extraction of smoke during fire incidents.

\*\* Number of ventilation/jet fans installed inside the tunnel tubes varies with the design of the tunnel ventilation system and specifications of fans.

# Due to constraints imposed by the original design, hose reels could not be installed. Hoses are stored on the patrol cars.

## Hoses are stored on the light recovery vehicles.

(S) - South Bound Tube

(N) - North Bound Tube



**MR ANDREW CHENG** (in Cantonese): *Madam President, more than 150 people died in a major fire which occurred in a big tunnel in Switzerland on 26 October 2001. Tunnel fire can get out of control very easily. The CHT has a daily traffic volume of 120 000 on average. However, the Secretary's main reply reveals that the tunnel is not equipped with hose reels; instead, they are delivered to the tunnel by patrol cars. In this connection, I would like to ask the Secretary how can she ensure patrol cars will be able to transport hose reels to the CHT, which is congested all the time, to put out fire, and that patrol cars will be able to reach the scene when a fire breaks out? Whether or not the patrol cars can access the tunnel is indeed doubtful.*

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

(in Cantonese): *Madam President, the tunnel involved in the train accident in Switzerland mentioned by Mr CHENG earlier is much longer than the tunnels in Hong Kong. Therefore, it took a much much longer time to travel through that entire tunnel. The number of minutes to be taken for a fire ambulance to arrive is calculated on the basis of the length of a tunnel. Fire accidents in areas with dense buildings are expected to be handled in six minutes. On the question raised by Mr CHENG regarding how fire ambulances can reach the scene in the event of a traffic jam in the CHT, the tunnel is equipped with fire hydrants, which can be connected with pipes to put out fire. In addition, foam or powder fire-fighting devices, or hand-held fire-fighting devices, not necessarily hose reels, might be used for extinguishing fire. There are a variety of methods for extinguishing fire. The fire-fighting facilities in tunnels are in compliance with the relevant requirements. We require every building to be equipped with hose reels because ordinary citizens are expected to be able to use them. In the event that a vehicle is on fire, fire extinguishers other than water are normally expected to be used to put out the fire.*

**MR MICHAEL MAK** (in Cantonese): *Madam President, the Secretary has mentioned the conducting of fire drills in the last part of her main reply. However, it seems that the fire drills were held jointly by tunnel operators and the FSD only. As far as I remember, in a fire accident broke out in the CHT some two years ago, it was most important that the tunnel users, or motorists, knew how to extinguish fire promptly. Therefore, I would like to ask the Secretary this question. It can be easily imagined that the final results will be unsatisfactory if only the tunnel operators and the staff of the relevant tunnels,*

*but not the users, take part in the fire drills. In this connection, has the Secretary considered allowing users to join the fire drills?*

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

(in Cantonese): Madam President, we definitely hope the staff can perform their functions in full play during fire accidents, as they are more familiar with the surroundings and have the knowledge of using the relevant equipment. We will continue to inculcate common fire service knowledge into the public through different means of publicity.

I do not know whether fire drills are held in this Council. Should a fire really break out, our common sense will tell us to attempt to put out the fire by ourselves when the fire is not burning very fiercely during the first few minutes, no matter whether we are in our kitchens at home, offices, restaurants or private cars. Our first response will definitely be the most useful. However, it is very unfortunate that many people have not paid serious attention to basic fire knowledge as such. Very often, they panic on encountering a fire. Yet, it is not for this reason that training is not offered to members of the public. In carrying out training in tunnels, we must ensure that fire drills are conducted when it is safe to do so, for the occurrence of an accident will definitely lead to great reverberations. The Transport Department has also distributed leaflets to remind motorists of the actions they are required to take in the event of a fire accident involving cars inside a tunnel. In doing so, I hope the alertness of the public can be heightened. Moreover, it is advisable for every vehicle to be installed with a fire extinguisher. I hope to take this opportunity to call upon Honourable Members to inspect their own vehicles to see if suitable fire extinguishers, preferably foam- or powder-type extinguishers instead of those using water, have been installed.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, I have really never inspected my car to see if it is equipped with such installations. I will surely carry out the inspection when I return home. Madam President, there is an uneven distribution of fire extinguishers in various tunnels. The Lion Rock Tunnel, for instance, is inherently inadequate because of its lack of emergency exits. Despite such high risks, there are only 28 fire extinguishers in the tunnel. Upon comparison with other tunnels of almost the same length, we will find that, for instance, the 1.9 km-long CHT has 117 fire extinguishers; the 1.9 km-long*

*Aberdeen Tunnel has 114 fire extinguishers; even the shorter Tseung Kwan O Tunnel has 32 fire extinguishers. Why are there only 28 fire extinguishers in the Lion Rock Tunnel? Is it a bit too dangerous? Is the Secretary aware of the fact the Lion Rock Tunnel is inherently inadequate? Will the Secretary request the relevant party to install more fire extinguishers expeditiously and not to rely merely on fire fighting installations carried on vehicles?*

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

(in Cantonese): Madam President, Mr LAU is undoubtedly having a very clear idea of the relevant figures. The Lion Rock Tunnel is indeed quite special. Owing to technical and site constraints, the provision of emergency exits has proved to be impossible. It was precisely for this reason that, in order to upgrade its safety, the Tunnel was installed with a drencher system in 1997 upon the recommendation of the FSD. In case a fire breaks out, the system will immediately activate at different positions in the Tunnel to prevent the spread of fire and smoke, so as to enable the tunnel users to escape safely. In addition, the Tunnel is equipped with a number of jet fans for fast extraction of smoke during fire accidents. When a fire breaks out, it is most dangerous that people might die from the inhalation of smoke. These installations will give the relevant staff sufficient time to arrive at the scene to put out the fire, and enable other people to escape.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, the Secretary has not replied my supplementary question. She has merely read out the explanatory part of the Annex. My supplementary question is focused on the reasons for installing such a small number of fire extinguishers in the Lion Rock Tunnel and whether it is possible for more fire extinguishers to be installed?*

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

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

(in Cantonese): Madam President, in this respect, it is very difficult for me to explain all the technical problems one by one here. In fact, there are altogether as many as 11 rows of drenchers, and they are more effective than fire extinguishers. Members might wish to know that each fire extinguisher can

function for only two minutes. In other words, they are only effective in fighting fire for the first few minutes, and are considered to be ancillary equipment only. Therefore, should a more effective fire fighting system be made available, the requirement for the number of fire extinguishers will become less critical.

**PRESIDENT** (in Cantonese): Your supplementary question is still not answered?

**MR LAU KONG-WAH** (in Cantonese): *Madam President, you should have heard that the Secretary has not yet answered my supplementary question. What I meant is, the drencher system and fire extinguishers are two separate issues. The drencher system is useful in its own right because there is no emergency exit in the Tunnel. However, may I ask why there is such a small number of fire extinguishers and whether it is possible for more extinguishers to be installed?*

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah, I think the Secretary has answered your supplementary question by explaining to you that all equipment installed serves the same purpose of fire fighting.

**MR ANDREW CHENG** (in Cantonese): *Madam President, just now, the Secretary has cited the CHT as an example and explained that the CHT, though lacking in hose reels, is installed with other equipment. Some questions have also been raised by my colleagues about the FSD's Code of Practice mentioned by the Secretary earlier. According to the Code of Practice, as pointed out by the Secretary, the length or journey time of each tunnel will be taken into consideration. If this is so, we really cannot see the reasons why there is such a marked difference between the Lion Rock Tunnel and other tunnels of similar length in terms of the quantities of the fire service equipment installed. Although the Secretary has explained why the number of fire extinguishers in the Lion Rock Tunnel is particularly small, why then are hose reels not installed in the CHT? Can the Secretary tell us whether it is necessary to raise the standard of the Code of Practice further for the purpose of minimizing risks, given that the traffic volume of the CHT exceeds 100 000 daily? I really cannot see what standard the Code of Practice has adopted for calculation purposes. Should the*

*standard mentioned by the Secretary earlier be adopted, there are numerous figures — I have no intention to waste Members' time here — to refute the Secretary, because the lengths of some tunnels are not proportional to the quantities of the equipment installed. Can the Secretary undertake here that for the purpose of reducing risks, the Code of Practice must be reviewed and additional hose reels installed, particularly for the CHT?*

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

(in Cantonese): Madam President, in my reply to Members' questions earlier, I have made it clear that the amount, height, interval and types of fire service equipment are not calculated according to a rigid formula. In this aspect, the National Fire Protection Association, an international organ, has come up with certain findings by virtue of the studies conducted and experience gained by a number of experts. In particular, it can tell by experience the risk a certain place can bear and the various types of fire fighting equipment required. As there are bound to be variations, it is not going to be easy to decide whether additional equipment is required. With regards to the question raised by Mr LAU earlier concerning why the Government has failed to increase the number of fire extinguishers from 28 to 50, does it mean that 50 fire extinguishers will be adequate? If 50 fire extinguishers are still considered to be inadequate, should the number of fire extinguishers be increased to 100? In my opinion, the situation will not automatically improve simply by increasing the number of fire extinguishers. We must view the matter in a holistic manner by considering the design of a tunnel and all fire fighting equipment before deciding on the quantity of each type of equipment required. The FSD has always been extremely careful in considering fire fighting matters. The quantity of a certain equipment is not calculated simply on the basis of a lone standard. We are also in the process of constant reviewing. With the gaining of more experience, our alertness will definitely be heightened in order to reduce risks.

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

**Fake Renminbi Notes and Coins**

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

- (a) *of the respective numbers of fake Renminbi (RMB) notes and coins seized in each of the past three years; and*
- (b) *as local banks will soon offer RMB banking services in Hong Kong, of the measures that the authorities have to enhance the exchange of information and surveillance co-operation between the Hong Kong and mainland authorities in relation to fake RMB notes and coins, and to teach the community as well as the trades and industries in Hong Kong how to identify fake RMB notes and coins?*

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

- (a) In the past three years, the number of fake RMB notes seized by the police in Hong Kong are as follows:

<i>Year</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003 (January to October)</i>
Number of fake RMB notes seized	551	485	1 029	1 068

The police have not seized any fake RMB coins over the past three years.

- (b) Based on the number of fake banknotes seized in Hong Kong in the past three years, counterfeit RMB in Hong Kong is not a serious problem. Nevertheless, in view of the increasing trade between Hong Kong and the Mainland, the police and the mainland authorities have established effective communication channels. The two sides also maintain co-operation and exchange intelligence in respect of the problem of counterfeit RMB. For example, if the Hong Kong police have information on mainland shops that are suspected to be the source of fake RMB, they will inform the relevant mainland enforcement departments so that they can conduct investigation and take appropriate actions.

On prevention and public education, the police maintain liaison with the Hong Kong Monetary Authority (HKMA) in providing training

to bank staff. The police will also arrange seminars for other relevant industries, including the retail industry, and educate them through the mass media on ways to identify counterfeit RMB. The HKMA has also established a hyperlink in its website to the People's Bank of China website so that members of the public can learn more about the security features of RMB. Under the soon-to-be implemented scheme for conducting personal RMB business, the HKMA will recommend to the People's Bank of China to require the future clearing bank to be appointed by the latter to provide support and training to participating banks on the identification and handling of counterfeits.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, the statistics supplied show clearly that just about 400 or so and some 500 fake RMB notes were seized in 2000 and 2001 respectively. And, the fake RMB notes seized in 2002 and also this year were also small in number, only about 1 000 each. But these figures may not be exhaustive, and if so, I wonder whether that is because fake RMB notes are reported to the police and handled according to procedures different from those applicable to fake Hong Kong Dollar notes? Or, is that because some people simply do not know how to report fake RMB notes to the authorities? Or, is that because people do not know how to identify such notes in circulation even when they come across them? In all these respects, will the police or the authorities concerned enhance their work in future of building up a sound mechanism for communication with shops that accept RMB?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, in this respect, the police have already stepped up their publicity, teaching retail shops or even money changers how to identify fake RMB notes. The statistics on the number of fake RMB notes seized are exhaustive, because the RMB received by shops will after all have to flow back to the banking system. As for whether these statistics are only the tip of an iceberg, I must say I do not think that there will be any large circulation of fake notes. We have not detected any such sign, though the circulation of fake notes will continue.

We will however continue to handle this problem very carefully because, as Members also know, the flows of people between the Mainland and Hong Kong are on the increase, and the trade activities between the two places have

also become more frequent. Besides, owing to CEPA and the visit by individual travellers, many shops in Hong Kong will receive RMB directly. That is why we will step up the publicity in this respect.

**MR AMBROSE LAU** (in Cantonese): *Madam President, it is mentioned in part (b) of the main reply that on prevention and public education, the police maintain liaison with the HKMA in providing training to bank staff, and that the police will also arrange seminars for other relevant industries, including the retail industry, and educate them through the mass media on ways to identify counterfeits. Now that mainland visitors are coming to Hong Kong in large numbers, our retail industry is bound to receive lots of RMB notes, so it is really imperative to teach them how to identify fake RMB notes. In the mainly reply, the Government said "will also", meaning that it was just talking about the future. May I ask the Secretary whether any specific timetable has been set down and whether any support facilities have been provided to make the arrangements concerned? And, which department is going to take overall charge? The main reply mentioned the police and the HKMA. But will it be possible that both of them may end up doing nothing at all, thinking that the other will take actions anyway?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, it is not today that we start to conduct publicity on how to identify fake notes. The police have been conducting publicity and public education on this, and RMB is not the only subject, for information on identifying fake Hong Kong Dollar notes has also been provided frequently. Besides, seminars are also organized frequently for the financial sector, particular the banks. Naturally, as the circulation of RMB in Hong Kong increases, we will have to step up the work in this respect. As for whether there is any timetable, telling us, for example, how many seminars there will be next month, I am afraid I do not have any information to hand.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I may perhaps add a few words on this question. As Members are aware, starting from next month, local banks will have the opportunity to conduct personal RMB business. Following the HKMA's liaison with the People's Bank of China, the latter has agreed to require the future clearing bank to be appointed by it to provide training to participating banks as



one of the appointment conditions. It is necessary to set down such a requirement because, as Members are aware, there will be very bright prospects for this business. Therefore, one of the conditions to be fulfilled by the clearing bank must be the provision of training to participating banks on the identification of fake RMB notes.

**MR MICHAEL MAK** (in Cantonese): *Madam President, part (b) of Mr NG Leung-sing's main question asked about ways of teaching the public how to identify fake notes, but the Secretary just told us to browse the relevant websites to look up the security features. Can the Secretary teach us the basics here? Will the Secretary consider the possibility of displaying some fake notes at the banks to help us identify them?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, if Mr Michael MAK is really so eager to learn, I believe I have to invite the experts of the Commercial Crime Bureau to come to the Legislative Council to host a demonstration. Besides asking Members to browse the relevant websites, I have also said that the police will organize various seminars for staff of the related industries on the identification of fake notes. As far as my understanding goes, the experts of the Commercial Crime Bureau have been trying to educate the public through the mass media on ways to identify counterfeit Hong Kong Dollar notes, and to provide some general information on this to members of the public on various public occasions. I believe we will step up the work in this respect.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, I often go to money changers to buy RMB, but sometimes, I just do not know whether the notes I have bought are counterfeits. Is there any specific legislation requiring money changers to sell only genuine RMB notes? And, where were the 1 000 or so fake RMB notes mostly found?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I do not know whether there is any specific legislation requiring money changers to sell only genuine RMB notes. But by common sense, I can say that a money

changer is of course not allowed to sell counterfeits. If a money changer knowingly sells any counterfeits, it is in fact breaking the law.

Counterfeits are mostly found under three circumstances. First, they may be found in money changers located at immigration control points such as those at the airport and various land crossings. Second, they may be received by shops of various industries in the course of business. Third, they may be handed over to us by the ever-increasing number of mainland visitors who find such notes in the course of consumption. These are the three main sources.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, it is pointed out clearly in part (b) of the main reply that the HKMA will recommend to the People's Bank of China to require the future clearing bank to be appointed by it to provide support and training to participating banks on the identification of counterfeits. May I ask whether the existing conditions are clear enough to ensure that the clearing bank will be backed up by a huge network, a huge network of branches engaging in RMB business in the Mainland, so that it will have enough experts to assist in the training to be provided by it in the future?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, the People's Bank of China will appoint a clearing bank, and in doing so, it will consider various factors. I have said that the HKMA has requested the People's Bank of China to set this down as one of the conditions. But this is only one of the conditions, and there are many other considerations.

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

### **ESD Life Website Containing Information on Unlicensed Restaurants**

6. **MR TOMMY CHEUNG** (in Cantonese): *Madam President, to implement the Electronic Service Delivery (ESD) Scheme, the Government has commissioned a private company to develop and operate the "ESD life" website. The Government provides online public services through the website, while the contractor is allowed to use the website for conducting e-commerce activities.*

*However, I notice that the "Household" page of the website contains information on some 30 restaurants which fall into the "private kitchen" category, and I have learnt that quite a number of such restaurants have not obtained any food business licences. In this connection, will the Government inform this Council whether:*

- (a) the relevant operating contract has stipulated that no illegal activities should be promoted on the website; if so, of the details of the stipulations; if not, the reasons for that;*
- (b) the website contains information on unlicensed restaurants; if so, whether the authorities will ask the website operator to remove the information on the unlicensed restaurants, so as to safeguard the rights and interests of consumers as well as licensed restaurants; and*
- (c) it will, based on the website's information, take enforcement actions against the unlicensed restaurants concerned?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, my reply to the three parts of the question is as follows:

- (a) The ESD Scheme is a major IT initiative which seeks to provide an information infrastructure for both online government and non-government services. According to the contract signed between the Government and the private sector ESD operator, the latter is allowed to provide non-government services at the ESD website, provided that the non-government services do not contravene the laws of Hong Kong.
- (b) The ESD website provides a directory service that facilitates searching from a database of some 1 300 restaurants offering various cuisines, including Chinese, Western, buffet, dessert, fast food and "private kitchens". Apart from displaying the addresses and telephone numbers, the directory service does not promote any particular restaurant. The website also contains review articles on some restaurants, including a few "private kitchens". This

information has been transcribed from other websites or media. The ESD operator is not the primary information provider and does not derive any income from it.

We understand that of the 31 "private kitchens" listed on the ESD website, 13 are either food premises licensed by the Food and Environmental Hygiene Department (FEHD) or clubs approved by the Home Affairs Department to provide catering services to members. The remaining 17 are neither licensed nor approved, and one cannot be identified due to incomplete address. Upon our request, the ESD operator has already removed from the website the information of the "private kitchens" which are not licensed or approved.

- (c) The Administration is currently investigating the 17 cases of unlicensed food establishments with a view to taking enforcement actions. The Administration will also submit a revised regulatory proposal on the operation of "private kitchens" to the Legislative Council Panel on Food Safety and Environmental Hygiene at its meeting on 18 December 2003. The Administration will deal with the unlicensed "private kitchens" in the light of discussions at the Panel meeting.

**MR TOMMY CHEUNG** (in Cantonese): *Madam President, since Secretary Dr YEOH Eng-kiong is here, I would like to ask him about part (c) of the question. As "private kitchens" can keep on operating without any licence and even place advertisements, has the FEHD under the Secretary taken enforcement actions selectively, being particularly lenient to "private kitchens"? If not, then may I ask the Secretary if it is unfair to those unlicensed food establishments which have been prosecuted and fined over the years? Is it necessary to let them resume business or even to reimburse them their fines?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, the difficulty is that there is not a good definition of "private kitchens". As Secretary John TSANG said, although they are called "private kitchens", many of them hold food establishment licences. Some of them, of

course, are illegal which we will not condone. The FEHD has taken enforcement actions. But the main difficulty lies in obtaining evidence. In the last few years, the FEHD has been paying attention to those areas where there are such complaints and they will conduct investigations. Whether prosecution will be taken depends on whether there is evidence. Thus, the difficulty lies in obtaining sufficient information.

As regards illegal food establishments, the FEHD will prioritize the work to be taken according to the risk level. Firstly, it is of course food safety. If the risk is high, they will commit more resources to carrying out the task. Secondly, evidence has to be obtained before prosecution can be taken against "private kitchens". If the neighbours concerned are disturbed and make complaints, the case will be handled with priority. Since some "private kitchens" provide service on private premises, we need to have the assistance of the neighbours concerned to point out that these "private kitchens" are operating at inappropriate places before we can take any actions. Thirdly, as Mr CHEUNG mentioned just now, we have to be fair to other licensed operators. On this question, we are thus looking at it from three perspectives. Of course, the most important point is that, operation-wise, my colleagues will prioritize according to the level of risk to public health and food safety in general.

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

**MR TOMMY CHEUNG** (in Cantonese): *Madam President, the Secretary has not answered the second part of my supplementary question, that is, whether the fines will be reimbursed. Anyway, I am not going to follow up. However, in regard to the first part, the Secretary.....*

**PRESIDENT** (in Cantonese): Which part of your supplementary question has not been answered? You only need to point out that part.

**MR TOMMY CHEUNG** (in Cantonese): *It is about the question of selective enforcement. In regard to whether enforcement actions are taken selectively*

*against "private kitchens", the Secretary seems to have only mentioned priority, risk assessment, and so on. I could not catch the Secretary saying whether he feels that "private kitchens" are safe and thus they are not prosecuted, or whether there are other reasons. Can other food establishments avoid being prosecuted by the Secretary only by calling themselves "private kitchens"?*

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

Madam President, I have actually explained just now that there is not a good definition of "private kitchens". Thus, the FEHD will take actions according to risk assessments. We will not care whether the establishment is a "private kitchen" or not, but will carry out the duties according to risk assessments.

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, how many tables or operating tables should a food establishment have before it is regarded as a "private kitchen"? If there are only a couple of tables, as I can sometimes see that some places selling liquor have a couple of tables for customers to have meals, then will they be regarded as "private kitchens"?*

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

Madam President, we basically do not have any definition.

**MR KENNETH TING** (in Cantonese): *Madam President, may I ask the Secretary, since the ESD website provides non-government services, if we can require that only licensed restaurants and food establishment can register with it?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this supplementary question?

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in

Cantonese): Madam President, the aim of the ESD Scheme is, apart from providing a platform for online government services, to establish an infrastructure for non-government services in order to promote the development

of e-commerce in Hong Kong. In the contract that we signed with the operator, it is stated that under the scope allowed by the Government, the operator is given sufficient flexibility to provide popular e-commerce information and services to the public. However, since the contents of non-government services in the website should be updated from time to time in keeping with the needs of the market, there is therefore difficulty in constantly monitoring all the contents in the website. Nevertheless, the operator has the obligation to ensure compliance with the requirements laid down by the Government. Otherwise, the Government has the right to withdraw the approval.

**MR KENNETH TING** (in Cantonese): *Then is the answer "yes" or "no"?*

**PRESIDENT** (in Cantonese): Has the Secretary answered your supplementary question? Do you mean that the Secretary has not answered your supplementary question yet?

**MR KENNETH TING** (in Cantonese): *Yes, yes. Can the listing of unregistered food establishments be disallowed?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): There can be a lot of information most of the time. If we have to check every piece of information, it will be difficult. Our treatment of the operator is actually similar to other media. Since such information is mainly not first-hand, but only transferred from other media, we have to see if there is any complaint from the public before we can take appropriate actions.

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Maybe I can supplement a bit more information. The Director of Food and Environmental Hygiene and I have discussed this issue. The Director of Food and Environmental Hygiene will monitor the information on food establishments provided by this website and examine whether the food establishments concerned have obtained licences or not. If they are unlicensed, the FEHD will conduct investigation. When sufficient evidence is obtained, they will take enforcement actions.

**MRS SELINA CHOW** (in Cantonese): *Madam President, I do not quite understand the risk assessment mentioned by Secretary Dr YEOH Eng-kiong a moment ago in his answer to Mr CHEUNG's supplementary question. The food establishment is either licensed or unlicensed. If it is unlicensed, the authorities can take enforcement action, ban it or forbid it to do business. Why should there be any risk assessment? Is it the case that if the unlicensed food establishments call themselves "private kitchens", then the authorities will condone their operation and facilitate their operation with risk assessment, that is, when the risk is not high, they will be allowed to continue operating without a licence? Will that give rise to unfairness? In the past, when a food establishment applied for a licence, it could still not obtain a licence after waiting for a long time for the application to be processed. Consequently, the establishment had to be fined on a continual basis. Now these establishments simply do not apply for any licence while on the contrary, the authorities allow them to operate by way of risk assessments.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): *Madam President, maybe I have not explained it very clearly. The risk assessment is related to the enforcement actions that should be taken in the light the environment of the food establishment and food safety. As I explained earlier, a lot of "private kitchens" are actually licensed, only that they are called "private kitchens". Half of them are licensed or are providing services as clubs, while some of them are unlicensed. However, in regard to whether they are in operation, we have to conduct investigation and obtain evidence before we can prove that they are unlicensed. If a "private kitchen" is located in a residential unit, we have to enter that unit first to prove that it is operating as a food establishment. We have to get hold of such evidence before we can take enforcement actions. Therefore, on the entire operation, the FEHD has to check in which areas enforcement actions should be taken. First of all, they will put more resources on the law enforcement concerning public health and food safety, and will not take such actions selectively.*

**MRS SELINA CHOW** (in Cantonese): *Madam President, I believe the Secretary has not answered my supplementary question. My supplementary question is very simple. I am not referring to licensed "private kitchens", but to the unlicensed restaurants or Chinese restaurants. As operating without a*



*licence is actually illegal, why should there be any risk assessment? Is the Government making use of the risk assessment to facilitate the operation of these unlicensed food establishments?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Perhaps I have to reiterate. How to prove that they are unlicensed? And how to prove that they are operating? We have to obtain evidence in order to testify that they are operating without a licence. If we cannot get any evidence, we actually do not know that they are operating.

**MRS SELINA CHOW** (in Cantonese): *Unlicensed is unlicensed. Unlicensed means operating without a licence. Why is the Secretary giving us such an answer? I am really puzzled, Madam President.*

**PRESIDENT** (in Cantonese): I believe that this question can hardly be answered clearly during the question time. You may have to follow up in the related panel.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, can the Government inform this Council whether "private kitchens" have any direct relations with local community economy promoted by the former Financial Secretary? If yes, what are the reasons?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this supplementary question? Secretary for Health, Welfare and Food.

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I do not really know whether there is any direct relation. In fact, insofar as local community economy is concerned, I believe the definition is not very clear anyway, while the definition of "private kitchens" is not so clear either. Therefore, I personally do not quite understand if there is any relation between two things of no clear definition. *(Laughter)*

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

**MR TOMMY CHEUNG** (in Cantonese): *Madam President, Secretary Dr YEOH Eng-kiong may not have the related information at hand. If he has, he can answer immediately; if he has not, I would ask him to furnish a written reply. During the past year, what is the number of unlicensed food establishments prosecuted by the Government, and among them, how many of them claimed themselves to be "private kitchens"?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I will provide a written reply to Mr CHEUNG. (Appendix IV)

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

## **WRITTEN ANSWERS TO QUESTIONS**

### **LCSD's Arrangements for Reduction/Waiver of Venue Hire Fees**

7. **MISS CHAN YUEN-HAN** (in Chinese): *Madam President, regarding the number of charitable bodies and Leisure and Cultural Services Department's (LCSD) arrangements for granting reduction/waiver of venue hire charges to charitable bodies, will the Government inform this Council:*

- (a) *of the number of cases in which the LCSD granted reduction/waiver of venue hire charges to charitable bodies in each of the past three years, and the total amount of venue hire charges foregone;*
- (b) *of the contents of the guidelines issued by the LCSD to front-line staff on whether reduction/waiver of venue hire charges should be granted; and whether such guidelines are reviewed on a regular basis;*

- (c) *of the number of charitable bodies currently exempted from tax and, among them, the number of subvented ones; and*
- (d) *whether subvented and non-subvented charitable bodies are subject to the same arrangement for granting reduction/waiver of venue hire charges by the LCSD; if not, whether the LCSD will consider revising the relevant arrangement with a view to making the concessions available to all charitable bodies; if it will, when the new arrangement will be implemented; if not, of the reasons for that?*

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

- (a) The LCSD has offered concessionary rental at 50% of the normal rates for the hire of leisure facilities by subvented non-governmental organizations. Charitable organizations can also apply for waiver/reduction of hire charges on a need basis. The number of cases in which the LCSD has granted waiver/reduction of hire charges for use of leisure venues by charitable organizations and the total amount of venue hire charges foregone in the past three years are listed at Annex 1.

The rental subsidy scheme of cultural venues is applicable to all non-profit-making organizations and there is no individual categorization for charitable organizations. Therefore, we can only provide the information on the use of cultural venues by non-profit-making organizations (including charitable organizations) at Annex 2.

- (b) The LCSD has an established guideline on waiver/reduction of fees and charges for leisure venues for the reference of venue staff. This guideline sets out the criteria for approving waiver/reduction of charges, the approving authority and financial limits.

For cultural venues, a rental subsidy scheme is in place to provide financial support to non-profit-making organizations (including

charitable institutions). A set of guidelines listing the standard of the subsidy scheme, qualifications for application and processing procedures has been set out for the reference of staff and applicants.

Organizations should provide full justifications when they apply for waiver/reduction/subsidy of hire charges for use of leisure and cultural venues under the relevant guidelines. The LCSD will consider the nature of the organizations, the content and the objective of the activity as well as other related factors in considering the applications.

The current guideline for leisure venues was issued in March 2001 and is due for review in early 2004. The rental subsidy scheme in respect of cultural venues has just been reviewed in November 2003. The LCSD will review the scheme at suitable interval in accordance with the operational experience.

- (c) As at 30 November 2003, there are 3 940 charitable institutions or trusts of public character which have been granted tax exemption under section 88 of the Inland Revenue Ordinance. As the Inland Revenue Department has no separate classification for subvented and non-subvented bodies under the tax-exempt charitable bodies, there is no available information on the number of subvented tax-exempt charitable bodies.
- (d) For cultural venues, the rental subsidy scheme is applicable to all non-profit-making organizations including subvented and non-subvented charitable institutions. As for leisure venues, concessionary arrangement at 50% of the normal rates is now available for subvented non-governmental organizations. Charitable organizations can apply for waiver/reduction of fees and charges on a need basis. However, in view of the large number of charitable organizations, their extensive and different nature and objectives, as well as the wide spectrum of events organized by these organizations, the LCSD considers it not appropriate to automatically apply the concessionary arrangement to all charitable organizations.

## Annex 1

Number of cases in which charitable organizations have been granted waiver/reduction of hire charges for use of leisure venues and the total amount of venue hire charges foregone

<i>Year</i>	<i>No. of cases for charitable organizations</i>	<i>Total amount of venue hire charges foregone</i>
2001-02	5	\$45,000
2002-03	16	\$272,000
2003-04 (up to November 2003)	6	\$289,000

## Annex 2

Number of cases in which non-profit-making organizations (including charitable organizations) have been granted waiver/reduction of hire charges for use of cultural venues and the total amount of venue hire charges foregone

<i>Year</i>	<i>No. of cases for non-profit-making organizations (including charitable organizations)</i>	<i>Total amount of venue hire charges foregone</i>
2001-02	2 166	\$25,400,657
2002-03	2 133	\$25,088,708
2003-04 (up to November 2003)	1 517	\$18,018,152

### Recruitment Exercises for Disciplined Services

8. **MS LI FUNG-YING** (in Chinese): *Madam President, it is reported that some disciplined services have been exempted from the freeze on staffing level and allowed to proceed with their recruitment exercises immediately. In this connection, will the Government inform this Council:*

- (a) *of the total number of staff members that the disciplined services plan to recruit and the resultant increase in expenditure;*

- (b) *of the ranks and numbers of staff members to be recruited by various disciplined services as well as the criteria and assessment results based on which the authorities determine the relevant ranks and numbers;*
- (c) *how the salary and conditions of service of the staff members mentioned in (b) above compare to those of the existing staff; and*
- (d) *whether it has deployed staff from other government departments to the disciplined services concerned so as to ease the problem of surplus staff in these departments and reduce the number of staff members required to be recruited by the relevant disciplined services; if it has, of the details; if not, the reasons for that?*

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

- (a) Special approval was granted in October this year for four disciplined services, namely the Hong Kong Police Force, Immigration Department, Fire Services Department and Correctional Services Department, to conduct open recruitment exercises to recruit a total of 560 staff members.

The salaries and related expenditure are to be met from existing or specially earmarked resources. With the exception of the Immigration Department, all the other three disciplined services are recruiting to fill vacancies arising from natural wastage, for which no additional funds are required. The disciplined services are currently preparing their draft estimates of expenditure for the coming financial year, which will include the required expenditure on staff members to be recruited in the year. The draft estimates will be subject to scrutiny and approval by the Legislative Council in due course.

- (b) The numbers and ranks of new recruits are determined according to the disciplined services department's operational needs and the new services to be introduced. At present, the ranks and numbers of staff members to be recruited are as follows:

<i>Disciplined Service</i>	<i>Rank and File</i>	<i>Officers</i>	<i>Total</i>
Hong Kong Police Force	about 200 Police Constables	about 30 Probationary Inspectors of Police	230
Immigration Department	The distribution of ranks has yet to be finalized as a review of operational needs is underway.		230
Fire Services Department	27 Firemen and 28 Ambulancemen	15 Station Officers	70
Correctional Services Department	30 Assistant Officers II		30

- (c) The new recruits mentioned in (b) above will be appointed under the New Entry System (NES) for a probationary period of three years. Only those who have successfully passed the probation will be considered for further appointment on the prevailing permanent terms.

Regarding remuneration, staff members mentioned in (b) above will be appointed on the starting salaries as revised in the Civil Service Starting Salaries Review 1999. The new starting salaries are applicable to new recruits or serving officers on in-service transfer appointed since 1 April 2000.

As regards conditions of service, new recruits will be appointed on the new conditions of service introduced on 1 June 2000, which include medical and dental benefits and revised leave and housing benefits, but without entitlement to the Local Education Allowance. In addition, the Civil Service Provident Fund replaces pension benefits as retirement benefits for officers on permanent terms under the NES.

The new conditions of service are not applicable to civil servants appointed before 1 June 2000. If these civil servants are on in-service transfer to another grade without a break in service, they will still be appointed on their previous conditions of service.

- (d) The disciplined services will consider in-service appointment before proceeding with their open recruitment exercises so as to reduce the

number required from open recruitment. For instance, the Fire Services Department has appointed 10 Ambulancemen in their recent in-service recruitment exercise. Owing to the special nature of work of the disciplined services, candidates applying for in-service transfer from other government departments also have to satisfy the entry requirements (such as those regarding physical ability and eyesight). It is necessary to conduct open recruitment exercises when in-service recruitment cannot cope with the demand for manpower.

### **Language Teachers to Acquire Recommended Qualifications**

9. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, in June this year, the Education and Manpower Bureau (the Bureau) accepted the Action Plan to Raise Language Standards in Hong Kong submitted by the Standing Committee on Language Education and Research (SCOLAR). The Bureau will redeploy its resources to provide more training places for new language teachers who do not possess the recommended entry qualifications and set up an incentive grant scheme for serving language teachers to encourage them to acquire the recommended qualifications. In this connection, will the Government inform this Council:*

- (a) *of the current respective numbers of serving and new language teachers who do not have the recommended entry qualifications, broken down by the language they are teaching;*
- (b) *of the total expenditure to be incurred for the incentive grant for serving language teachers to acquire the specified qualifications, the details of and the ways to apply for the grant, the names of the tertiary institutions that provide courses which serving language teachers have to take to obtain the grant, together with a list of the institutions, course titles, course duration and number of annual intake;*
- (c) *of the details regarding training courses provided by tertiary institutions for new language teachers to acquire the specified*



*qualifications, including the names of the institutions and the titles, annual intake, commencement dates and entrance requirements of the courses, as well as the ways of enrolment, and whether the courses provide sufficient places for new language teachers; and*

- (d) *whether serving certificated masters with a degree or equivalent qualification and meeting the Language Proficiency Requirement for Teachers in the 2005-06 school year are eligible for exemption from the Language Proficiency Assessment for Teachers?*

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

- (a) The entry qualification requirements as recommended by the SCOLAR will be implemented from September 2004. We are thus unable to provide the required information at this stage. Based on the statistics of the 2002-03 school year, the number of newly joined and serving language teachers who were not able then to meet the recommended qualification requirements in the respective subjects were as follows:

*Chinese Language*

<i>Qualifications</i>	<i>Primary School</i>		<i>Secondary School</i>	
	<i>Newly Joined Teachers</i>	<i>Serving Teachers</i>	<i>Newly Joined Teachers</i>	<i>Serving Teachers</i>
Relevant degree, but no relevant teacher training	17	116	65	437
Relevant teacher training, but no relevant degree	331	9 368	36	1 109
No relevant degree and no relevant teacher training	96	714	57	691
Sub-total	444	10 198	158	2 237
Grand Total	10 642		2 395	

*English Language*

<i>Qualifications</i>	<i>Primary School</i>		<i>Secondary School</i>	
	<i>Newly Joined Teachers</i>	<i>Serving Teachers</i>	<i>Newly Joined Teachers</i>	<i>Serving Teachers</i>
Relevant degree, but no relevant teacher training	66	305	141	647
Relevant teacher training, but no relevant degree	100	4 010	45	1 398
No relevant degree and no relevant teacher training	298	3 378	96	909
Sub-total	464	7 693	282	2 954
Grand Total	8 157		3 236	

- (b) The SCOLAR plans to seek about \$200 million from the Language Fund to set up this incentive grant scheme. Serving teachers applying for grants may undertake any degree or postgraduate programmes offered by local or overseas higher education institutions that are relevant to the language subjects they teach. Details of the incentive grant scheme are being finalized. Announcements concerning how to apply for grants, who will be eligible, what criteria will govern the vetting of applications, and other relevant information will be made in early 2004.
- (c) The Administration has set up a number of task forces to formulate specifications for the preparatory courses and subject knowledge courses for language teachers, and to establish the criteria for giving recognition to existing language-related academic programmes. The Administration plans to increase the number of in-service Bachelor of Education and in-service Postgraduate Diploma/Certificate places in the coming few years. It will also continue to liaise with various teacher education institutions regarding the provision of relevant courses/programmes. It is anticipated that there will be sufficient training programmes and places to meet the varied needs of teachers. Details will be announced in early 2004.
- (d) For primary and secondary English teachers, including Certificate Masters and Graduate Masters, taking the Language Proficiency

Assessment for Teachers is only one of the means to meet the Language Proficiency Requirement. There is always the option of applying for exemption as long as these teachers possess qualifications that fully meet the exemption criteria.

### **Staffing Condition of Disciplined Services**

10. **MR LEUNG FU-WAH** (in Chinese): *Madam President, it has been reported that although the Government has recently given approval for some disciplined services to recruit a total of 560 staff members, the disciplined services may still need further downsizing to meet the requirements of the Government to reduce expenditure in future. In this connection, will the Government inform this Council:*

- (a) *of the existing establishment and strength of each disciplined service that has been given approval to recruit;*
- (b) *of the staff recruitment timetables of the disciplined services, broken down by the grade of the staff to be recruited;*
- (c) *of the respective numbers of staff members to be recruited due to natural wastage and for filling new posts in the relevant disciplined services;*
- (d) *if there are disciplined services which recruit staff members for filling new posts, whether the authorities have allocated additional funds for the recruitment; if they have, of the amount of funds received by each of the disciplined services and whether the additional funds count towards the expenditure of the disciplined services for the coming year; if the authorities have not allocated additional funds, the reasons for that and how the authorities ensure that the disciplined services will not be barred from recruiting staff members due to financial problems; and*
- (e) *of the changes in the establishment and strength of the various grades in the relevant disciplined services in the next three years; whether the authorities have assessed if the future manpower of the disciplined services is adequate to cope with the future workload,*

*and the measures that the authorities have to ensure that the staff morale of the disciplined services will not be adversely affected by shortage of staff?*

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

- (a) As at 1 December 2003, the establishment and strength of the four disciplined services given special approval for open recruitment are as follows:

<i>Disciplined Service</i>	<i>Establishment</i>	<i>Strength</i>
Hong Kong Police Force	33 814	32 735
Immigration Department	5 921	5 752
Fire Services Department	9 347	9 254
Correctional Services Department	6 839	6 826

The above figures include civilian staff; the number of vacancies does not reflect the natural wastage in the coming year.

- (b) The four disciplined services will commence recruitment according to the following tentative schedule:

<i>Disciplined Service</i>	<i>Recruitment plan</i>
Hong Kong Police Force	six probationary Inspectors of Police and 121 Police Constables were recruited in November this year. Recruitment for the remaining staff members will proceed next year.
Immigration Department	will proceed to recruit some staff members in mid December this year.
Fire Services Department	around early next year.
Correctional Services Department	around early next year.

- (c) In the four disciplined services given special approval for open recruitment, the numbers of staff members to be recruited due to natural wastage and for filling new posts are as follows:

<i>Disciplined Service</i>	<i>Posts to be filled due to natural wastage</i>	<i>New posts</i>
Hong Kong Police Force	230 Inspectors of Police and Police Constables	
Immigration Department	about 80 Immigration Officers and Immigration Assistants	about 150 Immigration Officers and Immigration Assistants
Fire Services Department	15 Station Officers, 27 Firemen and 28 Ambulancemen	
Correctional Services Department	30 Assistant Officers II	

- (d) The remuneration and related expenditure are to be met from existing or specially earmarked resources. With the exception of the Immigration Department, all the other three disciplined services are recruiting to fill vacancies arising from natural wastage, for which no additional funds are required. The disciplined services are currently preparing their draft estimates of expenditure for the coming financial year, which will include the required expenditure on staff members to be recruited in the year. The draft estimates will be subject to scrutiny and approval by the Legislative Council in due course.
- (e) In the coming three years, the establishment and strength of the disciplined services will vary according to the expenditure reduction targets of the Government and the increase in workload. The actual strength will depend on the progress of the implementation of various projects. To cut expenditure, the disciplined services will downsize through reorganization, re-engineering and streamlining the flow of work as well as wider use of the latest information technology and market resources. The target is to cut the posts by 10.9% within three years. On the other hand, the departments will increase their manpower having regard to workload and the new services to be introduced.

There is a well-established communication mechanism between the management and staff in the disciplined services. Staff members will be consulted before the implementation of important proposals so as to ensure that staff morale will not be adversely affected.

### **Management of Energy Demand**

11. **DR LAW CHI-KWONG** (in Chinese): *Madam President, regarding the management of energy demand, will the Government inform this Council:*

- (a) *of the details and the progress of various programmes or measures on the management of energy demand implemented by the Administration, as well as the annual amount of public funds spent on them;*
- (b) *whether it has assessed and quantified the effectiveness of such programmes and measures; if it has, of the results of the assessment and quantification, including whether there have been changes in the public's habits in the use of energy and the consumption trends of various types of energy; if it has not, the reasons for that;*
- (c) *of the impacts on and the benefits to the public due to the implementation of such programmes and measures; and*
- (d) *of the long-term plans it has formulated in the management of energy demand?*

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

(in Chinese): Madam President,

- (a) The Government's effort in managing energy demand is mainly focussed on reducing energy consumption by encouraging the community to use more energy efficient equipment. We also encourage electricity consumers to even out the demand over different hours of a day to optimize the efficiency of electricity generation, transmission and distribution facilities.

Apart from educational and promotional programmes that raise public awareness, we are implementing a wide range of programmes that directly or indirectly help reduce overall energy consumption. The major initiatives include:

- The Energy Efficiency Labelling Scheme equips the consumers with energy consumption information of various products to help them make informed choices. The Scheme now covers passenger cars, eight types of household appliances and three types of office equipment. We are extending the Scheme to cover more commodities from time to time.
- We promote water-cooled air-conditioning systems, which are more energy efficient than their air-cooled counterparts. Commercial buildings in 54 designated areas may now apply for using fresh water in evaporative cooling towers of water-cooled air-conditioning systems. We are also reviewing the capacity of water supply infrastructure in other areas. If the additional demand can be met, we will allow buildings in more areas to use fresh water cooling towers. We are also exploring the feasibility of implementing district-wide cooling systems in a couple of districts.
- The Hong Kong Efficiency Registration Scheme for Buildings, underpinned by five sets of Building Energy Codes, is a voluntary registration scheme that encourages innovative energy efficiency design in commercial buildings.
- We are also encouraging the government departments and bureaux to set a good example and reduce energy consumption as far as possible.

In parallel, the Government entered into a three-year Demand Side Management (DSM) Agreement with each power company in end May 2000. The DSM programmes, launched on 1 July 2000 and expired in June 2003, include:

- Non-residential Energy Efficient Lighting Rebate Programmes
- Non-residential Energy Efficient Heating, Ventilating and Air-conditioning Rebate Programmes
- General education/informational programmes on DSM
- Market surveys for DSM planning

The rebate programmes under the DSM Agreement provide financial incentives to encourage the non-residential users to install more energy efficient equipment and devices to shift part of the electricity demand to non-peak hours. Applications for the rebate programmes ended on 30 June 2003. More than 4 000 applications have been approved.

The non-rebate programmes under the DSM Agreement disseminate educational information on energy efficiency and conservation to all sectors of the community, in particular, the students, and conduct surveys for planning of future programmes. They will be completed before end December 2003.

It is difficult to work out the exact amount of public money spent on the Government's energy saving programmes each year as these programmes require contribution and participation of a large number of departments.

The total estimated cost of all DSM programmes of the power companies is about HK\$139 million as at end October 2003. Except for liaison, supervision and monitoring, no public money is involved.

- (b) It is estimated that the total energy consumption of Hong Kong was reduced by 1310 TJ, or \$330 million, in 2002 because of the implementation of the above energy saving programmes.
- (c) The rebate DSM programmes of the power companies effectively encourage some non-residential users to invest in energy efficient



installations (such as more energy efficient lighting equipment and air-conditioning systems). The benefit of the energy saving lasts well beyond the conclusion of the DSM programmes.

Other programmes facilitate the public's deployment of more energy efficient equipments and enhance the public awareness of energy efficient appliances and technologies.

- (d) The Government will continue to promote energy efficiency and conservation. Apart from public education, we will further facilitate the wider use of water-cooled air-conditioning systems and extend the Energy Labelling schemes to cover more types of equipment and commodities.

After the conclusion of the three-year DSM programmes, the power companies will also continue to commit resources to implement public education and informational programmes for disseminating the benefits of energy efficiency and introducing various energy management techniques to all sectors of the community.

### **Terminal Handling Charges**

12. **MR KENNETH TING** (in Chinese): *Madam President, it was reported that the China Foreign Trade and Economic Co-operation Association had lodged a complaint with the Ministry of Communications last year and requested the authorities to investigate whether the terminal handling charges (THC) levied by shipping lines violated the State Regulations on Maritime Transportation and the Price Law of the Mainland. The Ministry of Communications has officially accepted the case this year and is carrying out investigation. On the other hand, the Executive Director of the Hong Kong Shippers' Council considers that if the Ministry of Communications rules that the shipping lines violate the relevant legislation, Hong Kong may study the application of such ruling for reducing the export charges for local cargo so as to enhance competitiveness. In this connection, will the Government inform this Council whether it will closely monitor the publication date of the investigation report and the investigation results, and to try to follow them up with a view to striving for a reasonable THC level for Hong Kong shippers?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Chinese): Madam President, the Hong Kong Special Administrative Region Government will closely monitor the publication date of the investigation report and the investigation results. We shall, in the light of the investigation results and in accordance with the Basic Law and "one country, two systems" principle, consider the need for any follow-up action.

### **Information Technology Professional Services Arrangement**

13. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, regarding the projects awarded under the Information Technology Professional Services Arrangement (ITPSA) which was implemented last year, will the Government inform this Council:*

- (a) *of the respective percentages of the number of projects with delayed completion in the total numbers of projects awarded under the ITPSA and those which have been completed;*
- (b) *of the details of the projects with delayed completion (including their categories, prices and contractors), and the reasons for the delay;*
- (c) *whether projects under ITPSA are awarded to contractors who offer the lowest bid; if so, whether there were projects for which the contractors had increased the tender price as the specific job requirements were revised by the authorities after completion of the tendering procedures; if there were such projects, the number of projects involved, the original and the revised tender prices of these projects and the final tender price approved by the authorities; and the difference between the final approved tender price and the second lowest bid offered for the projects concerned during the tendering process; and*
- (d) *if the final approved tender price mentioned in (c) is higher than the original tender price, of the procedures and criteria adopted by the authorities for deciding to increase the tender price concerned?*

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

- (a) As at 31 October 2003, 74 bureaux and departments awarded a total of 240 work assignments under the ITPSA, which was launched in June 2002, and 73 of these assignments were completed on schedule.

According to the information provided by relevant bureaux and departments by end October 2003, all the above 73 projects were completed on schedule. Among those in progress, two were going beyond the target completion date of end October, representing 0.8% and 2.7% of the total number of awarded assignments (240) and completed assignments (73) respectively.

- (b) The two work assignments falling behind schedule are mainly related to office systems and network implementation services and information technology security services, valued at about \$700,000 in total. The delay was mainly due to the belated delivery of software procured from or developed by other suppliers, which had rendered the contractors concerned unable to complete the two work assignments on schedule. As the specific progress and details of individual work assignments may involve commercially sensitive information, we normally will keep them in confidence, and will not disclose information concerning individual contractors.
- (c) All the ITPSA work assignments are awarded to contractors who fully meet the service requirements and who offer the lowest bid. During the service contract period, government departments as the project owner may request the contractors to revise the specific service requirements to meet their actual needs. This may involve increase or decrease of service items. The scope of variation is governed by the ITPSA contract terms. Of the 240 projects awarded, 29 had their service requirements revised resulting in a change of the gross service charge. This included an increased charge for 25 and a decreased charge for four. The total service charge of the 29 projects which had been at about \$48 million initially was in the region of \$55.52 million after the variations. Since the revised service requirements are only applicable to the

service contracts awarded and not reflected in the second lowest bid originally offered for the assignments concerned, we consider that it is inappropriate to compare the latter with the final approved service charge of the revised service contracts.

- (d) Government departments are required to handle and approve change proposals in accordance with the Government's procurement regulations and the ITPSA contract terms. In accordance with the ITPSA guidelines (the guidelines) issued by the Information Technology Services Department, for any work assignment with a service charge not exceeding \$10 million, accumulated variation in the service charge of the work assignment shall not exceed 100% of the original approved service charge; and the total service charge after variation should not exceed \$13 million. For any assignment with a service charge over \$10 million, the accumulated variation in the service charge shall not exceed 30% of the original approved service charge. Departments must establish a management structure to manage the work assignments and consider whether to accept any change proposals. The guidelines also advise departments to set up an assessment panel to consider whether to accept any change requests in respect of high-value assignments with a service charge exceeding \$10 million. Departments must also ensure that the change proposals are reasonable and will meet the service and technical requirements of the department when accepting the change proposals.

### **Self-financed Open University of Hong Kong**

14. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that the tuition of the Open University of Hong Kong (OUHK) is high as it operates on a self-financing basis, imposing a heavy burden on students and violating the principle of lifelong learning. In this connection, will the Government inform this Council:*

- (a) *whether it knows if the open universities in the United Kingdom, the United States, Canada and Australia receive subsidies from their respective governments annually; if so, of the details;*

- (b) *whether subsidies have been granted to the OUHK since it started to operate on a self-financing basis; if so, of the total amount of subsidies granted; and*
- (c) *of the reasons for the OUHK not being an institution funded by the University Grants Committee, and whether the authorities have received any complaints in this regard; if so, of the total number of complaints received by the authorities since the establishment of the OUHK?*

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

- (a) We do not have information on whether the open universities in countries like the United Kingdom, the United States, Canada and Australia receive annual subventions from their governments. As the mode of operation of a university is affected by many different factors, it is hard to draw direct comparisons between individual cases.
- (b) The Government paid for the cost of establishing the OUHK and subsidized its recurrent expenditure during its first few years of operation. Since the OUHK became self-financing in 1993-94, the Government has been providing the University with non-recurrent grants on a need basis to support its development. So far the Government has provided the OUHK with funding exceeding \$700 million, of which around \$390 million was granted after the OUHK became self-financing. The details are as follows:

<i>Financial Year</i>	<i>Appropriation Item</i>	<i>Amount (\$M)</i>
<i>Non-recurrent Item</i>		
1989-90	Funding for the OUHK's establishment	55.8
1992-93	Funding for the construction of OUHK's permanent campus	150.0

<i>Financial Year</i>	<i>Appropriation Item</i>	<i>Amount (\$M)</i>
	The present site in Ho Man Tin was granted by the Government at nominal premium	
1993-94	Establishment of a General Development Fund for developing new courses	100.0
1993-94	Grant for the development of a Bachelor of Education programme	5.0
1994-95	Grant for student loan schemes	50.0
1996-97	Research grant	6.0
1996-97	Establishment of an Electronic Library	20.0
1997-98	Establishment of a Centre of Excellence in Distance and Adult Learning	50.0
1998-99	Additional grant for the student loan schemes	50.0
1999-2000	Establishment of a Regional Learning Centre	50.0
2000-01	Implementation of an Information Technology Development Plan	50.0
2001-02 to 2002-03	Various research projects	1.6
<i>Recurrent Item</i>		
1989-90 to 1992-93	Provisions for meeting the OUHK's recurrent expenditure	107.8
1998-99 to 2003-04 (estimated)	Reimbursement of government rent and rates paid by the OUHK	6.8
	Total	703.4

Students of the OUHK are eligible for financial assistance under various government schemes such as the Financial Assistance Scheme for Post-secondary Students, the Non-means Tested Loan Scheme and the Continuing Education Fund, and so on.

- (c) Before the establishment of the Open Learning Institute of Hong Kong (OLI) (now known as the OUHK), the Government commissioned a planning committee to study the financial, organizational and legislative arrangements involved. The committee recommended that the capital cost for setting up the OLI and its recurrent expenditure during the first few years should be borne by the Government, and that the OLI should thereafter become financially self-sufficient with tuition fees and other sources of income. The Government accepted this recommendation.

Since its establishment, the OUHK has drawn up development plans for a self-financing operation based on the committee's recommendation. It turned self-financing in 1993-94 as it became self-sufficient in recurrent expenditure, and surplus started to accrue since 1995-96.

The Government has no plan to change the existing policy. As the OUHK focuses on open learning, a self-financing mode of operation will provide the University with greater flexibility to respond to changes in the market and adjust its study programmes accordingly. The continuing education arms of other local universities are also financially self-sufficient.

The Government has received a proposal on continuing education which, among other things, expressed concern about the tuition fees charged by the OUHK being higher than those charged by other local universities for publicly-funded programmes. It recommended government subvention of the OUHK. We have replied explaining the current policy.

### **Native-speaking English Teacher and English Language Teaching Assistant Scheme for Primary Schools**

15. **MR ABRAHAM SHEK:** *Madam President, it has been reported that in order to fully implement the Native-speaking English Teacher and English Language Teaching Assistant Scheme for primary schools, the Government has recruited 150 additional native-speaking English teachers (NETs) for primary schools this year. Besides, there have been criticisms that apart from not*

*understanding the weaknesses and difficulties Chinese people have in learning English, NETs provided by the authorities for primary and secondary schools also have such shortcomings as speaking with a strong accent, lack of grammar training, failure to understand the syllabuses of Hong Kong's public examinations and so on, thereby rendering teaching results unsatisfactory. In this connection, will the Government inform this Council:*

- (a) of the annual expenditure on the 150 additional NETs recruited for primary schools;*
- (b) whether the authorities have reviewed the schemes to provide NETs for primary and secondary schools in the light of the above criticisms; if so, of the review results; if not, the reasons for that; and*
- (c) in view of the Government's budgetary constraints and the reduction in teaching posts, whether the authorities will consider redeploying the funding for employing NETs to providing training for local teachers and increasing teaching posts; if they will, of the relevant details; if not, the reasons for that?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President,

- (a) The expense of employing an extra 150 NETs in primary schools is about \$82 million in the 2003-04 school year.
- (b) The local English teachers and the NETs have their relative merit. Insofar as the NETs are concerned, we observe that with experience, the NETs will also be able to understand and address the needs of our students. Moreover, while NETs are deployed to teach English at different levels — not just those with public examinations, learning English is not just about passing examinations. We expect our students to be able to use English effectively for a variety of purposes, as well as to be exposed to Western culture. For example, a NET is able to introduce the culture from his/her home country to our students and help expand their horizon and experience.



At the same time, Hong Kong is a world city and we should not confine our students to only one kind of accent of good spoken English. They are likely to come across different accents later in life.

The Government has commissioned the Hong Kong Institute of Education to evaluate the secondary NET scheme and the results are mainly positive. The primary NET scheme has just been implemented for the second year, and we have commissioned a tertiary institution to evaluate the scheme over a three-year period.

- (c) The Net scheme is provided on top of the teacher establishment of schools to serve the specific objectives of creating an authentic English-speaking environment in schools and to bring in additional language resource. Evidence has shown that the scheme has positive impact on students' learning of English. The collaboration between the NET and local teachers also help professional development on both sides. We would continue to monitor the effectiveness of the scheme.

### **Collection of Used Clothes in Public Places**

16. **MR LAU KONG-WAH** (in Chinese): *Madam President, it is learnt that some organizations regularly collect used clothes in public places and then resell them for profit. In this connection, will the Government inform this Council whether:*

- (a) *it knows the number of organizations which regularly collect used clothes in public places, and how many of them are tax-exempt charities; and*
- (b) *the relevant authorities are regulating the collection of used clothes in public places; if so, of the details; if not, the reasons for that?*

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

- (a) According to the information available, 15 organizations have set up collection points for used clothes in public places with the permission of the Lands Department. Of these, six organizations are charities exempted from tax under section 88 of the Inland Revenue Ordinance.
- (b) It is the Government's policy to promote waste recycling. We do not impose permit/licensing controls on recycling activities. Nevertheless, organizations which intend to organize recycling activities in public places, such as the collection of used clothes, should obtain prior approval from the Lands Department for temporary occupation of government land. After receiving the applications, the Lands Department will seek advice from relevant bureaux and departments and set out the requisite conditions for these organizations before granting approval.

Under the Public Health and Municipal Services Ordinance and the Lands (Miscellaneous Provisions) Ordinance, action has been taken against unauthorized collection points for used clothes. In the past 12 months, the Lands Department cleared 46 such collection points. Between 1 January 2003 and 31 October 2003, the Food and Environmental Hygiene Department seized 198 metal cages put in public places to collect used clothes which were found to be causing obstructions to scavenging operations.

Any person who commits a fraudulent act, including the collection of recyclable goods for pecuniary advantage by way of false claims, is liable to prosecution for criminal offences. In the past 12 months, no complaint has been made to the police regarding fraud, deception or theft by collectors of used clothes.

### **Traffic Signs Causing Confusion**

17. **MR ANDREW CHENG** (in Chinese): *Madam President, since 1999, the Transport Department has erected two types of traffic sign posts on the sides of*

*roads bearing the wording: "Waiting will be prosecuted" and "Waiting at yellow hatched marking area will be prosecuted without warning" respectively. Such traffic signs are meant to be advisory but their wording has prohibitory connotations, thus giving rise to confusion. Moreover, as these two traffic signs are not among those set out in the offence provision of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg. G) in respect of failure to comply with traffic signs by drivers, law enforcement officers therefore cannot institute prosecutions by invoking the provision against drivers for failure to comply with these traffic signs. In this connection, will the Government inform this Council whether:*

- (a) law enforcement officers have, by invoking the above provision, wrongly instituted prosecutions against drivers for failure to comply with any one of the traffic signs; if so, of the number of such prosecutions and the total amount of fines involved each year since 1999;*
- (b) the police have issued internal circulars to front-line police officers, instructing them not to institute, by invoking the above provision, prosecutions against drivers for failure to comply with any one of the traffic signs; if so, of the date(s) on which the circulars were issued and their contents; and*
- (c) it will consider revising the wording of the two types of traffic signs, or incorporating them into the relevant provision through legislation, so as to avoid confusion?*

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

(in Chinese): Madam President, the traffic sign "Waiting at yellow hatched marking area will be prosecuted without warning" was first erected in late 1999 along laybys or sections of roads with very busy vehicular traffic and serious traffic congestion problems caused by illegal parking. Together with the yellow hatched markings painted on the ground, these signs remind drivers not to hold their vehicles thereat after picking up/setting down passengers or loading/unloading goods. During the trial period between late 1999 and early 2000, the sign proved to be effective in minimizing the abuse of the laybys. The arrangement was therefore extended to other similar locations throughout

the territory in July 2000. The sign "Waiting will be prosecuted" was used to provide for a more concise message.

The two signs are non-prescribed traffic signs that are erected by the Commissioner for Transport under Regulation 3 of the Road Traffic (Traffic Control) Regulations, Cap. 374G. They are not included in the schedule of prescribed signs under the Regulations as the signs are advisory signs to remind drivers of the prohibition against parking at the concerned location. Drivers who park or hold their vehicles at the roadside without picking up/setting down or loading/unloading activities will be prosecuted for parking their vehicles at locations other than designated parking spaces according to section 7(1) of the Fixed Penalty (Traffic Contraventions) Ordinance, Cap. 237. If the vehicle in question obstructs vehicular traffic or endangers other road users, the drivers may be prosecuted under section 4 of the same Ordinance. The two advisory signs are not designed nor intended to serve as the legal basis for the required prosecution actions.

In view of territory-wide extension of the arrangement, the police had issued an internal circular on 14 July 2000 to remind all front-line police officers and traffic wardens that the two traffic signs were advisory in nature, and that prosecution actions should be taken under section 4 or section 7(1) of Cap. 237 as explained above. With the increasing number of these advisory signs on the road, the police issued another internal circular with similar content on 12 August 2000 to remind front-line staff of the correct charges and proper prosecution procedures. In addition, front-line staff are also briefed on the proper prosecution procedures during training and debriefing sessions before change of operation shifts. Since their introduction, no driver has been prosecuted for failing to comply with the two advisory signs.

The two advisory signs have served their intended purpose of reminding drivers of the prohibition against parking at the various locations. As prosecution is not based on these advisory signs, there is no need to include them into the law.

### **Demand and Supply of Parking Spaces for Medium/Heavy Goods Vehicles and Container Vehicles in the New Territories**

18. **DR TANG SIU-TONG** (in Chinese): *Madam President, regarding the demand and supply of parking spaces for medium and heavy goods vehicles*

*(M/HGVs) and container vehicles (CVs) in the New Territories, will the Government inform this Council:*

- (a) of the demand and supply figures of parking spaces for the two categories of vehicles in each administrative district in the New Territories and, among them, the number of on-street overnight parking spaces, as well as the anticipated demand and supply figures of parking spaces for M/HGVs and CVs in the next two years; and*
- (b) whether it knows if the Housing Authority (HA) has planned to provide additional parking spaces for M/HGVs in its car parks in the New Territories; if it has, of the progress of the plan; if it has not, the reasons for that?*

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

(in Chinese): Madam President, as at the end of 2002, the demand and supply of parking spaces for M/HGVs and CVs in the New Territories are as follows:

<i>District</i>	<i>Demand</i>		<i>Supply</i>		<i>On-street Overnight Parking Spaces for M/HGV*</i>
	<i>M/HGV</i>	<i>CV</i>	<i>M/HGV</i>	<i>CV</i>	
North	4 608	1 105	1 161	705	137
Tai Po	1 808	1 085	627	163	162
Sha Tin	1 852	1 537	1 764	584	93
Sai Kung	1 590	1 159	965	25	26
Yuen Long	4 983	1 286	1 257	2 566	192
Tuen Mun	1 965	1 575	1 621	517	111
Tsuen Wan	1 539	1 022	883	113	0
Kwai Tsing	3 491	1 462	3 665	5 645	235
Islands	1 413	699	1 218	0	0
Total	23 248	10 900	13 161	10 318	956

\* The overnight parking spaces for M/HGVs have been included in the figures under the column of "Supply". There is at present no overnight CV parking spaces.

The anticipated demand and supply of parking spaces for these two vehicle classes in 2004 and 2005 are set out below:

		<i>Demand</i>		<i>Supply</i>	
		<i>M/HGV</i>	<i>CV</i>	<i>M/HGV</i>	<i>CV</i>
North	2004	4 601	1 149	1 161	705
	2005	4 597	1 171	1 161	705
Tai Po	2004	1 824	1 092	627	163
	2005	1 832	1 095	627	163
Sha Tin	2004	1 861	1 608	1 792	584
	2005	1 866	1 645	1 806	584
Sai Kung	2004	1 600	1 201	1 051	25
	2005	1 606	1 223	1 102	25
Yuen Long	2004	4 949	1 357	1 292	2 566
	2005	4 932	1 395	1 311	2 566
Tuen Mun	2004	1 880	1 618	1 624	517
	2005	1 839	1 640	1 626	517
Tsuen Wan	2004	1 512	1 052	891	113
	2005	1 499	1 067	895	113
Kwai Tsing	2004	3 404	1 522	3 717	5 860
	2005	3 361	1 553	3 743	5 971
Islands	2004	1 426	683	1 220	0
	2005	1 433	690	1 221	0
Total	2004	23 057	11 282	13 376	10 533
	2005	22 965	11 479	13 492	10 644

The Administration has been exploring measures to increase the number of parking spaces for M/HGVs and CVs in those districts where the parking demand exceeds the supply. These measures include:

- encouraging private developers, through land sale and development programmes, to provide goods vehicle parking spaces in buildings jointly developed with the Government;
- providing additional parking spaces at short-term tenancy sites and container back-up areas; and

- identifying suitable locations for providing overnight on-street parking spaces.

With the above measures, the parking demand and supply situation for M/HGVs and CVs would gradually improve in the next few years.

As public housing estates are primarily intended for residential use, the HA does not have plans to provide parking spaces for M/HGVs in public housing estates in the New Territories.

### **Provision of Medical Records by Public Hospitals**

19. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that little communication and co-operation exists at the operational level between public and private medical systems. When a patient discharged from a public hospital seeks medical treatment from a private hospital or clinic, it is difficult for the doctor consulted to obtain the patient's medical record from the public hospital concerned, constituting a barrier to continuous treatment of the patient. In view of this, Kwong Wah Hospital, in co-operation with private hospitals and the Hong Kong Medical Association, has started from September last year to provide private hospitals with medical records of its patients to facilitate the treatment of these patients in private hospitals. In this connection, will the Government inform this Council whether it knows:*

- (a) *how Kwong Wah Hospital safeguards the privacy of patients in the implementation of the above measure;*
- (b) *whether similar measures are taken by other public hospitals; and*
- (c) *whether other measures are adopted by public hospitals to enhance their co-operation with private hospitals?*

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

- (a) The Hospital Authority (HA) has agreed with three medical associations on a set of procedures for the transfer of patients'

medical records from HA hospitals, including Kwong Wah Hospital, to private hospitals/practitioners. In accordance with the agreed procedures, an HA hospital would, before releasing a patient's medical records, ensure that the private hospital/practitioner making the request has obtained the prior consent of the patient concerned.

- (b) All HA hospitals follow the set of procedures agreed with the three medical associations to transfer patients' medical records on having the patient's consent.
- (c) The HA is committed to enhancing the co-operation with private hospitals in the provision of patient-centred care. Facilitating the efficient transfer of clinical information between the public and private medical sector is one of the measures for the furtherance of this goal. Apart from that, the HA is working closely with the private medical sector in the development of collaborative service models and referral protocols between the two sectors. The HA also maintains regular dialogue with private hospitals to explore new ideas on how co-operation between the public and private sector can be further enhanced.

### **Publication of Indecent Articles to Juveniles**

20. **MS EMILY LAU** (in Chinese): *Madam President, the Control of Obscene and Indecent Articles Ordinance (Cap. 390) prohibits the publication of indecent articles to juveniles (that is, persons under the age of 18 years), whereas the Film Censorship Ordinance (Cap. 392) prohibits the exhibition to juveniles films classified by censors as "APPROVED FOR EXHIBITION ONLY TO PERSONS WHO HAVE ATTAINED THE AGE OF 18 YEARS". In this connection, will the executive authorities inform this Council:*

- (a) *of the number of complaints received by the relevant authorities about shops publishing indecent articles to juveniles in the past three years, and the respective number of persons in charge of such shops prosecuted and convicted for such offence;*
- (b) *whether they have any plan to educate parents and encourage members of the public to report to the authorities the shops which*



*publish indecent articles to juveniles; if so, of the details of the plan; if not, the reasons for that; and*

- (c) *whether they have any plan to require importers of optical discs of films to submit those discs yet to be classified to the Film Censorship Authority for classification before selling them; if so, of the details of the plan; if not, the reasons for that?*

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

- (a) During the period from 2001 to October 2003, the Television and Entertainment Licensing Authority (TELA) received a total of 20 complaints about shops publishing indecent articles to persons under the age of 18. After investigation, three of the persons-in-charge of the shops concerned had been prosecuted by the TELA and were subsequently convicted.
- (b) The Government is concerned about the influence of obscene and indecent articles on young people, and has organized related educational and publicity activities on a regular basis. In the activities organized by the TELA for parents and students, including educational talks, training courses on the installation of filtering software, as well as roving exhibitions, much emphasis has been placed on the statutory prohibition of the publication of indecent articles to persons under the age of 18. The TELA has also distributed publicity leaflets to promote the Control of Obscene and Indecent Articles Ordinance and encourage the public to report on publication of obscene articles or illegal publication of indecent articles cases. The public can lodge complaints or report to the TELA through the complaint hotline and email address provided.
- (c) Under the Film Censorship Ordinance, films intended for public exhibition in Hong Kong must be submitted to the Film Censorship Authority (that is, the Commissioner for Television and Entertainment Licensing) for classification. The sale of optical discs of films which have not been exhibited publicly in Hong Kong

is regulated by the Control of Obscene and Indecent Articles Ordinance.

Since there are provisions governing the sale of optical discs of films, the Government has no plan for the time being to introduce legislation to require importers to submit those unclassified discs to the Film Censorship Authority for classification before release. However, importers may submit these discs to the Obscene Articles Tribunal for classification under the Control of Obscene and Indecent Articles Ordinance.

## **BILLS**

### **First Reading of Bills**

**PRESIDENT** (in Cantonese): Bills: First Reading.

### **BANKRUPTCY (AMENDMENT) BILL 2003**

### **CLEARING AND SETTLEMENT SYSTEMS BILL**

**CLERK** (in Cantonese): Bankruptcy (Amendment) Bill 2003  
Clearing and Settlement Systems Bill.

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

### **Second Reading of Bills**

**PRESIDENT** (in Cantonese): Bills: Second Reading.

### **BANKRUPTCY (AMENDMENT) BILL 2003**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I move that the Bankruptcy (Amendment) Bill 2003 (the Bill) be read the Second time.

The Bill seeks to amend the Bankruptcy Ordinance to facilitate the Official Receiver to outsource summary bankruptcy cases to private-sector insolvency practitioners.

The Bill proposes to set up an outsourcing regime similar to the one in the Companies Ordinance for company liquidation cases. The Government proposes to provide the Official Receiver with the authority to appoint directly, without the need for convening a creditors' meeting, a private-sector insolvency practitioner to be the provisional trustee to administer summary bankruptcy cases, that is, cases where the value of the bankrupt's estate does not exceed \$200,000.

The amendments are proposed in the light of the drastic increase of bankruptcy cases in recent years. In 2002 alone, the number of bankruptcy orders made by the Court amounted to around 25 300, representing an increase of 40 times the number in 1997. The Government believes that the Bill will enable the Official Receiver to deal with the heavy caseload in a more cost-effective and more rapid manner.

According to our proposed outsourcing regime, private-sector insolvency practitioners appointed by the Official Receiver will be subject to the control of the Court and the Official Receiver under the Bankruptcy Ordinance. The private-sector insolvency practitioners are mostly professionals in the accountancy and legal sectors. In addition to the duties and obligations imposed under the Bankruptcy Ordinance, these private-sector insolvency practitioners also need to perform their duties in accordance with the guidelines and rules of their professional bodies. They will be remunerated from the assets of the bankrupts' estates.

We conducted a public consultation exercise in June 2002 on the review of the role of the Official Receiver's Office in the provision of insolvency administration services. Relevant professional organizations indicated general support for the proposal of outsourcing bankruptcy cases.

Madam President, the Bill when enacted will enable private-sector insolvency practitioners to administer summary bankruptcy cases. This will bring new business opportunities for the professions and enhance the efficiency in managing such cases. I hope that Members will support the Bill. Thank you, Madam President.

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

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

## **CLEARING AND SETTLEMENT SYSTEMS BILL**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY:** I move that the Clearing and Settlement Systems Bill (the Bill) be read the Second time.

The Bill seeks to close a gap in our regulatory regime for clearing and settlement systems for funds or securities in the financial markets by establishing a regulatory regime for important clearing and settlement systems, and for ensuring settlement finality in such systems.

Apart from systems operated by clearing houses recognized under the Securities and Futures Ordinance, there is no statutory regulatory regime in Hong Kong for important clearing and settlement systems, and for providing for the finality of settlements effected through such systems.

The Bill also addresses the concern of the International Monetary Fund (IMF). In its recent assessment of the financial system in Hong Kong, the IMF recommended that there should be explicit legislative provisions for providing oversight of important clearing and settlement systems and for ensuring settlement finality in such systems. The Bill also seeks to facilitate the admission of Hong Kong Dollar (HKD) into the Continuous Linked Settlement (CLS) System. The CLS System is a global clearing and settlement system for cross-border foreign exchange transactions. It is the CLS's general policy, as a pre-condition for admission of a currency, that there should be finality of settlements effected through the relevant payment system. Many major international currencies have already been admitted into the CLS System, such as USD, Euro, Yen, Sterling and more recently Singapore Dollar. It is our aim that HKD can be admitted into the CLS System in 2004. The participation of HKD in the CLS System will help promote the efficiency of clearing and settlement of cross-border multi-currency transactions, thereby strengthening Hong Kong's status as an international financial centre.

Legislation providing for pay-in and settlement finality from all laws can be found in a number of advanced economies, for example, the United States, European Union, New Zealand, Singapore and Canada. Statutory oversight of payment systems is also found elsewhere. For example, the Reserve Bank Act 1959 in Australia, and the Payment Clearing and Settlement Act 1996 in Canada. Singapore and Switzerland are also in the process of formulating similar legislation.

Let me now briefly introduce the major features of the Bill.

Under clause 3 of the Bill, the Monetary Authority (MA) may designate a clearing and settlement system to be subject to the oversight of the MA, if the system is a system the proper functioning of which is material to the monetary or financial stability of Hong Kong or to the functioning of Hong Kong as an international financial centre. To be eligible for consideration for designation, a clearing and settlement system must be one that:

- (1) is in operation in Hong Kong; or
- (2) accepts for clearing or settlement transfer orders denominated in HKD.

To avoid regulatory overlap with the Securities and Futures Commission (SFC) under the Securities and Futures Ordinance, a clearing and settlement system which is, or is operated by a company recognized as, a clearing house for the purpose of the Securities and Futures Ordinance will not be subject to the Ordinance.

Under the Bill, the MA has the function both to exercise oversight of important designated systems and to promote the general safety and efficiency of such systems. To this end, the MA will be empowered by the Bill to request information from a designated system, give directions to a designated system, amend a system's operating rules and make regulations in relation to the oversight of designated systems so as to exercise its functions. The details of the designation and oversight regime are set out in Part 2 of the Bill.

Under clause 14 of the Bill, if the MA is satisfied that certain criteria have been met as regards a designated system, it shall issue a certificate the effect of which will be to invoke the finality provision of the Ordinance as regards that

system. Under clause 15, the MA will also have the power to suspend or revoke the certificate of finality.

The Bill also provides for an appeal mechanism. The Administration will establish an independent tribunal known as the Clearing and Settlement Systems Appeals Tribunal (the Tribunal) to hear an appeal by any person who is aggrieved by a decision of the MA to designate a clearing and settlement system or revoke its designation, or to grant or revoke settlement finality in respect of a designated system. Part 4 of the Bill contains provisions on the establishment, powers and functions of the Tribunal.

We have conducted several rounds of consultations on the Bill with the SFC, the Hong Kong Exchanges and Clearing Limited, the relevant payment system operators, the Hong Kong Association of Banks, the Law Society of Hong Kong, the Hong Kong Bar Association, the Hong Kong Society of Accountants, leading insolvency practitioners and the CLS System which intends to admit HKD. There is general support from the organizations and parties consulted, and their relevant concerns have been addressed in the Bill where appropriate.

In brief, the enactment of the Bill will help close a gap in our regulatory regime for clearing and settlement systems for funds or securities. This will enable our system to conform with the recommendations of the IMF and facilitate the admission of HKD into the CLS System, thereby strengthening Hong Kong's status as an international financial centre.

I hope Members will support the Bill. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Clearing and Settlement Systems Bill be read the Second time.

The debate is now adjourned and the Bill referred to the House Committee.

### **Resumption of Second Reading Debate on Bills**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Public Officers Pay Adjustments (2004/2005) Bill.

**PUBLIC OFFICERS PAY ADJUSTMENTS (2004/2005) BILL****Resumption of debate on Second Reading which was moved on 21 May 2003**

**PRESIDENT** (in Cantonese): Mr TAM Yiu-chung, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, I am presenting the Report in my capacity as Chairman of the Bills Committee on Public Officers Pay Adjustments (2004/2005) Bill. As the deliberation of the Bills Committee has been detailed in the Report, I shall just speak on the main points of our deliberation.

The Bill seeks to implement the civil service pay reductions which are to take effect from 1 January 2004 and 1 January 2005 respectively. In view of the impact of the Bill on public officers, the Bills Committee met with representatives of the staff sides of civil service central consultative councils and some major civil service unions, and received submissions from other organizations including the Hong Kong Bar Association (Bar Association).

Generally speaking, the Bills Committee has no objection to the Administration's decision to adjust downward civil service pay in accordance with the existing pay adjustment mechanism. However, the Bills Committee has discussed the following issues in great detail:

First, the need for enactment of legislation to effect the pay reductions in 2004 and 2005;

Second, the clarity of the provisions of the Bill in reflecting: the impact of the Bill on future civil service pay adjustments; the categories of public officers who are covered by the Bill and the exclusion of judicial officers from the application of the Bill; and

Third, the pay protection for civil servants serving since before 1 July 1997.

On the need for enactment of legislation to effect pay reductions in 2004 and 2005, the Bills Committee noted that in the 2002 civil service pay adjustment

exercise, some members of the Bills Committee on the Public Officers Pay Adjustment Bill had expressed the views that it was inappropriate for the Administration to make legislation on a one-off basis and urged the Administration to introduce general enabling legislation on the civil service pay adjustment mechanism, providing the legal framework for implementing upward and downward pay adjustments. Against this background, some members of the current Bills Committee queried why the Administration still proposed to enact legislation on a one-off basis to implement the civil service pay reductions in 2004 and 2005. Some members considered that as the Administration had already reached a consensus with staff-side representatives on the pay reductions in 2004 and 2005, it was not necessary to implement the pay reductions through legislative means. In this connection, the Bills Committee noted that some civil service unions objected to the legislative approach adopted by the Administration to reduce civil service pay in 2004 and 2005, while one civil service union indicated that it had no objection to the legislative approach because of the fiscal deficit and public interest considerations.

The Bills Committee has been advised by the Administration that the contractual employment arrangements between the Government and the vast majority of serving civil servants do not contain an express provision authorizing the Government to reduce pay. In the context of the 2002 civil service pay adjustment exercise, the Administration considered that legislation was the most appropriate way to implement with certainty a justified decision on a civil service pay reduction. Accordingly, the Public Officers Pay Adjustment Ordinance (POPA Ordinance) was enacted to implement the decision to reduce civil service pay from 1 October 2002. The Administration is now developing, in consultation with staff, an improved civil service pay adjustment mechanism which would comprise, among others, an effective means for implementing both upward and downward pay adjustments. The Administration would consider, as part of that exercise, whether such means would need to be provided in law and, if so, whether general enabling legislation would be preferable for the purpose. The original plan of the Administration was to complete the exercise within 2004. However, as the first-stage pay reduction is intended to take effect from 1 January 2004, it would not be possible to rely on any effective means that may be introduced under the improved civil service pay adjustment mechanism for implementing the pay reduction decision. In order not to pre-empt the outcome of the ongoing deliberations on the improved pay adjustment mechanism, the Administration considers it appropriate to seek the enactment of a piece of one-off legislation to implement the 2004 and 2005 pay reductions.



In this connection, the Bills Committee has examined the judgement handed down by the Court of First Instance (CFI) on 10 June 2003, which ruled in favour of the Government by dismissing the two lead applications for judicial review launched against it in respect of the POPA Ordinance. The Bills Committee had noted that the CFI ruled that the POPA Ordinance had not breached any individual articles of the Basic Law that were argued before it. The judgement, however, has not given any specific guidance on the permissible scope of future civil service pay adjustments or future changes to the civil service pay system, insofar as these changes apply to officers serving in the Government as on 30 June 1997. Moreover, it has not specifically dealt with the question of whether legislation is necessary to implement pay reduction. However, the Court is satisfied that public officers have at all time, both before and after the transfer of sovereignty, been subject to the legitimate risk of having their contracts of service amended by way of legislation.

Some members of the Bills Committee consider that the Administration should implement its pay reduction decision through administrative means under the existing pay adjustment mechanism and that it is not necessary to introduce the Bill. However, the Administration maintains its view that legislation is necessary for implementing the pay reductions with certainty.

Regarding the impact of the Bill on future civil service pay adjustments, the Bills Committee noted that some staff representatives were very concerned about the implications of clauses 14 and 15 of the Bill and requested that the two clauses be deleted or improved. They considered that clauses 14 and 15, as currently drafted, might have the effect of authorizing the Administration to unilaterally change the employment contracts of civil servants to further reduce civil service pay in future after the pay reductions on 1 January 2004 and 1 January 2005.

The Bills Committee has been advised by the Administration that clause 14 seeks to reflect the policy intent that the Bill does not itself authorize adjustments to the pay or the amounts of allowances of public officers after 1 January 2005, and future adjustments to the pay or the amounts of allowances of public officers after 1 January 2005 will be implemented according to the present arrangements. Under these present arrangements, legislation is not required to effect upward pay adjustments. However, if clause 14 were deleted, the Bill might be interpreted as specifying levels of pay and allowances of public officers that are

to prevail until amended by subsequent legislation. As regards clause 15, it seeks to vary the contracts of employment of public officers so that the contracts expressly authorize the adjustments made by the Bill. The provision does not itself authorize any future adjustments after 1 January 2005.

The Bills Committee requested the Administration to consider whether the drafting of clauses 14 and 15 could be improved to reflect its policy intent more clearly. The Administration subsequently proposed to dispel any doubt over "authorizing future adjustments" by adding a new subclause (2) to clause 14, and to spell out more clearly the scope of "adjustments" covered by clause 15 by amending clause 15. The Bills Committee has no objection to these proposed amendments.

Both the Bills Committee and some staff representatives are concerned about the pay protection for civil servants serving since before 1 July 1997. The Bills Committee has been advised by the Administration that as at 30 June 2003, there were around 150 700 civil servants who had been serving since before 1 July 1997. The Bills Committee has been assured by the Administration that any future pay adjustments must be consistent with the Basic Law. As far as civil servants who were serving immediately before 1 July 1997 are concerned, it is the current Administration's policy during its term of office not to reduce their pay below the levels as at 30 June 1997 in dollar terms.

As for the categories of public officers who are covered by the Bill, the Bills Committee notes that the Bill applies to different categories of public officers, including civil servants on civil service pay scales, civil servants on personal salaries and civil servants on Hospital Authority (HA) pay scales. Some members of the Bills Committee had expressed concern on whether the Bill is able to cover all different categories of public officers to whom the pay reduction decision applies. They suggested that the Administration should consider the need to add a provision to the Bill to cater for any omissions. The Bills Committee has been assured by the Administration that the Bill is able to cover all different categories of public officers concerned, and that various bureaux and departments had been consulted before the Bill was introduced into the Legislative Council. The Administration does not see the need to add the proposed provision which may give rise to ambiguity in the scope of application of the Bill and thus cause staff concern.

The Bills Committee notes that clause 3(1)(b) of the Bill seeks to exclude judges and judicial officers from the scope of application of the legislation. Under this subclause, the legislation does not apply to the pay or allowances of:

First, a judicial officer holding a judicial office specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (JORCO);

Second, a judicial officer holding a judicial office known as Senior Deputy Registrar, High Court; or

Third, a judicial officer appointed by the Chief Justice.

The Bills Committee notes that the Bar Association is concerned that clause 3(1)(b), as presently drafted, does not cover the Registrar, Court of Final Appeal (CFA). In this connection, the Bar Association has suggested that clause 3(1)(b) of the Bill and Schedule 1 to JORCO be amended by including the Registrar, CFA. In view of the comment of the Bar Association, the Administration proposes to amend clause 3(1)(b) to include in it the office of Registrar, CFA in order to put it beyond doubt that the post is excluded from the scope of application of the Bill. As regards the Bar Association's suggestion to amend Schedule 1 to JORCO, the Civil Service Bureau has referred the suggestion to the Judiciary, which will consult the Chief Justice on the appropriate amendment.

The Bills Committee also noted that the Bar Association was concerned that clause 3(1)(b), as presently drafted, might not cover members of the Lands Tribunal appointed pursuant to section 4(4) of the Lands Tribunal Ordinance (LTO). While the Administration considered that members of the Lands Tribunal appointed by the Chief Executive pursuant to section 4(4) of LTO were included in Schedule 1 to JORCO and hence clause 3(1)(b)(i)(A) of the Bill, the Bar Association considered this assumption less than satisfactory. The Bills Committee requested the Administration to consider the Bar Association's view. The Administration pointed out that clause 3(1)(b) of the Bill was intended to exclude all judicial officers, including all full-time members of the Lands Tribunal, from the scope of application of the Bill. In view of the Bar Association's comments, the Judiciary will consult the Chief Justice on the appropriate amendment to Schedule 1 to JORCO. The Administration also proposes amending clause 3(1)(b) to the effect that the Bill does not apply to the

pay or allowances of "any other judicial officer appointed by the Chief Executive or by the Chief Justice". As all full-time members of the Lands Tribunal are appointed by the Chief Executive, the proposed amendment should put it beyond any doubt that such members are covered by clause 3 and are therefore excluded from the scope of application of the legislation. The Bills Committee and the Bar Association have no objection to this proposed amendment.

Finally, the Bills Committee has no objection to the technical amendments proposed by the Administration to Schedules 1 and 6 of the Bill.

Madam President, the above is the Report I present in my capacity as Chairman of the Bills Committee, and next I shall speak on behalf of the Democratic Alliance for Betterment of Hong Kong (DAB).

The Bill is the fruit of consultation between the Government and civil service unions. As employees, none of us will like to see our salary being reduced. It is indeed a display of commitment and responsibility on the part of civil servants, who are the driving force in the development of society, to accept the pay cut arrangement in order to ride out the storm together with the people. I believe we all agree that the fiscal deficit is not caused by the civil servants, but they still fulfil their commitment. This is indeed a great driving force in motivating various sectors of society into making a joint effort to solve the fiscal deficit problem.

With the target of solving the fiscal deficit problem, the Government has been striving hard to cut its expenditure by \$20 billion and its establishment by 10% by 2006-07. It is indeed a major challenge to achieve these two objectives. In order to reduce government expenditure and the numbers of civil servants while ensuring the quality of public services, the Government must strengthen its communication with civil servants, so as to prevent repercussions from arising in the Civil Service. The importance of such a task should not be underestimated. On any adjustments to the salaries and the establishment of the Civil Service, the Government must make civil servants understand the necessity of such adjustments, and ensure that such adjustments have the understanding and support of civil servants. The remuneration system and the culture of the Civil Service, the management modes and all kinds of interests are interrelated. The Government, while responding to the demands of the people and eliminating the fiscal deficit, should adopt a prudent approach, conduct sufficient consultation and respect the views of employees in its formulation of various proposals.

Recently, civil service unions have expressed worries about the civil service pay level survey that will soon be conducted as well as the setting up of a civil service pay adjustment mechanism which allows both upward and downward adjustments. This is entirely understandable. We believe the findings of the pay level survey will inevitably reveal that the existing salaries may warrant some adjustments. And any adjustments to salaries or any such adjustments will essentially involve various kinds of comparative studies. However, it is impossible that these studies could be absolutely reliable. They could only provide an important factor for consideration in decision making. As there is no absolutely scientific and objective comparison procedure, any method for deciding the salaries must be acceptable to both the management and the staff before such a method could function properly. For this reason, the Government must take into account the importance of stabilizing the Civil Service as well as the protection provided by the Basic Law, so that it would not immediately apply the findings of the survey to the Civil Service, nor should it act on any single event at any single point of time. Instead, it should hold more discussions with civil servants and collect divergent viewpoints on a regular basis, so as to identify feasible options that are acceptable to both sides. Only in this way will it be possible for the Government to maintain the morale, efficiency and stability of the Civil Service.

With these remarks, I support the Bill.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, the Government has altogether tabled two Bills to this Council to effect pay reduction by way of legislation. The first one was the Public Officers Pay Adjustments Bill in July 2002, and the other one is the present Public Officers Pay Adjustments (2004/2005) Bill. Although the Democratic Party opposed the implementation of the pay reduction by way of legislation last year, we shall support the passage of this Bill this year because the Democratic Party thinks that the legislation this time around seeks to endorse and respect the outcome of the negotiations between the Government and civil service unions. The process, which has seen the participation of Legislative Council Members and political parties, is essentially different from the brutal enactment of legislation to effect the pay cut last year. The Democratic Party opposes the brutal approach adopted by the Government in the last pay reduction exercise in which neither consultation nor negotiation was held, but it will respect this agreement coming out of negotiations.

Madam President, regarding the concern of civil servants on clauses 14 and 15 of the Bill, they worry that the clauses might enable the Government to reduce their salaries arbitrarily. In order to clarify the situation and allay the concern of civil servants, the Government has proposed amendments to deal specifically with these two provisions. The Legal Adviser of the Legislative Council also considers the amendments reasonable. Therefore, the Democratic Party supports the Government's technical amendments to these two provisions, which on the one hand solve the disputes between civil servants and the Government, and on the other, establish communication between the two parties through this Council, eventually resolving specific controversies. This is the realization of the spirit of a democratic society.

Madam President, as I had repeatedly reminded the Government in the course of deliberations on the Bill, that it must ensure that the figures and contents in all the pay scales contained in the Annex were accurate, and that it must ensure that it had consulted all the Policy Bureaux and departments which should cover all the different grades of public officers. I stress that the Government must ensure that there is no error or omission because the issue of salaries is very sensitive indeed; should there be any error or omission or mistakes in calculation, the consequences could be extremely serious.

Lastly, let us take a look at the deficiency of the present salary adjustment mechanism of the Civil Service: That the salaries could only go up but not down. It will not create any major problems as long as Hong Kong is enjoying an economic boom or a period of prosperity. However, given the prevailing economic downturn, serious deflation and the pegged exchange rate, if we seek to reduce the salaries of civil servants, we will give rise to all kinds of disputes, thereby making civil servants the targets of public criticism. Therefore, the Democratic Party already requested the Government to review the present pay survey mechanism as well as to establish a set of rules which should enable downward and upward adjustments and a freeze of the salaries, thereby providing a mechanism for compliance in the adjustment of civil service salaries. In this way, we may prevent politicizing the adjustment of civil service salaries, which may lead to endless arguments in society.

Madam President, all along, the great majority of civil servants have been working diligently. It is extremely unfair to them if they should become the target of public criticism just because of the salary dispute. It may also entail

the danger of polarization in society. The Democratic Party agrees that the Government and civil service unions and groups should act in line with the negotiation agreement as well as the provisions of the Basic Law and review the existing adjustment mechanism.

However, regarding the decision of the Government to postpone the completion date of the review of the civil service pay adjustment mechanism from end of next year to mid-2005, the Democratic Party has to express our deep regret. The civil service pay adjustment mechanism is such a significant issue that will affect nearly a million people who are civil servants, employees of subsidized organizations and their families. As such, the Government must act very carefully, in particular, reserving sufficient time and space for consultations with civil service unions, trade unions and political parties. However, at this very sensitive juncture, the Government tries to outwit others in a foolish manner by delaying the work for half a year. The Government thinks that by postponing the work, it could wittily avoid bringing up the controversial issue in the year of election for the Legislative Council. It thinks that it has wisely twisted the course of development in relation to the issue, but it has unwittingly led to some bad results. The wishful thinking of the Government is that, if the new civil service pay adjustment mechanism is proposed before the end of the Legislative Session in 2005, civil servants will surely accept it, thus a new pay scale could be formulated for civil servants of all the different categories.

According to the timetable of the Government, the relevant mechanism would be completed by the middle of 2005, then it shall proceed with its consultations with civil servants and the Legislative Council, and then the relevant bill could be passed before the end of the Legislative Session of the same year. For such a significant and controversial issue, the Government has reserved only a few months for consultation. It is just too short. Should any major or material controversies emerge, the timetable of the Government could crash and grind to a standstill. The Democratic Party has already warned the Government of this. However, it chooses to ignore our advice. It prefers to delay the matter which could evolve into a crisis at any time. The Democratic Party objects to such an approach, and considers that the Government is being irresponsible in sitting on the issue.

Madam President, I so submit.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, on behalf of the Hong Kong Confederation of Trade Unions, I speak in support of the resumed Second Reading and Third Reading of the Bill.

Madam President, in comparison with the pay cut Bill of last year, the introduction of this Bill is relatively trouble-free, as pointed out by the Honourable colleague who has just spoken. I believe the major reason is that the Bill this year is an agreement reached between the Government and the civil service unions through negotiations. The most controversial part of the pay cut Bill last year was that the Administration bypassed the consultation and negotiation mechanism and amended the terms of employment unilaterally. As a result, it generated a lot of dissatisfaction and protests.

Madam President, I hope the Government can really learn from past experience and adopt neither "high-handed" nor "smearing" tactics. It should understand that the employers and the employees could reconcile with and accommodate each other only through dialogue and consultation, and that would give an eventual win-win result a chance. The pay adjustment agreement of the year could be considered a good start. However, the Government should not be willing to consult civil service unions only after major events have taken place. The Government should consider establishing a permanent system for collective bargaining, thereby recognizing the status of the staff-side representatives in bargaining and making the mutual agreements binding.

Madam President, the Government will shortly hold talks with the civil servants on the pay level survey. So it is all the more necessary for the two sides to establish mutual trust before a mutually acceptable proposal could be reached, and I believe a collective bargaining system is the foundation of such mutual trust.

I so submit. Thank you, Madam President.

**MISS MARGARET NG**: Madam President, I wish to declare interest. I had been instructed at one stage to advise the applicants in a court case, HCAL No. 178/2002, who were officers of staff associations of the Police Force, for an application for judicial review against the Public Officers Pay Adjustment



Ordinance 2002. However, in this debate this evening, the issue is not just legality, but also good governance and constitutional propriety.

I oppose the Second Reading of the Public Officers Pay Adjustment (2004/2005) Bill. As I have made it clear in the Bills Committee, I consider the introduction of this Bill an abuse of legislative process, and an abuse of the trust of this Council when it passed the Public Officers Pay Adjustment Bill last July (2002 Bill).

Madam President, I call this Bill an abuse of the legislative process because it is wholly unnecessary to legislate in order to effect a decrease in civil servants salaries provided the existing system and mechanism for pay adjustment have been adhered to; in particular, genuine consultation and negotiation has been carried out with the Civil Service.

I made the same point last July when I opposed the 2002 Bill. I explained at great length and repeatedly that under the general law and the existing system and terms and conditions of the Civil Service, the Government already has the power to decrease civil service pay unilaterally. This view has since been upheld by the Court, and I shall refer to the judgement later. As I said last July, in exercising that power, the Government has to act fairly and in accordance with natural justice. The existing system requires the Government to consult and negotiate with civil servants through their staff associations before it makes up its mind. Genuine consultation and negotiation is not only required as a matter of law, but also of good administration. The Government must be seen to be fair and to be following stated policies, instead of acting arbitrarily and oppressively. To by-pass consultation and negotiation and impose a decrease of salaries by legislation was, in my view, oppressive.

It was clear, even a year ago, that most civil servants were not opposed to salary reduction itself. They recognized that the economic realities had changed and they were prepared to share the adversity alongside with the community. But they were opposed to salary reduction by way of legislation. As civil servants having a stake in good administration, they wanted pay adjustment to be made in accordance with an accepted system enshrined in legislation. We supported the introduction of legislation to regulate civil service pay which makes it clear that pay adjustment may be increased or decreased.

At that time, the Government insisted that the 2002 Bill was necessary. The Law Officer (Civil Law) told Members in no uncertain terms that if the Bill was not passed and the Government was challenged in court over the pay cut, the Government would lose.

In his speech, the Secretary for the Civil Service, Mr Joseph WONG, assured this Council repeatedly that the 2002 Bill was "one-off", necessitated by urgency. He told this Council that work on civil service pay adjustment system mechanism legislation could be carried out in tandem, and would be introduced as soon as possible.

We were given to understand that this would forestall any further "one-off" pay-cut bill such as the 2002 Bill.

Madam President, months later, instead of the pay adjustment system legislation promised, we are hit with an almost identical second pay-cut bill. Adding insult to injury, the recent report of the Secretary indicated that pay adjustment system legislation has been delayed to mid-2005. It is clear to me that having got away with pay-cut bill No. 1, the Government now feels confident to fall back on future pay-cut bills should it fail to carry out the task it has promised. Do we have any reason to believe that the new target of mid-2005 will be met? Or is that date just another way of giving us illusionary assurance that the new legislation will be in place when the effect of the present pay-cut bill expires in 2005?

This is no small failure. For as long as the overall pay adjustment system is not institutionalized by statute, relations between our Civil Service and the Government and between our Civil Service and the community will remain under huge pressure, with the result being that the Civil Service will be demoralized because the dignity of the civil servants is impaired. It is not fair to require civil servants to volunteer a pay reduction and then attack them as selfish when they refuse to do so. It is not fair to require staff associations and staff unions which exist for the purpose of furthering the interests of their members to volunteer a pay reduction and then attack them as opposing public's interests when they fail to do so on behalf of their members. The recognized fair deal in a civilized society is to set up a fair procedure and fair principles after due consultation, and then apply the principles accordingly. It is for the Government to propose the pay reduction and to show that it is fair, and for the unions then to advise their members. The clumsy and inapt way in which the

matter has been handled in the past two years has already done untold harm to the public's confidence in the governance of the Hong Kong Special Administrative Region Government.

When the accountability system was introduced last July, the office of the Secretary for the Civil Service was purposely designed to be filled by a civil servant who can retain his civil servant status. This was supposed to enhance the trust and acceptance of the Secretary and of the civil servants. In a negotiation on matters such as the pay adjustment mechanism, obviously, trust and acumen at problem solving through negotiation are equally important. The question now in everyone's mind is, why has Mr WONG made so little progress, so that we are again faced with another "one-off" pay-cut bill? Or has he known all along that a second pay-cut bill may be introduced, and has just kept us in the dark? On both questions, Mr WONG owes this Council an honest account.

Madam President, I stated my view as to why the pay-cut 2002 Bill was unnecessary last July. That view was upheld in the judgement in the recent case in which the 2002 Bill was challenged in judicial review in HCAL 177 and 180/2002. The main issue of the case was not whether legislation was necessary, but whether that particular legislation was lawful and constitutional. But the judgement shows clearly that not only does the Government have the power to effect a salary reduction unilaterally in accordance with the existing system and mechanism, but the Government knows it all along. Among the evidence before the Court was a letter from the Chief Secretary for Administration. In paragraph 59 of the judgement, Mr Justice HARTMANN refers to the letter and I quote:

"In that letter, the Chief Secretary asserted that no implication could be said to arise from what I have called the existing mechanism that civil service pay may remain unchanged or be increased but can never be reduced. That, in my judgement, must be correct. The possibility of reduction must be inherent in both the mechanism and the principles relevant to that mechanism. In this regard, although it is not directly on point, some guidance may be obtained from *King v. Attorney General of Barbados* [1994] 1 LRC 164 (PC) per Lord Templeman, at 202:

" "Even if s 112 [a provision protecting the salaries of certain high officers] had not been included in the Constitution, their Lordships can discern no

possible justification for any implication that the emoluments attached to the office of the appellant in the public service shall never be reduced." "

Other parts of the judgement further elaborated on this point, notably paragraphs 71 to 76 and 81 to 89. All this is in the general law available and known to the Government at the time of the 2002 Bill.

Madam President, we may wish to give the Government the benefit of the doubt: it may be that officials concerned were unclear about the applicability of the legal principles involved. But after the judgement, there can be no doubt that these principles apply, and this makes the present Bill completely unnecessary. I note that many of my colleagues tonight have referred to the agreement and the consultation carried out between the civil servants and the Government. If there is an agreement and given the condition that the existing system has been fulfilled, it is all the more clear that legislation is unnecessary. Legislation is not a means of forging a private contract. To persist with the Bill and insist that it is necessary is, in my view, an abuse of process which should not be countenanced.

Madam President, I oppose this Bill and I urge Honourable Members to oppose it as well. Civil service salary adjustment should not be political, should not be made a matter of political controversy, and should not involve the use of political pressure. It should be institutionalized and the institution should be followed.

Thank you, Madam President.

**MR LEUNG FU-WAH** (in Cantonese): Madam President, the Bill before us today is the consensus reached between civil service unions and the Government through negotiations. Therefore, it has the support of the Hong Kong Federation of Trade Unions (FTU).

Insofar as the pay reduction proposal of "zero-three-three" is concerned, some people may think that it will have only minimal effect in solving our budget deficit of nearly \$80 billion. And some people from the business sector may think that the Government should work even harder in streamlining the civil

service establishment. Of course, we are not at all surprised at such a rationale of the business people because "reduction" has always been a regular practice in the business sector. However, we certainly understand that stable staff relations are one of the most significant factors for the continuous operation of any commercial organization, and it is also an indispensable factor for any successful enterprises. Similarly, as far as a government is concerned, a dedicated and steady civil service team is essential to effective administration, and this is something we need to pursue and treasure now. In order to achieve the goal of "Hong Kong people ruling Hong Kong", we need to rely on the large number of front-line civil servants.

Ever since the reunification, our society has been troubled by the deteriorating economy and the budget deficit of the Government. The pay issue of our public officers has also given rise to conflicts with people of other social strata. Some friends of mine who are civil servants told me that some people had tried to distinguish them from other members of the public. They are, in fact, the same as other members of the public, in that they are also members of the community. Like other wage earners, they also need stable job prospects and good staff relations before they could have a settled mind to work hard and live happily. If the Bill is passed smoothly today, I hope the controversy on civil service pay could be over, and then everyone, especially the civil servants, could concentrate on providing a better service to the people.

Madam President, the Government is at the moment conducting a study on the civil service pay adjustment mechanism. I hope the Government can adhere to the principles of negotiation as in the case of the "zero-three-three" proposal in handling this issue, that is, to maintain consultations with civil service unions, and it should by no means unilaterally decide the adjustment mechanism and its scope of application.

Moreover, apart from permanent civil servants, we in the FTU are equally concerned with the remuneration packages of non-civil service contract staff, contractors' contract staff and purchased-service staff. In line with the principle of maintaining employment stability in society, we urge the Government, where possible, to renew the contracts with the incumbent staff at the same pay level upon the expiry of their present ones. Efforts should be made to reduce purchased services, in particular, the Government should strictly monitor the work of contractors and require them to offer reasonable

remuneration and conditions of employment to their employees, so as to prevent any unscrupulous exploitation.

Madam President, I so submit.

**MR MICHAEL MAK** (in Cantonese): Madam President, first of all, I would like to make a declaration of interest. I am an employee of the Hospital Authority, and I shall be indirectly affected by the Bill.

First and foremost, I think pay reduction is an issue between the employer and the employees. So, instead of enforcing the pay reduction decision by enactment of legislation, it should be resolved by the two parties concerned.

The spirit of legislation is to make everyone in society act according to the enacted provisions, thereby promoting equality and rationality in society and preventing confusion. Legislation should never be a tool used by the Government to attain political objectives, and the Government cannot enact or repeal laws at whim. An autocratic society governed by the rule of man is most terrible — in which the laws are not followed, or the laws are twisted to meet the wishes of certain people. Instead of using other human resources methods to increase or reduce the salaries of staff, the Government has casually employed the legislation approach in effecting salary reduction. This is a practice in blatant violation of the spirit of the rule of law.

If the Government really relies on the laws as its base, Article 100 of the Basic Law stipulates that public servants may retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before. But what on earth is "before"? Does it really mean the Government's proposal, that the pay level of civil servants be reduced to the 1997 level? However, what is the 1997 level? A level involves many complicated factors, such as the cost of living index then, the consumption pattern and the economic conditions, and so on. It certainly cannot be measured by the simple unit of money. If we think in the same logic as the Government does, and just use money in our calculation, it means that the salaries of civil servants in the year 2047 could also be reduced by force to the level of 1997 in monetary terms. It is a completely absurd and unreasonable decision for the Government to measure the salary level only in terms of money.

Now we are in an economic downturn, and everyone has the obligation to tackle the fiscal deficit. However, is it really right to place this extremely heavy burden on the shoulders of civil servants? People always criticize civil servants of receiving excessively high salaries, and request them to reduce their salaries in order to endure the difficult times with the people. However, when our economy was at its best booming period, many people were unwilling to join the Civil Service just because the salaries of civil servants were not as high as those in the private sector. Furthermore, in booming times, people in the private sector used to receive 13 to 20 months of salaries in a year. But civil servants never have the 13th month salaries nor any bonuses. At that time, had anybody voiced any grievances for civil servants? I hope the Government as well as everyone in society can be fairer in treating the civil servants. You cannot possibly just require the civil servants to endure the hardship with others in time of difficulties, whereas they could not enjoy the fruit of success in time of economic prosperity.

The Government's move in effecting the salary reduction by way of legislation has completely damaged the spirit of the rule of law in Hong Kong. And it is also tantamount to denying the long-standing contribution made by civil servants in Hong Kong. Therefore, even though I know that my single opposition vote would not be sufficient to block the pay cut decision of the Government, nor could I change the general voting result, I have still decided that I would vote against the Bill at the Second and Third Readings, so as to put down in record my reasons for opposing the Bill.

Thank you, Madam President.

**MR HUI CHEUNG-CHING** (in Cantonese): Madam President, civil service unions reached a consensus proposal of "zero-three-three" with the Government in the beginning of the year. Under this proposal, both parties agreed to the introduction of two pay cuts at 3% on 1 January next year and 1 January 2005 respectively. This Bill seeks to effect the consensus arrangements on the pay reduction of civil servants. According to the information provided by the Government, it is estimated that, upon the implementation of the pay reductions, the Treasury can save as much as \$7.3 billion in the financial year of 2005-06.

The expenditure on salaries of public officers accounts for nearly 70% of the total expenditure of the Government, which is the major cause of the structural deficit of the Government. I hope the public officers concerned can appreciate the need of the Government to cut public expenditure, including the salaries of public officers, in order to solve its fiscal deficit.

The pay reduction would inevitably affect the interests of civil servants. However, the Bill will apply to the one-off pay reductions in 2004-05, and it does not authorize the Government to effect any further pay reduction after 2005. In addition, the present Administration has already promised not to reduce the salaries of 150 700 civil servants serving since before 1 July 1997 to a level lower than that before the reunification. So this can be considered a moderate and reasonable pay reduction arrangement.

Effecting a pay reduction by way of legislation is just an expedient arrangement. The long-term plan is to establish a pay adjustment mechanism which would allow upward and downward adjustments after the pay trend survey report has been released. I believe that, upon the implementation of this mechanism, the Government would be in a better position to control the ever-expanding public expenditure, and there shall not be any need to enact legislation to effect any pay reductions. I hope that the new pay policy will not just use the affordability of the Government as the prime consideration. At the same time, it should not just use the large corporations as its subjects for comparison. Instead, the salaries of employees of small and medium enterprises (SMEs) should also be used for comparison because SMEs form the largest group of employers in Hong Kong, so the salaries of their employees are really representative.

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

**MS AUDREY EU** (in Cantonese): Madam President, this is the second time in two years that the Government has requested the Legislative Council to pass legislation on civil service pay reduction. The situation is much better than that of last year because the Bill this time has gone through the consultation process and has the support of civil service unions or organizations. However, the objection reasons I raised in my speech on a similar Bill last year are still valid in today's case.



Madam President, I would like to quote part of the speech I delivered on 10 July 2002 on the Public Officers Pay Adjustment Bill, "Under the civil service pay adjustment mechanism which has operated for decades, the Government will determine the rates of adjustment after considering the results of the Pay Trend Survey based on the pay in private sector, the economic conditions of Hong Kong, the financial status of the Government, price movements, civil service morale, and so on. As the Secretary for the Civil Service, Mr Joseph WONG, has explained, the many individual factors for consideration under the existing mechanism may have a positive or negative impact on the pay adjustment of civil servants. In other words, the pay of civil servants can increase and also decrease. So, he said at first that the pay reduction proposed by the Government was not a departure from the existing mechanism."

At that time, I said, "Since the pay of civil servants can be adjusted upwards and downwards under the mechanism, it means that there is no need to legislate in order to implement the pay reduction. However, the Government, when lobbying Members for support, has made substantial changes to its arguments. To convince Members that legislation is the only option, Secretary Joseph WONG even said in the end that if the pay reduction was implemented not by way of legislation, the Government might lose in possible litigations filed by civil servants in future."

Madam President, at that time, I had already stated to Secretary Joseph WONG very clearly that I disagreed with his viewpoint. The Secretary reacted then by saying that it was a great pity that the legal advice obtained by the Government was different from mine. However, Madam President, the judgement delivered by Mr Justice HARTMANN on 10 June 2003, in particular, paragraphs 58, 59 and 72, confirmed that what I said was right. In other words, the civil service pay adjustment mechanism which has operated for decades allows the Government to implement a pay reduction. Just as what I had said at that time, it is not necessary to implement a pay reduction by way of legislation.

Madam President, my speech of last year also mentioned another reason, and may I quote again, "My greatest reservation is the very shortsighted approach of the Government in seeking now to legislate on a one-off basis to effect the pay reduction. Indeed, legislation is in itself a very serious matter and should be used to deal with long-term issues of great importance, such as the

prohibition of racial discrimination, criminal conduct, and so on. That the Government treats legislation as a one-off, disposable tool is total disrespect for the spirit of legislation. If the Government encounters the same problem next year, will it resort to legislation again to resolve the problem? This question has been asked to *ad nauseam* by many Members. I hope the Secretary can answer this question in his response later on." Madam President, the Secretary did not answer this question last year. But, we shall know his answer today.

I disagree with the Government's approach of implementing the pay reduction by way of legislation, instead of making the decision on basis of an established mechanism. Madam President, this will lead to another segment of my speech of last year, "In the final analysis, the disputes over the civil service pay can be attributed to the failure of the existing pay adjustment mechanism to keep pace with the times and so, the results of the Pay Trend Survey cannot catch up with the actual situation in the market, and a performance-based pay adjustment mechanism is also lacking. Therefore, the Government should start by reforming the existing mechanism." Madam President, we shall not have the new mechanism in place until 2005. I am extremely disappointed with this. If the Government did not waste its energy in the legislative arguments last year, we may have the new mechanism in place at an earlier date.

In this connection, Madam President, for the various reasons of principle mentioned earlier, I oppose the resumed Second Reading of the Bill.

Thank you, Madam President.

**DR ERIC LI** (in Cantonese): Madam President, I also wish to say a few words because, when we held this debate last year or debates on a similar subject, I spent quite a long time on delivering a speech. Now, when I first came across this subject, I felt that it was not easy to make a voting decision. Therefore, just as what many other Honourable colleagues had done, I went back to check and review the remarks I made last year, and read them all over once in great detail.

As I read the first sentence I said in my speech then, I found that I had not just said it to Secretary Joseph WONG, but also to the Chief Executive, and this had also been openly declared, "For this legislative exercise, in which we enact a one-off legislation in support of the pay reduction of the civil servants, there

should never be another similar instance." This was what I said at that time. My speech had also taken into consideration such factors as the social harmony of the time, whether a consensus had been reached with the civil servants, and so on. Many Honourable colleagues have also mentioned this point. I agree that the Bill would cause less controversy in some measure, and that our economy is slightly better now, but this does not mean that I shall agree to this approach of implementing the pay reduction by way of legislation.

Ever since the sudden announcement by the Government on this "zero-three-three" proposal, insofar as I can remember, I have not supported it, nor have I indicated my acceptance of it. All along, I have indicated that I do not accept it. I think, at a time of severe fiscal deficit, given the mild rate and strength of the reduction, it will only heighten the pressure for raising taxes for other taxpayers; and it will also lead to a cut in certain significant services due to the excessive pressure on them. What makes me worry most is: we are just prolonging our contradiction with civil servants, instead of solving the problem. This is because in future we still have to face the introduction of some sort of a mechanism that allows both upward and downward adjustments, as well as a one-off reduction.

As to the relevant consultations, I am also very disappointed because they will not bear fruit until two or three years later. This is much slower than what we have expected and demanded. I hope the Government and the civil servants would not be carried away (as Mr NG Leung-sing said in his speech on the first debate) by that victory achieved through co-operation. We are just stalling the problem. I also hope that the civil service unions will not perceive the attitude of the Government as a sign of weakness. Society still needs to have a practical outcome.

If I regard the "zero-three-three" proposal only as the final outcome, I must be under great temptations to say that I must oppose this proposal because it will bring about some consequences which I do not want to see. However, as I went over the remarks I made last year, as well as those made by Miss Margaret NG and Ms Audrey EU, I found that I had said (I have reminded myself many times) that this pay reduction would only lead to administrative disputes between the Government and civil servants who were the employer and the employees, and that the Legislative Council was absolutely not in a position to arbitrate in such disputes. Maybe some people will think that the outcome is right and good, whereas some other people may think that the outcome is bad.

Today, I heard many Honourable colleagues say in their speeches to the effect that "As this will bring about a good outcome, so I support it." However, I wish to sing an opposite tune. I feel that the outcome is not good, and I certainly find the rate and strength of reduction (as required by the "zero-three-three" proposal) too weak. Yet I really wish to state in my speech that I do not wish to use this reason to justify my objection, and this reason is neither my major reason for opposing the Bill. On the contrary, if the Legislative Council were made to act as the legislative arbitrator who would make use of an incorrect mechanism to make a decision on this matter through an incorrect process (as mentioned by Miss Margaret NG), I will oppose it.

Last year I said, "If, in future, instead of seeing the enactment of legislation for an immediately available mechanism allowing both upward and downward adjustment, we had to enact legislation again for another one-off pay-cut exercise, I would surely vote against it." Therefore, I shall vote against it today. If the Government tables this again to the Legislative Council next year, I shall continue voting against it. Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for the Civil Service to reply.

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): Madam President, I would like to extend my gratitude to the Chairman, Mr TAM Yiu-chung, and members of the Bills Committee for the valuable advice they have tendered on the Public Officers Pay Adjustments (2004/2005) Bill (the Bill). In the light of the comments of the Bills Committee, I shall propose a number of technical amendments to the Bill at the Committee stage. I also extend my gratitude to the Members who have spoken in support of the Bill.

The Bill seeks to implement the decision made by the Chief Executive in Council this February to restore the pay pertaining to each pay point on the civil

service pay scales to the level it was at, in dollar terms, on 30 June 1997. The pay pertaining to each pay point below Directorate Pay Scale Point 3 (D3) or equivalent will be restored to the level it was at on 30 June 1997 by two adjustments of broadly the same amount to be implemented from 1 January 2004 and 1 January 2005 respectively. The pay pertaining to each pay point at D3 and above or equivalent will be restored to the level it was at on 30 June 1997 from 1 January 2004.

In making the above pay reduction decision, the Chief Executive in Council had taken careful account of all relevant factors under the prevailing civil service pay adjustment mechanism, including the state of the economy, changes in the cost of living and budgetary considerations of the Government. The decision also reflects the consensus proposal that I had reached with staff representatives in February this year on the timing and magnitude of further adjustments to civil service pay following the pay reduction implemented from 1 October 2002.

The Bill now under examination caters specifically for the civil service pay reductions that are to take effect from 1 January 2004 and 1 January 2005 respectively. It does not itself authorize any adjustment to be made after 1 January 2005 to the pay or the amount of an allowance payable to a public officer other than the adjustments specified in clauses 4 to 13 of the Bill. Nor does it have the effect of changing the present arrangements for implementing future adjustments according to other arrangements to the pay or the amount of allowances payable to public officers. This policy intention is reflected in clauses 14 and 15 of the Bill and will be further underlined by the amendments which I shall propose to these two clauses at the Committee stage.

I agree that in the long term, instead of seeking the enactment of legislation on each occasion of a decision to reduce civil service pay, the Government should put in place an appropriate mechanism capable of implementing both upward and downward adjustments to civil service pay in future. To this end, in April this year, we embarked on an exercise to develop, in consultation with staff, an improved civil service pay adjustment mechanism for long-term adoption in the Civil Service. One of the key constituent elements of the improved pay adjustment mechanism to be drawn up is an effective means for implementing both upward and downward civil service pay adjustments in future. In this connection, we shall further examine whether such means of

implementation would need to be provided in law and, if so, whether general enabling legislation would be preferable. As indicated in the work plan we announced last month for the development of the improved pay adjustment mechanism, we aim to complete the preparation of any necessary legislation for implementing both upward and downward civil service pay adjustments for consultation within the Civil Service in the fourth quarter of 2004 and to introduce any such necessary draft legislation into the Legislative Council in the second quarter of 2005.

Some Members raised that since the Administration has already reached a consensus with staff-side representatives on the pay reductions in 2004 and 2005, the need to implement the pay reductions by way of legislation should have subsided. Mr TAM Yiu-chung has just quoted in details the Administration's explanation and position given at the Bills Committee. In simple terms, we are of the view that it is both necessary and appropriate to seek the enactment of legislation to implement with certainty a justified decision on a civil service pay reduction. For the upcoming civil service pay adjustments in 2004 and 2005, it is our view that notwithstanding the consensus between the Administration and staff representatives and the ruling of the Court of First Instance in favour of the Government in a number of recent judicial review cases on the Public Officers Pay Adjustment Ordinance enacted last year, our legal advice is that legislation is again necessary for implementing with certainty the pay reduction decision.

The Bill provides for the adjustment of pay and the amounts of the allowances payable to civil servants and specified public officers. In identifying the different categories of public officers who should be subject to the pay reductions stipulated in the Bill, we have generally followed the approach adopted for the Public Officers Pay Adjustment Ordinance last year. Specifically, the Bill applies to the following categories of officer: (1) all civil servants who are remunerated on the civil service pay scales and those civil servants who are receiving personal salaries; (2) all civil servants serving in the Hospital Authority (HA) who are remunerated on the HA pay scales; (3) all Independent Commission Against Corruption (ICAC) officers who are remunerated on the ICAC pay scale and those ICAC officers whose pay is determinable or adjustable in accordance with or by reference to the ICAC pay scale or the civil service pay scales; (4) certain public officers who are neither civil servants nor ICAC officers but whose pay is determinable or adjustable in accordance with or by reference to the civil service pay scales or the ICAC pay scale (or the adjustments thereto); and (5) Director of Audit.

The pay reductions to be implemented in 2004 and 2005, as provided for in the Bill, have struck a careful balance between the concerns of civil servants and the overall interest of the community, and are generally supported by both civil servants and the community as large. With the full implementation of the civil service pay reductions specified in the Bill, the full-year annual savings for civil service salary expenses and subsidies to the subvented sector are estimated at \$7 billion. The passage of the Bill will, therefore, contribute towards our efforts in controlling government expenditure, and will in turn help ameliorate our fiscal deficit.

With these remarks, Madam President, I appeal for Members' support for the passage of the Bill.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Public Officers Pay Adjustments (2004/2005) Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Michael MAK rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Michael MAK 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.

Mr Kenneth TING, Dr David CHU, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr NG Leung-sing, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Chin-shek, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr Timothy FOK, Mr TAM Yiu-chung, Ms LI Fung-ying, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr WONG Sing-chi, Mr Frederick FUNG, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the motion.

Ms Cyd HO, Dr Eric LI, Miss Margaret NG, Mr LEUNG Yiu-chung, Mr Michael MAK, Mr Albert CHAN and Ms Audrey EU voted against the motion.

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

THE PRESIDENT announced that there were 47 Members present, 39 were in favour of the motion and seven against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Public Officers Pay Adjustments (2004/2005) Bill.

Council went into Committee.

### **Committee Stage**

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



**PUBLIC OFFICERS PAY ADJUSTMENTS (2004/2005) BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Public Officers Pay Adjustments (2004/2005) Bill.

**CLERK** (in Cantonese): Clauses 1, 2 and 4 to 13.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 3, 14 and 15.

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): Madam Chairman, I move the amendments to clauses 3(1)(b), 14 and 15 as set out in the paper circularized to Members.

Clause 3(1)(b) of the Bill seeks to exclude judges and judicial officers from the scope of application of the legislation. Under clause 3(1)(b)(i)(B), the legislation does not apply to judicial office known as Senior Deputy Registrar, High Court. The post of Registrar, Court of Final Appeal (CFA), which is pitched at the rank of Senior Deputy Registrar, High Court, is covered by clause 3(1)(b)(i)(B). For reasons of clarity, we propose to add clause 3(1)(b)(i)(C) to state specifically that the post of Registrar, CFA is not in the scope of application of the Bill.

Full-time members of the Lands Tribunal are included in Schedule 1 of the Judicial Officers Recommendation Commission Ordinance (JORCO) (Cap. 92), and are thus covered by clause 3(1)(b)(i)(A) of the Bill. The Hong Kong Bar Association (Bar Association) has expressed concern over the JORCO reference to these Members as being in the full-time service of the Government. We have relayed the views of the Bar Association to the Judiciary for consideration. The Judiciary would consult the Chief Justice of the CFA on the appropriate amendments to Schedule 1 of the JORCO. As far as the Bill is concerned, we propose to amend clause 3(1)(b)(ii) to the effect that the Bill does not apply to the pay or allowances of "any other judicial officer appointed by the Chief Executive or by the Chief Justice". After amendment, clause 3(1)(b)(i)(A) will cover full-time members of the Lands Tribunal, and even in case of doubt, these members will still be covered by clause 3(1)(b)(ii). Therefore, it will be made beyond doubt that members of the Lands Tribunal are excluded from the scope of application of the Bill.

Clause 14 seeks to reflect the policy intent of the Administration that, apart from the adjustments specified in the Bill, the Bill does not itself authorize adjustments to the pay or the amounts of allowances payable to public officers after 1 January 2005, and the Bill is not intended to have the effect of changing the present arrangements for implementing future adjustments according to other arrangements to the pay or the amounts of allowances payable to public officers after 1 January 2005. Some staff representatives were concerned that the provisions as presently drafted might authorize the Administration to further reduce the pay level of civil servants after the pay reductions on 1 January 2004 and 1 January 2005. In view of the concern expressed by staff, we propose to add a new subclause (2) to clause 14 to dispel any doubt over authorizing future adjustments. The new clause clearly spells out that "For the avoidance of doubt, this Ordinance does not authorize any adjustment to the pay or the amount of an allowance payable to a public officer other than the adjustments made by sections 4 to 13."

Clause 15 seeks to vary the contracts of employment of public officers so that the contracts expressly authorize the adjustments made by the Bill. Clause 15 makes particular reference to adjustments made by this legislation and the provision does not itself authorize any future adjustments to the pay or the amounts of allowances payable to public officers after 1 January 2005. As regards the adjustments made under clause 11 of the Bill, the provision itself does not authorize the Administration to make any adjustment to the pay or the

amounts of allowances after the abovementioned date. Some staff representatives were concerned that the existing drafting method might authorize the Administration to vary the contracts of civil servants unilaterally, so that the Administration could further reduce the civil service pay after the reductions on 1 January 2004 and 1 January 2005. To address the concern of the staff, we propose to amend clause 15 to read as "The contracts of employment of public officers are varied so as to expressly authorize the adjustments to the pay and the amounts of the allowances made by sections 4 to 13."

With these remarks, Madam Chairman, I urge Members to pass the above amendments.

*Proposed amendments*

**Clause 3 (see Annex)**

**Clause 14 (see Annex)**

**Clause 15 (see Annex)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 3, 14 and 15 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 2 to 5.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 and 6.

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): Madam Chairman, I move the amendments to Schedules 1 and 6 as set out in the paper circularized to Members.

Schedule 1 to the Bill sets out the 11 sets of adjusted civil service pay scales which are to take effect on 1 January 2004 and 1 January 2005 respectively. The existing Directorate Pay Scale (DPS) contains points 9 and 10 at the top, which were previously the respective pay points for the Financial Secretary and the Chief Secretary for Administration. The existing Directorate (Legal) Pay Scale (DLS) contains points 7 at the top, which was previously the pay point for the Secretary for Justice. We have not included these three pay points in the DPS and the DLS set out in Schedule 1 to the Bill since no serving civil servants are remunerated at these pay points following the deletion of the relevant civil service posts offset by the creation of Principal Official posts in July 2002 with the implementation of the Accountability System. Despite the deletion of the relevant civil service posts, the three pay points are retained on the DPS and the DLS. For the sake of completeness, we propose that these three pay points be added back to the DPS and the DLS in Schedule 1 to the Bill.

Schedule 6 to the Bill sets out the adjustment percentages for individual salary bands appropriate to a public officer whose pay or the amounts of allowance are adjustable in accordance with or by reference to the adjustments made in respect of the civil service pay scales or the pay scale of the Independent Commission Against Corruption. The adjustment rates under item 4 of both Part 1 and Part 2 of the Schedule are intended to apply to officers whose pay is below D3 or equivalent, that is, with a monthly salary currently below \$128,365, while the adjustment rates under item 5 of the Schedule are intended to apply to officers whose pay is at D3 and above or equivalent, that is, with a monthly salary currently at \$128,365 or above. To reflect accurately the policy intent, we propose that the first column of item 4 in both Part 1 and Part 2 of Schedule 6 be amended to read as: Monthly salary on 31 December 2003 is above \$93,025 but below \$128,365; while the first column of item 5 in both Part 1 and Part 2 of Schedule 6 be amended to read as: Monthly salary on 31 December 2003 is \$128,365 or above.

With these remarks, Madam Chairman, I urge Members to pass the above amendments.

#### *Proposed amendments*

#### **Schedule 1 (see Annex)**

#### **Schedule 6 (see Annex)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 and 6 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bills**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

### **PUBLIC OFFICERS PAY ADJUSTMENTS (2004/2005) BILL**

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

Public Officers Pay Adjustments (2004/2005) Bill

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Public Officers Pay Adjustments (2004/2005) Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Michael MAK rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Michael MAK 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.

Mr Kenneth TING, Dr David CHU, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Chin-shek, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Ms LI Fung-ying, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr WONG Sing-chi, Mr Frederick FUNG, Mr IP Kwok-him, Mr LAU Ping-cheung and Mr MA Fung-kwok voted for the motion.

Ms Cyd HO, Dr Eric LI, Miss Margaret NG, Mr LEUNG Yiu-chung, Mr Michael MAK, Mr Albert CHAN and Ms Audrey EU voted against the motion.

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

THE PRESIDENT announced that there were 46 Members present, 38 were in favour of the motion and seven against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Public Officers Pay Adjustments (2004/2005) Bill.



**MEMBERS' BILLS****First Reading of Members' Bills**

**PRESIDENT** (in Cantonese): Members' Bill: First Reading.

**LING LIANG WORLD-WIDE EVANGELISTIC MISSION  
INCORPORATION (AMENDMENT) BILL 2003**

**CLERK** (in Cantonese): Ling Liang World-Wide Evangelistic Mission Incorporation (Amendment) Bill 2003.

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

**Second Reading of Members' Bills**

**PRESIDENT** (in Cantonese): Members' Bill: Second Reading.

**LING LIANG WORLD-WIDE EVANGELISTIC MISSION  
INCORPORATION (AMENDMENT) BILL 2003**

**MR KENNETH TING** (in Cantonese): Madam President, I move that the Ling Liang World-Wide Evangelistic Mission Incorporation (Amendment) Bill 2003 (the Bill) be read the Second time.

Ling Liang is one of the churches with the longest presence in Hong Kong, and it has been serving the local community for more than 50 years as a charitable organization. Besides owning three churches and having 6 000 registered members, Ling Liang also sponsors four kindergartens, two primary schools and two secondary schools, all enjoying very high reputation.

Under Chapter 1079 of the Laws of Hong Kong, enacted in 1955, the President in Hong Kong of Ling Liang World-Wide Evangelistic Mission shall be a corporation sole. The Bill tabled before this Council today seeks to amend the Ordinance enacted in 1955, so that the President in Hong Kong of the Ling

Liang World-Wide Evangelistic Mission as a corporation sole will be replaced by The Council of the Ling Liang World-Wide Evangelistic Mission Hong Kong Ling Liang Church to be incorporated. The Bill also seeks to update the terms of governance of Ling Liang.

I implore Members to pass the Bill, so that the governance and accountability of this charitable organization can be upgraded.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Ling Liang World-Wide Evangelistic Mission Incorporation (Amendment) Bill 2003 be read the Second time.

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee on the speaking time of Members. As Members should be very familiar with the speaking time, I only wish to point out that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Repercussions of the Severe Acute Respiratory Syndrome on employees compensation insurance.

## **REPERCUSSIONS OF THE SEVERE ACUTE RESPIRATORY SYNDROME ON EMPLOYEES COMPENSATION INSURANCE**

**MR BERNARD CHAN:** Madam President, I move that the motion as printed on the Agenda be passed.

The SARS outbreak earlier this year forced many of us in Hong Kong to change the way we think. As a result, the Government is making the streets cleaner, our public health officials have upgraded their procedures, and people are more conscious about the whole issue of hygiene.

The insurance industry is no exception. We are having to revise the way we estimate the risks associated with diseases like SARS. As a result, there is a danger that some employers in Hong Kong may find it harder to obtain employees compensation insurance, or they will find it becoming much more expensive. Hospitals, clinics and elderly homes are most likely to be affected.

My motion is simply designed to alert the Government to this problem, and urge the Government to study the issue, identify any potential problems, and consider whether contingency plans are necessary.

I would like to give Members a little background to the situation.

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

As many Members probably know, there are basically two types of general insurance companies: The direct insurance companies which the public deals with, and the reinsurance companies which provide coverage to the direct insurers. In other words, the direct insurers take out their own insurance. This is partly a matter of simple prudence, and it is also required by the industry regulators to ensure that direct insurers are financially secure.

Members with car or house insurance are probably familiar with the system whereby a sum, such as a thousand dollars, is deducted when they make a claim. The same applies when the direct insurers make a claim from a reinsurer.

In the case of employees compensation, this deductible could be, for example, \$3 million. So, if there is an accident in the workplace, the insurance company bears the first \$3 million, and the reinsurer picks up the rest.

Most individual claims are less than \$3 million, but in the case of a whole group of workers being hurt in a big accident, it can go well above that much. So, in practice, reinsurance covers big and serious accidents.

Reinsurers are, of course, prudently managed commercial enterprises. Like direct insurers, they have to manage their own exposure to risk.

Following the SARS outbreak, major reinsurers around the world looked at new measures to limit their exposure to risks related to infectious diseases. Their view is that the risks related to such diseases — especially perhaps an airborne disease which spreads easily — are unquantifiable. In this respect, it is like terrorism, and terrorism is excluded from this sort of insurance coverage — the Government would have to step in.

Now, we do not consider terrorism very likely here in Hong Kong, but we cannot say the same thing about disease. We have already had SARS. We know that infectious disease is a credible threat.

As a result, the reinsurance companies have changed their approach to employees compensation insurance. From 1 January next year, they will treat each victim of an infectious disease caught in a workplace as a separate "event". In other words, the deductible — the \$3 million I mentioned — would apply to each victim.

So, in just over two weeks' time, the direct insurers will be facing a very different level of risk. If there are four victims of infectious disease in a workplace, the deductible of \$3 million will become a deductible of \$12 million.

Obviously, this problem is not unique to Hong Kong, but insurance companies here do feel more exposed. In Singapore, the system encourages workers to claim statutory compensation at fixed levels, so it is easier to quantify risk. Here in Hong Kong, the system encourages common law claims which can be very high and very unpredictable.

It is still hard to predict exactly what will happen, but there are several ways the direct insurers could respond.

In some cases, they might find that the increase in risk exceeds the levels they are allowed to carry by the insurance regulator. They would have no choice but to turn away some of their existing employees compensation customers.

Some direct insurers might choose voluntarily to reduce the employees compensation business they do, simply for reasons of prudence.

Direct insurers who continue selling employees compensation insurance might want to buy extra reinsurance to reduce the deductible. Assuming reinsurers will offer them such protection, the extra costs of this will ultimately be passed on to the employers.

Direct insurers might also become more selective about which business to take on. They might decide not to offer coverage to particular classes of employers, such as private hospitals, clinics, or elderly homes. Or they might offer the coverage — but at a much higher price.

I want to make it totally clear to all my colleagues — including the Honourable Andrew CHENG and the Honourable LAU Chin-shek — that the working men and women of Hong Kong have nothing to fear from this. It is a problem for the insurance companies and the employers.

Some employers, however, may be quite seriously affected. Some might find that their usual insurers refuse to offer employees compensation coverage, or only at a higher price. We cannot rule out the possibility that some, such as employers of medical workers, will find it difficult to obtain coverage.

It is quite possible that some insurance companies might exercise their rights to cancel policies in mid-term — typically they need to give seven days' notice. So, some employers might find that they need to look around quickly to find a new insurer at the beginning of 2004.

We cannot totally rule out a scenario in which one or more direct insurers are forced into liquidation if they receive a sudden surge in claims with these high deductibles. In this event, the Employees Compensation Insurer Insolvency Bureau would step in. The Bureau's costs would ultimately be reflected in the price of insurance policies to consumers.

It is not my intention to spread alarm. It could well be that the industry and its customers will find ways to adjust to these new circumstances over the next few weeks.

However, SARS has changed things for many of us. I urge the Government to explore the possible impact of infectious diseases on employees

compensation insurance, consider the worst-case scenarios, and examine whether contingency plans are necessary.

Madam Deputy, I beg to move.

**Mr Bernard CHAN moved the following motion:**

"That this Council urges the Government to review the possible repercussions of infectious diseases, such as the Severe Acute Respiratory Syndrome, transmitted in the workplace on the employees compensation insurance market, including the affordability of such insurance in the community and other issues potentially affecting stakeholders."

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

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

**DEPUTY PRESIDENT** (in Cantonese): I now call upon Mr Andrew CHENG to speak first, to be followed by Mr LAU Chin-shek; but no amendments are to be moved at this stage.

**MR ANDREW CHENG** (in Cantonese): Madam Deputy, although the epidemic of Severe Acute Respiratory Syndrome (SARS) has been over for almost half a year, a lot of repercussions are gradually surfacing. As the original motion points out, infectious diseases may have repercussions on the employees compensation insurance market, and one of the repercussions is that insurance companies cease to offer insurance coverage in this respect as the risk exposure has increased substantially.

During the SARS epidemic, six front-line staff of the Hospital Authority (HA) unfortunately passed away and 380 other workers were infected. Since then, hospital staff have become a high-risk group. There was once hearsay that the HA was unable to find any insurance company willing to continue providing employees compensation insurance cover to more than 50 000 staff of public hospitals. According to reports in the mass media, the HA had invited seven insurance companies to bid for the policy. However, since the worries of insurance companies have increased after the SARS epidemic, most of them found it difficult to calculate the premium as the exposure was too great. They thus gave up bidding. Finally, although the HA managed to find an insurance company, the conditions are very harsh, clearly stating that injuries or death caused by SARS would not be compensated.

Another repercussion brought by SARS is that the premium payable has been raised by an enormous margin. Take the HA as an example, although it managed finally to find an insurer to take up the insurance, it was forced to pay very high premium. It has to pay a cost three times of that in the old contract in order to have the HA employees covered. The substantial increase in premium has undoubtedly added more burden to the otherwise tight financial position of public hospitals.

Madam Deputy, more important still, the insurance company has clearly stated that SARS or other infectious diseases are not covered. If there are any claims, the financial burden will fall on the Government, with the amount of compensation being paid by taxpayers. During the past SARS epidemic, the statutory compensation for six health care workers who passed away has already reached a few million dollars, without factoring into calculation the amount of compensation to those staff who are chronically affected due to illnesses. Besides, we see that the Administration has to set up a number of funds to comfort and compensate the infected persons or families bereaved during the epidemic. Once a similar unfortunate incident reoccurs, given the budget deficit, how much can the Government still afford to pay?

To many other workplaces possibly subject to the threat of infectious diseases, such as homes for the elderly, it is believed that they also face the same plight of greatly increased premium and more stringent insurance terms. However, even if the insurance companies do not cover infectious diseases, the HA can still use public funds to make compensations to staff for injuries or

deaths due to infectious diseases. But can the private institutions do? I am not so optimistic about private institutions being prepared to make compensations to their staff. Even if these institutions are willing to make compensations, they may not have sufficient financial ability.

Under the circumstances, the original motion proposes to review the possible repercussions of infectious diseases transmitted in the workplace on the employees compensation insurance market, including the affordability of such insurance in the community. The Democratic Party supports that. However, the Democratic Party also worries that while the insurance market is unwilling to provide the insurance service concerned and the responsibility of the community has increased, a sacrifice of the existing protection currently enjoyed by the employees may become a proposal at any time. Therefore, the Democratic Party has decided that I should move an amendment, the purpose and premise of which is to ensure that the protection of employees will not be reduced.

According to the Employees' Compensation Ordinance (the Ordinance), Chapter 282 of the Laws of Hong Kong, if an employee sustains injury or passes away in an accident during and in the course of employment, or the employee has contracted any occupational disease specified in the Ordinance, the employer has to shoulder the compensation responsibility as prescribed in the Ordinance. If it is proved that the employee caught the illness in an accident during and in the course of employment, even if the disease is not one of those occupational diseases specified in the Ordinance, the employee may still be compensated according to the Ordinance. Besides, section 40 of the Ordinance provides that all employers have to take out employees compensation insurance for the employees, including full-time or part-time employees, for any injuries that they sustain in the course of work, so as to shoulder their legal obligation under the Ordinance and common law.

Madam Deputy, this is an important defence set by the existing legislation for the 3 million-odd workers in Hong Kong. No matter what, we must ensure that this defence is fully safeguarded.

If no insurance company is willing to cover compensation due to infectious diseases, I believe the Government should consider assuming the responsibility, as the psychological pressure sustained by front-line staff is enormous. The wage level of some basic-level workers, such as assistants in homes for the



elderly, is already not high, so if there is no insurance cover, I believe they will have more worries.

Madam Deputy, facing problems like difficulties in taking out employees compensation insurance cover for infectious diseases and the increase in premium, there are actually a lot of ways out. In the review in 2000, the insurance industry suggested a lot of improvement measures which also merit consideration. Reduction in the cost of insurance is an option, while increased safety in workplace is another important option.

The premium of employees compensation insurance is determined mainly by such factors as the risk level of work category, the number of employees, the scale of the company, management level, past record of claims, and so on. All along, it is rather difficult to take out employees compensation insurance for more dangerous types of work, and the premium concerned will also be higher. Work related to SARS is only one of the examples.

If there are better risk management facilities in workplaces more susceptible to infectious diseases, including hospitals and some residential institutions, I believe the insurance industry will not turn away the business. Take SARS as an example, even though there is no treatment protocol which is absolutely foolproof, quite a lot of insurance companies still introduce some insurance schemes for individuals concerning SARS. It has been reported that quite a lot of employees and health care workers have taken out personal policies covering SARS and they have not been rejected.

Madam Deputy, in order to enhance risk management, employers, employees and insurance companies have their respective responsibilities to shoulder. While insurance companies can provide professional advice, employees should enhance their safety awareness. On the part of the employers, they should improve the safety standard of the working environment, and provide sufficient safety facilities. Not only can this protect the health of employees, but also reduce the risk level. When the insurance companies find it easier to calculate the premium, they will offer various options.

Madam Deputy, the amendment of Mr LAU Chin-shek proposes establishing a central employees compensation scheme to integrate different kinds of work presently scattered among various insurance companies, like

offering employees compensation insurance, management, collecting premium, paying out compensations, and so on, under the centralized fund management institution. This proposal was actually mentioned in a motion moved by Mr LEE Cheuk-yan in 1997. Back then, the Democratic Party already voiced support for this motion. Today, the position of the Democratic Party has not changed and we support Mr LAU Chin-shek's amendment. We also agree that the fragmented insurance system presently adopted in Hong Kong should be changed to a collective community protection system. While this can ensure that cases like no insurance company is willing to provide coverage will not occur, it can also reduce administrative costs and increase cost-effectiveness.

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

**MR LAU CHIN-SHEK** (in Cantonese): Madam Deputy, we often hear familiar slogans in the advertisements of insurance companies such as "Today's Challenge, Tomorrow's Success", "Dedicated Service, Total Protection", "Professionalism for Life", and so on. Some people think that it is sheer folly to take out an insurance policy while others would just want to have peace of mind in doing so. Regardless of how we think about insurance services, it is indisputable that insurance business in the private sector is after all business and when people do business, they want to make profits. No one will want to do business at a loss. That is why when the insurance companies say in the advertisement there will be 24-hour total protection worldwide by your side to enable you to have peace of mind, they are talking about insurance services that make money. What we often see is the other side of the reality, that is, when you need it most, it will just leave you. To put this in professional jargons, as a commercial institution, the insurer is not obliged to undertake risks of compensation beyond its capacity. An example of this is found in the motion today.

As Mr Bernard CHAN has pointed out, the SARS epidemic which broke out at the beginning of this year has not only seriously affected the local economy and the daily life of the people, but also caused acute, urgent and far-reaching impact on the employees compensation insurance market. The sudden onslaught of the SARS epidemic has made the insurance sector aware that infectious diseases can spread on a massive scale and huge risks are involved. The medical and health care sector is a high-risk sector. To lower the risk

exposure, reinsurance companies plan to alter the terms and conditions of the insurance policies so as to restrict their risk exposure. This has greatly increased the compensation liabilities of local insurance companies. Worse still, the reinsurance companies may not be willing to provide additional protection to such high-risk sectors as private medical and health care institutions. The worst scenario is these institutions may not be able to take out employees compensation insurance policies.

Madam Deputy, SARS is mainly spread through air-borne droplets and its consequences can be so serious. If there are new infectious diseases which are air-borne, the situation will be even more critical and its impact on the employees compensation insurance market will be even greater. No wonder the insurance sector has described the situation as likely to be an unfathomable abyss.

Madam Deputy, I realize the difficulties faced by the insurance sector, especially in view of the fact that the reinsurance institutions are unwilling to offer additional protection and that it is impossible to assess the compensation exposure caused by infectious diseases, and so insurance companies are unable to take any effective risk management measures. I agree that this is not only a problem faced by the insurance sector alone, but it is one which all quarters such as the Government, the labour sector, other relevant sectors and the insurance sector should all come together for discussions on a solution. However, I would like to state at the outset that any attempt to take away diseases infected in the course of employment from the scope of statutory protection or to prescribe any ceiling for common law compensations for injuries will be outside the scope of my discussion. I hope that when the Government makes a response later, it can draw a clear line on this.

Some people from the insurance sector propose that the Government may make similar arrangements in relation to reinsurance to those taken in the wake of the September 11 attack for airlines and the Airport Authority and undertake to pay the employees compensation for people who have contracted SARS or other infectious diseases in the course of their employment. I consider this idea undesirable. Madam Deputy, I have no intention to prevent other people from making money, nor do I want to dismiss the contribution made by the insurance sector because it is a money-making business, but if the sector accuses the Government of trying to vie for profits when the Government wishes to step in when business is good and urges the Government to do something when there is

no profit or when the risk exposure is great, then I would think that it is a totally unacceptable attitude to take.

If the insurance sector thinks that employees compensation insurance is unattractive and the Government is under constant pressure of underwriting compensations, then I think that the authorities should give serious thoughts to the setting up of a central employees compensation scheme. In simple terms, this scheme seeks to embrace the work involved in the administration of employees compensation insurance policies, collection of the insurance premiums, and the disbursement of compensation, and so on, from the many scattered private insurance companies as it is presently the case, to a centralized and statutory fund management institution. As early as 10 years ago, I already moved a motion in the former Legislative Council to urge the Government to set up such a scheme. Now we can see that such a centralized insurance scheme can really offer total protection and it will always be on the side of the insured. There will not be the case where the risk is considered too high and no one wishes to be the insurer. As for other merits pointed out by the labour sector, such as assurance that all employers will take out such policies, effective assessment of the safety records and risks found in the sectors and institutions, reduced administrative costs and faster processing of claims, and so on, I do not plan to discuss them in detail today. I hope they can be followed up in future.

Madam Deputy, I would like to share with Members a speech made by a Member 10 years ago on a central compensation scheme for employees. He said, "The insurance industry claims that the service does not generate profit; employees complain about the long waiting time before they can receive compensation and delays due to various reasons, and employers like us are not happy with the insurance companies' reaping huge profit. As complaints are rife, I hope the Administration would not prevaricate this time. Instead, it should make a determined endeavour to examine whether a central employees' compensation fund is a viable mechanism which deserves consideration."

The above remarks were made by Mr Henry TANG who is now the incumbent Financial Secretary.

Madam Deputy, 10 years down the line and no progress has been made by the Government on the setting up of a central employees compensation scheme. I suspect if, after Mr Henry TANG has assumed office as the Financial Secretary, there would be any breakthrough in that matter. But for members of the labour

sector, this is like talking to a wall and no one is listening. May I quote again from an advertising slogan from an insurance company, I hope the Government can really listen to our voices and that it is "always listening, always understanding". I so submit.

**MS LI FUNG-YING** (in Cantonese): Madam Deputy, the livelihood of the grass-roots wage earners in Hong Kong will become unprotected once they lost their jobs. Their situation will become even worse if they lose their working ability. While it is impossible for us to guarantee our lives to be immune to adversities and unexpected disasters, we have to minimize the possibility of such disasters happening as best as we possibly can. A safe and healthy working environment is thus crucial to wage earners. Those wage earners who are so unfortunate to have been struck by unexpected disasters can rely only on employees compensation insurance.

Yet, for the unfortunate wage earners, such reliance might no longer be reliable. The problem can be attributed to a host of factors. Although the law has made it mandatory for employers to purchase accident insurance for their employees, insurance business is operated by private insurance companies. In the first nine months of last year alone, the premiums for employees compensation insurance business recorded a stunning rise of 33%. Apart from tightening risk management, insurance companies have even given increased consideration to the safety of the employees' workplace. With the rise in premium, some employers resist taking out insurance for their employees. Even if some are willing to buy insurance, some high-risk industries still face difficulty in securing cover from insurance companies.

However, insurance companies also consider the employees compensation insurance business unattractive, emphasizing that great losses have been recorded annually in employees compensation insurance for the past several years. At present, the operation of the employees compensation insurance has failed to please any of the three parties involved: employees are unprotected; employers resist purchasing insurance or are unable to do so; even insurance companies claim their employees compensation insurance business records losses every year.

Madam Deputy, following the September 11 incident, the outbreak of the infectious SARS has dealt another blow to the insurance industry. Lacking an

in-depth knowledge of the industry, I have no idea how the risk of an outbreak of such infectious diseases as SARS and the exposure of the market should be evaluated in determining the amounts of premium. What I care about is the vocational safety and health protection of employees, because it is unacceptable that employees should be made to bear the risks in their workplace. When the market fails to resolve the various problems encountered by employees in relation to insurance, the Government will be obliged to bear the responsibility of doing so.

Since the early '90s, the Federation of Hong Kong and Kowloon Labour Unions, to which I belong, has repeatedly called upon the Government to set up a Central Employees Insurance Council to co-ordinate the handling of labour accident insurance and compensation matters. A number of industrial accident compensation funds operating in Hong Kong at the moment were established pursuant to the Employees' Compensation Ordinance through private insurance companies by imposing insurance surcharges on employers in a mandatory manner. These funds include the Employees' Compensation Assistance Fund, the Occupational Safety and Health Council, the Occupational Deafness Compensation Fund, and so on. Although the law mandates that employers must take out accident insurance for their employees, the insurance business is operated by private insurance companies. Since these companies are privately run, the costs incurred cover profits, commission, administrative fees, and so on. As a result, their operating costs will definitely be extremely heavy, and this in turn leads to a rise in premiums and resistance of employers, making it difficult for the funds to develop. According to the studies conducted by some academics, the operating costs of private insurance companies account for up to 65% of the amounts of premium. A number of countries have seen their operating costs dropped to 10% after switching their private systems to central operation. For these reasons, we believe the establishment of a Central Employees Insurance Council can, after taking up the role played by private insurance companies in offering employees' accident insurance, save costs and enhance the effectiveness of the funds.

Madam Deputy, it is disappointing that even in a document presented to this Council in the middle of this year, the Government still stated that there were no justifications for introducing fundamental changes to the private insurance system and replacing private operation with a central employees' compensation mechanism. Here I would like to advise the Government that prudent consideration is essential. This is because in the September to October 2003

edition of a financial accounting monthly journal published in Britain, it was reported that a recent survey conducted by the Federation of Small Businesses involving more than 1 000 employers of small enterprises had revealed that 20% of the employers had been forced to lay off their staff or freeze their recruitment exercises. And the British Government was thus called upon to address this crisis by offering timely assistance. We are now faced with a similar crisis too. The Hong Kong Medical Association, private hospitals and clinics, and such institutions as the Hong Kong Association of the Private Homes for the Elderly have all expressed the worry that the insurance industry can no longer provide the health care sector with workmen's compensation insurance and they will ultimately be forced to wind up their business owing to their failure to purchase the insurance. Worse still, some employers have, for the sake of evading their commitment and legal liability of purchasing insurance for their employees, even resorted to the most common method of altering employment relations by demanding wage earners to work as self-employed persons. Finding it virtually impossible to afford the workmen's compensation insurance or bear the exorbitant premiums, the self-employed persons will ultimately be forced to do without insurance cover. At the end of the day, the community will have to bear the risk.

Madam Deputy, I believe the Government can no longer justify its refusal to reform the existing private insurance system and examine the replacement of private operation by a central employees' compensatory mechanism.

With these remarks, I support the amendment.

**DR LO WING-LOK** (in Cantonese): Madam Deputy, the Hong Kong Federation of Insurers (HKFI) has made a sudden announcement that, starting from 1 January 2004, employees compensation insurance for the health care profession would be limited because of the incalculable risk arising out of SARS.

Prior to the announcement, the HKFI has not consulted the health care profession at all. I feel most sorry about the unilateral action taken by the HKFI.

In the face of a substantial rise in premiums, even to an unaffordable level, medical institutions in Hong Kong will eventually be forced to cease operation should they fail to fulfil their statutory liability under the Employees'

Compensation Ordinance. Of those being affected, private medical institutions, including private hospitals, private clinics, and even private elderly homes, are the hardest hit.

The unilateral action taken by the insurance industry is going to produce a profound impact, and all public or private medical institutions will eventually be affected. The Government, being committed to public medical services, is obliged to provide relevant protection for the employees of public medical institutions. In comparison, private medical institutions, without government backing, will have to face the difficulty immediately.

In retrospect, during the outbreak of SARS, all the staff of public and private medical institutions managed to stand firm in their posts and provided medical service for every member of the community, regardless of their own safety. The people of Hong Kong are still delighted and honoured to see that not a single health care worker has so far "deserted". After the SARS outbreak, the insurance industry has, however, attempted to take unilateral action to stop providing coverage to health care workers. Such an act is entirely immoral and dishonourable. The industry can literally be called an "insurance deserter".

These businessmen often stress the importance of maintaining a good business environment. Now I am telling these people that, without the efforts of health care workers, medical institutions and members of the general community, it is simply impossible for Hong Kong to restore its business environment back to its present state. Now these people have even gone so far as to discriminate against health care workers and medical institutions by making insurance terms harsher. They are practically "acting against" the people of Hong Kong and the business environment.

Businessmen also often stress the desirability of maintaining "a big market and small government". The insurance sector, however, has been actually preaching one thing and doing another. The consequence of making things difficult for medical institutions in seeking coverage is destroying the private medical market, thus obliging the Government to assume responsibility for all medical services eventually. At the end of the day, the Government will have to bear employees' compensation insurance for all practitioners of medical institutions.

May I hence ask this question: Is the insurance sector prepared to "desert" whenever there is any smell of risk in service industries? Is it the wish of the



insurance sector to turn all services in Hong Kong, from medical and transport to insurance, into a public business? What will Hong Kong become should that happen? What will become of the business environment in Hong Kong?

Actually, the call on the insurance industry to provide employees compensation insurance to private medical institutions is not trying to make life difficult for the industry. Neither are the risks difficult to assess. The Hospital Authority and the Government have already made arrangements for the employees of public medical institutions. The industry is required merely to provide insurance service to 12 private hospitals, private clinics and private elderly homes.

According to the relevant information, of the 378 medical workers infected during the SARS outbreak, most were employees of public medical institutions, with only 26 being employees of private medical institutions, including 23 private hospital employees and three private medical practitioners. The number of health care workers in the private sector infected by SARS was far lower than that of public medical institutions. Furthermore, the experience gained from the SARS outbreak this year has turned all health care workers from completely ignorant at the start to very experienced now. Their vigilance against a resurgence of SARS can even be described as the most stringent in the world.

Hundreds of millions of public money have been spent on the conversion of isolated wards in public hospitals alone. Upon the completion of the construction projects, the entire medical system will have more than 1 400 isolated beds compatible with the world standard. In comparison, in Japan, where there is a population of 100 million, additional isolated beds were also provided after the SARS outbreak. To date, however, only 1 200 isolated beds compatible with the world standard are available throughout the entire nation.

On the face of it, a lot of regions have done much better than Hong Kong in handling SARS. Behind their outstanding performance, however, we can find that they have been alerted by Hong Kong and benefited from Hong Kong's experience and research results. For this reason, Hong Kong is indeed by far the most authoritative in the world when it comes to discussion on SARS. It can thus be seen that the risks of the medical staff in Hong Kong in contracting SARS will definitely not be higher than their counterparts in other advanced regions. By the same token, the anti-SARS measures adopted in Hong Kong can be

equally effective in applying to other infectious diseases. Therefore, the risks of medical personnel in Hong Kong in contracting other infectious disease will not be higher than their counterparts in any other advanced regions.

In my opinion, the local and the international insurance industries are tantamount to repaying kindness with ingratitude by subjecting health care workers in Hong Kong to discriminatory terms. Should justice still prevail in this world, the insurance treatment received by Hong Kong should not be worse than that in other most advanced and developed regions.

In order to rectify such an unreasonable phenomenon of injustice, the insurance industry should expeditiously negotiate with medical institutions and the medical sector to learn more of the contribution made by Hong Kong in preventing and treating infectious diseases and the various measures introduced by the territory after experiencing SARS. The Government is also obliged to provide data relevant to the SARS situation and explain measures adopted for the purpose of preventing and treating SARS and protecting health care workers. Madam Deputy, to enable the insurance sector to make correct risk assessments, the Government has to, in terms of policy implementation, reaffirm the importance of private medical institutions while coping with the development of the private medical sector, with a view to enabling the people of Hong Kong to continue enjoying proper medical services compatible with the world standard.

Madam Deputy, I so submit.

**MR LEUNG FU-WAH** (in Cantonese): Madam Deputy, the repercussions of SARS on employees compensation insurance, a topic raised by Mr Bernard CHAN today, does warrant the attention of the SAR Government, Members who are now sitting in this Chamber and various sectors of the community. To start with, I have to make it clear that I support the original motion proposed by Mr CHAN as well as the two amendments because the motions proposed by three Members are all conducive to promoting the development of the employees compensation mechanism. However, I take exception to the operation of the local insurance business. It is extremely regrettable that some insurance companies appear to be purely "money-oriented", completely disregarding their need to, in times of difficulty, share the public's hardship and lend a helping hand to the other industries.

The outbreak of the SARS epidemic early this year caused a profound impact on the territory in terms of both casualties and economic losses, in addition to dealing an unprecedented blow to our medical system. During this unexpected epidemic, a total of six health care workers in public hospitals unfortunately succumbed to the disease and eventually died in the course of performing their duty. In addition, more than 380 health care workers and medical students were infected, though they have fortunately recovered one after another. The SAR Government appears to have gradually come to realize that SARS is meant to be an alarm for our medical system. However, it seems that the Government is still not aware of one problem, that is, the impact of SARS on employees compensation insurance.

Let me cite a simple example. According to newspaper reports around June this year, before the SARS epidemic subsided, it was once rumoured that the Hospital Authority (HA), the biggest employer of health care workers, had failed to secure coverage for its 50 000 or so employees because of the refusal of insurance companies to offer coverage. Although it was just a rumour, the HA was eventually forced to negotiate with the insurer which had all along been providing the HA with workmen's compensation insurance. Although the insurer finally agreed to continue providing labour coverage to the 50 000 staff of the HA, a new agreement had to be signed between the insurer and the HA. Under the new agreement, up to \$40 million in premium for workmen's compensation insurance has to be paid annually, three times higher than the premium of \$10 million charged in the agreement signed three years ago. The insurer has also stipulated clearly that compensation will not be made in the case of casualties caused by infectious diseases.

Although this incident, involving the renewal of insurance policies by the HA for its employees, appears to have been settled, it does show that SARS has turned the medical and health care sectors into a "high risk" job category — "high risk" in quotes. At the same time, the risk borne by the insurers in providing workmen's compensation insurance for these professions appears to have "increased" — "increased" also in quotes. However, so long as employers are willing to accept the conditions imposed by the insurer for substantially raising the premiums, I believe the former will eventually be able to renew the insurance policies for their employees. In other words, some insurers still consider "profits" their prime goal, even when the whole world is still facing a critical moment as a result of SARS. Demonstrating a complete lack of

sympathy for others, they have even gone so far as to rub salt into the wounds of the affected industries.

However, even though some employers are willing to pay premiums a few times higher than before, it does not guarantee full protection for their employees, for some insurers will include harsh terms in their policies. According to some newspaper reports, for instance, the insurers have set out in the agreement executed with the HA for the purpose of securing coverage for its staff that no compensation will be made for casualties caused by infectious diseases. May I ask Honourable Members how can such workmen's compensation insurance provide sufficiently reasonable and legitimate compensation for the employees?

Actually, it can be interpreted in this way: The insurers have chosen to raise premiums to compensate for the higher risk exposure. Given that the insured are willing to pay higher premiums, it is only fair for the insurers to, under the prerequisite of bearing higher risks, further widen the scope of compensation for the employees.

According to the latest figures published by the Office of the Commissioner of Insurance at the end of last month, in the first three quarters of this year, profits derived from general insurance, including workmen's compensation insurance, have doubled to \$1.23 billion over the corresponding period last year. Insofar as employees compensation business is concerned, workmen's compensation insurance has turned from a cumulative loss of \$315 million in the first three quarters of 2002 to a total profit of over \$39 million in the first three quarters of this year, due to a general rise in premiums. Although the industry has managed to, after raising premiums, reversed its loss-making record over the past years and even turned losses into profits, thus bringing improvement to their business, have they ever thought of the knock-on effect on a number of people in the community, including employers and employees, as a result of the substantial increase in premiums while they celebrate happily for the profits made?

Furthermore, only 406 employees infected by the SARS virus have so far made claims for compensation under the Employees' Compensation Ordinance (ECO). Among these employees, there are 20 or so health care workers and a small number of people working in elderly homes and private clinics. Except for several health care workers who died after being infected at work, thus

making it necessary for a higher sum of compensation to be paid by the insurers, the rest of the infected employees have eventually recovered. In other words, they have not lost their working ability permanently according to the relevant Ordinance. As a result, the amount of compensation payable by the insurers should be relatively smaller. It also means that SARS has actually not caused any exceptionally serious losses to the insurers. We can thus see that the justification for raising premiums, that is, higher risks, is apparently inadequate. I also doubt that the ulterior motive behind the insurers' demand for higher premiums is to levy more premiums and thereby make more profits!

The inadequacy of the existing employees compensation system is thus obvious. The Hong Kong Federation of Trade Unions noticed in fact this problem more than a decade ago (the year 1992). It was for this reason that a proposal was made to the Government, in particular the Labour Department, to enact legislation on the setting up of a "central employees compensation fund", to be managed by a non-profit-making "central employees compensation council" which would take charge of all workmen's compensation insurance. The council should also make compensation for all employees injured or died at work, in addition to those suffering from occupational diseases. In doing so, profits and commission derived under the private insurance system can be saved and premium revenue can thus be spent on employees compensation as far as possible. Although the Labour Department indicated then that the matter was under consideration, no progress has been made, even with the lapse of a decade. I would therefore like to take this opportunity to urge the Government once again to put this system into implementation as soon as possible.

Madam Deputy, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): First of all, Madam Deputy, I am very pleased that the issue pertaining to workmen's compensation insurance is once again brought up in this Council for debate. As pointed out in the letter issued to us by Mr Bernard CHAN, workmen's compensation insurance is not only a concern of the insurance sector, it involves protection for more than 3 million wage earners in Hong Kong too. Most of the labour cases received by us involve workmen's compensation. It is therefore imperative for us to discuss how the workmen's compensation insurance system can be perfected today. This is crucial to insurers as well as the general public, particularly wage earners.

Unfortunately, the discussions initiated by people in the insurance industry often seek to take advantage of the opportunity to increase premiums rather than looking at ways to improve the present situation. The motion proposed by Mr Bernard CHAN today appears to be neutral for it has merely called on the Government to study the impact of infectious diseases on employees compensation insurance. However, if we take an overview of the small gestures made by the industry recently, we can easily associate such gestures with a first step by the industry to take advantage of the opportunity to raise premiums. As once again stressed by the Hong Kong Federation of Insurers (HKFI) recently, it is necessary to raise premiums because of soaring insurance charges globally as infectious diseases, such as SARS, go rampant. But is this the true picture? As in the case of the workmen's compensation insurance agreement signed between the insurer and the Hospital Authority this year, the insurer has used the SARS crisis as a pretext to raise premiums from some \$10 million to \$40 million and, at the same time, exclude infectious diseases from the coverage. The increase in premiums is obviously unrelated to infectious diseases. It is only that insurers have formed themselves into an alliance to create an atmosphere conducive to the raising of premiums. It is worrying that though government departments, backed by public money, can still bear the huge workmen's compensation insurance, some private hospitals and more than 700 private homes for the elderly throughout the territory have found the premiums unaffordable. As pointed out by many colleagues, they have to face the possibility of closure, thus leading to serious unemployment. Furthermore, Madam Deputy, Hong Kong will thus be deprived of a service specifically for the grassroots. In my opinion, this is even more worrying.

At present, employers have to purchase workmen's compensation insurance for their employees or they will be liable to a fine of \$100,000 and two years' imprisonment. Under such circumstances, insurers can absolutely "raise premiums to rip off employers". For this reason, I consider it necessary to perfect the risk assessment system further and enhance the transparency of the calculation of premiums. Actually, has the business of the industry really reached a critical stage, as described by the industry? In terms of overall performance in 2002, the industry has indeed turned from loss-making over the past several years to profit-making. The overall profit recorded by the industry last year amounted to more than \$243 million, much of which had come from premiums. Let me take workmen's compensation insurance as an example. The average amount of premium for each insurance policy increased by 51% last year, and 13% in the first six months of this year. Furthermore, the industrial

accident rate has seen a surprising drop to a mere 42.2% over the past several years — I wonder if this is attributed to the excellent job done by the Labour Department. As such, insurers should have paid less in compensation. Losses or operational difficulty might possibly be attributed to the problems encountered by the insurers themselves in operation. Their hardship is not necessarily attributed to the unfavourable situation they are facing at the moment. Under such circumstances, they should definitely not pass these problems onto consumers.

Refusing to offer coverage is indeed an excellent measure to pre-empt risk exposure. What is more, raising premiums is another possibility. In our opinion, the transparency in calculating premiums should be enhanced. At the same time, renewed discussions should be held with various stakeholders — whether wage earners or bosses — on the levels of risk faced by various industries in the hope of reaching a formula acceptable to all stakeholders.

In addition to excluding infectious diseases from the list of occupational diseases for the purpose of offering insurance coverage, the present workmen's compensation insurance system is also plagued by a number of other problems. For instance, employers are unwilling to give workers injured at work an advance of salary they are supposed to receive before they can resume work; more and more workers are forced to become self-employed persons without the protection of workmen's compensation insurance; employees experience difficulty subsequent to the bankruptcy of insurers due to improper operation. An apparent example is the closure of HIH we faced three years ago. Under such circumstances, the amendment proposed by Mr LAU Chin-shek today has provided this very problem with the solution it needs — the establishment of a central employees compensation scheme. The Government should indeed give prudent and active consideration to this proposal.

Workmen's compensation insurance is effective in enabling salaried persons to work without fear and worry. Under the existing system, workers are however unable to work without fear and worry. They are worried that they can hardly claim compensations in the event of accidents. At the same time, employers are worried about the failure to purchase insurance. Claiming that workmen's compensation insurance is not profitable, insurers are not willing to offer coverage. Given the fact that so many problems are entangled together, we had better assign a government department without any profit-making considerations to act as a central body that takes charge of labour protection.

Actually, official insurance schemes like this have proven effective in other places such as Taiwan. The Government should no longer resist this idea. Instead, it should actively intervene and create a working environment to enable workers to work without fear and worry.

Madam Deputy, I so submit.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam Deputy, insofar as this question under discussion today is concerned, the original motion looks very open on the surface. If we read between the lines, however, we will feel that the motion tends to focus on the affordability of such insurance in the community when it encounters the incidents mentioned by us earlier, such as SARS, and the impact on various stakeholders, issues that Mr Bernard CHAN considers necessary to examine. It is very difficult for us to raise objection purely by virtue of the wording of the motion. Nevertheless, after repeated discussions of similar issues in this Council, I hope Mr CHAN and the industry represented by him can accept with an open mind should the Government propose to set up a central employees compensation scheme.

Madam Deputy, the setting up of a central employees compensation scheme was brought up for discussion by several labour groups more than a decade ago. In addition to the problem of exorbitant premiums, we found that there was a serious problem of profiteering by intermediaries. In this connection, Mr CHAN Kwok-keung will present some figures and examine the matter with Honourable Members later in the meeting. Here is an issue we have been discussing — What can individuals do after a large portion of the premiums paid has been pocketed by intermediaries? Confronted with these problems, we have held repeated negotiations with a number of government departments. Despite the large number of companies in the industry, it is evident that the entire industry operates like a collaborative cartel. The Government might possibly, should it act as a central organ, help lower premiums and prevent the intermediaries from profiteering. It was extremely regrettable that the Government apparently not, after listening to the proposals raised by us, indicated complete approval.

Madam Deputy, a large number of events have occurred over the last couple of years. In the wake of the September 11 terrorist attacks on New York,



we could see that the relevant sectors, in particular airlines, have brought up the issue of reinsurance. The matter was finally settled subsequent to the help offered by the Government in the form of money. In other words, facing the terrible situation resulted from the terrorist attacks, the Government had taken some emergency measures to address the difficulty encountered. However, the next thing we saw was the refusal of the industry to cover high-risk trades. I believe you, Madam Deputy, will know that the transport sector does have some grievances about this. Another example is the divers trade. I once accompanied people in the relevant trade to meet with the Commissioner. The construction industry is affected too. Of course, the situation can be attributed to a combination of factors. In sum, it is grossly unreasonable of the insurance companies to reject coverage. As a result, we can see employers and employees looking everywhere for insurers willing to provide coverage. Employers are obliged to secure cover for their employees. If no one is willing to provide cover, what are the employees going to do should accidents occur while they are at work?

These new developments have indeed been brought up to this Council for discussion again and again in our meetings. It is often said that the Commissioner should be requested to follow up the matter with the relevant industries should such a situation arise, but to what extent can he really help? Now the problem has become even worse with the outbreak of SARS. After the battle against SARS, medical insurance insurers might further tighten some of their measures and even resort to rejecting coverage. Since the September 11 attacks that took place two years ago, many industries have been unable to obtain coverage. The recent emergence of certain diseases, such as SARS, has even led to a hike in premiums. The Government should really look into this matter. This explains why I said it was very difficult to oppose the original motion. It is because the motion is literally very open as it is worded. As such, Mr LAU Chin-shek can only propose an amendment to add the expression "establishing a central employees compensation scheme" at the end of the original motion. In my opinion, the insurance sector has already had a pre-set inclination. As such, the Government should really address this problem and come up with a solution.

In addition to resolving the problem confronted by employers in failing to secure coverage, consideration should also be given to the situation of employees. This is because we can see that the premiums are extremely high at present. We were told by some of our friends in the construction industry that they had to pay several thousand dollars in premium for a construction project costing just

\$10,000 or so. The fact that they have to eventually resort to streamlining manpower is going to make the works riskier. I believe officials from the Labour Department who are present here in this Chamber will understand this very well. Under such an abnormal situation, it is likely for problems to arise should the Government continue to treat the matter with indifference.

Madam Deputy, we in the labour sector have been talking about this issue for more than a decade. Members in this Council, including you, Madam Deputy, have been talking about this for a couple of years in Council meetings too. I very much hope our appeals will not fall on deaf ears as if bouncing back from a wall. I hope the Government can take all the relevant issues into joint consideration while this question has been brought up by the insurance industry today.

Madam Deputy, I would also like to call on my friends from the insurance sector not to reject coverage promptly whenever difficulties are encountered, as the matter is still under consideration by the Government. It is simply unreasonable to do so. They should not remain quiet when they are making profits and start complaining when their profits become less. The present situation is not at all bad; neither are there too many complaints. Can consideration be given to operating costs? I understand that Mr CHAN Kwok-keung will present some interesting figures later when he speaks. For instance, a business expected to yield a gross profit of millions of dollars can eventually say that it has incurred a loss of more than \$100 million — It is better for me to stop here and let Mr CHAN elaborate on this.

I simply cannot not help asking this question — How does the entire industry operate? How transparent is it? Should they tell us how much they have profited if they want us to do them a favour by requesting the Government to complement a certain industry by making certain "movements"? I think this should be made entirely known to us.

The measures mentioned by me just now are transitional in nature. I hope the Government will not misinterpret this as the thrust of my speech. The thrust was stated right at the beginning — I hope the Government can reconsider the establishment of a central employees compensation scheme after witnessing the large number of problems encountered by the insurance industry over the past few years. I hope government officials will not tell us later that they are not prepared to intervene in the market. This matter has been under discussion

for more than a decade. People involved in the discussions have become really frustrated. I hope our appeal will not be rejected with the excuse that "there is no room for discussion". I have to emphasize that the establishment of a central employees compensation scheme was agreed upon by the labour and business sectors more than a decade ago. I remember it very clearly that both parties agreed to the setting up of this scheme to prevent insurance companies from "profiteering" as an intermediary. Should this motion be passed, I hope the Government can really set up a task force to examine this matter and refrain from telling us that it is not prepared to do anything. Otherwise, we will be very disappointed.

Thank you, Madam Deputy.

**MR MICHAEL MAK** (in Cantonese): Madam Deputy, it is universally accepted that labour interest must be safeguarded. People infected with an infectious disease as a result of work should be considered injured at work, and should therefore be entitled to labour compensation. The amount of workmen's compensation insurance arising from SARS is reportedly considerable. According to figures up to end-May, the cumulative sum of the relevant compensation stands at \$105 million, involving mainly life and medical insurance.

It is most unfortunate that some people with ulterior motives have tried to make a fuss about SARS. They have not only ignored the selfless sacrifice made by health care workers in providing the general public with quality medical service regardless of their own safety, but also attempted to refuse providing labour coverage to health care workers by using the high risk exposure as an excuse. Their attempt to publicly raising premiums substantially and even force the Administration to amend the Employees' Compensation Ordinance (ECO) to exclude infectious diseases from labour insurance is no different from fishing in troubled waters. I just cannot help suspecting that they are attempting to do something in secret. Such an unjust and immoral act should indeed be condemned. The moving of this motion today by Mr Bernard CHAN, being a representative of the insurance industry, has caused me great concern that the coverage for infectious diseases might have been exaggerated for the purpose of raising labour insurance premiums and then passing the charges onto the general public. For this reason, I have decided not to support the original motion moved by Mr CHAN.

Under the ECO, employers are liable to pay for the compensation for employees injured in accidents at work or during the course of employment, or contracted the occupational diseases specified in the Ordinance. For this reason, all employers have to purchase labour insurance for their employees. Viruses see no boundaries and races. Moreover, they keep changing constantly. In recent years, we can see a constant emergence of new infectious viruses, such as Ebola, SARS, H5N1, and so on. In the face of infectious diseases, health care workers are categorized as a high-risk job group. In the case of SARS, for instance, health care workers have borne the brunt of the epidemic. A total of 386 health care workers in the territory have contracted SARS, with most of them having been infected at work. In the interest of protecting health care workers and the labour interest of the public, we should not only put infectious diseases under the ECO, but also regularly review the Ordinance to examine if the protection for employees is adequate.

Regardless of the amount of compensation received by employees injured at work, it is impossible for the compensation to offset the physical and mental damage inflicted on the injured workers. In the fight against SARS, for example, although the Government has set up a trust fund to help people affected by SARS after many health care workers have succumbed to the virus, the fund can in no way compensate and make up for the losses suffered by the affected people — some of them having to endure the pain of witnessing the deaths of their family members, and some being constantly tortured by such sequelae as bone degenerative disorder, shortness of breath, and so on.

Compensation is meant to be a last resort of comfort when there are no other alternatives. As the saying goes, it is always better to take precautions than effecting a cure. In order to reduce the chances of contracting infectious diseases at the workplace, the people's aware of public health and hygiene must be heightened. In this respect, additional resources are warranted, as I have repeatedly stated. According to the recommendations made in the Report of the Working Party on Primary Health Care published in 1990, every endeavour must be made to promote primary health services. To achieve this, the Government should expeditiously set up an inter-departmental co-ordinating group and formulate a comprehensive collaboration mechanism to co-ordinate the joint efforts of various departments in promoting primary health services strategically. For instance, the Government can make it compulsory for primary health education to be incorporated into the kindergarten and secondary curriculum. At the same time, the Government should enhance publicity among the

community by teaching the people to pay attention to health in such areas as mental health, environmental hygiene, fresh air, good dietary habits, harmonious interpersonal relations, vocational safety, and so on, with a view to reducing the possibility of attacks. In doing so, not only can the problem be solved temporarily, it can eventually be addressed at source as well.

At the same time, the Government has to actively examine other options of ameliorating risks in the workplace. For instance, steps can be taken to strengthen prosecution of employers violating vocational safety legislation and ensure employers provide their employees with adequate and proper protective gear; a central information station can be set up to provide employers and employees with information on work safety, including ways to prevent them from being infected by infectious diseases in the workplace to minimize such risks. I support Mr LAU Chin-shek's amendment because the insurance industry has attempted to use its profession as a "lose-hit, win-take" tool for making money. What is more, it is trying to remove infectious diseases from the ECO. Such being the case, I would rather let the Government set up a central employees compensation scheme.

Finally, I hope to, through this debate, urge members of the community to face the issue of labour protection squarely. I also hope the general public can pay attention to health and those having the means can purchase insurance for the sake of their own health. It is also hoped that the insurance industry will not drastically raise the amount of workmen's compensation insurance and then pass the relevant charges onto the general public. I so submit.

**MR HOWARD YOUNG** (in Cantonese): Madam Deputy, the various sectors of society have become more alert to large-scale epidemics after the SARS outbreak. Such an alertness is good, but it has indirectly created difficulties for employers in taking out labour insurance policies for their employees, because the insurance industry considers that infectious diseases such as SARS will greatly increase the risk exposure of insurers of labour insurance. Therefore, to protect their own interests, some in the industry intend to revise the terms of insurance, either to stop covering highly infectious diseases such as SARS, or to increase premiums to offset possible compensation risks.

Once insurers decide to revise the terms of insurance policies, many employers will be forced to pay high premiums; employees in high-risk

occupations and fields, such as health care staff and laboratory technicians, may well fail to take out any appropriate insurance policies, and this will affect their occupational safety directly.

Actually, the whole problem stems mainly from the conflicting interests of direct insurers and re-insurance companies. In other words, there are divergent views on risk assessment and exposure within the industry. The industry should in fact sort things all out itself, but now, since insurance companies cannot reach a compromise among themselves, innocent parties are victimized, and employers and employees are dragged into the trouble.

Madam Deputy, on the question of risk assessment, we do have reasons to query the insurance industry whether it is necessary to treat a special incident as a kind of regular risk. In the case of SARS, for example, there has been only one outbreak in Hong Kong, and since the end of this only outbreak, there has been no recrudescence of the disease so far. Whether the disease will become an endemic of Hong Kong is still largely uncertain. What is more, there have only been some 400 SARS compensation claims from employees so far. These claims are mostly by employees in the health care sector, and only very few of them are employees of private companies. Besides, it is still not yet known whether the insurance industry will have to pay any compensation for these several hundred cases pending court judgement. Insurance companies are already so scared even before they can ascertain the amounts of compensation arising from such large-scale outbreaks of infectious diseases, so are they just a bit over-reacting?

What I am driving at is that the insurance industry may well be considering the possibility of excluding all cases of high-risk infectious diseases from insurance coverage. This is a "bad loser" mentality. Several Members have talked about this mentality. According to one of these Members, the insurance companies concerned are in a way deserters of the insurance industry, because insurance is after all a business involving dealings in risks, meaning that the industry is exposed to varying degrees of risk at all times. In other words, an insurer simply should not always ask for "zero risk", simply should not expect to pocket the money when nothing happens but to quit when things do happen. Is not such a mentality much too selfish?

Madam Deputy, this example aside, there have actually been countless other instances illustrating this "bad loser" mentality of the insurance industry.

For example, insurers will invariably charge higher premiums for some mandatory types of insurance, such as third-party vehicle insurance and labour insurance. We can still remember how global air services nearly came to a halt due to insurance companies' denial of insurance coverage after the September 11 incident. At that time, some governments agreed to underwrite the risks, and the Hong Kong Government was also prepared to do so. It was only after local airlines had taken out costly insurance policies that they could continue to provide air services. I have recently been informed by the tourism industry that some companies providing travel insurance have removed "bodily injury" in occupational insurance from the scope of coverage. This means that even after one has taken out a travel insurance policy, one will receive no protection all the same. This has created a vexing problem for many industries and can also illustrate the very immense influence of the insurance industry.

As a matter of fact, due to the economic downturn in Hong Kong over the past few years, business has become difficult. While they must make Mandatory Provident Fund contributions, employers still have to pay ever-rising labour insurance premiums, so they are indeed hard-pressed. Insurance companies now intend to raise premiums again. This is just like thrusting a further stab in the back of employers who have already been suffering so immensely.

In regard to Mr LAU Chin-shek's urge that the Government should explore the establishment of a central employees compensation scheme, the Liberal Party's position is open. This is because labour insurance is a matter which affects the public interest immensely, so instead of leaving the industry to deny coverage on grounds of risk exposure, the Government may as well directly assume the role of an insurer. The Liberal Party actually advanced a similar proposal, that is, a proposal on the provision of central coverage by the Government, in the discussion on insurance coverage for health care employees earlier on. In the end, however, it was decided that it might still be necessary to conduct prudent planning and consultation on specific details, such as those proposed in the amendment today, and to further explore the feasibility and desirability of the whole idea. In any case, I think any new arrangement must never add to the burden of employers and affect the overall business environment.

As for Mr Andrew CHENG's amendment, the Liberal Party will support it. Prevention is always more effective than treatment, so the concerted efforts of all

to improve workplace hygiene and reduce the incidence of infectious disease outbreak will probably be the best solution. In the interest of everybody's health, it is right to do something more. But care must be taken not to bring in any unnecessary regulation that make things difficult for business operation.

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

**MR CHAN KWOK-KEUNG** (in Cantonese): Madam President, employees compensation insurance, commonly called labour insurance, has always been a hot potato for the insurance market. Insurers all wish to do more business, but all of them are afraid of being unable to make any profit from this type of insurance. Year after year, while many insurance companies stress that they are incurring losses, they have remained rather reticent about the profits they reap from other types of insurance. Then, using the September 11 incident as an excuse, they have drastically increased premiums and denied coverage for many types of occupations.

The situation has become even more serious after the SARS outbreak this year. Reinsurance companies and insurance companies have failed to reach a compromise on risk sharing, so the insurance industry has adopted a very drastic approach to policy renewal, either refusing downright to accept any renewal or adding many more terms to a policy. In the final analysis, if the insurance industry remains reluctant to offer comprehensive employees compensation insurance and keeps on arguing with employers over the question of premium, employees will surely be affected. When employers are faced with the problem of increasing premiums, employees will have to think very carefully before reporting occupational injuries, and some employers may even try to dampen their employees' desire of claiming compensation for injuries at work. This will in effect deprive employees of protection against occupational injuries.

Currently, roughly 70 insurance intermediaries in the market are engaged in the business of labour insurance. Last year alone, that is, in 2002, the gross coverage of this type of insurance amounted to as much as \$4.2 billion, while the amount of compensation borne was just \$1.9 billion, but then the insurance industry claimed that there was a loss of \$160 million. This is indeed a very interesting figure. I really wish to seek some enlightenment from the industry. How could there be a loss of \$160 million after deducting just \$1.9 billion of



compensation from the gross coverage of \$4.2 billion? Even if reinsurance costs are deducted from the gross coverage of \$4.2 billion, the net coverage in 2002 would still be as much as \$3.2 billion. And, after further deducting the \$1.9 billion of compensation, more than \$1 billion would still be left, so why was there a loss of \$160 million anyway? How does the insurance industry compute its costs? The combined coverage in the past six years was \$16.2 billion, and the total amount of compensation paid out during the same period was \$11.2 billion. But there was still a loss of \$4.7 billion. This is really a large figure.

Besides, the loss in 2002 was not very large. It is estimated that with the huge increase in premiums, the total premiums collected by the insurance industry in 2003 may reach as much as \$5 billion. If the amount of compensation claims in 2003 is roughly the same as that in 2002, the losses referred to can in fact be recovered very soon.

We already started to hear a lot about the "difficulties" faced by the insurance industry as early as the beginning of this year, and we are aware of the worries felt by some trade unions. This explains why we urge the Government to establish a central employees compensation scheme similar to the Pneumoconiosis Compensation Fund, so that employees infected by SARS can be given assistance and regular monthly compensation in future once their health conditions deteriorate.

During the outbreak of SARS, even the Government and the Hospital Authority could not give any immediate undertaking that infected employees would be offered occupational injury compensation, largely because this infectious disease was new at that time and might spread at a horrible speed if it was not brought under proper control. Mr Bernard CHAN's motion today is in fact expected. The fear of the insurance industry that infectious diseases might lead to a surge of compensation claims is well taken by many. Therefore, we need to explore the establishment of a central compensation scheme.

The labour insurance business has so far been led by market forces, with 70 or so intermediaries providing some 200 000 labour insurance policies a year. The establishment of a non-loss-underwriting central insurance board by the Government will have the advantage of effectively controlling premium levels in the market. Premium risks will still exist, but in contrast to the varying premium levels among the 70 or so intermediaries now, it will be easier to set down a standard set of premium levels. What is more, the objective of central

insurance is to underwrite the risks arising from occupational diseases or infectious diseases in the workplace, and the prime concern is the protection of employees' health, so profits are neither the only objective nor the most important aim. That is why when it comes to the determination of premiums, there will be more room for downward adjustment. At least, the levels will be more reasonable than the existing ones.

This is not to speak of the fact that many industries or occupations hitherto denied insurance coverage, such as the occupation of diving, will be freed from any fear of increasing premiums thanks to the coverage provided under the central insurance system.

The point of taking out insurance is for society as a whole to share the risks, thereby enabling the individual to benefit from protection. Those who take out labour insurance policies are employers, and those who file occupational injury claims eventually are employees. Such is a highly significant complement in society, without which it will be impossible to enforce the Employees' Compensation Ordinance. The reality now is that the insurance industry wants to make more profits from labour insurance, but because of the unrestrained market monopoly, employers have been forced to accept exorbitant premiums. This is a form of market failure. The Government needs to step in.

Madam Deputy, I so submit.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): Mr Bernard CHAN, you may now speak on the two amendments. You have up to five minutes.

**MR BERNARD CHAN:** The Honourable Andrew CHENG stresses the importance of protecting the statutory rights of employees and the importance of managing the risk of infectious diseases in the workplace.

As I mentioned previously, the Hong Kong workforce have nothing to fear from the situation in the insurance industry. I think we all agree that their well-being must be protected above all. The insurance industry also welcomes any action the Government can take towards reducing risks of all sorts in the workplace.

On the other hand, I am not too sure whether I agree with the Honourable LAU Chin-shek that the Government needs to study the feasibility of having a central employees compensation scheme. Such a system would go against Hong Kong's basic economic principles.

(THE PRESIDENT resumed the Chair)

In Australia, some states have central, monopolized workers compensation systems. Supporters claim that this is more efficient. People also thought that a monopoly insurer would have a greater incentive to encourage prevention of workplace accidents.

The contrast with states which have competition is very interesting. With no competition, and with no other incentives to curb costs, the centralized schemes have become very costly. Competing insurers are much better at avoiding waste. Employers have better incentives to prevent accidents if they can negotiate lower premiums from different insurers if they have a good safety record.

The losses of the New South Wales system reached 2 billion Australian dollars in the year 2000, and that will have to be borne by the taxpayers or by future employers. New South Wales decided at that stage to move to a competitive system.

I certainly do not believe that we need to consider a central employees compensation scheme for Hong Kong. Thank you.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I thank Members for their views on this topic. The Government is also very concerned about whether the health care sector and

other sectors can continue to take out employees compensation insurance. In this connection, the Insurance Authority (IA) and other government departments have been liaising actively with the insurance sector. That includes explaining to the insurance companies the requirements under labour laws, and giving them information on the work of the Government and relevant institutions in preventing the spread of infectious diseases. This can assist the insurance industry in understanding the real situation and properly assessing the risk of infectious diseases in Hong Kong, in order that reasonable premium levels can be determined. Dr LO Wing-lok also made a similar proposal earlier, and I believe the insurance industry will seriously consider it. The Government will continue to encourage insurance companies to take up employees compensation insurance. I personally met with the representatives of the insurance industry yesterday. In addition to expressing our concern for the development of events, I also encouraged the insurance industry to solve the relevant problems through the market mechanism in a flexible way. Next, I will give a further response from the perspective of the development and supervision of the insurance market. And later on, the Secretary for Economic Development and Labour will also speak on this motion.

As many Members said, insurance is an industry that involves risk assessment and price setting. From a macroscopic angle, insurance cannot reduce the losses borne by society as a whole arising from accidents. However, through risk sharing and pooling, individual policy-holders can enjoy some degree of protection in case of accidents.

The main duty of the IA is to monitor whether the insurance companies are financially robust, in order to ensure that they have sufficient solvency margin to fulfil the terms of the policies. Relevant supervisory rules and guidelines have thus been formulated, such as minimum capital requirement, asset evaluation criteria, risk spreading arrangement, and so on. Since 2001, the IA even requires the insurance companies to conduct annual actuarial reviews of their employees compensation insurance business, so as to ensure that the insurance companies have sufficient reserves to cope with the risk associated with the related business. The IA will continue to keep watch on the market development and the international standard, and will review the supervisory rules and guidelines concerned.

Another important duty of the IA is to ensure that the interest of insured public can be protected through public education and formulating professional

codes of practice and guidelines in collaboration with various organizations in the industry.

Hong Kong is one of the most open insurance markets in the world. Currently, we have 70 insurers authorized to operate employees compensation insurance business. Besides, any new company that can meet the supervisory requirements of the IA can apply for authorization to operate employees compensation insurance business. As we have said many times before, the Government thinks that the premium level and the terms in the policies, for example, the deductibles, should be decided by the market mechanism. As a matter of policy, the IA being the regulator is not in a position to intervene in the matters. And under the existing Insurance Companies Ordinance, he does not have such power to do so.

A moment ago, some Members mentioned that the premium for employees compensation insurance had risen drastically in recent years. In June this year, the Secretary for Economic Development and Labour and I discussed the related topics with Members in the joint meeting of the Panel on Manpower and the Panel on Economic Services.

The Government fully appreciates that a hike in the premium for employees compensation insurance will impose pressure on the operating costs of certain industries. But it does not mean that we should intervene in the market. The work of the Government should be to endeavour to ensure the smooth operation of the insurance market. In this regard, to further enhance the transparency of the employees compensation insurance market, the IA has, starting from the financial year ending on 31 December 2002, released statistical figures, classified into 10 occupations, on their policies taken out with insurers.

Mr Andrew CHENG and Mr LAU Chin-shek have respectively proposed amendments to the motion. Mr CHENG reckons that it is necessary to examine various options for improving workplace risk management in order to reduce the chances of transmission of infectious diseases in the workplace. The Secretary for Economic Development and Labour will later on respond to this.

In regard to Mr LAU Chin-shek's proposal on establishing a central employees compensation scheme, I would like to stress that Hong Kong has all along relied on the private market to provide employees compensation insurance.

International experience to date is still unable to prove that a publicly-operated labour insurance system must be more effective than the private insurance market. On the contrary, a public sector labour insurance system would usually have the result of taxpayers subsidizing certain industries. Besides, if Hong Kong really implements such a public sector labour insurance system, there will be direct impact on the insurance and other related industries. As it is also suggested just now, the Government should not vie with the public for profit. In fact, be it a public or private insurance system, if, in the long run, we want to reduce costs, the crux lies in reducing the expenditure on compensation. Today, we have, of course, heard the views from many Members. The Government will re-examine various proposals with an open attitude with the related sectors. The Secretary for Economic Development and Labour will later on further explain the Government's position towards the establishment of a public sector or central employees compensation scheme.

The concern expressed by the insurance industry for the risk of infectious diseases will have certain effect on the employees compensation insurance market. Notwithstanding this, as far as we know, a great majority of industries can still continue to take out employees compensation insurance in the market. A few sectors which have higher exposure to infectious diseases are mainly concentrated on 12 private hospitals, and they may suffer greater impact. We encourage the employers of those sectors to look for insurers in the market as soon as possible, and the IA will be very much willing to provide information on insurers operating business in employees compensation insurance. At the same time, the Government will continue to encourage insurers to take up employees compensation insurance, including the risk of infectious diseases, according to risk assessment which is objective and fact based. As I said, I personally met with the representatives of the insurance industry yesterday, and this is also what I said to them.

Some Members mentioned earlier that certain sectors may be unable to take out employees compensation insurance in the market. But I think that market supply and demand are interactive. Only if there is demand in the market, there should be insurers willing to provide services. At present, the Government is of the view that we should let the insurance market exercise its functions, and the regulation of supply and demand is still the most appropriate policy. As Mr Andrew CHENG said, if insurers find that there is business, they will go for it.

Some Members may ask, and actually certain Members also mentioned in the debate, why the Administration would agree in 2002 to provide a \$10 billion financial arrangement for insurers concerning the risk of terrorism. May Members take note that since the September 11 incident, all reinsurers in the world have basically removed terrorist activities entirely from the protection remit of reinsurance agreements. This is very different from the risk of infectious diseases which may render it difficult for individual industries to take out employees compensation insurance or having to pay a higher premium in doing so. We have already clearly stated that if the reinsurance market takes up insurance against the risk of terrorism again, the Government will terminate the relevant financial arrangement as soon as possible.

In any case, the relevant departments of the Government, including the IA, the Labour Department and the Health, Welfare and Food Bureau, will continue to liaise with the insurance industry and pay close attention to the development of events. We hope to ensure that every sector can operate smoothly.

Next, I would defer to the Secretary for Economic Development and Labour to speak. Thank you, Madam President.

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, first of all, I would like to thank Mr Bernard CHAN and other Members for their many precious views on the repercussions of the Severe Acute Respiratory Syndrome (SARS) on employees compensation insurance.

Before I respond to Members' views, I would perhaps explain the policy intent of stipulating mandatory employees compensation insurance provisions in the Employees' Compensation Ordinance (the Ordinance).

The requirement on employers having to take out employees compensation insurance was implemented in 1984. According to the Ordinance, employers must hold effective employees compensation policies in order to shoulder the responsibility of compensating those employees suffering from injuries or death in the course of work according to the Ordinance and common law. The purpose of prescribing this requirement is to ensure that those employees suffering from injuries or infected with diseases can obtain statutory compensation or compensation under common law. After taking out employees

compensation insurance, employers can rely on the insurers to fulfil their statutory liability.

As regards protection under the Ordinance for employees infected with SARS in the course of work, according to the Ordinance, SARS is not one of the occupational diseases designated in the Ordinance. However, under section 36(1) of the Ordinance, any employee who has, in the course of work under employment, accidentally contracted any occupational disease not designated in the Ordinance and suffered from any bodily injury, that employee still has the right to claim compensation.

At present, the Labour Department (LD) has received a total of 46 cases concerning occupational injuries due to SARS reported by employers. Among them, 347 were employees of the Hospital Authority (HA) and the Government working in hospitals under the HA, 23 were employees of private hospitals, three were employees of private clinics and five were employees of medical schools of the universities. Among the remaining 28 persons, seven were government employees, while the other 21 persons were engaged in occupations like domestic service, care for the elderly service and cleansing service.

The LD is now processing these occupational injury claims. With reference to the medical records, case information and the provisions of the Ordinance, the LD will try to understand whether the employees concerned have contracted SARS accidentally at work under employment.

Since the risk of SARS is rather high, some people from the insurance industry have thus suggested the Government to amend the Ordinance to the effect that the provisions of the Ordinance protecting employees contracted with this infectious disease at work be removed. Their main argument was that the insurance industry was unable to shoulder this kind of risk. Since the risk was too high, employers or insurers should not be required to take up the compensation responsibility.

Madam President, the Government will not and cannot accept this kind of proposals which will seriously jeopardize the interests of employees. At present, there are 46 occupational diseases listed under the Ordinance which can attract compensation. Some of them (for example, tuberculosis) are also infectious like SARS. In fact, clause 36(1) of the Ordinance is exactly made to protect employees who accidentally contracted undesigned occupational



diseases at work. To say that this protection should be removed simply because the risk level of compensation for infectious diseases has risen, it will violate the legislative intent and spirit of the Ordinance in protecting employees who suffer from bodily injuries in the course of work (including contracting diseases at work). The Government cannot, and will not recognize or accept this.

Some Members mentioned that since the insurance industry considered the risk of infectious diseases could not be assessed as the risk level was similar to that of terrorist activities and thus asked the Government to intervene and bear the risk.

First of all, we do not agree that the risk of infectious diseases is similar to that of terrorist activities. While it is true that we have seen the addition risk brought by SARS, such a risk level can be assessed and is definitely not infinite. Please do not forget that the purpose of insurance is exactly to protect against risk.

As Mr LAU Chin-shek said, we really hope that the insurance industry will not desert us, that they will not leave us when the need arises.

Some Members also mentioned that the employees compensation system of Hong Kong encouraged injured employees to claim damages under common law. I also want to say that under the employees compensation system in Hong Kong, not all injured employees can claim damages. An employee can obtain compensation only if it is proved that the accident was due to negligence on the part of the employer. Furthermore, to avoid double compensation, the statutory compensation amount has to be deducted from the damages awarded to the employee.

The legal system of Hong Kong gives people the right to claim damages. Not only does this apply to cases of occupational injuries, but also to other claims concerning personal injuries and torts. At present, there are no arguments strong enough to change this established practice and widely accepted legal principle.

In the amendment to the motion moved by Mr Bernard CHAN, Mr LAU Chin-shek expresses the hope that the Government can study the desirability and feasibility of establishing a central employees compensation scheme. On this topic, the Government has already stated our position during the numerous

debates of the former and present Legislative Council. We do not see any strong justification to introduce a thorough reform to the existing private insurance system.

Insurance is a kind of business which involves risk assessment and price setting. In capital financing and risk spreading, the private market is more flexible than a central institution. Under the existing market mechanism, the overall risk of taking up employees compensation insurance can be shared among different insurers, and the insurers can spread the risk of taking up the insurance through other businesses. However, a central employees compensation mechanism does not enjoy these merits. Besides, being independently operated by one single institution, the operation of a central mechanism will not be as efficient as the market mechanism, while the cost-effectiveness may not be higher either.

The market problems now triggered off by SARS are mainly concerned with risk assessment and premium setting. And they have to be solved through the market mechanism. Compared with the operation by one single institution in the form of a central fund, the risk-sharing market mechanism should be more cost-effective. However, in their speeches earlier, many Members expressed the hope that the Government could re-examine this issue with an open attitude. They hoped that the Government would not act like a wall. Of course, we have heard the views just expressed by Members. We will closely monitor the operation of the labour insurance market and, with an open attitude, re-examine the pros and cons of Members' proposals. During the process, we will, of course, discuss with the organizations of employers and employees, as well as the insurance industry.

Since the outbreak of SARS in March this year, we have been very concerned about the risk of transmission of infectious diseases. In fact, the insurance industry operates on risk assessment. In order to reduce risk, the most effective method is to enhance hygiene and health awareness in the workplace. The Government and people from all walks of life (including, of course, both employers and employees) should be more vigilant and take effective precautionary measures in order to prevent effectively the transmission of infectious diseases.

To ensure that we can properly deal with any possible outbreak of epidemic disease in future, in May this year, the Government set up a review

committee comprising of overseas, mainland and local experts. The Expert Committee has conducted a thorough review on the outbreak of SARS in Hong Kong, and in October this year, submitted a report to the Government. It has made comprehensive recommendations on how Hong Kong should improve its mechanism and facilities in dealing with an infectious epidemic. The related government departments and the Hospital Authority (HA) are working at full steam to implement the recommendations of the Expert Committee. Besides, the Government has also set up a Monitoring Committee comprising of overseas and local experts. It is responsible for monitoring the related work and reporting regularly to the Chief Executive on the progress of work.

One of the main recommendations of the Expert Committee is that Hong Kong's public health and medical system should make sufficient emergency preparations. In this regard, the Department of Health will maintain close monitoring on SARS and other infectious diseases, health checking measures will be strictly implemented at border control points, liaison with the health departments of the Mainland will be strengthened, and public education will continue to be promoted with a view to reminding the public to pay attention to personal and environmental hygiene. The HA will also maintain a high degree of vigilance. It will continue to strictly implement the infectious disease control measures in public hospitals, strengthen the training of health care personnel and provide additional isolation beds, in order to enhance the ability of hospitals in treating infectious diseases.

In order to ensure that the relevant authorities can make speedy and well co-ordinated response in case of an epidemic, the Government has already formulated a comprehensive contingency mechanism that clearly sets out the directive structure for making strategic policies, clear division of labour and duties of various units, reporting lines of different kinds of operation personnel, and the time of response. Besides, the Government has been speeding up its preparatory work in establishing a health protection centre in Hong Kong in order to strengthen the existing infectious disease control strategy and to deal with various new challenges. The centre will not only possess the professional knowledge and talents in tackling infectious diseases, but also grasp the related administrative skills and statutory power. In taking appropriate measures in preventing and controlling diseases and dealing with the outbreak of diseases, it will co-ordinate the co-operation of different government departments and the community.

Besides, the measures taken by the Government also include organizing talks on occupational health, releasing health information on preventing infectious diseases to employers and employees, and stepping up inspection work on occupational safety and health, reminding employers to take precautionary measures to prevent employees from contracting infectious diseases at work.

Madam President, the legislative spirit of the Ordinance is to protect those employees who suffer injuries in the course of work so that they can obtain statutory compensation and common law damages. Section 36(1) of the Ordinance protects those employees who accidentally contract any occupational diseases at work which are not designated in the Ordinance. These employees have the right to claim compensation according to law. We think that the insurance industry should not ask the Government to amend the legislation to remove the protection for employees simply because the risk is high or is difficult to assess.

The risk of taking up insurance and the corresponding adjustment in premium should be decided by the market mechanism. The responsibility of the Government is to ensure that the insurance market can continue to operate effectively. The Insurance Authority will continue to liaise with the insurance industry and closely monitor the development of events. The LD will also continue to remind employers of their responsibility to take out employees compensation insurance, thus ensuring that the statutory rights of the employees will not be affected.

In the control of infectious diseases, the Government will continue to implement preventive measures against infectious diseases, be more vigilant and step up surveillance, in order to prevent another outbreak of infectious disease in Hong Kong. I believe that with all our efforts, the chances of infectious disease being transmitted in the workplace will be minimized. I also hope that the insurance industry will have more communication with the health care sector and other higher risk sectors, determine the level of premium according to the risk level, not desert us and continue to take up employees compensation insurance in relation to infectious diseases.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now call upon Mr Andrew CHENG to move his amendment to the motion.

**MR ANDREW CHENG** (in Cantonese): Madam President, I move that Mr Bernard CHAN's motion be amended as printed on the Agenda.

**Mr Andrew CHENG moved the following amendment:**

"To add ", on the premise of ensuring full protection of the statutory rights and benefits of employees," after "That"; and to add "; at the same time, this Council also urges the Government to examine plans for improving workplace risk management in order to reduce the chance of transmission of infectious diseases in the workplace" after "and other issues potentially affecting stakeholders"."

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

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr LAU Chin-shek, as Mr Andrew CHENG's amendment has been passed, I have given you leave to revise the terms of your amendment, as set out in the paper which has been circularized to Members on 8 December. Therefore, you have up to three minutes to explain the revised terms in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

**MR LAU CHIN-SHEK** (in Cantonese): Madam President, I do not want to waste Members' time. Please support my amendment. Madam President, I move that Mr Bernard CHAN's motion as amended by Mr Andrew CHENG, be further amended as per my revised amendment.

**Mr LAU Chin-shek moved the following amendment to the motion as amended by Mr Andrew CHENG:**

"To add ", and to study the desirability and feasibility of establishing a central employees compensation scheme" after "reduce the chance of transmission of infectious diseases in the workplace"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr LAU Chin-shek's amendment to Mr Bernard CHAN's motion as amended by Mr Andrew CHENG, be passed.

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

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by

functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the amendment passed.

**PRESIDENT** (in Cantonese): Mr Bernard CHAN, you may now reply and you have seven minutes three seconds.

**MR BERNARD CHAN:** As I said in my opening remarks, SARS has changed the way we think and the way we do things. It has also changed perceptions about Hong Kong overseas. The people who took the decision to limit exposure to infectious diseases were typically those in the headquarters of reinsurance companies in other parts of the world. You can argue that they do not need to be so nervous, but they are simply doing their job. The fact is that they are very afraid of unquantifiable risks.

There have been various comments suggesting that insurance companies are being mean and heartless, and showing disrespect for the health care workers — the heroes of the SARS outbreak.

Frankly, such comments are ignorant and insulting. I understand that many of my colleagues in this Chamber have grave concern about how my industry operates, I do not blame you. It is not easy for someone outside the industry to understand and tell how life insurance companies, general insurance companies, reinsurance companies, brokers and agents are different from one another. Perhaps one of these days, I will need to arrange a course on introduction to insurance one-on-one for all of you.

There is no question of disrespect for workers. Insurance companies do not have an open-ended choice in this matter. They cannot carry unlimited risk, not just out of self-interest, but because the insurance regulators will not allow them to be reckless.

We cannot predict exactly how insurance companies or employers will be affected in the coming weeks by changes in the price or availability of employees compensation insurance.

The number of SARS-related employees compensation claims this year was small. Official and other measures to minimize the risk in future outbreaks are very extensive.

The worst-case scenarios might only be remote possibilities, but we cannot quantify these risks. The thought of new diseases which spread more easily is as worrying to insurers as it is to everyone else.

For this reason, I ask the Government to examine whether infectious diseases pose any risk of failure in our employees compensation insurance market, and whether there is a need to make appropriate plans in case that happens. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That Mr Bernard CHAN's motion as amended by Mr Andrew CHENG and Mr LAU Chin-shek be passed.

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

(Members raised their hands)

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

(Members raised their hands)

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

**PRESIDENT** (in Cantonese): Second motion: Supporting the middle class.



## **SUPPORTING THE MIDDLE CLASS**

**DR DAVID CHU** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, in any advanced society, the middle class is always the most important and the most fundamental force that maintains social stability and prosperity and drives social progress. The middle class in Hong Kong has been doing their level best to create wealth for Hong Kong and to take Hong Kong forward, contributing to the remarkable achievements of Hong Kong. However, over the past six years, the middle class has not only been hard hit by the economic downturn. They have also been made the sacrifices of the various policies introduced by the Government to the detriment of the middle class. For example, the "85 000" policy, education reforms, tax increases, Mandatory Provident Fund (MPF), and so on. In the last six years, what the middle class experienced was all tears, leaving them with pent-up grievances and a gross nightmare. What the middle class has got is far less than what they have contributed. So, today, I must stand out and say something for the middle class, in order to draw the Government's attention to their sufferings and the unequal treatment they have been given.

First, the negative equity problem has over the last few years pressurized the middle class so badly that they could hardly breathe, condemning them to the verge of bankruptcy and even suicide. At present, there are close to 100 000 cases involving negative-equity property. This has affected not only the livelihood of 100 000 families, but also the overall economy of Hong Kong. The negative equity problem has on the one hand greatly undermined their spending power and hence aggravated deflation. On the other hand, the negative equity problem has also been the source of grievances in society.

The negative equity problem has already affected the stability of our society and yet, the Government of the Hong Kong Special Administrative Region (SAR) still has not tackled the negative equity problem at root, and this is disappointing indeed. Whether it be "Suen's nine strokes" or his "deepening measures", it shows that the Government has either reacted slowly or suggested ineffective solutions to the problem, addressing only the trivialities. As a result, Hong Kong has let slip the opportunity to rescue the property market.

Moreover, the Government should discuss with the Hong Kong Monetary Authority (HKMA) and banks as to how more assistance can be provided to owners of negative-equity properties. The last six years saw a total of 5 000-odd repossessed flats in Hong Kong. The Government should realize that one more repossessed flat means one more family being denied an opportunity to turn the corner.

Madam President, the second difficulty faced by the middle class is pay cuts, layoffs, and so on. Given the impact of the globalization of the world economy and economic restructuring on the middle class, coupled with the distressing deflation and fierce competition, the salaries of professionals have continued to drop. Lawyers, accountants, engineers, doctors, teachers, social workers and many other professionals used to enjoy stable incomes from their enviable professions. But nowadays, their future is full of unease and anxieties.

The Government has ploughed in enormous resources to organize various kinds of training and retraining programmes to assist the grassroots, but it has not provided adequate assistance to address the problems of professionals in the middle class. With regard to assisting the middle class to access the mainland market, there have only been empty words from the Government rather than concrete actions. I urge the Government to inject adequate resources into this area of work, so that more concrete initiatives can be made for the middle class as soon as possible.

The third difficulty faced by the middle class is the very difficult business environment for the operation of small and medium enterprises (SMEs). SMEs account for over 98% of all companies in Hong Kong, providing employment opportunities to close to 1.3 million people, which represents about 60% of the total working population in Hong Kong. Turning a blind eye to the actual situation, the Government was hell-bent on the implementation of the MPF, thus making the operation of SMEs even more difficult. The closure of SMEs does not only cause the middle class to suffer losses or even to lose all their hard-earned capitals. What is more, their employees would then lose their jobs. To a jobless person, what is the use of the MPF?

I think the Government must expeditiously improve the business environment, particularly by lowering the operating cost of enterprises and removing unnecessary regulation, so as to "untie the strings" for the SMEs.

Besides, the Government should provide more resources to the SMEs in upgrading their competitiveness. While the Government has set up a number of loan funds to help the SMEs, these schemes have not yielded satisfactory results because of the conservative loan approving criteria and the fact that the implementation details have not taken into account the difficulties of the SMEs.

The fourth area in which the middle class is dissatisfied with the Government is the Government's education policy. The series of education reforms and the adoption of mother-tongue teaching by the Government have already caused harms before they can generate benefits, as evidenced by a continued decline in the English standard in primary and secondary schools, universities, and among students. As a result, the middle class has lost confidence in Hong Kong's education system. So, while parents are faced with a drop in income and repayment of mortgage loans for their negative-equity property, they have to scrimp and save to cut down on their living expenses in order to send their children to international schools or schools abroad for education. This has further added to their already very heavy burden.

Fifth, the middle class in Hong Kong has to pay many kinds of tax. Over 80% of the salaries tax is now contributed by 20% of taxpayers, all being members of the middle class. Furthermore, rates, government rent and other indirect taxes are mostly paid by the middle class. Nevertheless, the Government still sought to grind its axe at the middle class in the 2003-04 Budget. Many members of the middle class are made to pay salaries tax at an amount double their monthly salary or even more. This is indeed unfair and unreasonable.

The interests and opinions of the middle class have not been given due regard because the Legislative Council and many people and organizations are mainly speaking for and fighting for the interest of the grassroots. Is it because there are far more votes from the grassroots than from the middle class? Is it because the Government fears the strong and bullies the weak that it does not give much support to the middle class?

Madam President, I think the Government must be held absolutely responsible for the plights faced by the middle class now. The Government should expeditiously introduce a series of effective long-term policies with a view to supporting the middle class. Finally, I appeal to all members of the

middle class to come forth to make your presence felt and your voices heard by the SAR Government.

Thank you, Madam President.

**Dr David CHU moved the following motion: (Translation)**

"That this Council urges the Government to expeditiously introduce a series of effective long-term policies with the objective of supporting the middle class."

**PRESIDNET** (in Cantonese): I now propose the question to you and that is: That the motion, moved by Dr David CHU, be passed.

**PRESIDNET** (in Cantonese): Mr MA Fung-kwok and Dr YEUNG Sum will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the two amendments will now be debated together in a joint debate.

I now call upon Mr MA Fung-kwok to speak first, to be followed by Dr YEUNG Sum.

**MR MA FUNG-KWOK** (in Cantonese): Madam President, to begin with, I must thank Dr David CHU for moving this motion, which enables us to discuss the plight of the middle class. My understanding of the middle class in Hong Kong is different from that of Dr David CHU, which is why I have proposed an amendment, based on the conviction that the middle class is not in any particular need of government support. Quite the contrary, the Government must require the support of the middle class to maintain effective governance and social stability. Therefore, I hope that the Government can stop ignoring the situation and voices of the middle class.

Madam President, as generally conceived, the middle class refers to all those engaged in jobs of a knowledge-based nature, covering professionals, middle managers and executives, proprietors of SMEs, and so on. These people do not belong to the grass-roots classes and seldom receive any

government welfare, but they are not extremely wealthy either. Classified by types of occupation and income, these middle-income professionals and management personnel number almost 1 million. Together with their family members, they actually represent 30% to 40% of the total population of Hong Kong.

The middle class is characterized by self-reliance. Many of its members were brought up in lower- and middle-stratum families in the 1960s and 1970s. Through efforts of their own, they managed to acquire better education, and career-wise, it is only after much hard work that they have succeeded in rising to the middle level. Their jobs and income being relatively stable, they tend to be more independent in their thinking and do not look to the Government for any assistance. Through efforts of their own, they hope to improve their lot and living conditions, and to provide their children with better education; they generally possess their own properties. Even when they become unemployed, they would still choose to live on their savings as a means of tiding over the difficulties. Many of those professionals and manufacturers who have moved northward for development over the past 20 years or so have all along relied entirely on themselves in expanding their business in the Mainland, without receiving any government assistance at all.

Despite the fact that the middle classes seldom receive any government assistance, they have nonetheless made immense contributions to society. Of the 1.2 million salaries taxpayers in 1997-98, 67% came from the middle strata, each earning a monthly income of \$15,000 to \$80,000, paying half of all salaries tax, or \$15 billion in actual dollar terms. The sum will get even more enormous when the profits tax paid by SMEs is added.

Madam President, I wish to point out that under the policy of high land prices in the past, land proceeds constituted a good part of government revenue. Since land prices were indirectly paid by property buyers, most of whom were middle-class people, these people were actually made to pay another kind of tax in disguise. Land prices often amounted to the tax payable by them in several decades or even a hundred years. And, they paid these sums in advance by borrowing money from the banks. The several hundred billions of reserves now possessed by the SAR Government has been amassed in this way. In times of economic prosperity, despite the financial pressure they felt, the middle-class people, confident of their own ability, could still manage to cope by working diligently. However, following the bursting of the bubble economy, many of

them now find that the prices of the properties which they purchased after so much skimping have plummeted, and the wealth they have saved in half of their life-time has vanished. Some of them have become heavily indebted or even bankrupt. The worsening employment situation has even started to affect middle-level professionals. They are now faced with the twin blows of layoffs and pay cuts, but they are often the forgotten ones.

However, the Government has never shown any appreciation of the middle-class people's plight over the past few years. The New Forum conducted a telephone opinion poll in March this year, in which more than 70% of the respondents expressed the view that the Budget this year was not fair to the middle classes. And, of all the middle-class respondents, over 80% of the respondents held such a view.

Frankly speaking, what the middle classes need is not any government support or assistance. Rather, they hope that the Government can adjust its policies and measures under some equitable and reasonable principles, so as to relieve their hardship, or at least give them some sort of psychological comfort.

Madam President, given the fiscal deficit in these years, the Government needs to create new sources of revenue and cut its expenditure; all strata in society should share the responsibility, so the middle-class people who have the means should pay more tax. The New Forum has all along advised the Government to widen the tax base and introduce the more equitable sales tax at the appropriate time, so as to increase its revenue. And, all tax increases must be shared fairly among all social strata. Home-buyers, especially owners of negative-equity properties, have indirectly shouldered a good part of our public expenditure because of land prices, so the Government should offer them tax relief for their home loan interests, so as to relieve their burden. But in the Budget this year, the Government has not only increased the salaries tax, but also raised the property tax. As for the tax relief for home loan interests, there is a decrease instead of an increase. All this runs counter to the objective of stabilizing the property market, thus worsening the situation of those people who have to repay their mortgage loans.

In respect of the housing policy, the overall property market seems to have shown some signs of revival recently, but the second-hand market is still sluggish. Negative-equity property owners wishing to extricate themselves from their

plight still find it difficult to sell their properties. The measures taken by the Government to stabilize the property market in the past year are of use to the overall property market but not the second-hand market. In the next few years, hundreds and thousands of new housing units will be completed every year. This, together with the various concessions to attract buyers, will definitely continue to produce huge impact on the second-hand market.

The New Forum maintains that the Government should lift the mortgage ceiling for second-hand flats and introduce some measures to the investment immigration scheme to encourage applicants to buy second-hand flats in Hong Kong. It should also encourage the banks to make flexible debt restructuring arrangements for owners of negative-equity properties. As long as property owners can produce reasonable proof of their repayment ability, they should be allowed to extend the mortgage tenure to 30 years or even more, so as to reduce their monthly commitment and expenditure.

Madam President, the ineffective use of public resources has led to the huge fiscal deficit and increased the tax burden of the middle classes. Public housing, for example, is originally meant to provide the grass-roots families with accommodation, so that their children can grow up in a stable environment and later earn their own living. For this reason, after the children of these families have grown up and become financially able, they should surrender their housing units, so as to make room for other citizens in greater need. The Government should reassess the eligibility of public housing tenants on a regular basis, but under the existing policy, public housing is almost like a lifelong benefit of residents. And, public housing units are still sold at very low prices even when the property market is plummeting.

Improvements in public-sector health care services should basically be supported. However, since the heavily subsidized health care services provided by public-sector institutions are available to all citizens regardless of their means, health care has become a heavy burden of the Government. The financial burden is thus shifted to taxpayers, and the policy has also stifled the development of the private-sector health care market. The Government should actually reform its health care financing policy, making those who have the means pay more and enabling them to choose the class of services they want. This can appropriately lighten the burden of taxpayers on the one hand and lead to the balanced development of public- and private-sector health care services on the other.

Another example is the system of unemployment assistance. This system should be separated from the Comprehensive Society Security Assistance system, and the assistance offered should also be subject to a specific time limit. This, together with active employment counselling services, may further encourage the unemployed to seek employment, thus achieving a more reasonable deployment of resources. As for education, frequent policy reversals have made the middle-class people unable to decide what they should do, and the huge reduction of education funding has also destroyed all their faith in the Government.

My purpose of quoting all these examples is not so much to ask for any curtailment of the welfare benefits enjoyed by the lower strata of society. Nor am I demanding more benefits for the middle classes. Rather, I simply wish to point out that the Government's policies have failed to uphold the principle of equity. In August this year, the New Forum conducted another survey. About 65% of the middle-class respondents were of the view that the policies of the Government could not adequately balance the interests of the various strata in society. The survey also revealed that nearly 20% of the middle-class respondents were most worried about the Government's competence or lack of it. This shows that besides finding a lack of equity in the Government's policy, the middle-class people are also beginning to have less confidence in the Government, to ask for reforms in the Government's policies and the political system. Therefore, it has become necessary for the Government to respond to the aspirations of the middle-class people; it should launch a political review as soon as possible, promote democratization, improve its governance, reform the existing tiers of consultative bodies and listen more to the views of the various strata in society.

Madam President, the waves of emigration in the 1980s and 1990s once gave rise to a succession problem in many industries. If the middle-class people now lose confidence in Hong Kong's prospects and the ability of the Government, and if a fresh spate of emigration thus occurs, the impact will be unimaginable. What is more, if we fail to ease the plight of the middle class, and if consumption thus continues to dwindle, how are we supposed to improve our overall economy and the employment situation?

Madam President, in a modern metropolis like Hong Kong, the interests of all social strata must be looked after and considered, and the views all social strata must also be reflected in the establishment before we can achieve sustained economic development, prosperity and stability. The Government must bring



stability to the middle class before it can bring stability to Hong Kong. I am convinced that as long as the Government can provide an environment and policies that are both equitable and reasonable, as long as it can stop implementing policies that are particularly unfavourable to the middle class, the middle-class people will definitely work hard to create wealth for both themselves and society, and they will also join hands with other social strata to build a harmonious and prosperous Hong Kong.

I so submit. Thank you, Madam President.

**DR YEUNG SUM** (in Cantonese): Madam President, the discontent of the Hong Kong middle class with the Government is no news at all. According to survey findings, as many as 60% of the 500 000 participants in the march on 1 July were middle class. The SynergyNet conducted two separate surveys in June and October on the performance of the Government. The findings show that the middle class was extremely dissatisfied with the governance of the Government. The survey conducted in late June was on the rating of the Government's performance, and a full score of 10 points was allowed for each item of rating. The average score for one of these items, namely, "The Government's Willingness to Assume Responsibility for Blunders under the Accountability System", was just 2.7 points; that for "The Transparency of Decision-making" was just 2.9 points; that for "Sense of Responsibility in Administration" was 3 points; and that for "Active Public Consultation on Public Policies" was also just 3.2 points.

After the march on 1 July, in October this year, the New Power Network conducted another survey on the middle-class people's views about "Middle-class Political Participation and Participatory Politics". According to the findings, the middle-class people were still dissatisfied with the administration by the Chief Executive. About 83% of the middle-class respondents viewed that the Chief Executive had not honoured his pledges and must change his style of administration.

My purpose of citing all these statistics is to visualize the discontent of the middle class with the Government. The fact before our very eyes is that the Hong Kong middle class is extremely discontented. Politically, economically and in respect of social issues, the middle-class people are discontented with the

Hong Kong SAR Government, and their discontent has by now turned into grief and disappointment. Politically, the Government has defied all opposition, forcibly trying to enact draconian laws to implement Article 23 of the Basic Law. The accountability system has not turned out to be what its name suggests; favouritism prevails, and, with the prerogative vested in it, the Government has been appointing officials regardless of ability. All this has led to the outrage and outcry of the middle-class citizens in Hong Kong. Unfortunately, under a government which is not elected by the people, the middle-class people simply have no way at all to air their grievances. In the middle of this year, in conjunction with some affected middle-class people, the Democratic Party organized a procession for the middle class. More than 1 000 middle-class citizens who had never participated in any marches eventually responded to our appeal and broke their long-kept silence, stating their views with their feet.

Economically, the suffering of the middle class is also beyond any description. It is now the tax season. According to the statistics of the Inland Revenue Department, almost 70% of the \$3.1 billion generated by the salaries tax increases this year will be paid by middle-class taxpayers with an annual income of over \$400,000. The burden of salaries tax is now borne mainly by middle-class taxpayers, but then, in 2003-04, the Government is going to increase the salaries tax yet again. The additional tax revenue will be some \$6 billion, and this will be borne by the middle class in the end. According to statistics, the tax increase will give the Treasury an additional revenue of \$3 billion, and some \$2 billion of this will come from the 280 000 middle-class employees earning an annual income of \$400,000 to \$900,000. In other words, each of them will have to pay \$8,000 more in tax; the additional tax paid by this 20% of taxpayers already amounts to 70% of the additional tax revenue.

In the middle of this year, the Democratic Party voiced its opposition to the Budget proposal on restoring the personal allowance, tax bands and marginal tax rate to the pre-relief levels in 1998-99. Our argument at that time was precisely that under the prevailing economic conditions, while the middle classes had to deal with their own financial pressure, they would also have to shoulder the deficit-elimination burden imposed on them by the Government. Unfortunately, the tax increase proposals were still passed by the Legislative Council. The Democratic Party really hopes that this time around, the Government can refrain from putting the heavy burden of deficit elimination on the middle classes, from coercing them with its authority.

Making tax payments is after all a citizen's responsibility. The middle-class people also realize the need for eliminating the fiscal deficit, and they are prepared to work with others. But what makes them so angry is that while the Government turns to them for more tax payments, it is at the same time wasting huge sums of public money. The Harbour Fest has ended up in a fiasco, but the Government has to foot a bill of \$1 billion. According to a report of the Audit Commission, government departments should be blamed for their administrative blunders, but then \$1 billion of public money has been wasted.

Madam President, the greatest hope cherished by the middle classes is that their hard-earned wealth and achievements will not disappear just because of others' policy blunders. But the middle classes are now tormented by a never-ending plight, as they simply do not know when they can get rid of their negative-equity properties. And, even when they become unemployed, they will not be eligible for CSSA payments. Today, the Democratic Party once again wishes to speak the voices of discontent of the middle classes in the Chamber. We hope that the Government will come to the aid of the middle-class people.

When it comes to helping owners of negative-equity property, the Democratic Party maintains that the Government should provide immediate assistance to the 9 000 or so owners of such property. Recently, the Democratic Party has been trying to help some owners of Sandwich Class Housing unit to relieve their burden. In 1998-99, the Government launched the Sandwich Class Housing Scheme to assist the middle classes in buying their own homes. Many of the housing units have by now become negative assets, and starting from this October, owners of these housing units have to repay their second mortgage loans. Due to the economic recession, owners of Sandwich Class Housing units have been requesting the Mortgage Corporation to reduce the interest rate of their second mortgages from the Prime Rate to Prime minus.

The Democratic Party has been assisting owners of Sandwich Class Housing units in negotiating with the Mortgage Corporation and the Housing Society, asking them to take measures to ease the burden of the owners. It is hoped that the Housing Society can act as a guarantor for the owners' second mortgages, so that the Mortgage Corporation can reduce the interest rate chargeable. Besides relieving the burden of owners, this will also enable them to continue to repay their mortgage loans. Frankly speaking, this is also something good to the Mortgage Corporation, a win-win solution.

However, the Mortgage Corporation has all along refused to reduce the interest rate, and the Housing Society has also refused to act as a guarantor. Mr David LEE, who assumed the Chairmanship of the Housing Society just some two months ago, has also refused to conduct any dialogue with the affected owners, thus aggravating their situation. These owners are really very disappointed.

Fortunately, following several rounds of negotiations with the Sandwich Class Housing League, the Mortgage Corporation has finally agreed to offer the owners a form of rebate which in effect reduces the interest by 0.25 percentage points. This can be described as a Christmas present. Although this will only reduce the monthly installment of each owner by some \$100, the reduction is still a kind of support to all the owners. The Government should likewise try more actively to assist owners of negative-equity properties in the private-sector market. For example, a higher deduction for mortgage loan interests should be offered, and the Hong Kong Monetary Authority should also call upon the banks to restructure the debts of negative-equity property owners, with a view to reducing the interest payment. Owners may also be allowed to repay the interests but not the principal, or to extend the tenure.

Even when all this is done, the assistance received by owners of negative-equity property will still be very limited. That is why our ultimate hope is to establish a democratic government, one which holds itself accountable to the people and accepts their monitoring. With a democratic government, policies which are more reasonable can be formulated, and huge wastage of public money can also be avoided. Besides, a democratic government can also provide a sound development environment. This is the only way to reduce the discontent of the middle classes and ease the political and financial pressure exerted on them.

Madam President, the Democratic Party does not support Mr MA Fung-  
kwok's amendment, for we do not think that the plight of the middle class is caused solely by the bursting of the bubble economy. Actually, insofar as the discontent of the middle class is concerned, the policy blunders of the Government and the undemocratic political system are also factors that cannot be ignored. Therefore, we will abstain from voting on Mr MA Fung-kwok's amendment. Thank you, Madam President.

**MR NG LEUNG-SING** (in Cantonese): Madam President, it is a fact that when compared with the lower strata of society, the middle class has always received less attention in various public policies. In respect of housing, health care, education and social welfare, the middle class has never been given any special attention. It can be said that the government policies and measures in these policy areas are to a very large extent biased towards helping the lower strata and providing services to the vulnerable social groups. This is a fact and may probably be a natural inclination of public policies in general.

Even if we want to draw up a set of special policies for the middle class, we must still note that the term "middle class" is itself very hard to define. If personal income, net family assets and recurrent income are used as the sole criteria, people may come up with different definitions. An alternative viewpoint is that in Hong Kong, where economic development is relatively advanced, the per capita income relatively high and people's living relatively affluent, while the Government must implement measures in the abovementioned policy areas to assist the lower strata and the vulnerable, any citizen who does not require such assistance should at least be classified as belonging to the middle class. But such an approach to defining the term will lead to one problem in logic: Since the middle-class people are by definition not in need of any assistance, anyone for whom assistance policies are formulated may no longer be middle-class as such, but members of the lower strata instead. Yet another viewpoint is that there is in fact one more class between the middle class and the lower strata, called the sandwich class, which is not looked after by any public policies. If that is the case, a different problem will emerge: the sandwich class may well be in greater need for assistance than the middle class policy-wise.

In recent years, there has been an economic downturn in Hong Kong, which turns many people into owners of negative-equity property. Many people who used to earn higher incomes are now also tormented by pay cuts and layoffs in the midst of economic restructuring. This is the harsh reality. But these people are not the only ones experiencing financial hardship. The lower strata and employers similarly have their own problems to solve. From the integrated public policy perspective, I will support all policies and measures that can do good to the various social strata, provided, of course, that such measures are based on the long-term interests of society and holistic in perspective, instead of focusing merely on one particular social stratum, or being meant as a stop-gap, political expedient. For instance, when contemplating any taxation policy in respect of any particular social stratum, we must judge the policy concerned against our overall strategy of public finance.

Madam President, as the colloquialism goes: "One may become wealthy this moment, but penniless the next." The idea here is very easy to understand. Hong Kong is a place with relatively high social mobility. Its public policies are founded on the conviction that assistance should be given to the lower strata who are in genuine need, and that there must be an equitable and institutionalized environment for people of the various social strata, so that they can all have the chance to climb up the social ladder. I think this very conviction is essential to ensuring the vitality of Hong Kong as a community, is a principle that we should continue to uphold. I also think that when it comes to the features of the middle class, to a great extent, asset or income levels should not be used as a label. Instead, what matters should be their education background as well as adaptability and competitiveness in the manpower market. What they need more is the continued existence of a social environment with equity and institutionalized assurances, marked by vitality and opportunities, rather than any direct social relief or financial support.

Madam President, I so submit.

**MR HOWARD YOUNG** (in Cantonese): Madam President, the middle class has all along been an underpinning of our society and economy, making immense contribution to society but receiving very little benefit, and even shouldering the heaviest tax burden. But then, the onslaught of a financial turmoil has reduced many of such people to owners of negative-equity property, plunging them into difficulties in maintaining even a life of subsistence. Some of them even make fun of themselves, saying that even the proletarians now lead a better life than they. All this has definitely intensified their discontent with society and also the Government.

As a matter of fact, as early as 2000, the Liberal Party already initiated a campaign on "protecting people's properties and boosting their morale". It was the first political party to show concern about the hardship of the middle class, the very political party that brought forth the first opportunity for society as a whole and the Government to get to know clearly the immense sufferings of the middle class. Following this, the Liberal Party also moved a number of motions and amendments in the Legislative Council, urging the Government to help stabilize the property market and work out ways to stop the plight of negative asset owners from spreading.

In the past three years, the Government made several attempts to stabilize the property market, but no obvious result has been achieved. Property prices have kept on plummeting, and by now, they have gone down by 60% to 70% when compared with the price levels in the peak period. Following the coming of mainland individual travellers and the signing of CEPA, the economy of Hong Kong has started to show signs of recovery, and the property market has also stopped declining temporarily, but government statistics still indicate that the problem of negative-equity property is very serious — as at the end of September this year, the number of properties with negative equity still stood at some 99 800, which is just about 5% less than the 100 000-plus cases recorded during the peak of the SARS outbreak.

For this reason, the Liberal Party wishes to advise the Government once again that it must proceed very carefully with measures on stabilizing the property market, not least because land auctions will most likely be resumed next year. The Government must not drastically increase the number of lots for sale for the sake of easing the fiscal deficit, because this will ruin the recovering property market. If the property market starts to plummet again, the plight of the middle class will be aggravated, and not only this, the recovery of the economy will be dealt a further blow.

The problem of negative-equity property aside, the middle class is frequently also referred to as the "sandwich class", because while middle-class people have to shoulder the heaviest salaries tax liability, they cannot enjoy any substantial welfare benefits. Before the tax increase this year, the salaries tax paid by the 100 000 people paying the bulk of the salaries tax, that is, about 10% of all the salaries taxpayers, amounted to 59.2% of all the salaries tax collected. This is almost a rise of 10% against the 54.2% recorded in 1997. And, in March this year, the authorities announced that in view of the huge fiscal deficit, the salaries tax would be increased by restoring the pre-relief personal allowance in 1998. Besides, it was also announced that the standard rate would also be increased by one percentage point, thus doubling the number of standard-rate taxpayers from some 20 000 to 44 000. All this shows that the burden of the middle class will only increase.

The Liberal Party is of the view that the root cause of the fiscal deficit should be the incessant increases in public expenditure over the years. The

authorities must first deal with the wastage of resources in government departments, instead of turning so lightly to the middle class and seeking to fill the abyss of fiscal deficit by increasing the salaries tax.

The Liberal Party also thinks that in addition to reducing its expenditure, the Government must take active steps to support the middle class. In particular, it must assist those professionals faced with employment difficulties over the past few years in giving full play to their expertise. For example, the opportunities brought about by CEPA should be grasped to enable these professionals in entering the mainland market. Specifically, the Government must fight for the recognition of more professions in the Mainland and for a lowering of the threshold of practice. Besides, local professionals should also be allowed to practise on an individual basis in the Mainland, instead of being required to enter into any partnership.

Madam President, the middle-class people are generally highly educated. Recently, they have however broken their long-held silence and taken to the streets more frequently than before, so as to voice their dissatisfaction with the various policies of the Government. For this reason, the authorities should enhance the various channels of communication, such as by inviting more middle-class people and professionals to join the various advisory committees, so that by taking on board their views and discussing with them, the implementation of policies can be perfected. Only this can give vent to the grievances of the middle class. State President Mr HU Jintao has also expressed the hope of enhancing the solidarity among the middle class and other social sectors in Hong Kong. Therefore, the authorities must never take the views of the middle class lightly.

Precisely because the middle-class people have become more enthusiastic than ever before about voicing their views on current affairs, the Liberal Party has launched a large-scale campaign to recruit middle-class people since 1 July. It is hoped that by unifying the middle-class people and reflecting their views, we can thus urge the Government to act more reasonably and fairly and to enhance its support for the middle class.

The two amendments today merely give a more specific account of the housing and taxation problems faced by the middle class — I have in fact touched



upon all these. Therefore, the Liberal Party will support all the three motions today — I mean, the original motion and the two amendments.

I so submit.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, frankly speaking, I really do not know what I should say on the motion topic today, because practically every issue can be related to it; one may talk about education, about housing, just about anything on earth. Actually, there is something wrong with the motion itself because it talks about supporting the middle class, but in theory, the middle class should need no support at all — I mean, theoretically. But why should we still talk about supporting the middle class then? That is because the middle class has been impoverished.

Anyway, if we still wish to talk about the middle-class people, I must say that what is most important to them should be the values they uphold. There is nothing to do with any theories on their income levels and situation. Middle-class people — if one looks at them all as a social class — are an icon of one value, one which precludes outside help. In other words, middle-class people uphold the value that they do not need any help from others. This is a value they uphold. To the middle class, the most important thing is fair competition, and the absence of this is totally contrary to the value upheld by this class. The middle class opposes corruption, opposes the lack of transparency, and opposes monopolization by consortia. All these are also the values upheld by these people, because with monopolization by consortia, their knowledge will not enable them to get reasonable returns. All this is a question of values.

Maybe, concern for others and justice are also values. That is why I do not agree to Mr MA Fung-kwok's earlier remarks on CSSA for the unemployed. He singled out CSSA for the unemployed for discussion and went on to say that these people should try to become self-reliant. I do not oppose self-reliance, but are there any employment opportunities now? When it comes to the values upheld by the middle class, concern for others and justice must be mentioned. People therefore should not put the middle class and the grassroots in any antagonistic positions. The middle-class people's greatest discontent with the Government now is actually about its bad governance. They find bad governance the most unbearable. Therefore, Dr David CHU's skipping of this point, his only focus on the education reform and the "85 000 housing units"

target, in brief, his skipping of bad governance, is actually anti-middle class. When one talks about supporting the middle class, one must mention this point, must be "to-the-point", must point out that the middle classes are most upset up the Government's bad governance, which is why they now want to effect a change in government through the ballot box and have this right to vote as soon as possible. This is the most important point. Anyone who skips this point, who talks only about things not related to the middle class, that is, those things which Dr David CHU talked about, must be anti-middle class. This is my first comment.

The second point I wish to raise is that many political parties have claimed that they are very concerned about the middle class. The Liberal Party talked about the "85 000 housing units" target just now, but why do they not look at the whole issue from the angle of the Hong Kong Confederation of Trade Unions? The Hong Kong Confederation of Trade Unions is the staunchest supporter of middle-class and grass-roots employees. It is their representative, because the salaries of its members actually range from the very low to the very high. Putting aside all class values and looking at all these members purely as salaried employees, we can see that actually, over the past six years, the entire Government from top to bottom, in brief, the whole Government — a government that colludes with large businesses — has acted against employees in general. Why did they not mention this point?

Indeed, to be fair, they did talk about this; they did mention pay cuts and layoffs. I did hear them talk about pay cuts and layoffs. The point is that all employees, regardless of their income levels, have all been tormented by pay cuts and layoffs. That is why I would not say that the middle class has been particularly miserable. In fact, all employees are miserable, and the grass-roots employees are even more so. But I do not intend to compare the sufferings of the grassroots and the middle class. The most important thing is that all employees must be extricated from their miseries. But how? The fundamental point here is that over the past few years, all in the entire labour market, regardless of their income levels, have been rendered so helpless by the so-called market forces and market economy.

Members may want me to quote some examples, and in this connection, I just wonder how Dr David CHU looks at the delinking of university staff salaries and the lump sum grant arrangement for social service agencies? What has happened after the introduction of the lump sum grant arrangement? Social

workers are offered only one-year employment contracts, and their entry pay is just several thousand dollars. Young people can now only earn several thousand dollars a month. The monthly pay for a welfare worker used to be as much as \$10,000, but it is only several thousand dollars now. This can show precisely the plight of employees. All employees, be they at the basic or middle levels, are facing the same miseries.

The worst victims of the delinking of university staff salaries may be those university cleaners and security guards under outsourcing employment. And, university lecturers are likewise subject to immense pressure, are equally miserable. Civil servants are very miserable too. Their salaries will be cut; they are talking about "zero-three-three" today, but we simply do not know what more will happen later on. All employees in the entire labour market are caught by a sense of insecurity. This very sense of insecurity is the greatest problem facing Hong Kong now. All people, whether the middle class or the grassroots, no longer have any sense of security. When people do not have any sense of security, how can they have any confidence in their prospects? How are we going to develop Hong Kong? How can we have any confidence in ensuring bright prospects for our children?

If we do not discuss all these problems, do not properly address the problems faced by employees, all talks about supporting the middle class will be mere lip-service, because the middle-class people in fact spend most of their time on their jobs. The issue of working hours, in particular, is the cause of the strongest grievances of employees, whether middle-class employees or grassroots ones. They are simply deprived of any family life, any private time, and they have to work from the morning to very late at night. Why did they not mention this? I hope Members can render me their support when I ask for the enactment of legislation on working hours in future. Will Members give me support? This is the only genuine support for the middle class. If Members can agree that working hours should be reasonably restricted, the grassroots will be benefited, and so will the middle class. Will Members do so? But I suppose Members may well say "no" when the time comes, because they will argue that such a restriction will damage the free market principles. I suppose Dr David CHU will also cast a negative vote, but, of course, I do hope that he will not. The Liberal Party is forever, definitely against our proposal on restricting working hours. What is it going to do? But who say they want to support the middle class? The middle-class people are very concerned about

working hours, and they have never wished to work excessively long hours. Why has no one listened to them? Thank you, Madam President.

**DR RAYMOND HO** (in Cantonese): Madam President, since the financial turmoil and the crash of the property market, the Hong Kong economy has been caught in a serious depression. Overall speaking, people from various strata suffer, in particular the middle class. In the last few years, although the Government and the general public have put in a lot of efforts in improving the economy of Hong Kong, the pace of economic recovery is still very slow. The reason for this is due to a lack of drive from the middle class. I consider that if we wish to speed up the pace of economic recovery, the Government must make adjustment to its policies in respect of the middle class.

Since the bursting of the bubble economy, the unemployment rate has been on the rise. In order to maintain their livelihood, Hong Kong people cut their everyday spending, finally leading to a shrinkage of business in a number of trades. As a result, due to the knock-on effect, the Hong Kong economy becomes increasingly worse. Honestly, the victims of the bursting of the bubble economy are the public and the poor. In view of this, even under a serious budget deficit, the Government still has to maintain a certain level of social welfare for the lower income group. For example, it provides them with Comprehensive Social Security Assistance (CSSA), public housing units, school fee remission, school textbook assistance, and so on. As long as they are qualified, they can get full or partial assistance. In fact, the victims of the bursting of the bubble economy are not only the lower income group, the middle-class people are also the victims. However, the assistance offered by the Government to them is so minimal that they are very frustrated and feel very disappointed with the Government.

It is undeniable that when the economy is booming, the living of the middle classes is indeed more comfortable than that of the lower income group. It is because their residential units are larger than those of the lower income group and the living environment is better. When the low-income earners have to travel to work in crowded public transport, the middle-class people can drive to work. However, since the financial turmoil and the crash of the property market, this is no longer the case. The middle class can no longer live in luxury. As a matter of fact, I believe that among them, a lot have already become negative-equity property owners. Worse still, some of them are presently unemployed.

How is the life of negative-equity property owners? I believe that the pressure of life on them will surely be heavy. They have to cut their everyday spending in order to make mortgage repayments. If they are singletons, the situation will be better. But if they already have children, then apart from having to worry about the loans, they also will feel troubled by the daily expenses of their children. Someone may think that if they face financial difficulties, they can apply for CSSA. However, the problem is this does not mean that they are eligible to apply for CSSA or other social welfare assistance, such as public rental housing. Someone may also think that if they have a job, the situation will not be so pessimistic. It is right that under the present economic environment, it is nice to have a job. However, the problem is under the taxation policy formulated by the former Financial Secretary, the middle class will have to shoulder the heavy burden of eliminating the fiscal deficit. In this connection, we know that in the near future, the tax liability of the working middle class will be very great.

I have to mention the case of the engineering and construction industry. In recent years, due to the financial turmoil, the number of private construction projects has dwindled to a miserable level, and the construction of public housing has also remarkably reduced. Although the present tender price for a project is only two thirds of that five or six years ago, the Government is still unwilling to increase the number of works to boost the economy. It has even, from time to time, delayed or even cancelled a lot of projects (including those related to the quality of living of the public). Not only has that pushed the unemployment rate among construction workers to 30%, but the unemployment rate of professionals in this industry has also reached 20%. The situation is very critical indeed.

Therefore, representing the Public Works Concern Group which comprises 12 trade unions, business associations and professional bodies, I have made an appointment today to meet with Mr Henry TANG, the Financial Secretary, next Tuesday, that is, on 16 December. We will clearly tell the Financial Secretary then that although over the past few years, we have put forward a lot of constructive proposals to the Chief Executive and the Financial Secretary on solving the problem of high unemployment in the industry, the Government of the Special Administrative Region has remained indifferent to them. If the Government still does not positively solve this serious unemployment problem within a short period of time, it is very likely that early

next year, the industry will organize a large-scale procession together with construction workers and business associations. Then I will take to the streets again.

I so submit, Madam President.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, during these six years since the reunification, the restructuring of Hong Kong economy, the financial turmoil and the many policy blunders made by the Government of the Hong Kong Special Administrative Region (SAR) have dealt a series of blows to members of the middle class who have been silent. We often hear at the district level the middle class people say that they are only required to pay taxes and they seldom get any care and attention from the community. Sometimes we may hear some people say in reply, "Does the middle class not enjoy medical and education benefits?" To be frank, many people of the middle class have taken out medical insurance and they seldom use the local public health service. In terms of education, those who have the means will send their children abroad to study or enrol in local international schools or private elite schools. They have to pay expensive tuition fees every year. The Democratic Alliance for Betterment of Hong Kong (DAB) is of the view that the Government must be aware of the plight of the middle classes, that they are helpless in such a bad economic situation. Over the past few years the number of bankruptcy cases in Hong Kong has surged and there are frequent reports of people taking their lives by burning charcoal or jumping from buildings. All this precisely illustrates how helpless people of the middle class are when they face difficulties. This is also sad. Sometimes we can even hear people from the middle class say they fail to see hope in this society and they are lost.

In the past six years, the DAB has been making proposals to the Government to ease the plight of the middle class. For example, in a bid to stabilize property prices and to alleviate the pressure faced by owners of negative-equity property, we have proposed many times the lifting of the 70% mortgage loan ceiling, extending the tax concessions for home loan interest and imposing a land sales moratorium for two years, and so on. To revitalize the economy and to increase job opportunities, we have proposed to offer incentives to attract inward investments, develop the border closed area and revive the manufacturing industries of Hong Kong. Recently, we have proposed to the Government to set up a "Chief Executive hotline" so that the Chief Executive can

listen to the voice of the people direct and do something to ease their hardship. All these suggestions are related to the well-being of the middle class. But most unfortunately, the Government has always replied that our recommendations will have to be carefully studied. So no results can be expected in the next few years. And for some of the suggestions, the Government has simply turned a deaf ear to them or rejected them for some grandiose reasons. When the Government is so slow in response, bureaucratic, sticking to the old rut and insensitive to the sufferings of the people, how can the grievances of the middle class be addressed? How can such a Government get any understanding and support from the beleaguered middle class? Therefore, the DAB very much supports the amendment proposed by Mr MA Fung-kwok which says that the Government has not been sensitive to the predicament of the middle class and that practical and effective measures must be taken to alleviate their pressure and suffering.

As we all know, many people in the middle class have become owners of negative-equity properties. Their greatest hope and wish is to see property prices stop falling and rise again. As such, to stabilize property prices is definitely one action the Government can do to help them out of their predicament. However, response from the Government is slow in this important policy area. When society makes one step, the Government will only advance by half a step. The policies launched are invariably not powerful enough. Though recently there have been signs of a revival in the property market, it should be noted that the number of flats coming onto the market next year will still be around 40 000. These will exert tremendous pressure on the property market and so its outlook is not bright at all. The Government must therefore keep a close eye on the development of the property market so as to ensure its steady development.

In our opinion, apart from maintaining the policies to stabilize the property market, the authorities should do something to ease the pressure on the mortgage payers with a view to alleviating their burden. Five years ago, the Government launched a scheme under which home loan interest payments are given a tax deduction and this has the result of providing a temporary relief to the mortgage payers. But unfortunately, this measure will only have a five-year lifespan. For people who have enjoyed this concession for five years in a row, they will not be eligible for it next year.

The DAB hopes that the Government will extend the effective term of this home loan interest deduction to 10 years and increase the deduction amount from

\$150,000 to \$200,000. This will ease the pressure faced by the middle-class people in paying their mortgage. We have contacted many middle-class families and almost all of them agree to this idea, but the Government has never given any positive response. This kind of attitude on the part of the Government is unacceptable.

In view of this, we strongly urge the Government to accede to this request of the people and respond to it in the policy address to be released in January next year.

We have often heard middle-class families complain that they are under the threats of unemployment and pay cuts, but their tax liability has not seen any reduction. The DAB very much appreciates the predicament of the middle-class people and we have suggested to the Financial Secretary not long ago that when the Budget is to be proposed next year, the Government should take into account the people's livelihood and should not raise any taxes or introduce any new taxes.

Madam President, the middle class has always been a pillar of society. In recent years, as a result of the economic downturn, assets value has shrunk and some people are gradually becoming the lower middle class and even the lower class. Such a kind of downward social mobility could lead to grave social problems and the Government must take effective and powerful measures promptly to tackle the problems faced by the middle class.

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

**MR LAU PING-CHEUNG** (in Cantonese): Madam President, some people think that the half a million people who joined the 1 July march were mostly middle-class people who had rarely taken part in any social movement and they came out to express their discontent. From the fact that many people from the middle class have taken to the streets, it can be seen that the middle class was greatly dissatisfied with the Government. In fact, more than two years ago, I wrote a letter to the Chief Executive in which I pointed out that grievances were building up in society and the people had lost their confidence in the officials. I gave the Chief Executive an advance warning at that time: "Over the past four years, the economic conditions have been fast deteriorating, and this has undoubtedly caused some impact on people from all social strata in Hong Kong.



Those in the upper stratum have seen their asset value depreciated but they can still cope with this; those in the lower stratum have the safety net of public housing and the CSSA to fall back on, but the middle class people alone are bearing the brunt of the impact. They have to shoulder most of the direct taxes and they rarely enjoy any social welfare benefits. They have to work hard to upgrade themselves and invest in the education expenses of their children. Some even have to bear the burden of negative-equity properties and face the problems of unemployment and pay cuts. All these are the tangible and intangible pressures they have to live with." Today my analysis remains correct and it has become even more accurate than ever.

With the surfacing of the financial crisis faced by the Government, the middle class is becoming a scapegoat. With reds in the public books, the Financial Secretary will certainly think of ways to increase taxes and cut expenditure. But given the prevailing weak position of the Government, even if these measures to increase revenue and reduce expenditure are fair and reasonable, they may be met with objections and protests from various interest groups. So often these measures are simply withdrawn. There are now only two groups which are genuinely weak and they are first, the Government and second, the middle class. In comparison, the middle class is the weakest of the weak. The reason is that the results of the various wastes made by the Government because of its policy blunders and bureaucratic practices will ultimately be borne by the middle class who will be required to pay more taxes to offset the deficits.

Madam President, there are two characteristics of the middle-class people. First, they are mostly salaried people and any means of reducing taxes such as by forming a company would be useless to them. Second, most people from the middle class earn their salary by using their expertise or skills. Therefore, they would rather save on everything to invest in further studies or educating their children. All in all, the middle class includes most of the professionals and the civil servants. To ease their burden, I would think that in respect of salaries tax, apart from making direct adjustments to the tax bands and the tax rates, adjustments should also be made to the deductions for housing and education expenses, for these will benefit the middle class. Therefore, I have suggested to the Chief Executive to make tax concessions in these two areas. Unfortunately, the Government has not accepted all of my suggestions and in some areas, it has even done the opposite. This has led to greater grievances on the part of the middle class.

As shown in the above analysis, most people from the middle class are salaried people and they cannot escape the tax net. Therefore, I have suggested the Government to increase tax allowances and to revise the salaries tax downwards. But unexpectedly, the Government has reverted the salaries tax rate in the year 2003-04 to the 1998-99 level, and this has made the middle class bear even greater burdens.

Next, I would like to turn to the tax deductions related to properties. In the year 1998-99, the Government introduced the deductions in home loan interest. As a result, middle class people who own properties may benefit from this initiative. The maximum amount of this deduction was raised from \$100,000 to \$150,000 in the year 2001-02. However, each taxpayer may only enjoy this tax deduction for five years. In other words, if a taxpayer has been enjoying this deduction since 1998-99, he would have become no longer eligible for this deduction now.

About the tax deductions in home loan interest, I would think that the Government should make a fresh review of it. First, the Government should abolish the maximum amount of this deduction. Take the example of a new mortgage of a property worth \$4 million. Suppose the mortgage is arranged at 70% of the property price and with a tenure of 20 years at an interest rate of 2.5%, that is, 2.5% below the prime rate, the interest expenditure in the first year would be about \$68,742. It seems that this maximum amount of deduction is not used up by the middle class. However, the properties owned by many middle-class people may be purchased during 1997-98, that is, the peak of the property market and these properties have become negative-equity properties. The outstanding liability alone may be as much as \$4 million and the interest rate of the mortgage may be the prevailing prime rate at that time, that is, 5%. So if the amount of deduction for home loan interest can be raised, it will surely be of great help to those middle-class owners of negative-equity properties.

Second, the Government should abolish the entitlement period for this deduction. On the surface, this may reduce tax revenue. But actually, as the mortgage loan interest will decrease with the period of repayment, if this restriction on entitlement is removed, many people from the middle class may consider buying another flat or refinance their properties in order to continue to be eligible for this deduction. This would have the effect of providing a stimulus to the weak property market and in terms of government revenue, this will be compensated by profits tax to be paid by companies and the stamp duty

levied on the transactions. As a result, the initial deductions may be offset by a greater revenue to the public coffers.

In addition, among the prevailing tax deductions, there is one on personal education expenses at a ceiling of \$40,000. In my opinion, this deduction can be raised by a certain amount and its applicability can be extended to include education expenses for the taxpayer's offspring. Madam President, though education reform is not the focus of this motion debate, as a member of the middle class and father of three children, and like other members of my class, I am prepared to pay more to enable my children to study in direct subsidy scheme schools which are of a higher quality. Tuition fees of a direct subsidy scheme school may range from a few thousand dollars to some \$40,000 to \$50,000 a year, while fees for international schools may be as much as \$80,000 to \$90,000 a year. If the scope of the personal education allowance can be extended to include the school fees of the taxpayer's children, I think that this will serve to ease the burden of the middle class.

Madam President, amid the prevailing economic downturn in Hong Kong, I think that as a matter of policy, the Government should first lay its hands off the middle class which is a minority in society. This will enable the middle-class people to regain their financial vitality and through their consumption and other economic activities, other industries may stand to benefit. What must not be done is to go in the opposite direction and oppress the middle class through various tax arrangements so that the middle class is forced to take to the streets to express its grievances.

I so submit.

**MR ALBERT CHAN** (in Cantonese): Madam President, "middle class" is a strange term in Hong Kong and it is also an odd and peculiar social phenomenon. Speaking from the perspective of sociology or political science, the middle class refers to a social group which is composed of professionals or people with an above average income and who have influence in society. However, the term in Hong Kong can be said to be full of contradictions, for the middle class here is leading a life which is even more miserable than the "proletariat" or the lower class. It is because many people from the middle class hold negative-equity assets. Their financial position, income and quality of life are in stark contrast to those from the middle class in other communities. Often they are even more

financially hard up than those from the lower class and CSSA recipients. I have come to know many middle-class people and sometimes they have to worry about whether or not they have the money in their pockets to give their children for a breakfast or transport to school.

The middle class in many a society will signify a social group which has political influence or a high social status. However, in Hong Kong, the middle class does not have any social or political influence. Mr TUNG Chee-hwa is not elected by the middle class, for he is appointed by the communists and he has the support of the giant conglomerates. Mr TUNG Chee-hwa serves these giant conglomerates and communists. He does not serve the people of Hong Kong and the middle class. The royalists in this Council also look to the leadership of the communists and they have the support of these giant conglomerates. For these royalists, the middle class is only an instrument for them to curry more votes.

The middle class can be said to have no concrete and direct influence in the establishment. Recently, the middle class has become a subject of frequent discussions, but only because elections will come one after another. The one which has just completed shows the power of votes from the middle class. As elections for the Legislative Council will take place soon, so in the nine months to come, the middle class will surely be mentioned very often, for their votes will affect the outcome of the elections.

Many people call for supporting the middle class, but they are often throwing out epithets which are hollow and vague. The problems faced by the middle class include jobs which are insecure, income which is not steady, a negative-equity property problem which cannot be solved, a future which is uncertain and a life which is full of miseries. Many people of the middle class have to interest payments at exorbitant rates. I do not know which political party or Member here in this Chamber has helped those negative-equity property owners to talk with the banks to pressure the banks or fight with the banks to lower their interest rates. Mr Albert HO belongs to such a rare species who has given these people assistance. For many years, many people from the middle class, especially those holding negative-equity properties, have asked the banks not to charge them interest rates above the prime rate. But the banks are always saying that this is a business decision and the Government is also saying that this is a business decision.

Now it has been five years since and from 1998 to the present, there are still hundreds of thousand owners of negative-equity properties who are forced to pay high interest rates. The banks are like vampires and they suck up the hard-earned money of the middle-class people, devouring all their savings. So the middle-class people are leading a very miserable life. They feel that they are oppressed and bullied by the banks. Every week I will write quite a number of letters to the banks, almost every bank in Hong Kong. Some banks are better than others. Dr David LI is not here right now, his bank, the Bank of East Asia, is one of those banks with a conscience and it would give some more assistance to those owners of negative-equity properties to help them restructure their debts. But some other banks are so aggressive, or so over board that whenever people approach them for a restructuring of debts or to reduce the interest rate slightly, they will ask these people to pay up the difference between the loan amount and the market value of the property before they will discuss restructuring the debts with them. This is really the kind of harsh reality one sees from some of these so-called quality banks in Hong Kong.

May the Honourable Members sitting here care to answer these questions? How many of you have ever discussed with the banks on this issue? How many of you have ever gone to the Association of Banks to hand out a petition or to stage a demonstration to help those owners of negative-equity properties ease their miseries? How many of the Honourable Members have helped these people and exert pressure on the senior officials to urge them to help holders of negative-equity properties so that their life can be made a bit more comfortable?

Please stop making hollow remarks like helping the middle-class people fight for their rights, and so on. The middle class is facing a lot of problems. For example, in buying properties, the middle class people of Hong Kong have become slaves to their properties. After they have bought the flats, these flats become negative-equity assets and they pose a great problem to them. Even if the flats are not negative-equity assets, the owners will be oppressed by the unfair sale and purchase agreements after occupation. They are constantly oppressed by the management companies which are subsidiaries of these giant conglomerates. The owners' rights are constantly exploited and they are asked to pay a remuneration to the managers at an unreasonable rate. They are asked to pay for the services of these management companies which are subsidiaries of these giant conglomerates, which have been chosen as service providers without ever undergoing any tender process. They are asked to pay for other

unreasonable fees. Such a vicious cycle just goes on and on. Even if some middle-class people do not own any negative-equity properties, they are also made victims as a result of the system which is characterized by collusion between the Government and the giant conglomerates.

As to documents in buying properties, despite it is clear that there are delays in the completion of the flats on the part of the giant conglomerates, but because of some grey areas in the contract, the developers are not obliged to return the deposit when there are delays in completion. Those owners who do not want to complete the purchase because of the delays are sued for losses. Those who refuse to perform the agreement will be claimed for the difference between the deposit and the price of the flat. Often the amount will be to the tune of hundreds of thousand dollars or even more than a million dollars. These owners are victims of the collusion between the Government and the big businesses. After many rounds of discussions between this Council and the Lands Department, Members think that there should be amendments in the terms and conditions related to the sale and purchase agreement of these uncompleted flats. But nothing has been done.

I hope Members will not make use of the middle class to solicit votes. People of the middle class are human beings in flesh and blood. They have a soul and they are living creatures with feelings. I hope they can be done justice and that these people from the middle class can lead the kind of life they deserve and enjoy the rights they deserve. Do not just save the market, the people should be saved as well. And it is also very important to save the people.

**MR BERNARD CHAN:** Madam President, we hear many calls in this Council for the Government to give support or assistance to all sorts of groups and causes. Usually, these calls essentially ask for a transfer of wealth, whether it is in the form of money, land or tax incentives.

The people making these demands do not stop and ask where the wealth should come from. If we look at the Government's pattern of revenue raising and expenditure, it is clear that much of that wealth comes from the middle class. A large amount of the Government's reserves came from the middle class in the 1990s, when people paid inflated prices for property, and the Government made huge surpluses from the property market.

A large amount of the Government's tax revenue today comes from the middle class. In particular, they pay most of the salaries tax, and most probably, much of the rates. It is the middle class, in the form of entrepreneurs and managers working here and across the border, who oversee the success of our business sector which ultimately creates Hong Kong's prosperity — and of course, profits tax.

The Government gets its income from the middle class. Government expenditure, on the other hand, is tilted towards the less well-off parts of the community. The middle class do not get housing, welfare or other assistance. There is nothing wrong with this. We agree, as a community, on the need for the Government to play a role in helping those in need. I think we all agree on the principle that this means some transfer of wealth from the better-off.

The middle class do not expect handouts. They do not need them. In most cases, I would say that they are fairly comfortable in material terms, certainly compared with the poorer and less educated parts of our population.

Obviously, those people stuck in negative equity are in a very unpleasant position, but we should not exaggerate the situation. To say the entire middle class is suffering economic hardship is simply not true. But we all know, after the events of this year, that the middle class is seriously unhappy.

It was the middle class who turned out in such huge numbers on 1 July, and again at the District Council elections last month. They did not turn out to ask for handouts. They were not asking for tax cuts. They were not asking for a miracle cure for negative equity. They were asking for a more responsive Government. They were asking for more of a say in the Government. The only role they are allowed to play at the moment is paying taxes.

Madam President, this motion is the wrong way around. We do not need the Government to support the middle class. We need the middle class to support the Government, and the Government needs to win that support. It can only do so by giving the middle class the respect and the participation which taxpayers deserve. Thank you.

**MR HUI CHEUNG-CHING** (in Cantonese): Madam President, on this motion of "Supporting the Middle Class", the Hong Kong Progressive Alliance (HKPA)

thinks that it is a topic of great urgency. This social class is composed of professionals, administrators and managers, as well as operators of small and medium enterprises (SMEs). It is often described as the engineer of modern industries and the main pillar of economy. It promotes consumption and investment and creates employment for the community. However, in the reality of social policies, the middle class is more like a sandwich class. Members of the middle class bear heavy tax liabilities and are entitled to few benefits, just sandwiched in the middle.

Dr David CHU has pointed out clearly that of the more than 3 million people in the working population of Hong Kong, less than 40% need to pay any tax. More than 80% of the salaries tax is paid by only 20% of the taxpayers and most of this 20% of people come from the middle class. They are the ones who pay the most tax and they are often made objects of government policies to relieve its fiscal deficits, for example, when there are tax hikes in the salaries tax, the vehicles first registration tax, the property tax, and so on. All these would affect those wage earners in the middle class who have a car and invest in properties. Many properties owned by the middle class people for investment purposes have become burdens — negative-equity assets that are very difficult to be sold. Over the past few years, the wealth of the middle class has almost vanished indeed. A survey on the millionaires in Hong Kong released by a multinational bank in Hong Kong last week pointed out that the proportion of the middle class against the total number of millionaires in Hong Kong had dropped 20% last year, of which the proportion of middle-to-senior managers dropped from 31% last year to 18% this year. The proportion of professionals against the total also dropped from 11% to 9%. The proportion of employers which also include some SME operators fell from 13% to 7%.

As for SMEs, they account for more than 90% of the total number of businesses in Hong Kong and they provide more than 1.3 million jobs for as many as 60% of the working population. SMEs play a vital part in the prosperity and stability of our society. SMEs as a whole pay a substantial amount of profits tax and their contributions to the public coffers are significant. In recent years, the Government has become sensitive to the needs of SMEs in terms of financing, marketing and skills training. Various funds and loans have been set up to assist the SMEs. This is encouraging. Despite criticisms that the SMEs do not benefit so much because the vetting criteria for these funds are too conservative and that the loan amount approved is not large, given that the



funds are public money, it is only natural that there are restrictions in the assistance offered and the loans approved. After all, approval cannot be given to all applications.

The meltdown of the property market after the Asian financial turmoil has really caused great difficulties to the SME operators in financing. Therefore, the HKPA urges the authorities to implement a clear land supply policy. Measures should also be adopted to revive the property market. The SMEs should be assisted in borrowing money from the banks to maintain their cashflow. Doubtless a revival of the property market will boost local consumption and investment confidence. As market confidence is boosted, when added to measures introduced by the Government to prop up the real estate market, the people will turn their needs of home purchase into action. As they buy flats, the asset value of properties will rise. When the value of property which is often used as surety for loans goes up, the SMEs will encounter less difficulties in securing credit from the banks to maintain their cashflow.

In addition, in order that business costs for SMEs may not increase, the Government should continue to freeze those fees and charges related to people's livelihood and costs of business. The Government should also assist the SMEs in negotiating with the utilities operators in public transport, electricity, gas, and so on, to lower their charges in order to ease the burden borne by both the SMEs and the public.

On a more positive side, the HKPA urges the Government to give more support to the middle class as Hong Kong develops into a knowledge-based economy and implements CEPA. The middle-class professionals and SMEs should be assisted in furthering their career and exploring business opportunities on the Mainland. The Government should provide matching facilities to the middle-class professionals to help them acquire the related professional qualifications on the Mainland and obtaining recognition of their professional qualifications. They should be provided with fast and convenient channels that can enable them to grasp the latest developments on the Mainland. They should be assisted in forging links with the various official and quasi-official institutions and major enterprises on the Mainland so that they can build a better contact network. In addition, the authorities should continue to talk with the Central Authorities on lowering the market entry threshold and to build up a support system in some markets with potentials for growth. All of these will help SMEs

solve the problems they may encounter in addition to those they will meet in the course of business operation.

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

**MS AUDREY EU** (in Cantonese): Madam President, I do not know how I should vote on the original motion and the two amendments today. The reason is not that I do not support the middle class, but that I think the directions of these motion and amendments have not racked the crux of the matter. As the saying goes, it is like scratching an itch in the boots, that is, talking way off the mark.

The middle class in Hong Kong has not been active in politics. They are very resistant to collective actions like taking to the streets. However, in the 1 July march, hundreds of thousands of middle-class people took to the streets and awaken a concern in the community for their plight and their discontent. Chief Executive TUNG Chee-hwa and Financial Secretary Henry TANG both stressed that the interest of the middle class had to be cared for and all political parties said that they wanted to gain the support of the middle class. Some even wanted to be the spokesman for the middle class. Even State President HU Jintao said, when he received the representatives of the business sector this September, that the business sector should strengthen the solidarity among the middle class. So all of a sudden, the middle class has become everybody's sweetheart.

Now the unemployment rate in Hong Kong is still worrying. There is no end to restructuring and downsizing of companies. When coupled with the low property prices, the life of the middle class is still very miserable. But what the middle class needs is not a series of policies tailor-made for it, nor some simple tax deductions or concessions.

I agree very much with Mr LEE Cheuk-yan and Mr Bernard CHAN in their point earlier that the middle-class people do not want any handout from the Government. They strive constantly to improve themselves and live a better life. They only wish that the Government can provide them with free, open and just socio-economic conditions so that they can be successful in their career, make money and hence give a better life to their children. It is unfortunate that since the reunification, all of the above has seen a retrogression. The middle class has lost its faith in the Government, in its prestige, leadership and

governance. The political group SynergyNet conducted a survey after the 1 July march and the findings revealed that the middle-class people interviewed all gave a failure rating to the Government in the following five areas, namely "accountability", "response to people's demands", "transparency", "fairness" and "degree of people's participation".

What is worrying is that if the middle-class people no longer think that Hong Kong is a place for them to anchor roots and develop their career, this may lead to another wave of emigration after the reunification in 1997. Madam President, as a matter of fact, I have got e-mails from middle-class professionals lately that they themselves and the friends and relatives they know are emigrating abroad. It is because they fail to see any future in Hong Kong and that their savings will not feed them to see the day when Hong Kong can emerge from the economic restructuring successfully.

Why is the middle class so disappointed with the Government? I think this question can be answered from many angles. First, the middle class attaches great importance to fairness. But in making appointments and policy consultations, Mr TUNG and his government give people an impression that they are very biased. Even Secretary Dr Patrick HO has admitted recently that the Government has not appointed many people from the pro-democracy camp as members of advisory bodies. In addition, the Cyberport saga and the insistence on single tender in the West Kowloon Cultural District project has aroused concern and criticisms from the public.

Second, the middle-class people would like to see an effective governance by the Government. They would like to see continuity and consistency in policies instead of frequent waverings and changes. In this regard, I need not mention the various problems caused by the target of producing 85 000 housing units a year and the reforms in education. Given the crises that emerged because of blunders made by the Accountable Officials, the low morale in the Civil Service, the hostilities and division in society and after the 1 July march, the Harbour Fest fiasco, the Michael WONG controversies, and so on, widespread grievances have been caused among the people. Besides, even when the Government is clearly on the right side, as in the launching of the minimum brokerage commission system and the Aberdeen fish market affair, the Government has found it hard to take any action. Proposals to improve corporate governance like disclosing the names of directors and remuneration payable to them, transferring the listing functions from the Stock Exchange of

Hong Kong to the Securities and Futures Commission have all been withdrawn due to objections from the related sectors. Seeing all these, members of the middle class can only shake their heads and sigh, for the Government is so lame and powerless.

The middle-class people treasure values such as human rights, freedom and the rule of law. They are convinced that upholding these values will help consolidate our position as an international metropolis. However, after the reunification, the Government has been flexing its muscles in prosecution and also using other means to suppress the demonstrators. The rule of law is seriously undermined in the Sally AW incident and the interpretation of the Basic Law by the National People's Congress. And so discontent is pent up among the middle-class people and it leads to an eruption in the event of the legislation on Article 23 of the Basic Law. What is so ironic is that even after the 1 July march, the Government still wanted to force through the Third Reading of the National Security (Legislative Provisions) Bill on 9 July as scheduled. It was only when Mr James TIEN turned against the Government at the last moment that the attempt was called off. It can thus be seen that the importance which this Government attaches to human rights, freedom and the rule of law is very limited. There exists a very wide gap between Mr TUNG's thinking and that of the middle class.

Madam President, as it is, the system is in an impasse. To restore the confidence of the middle class, the brains of TUNG Chee-hwa and his leadership circle would have to be changed to make them really tolerant and accommodating. I call upon the middle class to assume an active role in the discussions on the review of the political system in the hope that a plan on universal suffrage which is acceptable to both Hong Kong and China would be formulated in the light of the actual situation of Hong Kong. Only by doing so can we hope to see new horizons.

Madam President, I so submit.

**DR TANG SIU-TONG** (in Cantonese): Madam President, in the past six years the economy of Hong Kong has been affected by external factors. The property and the stock markets fell, a lot of companies closed down or went bankrupt, news of pay cuts and layoffs were always heard, the unemployment rate stood high and deflation persisted. These nightmares after nightmares seem to be all

slamming against the middle class. Therefore, the blow suffered by the middle class in this turn-of-the-century economic turmoil has been far graver than that suffered by people from other classes. The Hong Kong Progressive Alliance (HKPA) hopes to give a boost to the battered middle class, and the motion today calls on the Government to face squarely the predicament of the middle class of Hong Kong and to relieve its hardship through the introduction of a series of effective long-term policies. We also call for the building of a social environment where rights and responsibilities are balanced and to promote joint efforts by people from all walks of life. Although the motion today focuses on the middle class, it does not follow that the hardship experienced by the lower class is not given due attention.

Madam President, the middle class has contributed a lot to the prosperity of our society. The middle class is an important pillar in the local consumption market. Members of the middle class attach importance to the quality of living, and they will try new products and things, and stress self-improvement and the education of their children. They also support innovation and the pursuit of excellence in the industries. But with the plummeting of property prices and especially the problem of negative-equity assets, the consumption power of the middle class has been greatly reduced. This has aggravated deflation indirectly. Our proposal to support the middle class is in fact a topic that has a bearing on the overall economic conditions.

Moreover, many people manage to become members of the middle class through education and their own ability, that is why they attach great importance to maintaining social mobility and the principle of equal opportunities. These beliefs are a vital force in keeping social stability which is instrumental in progress. However, as the middle-class people find themselves being caught in a more difficult financial position, they are increasingly aware of the imbalance between the social responsibilities they bear and the rights they enjoy. Thus they have developed a lot of grievances, becoming a cause for social instability. The 1 July march has demonstrated fully that the middle class is venting its long-standing discontent caused by the economic downturn. The Government should learn the lesson from the event, address the plight of the middle class squarely and try to alleviate its discontent.

The middle-class people think that they have made much contribution but received very little in reward. A more important thing is that they care a lot about the need for education and hold very high objectives in education. They

are most concerned about the education of their children. But it is unfortunate that the education system and policies in Hong Kong have made the middle-class people feel dissatisfied and also eroded their confidence. In just a matter of a few years, the Government has introduced many reforms and made frequent changes to them. As a result, the students are made guinea pigs of the trials in these education reforms. In order to prevent their children from being made victims of the education system, the middle-class people have sent their children to international schools or overseas schools regardless of their reductions in income and the pressure posed by negative-equity assets. This has added to their heavy burden. In addition, the middle class does not use much public health service, for the reasons that public health services are in short supply and the waiting time is long. So the middle-class people are forced to use the paid medical services provided by the private sector.

Demands for education and medical services are the greatest among the middle class in Hong Kong. It is because most members of the middle class have experienced the economic take-off of Hong Kong and they are now the "sandwich generation" in their middle age. They are concerned about the growth and education of their children and have to look after their aged parents. It is unfortunate that their most important needs are not satisfied.

These middle-aged middle-class people used to have a steady job and an attractive income due to their working experience and seniority. But under a bad economy, these people have become the prime targets of pay cuts and layoffs. Their jobs have become very unstable. Just imagine, these people have used very few of the public welfare benefits and now their job security has been seriously undermined, but the burden they have to bear is still heavy. Such feelings of anxiety, insecurity and discontent with the community in these people have to be eased and diverted. They need care and support in real terms. For the Government, these people are an important source of salaries tax revenue and if they are neglected and denied of any help, public revenue will be seriously affected ultimately.

Madam President, support for the middle class will be effective only through the adoption of a series of short-term, medium-range and long-term policies and the forging of an awareness in society for commitment by every member from every stratum. With respect to education reform, the HKPA urges the Government to make an immediate review of the existing education system as well as the related policies and objectives. Merits must be given a

boost and demerits must be removed. The pace of education reforms must be reset so that the confidence of the middle class in our education system can be restored. They can then save the money that will otherwise be used to send their children to international schools or overseas schools. With regard to support on the economic front, the HKPA urges the Government to stabilize property prices and continue to freeze those fees and charges which are related to the people's livelihood and the costs of business. The Government should also assist the people by negotiating with the public utilities in electricity, gas and public transport to lower the tariffs and hence help relieve the burden borne by the middle class and SMEs. In the long run, the tax base should be broadened so that the burden of all strata in terms of public finance can be shared. This would be an effective way to support the middle class.

Madam President, I so submit.

**MR MICHAEL MAK** (in Cantonese): Madam President, the middle class has always been a pillar of Hong Kong society. They work hard and they have made much contribution to the stability and prosperity of Hong Kong. But the hard fact is even if they work like a dog, they cannot enjoy the fruits of their labour. The Government is particularly cold and ruthless to the middle class. Not only is it ungrateful to the middle class but that the many unfavourable policies, tax hikes and legislation to reduce civil service pay, and so on, are all directed at the middle class. The middle-class people do not feel happy. They are disappointed and indignant. Actions by the Government have served to set a bad example for other institutions which have just followed the footsteps of the Government in exploiting their employees by all means.

The motion moved by Dr David CHU is on "Supporting the Middle Class". What is meant by support? Definitely it refers not to money matters alone. The most important thing is also giving mental support. This includes respecting the feelings of the middle-class people and listening to their aspirations. All along, the middle class has been bearing adversities silently and making contribution to Hong Kong. However, silence is not a sign of cowardice, nor forbearance a sign of insensitivity to suffering. To date, the Government still fails to appreciate the pains of the middle class and it is making the middle class a sacrifice and fleecing all the fruits of their hard labour. The middle class took to the streets finally on 1 July. How many of the 500 000 people in the march belong to the middle class? Perhaps no one can tell. But

definitely many of them do belong to the middle class. They showed with their feet their discontent with the Government. They asked for a return of the political power to the people and election of the Chief Executive by universal suffrage. But the Government has ignored their demands. It remains insensitive to public opinion and so the middle class has to take action. Actually, I am worried that these middle-class people may someday leave Hong Kong and emigrate to other places, for they may want to tell the Government by their action. They want to cast a vote of no confidence. I have mentioned this before and I have also told the Government to take note of this. The accountable officials sitting here now may not be concerned about this, but please convey my views and worries to the related officials, that they should be aware of something called brain drain. So with respect to matters of the mind, would the Government show respect for the will of the middle class and take such action to prove it. The Government should launch immediately consultations on political reform, hold general elections to return the Chief Executive and all Members of the Legislative Council by universal suffrage, and the most urgent and important thing is to abolish the appointment system for District Councils.

Ever since the Asian financial turmoil, there has always been news of layoffs. Like the rest of the people in Hong Kong, members of the middle class are working each day in great fear that they may be given the sack by their bosses. But the Government is more callous and cruel than all the bosses. It dropped a "85 000" bomb and devastated the property market. Figures from the Hong Kong Monetary Authority show that as at end September 2003, though the loan amount of negative-equity residential properties has dropped slightly, the number remains as high as about 100 000 cases. At a time when the jobs of the middle class are not secure at all, they may also be owners of negative-equity properties and, as a result, many of them have taken their lives.

The middle class has made a lot of contribution to society, but the Government is always returning evil for good. It is throwing the burden of its fiscal deficits onto the middle class and refuses to give them any assistance. It has even reverted the salaries tax rate and the tax bands back to their levels in 1998-99 before the concessions were made. And so the burden on the middle class has increased more than ever. The levy on foreign domestic helpers is entirely directed at the middle class. Though this levy is in force and the minimum wage for domestic helpers is reduced, let me tell you, many people in the middle class, like me, have not reduced the minimum wage they pay to their foreign domestic helpers at all. It is because they are worried that this will



affect their relationship with their foreign domestic helpers and that conflicts may arise. So this has created some great financial burden on us.

The Government has always asked the people to show their understanding and that we should share the heavy burden of fiscal deficits. But the Government is in fact doing a lot of bad things. It conspires with big businesses and condones the conglomerates and public organizations in fleecing the public. It spares businessmen of a tax hike and raises the profits tax only by a minimal percentage. I therefore hope that in all the things it does, the Government can show real respect for the middle class, especially in the kind of work which will give mental satisfaction to the middle class. Thank you, Madam President.

**MS CYD HO** (in Cantonese): Madam President, many people say that of the people who took part in the 1 July march, 80% were members of the middle class. When I stood at the curbside on that day and helped in keeping the order, I could really see a lot of people wearing posh T-shirts. And, so all of a sudden, the middle class has become a target group the support of which all political parties will want to win. But what in fact is the middle class that we talk about, how should it be defined, and what kind of background do people of that class carry?

According to some sociologists, people who make a living by using their brains, that is, their thinking, instead of making a living by physical labour, can be classified as members of the middle class. Nowadays in Hong Kong, industries seem to have disappeared and the employment opportunities of the grass-roots labourers are diminishing, so the middle class naturally becomes the greatest and the broadest social class.

Another way to measure it is unfortunately, by assets. Many people say that the middle class is an underpinning of social stability. I wonder if it is due to this reason that when the SAR Government was first formed, the Chief Executive made an enormous effort to encourage the people to buy properties, hoping that when the people had their own homes, society would become stable and people would not want to see changes. At that time, many people would see the middle class in Hong Kong only as a group of people who were interested in making money. Even today, there are still people who hold such a view. That is why many Members have talked about tax concessions and all kinds of benefits today. They are defining the middle class from an economic perspective.

Even if this perspective is used, however, the middle class can be classified as a group which is capable of creating wealth indeed. I believe the last thing the middle-class people in Hong Kong would wish to see their being relegated to the lower class and even becoming owners of negative-equity properties. However, the emergence of such situations is due to the frequent changes in the Government's policies which are also wavering. The housing policy, for example, has changed many times, thus causing much of the wealth of the middle class to vaporize. As a matter of fact, the middle class does not need too many concessions from the Government. What they want are good governance and fair competition. The meaning behind this is clear: As you sow, so shall you reap. And what you reap will not change as a result of changes in government policies or disappear all of a sudden in a few months.

Madam President, I would now like to look into the meaning of the middle class in history. In the past, there were only the aristocracy, the landlords and the church, and the rest were the peasants. In the past, society was agricultural by nature and the church and the state were one. And so in fact there were only the ruling class and the ruled. But with the industrial revolution, there were monumental changes in production. After the industrial revolution, the middle class emerged. At the same time, with the advances in science and technology, sectors like the medical and the engineering sectors appeared. People in these sectors made their living by their own skills and abilities. They were different from the aristocrats and landlords in that they did not have any inherited powers. So at that time the middle class demanded justice and equity. They aspired to sharing powers with those in power and the ruling class and so they made constant political demands. We can see that with the industrial revolution, the progress towards democracy started in many countries. Therefore, I do not agree with what Ms Audrey EU said earlier, that the middle class does not take to the streets. The middle class in history has shown that it is a class which is very politically conscious and is always striving for equal political rights.

From history, we will know that the middle class today will only have stronger political demands when they face a government which does not know how to govern well. Members of the middle class will want to safeguard fair competition by means of a fair and open political system. Madam President, I am totally in agreement with what many Honourable colleagues have said, that instead of asking for more economic concessions, we should rather strive for equity in the political system and in the establishment. For in so doing not only can the middle-class people take part in public affairs, be masters of their own

destiny, but also do the best they can to pay back the community and make greater contribution to those less fortunate.

Thank you, Madam President.

**MR AMBROSE LAU** (in Cantonese): Madam President, in advanced Western societies like the United States, the social structure is narrow at both ends and wide in the middle, that is, the numbers of rich people and the grassroots are small while the number of the middle class is large. Irrespective of the proportion in the population and their political and economic influences, the middle class indeed plays a very important role there. In Hong Kong, the structure is wide at both ends and narrow in the middle, that is, the large enterprises and the grassroots take up an important role while the middle class is insignificant. Such an analogy is not based on the proportions in terms of population, but that the SAR Government is inclined towards both ends to the neglect of the middle.

The middle class accounts for a main part of the productivity of Hong Kong and it is also the stabilizing force in society. The Government should introduce a series of effective long-term policies at the soonest to support people of the middle class, and these policies should include the following:

First, in terms of politics, the Government should attach importance to views expressed by the middle class, make its voice heard and build a good image for the middle class. The Government should review the some 600 advisory bodies with a view to revamping them and enabling more representatives from the middle class to join these bodies. In politics, when the Government can attach importance to ideas expressed by the middle class and accept them, that will not only be conducive to raising the political status of the middle class, but also improve the governance of Hong Kong. The resultant rationalized procedures, social justice and democratic accountability will help the Government enhance its efficiency and prestige in governance, thus minimizing conflicts and hostilities and avoiding social division.

Second, the interests of the middle class must be considered in formulating taxation policies. The current tax base in Hong Kong is too narrow and most of the taxes are paid by a minority of people, especially the middle-class

professionals. The major direction for a reform of the tax regime should be reducing the financial burden of the middle class. A worry which the middle-class people have about taxes is that as public expenditure grows, they will eventually be made scapegoats to fill up this black hole in public expenditure. Deflation has persisted over the past five years in Hong Kong, but all major items of public expenditure such as medical and health, education, CSSA, housing, and so on, have all registered rapid growth. The Government should therefore drum up the resolve to curb growth in public expenditure and hence remove the worry of the middle class about tax hikes.

Third, the middle class in Hong Kong encompasses not only the professionals and executives, but also a large number of operators of small and medium enterprises (SMEs). The development of our economy owes a lot to the hard work and efforts of these SMEs. They are the backbone of Hong Kong economy. The Government should give more support to these SMEs, including making a further review of the SME loan funds and relaxing the approval criteria, making comprehensive improvements to the business environment, reducing the costs of business, helping SMEs to strengthen their manpower training, promoting a wider application of information technology and making more efforts in marketing and publicity in order to upgrade the competitiveness of SMEs.

Fourth, efforts should continue to be made to stabilize the property market and ease the problem of negative-equity assets so that those members of the middle class who are affected will be delivered from their sufferings. The problem of negative-equity assets is the heaviest burden borne by hundreds of thousands of middle-class people and their families, and it is also the main cause of their grievances and discontent with the Government. Therefore, the Government is duty-bound to solve the problem of negative-equity assets for good.

Fifth, with respect to the Mainland/Hong Kong Closer Economic Partnership Arrangement which will come into force in next January, the Government should take active steps in opening up the mainland professional services market for the middle class in Hong Kong and to assist the SMEs in seizing more business opportunities.

Madam President, I so submit.

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

**MR ALBERT HO** (in Cantonese): Madam President, Dr David CHU has proposed a motion today on support of the middle class. The motion topic gives me a melancholic kind of feeling indeed. Does the middle class really need our support? Had this motion been proposed back in the 1980s or the 1990s, it would simply be inconceivable to me. As a matter of fact, the middle class is the pillar of our society and it supports our development and progress. Often times the middle class can even spearhead our economy and turn it into an international one, so for this reason, the middle class is a very, very important pillar for Hong Kong.

But it is surprising that a motion is proposed today on giving support to the middle class. We have to admit that people in the middle class are now beset with many problems, and I do not think I need to repeat all the problems faced by the middle class, especially those who own negative-equity properties, which Honourable colleagues have described earlier. If we ask the middle-class people who are caught in adversities or full of grievances what in fact is the assistance they want to get, the answer they will give is that they want to be free from the rule of this Government. They may ask conversely how long they have to suffer. Many people have told me that they are not those who cannot bear failures. Those in business have had experience of failure and those professionals have likewise suffered. But now, as they are under the rule of a government which they think is so inept that they would think there is no hope or worth if they are told to continue to endure their suffering and take failures one after another.

The issue of the middle class facing difficulties and being impoverished shows that if people who belong to the middle class or those who identify with its values lose their faith in the Government, losing their hopes for the future, that would be the greatest problem of all. There are also many poor members of the middle class, though they still think that they belong to the middle class, whose life is really very hard up. They have to pay tax and service home loans. Often they are leading a life not much different from the grassroots. Their demands are what we should all address to.

Madam President, it is indisputable that the way out is to improve the governance by the Government. To achieve this, I think the answer lies in

democratization. I think many improvements hinge on the support of the people, their joint efforts and pooling of their wisdom. The people include the middle class. If people think that there is a meaning in their suffering, in their forbearance and in their sacrifice, then they would not mind doing it and they would feel that this is something they ought to do, something they want very much to do. So it is my hope and wish that the democratization of our political system will give recognition and legality to the kind of governance we are subject to. Policies which are formulated with recognition and legality will gain the support of the people with all their body, mind and soul.

When it comes to problems faced by the middle class, we cannot leave aside the issue of those who own negative-equity properties. This is a new thing which is unique to Hong Kong. Some people say that these people are victims of the Asian financial turmoil, the burst of the bubble economy, and so on. But these are only superficial observations. For after the bursting of the bubble economy, not only had the Government not taken any effective measures to facilitate a soft landing of our property market, it had also launched some measures that foster false hopes. The people were so misguided that they believed in the Government's efforts to prop up the property market and so they bought more properties. It is such repeated setbacks plus the economic recession which produced unemployment and pay cuts that the owners of negative-equity properties feel such tremendous pressure.

Madam President, no doubt these owners of negative equity properties need care and temporary relief from our Government. But unfortunately, and as I recall, despite the proposals made in this Council on relief measures over the past few years, the Government still insists that these people have made wrong investment decisions and they should not be assisted. I recall a few years ago, we helped many such owners of negative-equity properties to talk with the banks on restructuring their debts, but to no avail. It was not until we had asked questions and moved motions to debate on this in this Council many times that the Hong Kong Monetary Authority (HKMA) issued guidelines to ask the banks to be more lenient and help these people to restructure their debts. The aim was to reduce the number of flats repossessed by the banks and hence averting a collapse of the property market. The Government did this for market considerations, and its aim was not to help the people. But after all, the desired effect was achieved. The banks did introduce some relief measures. We cannot help but admit that these measures have produced some sort of relief.

The problem remains, however, when people who have joined the various home financing schemes as well as those who have borrowed other home loans approach the banks for debt restructuring, the reply given by the banks is an emphatic "no", for the Housing Authority and the Housing Society have sold the loans to the HKMA and if the banks agree to restructuring the debts, that would imply that the banks will incur losses in interest to the HKMA. The banks say that this is unfair and they would rather auction the flats or relinquish the loan repayments. So what kind of Government is this? I hope the Secretary can tell us.

Thank you.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Dr David CHU, you may now speak on the two amendments.

**DR DAVID CHU** (in Cantonese): Madam President, first of all, I would like to thank Members for speaking on the motion, and Mr MA Fung-kwok and Dr YEUNG Sum for proposing amendments to it.

As for Mr MA Fung-kwok's amendment, the Hong Kong Progressive Alliance (HKPA) would abstain. It is because Mr MA Fung-kwok does not agree to our proposal of giving the middle class long-term support. He thinks that the middle class should support the Government. It may not be wrong after all if Mr MA Fung-kwok holds such a view, for this is like a chicken and egg question. Which comes first, and which comes later? If the middle class people always take to the streets, then how can they have the energy to lend their support to the Government? We think that it is the Government who should support the middle class in the first place.

As for the amendment proposed by Dr YEUNG Sum on behalf of the Democratic Party, after listening to the speeches made by Members from the Democratic Party, I find that they share quite the same view with me in respect

of supporting the middle class. However, they have politicized my motion a bit, but then that is quite normal. I would like to take this opportunity to praise the Democratic Party, for since 1997 when the Democratic Party refused to ride the political through train till now in 2003, the Democratic Party has taken the initiative to take a political free ride from the HKPA. That I think is a remarkable progress, a remarkable progress indeed.

As for the speech made by Mr LEE Cheuk-yan. He is really so eloquent that he turns a simple motion of mine on supporting the middle class into some abstract values and that really beats me.....

**PRESIDENT** (in Cantonese): Dr David CHU, I have to tell you that you should be speaking on the two amendments now. As for the speech made by Mr LEE Cheuk-yan, you are absolutely free to talk about it when you reply later.

**DR DAVID CHU** (in Cantonese): All right, Madam President. Then this is the end of my speech. *(Laughter)*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, first of all, I would like to thank Members for their views on the motion "Supporting the Middle Class".

As mentioned by many Members, the middle class is the backbone of society. Every member of the middle class is a touching story of striving and success. Many of them began at low levels and have achieved what they now have through ceaseless endeavours. Over the years, the fruits of their efforts and their contributions to society have been a major pillar of the success of Hong Kong.

Government policies are not formulated in the interest of individual social classes, but in accordance with the general needs of the whole society. In recent years, Hong Kong has witnessed economic restructuring, high unemployment rate and a decline in the net asset value of private residential properties. The middle class has been the hardest hit. In view of this, the Government has geared its efforts to assisting people in need. Later, the Secretary for Financial Services and the Treasury will elaborate on the tax policy



and brief Members on various initiatives taken by the banking sector over the past few years to alleviate the financial difficulties of negative equity owners. Now I am going to talk about how the Government responds to the aspirations of the middle class in its housing and other policies.

The problem of negative equity faced by some middle-class persons in recent years is largely associated with the drastic drop in property prices. We have great sympathy for their hardship and situation. It is our belief that the problem of negative equity will ease with economic recovery and a gradual stabilization in the property market. On this belief, I made two statements on housing policy in this Council in November 2002 and October 2003 respectively. The statements outline the series of measures for repositioning government housing policies, with a view to rebuilding the confidence of the general public and investors in the property market, so that a stable and healthy development of the market can be sustained.

The core of government housing policies is a withdrawal from the market as far as possible, with the focus set on the provision of rental housing to families and people in need. We firmly believe that as long as government intervention in the market is kept to a minimum, once the economy rebounds, the public and investors will regain confidence, and the property market will move on in a healthy and sustainable manner. The problem of negative equity will then gradually subside.

I would like to take this opportunity to talk about the relaxation of security of tenure restrictions. Last year, the Government completed a review of the Landlord and Tenant (Consolidation) Ordinance with a view to relaxing the excessive protection of the security of tenure, so as to help the private rental market resume free operation and regain vitality, thus making investments in properties more attractive to the general public. To that end, we submitted to the Legislative Council the Landlord and Tenant (Consolidation) (Amendment) Bill 2003 in June, which is now under scrutiny by a Bills Committee. I earnestly hope that the Legislative Council will pass this Bill early to bring a positive signal to the property market.

Recent data indicate that the property market has begun to stabilize. For instance, the number of sale and purchase agreements of residential properties registered with the Land Registry in October recorded a new high since mid-1999, an increase by approximately two thirds over the number in September,

with the transaction value more than doubled. Although the figures in November fell slightly, the number of transactions and the value involved still rose by 58% and 93% respectively over the same period last year. The price index of private residential flats has also been rising steadily since August this year with the prices of flats in some districts and developments recording more significant gains. These data show that the confidence of the public and investors in the property market is gradually restored, and it is hoped that supply and demand in the private residential property market can achieve equilibrium soon.

According to the findings of a survey conducted earlier by the Hong Kong Monetary Authority (HKMA), as at the end of September this year, the number of residential mortgage loans in negative equity dropped to less than 100 000, a reduction of about 6% compared to the figure as at the end of June 2003. This is the first time the figures have recorded a decline since June 2002. On the other hand, according to the HKMA's residential mortgage survey results for October 2003, the mortgage delinquency ratio fell to less than 1%, the lowest level since February 1999. There is, of course, no room for complacency. We will continue to pay close attention to developments and trends in the market.

The primary objective of the Government's housing policy is to provide subsidized rental housing for those eligible and in need, so as to improve their living conditions. We have undertaken to continue to produce public rental housing (PRH) units according to actual demands and maintain the average waiting time for PRH at about three years. People with special needs, including those who have defaulted on their mortgage loans owing to changes in their financial situation, can be allocated PRH units immediately on recommendation by the Social Welfare Department to meet their pressing needs. On the other hand, we will actively improve our allocation policies for PRH with a view to improving allocation efficiency. We will also review our rent policies, with the aim that our valuable housing and social resources are allocated efficiently and equitably on the one hand and the housing needs of those in need are fully met on the other. I believe that this is welcomed by the public at large, in particular the middle class.

Finally, I wish to reiterate that the Government fully recognizes the contribution of the middle class. Our policy objective is to maintain an environment in which the middle class can prosper. This also means maintaining a fair and equitable society, in which everyone can have upward

mobility by using one's knowledge, skills and efforts. We will maintain a low tax regime, enabling the public to enjoy the fruits of their own work. We will also maintain our clear, comprehensive and consistent housing policies to help restore the confidence of the public, particularly the middle class, in the market and in the Government. At the same time, we will also continue to incorporate into our consultative bodies more people with professional knowledge who can represent the voices of the middle class, thus providing opportunities for them to contribute to the betterment of government policies and work.

Thank you, Madam President.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, the Secretary for Housing, Planning and Lands has given a response in the context of housing and social policies just now. I will now respond to Dr David CHU's motion as well as the amendments proposed by Mr MA Fung-kwok and Dr YEUNG Sum, focusing on financial services and taxation which are policy areas under my responsibility.

The Government's financial and tax policies are formulated in accordance with the overall needs of Hong Kong. The objective of our policies and measures is to facilitate the development of Hong Kong and to work for the well-being of the community. The middle class, being members of the community, will certainly be benefited.

Earlier on, many Members mentioned the problem of negative equity. In this connection, I would like to take this opportunity to tell Members that the Hong Kong Monetary Authority (HKMA) and the Government have adopted a myriad of measures to encourage and provide greater flexibility for banks, with a view to alleviating the financial burden of negative equity homeowners. These measures include:

- (i) writing to banks in October 2001 to allow them to refinance residential mortgage loans in negative equity up to 100% of the prevailing market value of the mortgaged properties;
- (ii) the HKMA writing to the Hong Kong Association of Banks and the Deposit-taking Companies Association in November 2001 to encourage their members to set up dedicated units or hotlines to handle enquiries about the restructuring of loans in negative equity;

- (iii) supporting the initiatives taken by the Hong Kong Mortgage Corporation and other private companies in arranging programmes with banks to help negative equity homeowners to refinance mortgage loans in excess of 100% of the prevailing market value of the properties (currently up to 140%) at a more favourable mortgage interest rate; and
- (iv) writing to all banks in March 2003 urging them to continue to be accommodating towards negative equity homeowners in financial difficulties seeking loan restructuring. The Chief Executive of the HKMA also wrote a viewpoint article for publication on the HKMA's website to make another appeal to banks.

These measures have achieved some degree of success in encouraging banks to lower the mortgage interest rate, thereby easing the financial burden of negative equity homeowners. Given that banks are willing to take practical actions to assist negative equity homeowners by lowering the mortgage interest rate, the burden of negative equity homeowners in the payment of interest has been significantly eased over the past two years. The weighted average interest rate on negative equity residential mortgage loans also substantially declined to 1.09% below the best lending rate at end-September 2003 from 0.27% below the best lending rate at end-September 2001. The percentage of residential mortgage loans in negative equity being charged below the best lending rate also increased from 51% at end-September 2001 to 63% at end-September 2003.

Moreover, according to the results of the latest survey of the HKMA, the negative equity problem has been slightly ameliorated following an improvement in the economic environment. As at end-September 2003, the number of residential mortgage loans in negative equity was around 99 800, down from the peak of 100 006 at end-June 2003, and the amount involved also dropped from HK\$165 billion to HK\$155 billion. We hope that as the local economy bottoms out, coupled with the efforts of the Mainland and the SAR Government to further promote economic co-operation between Hong Kong and the Mainland, the negative equity problem can continue to see improvement.

Dr David CHU mentioned earlier that the Government should improve the business environment in order to help the middle class. This, I agree. In this connection, we will make ongoing efforts to consolidate and further strengthen the role of Hong Kong as an international financial centre and the premier capital

formation centre of our country. It is because the financial services industry, which includes the banking, securities, insurance, fund management and other related sectors, has provided about 160 000 jobs for Hong Kong, many of which are jobs for professionals in the middle class. The financial services are a high value-added economic activity. The development of the financial services industry can spur the development of other industries and hence take the overall economy forward, thereby promoting employment, particularly the employment of middle-class professionals.

The Government has spared no effort in developing Hong Kong's financial market. Continuous efforts have been made to develop the financial infrastructure in order to lay down a firm foundation for the development of the financial market. For example, the Clearing and Settlement Systems Bill tabled by me at this meeting today seeks to establish a regulatory regime on clearing and settlement systems and ensure statutory protection for the finality of settlements effected through such systems. While endeavouring to improve the existing laws and regulations, we will assume the role of a market enabler in the development of the financial market by scrapping outdated regulatory requirements. The Companies (Amendment) Bill 2003 currently under the scrutiny of the Legislative Council, for instance, seeks to simplify the procedures for the registration and issue of prospectuses, thereby fostering the development of retail bonds and other financial products. Besides, the Government has actively worked to upgrade corporate governance in order to protect the interest of small shareholders or investors. These measures will facilitate the robust development of the financial market and inject new dynamics into the Hong Kong economy.

Moreover, the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) to be implemented next year will enable local banks to enter the financial market in the Mainland more speedily and easily and also enable entry of Hong Kong financial professionals to the mainland market through mutual recognition of qualifications. Other than CEPA, approval was given to us by the Central Authorities last month for Hong Kong banks to operate personal Renminbi business. This has opened up new horizons for the banking sector and consolidated the advantages of Hong Kong's banking sector. We believe these measures will not only benefit middle-class professionals, but also bring many advantages to the overall economy and long-term development of Hong Kong. This is what Mr Ambrose LAU would wish, as expressed in his remarks earlier.

Some Members hope that the Government can ease the tax liability of the middle class. Hong Kong has a very simple tax system with low tax rates, and 40% of our revenue is generated from the profits tax, salaries tax and property tax. However, our tax rates are lower than those in other places. For instance, the marginal tax rate of our salaries tax is almost the lowest among all mature economies in the world. Even after the 2004-05 adjustments, the highest marginal tax rate will be 20%, which is still far lower than the 47% in Australia, 40% in Britain, 37% in Japan and Thailand, and 35% in the United States. For families with a yearly income of \$200,000 to \$300,000, \$300,000 to \$400,000 and \$400,000 to \$600,000, the actual difference in the tax rate after adjustment is only 3.4%, 5% and 8.1% respectively, which is equivalent to about half a month's to one month's income of these people. Therefore, the salaries tax liability of the middle class can be said as less heavy when compared with their counterparts elsewhere.

Having said that, however, we do agree that the salaries tax base in Hong Kong is too narrow. Among our working population of about 6.8 million, only around 8% are salaries taxpayers and so, there is the problem of a small number of people contributing the most part of salaries tax. Sixty percent of the salaries tax is borne by 8% of salaries taxpayers, but social resources and services are shared among all sectors of the community. Therefore, the direction of our future tax reforms is, as the Financial Secretary has said in this Council, to broaden the tax base, so that the tax burden will be more equitably shared out by people who can afford it, and we will also study in detail the proposal to introduce the goods and services tax. This is the direction that we will be heading.

We very much agree that the middle-class people have made very important contribution to society, and they have made great commitment to the development of Hong Kong on various fronts. Looking into the future, we will continue with our efforts to enhance Hong Kong's standing as an international financial centre, in order to facilitate a more robust development of the financial services industry and the related professions in which many members of the middle class are employed. Moreover, we will actively study ways to broaden the tax base to address the problem of the tax burden overly concentrating on the middle class. I believe these policies should be helpful to the middle class in the long term.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now call upon Mr MA Fung-kwok to move his amendment to the motion.

**MR MA FUNG-KWOK** (in Cantonese): Madam President, I move that Dr David's CHU's motion be amended, as printed on the Agenda.

**Mr MA Fung-kwok moved the following motion: (Translation)**

"To add ", as the Government has all along failed to sympathize with the plight of the middle class in the wake of the bursting of the bubble economy," after "That"; to add ", based on fair and reasonable principles," after "this Council urges the Government to expeditiously introduce"; to delete "long-term" after "a series of effective"; to add "in areas of taxation, housing and social policy for the middle class," after "policies"; and to delete "supporting the middle class" after "with the objective of" and substitute with "relieving the pressure and hardship they face". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr MA Fung-kwok to Dr David CHU's motion be passed.

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

(Members raised their hands)

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

(No hands raised)

Dr David CHU rose to claim a division.

**PRESIDENT** (in Cantonese): Dr David CHU has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Dr Raymond HO, Dr LUI Ming-wah, Mr CHAN Kwok-keung, Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Henry WU, Mr Michael MAK and Dr LO Wing-lok voted for the amendment.

Mr CHEUNG Man-kwong and Mr HUI Cheung-ching abstained.

Geographical Constituencies and Election Committee:

Mr CHAN Kam-lam and Mr MA Fung-kwok voted for the amendment.

Mr Andrew WONG voted against the amendment.

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Dr TANG Siu-tong, Mr WONG Sing-chi, Dr David CHU, Mr NG Leung-sing and Mr Ambrose LAU abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 15 were present, 13 were in favour of the amendment and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 17 were present, two were in favour of the amendment, one against it and 13 abstained. Since the



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

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

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, you may move your amendment.

**DR YEUNG SUM** (in Cantonese): Madam President, I move that Dr David CHU's motion be amended as printed on the Agenda.

**Dr YEUNG Sum moved the following amendment: (Translation)**

"To add ", including relieving the tax burden on the middle class and providing appropriate help to the negative-equity property owners among them," after "a series of effective long-term policies".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr YEUNG Sum to Dr David CHU's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Dr David CHU, you may now reply and you have five minutes 30 seconds.

**DR DAVID CHU** (in Cantonese): Madam President, Mr LEE Cheuk-yan really delivered quite a speech in the debate. Our discussion today is on supporting the middle class, but then, he started with some highly abstract terminologies, theorizing that the middle class was not a social class *per se* but an embodiment of values. Then, after a few more lines, he turned his speech into a statement of support for democratization. His tactic is much cleverer than the "direct linkage" approach of the Democratic Party. For this reason, I must sing him praises.

Mr Albert CHAN described other Members' speeches as extremely hollow. He actually used the word "hollow" several times. I suppose all speeches on earth are basically hollow because, under normal circumstances, when one speaks, there should be no emission from one's mouth. (*Laughter*) Nevertheless, a hollow speech is not necessarily ineffectual. I believe Members can still remember a well-known speech delivered by Dr Martin Luther KING of the United States in the 1960s, entitled "I Have a Dream", right? "I Have a Dream" is a classic of hollow speeches, right? But such a hollow speech subsequently led to very profound changes in the American society. I therefore hope that Members' hollow speeches today can likewise induce the Government to provide more support to the middle class.

I am also very delighted that our discussion today has been so very exhaustive. Various forms of direct support for the middle class, such as tax rate reduction, widening the tax base, improving education, ways of dealing with negative assets and assistance to small and medium enterprises were all covered in our discussion. There was also some in-depth exploration of indirect support measures such as the significance of fair competition and democratization. Besides, there were some abstract proposals too, some examples being Mr LEE Cheuk-yan's theory on middle-class values and Ms Audrey EU's talk on human rights and the underlying spirit. However, I hope the Government can deal with the proposals on direct support first; as for those on indirect support, the abstract ones, the Government may proceed step by step at a later time.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That Dr David CHU's motion as amended by Dr YEUNG Sum, 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.

#### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 17 December 2003.

*Adjourned accordingly at one minute past Ten o'clock.*

**Annex****PUBLIC OFFICERS PAY ADJUSTMENTS (2004/2005) BILL****COMMITTEE STAGE**Amendments to be moved by the Secretary for the Civil Service

<u>Clause</u>	<u>Amendment Proposed</u>
3(1)	<p>By deleting paragraph (b) and substituting -</p> <p>"(b) the pay or allowances of -</p> <p>(i) a judicial officer holding a judicial office -</p> <p>(A) specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92);</p> <p>(B) known as Senior Deputy Registrar, High Court; or</p> <p>(C) known as Registrar, Court of Final Appeal; or</p> <p>(ii) any other judicial officer appointed by the Chief Executive or by the Chief Justice.".</p>
14	<p>(a) By renumbering the clause as clause 14(1).</p> <p>(b) By adding -</p> <p>"(2) For the avoidance of doubt, this Ordinance does not authorize any adjustment to the pay or the amount of an allowance payable to a public officer other than the adjustments made by sections 4 to 13.".</p>

ClauseAmendment Proposed

15 By deleting "this Ordinance" and substituting "sections 4 to 13".

Schedule 1 (a) In the Directorate Pay Scale, by adding -

"10 217,400 216,650 216,650

9 205,500 204,800 204,800"

before -

"8 181,700 181,050 181,050".

(b) In the Directorate (Legal) Pay Scale, by adding -

"7 193,745 193,050 193,050"

before -

"6 163,205 162,650 162,650".

Schedule 6, (a) In item 4, by deleting "not above" and substituting  
Part 1 "below".

(b) In item 5, by deleting "above \$128,365" and substituting  
"\$128,365 or above".

Schedule 6, (a) In item 4, by deleting "not above" and substituting  
Part 2 "below".

(b) In item 5, by deleting "above \$128,365" and substituting  
"\$128,365 or above".

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Security to Mr Fred LI's supplementary question to Question 1**

Regarding how many of the police officers leaving the Force due to "retirement/premature retirement/completion of agreement" as provided in the Administration's main reply had left due to premature retirement but had been re-employed by the Force on agreement terms, the police advise that the wastage figures provided do not include police officers who have left due to premature retirement but have been re-employed on agreement terms by the Force.

As of 19 January 2004, the strength of the Police Force (disciplined officers only) was 26 991. Among them, 814 were serving on agreement terms after their premature retirement.

**Appendix II****WRITTEN ANSWER****Written answer by the Secretary for Security to Mr LAU Kong-wah's supplementary question to Question 1**

Regarding the classification of the 60 police officers who had left the Force in 2002-03 due to "dismissal/compulsory retirement", among the 60 officers, 19 were dismissed or compulsorily retired due to criminal convictions, 39 due to disciplinary convictions and two due to "other reasons". "Other reasons" include termination of service because of poor performance during training and non-renewal of contract due to indebtedness problems.



**Appendix III****WRITTEN ANSWER****Written answer by the Secretary for Housing, Planning and Lands to Ms Emily LAU's supplementary question to Question 2**

As regards the relevant population figures at the Green Island Cement's concrete batching plant (the plant) at Lot KPP No. 90 in Hung Hom, Lot KPP No. 90 is located at the waterfront of Hok Yuen area in Hung Hom. According to the censuses conducted by the Census and Statistics Department in 1991 and 2001, the population of Hok Yuen area was about 11 200 and 18 300 respectively.

In early 1990s, the plant at Lot KPP No. 90 was surrounded by a sewage treatment plant to the north, industrial premises to the west, and a power station and oil depot to the south. There was no residential development within the 30 hectares of land surrounding the plant. At that time, the nearest residential development to the plant was Sunshine Plaza at Bailey Street which was 300 m away. Laguna Verde was redeveloped from sites previously occupied by the power station and oil depot to the south of the plant. Residents started to move into Laguna Verde when the development was completed in 2000.

**Appendix IV****WRITTEN ANSWER****Written answer by the Secretary for Health, Welfare and Food to Mr Tommy CHEUNG's supplementary question to Question 6**

In 2003, the Food and Environmental Hygiene Department instituted 657 prosecutions against operations of unlicensed restaurants, of which four were against establishments which claimed to be "private kitchens".