OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 17 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.

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 SIN CHUNG-KAI

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

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

THE HONOURABLE WONG YUNG-KAN

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

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

DR THE HONOURABLE YEUNG SUM

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

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

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

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

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

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

THE HONOURABLE MA FUNG-KWOK, J.P.

MEMBERS ABSENT:

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LAU CHIN-SHEK, J.P.

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

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

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 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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	*L.N. No.*
Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation.....	263/2003
Application for New Identity Cards (Persons Born in 1958 to 1963) Order.....	264/2003
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 4) Order 2003.....	265/2003
Securities and Futures (Price Stabilizing) (Amendment) Rules 2003.....	266/2003
Companies (Amendment) Ordinance 2003 (28 of 2003) (Commencement) Notice 2003	267/2003
Factories and Industrial Undertakings (Gas Welding and Flame Cutting) Regulation (Cap. 59 sub. leg. AI) (Commencement) Notice 2003	268/2003

Other Papers

No. 39 — Forty-second Annual Report on the Social Work Training Fund by the Trustee of the Fund for the year ending on 31 March 2003

No. 40 — Report on the Administration of the Fire Services Department Welfare Fund, together with the Director of Audit's Report and Audited Statement of Accounts, for the year ended 31 March 2003

No. 41 — The Accounts of the Lotteries Fund 2002-03

No. 42 — Report of the Chinese Temples Committee on the administration of the Chinese Temples Fund for the year ended 31 March 2003

No. 43 — Report of the Chinese Temples Committee on the administration of the General Chinese Charities Fund for the year ended 31 March 2003

No. 44 — The Sir Murray MacLehose Trust Fund Trustee's Report for the period from 1 April 2002 to 31 March 2003

No. 45 — Report of the Brewin Trust Fund Committee on the Administration of the Fund for the year ended 30 June 2003

No. 46 — Grantham Scholarships Fund Annual Report for the year ended 31 August 2003

No. 47 — Hong Kong Housing Authority Annual Report 2002/2003

No. 48 — Hong Kong Housing Authority Financial Statements for the year ended 31 March 2003

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Liver Transplant Centres

1. **DR TANG SIU-TONG** (in Cantonese): *Madam President, on 27th of last month, the Hospital Authority (HA) decided that all liver transplant operations would in future be carried out in the Queen Mary Hospital (QMH) and the liver transplant centre in the Prince of Wales Hospital (PWH) would be closed down. Regarding the HA's various organ transplant centres, will the Government inform this Council whether it knows:*

(a) if the HA has conducted prior consultations with the doctors working in the liver transplant centre in the PWH, patients' rights groups and those patients waiting to undergo liver transplant operations in the PWH; if so, of the results of the consultations; if not, the reasons for that;

(b) the reasons for the HA members or management turning down the proposal of using donations from the public to subsidize the liver transplant centre in the PWH; and

(c) if the HA has any further plan to merge other organ transplant centres; if so, of the details of the plan?

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

(a) In January 2003, the HA decided to:

(i) establish a central registry for liver transplantation as a first step; and

(ii) subsequently, to centralize liver transplant operations in the QMH.

The decision was taken in the light and in consideration of the following:

- first, the recommendations made by a panel of international experts engaged by the HA to review the organization and further development of acute surgical services in public hospitals, including liver transplantation. The Panel made a recommendation in 2000 that the provision of highly specialized and complex services such as liver transplants should be concentrated in one designated centre so as to enhance the clinical outcome of relevant operations in Hong Kong. In December 2002, the HA invited the panel of international experts to review the position again and the panel maintained its previous recommendation; and

- secondly, the recommendations of a local panel engaged by the HA to conduct an internal review of its liver transplant services. The local panel comprised three senior consultant surgeons independent of the two teaching hospitals. It came up with the same recommendation as that of the panel of international experts.

The decision to establish a central registry for liver transplantation and to centralize all liver transplant operations in the QMH was made in consultation with the hospital management of the QMH and the PWH, and the Faculty of Medicine of both the University of Hong Kong (HKU) and The Chinese University of Hong Kong (CUHK).

We have also consulted the patients concerned before combining the two lists. In January 2003, a special meeting was convened to hear their concerns and to address them. The two liver transplant waiting lists were combined and the central liver transplant registry was put into operation in late July 2003. The liver patient groups were informed of this progress at around the same time. In late November 2003, a meeting was further convened to brief the patient representatives of the progress of centralization of liver transplant centres.

At the meeting of the Administrative and Operational Meeting of the HA held on 27 November 2003, the progress in the implementation of the decision was reported to the HA Board members.

(b) The Government and the HA welcome donations from members of the public for funding hospital services. The HA learnt about the said possible donation through a patient group and is seeking information on details of the proposed donation. The proposed donation has so far not been formally made to the HA.

(c) The HA has no plan for the time being to merge other organ transplant centres but will keep abreast of international developments on how best to deliver complex surgical services, including transplant services, and to make use of expertise in this regard, to ensure that the deliver of service will serve the best interest of our patients.

DR TANG SIU-TONG (in Cantonese): *The Secretary said in part (a) of the main reply that liver transplant patients had twice been consulted over the combination of the two waiting lists, but a patient complained that he was originally first on the list, but has now got to queue up all over again. May I ask the Secretary, in the course of the two consultations, what views the patients' representatives have expressed on the waiting system? Do they agree with this? What criteria did the Government use in rearranging the priority of patients originally from two separate lists on the combined list, so as to avoid unfairness?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I am not quite sure about the details of the discussion. However, I know that the HA has listened to the views and concerns expressed by patient groups. Generally speaking, they are worried whether their priorities will be sacrificed once the surgeries are undertaken by one centre. The HA has already explained that the establishment of a central registry is actually fairer to Hong Kong patients in general because if there are two lists, then there will be two assessment systems. In the past, each hospital employed different assessment criteria. A certain patient may be second on the waiting list of hospital A, but tenth on the waiting list of hospital B under the same circumstances. Therefore, the establishment of a central registry will be fairer in respect of quality and to patients. The newly combined waiting list has the approval of experts in the two hospitals and priorities were set according to the same criteria. This is our existing practice. Furthermore, we also have a vetting mechanism and a liver unit that is independent of the two hospitals, for the purpose of determining which patient is most suitable for liver transplant.

MR AMBROSE LAU (in Cantonese): *Madam President, it was mentioned in part (b) of the main reply that the Government is "seeking information on details of the proposed donation". Everyone also knows that the deficit problem is very serious at present and hopes that more people can make donations to the Government. However, as regards the present situation, has the Government adopted a proactive attitude in seeking information on the relevant situation? What practical work has the Government done? Please do not only talk about seeking information, but tell us what it has actually done to seek information and what the progress on this matter is. I hope the Secretary can give us an explanation.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we have only learned from a liver patient's association that someone would like to make a donation but the potential donor has not contacted us directly. Therefore, the HA is now seeking information from the patient group to see who would like to make a donation to the Government to finance the service of the HA. After we have gathered the information and granting the philanthropist making the donation is willing, we will get in touch with him to find out under what circumstances he will be willing to make the donation.

DR LO WING-LOK (in Cantonese): *Madam President, the Secretary said in part (a) of the main reply that the most important justification put forward by the panel of international experts for combining the two transplant centres is the clinical outcome of the surgery and this consideration is based on "quality". Hong Kong is a place with a high rate of Hepatitis B infection, with a lot of chronic liver diseases in particular. May I ask the Secretary whether the relevant panel of experts has made any consideration in respect of "quantity"? In other words, after the two centres are combined, will they be able to provide adequate services to meet Hong Kong patients' demand for liver transplant?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I understand that the two panels of experts — both the panel of international experts and the panel of local experts — did consider this point. Dr LO Wing-lok is right in saying that there are a lot of Hepatitis B bacteria in Hong Kong, leading to a lot of people suffering from chronic hepatitis. However, transplant operation is not a simple operation. It is a very complicated operation and may not be suitable for every patient. We will assess whether the patient can survive and whether there will be any risks to his life in the light of the existing methods of treatment if transplant is not carried out because this is a major surgery. As regards liver transplant, normally it can be conducted only if someone donates a liver. At present, the number of livers available in Hong Kong each year is not sufficient to meet the demand. Therefore, we are subject to the constraint of whether sufficient livers are donated for surgery and the problem is not about how many are required. At present, we perform some several dozens of such surgeries each year and according to the evaluation made on the basis of our experience, the best approach is for the surgeries to be performed in one centre. Of course, if many people donate livers in future and future clinical assessments, decisions and

conditions show that more people are suitable for liver transplants, the situation will change. However, having considered which patients are most suitable for surgery and in view of the number of donated livers, the best approach is for the surgeries to be performed in one centre.

MR ANDREW CHENG (in Cantonese): *Madam President, my supplementary question is similar to that of Dr LO Wing-lok. The Secretary said in his main reply that the basic reason for combining two centres into one is to enhance the clinical outcome of such surgeries in Hong Kong. However, the Secretary must realize that live examples show that there are clinical cases to prove that the two centres have actually saved the lives of many liver patients. There was a case in which a surgery was not successful in one centre but the life of the patient was saved in another. After the centre at the PWH ceased operation, there was also a live example in which the condition of a patient was critical. In the light of the Secretary's main reply, what objective standards, rationale and information are there to convince the public that, as regards the live examples I have just cited, the clinical outcome of such surgeries can be enhanced as claimed, if the surgeries are performed in one centre?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, there is a lot of such information on the international front. In the light of international research and evidence, the panel of international experts has proved that the quality of complicated surgeries is closely related to practices and number of surgeries performed. At present, experience worldwide shows that the quality of surgeries performed at centres that rarely perform such surgeries is usually poor. If more surgeries were performed in one centre, then it would accumulate more experience and the results of the surgeries would also be better. There is actually such evidence internationally.

As regards the individual cases mentioned by Mr Andrew CHENG, I do not have such information at hand. According to my understanding, the HA has already confirmed that a better job can be done with only one waiting list and we will also monitor the quality of its service closely. If the surgeries were performed in two hospitals, there would have to be specialists in both hospitals, but this is a complicated surgery and good results cannot be achieved simply by relying on one person, one good specialist. This surgery requires teamwork because different disciplines and specialists are involved and the surgery may not

necessarily achieve good results if we just rely on one surgeon and one pair of hands. We also need the support of the laboratory, X-ray department, department of medicine and whether we have 100% support from the management. It also depends whether our system as a whole can handle such surgeries at all times for it is not possible for us to anticipate when such surgeries will be performed. Therefore, the whole system hinges upon team spirit and in order to ensure the quality of our service, the targets of our training are different specialists, doctors, other nurses and allied personnel.

MS EMILY LAU (in Cantonese): *Madam President, may I ask the Secretary whether he has received any complaint from patients, in particular the PWH patients, over the combination of the waiting lists, that they are unhappy about being transferred to the QMH? Originally, one patient was scheduled for a surgery at the PWH at the end of last year and the patient had already started on medication, but the surgery was not performed eventually. After the combination of the waiting lists, the patient was transferred to the QMH, but the surgery has yet to be performed. Has the Government received any such complaints? How are you going to tell patients that the central registry is good for everybody and that it is not unfair to anyone?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have mentioned in the main reply that at many stages, the HA did explain to the patients the advantage of one single waiting list and how the mechanism would operate, that is, we should achieve the target of maintaining fairness and enhancing quality. I understand that most patients find this arrangement acceptable. However, as Ms Emily LAU said, one patient is terribly unhappy about this arrangement because he was originally scheduled for a liver transplant at the PWH last year but the surgery was not performed eventually. The HA has explained to me that the health condition of that patient has changed after taking new specific medicine, so he is no longer given first priority on the combined waiting list, but the patient is not happy about this arrangement. I understand that there are difficulties because the patient cannot come to terms with the fact that his health condition has changed. After the lists are combined, the patient has been awarded a lower priority on the waiting list but this does not mean that the surgery will not be performed. According to my understanding, his condition has improved after taking specific medicine.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, I have recently met with this patient. His condition has not improved, but I do not want to discuss this. The Secretary can respond to this later on. I have recently met with the patient but his condition has not improved.*

PRESIDENT (in Cantonese): Please ask your supplementary question and do not talk about things you do not wish to discuss.

MISS CHAN YUEN-HAN (in Cantonese): *I am sorry that I am a bit too greedy. Madam President, the Government said earlier that the result would be better if the surgeries were performed in one centre according to a combined waiting list. However, may I ask the Secretary whether Hong Kong is a place with a comparatively large number of Hepatitis B carriers? Hepatitis B leads to cirrhosis, which must eventually result in liver transplant. In a place where there are so many Hepatitis B carriers, can you say that one centre will be able to satisfy all demands?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, since both Members have said the condition of this patient has not improved, I will try to find out more from the HA later. I understand that there are changes in his condition, and some of his liver functions have improved but other functions may have changed. I would try to find out more about his condition and then provide an answer. (Appendix I)

I have actually said earlier that we would conduct several dozens of liver transplant surgeries each year. The problem is not that no patient needs this surgery but rather there are no liver donations. Therefore, our constraint is there are not enough liver donors in Hong Kong to enable needy patients to receive surgeries. In the past, there were 10 to 20 liver donors each year and during the last three years, there were 50 to 75 liver donors each year. From this, we can see that our constraint is not in a lack of patients, but rather there are no available livers for surgeries. Therefore, in considering whether we need two liver transplant centres, we have also considered our capability for performing surgeries every year.

PRESIDENT (in Cantonese): We have spent more than 18 minutes on this question. I now allow one last supplementary question from Members.

MR LAU KONG-WAH (in Cantonese): *Madam President, the Secretary said earlier that the closure of one centre might have to depend on the overall performance and level of co-operation. Does the closure of the CUHK centre mean that there are problems with this centre in respect of co-operation, team spirit and facilities? If the centre has to be closed, is the CUHK officially in support of the closure? If not, will this be a major problem?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I understand we are now in the process of doing so and the HA has not yet announced the closure of one of the centres. I have also mentioned in the main reply that we have arrived at this decision after consulting the views of the CUHK medical school. There are two developments in this respect. First of all, it is the combination of the two waiting lists, and secondly, there will only be one centre in future. As regards this issue, we have already consulted the CUHK medical school. Of course, the results of surgeries performed in the PWH are good, but I am not talking about the last couple of years only, but rather a series of experiences. The PWH has certainly performed less liver transplant surgeries than the QMH: the QMH performed 320 liver transplant surgeries over the past 10 years, but the PWH has only performed 71. There is a discrepancy between the number of liver transplant surgeries performed by the two hospitals each year: the number of transplants performed by the QMH has continuously been on the rise while that of the PWH varies from year to year, with more in some years and fewer in certain years.

MR LAU KONG-WAH (in Cantonese): *Madam President, though the CUHK was consulted, the Secretary has not answered the question of whether it is in support of the closure.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as far as I understand it, the CUHK medical school has agreed to this.

PRESIDENT (in Cantonese): Second question.

Independence of Audit Commission

2. **DR DAVID CHU** (in Cantonese): *Madam President, as the recently appointed Director of Audit (D of A) is a senior administrative officer, which has aroused concern about the independence of the Audit Commission, will the Government inform this Council:*

(a) of the statutory, administrative and other mechanisms or measures in place to prevent situations that may give rise to real or potential conflict of interests or favouritism on the part of the D of A in discharging his duties, for example, where an audit review conducted by the Audit Commission involves a decision which the D of A had made, or had taken part in making, during his service in government departments, or where the controlling officer of an audited body is his relative or former colleague in the Civil Service;

(b) whether such mechanisms or measures have spelt out how to deal with the situation in which a former D of A may take up employment in a government department or an organization within the purview of D of A after his departure from office; if so, of the details; if not, the reasons for that; and

(c) of the actions to be taken to ensure that such mechanisms and measures are effective in preventing the situation in (a) above, and in handling the situation in (b) above?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the Government attaches paramount importance to the independence of the Audit Commission. This matter is beyond question. Article 58 of the Basic Law clearly stipulates that "a Commission of Audit shall be established in the Hong Kong Special Administrative Region. It shall function independently and be accountable to the Chief Executive." Section 9 of the Audit Ordinance further provides that "in the performance of his duties and the exercise of his powers under this Ordinance the Director shall not be subject to the direction or control of any other person or authority." These

provisions expressly buttress the independence of the Audit Commission. We firmly believe that this independence is essential for safeguarding the ability of the Audit Commission to carry out its duties effectively.

Part (a) of the question asks how the Government ensures the propriety and impartiality of the D of A in performing his duties.

This question involves two aspects. It concerns the statutory and administrative safeguards which are in place. It also concerns the personal integrity of the individual holding the office of the D of A. Prior to the Chief Executive making the appointment, the prospective appointee was put through extensive integrity checking in order to ensure that the integrity and conduct of the person meet the standard required for the post.

The D of A must also comply with all relevant legislation. These include, to name but a few, the Audit Ordinance, the Prevention of Bribery Ordinance and the Official Secrets Ordinance. Section 4 of the Audit Ordinance, in particular, states that "a person who is appointed as the Director of Audit shall hold that office during good behaviour", failing which he may be dismissed or be required to retire from office.

The D of A is also subject to the Civil Service Regulations. All civil servants are expected to uphold a set of core values which include commitment to the rule of law, honesty and integrity, accountability for decisions and actions, political neutrality, impartiality in the execution of public functions, and dedication, professionalism and diligence in serving the community. In the Civil Service Regulations and circulars issued by the Civil Service Bureau, there are guidelines to all civil servants on matters such as avoidance of conflict of interest, acceptance of advantages and entertainment, and declaration of private investments. As in the case of other principal officials, the D of A is required to declare his investments to the Civil Service Bureau on a regular basis. Such declaration is kept on a register of financial interests and is available for public inspection on request.

The Audit Commission also has an internal Audit Manual which governs the professional and ethical standards of its staff. The Manual sets out the code of conduct for staff and provides clear guidelines on matters concerning integrity, credibility, objectivity, independence and accountability in their discharge of duties. These guidelines are strictly adhered to by all staff of the Audit Commission, including the D of A himself.

Apart from the legal provisions and administrative guidelines, public monitoring also plays a crucial role in ensuring the impartiality of the Commission. As is well known, each year the Audit Commission regularly submits to this Council its audit report on government accounts and value-for-money study reports for scrutiny by Members. All these reports are public documents. Through these reports, members of the public are able to monitor the work of the Audit Commission. This helps ensure that the Audit Commission maintains its neutrality in operation and impartiality in monitoring the work of the Government.

Part (b) of the question concerns the administrative arrangements and measures for dealing with the re-employment of a former D of A, either in a government department or in a related organization, after his departure from office.

On this, the Government already has in place a comprehensive and well-established system. Under existing policy, civil servants are required to seek prior permission from the Government before taking up any outside employment, entering into business, or becoming partners or directors within two years (or such longer period as specified by the Chief Executive) of their retirement, if the principal part of the proposed employment or business is carried on in Hong Kong. This requirement is to ensure that the proposed employment or business will not constitute conflict of interest with the officer's previous employment in the Government. Account will be taken of whether the officer has been involved in policy formulation or decision, the effects of which could have benefited his prospective employer; whether the prospective employer might gain an unfair advantage over competitors because of the officer's previous knowledge; the public perception of the officer taking up the proposed employment, and so on.

Where individual government departments have operational reasons to employ retired civil servants, such cases will be similarly considered having regard to whether such appointments may constitute any conflicts of interest.

As with all other civil servants appointed on terms which attract pension benefits, the D of A is subject to the same post-retirement employment control mechanism upon his retirement from the service as set out above.

Part (c) of the question asks what actions the Government will take to effectively prevent favouritism and conflict of interests.

Members will note from the reply to parts (a) and (b) of the question that, whilst upholding the operational independence of the Audit Commission, the Government has extensive measures to safeguard the neutrality and impartiality of the Audit Commission in the performance of its duties. The work of the Commission is monitored at all levels through different channels, including internal monitoring, enforcement of legislation and public scrutiny. In case of misconduct by any Audit Commission staff, the matter will be investigated and we will take appropriate follow-up actions in accordance with the relevant laws and regulations.

As regards the processing of the D of A's application for post–retirement employment, the Advisory Committee on Post-retirement Employment was set up in 1987 to advise the Government on applications from directorate officers. Each application will be scrutinized by the Government on the advice of the Advisory Committee. Depending on the circumstances of the individual case, the Government may consider imposing an appropriate sanitization period or restricting the scope of work or business of the applicant to guard against any potential conflict of interest or public perception problem that might arise. Approval will only be granted where there is no impropriety in the proposed employment. Failure to comply with the post-retirement employment control mechanism may result in the individual's pension being suspended.

DR DAVID CHU (in Cantonese): *Madam President, in view of the manpower constraint of the Audit Commission, the Audit Commission can only audit a small number of government departments every year. People may query why the D of A does not review a certain government department, and whether or not it is because of conflict of interest that a certain government department is not subject to review. If there are such questions, how can the Government investigate or clarify the decision of the D of A?*

PRESIDENT (in Cantonese): Dr David CHU, please be seated first. Your supplementary question is on an "if ……" case. According to the Rules of Procedure, Members cannot raise hypothetical questions. I will give you another chance to ask a supplementary.

DR ERIC LI (in Cantonese): *Madam President, I think the Government has sidestepped part (a) of the question, that is, the issue related to the review of departments which his relative or he himself used to served. Referring to the criteria set for international professional accountants, apart from the requirement on professional qualification, ethical guidelines are also included. In avoiding suspicion and favouritism, auditors are not allowed, first, to review departments that they have served before; and second, to audit their relatives or any person who has a close tie with them in business. Madam President, of course, I do know that civil servants of Hong Kong are not required to comply with the code of practice for accountants. But many legislation in Hong Kong, like the company law and securities regulation law, stipulate explicitly such situations are not allowed. Nevertheless, in the main reply, I do not see that the D of A is in anyway prohibited from reviewing his relatives or officers from departments that he used to serve. The sixth paragraph of the main reply is the only part that bears some relation to the question by stating that the Audit Commission also had an internal Audit Manual. May I ask the Government whether this internal manual could be made public? Can it prove that the manual is up to date and in conformity with the international auditing guidelines in general to the effect that the D of A is prevented from reviewing departments that used to be under the charge of his relatives or he himself?*

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question? Secretary for Financial Services and the Treasury.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I will try to answer this supplementary question. As regards the Audit Manual, we can provide it to Dr Eric LI for reference. (Appendix II)

Upon his assumption of office, the incumbent D of A had already left the Administrative Officer grade with immediate effect, meaning that he will not return to any office of any government departments. As I have said, if the D of A is to audit a department that he has served before or his relative being the controlling officer, he could delegate the job to the Deputy D of A or the Assistant D of A. That is to say, if the D of A wants to avoid suspicion, for example, when he has to audit the department he only left last month, he can delegate the case to his deputy so as to avoid any potential conflict of interest or favouritism.

PRESIDENT (in Cantonese): Dr David CHU, are you prepared to raise another question?

DR DAVID CHU (in Cantonese): *Madam President, I would like to try ……*

PRESIDENT (in Cantonese): Are you going to raise a supplementary question?

DR DAVID CHU (in Cantonese): *Owing to manpower constraints, the Audit Commission cannot audit every government department. If it is queried that why the Audit Commission has not reviewed a certain department, how the Government would explain its case?*

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question? Secretary for Financial Services and the Treasury.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, Dr CHU is right in saying that the Audit Commission's manpower resource is limited. However, as I have said in the main reply, the Public Accounts Committee of the Legislative Council plays a monitoring role. Take the Harbour Fest as an example, in response to public concern, the Audit Commission has initiated value-for-money audits. Therefore, more often than not, it is not for the Commission to decide what it should do, but rather out of consideration of public concern. This is one point.

In addition, I believe the Commission has established an internal operation manual for prioritizing jobs and the departments which accounts should be audited in terms of their significance. We are confident, to a large extent, of the judgement and integrity of the D of A, that he will not evade reviewing a certain type of people.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, it is mentioned in the seventh paragraph of the main reply that we can assess the performance of the*

Audit Commission by means of the audit reports. However, the public will not be able to see any work where no audit review has been carried out or where no reports have been released after audit. In short, if the subordinates of the D of A challenge a certain department but someone use illicit practice to protect the department, and if that report has not been submitted to the Legislative Council, how can we monitor its performance? As some reports have been struck down by the D of A or have been banned internally, and if that have not been submitted to the Legislative Council, by what means can the report be handed to us for scrutiny?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, I will try to answer this supplementary question. Firstly, it is stated in the main reply clearly that the D of A is also subject to the Civil Service Regulations. As a civil servant, he must uphold his commitment to the rule of law and be accountable for his decisions and actions in discharging his duties. Therefore, if the D of A or any other public officers show any hint of favouritism to a specific case or concealing anything in discharging their duties, they have violated the Civil Service Regulations. If there is sufficient evidence, we will definitely take action and impose suitable punishment. But at the moment when nothing like this has happened, we cannot assume that it will happen.

MR SIN CHUNG-KAI (in Cantonese): *My supplementary question is on how we can monitor the situation. That is .....*

PRESIDENT (in Cantonese): Fine, I catch your point. Which Secretary will answer this supplementary question? Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, anybody, including civil servants, Members of the Legislative Council and the general public, with evidence showing certain public officers have committed favouritism, displayed incompetence, or identify any other case of impropriety, may express their views to the Government and raise questions in the Legislative Council. I believe the relevant Secretary will definitely answer these questions.

DR RAYMOND HO (in Cantonese): *Madam President, in the fifth paragraph of the Secretary's main reply, it is said that the D of A would maintain his political neutrality. Not long ago, when the representatives of civil servants visited Beijing, leaders of the Central Authorities told them that it was not possible for civil servants to remain politically neutral for they had to support the Government. If the D of A must maintain his political neutrality, does it mean that he must support the Government? If he must support the Government, how the public can be convinced that the D of A would be able to meet the demand and reasonable expectations of the public?*

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question? Secretary for the Civil Service.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, the job the D of A is in fact highly professional by nature. He is mainly responsible for reviewing the utilization of resources of each department and other auditing work to identify any irregularities and undertake value-for-money audits. Therefore, the upholding of the so-called political neutrality has to a certain extent helped to safeguard the work of the D of A. I can hardly think of any political considerations that can be factored into the work of the D of A.

PRESIDENT (in Cantonese): This Council has spent more than 18 minutes on this question. Although a number of Members are still waiting for their turn to ask questions, I can only allow one last supplementary question from Members.

MS EMILY LAU (in Cantonese): *Madam President, I would like to follow up the part on the mechanism guarding against conflict of interest. Just now, Secretary Frederick MA indicated in his reply that the D of A may delegate his subordinates to take charge if the department subject to review is one which he used to serve. I wonder if this is included in the Audit Manual. However, may I ask the Secretary to clarify whether the D of A "should" or "must" delegate his authority? This is how the Secretary for Justice handled the case involving the former Financial Secretary recently. It should be stipulated clearly that delegation "should" be made instead of leaving it to discretion, making the delegation of authority optional.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, regarding this supplementary question, the final authority of audit is vested in the D of A. However, in these cases, we can believe that he will certainly exercise his own judgement to decide whether the case should be delegated to his deputy or other colleagues, for he should know that the case may involve something sensitive. I believe he will do so.

PRESIDENT (in Cantonese): Third question.

Chief Executive to Brief Legislative Council upon Return from Duty Visits

3. **MR SZETO WAH** (in Cantonese): *Madam President, regarding post-duty visit briefings for the Legislative Council by the Chief Executive on his meetings with the leaders of the Central People's Government, will the Government inform this Council:*

(a) of the total number of such duty visits made by the Chief Executive since the reunification, the dates of each duty visit, whether the Chief Executive has subsequently briefed the Legislative Council on the details and outcome of the visits, and whether he will brief the Legislative Council on his latest duty visit; if he will, when the briefing will take place;

(b) whether the Chief Executive is obliged to brief the Legislative Council every time he returns from a duty visit to manifest the executive authorities' accountability towards the Legislative Council; and

(c) whether it plans to make it a convention for the Chief Executive to brief the Legislative Council upon his return from duty visits?

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

(a) Between July 1997 and December 2003, the Chief Executive has made eight duty visits to Beijing. The dates of his visits are as follows:

(1) 9 to 11 December 1997

(2) 15 to 17 October 1998

(3) 21 to 22 November 1999

(4) 26 to 27 October 2000

(5) 19 to 20 December 2001

(6) 9 to 11 December 2002

(7) 19 to 20 July 2003

(8) 2 to 4 December 2003

After each of his duty visit to Beijing the Chief Executive has informed the public of the details and outcome of such visit through the media. We do not see the need to make any special arrangements for the Chief Executive to reiterate the details and outcome of his last duty visit to Beijing on 2 to 4 December 2003 in the Legislative Council.

(b) To demonstrate that the executive is accountable to the legislature, government officials attend meetings of the Legislative Council regularly to explain the Administration's policies and answer questions raised by Members of the Legislative Council. The Administration is responsible for implementing laws passed by the Legislative Council and already in force. Matters pertaining to taxation and public expenditure are also subject to the Legislative Council's approval.

Furthermore, the Chief Executive presents regular policy addresses to the Legislative Council and attends the Legislative Council's Question and Answer Session four times each year to answer Members' questions. The Chief Executive will attend the next Question and Answer Session in the Legislative Council on 8 January 2004.

(c) Since the Chief Executive will inform the public of the details and outcome after his duty visit to Beijing, at present we do not see the need to consider any change to the existing arrangement.

MR SZETO WAH (in Cantonese): *Part (a) of the main reply mentioned that the public is informed of the details and outcome of such visits through the media, so there is no need to reiterate them in the Legislative Council. The media is the media and the Legislative Council is a representative body. Does the Government think that the media can replace the Legislative Council as a representative body?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): The Chief Executive and the executive fully respect the power and responsibilities vested in the Legislative Council. We particularly respect the Legislative Council because it has its special responsibilities and no organization can replace it in terms of these responsibilities and powers. However, with regard to the briefings, I believe the present arrangement is already adequate from the viewpoint of efficiency and time when the substance is the same.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, may I ask the Chief Secretary if there is a system concerning the Chief Executive's duty visits? If so, what are the details?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): According to past records, we can see that the Chief Executive has made eight duty visits, that is, the Chief Executive usually makes one or two duty visits to the Central Authorities each year, depending on whether anything special has happened in that year. If there are no particular incident, the Chief Executive will make at least one formal duty visit each year. For example, when the Chief Executive made his duty visit this year, he met with the President and the Premier respectively and reported the latest developments in Hong Kong since his last trip to Beijing, that is, in July this year. There is no requirement in this regard, but it appears the Chief Executive makes it a practice of doing so at least once a year.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the President of our state, HU Jintao, told the Chief Executive to keep tab on the pulse of the public and to have empathy for the public. The Chief Executive himself has also said that he will strive to communicate with various sectors and improve governance. However, if he is not even willing to come to the Legislative Council to answer questions about his duty visits, how can he keep tab on the pulse of the public and have empathy for public sentiments? The Chief Secretary for Administration claimed that the Legislative Council was respected, but is he merely paying lip service, treating it as non-existent? May I ask the Chief Secretary if the Government is very satisfied with this arrangement of holding a press conference after the Chief Executive's duty visits to give an account only to the public and the media? Is it true that this arrangement will not change and he is unwilling to come to the Legislative Council no matter what?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I have already explained to the President and Members that the Chief Executive comes to the Legislative Council to attend Question and Answer Sessions four times a year and also presents policy addresses to the Legislative Council. Moreover, in each Question and Answer Session, there is no restriction on the scope of Members' questions, nor are Members prohibited from asking questions on the Chief Executive's duty visits to Beijing. If Members consider it necessary and feel that there is still anything unclear after the Chief Executive has given a briefing to various sectors in Hong Kong, they are welcome to ask questions on that occasion. It is not true that the Chief Executive and the Government are being evasive on this matter. Members all know that we want to maintain communication with Members in various areas and through various channels as far as possible. However, on the arrangements concerning duty visits, we believe they appear to be adequate for the time being.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, I do not know if the Chief Secretary has misunderstood the ambit of the Legislative Council because he mentioned in part (a) of the main reply that they do not see the need to come to the Legislative Council to reiterate the details and outcome. Members of the Legislative Council do not just simply sit and listen to the Chief Executive's repetitions, we have the duty to ask questions. May I ask the Chief Secretary to clarify if the ambit of the Legislative Council is just to listen and say*

nothing? The Chief Secretary said that he did not see the need to consider any change to the existing arrangement, but may I ask if it is necessary to reconsider this arrangement? The Legislative Council is a representative body and we find that the public keeps calling on us to be more accountable. If the Legislative Council's ambit is not just to listen but to question, is it necessary to change the present arrangement?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): The Chief Executive fully accepts that there is a need for him to meet Members of the Legislative Council regularly and to take questions raised by Members. Madam President, at present, the Chief Executive comes to the Legislative Council to meet with Members at least four times a year and in his policy address, he also gives an account to Members of his performance the year before and the policy objectives and directions in the next year. In this regard, the Chief Executive does not evade anything at all.

In addition, regarding the communication between government officials and Members, if Members care to look up the records of meetings, it can be seen that in recent years, concerning all the motions, the number of briefings made by government officers to the Legislative Council, the number of meetings with the House Committee and with Select Committees far exceed those before 1997. This is sufficient proof that this Government has made a great deal of effort in communicating with Members. Of course, there are many things that cannot be perfect and we will continue to do better.

MR ALBERT HO (in Cantonese): *Madam President, since the Chief Executive is happy to continue to come to the Legislative Council regularly to take questions raised by Members, may I ask if it is possible to adopt a more flexible arrangement, that is, even if the Chief Executive is not willing to increase the number of times that he comes to the Legislative Council and the arrangement continues to be four times a year, whereby arrangements can be made for him to come to the Legislative Council soon after his duty visit on at least one of the occasions so that Members can ask him questions immediately on this matter? Is it possible to give an undertaking to make more disclosures, that is, to disclose the details of what the Chief Executive actually reports to the Central Authorities*

and is it possible to provide a summary to the Legislative Council? Furthermore, we also wish to know in general what the response of the Central Authorities is to the briefings made by the Chief Executive, such as the views expressed, and so on. May I ask if it is possible to do so, that is, to be more flexible and make at least some disclosures?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): It is often necessary for the Chief Executive and the Legislative Council to communicate and work out a time for meetings between the two sides. Concerning the time, both sides can consider how to make it closer to the external visits made by the Chief Executive. However, sometimes the timing for the Chief Executive to make duty visits is not solely and entirely in his control and the visits have to be arranged at a time convenient to the leaders in China, otherwise, it may not be possible to make the visits. However, we can make an effort in this area.

After the Chief Executive has met with our state leaders, he will give a briefing on the meeting between them as far as possible. The media will cover it and the Central Government will also, through the mainland media, give wide coverage on the details of the Chief Executive's visits. For example, on the last occasion when the Chief Executive went to Beijing in December, he met President HU Jintao and Premier WEN Jiabao and reported on the latest developments in Hong Kong since his duty visit to Beijing in July. On the economy, the Chief Executive reported to the two leaders the latest situation relating to the new measures implemented with the strong support of the Central Government since the SARS outbreak, including CEPA, the individual visit scheme, Guangdong-Hong Kong co-operation and Shanghai-Hong Kong co-operation, and so on. The Chief Executive also reported to the leaders that the Hong Kong economy is now in a powerful rebound. In addition, the Chief Executive also mentioned to the two leaders that since 1 July, the SAR Government has been endeavouring to improve its administration and style of governance. We will strive to strengthen communication, listen to the views of various sectors with a view to promoting people-oriented governance. The Chief Executive also reported to the State President that the consultation exercise in relation to the constitutional review would commence in 2004. I have taken this opportunity to give a brief account to Members on the major items that the Chief Executive discussed with the leaders in December.

DR YEUNG SUM (in Cantonese): *Madam President, the Chief Executive's duty visit to Beijing is a very important task, unfortunately, Legislative Council Members can only learn about it from scanty reports in the press. According to the Basic Law, the executive is accountable to the legislature. On such an important matter, if the Chief Executive can come to the Legislative Council to answer questions from Members of the Legislative Council, would this not further manifest the accountability of the executive to the legislature?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): It is definitely desirable to have more communication. I hope Members can make good use of the four occasions each year, when the Chief Executive attends the Question and Answer Sessions, to ask questions in various areas, including the details of the Chief Executive's duty visits. In fact, the Chief Executive makes one or two duty visits each year and the time lapse before the next Question and Answer Session in the Legislative Council is often not too great. If Members want to follow them up, it would not be too long afterwards. Perhaps we can examine our respective arrangements to see if in future, the briefings by the Chief Executive can be arranged at a time closer to his duty visits.

MS EMILY LAU (in Cantonese): *Madam President, before the handover in 1997, the Governor would give briefings to the Legislative Council after his duty visits to Britain. Can the Chief Secretary for Administration tell us why the present practice of the Chief Executive does not even compare well with that of a colonial Governor? Furthermore, if the Chief Executive insists on giving an account to the media and to the public through the media, he may as well choose the Legislative Council. If the Chief Executive is so lazy that he is willing to do it only once, can he choose to give an account only to the Legislative Council?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I believe that after 1997, under the "one country, two systems" arrangement and the Basic Law, our arrangement is quite different from that in the colonial era. It was precisely because Hong Kong was a colony that the head of the executive had the duty to allay the concerns of Hong Kong people. At present, under "one country, two systems", I think the concerns are different and the situation is completely different.

Regarding what Members consider to be the best way for the Chief Executive to give briefings, I think the demand of the general public is that the Chief Executive has to give an account on what has transpired to the general public at that time, right away and as soon as possible after his meeting with state leaders. I believe it is far too long to wait even for a day. Therefore, after each meeting with state leaders, the Chief Executive will always give an account to the general public of Hong Kong immediately on that day, and the most effective way is to do so through the media.

(Fourth question withdrawn)

PRESIDENT (in Cantonese): Last oral question.

Placing of Cargo Compartments on Streets

5. **MR AMBROSE LAU** (in Cantonese): *Madam President, it has been reported that at least one hundred cargo compartments of lorries used as garbage containers are placed on the streets in the territory each day. These cargo compartments not only block traffic flow and threaten the safety of vehicles and pedestrians, but also cause environmental nuisances. The Lands Department (LandsD) has pointed out that the placing of cargo compartments on government land requires prior approval of the LandsD. In this regard, will the Government inform this Council:*

(a) apart from the LandsD, whether other government departments responsible for overseeing road traffic, environmental hygiene and road construction have exercised control over the cargo compartments being placed on roadsides or pavements; if they have, of the details; if not, the reasons for that;

(b) of the total number of applications for placing cargo compartments on the streets received by the authorities over the past three years, and the total number of persons prosecuted for unauthorized placing of cargo compartments on the streets; if the authorities have not instituted prosecutions, of the reasons for that; and

(c) whether the authorities will consider treating the unauthorized placing of cargo compartments on the streets as illegal parking, littering or causing obstructions on passageways, so that the Hong Kong Police Force, the Food and Environmental Hygiene Department (FEHD) or the relevant departments may prosecute the owners of the cargo compartments concerned?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, skips (or cargo compartments) placed on streets or at roadsides are mostly used as temporary storage for construction waste generated from fitting-out or modification works in nearby buildings, pending transportation to landfill sites for dumping. As skips are normally not left for more than two to three days, their impact on traffic and pedestrians is brief. The fitting-out and construction trades have a practical need for these skips. Besides, their use helps reduce the dumping of construction waste on streets, which may cause environmental hygiene and traffic problems. This issue is now being addressed and resolved mainly through the street management mechanism in each district.

My replies to the three parts of the question are as follows:

(a) At present, there is no specific legislation to deal with skips being placed on streets. In general, such cases are regarded as illegal occupation of government land and dealt with by the relevant department under the Land (Miscellaneous Provisions) Ordinance, which covers all cases of unauthorized occupation of government land, including the placing of skips on streets. The LandsD may issue a licence to a person for occupation of government land under section 4 of the Ordinance. Under section 6(1) of the same Ordinance, the LandsD may post a notice requiring the person to cease occupation of the land before a specified date. The LandsD will normally give one working day's notice to the owners, to remove their skips from the streets.

If the placing of skips on streets or at roadsides causes environmental hygiene problem, the FEHD may serve on the person concerned a nuisance notice, requiring him to abate the nuisance within a specified period under sections 12 and 127 of the Public

Health and Municipal Services Ordinance. If skips obstruct any street cleansing operation, the FEHD will serve a notice on the owners, requiring removal within a specified period under section 22 of the same Ordinance.

In addition, any article (including skips) placed on a street by any person, causing obstruction, inconvenience or danger to other members of the public or vehicles, the police will take appropriate action under sections 4A and 32 of the Summary Offences Ordinance.

(b) Over the past three years, the LandsD has not received any application for placing skips on streets. The number of complaints received by concerned departments against the placing of skips on streets are as follows: the LandsD: 218 cases; the FEHD: 82 cases. In addition, the Hong Kong Police Force, the Transport Department and the Highways Department have not received any complaint record.

Over the past three years, a total of 218 such notices have been put up by District Lands (DL) Offices under section 6(1) of the Land (Miscellaneous Provisions) Ordinance. Most of the skips were removed before the deadline. The remaining skips were removed and confiscated by the relevant DL offices because their owners could not be traced.

(c) Skips do not fit in with the definition of "vehicle" under section 2 of the Road Traffic Ordinance and hence those placed on streets cannot be regarded as illegally parked vehicles. As mentioned earlier, the problem may be dealt with under the street management mechanism within each district. The concerned departments held a meeting last month to discuss street management issues and how to handle more effectively the problem of skips placed on street. It was agreed that, upon receiving such complaints, the police would assess whether there is an urgency or serious impact on traffic. If so, enforcement action would be taken by the police to remove them.

Where no traffic obstruction is caused, the police would inform the concerned DL Office, which would post a notice under the Land

(Miscellaneous Provisions) Ordinance, requiring the owner to remove the skip within one working day. Should the skip remain there after the deadline, the DL Office would arrange for its removal by a contractor, with a view to rectifying the situation within three working days.

MR AMBROSE LAU (in Cantonese): *Madam President, the Secretary explained in part (b) of the main reply that the LandsD had not received any application for placing skips on streets over the past three years, whilst at least 300 complaints had been received by concerned departments against the placing of skips on streets, and other department had no record on that. In view of that, the placing of skips on streets has already caused nuisances and inconvenience to members of the public and affected their living conditions. May I ask whether the Government considers it acceptable? That is, whether owners of skips may place them on streets, then after complaints are received, the Government issues notices to them to remove the skips from the street. If the Government finds it unacceptable, how would it put an end to this problem? Moreover, the Secretary explained in the main reply that upon receiving such complaints, the police would assess whether there was an urgency or serious impact on traffic, if so, enforcement action would be taken by the police to remove them. If it involves none of the abovementioned circumstances, will the authorities adopt other measures to tackle the problem?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, the situation in the past was indeed undesirable. Although departments concerned may take action under the relevant Ordinances, they are separate actions taken by individual departments. Just as I explained in part (c) of the main reply, after the relevant situation was disclosed by the press, the concerned departments held a meeting last month to discuss more effective ways to deal with the problem. Just as Mr LAU said, if there is an impact on traffic, enforcement action would be taken immediately; I have explained in my main reply that where no traffic obstruction was caused, the police would inform the concerned DL Office, which would post a notice under the Land (Miscellaneous Provisions) Ordinance, requiring the owner to remove the skip within one working day, and that one working day is required by law. If the skip remains there after the deadline, we would arrange for its removal by a contractor. Our objective is to rectify the situation as soon as possible. Under whatever circumstances, it would be dealt with within three working days.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the Secretary explained in part (c) of the main reply that if the skip had caused serious impact on traffic, it would be removed. May I ask whether the meaning of removal involves any penalty, that is, a penalty ticket being issued to the owner? If it involves no penalty, then should the Government carry out the removal at public expense? If a penalty is in place, may I ask what penalty it is?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, in fact, very often, skips belong to their owners, but generally they have no markings for us to identify their owners. If we search in the vicinity of the skip, every now and then we could find people carrying out demolition works. If the skip obstructs traffic flow, the police will ask the parties concerned to remove it immediately. If no traffic obstruction is caused, a notice would be posted. Thus we can deal with all such situations. With regard to the question of penalty, the police will take legal action under section 4A of the Summary Offences Ordinance. Under that Ordinance, any person, who without lawful authority or excuse, causes the nuisances shall be liable to a fine of $5,000 or to imprisonment for three months. However, according to our records, nobody has been given an imprisonment sentence by virtue of that provision.

MR HENRY WU (in Cantonese): *Madam President, I can see from time to time that skips are placed on roadsides, in particular on double yellow lines, and I have also seen some of them being placed at road junctions, which will definitely affect traffic flow. However, whether it will cause impact on traffic depends on the fact that whether or not it is rush hour. With regard to this situation, the existing practices, such as referring the case to the police upon receiving such complaints, and so on, are not at all satisfactory. The Secretary explained in the main reply that if no traffic obstruction was caused, the police would inform the concerned DL Office, which would post a notice requiring the owner to remove the skip within one working day. However, the Secretary also mentioned in the first paragraph of the main reply that skips were normally left for not more than two to three days, thus posting a notice seems to be an unnecessary move. In this connection, may I ask the Government whether it will consider encouraging the parties concerned to make applications? If the*

parties concerned have made applications, these problems would possibly be eliminated, that is, skips would not be placed illegally, because the relevant authorities could set down certain restrictions, such as prohibiting the placement of skips at road junctions or on double yellow lines.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, just as Members said, these skips are mostly used for the dumping of demolition waste. Their owners would remove them once they are fully loaded, thus they would not stay very long as far as time is concerned. Of course, current legislation allows skip owners to make applications, but if they have to go through the application formalities and then the licensing procedure, many people would rather not to make an application because they feel that it is just a waste of time. We have to understand that there is such a need, and we also hope that the nuisance can be minimized. For that reason, if the skips cause impact on traffic or safety, the authorities would deal with them immediately. If not, we would generally stretch the rules to accommodate them, but we would make sure that they would not stay on the street for too long.

MR HENRY WU (in Cantonese): *Madam President, the Secretary has not answered my supplementary. I asked the Secretary whether the parties concerned would be encouraged to make applications, so he could explain what measures could be adopted as an encouragement, such as streamlining the procedure, or the penalty issue mentioned by another Member. May I ask the Secretary if he will encourage the parties concerned to make applications?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, the owners may make applications to the relevant department, but as I explained in my main reply just now, over the past three years, we have not received any application. Nevertheless, I think the most important thing is to allow the public to report such cases through an effective channel should such circumstance arise. The LandsD has set up a complaint hotline and the number is 2231 3369. It is hoped that the nuisance can be minimized by means of dealing with complaints.

DR TANG SIU-TONG (in Cantonese): *The Secretary mentioned in part (b) of the main reply that over the past three years, the LandsD had not received any application for placing skips on streets. In the meantime, the Director of Lands may issue a licence to the parties concerned under the Land (Miscellaneous Provisions) Ordinance. May I ask whether the parties concerned do not wish to apply for the licence due to the licence fees or the daily rent payable, or simply because they do not want to take the trouble to make an application?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, the relevant application requires the parties concerned to pay a rent, but the rent is not high, it is not expensive at all. The licence is issued on district basis, so in Hong Kong Island North and urban Kowloon, for example, the rent for each square metre is just $10/year. For that reason, the relevant cost is quite low, and the cost should not be a problem. Perhaps the problem is that demolition works only take quite a short time, and the skip would be removed soon after the demolition works are over, therefore there is no incentive for the owner to place the skip for a very long period.

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

MR AMBROSE LAU (in Cantonese): *Madam President, I wish to follow up my main question. The current situation is obviously that the parties concerned have put skips on the streets in the first place, that is, someone has done something unlawful, therefore I told the Government, if it was not satisfied with the situation, it should put an end to this problem. However, the way that the police deal with urgent cases is exactly the same as they deal with non-urgent cases, that is, a notice will be posted to require the owner to remove the skip before a specific date, but that cannot solve the problem at all. For that reason, may I ask the Government if, given that prevention is better than cure, the authorities will discuss with the relevant sector or to put down some simplified application requirements or even exempt the rent when necessary? Since the Government is unable to collect the fees now, it had better make it free by waiving the rent that the owners should pay, then the control in that respect could perhaps improve. Do the authorities have any preventive measure to take?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I think Members will understand that these skips are mostly used for the keeping of construction waste generated from demolition works, therefore they are usually placed close to the demolition site, thus the flexibility will be very limited as far as placing the skips closer or further to the site is concerned. With regard to the time arrangement, I have just explained that their stay is brief. Since the relevant sector has such a need, therefore we have made this arrangement. I have also explained in my main reply that if the use of skips to keep construction waste was disallowed, then construction waste would be dumped on streets pending transport to remove them, then it would cause another problem. Under that circumstance, we should give consideration to road safety first. If it causes impact on safety, then we will definitely not allow anyone to commit such action under any circumstance; if safety is not jeopardized, then we would deal with it according to the approach I have just mentioned.

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

WRITTEN ANSWERS TO QUESTIONS

Measures to Create Jobs

6. **MR LAU CHIN-SHEK** (in Chinese): *Madam President, to alleviate the unemployment problem, assist the disadvantaged in entering the labour market and combat the Severe Acute Respiratory Syndrome (SARS) which broke out early this year, the Government has implemented a number of measures aimed at creating jobs. In this connection, will the Government inform this Council:*

(a) of the progress of the above measures;

(b) among the jobs which have been created by the relevant measures, of the types and number of jobs which will expire by March next year; and

(c) whether the authorities will extend the employment periods of the jobs mentioned in (b); if so, of the details; if not, the reasons for that?

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

(a) and (b)

To alleviate the unemployment problem, the Administration has launched a series of measures since 2000 to help the unemployed enter the labour market. These measures include the Initiatives for Wider Economic Participation announced in the 2000 policy address to improve the environment and increase greenery, enhance welfare and hospital services, and implement small environmental improvement and community building projects as well as health campaign; the initiatives announced in the 2001 policy address to accelerate works projects and to enhance property management, education, welfare, health and other services and environmental improvement work; as well as the employment packages introduced this year following the outbreak of SARS to improve the environmental hygiene of streets, country parks and public leisure facilities and assist the needy to enhance hygienic conditions of their home, as well as provide temporary jobs for youths in areas covering tourism, leisure, arts and cultural sectors and community building.

These measures have created a total of 29 832 temporary jobs. Of these, 23 002 are still ongoing, including 18 900 which will expire before end-March next year.

In respect of the jobs pledged in the 2001 policy address, about 20 000 were for works projects. These jobs would expire upon completion of the projects. Nevertheless, with a target average annual spending of about $29 billion in the coming five years (higher than the average expenditure of about $27 billion per annum in the past five years), the Capital Works Programme as a whole (including minor works) will require an average of about 41 000 construction workers and 4 200 professional/technical staff. These should be able to absorb many of the workers from the lapsed works projects.

(c) The Government is carefully considering whether these temporary jobs should be extended, having regard to the Government's overall financial position and operational need for extending the jobs.

Implementation of Health Control Measures at Immigration Control Points

7. **MR MICHAEL MAK** (in Chinese): *Madam President, to prevent the cross-boundary spread of Severe Acute Respiratory Syndrome, health control measures have been implemented at various immigration control points. In this connection, will the Government inform this Council:*

(a) of the health control facilities currently installed in various control points;

(b) whether it has conducted surprise checks to ensure strict enforcement of the health control measures by front-line staff at various control points;

(c) of the respective numbers of travellers who refused to complete and return health declaration forms and those who refused to undergo health checks since March this year; how these cases were handled; and

(d) of the number of complaints received from travellers regarding the health control measures?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): Madam President, health screening measures are implemented at all border control points (BCPs) for all incoming passengers. These measures also apply to all travellers leaving Hong Kong via the Hong Kong International Airport (HKIA), seaports, or the Hung Hom Station (HHS). The health screening measures include health declaration and body temperature screening. If a traveller declares sick or shows signs of fever, he or she would be further assessed and, when necessary, referred to public hospitals for further medical examination.

(a) Medical posts have been established in all BCPs, where temperature screening devices are installed. Over 300 Overhead Infrared Temperature Scanners have been installed in various land and sea BCPs; and 13 sets of Infrared Fever Screening System have been installed at the HKIA and HHS.

(b) The Department of Health (DH) staff at BCPs stand ready to assist travellers and, when necessary, to remind them to comply with the health screening measures. A mechanism has been put in place to ensure the quality of the health screening measures. Supervisors are on site at all BCPs to monitor the operation of the health check measures and conduct surprise checks to ensure the health screening procedures are being properly carried out by front-line staff. The Health Declaration Forms collected are regularly sampled and checked by DH staff to ensure the procedure protocols set out by the DH have been properly followed for cases where travellers declare sick. Experience so far indicates that the staff have been adhering to these protocols.

(c) Travellers are generally co-operative in complying with the health screening measures. There were only a few passengers who were reluctant to co-operate initially. However, after explanation and persuasion by DH staff, they eventually complied with the health screening measures.

(d) Since March 2003, over 66 million travellers had undergone health screening at BCPs. So far, the DH had received 19 complaints related to health screening measures, procedures and communication with staff.

Outsource Plan for the Disciplined Services

8. **MR LEUNG FU-WAH** (in Chinese): *Madam President, regarding the disciplined services' plan to outsource some of their work, will the Government inform this Council:*

(a) of the types of work each disciplined service intends to outsource; and the numbers and ranks of the staff members whose work will be outsourced, broken down by whether they are civil servants, non-civil service contract staff, temporary staff and part-time staff;

(b) whether the disciplined services have set timetables for the outsourcing exercise; if they have, of the detailed timetables; if not, the reasons for that and whether such reasons are related to their financial provision for the coming year;

(c) how the disciplined services will deploy the manpower saved from the outsourcing exercise;

(d) of the financial implications of the implementation of the outsourcing exercise on the disciplined services; whether additional financial provision will be allocated to the disciplined services concerned as a result of the exercise; if so, of the respective additional provision for each disciplined service; if not, the reasons for that;

(e) of the criteria adopted by each disciplined service for deciding whether its work will be outsourced; whether the relevant disciplined services will consult their staff and staff unions prior to the decision to outsource their work; if so, of the form of consultation; if not, the reasons for that, and whether the authorities have assessed if the staff morale of the disciplined services will be affected by the outsourcing of some of their work; if they have, of the assessment results; if not, the reasons for that;

(f) how the authorities monitor the entire outsourcing process and the quality of the outsourced work; and

(g) whether the authorities will conduct regular reviews on the outsourcing exercise with regard to its effectiveness, quality of the outsourced work and its impact on the relevant disciplined services and their staff?

SECRETARY FOR SECURITY (in Chinese): Madam President,

(a) and (b)

All disciplined services have outsourced some of their work. For instance, the Hong Kong Police Force have outsourced some of their translation assignments, which are currently provided by three

contractors. As regards the Immigration Department, some of their crowd control duties at immigration control points carried out by Immigration Assistants have been outsourced. At present, some 50 security guards and over 30 members of the Civil Aid Service have taken over such duties.

In the near future, apart from the Hong Kong Police Force and the Fire Services Department, the other disciplined services do not have any plans for further outsourcing. Nevertheless, they will continue to explore the feasibility of outsourcing other areas of work according to their operational needs. The outsourcing plans and timetables of the Hong Kong Police Force and the Fire Services Department are as follows:

Disciplined Service	*Outsourcing Plans*	*Staff Affected (all civil servants)*	*Timetables*	*Provisions Involved*
Hong Kong Police Force	1) Catering service of the Border District (Sha Tau Kok and Lok Ma Chau Police Stations)	Eight Cooks	December 2003	Most of the outsourcing exercises are timed to tie in with natural wastage or the dates of voluntary retirement of staff. As the staff costs thus saved will cover the cost of outsourcing, no additional financial provision is required.
	2) Security guard duties of Police Headquarters	Four Sergeants and 38 Police Constables	April 2004	
	3) Management of police clubs	Six Clerical Staff, seven Artisans and 23 Workmen	April 2004	
	4) Cleansing of police stations and facilities	Workmen II. The number of staff affected depends on wastage and redeployment by the Government	To tie in with natural wastage and the dates of voluntary retirement of Workmen as well as redeployment by the Government	
Fire Services Department	non-core services of civilian staff and services provided by Workmen, including catering and security guard service	Civilian staff and Workmen II. The number of staff affected depends on wastage and redeployment by the Government	To tie in with natural wastage and the dates of voluntary retirement of civilian staff and Workmen as well as redeployment by the Government	

(c) Most of the outsourcing plans to be implemented in the near future involve duties of civilian staff and Workmen. The plans will be timed to tie in with natural wastage or the dates of voluntary retirement of the staff concerned as well as redeployment by the Government.

Once the duties discharged by disciplined staff have been outsourced, the manpower thus released will be deployed to other front-line posts. For instance, after the management of police clubs has been outsourced, Police Officer grade staff thus released have been redeployed to posts in the Police Districts or Police Headquarters. As regards the Immigration Department, the manpower released from outsourcing has been redeployed to take up more urgent immigration core duties.

(d) Most of the outsourcing exercises are timed to tie in with natural wastage or the dates of voluntary retirement of staff. As the staff costs thus saved will cover the cost of outsourcing, no additional financial provision is required.

(e) Before a decision on outsourcing is made, the disciplined services will take into consideration a number of factors, which include the nature of the work involved, operational requirements, impact on the department, cost-effectiveness of outsourcing, availability of contractors in the market, monitoring of outsourced work, redeployment of manpower released from outsourcing and possible risks to the Government should there be any problems arising from outsourcing.

Whenever there is a plan for outsourcing, the disciplined services will consult staff on the plan. There are well-established channels of communication between the management and staff in the disciplined services. Before the implementation of any major outsourcing plans, staff associations will be consulted or consultation documents will be issued to collect the views of staff. In the process of consultation, the impact of outsourcing on staff morale will be assessed. As most of the work already outsourced are non-core services and are limited to services with manpower shortage, there has not been much adverse impact on staff morale.

(f) The disciplined services will conduct the outsourcing process and tendering exercise in accordance with the Stores and Procurement Regulations and the Guide to Outsourcing published by the Efficiency Unit. The tender documents will clearly set out the service requirements and assessment mechanism. The management will closely monitor the performance of the contractors, collect the views of staff and other service users, and regularly assess the quality of services provided by the contractors. If the contractor's services do not meet the performance levels specified in the contract, a series of escalating measures will be taken. These include discussions to identify the cause of the problem, warnings, withholding payment for services not performed, and invoking liquidated damages clauses. Contracts will be terminated if necessary.

(g) The disciplined services will conduct regular reviews on the effectiveness of outsourcing, the quality of services provided by the contractors and the impact of outsourcing on their staff. Their management will review the cost-effectiveness of the outsourcing, ways to improve the quality of service and the co-operation between their staff and the contractors. They will also try to compare the quality of services provided by different contractors. For some of the outsourced services, the management, contractors and users will hold regular meetings to make recommendations on improvement in all aspects of the outsourcing plans.

Obtaining Mainland's Recognition of Marriages Registered in Hong Kong

9. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, regarding places for holding weddings and persons officiating at marriage registration, and the question of whether Hong Kong-registered marriages are recognized by the mainland authorities, will the Government inform this Council:*

(a) whether it has plans to authorize lawyers to officiate at marriage registration, and to allow prospective couples to hold wedding at places other than the marriage registries or authorized places of public worship; if so, of the details and progress of the plans, and the qualifications required of the lawyers to be so authorized; if not, the reasons for that;

(b) of its plans to obtain the mainland authorities' recognition of mainlanders' marriages which are registered in Hong Kong, so as to attract prospective couples from the Mainland to travel to Hong Kong and hold their weddings here, and thus boost the tourism of Hong Kong?

SECRETARY FOR SECURITY (in Chinese): Madam President,

(a) To provide more diversified services to the public, the Immigration Department (ImmD) is proactively examining a proposal to allow the private sector to provide services relating to celebration of marriages. It conceptually involves appointing suitable persons (for example, solicitors) as celebrants of marriages so that marrying parties can choose to celebrate their marriages at places other than marriage registries or licensed places of public worship. The ImmD is now conducting an in-depth study of its details, which include the eligibility criteria for appointment, the mode of appointment and relevant legislative amendments.

A major principle governing the formulation of the eligibility criteria is that marriage celebrants should be appointed under a fair and open system. Since marrying parties have to sign a declaration in the presence of marriage celebrants, our preliminary thinking is that persons applying to become celebrants should possess statutory power to take and receive declarations. Other criteria being considered include adequate understanding of the procedures and requirements of marriage registration, capability to deliver the ceremonies concerned, integrity and ability to provide suitable facilities to properly store documents related to marriage registration. The Government will consult relevant professional bodies on the details of the proposal.

(b) Statistics from the ImmD show that the majority of mainland residents registering their marriages in Hong Kong are contracting marriages with Hong Kong residents. Marriages that involve two mainland residents are rare. After the implementation of the Individual Visit Scheme, the number of marriage registrations in Hong Kong involving two mainland residents thus far has not shown any significant increase.

In the case of marriages contracted in Hong Kong by mainland residents (either involving one mainland resident or two mainland residents), their recognition in the Mainland falls within mainland jurisdiction and is a matter to be dealt with in accordance with mainland laws and opinions of mainland authorities. This notwithstanding, our understanding is that, in accordance with the applicable principles under the "General Principle of Civil Law of the People's Republic of China", for marriages entered into by mainland residents in Hong Kong which do not contravene the provisions of the laws of Hong Kong and the "Marriage Law of the People's Republic of China", there is no express provision under mainland laws suggesting that such marriages should be considered invalid, or that they must be registered again in the Mainland. If a mainland resident needs to prove the validity of his/her marriage to mainland authorities after he/she has registered his/her marriage in Hong Kong, he/she can approach a China-appointed Attesting Officer in Hong Kong for a notorized document proving that his/her marriage has been legally entered into in Hong Kong. Whether the marriage complies with mainland laws will be determined by mainland authorities according to mainland laws.

We welcome mainland residents to visit Hong Kong but whether they will choose Hong Kong as the place to celebrate their marriages are solely their individual decisions.

Regulation of Private Medical Laboratories

10. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that, currently, the Government does not regulate private medical laboratories. As quite a number of private medical laboratories are housed in commercial buildings, they may endanger residents in the neighbourhood in the event of any mistakes made by such laboratories in handling high-risk tests. In this connection, will the Government inform this Council:*

(a) of the total number of accidents involving private medical laboratories in the conduct of laboratory tests over the past three years;

(b) whether it knows if the United States and Canada have legislation for regulating private medical laboratories; if so, of the details; and

(c) whether there is legislation regulating private medical laboratories; if so, of the details; if not, whether such legislation will be enacted?

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

(a) Neither the Department of Health nor the Medical Laboratory Technologists Board is aware of any accidents involving private medical laboratories in the conduct of laboratory tests in the past three years. The Medical Laboratory Technologists Board is a statutory body established under the Supplementary Medical Professions Ordinance (Cap. 359) and its subsidiary legislation to regulate the professional practice and conduct among medical laboratory technologists. In the past three years, the Board has not received any complaints relating to accidents in medical laboratories.

(b) Regulatory control on medical laboratory or medical laboratory personnel varies among overseas countries. Based on the information available to us, in the United States, all laboratory testing for human health are regulated through certification and quality assurance programme having regard to the complexity of the tests performed. Some states also require laboratory personnel to be licensed or registered. The situation in Canada differs in that mandatory licensing of medical laboratories or registration of medical laboratory technologists is only practised in certain provinces.

(c) In Hong Kong, the standard of medical laboratory service is ensured through the professional regulation of medical laboratory technologists under the Supplementary Medical Professions Ordinance. Under the Ordinance, the medical laboratory technology profession can only be practised by persons registered in respect of that profession. Moreover, any company carrying on the business of medical laboratory service is required to have at least

one director who is a registered medical laboratory technologist. Any medical laboratory technologist who breaches any condition of his registration may be subject to inquiries and liable to disciplinary actions, including receipt of warning letter and removal of his name from the register. We will continue to monitor the standard of laboratory practice and review the adequacy of our present regulatory framework if this is found to be necessary.

Collection of Discarded Articles with Goods Vehicles

11. **MR ALBERT CHAN** (in Chinese): *Madam President, recently, I have received many complaints from designated collectors of recyclables about their business being affected by people who are not designated collectors and who employ goods vehicles to collect discarded household articles which have values. Such goods vehicles occupy the roadside loading/unloading bays for lengthy periods, emit a bad smell and cause environmental hygiene problems. Despite repeated complaints made to the police by these collectors and me, the police have not taken any specific actions to combat such activities. In this connection, will the Government inform this Council:*

(a) of the number of relevant complaints received by the authorities concerned last year, the locations and number of people involved and, as well as the follow-up actions they have taken; and

(b) whether it will consider stepping up enforcement actions against activities of driving goods vehicles around to collect discarded articles; if it will, of the details of such actions; if not, the reasons for that?

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

(a) Between January and November 2003, the Food and Environmental Hygiene Department (FEHD) received 18 complaints relating to nuisances caused by goods vehicles collecting discarded household articles. Of these complaints, 15 took place in Tuen Mun and one

each in Southern District, Wong Tai Sin and Tai Po. Upon investigation, the FEHD did not observe any environmental hygiene problems caused by the activities concerned.

(b) At present, the Government imposes no permit/licensing control on waste collection and recycling activities. However, the conduct of such activities should not violate the laws of Hong Kong. Should these activities involve criminal or traffic offences, the police will take enforcement action, such as prosecution against illegal parking under the Road Traffic Ordinance. If the activities cause any environmental hygiene nuisances, the FEHD will take enforcement action under the Public Health and Municipal Services Ordinance.

Complaints About Abuse of Power by Police Officers Towards Sex Workers

12. **MS EMILY LAU** (in Chinese): *Madam President, between March and October this year, a concern group for sex workers received 76 complaints from sex workers about the abuse of power by police officers. Of these, 18 cases were allegations of police officers' taking advantage of the opportunities to obtain sex services for free while posing as clients in anti-vice operations, one case related to the alleged use of violence by police officers, three cases involved the use of police officers' capacity to ask for free sex services, and four cases involved police officers unreasonably demanding the arrested sex workers to take off all their clothes for body search in police stations. In this connection, will the executive authorities inform this Council:*

(a) whether the police have obtained concrete information on such complaints and conducted investigations accordingly, and of the penalties to be imposed on those police officers confirmed to have committed the above acts;

(b) whether the police have taken the initiative to contact and follow up with the concern group; if so, of the details of such contacts and follow-up; if not, the reasons for that;

(c) of the measures the police have adopted for monitoring the conduct of police officers in anti-vice operations;

(d) whether the relevant internal guidelines of the police have specific provisions on the permissible body contacts between police officers carrying out anti-vice operations and sex workers; if so, of the details of such provisions; if not, the reasons for that; and

(e) whether the police have reviewed the procedures for instituting prosecutions against the sex workers arrested, in order to identify possible areas for improvement?

SECRETARY FOR SECURITY (in Chinese): Madam President,

(a) The police have not received any complaint on specific incidents raised by the concern group or the prostitutes concerned and hence have not been able to conduct any follow-up investigation.

(b) Through the arrangement by the Complaints Division of the Legislative Council Secretariat, the concern group met the Duty Members on 3 December 2003 and lodged a similar complaint. In their written response to enquiries from the Legislative Council Secretariat, the police specifically requested the concern group to provide detailed information on their allegations in order to allow the police to conduct the necessary investigations.

(c) The police have in place a comprehensive mechanism to monitor the conduct of police officers. In addition, clear guidelines have been drawn up on anti-vice operations. All officers taking enforcement actions against vice activities are required to strictly comply with the guidelines.

(d) Police actions against vice activities are targeted at persons controlling prostitutes and operating vice establishments, but not the prostitutes themselves unless the latter are involved in soliciting for an immoral purpose in public places. Such criminals usually resort to various means to avoid prosecution actions, and persons receiving sex services from prostitutes very seldom approach the police to provide the necessary evidence. Hence, there is a genuine need for the police to conduct covert operations to collect evidence for charging such vice-operators. The objectives and the procedures

of anti-vice operations are clearly set out in the police internal guidelines. These guidelines explicitly forbid officers taking part in such covert operations from having sexual intercourse with the prostitutes. Nevertheless, to achieve the objective of undercover anti-vice operations, it is inevitable for the officers concerned to have body contact with the prostitutes.

(e) The police conduct regular reviews on their internal guidelines and procedures and the existing ones are adequate and appropriate.

Abandoned Pets

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

(a) how it treats abandoned pets (such as dogs and cats); whether it knows the assistance offered by the Society for the Prevention of Cruelty to Animals (Hong Kong) (SPCA) in this respect and whether the Society will provide shelter for abandoned pets; if it will, of the details;

(b) of the number of pets put down because they have been abandoned or no adopters have been found for them in each of the past three years and the expenses involved, broken down by animal species; and

(c) of the measures the authorities have to enhance public education on being kind to animals and to promote such a message to the community?

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

(a) It is the established practice of the Agriculture, Fisheries and Conservation Department (AFCD) to provide suitable arrangements for the humane disposal of abandoned, stray, lost or feral animals. Such animals can either be selected for adoption through animal

welfare organizations, or euthanased if no suitable homes can be found. If the abandoned animal is equipped with microchip identification (a statutory requirement for dogs over five months old), the AFCD will try to trace the owner with a view to reuniting the dog with the owner as far as possible. Animals without identification will be held for four days to see if they are reclaimed by their owners. If such animals remain unclaimed after the four-day period, or if their owners cannot be traced, suitable arrangements will be made for adoption by the public through animal welfare groups. There are seven animal welfare organizations currently working together with the AFCD to rehome abandoned pet animals. Animals which are found not suitable for adoption or unable to be adopted because of a lack of interest will be euthanased. The SPCA is one of the organizations assisting the AFCD to rehome the pet animals.

(b) The number of pet animals euthanased by the AFCD because no suitable homes can be found for them in the last three years and the expenses involved are shown in the table below.

Year	*Dogs*	*Cats*	*Other Pets*	*Costs*
2001	11 394	2 693	88	$190,000
2002	11 507	3 584	260	$200,000
2003 (January to November)	10 878	5 041	1 340	$220,000

(c) The AFCD promotes the message of responsible pet ownership and animal welfare among the general public through the following means:

- Direct interaction and education efforts in villages and communities. AFCD officers carry out pre-scheduled dog licensing programmes in villages and communities, and combine these programmes with education programmes on responsible pet ownership. The AFCD has visited over 400 villages since April 2002.

- The AFCD also works with the SPCA on similar programmes in villages and housing estates, with follow-up or concurrent activities of the Sir Robert HoTung SPCA Spay/Neuter vehicle to carry out low-cost spay/neuter operations.

- Mobile exhibitions.

- Talks to various groups on subjects like responsible pet ownership, health care for pets, how to avoid animal bites, and laws relating to keeping pets.

- Leaflets and posters.

- Subvention to the SPCA for organizing education programmes.

AFCD's Attempt to Rescue or Capture Wild Animals

14. **DR DAVID CHU** (in Chinese): *Madam President, there are criticisms that the Agriculture, Fisheries and Conservation Department (AFCD) has repeatedly made mistakes in its attempts to rescue or capture wild animals. On one occasion, its failed rescue attempt resulted in the death of a stranded sperm whale, and on another occasion, its misuse of a dog-catching pole to capture a little barking deer led to the animal being strangled to death. Besides, the Australian crocodile expert invited by the AFCD to capture a young crocodile found in Shan Pui River also failed after numerous attempts for more than 10 days. In this connection, will the Government inform this Council:*

(a) whether the AFCD has consulted the relevant organizations and experts on the methods to be used when planning its operations to rescue or capture wild animals;

(b) of the reasons for the AFCD's inviting the Australian expert to come to Hong Kong to capture the crocodile, without first allowing or inviting local or mainland experts to do the job; and

(c) of the communication and co-operation between the AFCD and local experts and voluntary organizations engaging in the study or

conservation of wild animals; and whether their experiences and resources have been fully utilized to tackle problems in the management, rescuing, capturing and handling of wild animals?

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

(a) Officers in the AFCD are knowledgeable about conservation of wild animals, and are also experienced in handling native wild animals. When they have to rescue or capture non-native wild animals, they will, where necessary, consult the relevant organizations and experts, and also take account of site conditions, in determining the best way to conduct the operations. They did those in the operations to rescue the sperm whale and to capture the crocodile referred to in the question.

(b) There are no locally available experts who are specialized in capturing crocodiles in the wild. After obtaining advice from crocodile experts overseas, the AFCD started its attempt in early November this year to capture the crocodile using trapping cages. In mid-November, a local media company made an offer to the AFCD to invite the Australian crocodile expert to Hong Kong to assist with the operation. The AFCD accepted the offer after vetting the qualification and experience of the expert. The attempt by the Australian expert was not successful. It was not until a few days before his departure from Hong Kong in late November when another media company made an offer to the AFCD to invite crocodile experts from the Mainland to assist with the operation. The AFCD accepted the offer after going through a similar exercise to vet the qualification and experience of the experts.

(c) The AFCD communicates closely with local wild animal experts and voluntary organizations involved in the study or conservation of wild animals and wild animal habitat management. Those include the World Wide Fund For Nature Hong Kong (WWFHK), the Kadoorie Farm and Botanic Garden (KFBG) and the Ocean Park Hong Kong (OPHK). The knowledge and experience the AFCD gains through the exchanges are used by the Department in

managing, rescuing, capturing and handling wild animals. Moreover, depending on need, the KFBG and the OPHK also provide the AFCD with on-site assistance in certain wild animal rescue operations, and assist the Department in the treatment of captured wild animals that are found to be injured or ill.

Panel of Inquiry on Harbour Fest

15. **MS EMILY LAU** (in Chinese): *Madam President, the Financial Secretary told this Council on 5 November that the Administration would establish a panel of inquiry on the Harbour Fest event and that the terms of reference and the membership of the panel would be announced shortly. However, such announcements were made only on the 12th of this month. In this connection, will the executive authorities inform this Council:*

(a) of the reasons for having spent more than one month in establishing the panel of inquiry, as well as the difficulties encountered;

(b) of the reasons for not appointing the panel under the Commissions of Inquiry Ordinance (Cap. 86) so that it will be vested with statutory powers to summon witnesses and gather evidence; and

(c) whether they have stipulated that the panel of inquiry shall hold public hearings?

FINANCIAL SECRETARY (in Chinese): Madam President,

(a) The Chief Executive announced the membership and terms of reference of the Independent Panel of Inquiry established to look into the Harbour Fest on 12 December 2003. The Panel comprises two members, Mr Moses CHENG and Mr Brian STEVENSON. The terms of reference of the panel are as follows:

(i) To examine the procedures for assessing and approving the proposal by the American Chamber of Commerce (AmCham) for the Harbour Fest in the Economic Relaunch Working Group;

(ii) To evaluate the organization, administration and implementation of the Harbour Fest by the AmCham and the Government's role in overseeing the AmCham's actions in this regard;

(iii) To identify deficiencies, if any, of such procedures and processes, and where appropriate, the responsibility of any party for such deficiencies;

(iv) To make recommendations, where appropriate, on improvements for any similar future events that might require government sponsorship; and

(v) To make a report with conclusions and recommendations to the Chief Executive by 31 March 2004.

In order that we may have the most suitable membership and that the panel may commence operation forthwith after appointment, we have taken some time to establish the panel.

(b) The Commissions of Inquiry Ordinance (Cap. 86) lays down detailed provisions for the conduct and procedures of an inquiry. As such, a commission established under this Ordinance may need relatively longer time to complete its work. Taking into account the public's general expectation that the Administration should conduct a review of the Harbour Fest as soon as possible, we consider it is more desirable for the Chief Executive to appoint a non-statutory independent panel of inquiry and request the panel to complete its work and submit a report to the Chief Executive by 31 March 2004. The concerned government departments will co-operate fully with the panel and the Chairman of the AmCham has also expressed his willingness to co-operate with the panel so that the panel may complete its work effectively.

(c) The panel will conduct the inquiry independently. We will not stipulate that the panel must hold public hearings.

Security of Hong Kong International Airport

16. **MR LAU KONG-WAH** (in Chinese): *Madam President, it was reported that testers managed to bring forbidden items such as explosive substances and sharp knives into the restricted area of the Hong Kong International Airport (HKIA) during three of the four internal tests conducted recently to assess the performance of airport security officers in discharging their inspection duties, which reflected serious security loopholes at the HKIA. In this connection, will the Government inform this Council:*

(a) of the HKIA's level of attack risk each year based on the assessment results and overseas intelligence collected over the past three years, and whether the authorities have adopted special security measures in response to the risk level; if so, of the details; if not, the reasons for that;

(b) of the number and types of forbidden items found by HKIA security officers in the course of inspecting passengers and goods in each of the past three years; and

(c) whether the Aviation Security Company Limited (AVSECO) provides updated training for its security officers on a regular basis, including training on security procedures such as passenger inspection, so as to enable them to act against the many and varied tricks of terrorists; if so, of the details; if not, the reasons for that; and of the details of the Airport Authority regular monitoring of the AVSECO's performance in the provision of security services?

SECRETARY FOR SECURITY (in Chinese): Madam President, before answering the specific questions posed, I would like to clarify that the failure of the three internal security tests referred to in the preamble of the question does not automatically reflect serious security loopholes at the HKIA and should not be interpreted as such. As elaborated in my answer to (c) below, the tests are aimed at identifying weaknesses in the security system and to provide information on areas for improvement. The tests are continually carried out both at random and on a targeted basis, with a view to maintaining the integrity of the system in a changing environment.

My answers to the specific questions are as follows:

(a) The police have been monitoring closely acts of terrorism which occur in other parts of the world. There has been no specific intelligence to suggest that Hong Kong is likely to be a target for terrorism. The police have maintained close liaison with overseas law enforcement and intelligence agencies to ensure timely intelligence exchange and accurate situation assessment, and will continue to do so. The threat assessment grading of Hong Kong has ranged from low to moderate in the past three years and is currently rated as moderate.

Taking into account the threat assessment, security arrangements, particularly those at the HKIA and public transport systems, are regularly reviewed to ensure the safety and well-being of the people of Hong Kong. For example, following the September 11 incident, the security measures at the HKIA have been comprehensively reviewed, with enhanced measures put in place, including strengthened control of access into the restricted areas, and enhanced screening of passengers and baggage. We will continue to keep the security arrangements at the HKIA under constant review in the light of the situation.

(b) The AVSECO, as the provider of aviation security services at the HKIA, conducts security screening of all departing and transfer passengers and their hand and checked baggage in compliance with requirements of the Hong Kong Aviation Security Programme (HKASP). The AVSECO also conducts cargo screening at the HKIA in compliance with the HKASP.

The number of restricted articles detected by the AVSECO from passengers and their hand and checked baggage and from cargo at the HKIA over the past three years are given in the table below:

	2001	*2002*	*2003 (January to November)*
No. of restricted articles detected from passengers and their hand baggage	87 913	1 058 120	688 709
No. of restricted articles detected from passenger checked baggage	504	1 183	698
No. of restricted articles detected from cargo	0	0	5

The majority of the restricted articles detected included bladed and pointed items, as well as cigarette lighters and compressed gases.

The dramatic increase in the number of restricted articles detected in 2002 is attributable to the tightening of restrictions on the carriage of bladed and pointed items as well as cigarette lighters into aircraft cabin following the September 11 incident. As a result of an ongoing passenger education programme conducted by the Civil Aviation Department (CAD) and the Airport Authority, the number of restricted articles carried by passengers have been steadily declining in the past year.

(c) The AVSECO conducts staff training programmes in accordance with the requirements of the HKASP. All security officers of the AVSECO deployed on aviation security related duties at the HKIA have to undergo a four-day basic guarding course and a seven-day induction training course which provide training in basic aviation security procedures and operation of relevant equipment. Security officers who are selected for specialized duties are required to attend additional training courses. For example, officers selected to conduct x-ray screening attend x-ray screening courses and are trained on state of the art computer-based training systems that allow detailed monitoring and assessment of operator performance. In addition, all security officers are required to attend one-day refresher training courses every six months, which update them on any emerging trends and threats to aviation security and changes in security procedures. In the case of x-ray operators, they must additionally attend a monthly re-certification test.

Apart from conducting training and re-certification programmes which comply with the requirements of the HKASP, the AVSECO also operates quality assurance programmes under its ISO 9001:2000 accredited quality management system in order to assess general performance and improve professionalism. As part of the quality assurance programmes, internal security tests are conducted by authorized personnel who are provided with a range of inert weapons and simulated explosives, and briefed to conceal these items and attempt to evade detection when undergoing security checks. The test programme is designed to rigorously test the

professionalism of security staff and the adequacy of security procedures and to identify areas of potential weakness. The majority of these tests are passed, and each internal security test failure is reviewed with the aim of identifying the cause of the test failure and developing remedial measures for improvement. In cases where failure is attributed to staff negligence, disciplinary action against the staff member involved may be considered. In any event, officers who fail in internal security tests will be removed from their normal duties and be required to undergo remedial training and re-certification to improve their operational performance prior to resuming aviation security duties.

The results of quality assurance programmes are closely monitored by the AVSECO management and reported to the Airport Authority. In addition, these results are subject to review by the Airport Security Committee, which is held on a quarterly basis and attended by security representatives of all major airport operators. The Airport Authority and the AVSECO also hold regular service review meetings to ensure that a high level of security standard is maintained at the HKIA.

Furthermore, the CAD conducts tests, audits and inspections to ensure that the aviation security measures and training requirements stipulated in the HKASP are appropriately implemented by the Airport Authority and the AVSECO, so that a continuing high standard of aviation security is maintained at the HKIA.

The standard of training and re-certification required under the HKASP and the quality assurance measures practised by the AVSECO at the HKIA compare favourably with most international airports and comply with and in some aspects exceed the security and quality assurance requirements of the International Civil Aviation Organization.

Manpower of Cardiologists in Public Hospitals

17. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that Grantham Hospital has postponed some of the patients'*

appointments for cardiac consultation and treatment due to a shortage of cardiologists. Regarding the staffing of cardiologists in public hospitals, will the Government inform this Council:

(a) of the total number of cardiologists in public hospitals and its ratio to the total number of such patients;

(b) of the average waiting time for first appointments for cardiac consultation at each public hospital;

(c) whether there are sufficient cardiologists in public hospitals to meet the demand for service;

(d) of the percentage of the cardiologists in public hospitals who work in Grantham Hospital; and

(e) of the measures to resolve the shortage of cardiologists in Grantham Hospital?

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

(a) The total number of cardiologists (specialists in cardiology accredited by the Academy of Medicine) in public hospitals as at 31 January 2003 is 62. We are not able to provide the cardiologist to patient ratio, because patient headcount figures are not readily available. However, in 2001, there were a total of 62 662 in-patient/out-patient attendances with cardiac diseases as the principal diagnosis. That translates into a workload of around 1 000 attendances for each cardiologist in that year.

(b) The Hospital Authority (HA) routinely collates information on the average waiting time for consultation in the major specialties. Information on the average waiting time for first appointments for consultation in the "subspecialties" such as cardiology are not routinely collated.

(c) The medical clinics of the HA including cardiac clinics have implemented a triage system since 2002 to identify urgent cases for early appointments on the basis of standardized criteria and protocols. The system has helped the cardiac clinics prioritize their services to meet the demand of the community.

(d) About 15% of the cardiologists in public hospitals (that is, nine out of 62) are currently working in Grantham Hospital.

(e) The HA has implemented rationalization programmes for cardiac services in the Hong Kong West Cluster of Hospitals since its establishment in October 2002. Patients are being diverted to other hospital clusters according to their residing districts to maximize the use of available expertise within the HA. With the implementation of these measures, service volume in Grantham Hospital is expected to decrease in the coming year.

Optimizing Development Intensity

18. **MR IP KWOK-HIM** (in Chinese): *Madam President, in the paper for the Stage Three Public Consultation on "Hong Kong 2030: Planning Vision and Strategy", the Government has pointed out that in formulating the long-term development patterns, it needs to consider whether to lower the development intensities, for example, from plot ratio of 8 to 5 in existing built-up areas or from 6.5 to 5 for new development areas. Moreover, the Housing Authority (HA) has indicated recently that in designing new public housing, it will optimize the development intensity instead of maximizing it. In this connection, will the Government inform this Council whether:*

(a) the development intensities, which the authorities decide to adopt following the above consultation, will be applicable to the development pattern of new public rental housing in the future planning; if not, of the reasons for that; and

(b) it knows the criteria to be adopted by the HA for optimizing the land resources for public housing development?

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

(a) When planning new public housing estates, the HA generally follows the Government's strategic and district development parameters and objectives. The Government has included the subject of development intensity in the "Hong Kong 2030: Planning Vision and Strategy" Stage 3 public consultation. The views received will be taken into account in formulating the long-term development strategy for Hong Kong. The consensus reached will be reflected as appropriate in the Hong Kong Planning Standards and Guidelines (HKPSG) and the relevant Outline Development Plans. The HA will plan and design its public housing estates according to the HKPSG and the development intensity as specified in the Outline Development Plans.

(b) In designing public housing, the HA aims at optimizing flat production, providing a satisfactory living environment for residents and achieving cost-effectiveness. In assessing the development potentials of individual public housing sites, factors including site constraints and opportunities, planning and development requirements, state of the surrounding community and availability of ancillary facilities in the neighbourhood, and so on, are taken into consideration. The HA seeks to achieve the right balance among these factors so as to optimize the development intensity for public housing.

Trial Scheme on Pedestrian Flashing Green Countdown Timers

19. **MR FREDERICK FUNG** (in Chinese): *Madam President, the Transport Department launched a six-month trial scheme on pedestrian flashing green countdown timers last December and commissioned the City University of Hong Kong to study the effectiveness of the scheme. In this connection, will the Government inform this Council whether the study has been completed; if so, of the results of the study; if not, the expected date of completion?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Chinese): Madam President, the trial of the pedestrian flashing green countdown display system commenced in December 2002 at 10 pedestrian crossings in the territory. The objective is to assess its effectiveness in enhancing the safety of pedestrians while crossing the road.

The six-month trial was originally scheduled to be completed by June 2003. However, due to the outbreak of SARS earlier this year, the manpower deployed for the survey was temporarily withdrawn. The trial was eventually extended to August 2003. The assessment report is currently being prepared and will be completed by early 2004.

Postponement of Tamar Development Project

20. **MR CHAN KWOK-KEUNG** (in Chinese): *Madam President, regarding the postponement of the Tamar Development Project, will the Government inform this Council:*

(a) of the total number of jobs originally expected to be created by the Project, with a breakdown by job types;

(b) whether it has assessed the impact of the postponement on Hong Kong's economy (including the recovery rate) and employment situation; if it has, of the results of assessment; if not, the reasons for that; and

(c) of the circumstances under which the Administration will resume the Project?

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

(a) Based on the cost estimate of the Tamar Development Project, we estimated that the design and construction of the Project could create some 2 875 jobs of 77 000 man-months, including some 295 professional/technical staff and 2 580 labourers. However, these

figures are rough estimates only. The actual number of jobs to be created would depend on the final design and the construction and fabrication methods adopted for the core components of the project, including the Central Government Complex, the Legislative Council Complex, the Exhibition Gallery and the Civic Place.

(b) The Government has critically reviewed capital works projects in the pipeline and other initiatives, and has come to the conclusion that the Tamar Project is of a lower priority. Notwithstanding the decision to defer the Tamar Project, the Government remains committed to spending on average $29 billion a year on capital expenditure for the next five years. This would bring about substantial job opportunities for professional/technical staff and labourers in the employment market.

(c) Given the current and forecast levels of budget deficit, it would not be in the public interest to proceed with the Tamar Project now. Hence the decision to defer the Project until such time the Government considers it opportune to reactivate the Project. Nevertheless, it remains the Government's plan to develop the Tamar site as Hong Kong's prime civic core, with the Central Government Complex and the Legislative Council Complex being its core and integral components.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bill: First Reading.

WASTE DISPOSAL (AMENDMENT) (NO. 2) BILL 2003

CLERK (in Cantonese): Waste Disposal (Amendment) (No. 2) Bill 2003.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bill: Second Reading.

WASTE DISPOSAL (AMENDMENT) (NO. 2) BILL 2003

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I move the Second Reading of the Waste Disposal (Amendment) (No. 2) Bill 2003.

The Bill proposes mainly to introduce charging for the disposal of construction waste at landfills, sorting facilities and public fill reception facilities.

We should address and deal with the critical problem of waste disposal. As the waste volume continues to grow, the three government landfills are filling up much faster than anticipated. They may be filled up much earlier, probably in four to seven years, if we fail to introduce measures to alleviate the pressure of the disposal of construction waste on landfill sites. The construction waste disposal charging scheme seeks to provide an economic incentive for waste producers to reduce waste and to carry out sorting to facilitate reuse or recycling of waste, thereby helping to slow down the depletion of limited landfill capacity.

The Bill will provide for a definition on construction waste. Details of the charging scheme will be provided together with the new regulation after its enactment. The key features of the charging scheme are as follows:

(a) To charge construction waste disposed of at landfills, sorting facilities and public fill reception facilities; and to set the disposal charge at $125, $100 and $27 per tonne respectively, which represent full recovery of the capital and recurrent costs of the facilities;

(b) To establish a direct settlement system requiring major waste producers to open accounts and pay waste disposal charges direct to the Government;

(c) To exempt all construction contracts that are awarded before the commencement of the charging scheme.

We have consulted all the relevant advisory committees and stakeholders on the proposed charges. All the consulted organizations support the charging scheme in principle. We will continue dialogue with the trade on the detailed arrangements of the charging scheme, with a view to implementing and achieving the target of the scheme.

Moreover, the Bill will also introduce measures to strengthen control against illegal disposal of waste. At present, the Waste Disposal Ordinance has already provided for sanctions against illegal disposal of waste. Nevertheless, in order to prevent illegal elements from evading their responsibilities, we consider it necessary to strengthen legal provisions against such acts.

Madam President, the charging for the disposal of construction waste is an essential component of our waste management strategy and it is consistent with the "polluter pays" principle. I hope Members will support the Bill so that the charging scheme can be implemented at an early date.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Waste Disposal (Amendment) (No. 2) 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.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): This Council now resumes the Second Reading debate on the Employees Compensation Assistance (Miscellaneous Amendments) Bill 2003.

EMPLOYEES COMPENSATION ASSISTANCE (MISCELLANEOUS AMENDMENTS) BILL 2003

Resumption of debate on Second Reading which was moved on 3 December 2003

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 and that is: That the Employees Compensation Assistance (Miscellaneous Amendments) Bill 2003 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Employees Compensation Assistance (Miscellaneous Amendments) Bill 2003.

Council went into Committee.

Committee Stage

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

EMPLOYEES COMPENSATION ASSISTANCE (MISCELLANEOUS AMENDMENTS) BILL 2003

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Employees Compensation Assistance (Miscellaneous Amendments) Bill 2003.

CLERK (in Cantonese): Clauses 1 to 4.

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.

EMPLOYEES COMPENSATION ASSISTANCE (MISCELLANEOUS AMENDMENTS) BILL 2003

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

Employees Compensation Assistance (Miscellaneous Amendments) Bill 2003

has passed through Committee without amendment. 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 Employees Compensation Assistance (Miscellaneous Amendments) Bill 2003 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Employees Compensation Assistance (Miscellaneous Amendments) Bill 2003.

MOTIONS

PRESIDENT (in Cantonese): Motions. Two proposed resolutions under the Pharmacy and Poisons Ordinance.

First motion: Approving the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2003 and the Poisons List (Amendment) (No. 4) Regulation 2003.

PRESIDENT (in Cantonese): As the Secretary for Health, Welfare and Food is not in the Chamber now, I declare the meeting suspended and it will resume pending the return of the Secretary.

3.52 pm

Meeting suspended.

4.00 pm

Council then resumed.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, I would like to apologize for being late.

Madam President, I move that the first motion under my name, as printed on the Agenda, be passed to approve the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2003 and the Poisons List (Amendment) (No. 4) Regulation 2003.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and inspection system set up in accordance with the Pharmacy and Poisons Ordinance. The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, a registered dentist or a registered veterinary surgeon.

The four Amendment Regulations now before Members seek to amend the Poisons List in the Poisons List Regulations and the Schedules to the Pharmacy and Poisons Regulations for the purpose of imposing control on 13 new medicines and tightening the control on 20 existing medicines.

Arising from the applications for registration of 13 new pharmaceutical products, the Pharmacy and Poisons Board proposes to make the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2003 and the Poisons List (Amendment) (No. 4) Regulation 2003 to impose control on these medicines. Specifically, the Board proposes to:

(a) add one substance to Part I of the Poisons List such that pharmaceutical products containing this substance must be sold in pharmacies under the supervision of registered pharmacists and in their presence; and

(b) add 12 substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations so that pharmaceutical products containing any of these substances must be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

We propose that the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2003 and the Poisons List (Amendment) (No. 4) Regulation 2003 should take immediate effect upon gazettal on 19 December 2003 to allow early control and sale of medicines containing these substances.

In addition, the Pharmacy and Poisons Board proposes to tighten the control on 20 existing medicines through the making of the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2003 and the Poisons List (Amendment) (No. 5) Regulation 2003. At present, pharmaceutical products containing any of these 20 substances, now classified as non-poisons, are sold in all kinds of medicines outlets. By adding these 20 substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations, pharmaceutical products containing any of them must be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions. To allow time for the manufacturers and importers to recall pharmaceutical products containing these substances from medicines outlets other than pharmacies, we propose that these amendments take effect on 19 January 2004.

The four Amendment Regulations are made by the Pharmacy and Poisons Board, which is a statutory authority established under section 3 of the Ordinance to regulate the registration and control of pharmaceutical products. The Board

comprises members engaged in the pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side effects of the medicines concerned.

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

The Secretary for Health, Welfare and Food moved the following motion:

"That -

(a) the Pharmacy and Poisons (Amendment) (No. 4) Regulation 2003; and

(b) the Poisons List (Amendment) (No. 4) Regulation 2003,

made by the Pharmacy and Poisons Board on 26 November 2003, be approved."

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

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Approving the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2003 and the Poisons List (Amendment) (No. 5) Regulation 2003.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I move that the second motion under my name, as printed on the Agenda, be passed to approve the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2003 and the Poisons List (Amendment) (No. 5) Regulation 2003. The background and objective of these two Amendment Regulations had been explained to Members earlier on when I moved the first motion. Thank you, Madam President.

The Secretary for Health, Welfare and Food moved the following motion:

"That -

(a) the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2003; and

(b) the Poisons List (Amendment) (No. 5) Regulation 2003,

made by the Pharmacy and Poisons Board on 26 November 2003, be approved."

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

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two proposed resolutions under the Interpretation and General Clauses Ordinance.

First motion: Extension of the period for amending Summary Disposal of Complaints (Solicitors) Rules.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MISS MARGARET NG: Madam President, in my capacity as Chairman of the Subcommittee set up by the House Committee to study the Summary Disposal of Complaints (Solicitors) Rules, I move the motion standing in my name on the Agenda.

The object of the Rules is to implement a new alternative disciplinary system under which a fixed penalty will be imposed upon solicitors who admit liability for certain disciplinary offences without the necessity of proceeding to a full hearing of the Solicitors Disciplinary Tribunal.

The Subcommittee has so far held one meeting with the representatives of the Administration and The Law Society of Hong Kong (Law Society). In order to allow sufficient time for the Law Society to respond to the issues raised by members and for the Subcommittee to have further deliberation, members agreed that the scrutiny period of the Rules should be extended.

With these remarks, I urge Members to support the motion. Thank you, Madam President.

Miss Margaret NG moved the following motion:

"That in relation to the Summary Disposal of Complaints (Solicitors) Rules, published in the Gazette as Legal Notice No. 251 of 2003 and laid on the table of the Legislative Council on 26 November 2003, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 14 January 2004."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Miss Margaret NG be passed.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Repealing the three commencement notices relating to the Chinese Medicine Ordinance and its subsidiary legislation, which were tabled in Council on 29 October 2003.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MS CYD HO (in Cantonese): Madam President, I move that the motion under my name as the Chairman of the Subcommittee on Commencement Notices under the Chinese Medicine Ordinance, Chinese Medicine (Fees) Regulation and Chinese Medicines Regulation, as printed on the Agenda, be passed.

The Subcommittee, which was formed at the meeting of the House Committee on 31 October 2003, has held six meetings. At one of these meetings, the Subcommittee listened to the views of 16 deputations. The Subcommittee has also received a total of 16 written submissions.

The three Commencement Notices as printed on the Agenda appoint 19 December 2003 as the date on which provisions in the Chinese Medicine Ordinance, Chinese Medicine (Fees) Regulation and Chinese Medicines Regulation governing the application, variation and renewal of registration of proprietary Chinese medicines as well as the fees concerned and the certificate of sale of proprietary Chinese medicines shall come into effect.

Madam President, the Chinese Medicine Ordinance was enacted in 1999 to provide for a statutory framework for the regulation of the practice, use, trading and manufacture of Chinese medicine in Hong Kong. Provisions in the Ordinance relating to the setting up of the Chinese Medicine Council of Hong Kong, the statutory regime of registration and listing of Chinese medicine practitioners, and the licensing control on wholesalers and manufacturers of proprietary Chinese medicines have already been given effect.

Some members have expressed concern about certain cases of complaint or appeal relating to application for registration as Chinese medicine practitioners under the Chinese Medicine Ordinance. They considered that these cases have revealed that there are problems in the implementation of those provisions in the Ordinance and the relevant Regulations which have already come into operation. As the regulatory system for Chinese medicines is similar to that of Chinese medicine practitioners, these members were worried that similar problems would arise in the operation of the registration system for proprietary Chinese medicines.

At the first two meetings of the Subcommittee, most members considered that in view of the problems in the licensing of Chinese medicine practitioners,

the remaining provisions in the Chinese Medicine Ordinance and the relevant Regulations should not commence until such problems and concerns of the trade have been fully addressed. Members agreed that the Chairman of the Subcommittee should move a motion to repeal the three Commencement Notices.

Some members were also concerned about the criteria for appointing members of the Chinese Medicine Council and its Chinese Medicines Board and Chinese Medicine Practitioners Board, and about how to ensure that these members can perform their duties fairly and impartially and how conflict of interest can be prevented. These members have reservations about the existing practice that the Chinese Medicine Council and its Chinese Medicines Board and Chinese Medicine Practitioners Board are empowered by law to review the decisions of their committees. Members also questioned the registration criteria for proprietary Chinese medicines, transparency of the assessment procedure and the adequacy of support measures.

Some deputations told the Subcommittee that they were concerned about insufficient laboratory support in Hong Kong in conducting tests on the quality and efficacy of proprietary Chinese medicines as required for registration. One deputation suggested that the registration of proprietary Chinese medicines should be implemented in phases, and that the first phase should cover only the safety of proprietary Chinese medicines, while tests on efficacy and stability of proprietary Chinese medicines could be deferred to a later date when there was adequate technology support in this area. These deputations also pointed out that the trade concerns had not been fully reflected to or addressed by the Administration. They requested the Administration to provide more assistance to the trade.

While the Administration said that over 30 forums and briefings had been held to discuss with the trade the implementation details, some deputations stated at the Subcommittee meeting on 28 November that the registration criteria in the Application Handbook for Registration of proprietary Chinese medicines had yet been agreed by the trade.

After discussion in the Subcommittee, some members maintained that since the concerns of the trade and members over the registration and regulatory regimes for proprietary Chinese medicines had yet been fully addressed, the Chairman of the Subcommittee should, in accordance with the decision made previously, move a motion to repeal the three Commencement Notices.

Three members of the Subcommittee, namely, Mrs Selina CHOW, Mr Ambrose LAU and Dr LO Wing-lok, disagreed to the proposed repeal of the three Commencement Notices. They supported that the registration of proprietary Chinese medicines should be implemented as soon as possible and that it should come into operation on 19 December 2003 as scheduled.

Madam President, I will now express my personal views on the three Commencement Notices.

I now speak in my personal capacity. Over the past few years, this Council has been a staunch supporter of the development and promotion of Chinese medicine. With the enactment of the Chinese Medicine Ordinance, a systematic supervisory system has been set up for the purpose of quality assurance, gradually steering the development of the trade towards modernization, good quality and professionalism. This has at the same time facilitated the smooth transition of the trade and traditional practitioners in the trade to modernization, hence minimizing the impact on their practice and even their livelihood.

During the many discussions in this Council on the development of Chinese medicine, I have stated that apart from upgrading the quality of Chinese medicine, we should also safeguard a diversified regime of medical services on the principle of providing the public with less expensive medical services, thus bringing down the overall medical costs through competition. To this end, when imposing regulatory control on Chinese medicine, we must exercise care and caution to prevent the emergence of any form of prerogatives in the Chinese medicine trade and in particular, we must not allow such prerogatives, if any, to restrict the number of practitioners in the trade, for this would only protect the private interest of a handful of people.

However, the standard of Chinese medical practitioners in the trade does vary. For those who do not wish to make progress, they should actually be eliminated. But whether a person's motive is to seek private gains or to work for public interests can easily be muddled up, and pretexts could easily be concocted in defence. So, it is indeed vitally important to put in place a fair and transparent mechanism. While it is both necessary to protect the practice of traditional practitioners and ensure better quality in the development of Chinese medicine, we should duly strike a balance between them. Efforts must be made to ensure fairness, openness and impartiality in the initial formulation of the code

of practice to bring the trade under regulation. Given that Chinese medicine used to be subject to no regulation in Hong Kong, there is no precedent or experience to which we can make reference. So, detailed consideration beforehand becomes all the more necessary. There should also be a group of members who are well-versed in public administration and who should clearly understand what fairness and impartiality mean. They should know how to draw up clear and comprehensible procedures and only in this way can a code of practice be drawn up for sound regulation. When regulation initially comes into effect, efforts should be made to prevent the trade from being strangled as a result of private gains or poor public administration skills, for this will dampen the goodwill of all sectors of the community working in concert to promote the development of Chinese medicine.

Madam President, we entirely agree that Chinese medicine should be brought under regulation as soon as possible in order to protect public health. But given the concerns raised by me just now, I cannot agree that these three Regulations be given effect immediately at the present stage. The reasons are first, we still do not have a system of effective communication with the trade. Such a system has yet been put in place. While the authorities claimed that 30 consultative forums had been held to communicate with the trade, in the course of our scrutiny, that is, on 28 November when we received the deputations, it was obvious that from some of the views heard, the opinions of some organizations which emphasize more on scientific and academic research had not been given weight. They have no representation on the Chinese Medicine Council and worse still, they even did not have the latest version of the guidelines by 28 November and yet, the officials who attended the meeting said that communication was sufficient. It was only until we put this point right up their noses that the officials were willing to admit the inadequacy of consultation with the trade. These organizations included the Chinese Manufacturers' Association of Hong Kong, Modernized Chinese Medicine International Association Limited and Hong Kong Society of Chinese Medicines.

Although the authorities promptly provided, after the meeting, these organizations with supplementary information and the final version of the code of practice, whether these organizations have been given an opportunity to express their views and whether their views can have any influence on the formulation of the final version are still unknown to the Subcommittee. Moreover, the handling of an individual case is not tantamount to establishing a mechanism. We are also doubtful as to why the authorities have divided the trade into two

sectors. On the one hand, importance has been attached to trading and exports but on the other hand, communication in respect of opinions that emphasize more on scientific research, appears to be inadequate. So, at this stage, if the Government says that there is already full communication with the trade, I would say that this is not totally true.

Madam President, another reason for my opposition to giving effect to the Regulations immediately is the absence of sound support measures for the regulation of the trade, and this is also a view expressed by the Hong Kong Society of Chinese Medicines. This is indeed a lesson that we can draw from the bitter experience in the past. Many cases have arisen from the screening test for the registration of Chinese medicine practitioners. Many practising Chinese medical practitioners who felt that they had not been given fair treatment have lodged complaints with the Legislative Council. During meetings between the Complaints Division and government officials, the officials only said that they must respect the independent operation of the Chinese Medicine Council and that intervention was out of the question.

Madam President, we do appreciate the principle that the independence of people who have been appointed to public office must definitely not be undermined by the authorities, for we do hope that certain regulations or rules can be enforced by independent and impartial persons instead of the authorities. Nevertheless, we also hope the authorities will understand that when making appointments, there should be basic requirements with regard to the candidates' understanding of public administration. It is undesirable to see numerous complaints arise and remain unsettled after the appointments are made. In past meetings, our impression of the officials was that they solely adopted the attitude of an observer in their work, making it completely impossible for us to handle these aggrieved cases with them together. So, we hope that before giving effect to these Regulations, we should have in place a very stringent code of practice, so that the appointees will have rules to comply with and they will know what they should do for each and every detail. Why have we been so meticulous this time around in requesting perusal of even model letters before allowing these Regulations to come into effect? It is because in some past cases of application from Chinese medical practitioners for registration, in the letters of rejection, which should have listed the reasons of rejection in detail, no reason was given for the rejection. In those cases, the reason for rejection was that the applicant had not supplied sufficient justifications and that is why their application was rejected.

Madam President, we have really been forced to study this in such depth and we need to be provided with the model letters before we can rest assured. But so far, we have yet been provided with the relevant information. Unfortunately, this Ordinance allows very limited channels for appeal. The existing channels for appeal are just the two Boards of the Chinese Medicine Council, and there is even partial overlapping in the memberships of these two Boards. In the Board responsible for handling complaints, some of its members are also persons who can decide on the rejection of an application for registration. I think such an appeal mechanism is inadequate. Given such limited channels for appeal, if the people concerned still feel aggrieved and wish to appeal, the only channel is to seek a judicial review, but a judicial review is certainly costly.

While the authorities have revised the transitional period from three years to five years, and we have also received the opinion of the trade that five years would allow them more time to put in place various support measures such as those relating to laboratories, some members of the trade are of the view that this only means prolonging the process for a mechanism still has not been established. Therefore, Madam President, I will later vote against giving immediate effect to the Regulations. I urge the Secretary to submit to the Legislative Council the commencement date of the Regulations again after making improvements to the support measures and we will certainly throw great weight behind the Administration then, as we normally do. Nonetheless, it appears that there will not be enough votes today to negative their immediate implementation. So, I must remind members of the Subcommittee, Honourable Members of this Council and officials that if the Regulations come into effect, and when many complaints arise again, I hope the officials will not stay aloof from this. I also hope that Members can do their utmost to follow up these complaints to ensure that the trade will not be strangled as soon as it is first brought under regulation, for this will run counter to our original intention to develop and perfect Chinese medicines.

Thank you, Madam President.

Ms Cyd HO moved the following motion:

"That the —

(a) Chinese Medicine Ordinance (Cap. 549) (Commencement) (No. 2) Notice 2003, published in the Gazette as Legal Notice No. 227 of 2003;

(b) Chinese Medicine (Fees) Regulation (Cap. 549 sub. leg. E) (Commencement) (No. 2) Notice 2003, published in the Gazette as Legal Notice No. 228 of 2003; and

(c) Chinese Medicines Regulation (Cap. 549 sub. leg. F) (Commencement) (No. 2) Notice 2003, published in the Gazette as Legal Notice No. 229 of 2003,

and laid on the table of the Legislative Council on 29 October 2003, be repealed."

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

DR LO WING-LOK (in Cantonese): Madam President, I rise to speak against Ms Cyd HO's motion. I support that the Regulations on Chinese medicines should take effect on the proposed commencement date.

One very important mission of the Legislative Council is to make decisions in the overall interest of Hong Kong. Concerning the regulation of Chinese medicines, where does the interest lie? For one thing, it is the interest of the general public. We all know that proprietary Chinese medicines or Chinese herbal medicines for sale in Hong Kong are not subject to any specific regulation now. Members of the public know nothing about the proprietary Chinese medicines they have bought and the authorities responsible for regulation; this is also the case with Chinese herbal medicines. Incidents related to proprietary Chinese medicines and Chinese herbal medicines happen from time to time, as we would hear. However, civil proceedings seem to be the only channel for the public to claim compensation, which indeed has put the ordinary public in an unfavourable position. Thus, the establishment of a regulatory regime on Chinese medicine with a view to putting all Chinese medicines and proprietary Chinese medicines for sale in Hong Kong on the register, and every retailer under regulation, will afford the public the best protection of their safety and health.

For another, it is the interest of Chinese medicine practitioners, or in a broader sense, the medical sector as a whole. Once Chinese medicines are

prescribed, the Chinese medicine practitioner has to be held responsible for the prescription. However, if the Chinese medicines concerned are not registered, then in what way can the Chinese medicine practitioners be held responsible? The medicine involved is not even required to register. Therefore, I think the Chinese medicine practitioners sector should support the expeditious implementation of the regulation of Chinese medicines and the Chinese medicine trade.

The same situation also applies to Western medical practitioners. Sometimes, patients may bring along some proprietary Chinese medicines to seek advice from Western medical practitioners. More often than not, Western medical practitioners have no idea where those proprietary Chinese medicines come from, and thus cannot offer any assistance to the patient. However, if the Chinese medicines produced by the patients are registered, the Western medical practitioner will know that the medicines are subject to the regulation of regulatory bodies, and they are in a better position to assist the patients. Therefore, both Chinese medicine practitioners and Western medical practitioners should support the expeditious implementation of the relevant regulatory regime.

As for the retail sector, the introduction of regulation is also in their interest. Without any regulation, which simply means "no control", they themselves may not know the medicines sold by them are counterfeit and unsafe. But, no matter how innocent they are, they will still be held liable to civil claims by consumers.

Given the merits I have just listed, we know that the arrangement is in the interest of so many people. Moreover, we have been striving for it for years with so many rounds of discussion. Why should we give up at this last moment, restraining the commencement of the arrangement?

There are many voices in the community. Manufacturers are also concerned about this. What are their concerns then? They worry about the increase in costs and readiness of other ancillary facilities. But I must ask, how much longer should this be delayed? In fact, any further delay is to the disadvantage of manufactures of Chinese medicines. Why? Because if no regulation is imposed, thus allowing this situation to linger on in the longer term, this is indeed encouraging low quality and varied standards, hampering those positive and ambitious manufacturers. This is not fair. For those acting positively, ambitiously and trying their best are penalized while those refuse to

strive for progress or failing to do so are rewarded. What kind of world is this? Therefore, if no regulation is imposed in the long term or its implementation is delayed, this will be to the disadvantage of the development of Chinese medicine in Hong Kong. I hope that manufacturers of Chinese medicines in Hong Kong and the Chinese medicine trade will understand and consider this point. Now, some people have put up strong opposition just for short-term interest, but this will ultimately jeopardize their own industry.

Opposition also comes from another sector, that is, the laboratory services. Why do they oppose this? They say, "We have not had the operation of our laboratories ready, and all the jobs have been taken up by our mainland counterparts now. What will happen to us?" This is precisely a selfish mentality. They are protecting their own interest by impeding the overall development of the Chinese medicine trade.

In fact, many proprietary Chinese medicines for sale in Hong Kong come from the Mainland. If laboratory services on the Mainland are up to standard and recognized by the Government of the Hong Kong Special Administrative Region, why can we not use those services? The using of mainland laboratory services does not mean that the development of laboratory services in Hong Kong will be hindered. Hong Kong will also develop its own medicine manufacturing industry, and local Chinese medicine organizations may also have a demand for laboratory services and research personnel. By allowing the Chinese medicine trade to develop fully and healthily, the laboratory services sector has nothing to lose but everything to gain.

I therefore remind every Member of the Legislative Council, that we are representing the overall interest of Hong Kong; so please consider the points I have just mentioned. Are we working for the interest of the people of Hong Kong or that of a handful of interest groups?

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

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

MRS SELINA CHOW (in Cantonese): Madam President, the important role played by Chinese medicine in Hong Kong has made the territory one of the

largest exporters of Chinese medicines since the '60s. To date, the role played by Chinese medicine in the medical sector must not be taken lightly, for Chinese medicines are recognized to be effective in preventing and curing diseases. Chinese medicine literally compares to Western medicine in terms of medical value. Nevertheless, as explained very clearly by Dr LO Wing-lok earlier, the absence of a mechanism to regulate Chinese medicine in an orderly manner has made the standards of Chinese medicine vary greatly. Public confidence in proprietary Chinese medicines and Chinese medicines has, to some extent, shaken as a result of the damage done to public health by bogus or counterfeit medicines launched by a few unscrupulous perpetrators in the trade.

Actually, as also pointed out by Dr LO Wing-Lok earlier, some people in the trade view the desirability of introducing registration for proprietary Chinese medicines and Chinese medicines from a profit-making angle. I can tell Members that, nowadays, all scrupulous businessmen in the proprietary Chinese medicines trade support the regulation of proprietary Chinese medicines and hope a regulatory system can be put in place expeditiously, as they all feel that a lot of time has been spent discussing this matter. They also agree to the starting point and prerequisite that public interest must be protected, and that the standard of the trade must be assured to ensure the supply of quality medicines to the public and consumers. It can thus be said that most of them oppose the motion to repeal the subsidiary legislation today, hoping that the regulations can take effect on 19 December as scheduled.

Purely from the business angle, it is most preferably that the old practice remains, without any regulation. However, the Chinese medicine trade, particularly the manufacturers, suppliers and exporters/importers of proprietary Chinese medicines, are eager to safeguard the trade to ensure its healthy development. They are therefore totally supportive of the proposal of introducing registration. I believe no one can challenge their full support for the registration system.

Although there may be a divergence of opinions this time, the crux of the problem really lies in whether there will be sufficient time for the trade to make full preparations for compliance with the existing rules to tie in with the Regulations taking effect on 19 December. Undeniably, there is still concern among some members of the trade about the whole arrangement and its implementation. From my experience of contacting the trade regularly and requesting the Government on its behalf for information on various areas, I

discovered that the attitude adopted by the Government was actually very liberal. After receiving the request made by the trade, the Government would consider it and possibly make some amendments. Only that the Government might have failed to make all the information known to the trade immediately after the amendments had been made. As a result, we do not know with certainty as to whether all members of the trade are aware of the suggestions accepted by the Government before the commencement of the Ordinance and on what basis the Government has been acting.

Doubtless, this point has been discussed among Members in the Subcommittee. I am also aware of the discussions constantly held between the trade and the Government without the Subcommittee. In all fairness, the communication between the trade and the Government has never stopped. However, Chinese medicine is a diverse trade in which there are many associations and people who do not belong to any associations. As a result, communication might not be 100%. At the same time, the relevant department might not be able to accept all the requests made by the trade. This explains why the Government encountered a few problems in informing the trade of its latest decision in the course of discussion.

However, I find it strange that the trade had practically not been consulted when it was decided that the Regulations be repealed in the two meetings referred to by Ms Cyd HO earlier. Members of the trade were invited to sit down to discuss the matter only after a decision to move a motion to repeal the Regulations had been made. While I understand that the Government has helped the trade resolve a number of problems, not all of the problems have been sorted out.

In essence, the problems remained unresolved in two major aspects. First of all, certain people in the trade, particularly manufacturers, have encountered difficulty in registration because the shortage of laboratories has created a bottleneck. In its response to the trade, the Government pointed out that outside Hong Kong, high standard laboratories could be found on the Mainland. The trade was actually told during the discussion that their products could be tested in these laboratories in compliance with the requirements. However, I was told by the manufacturers upon further enquiries that the development of the laboratories in Hong Kong would be stifled should they do so. I told them that the development of the laboratories in Hong Kong was not under discussion at the moment. Otherwise, were they implying that the regulation of

Chinese medicine and the protection for safety should stop until all laboratories in Hong Kong are functioning properly? We have to consider this point. As pointed out by Dr LO Wing-lok, our prime concern is to ensure the Chinese medicines and proprietary Chinese medicines produced in Hong Kong are up to standard in terms of safety, stability and efficacy. It is of vital importance for laboratories failing to meet the requirements to catch up.

Furthermore, I have heard that there are still complaints from manufacturers about the requirement of printing information on packages for registration purposes, while it is unnecessary to do so for export purposes. The printing of information on packages to meet local requirements will, in addition to raising costs, possibly make packaging confusing and result in rejection by overseas markets. In my personal opinion, it is inevitable for medicine manufacturers to comply with different requirements on labelling or declaration of information to meet the needs of different markets. Actually, all products, not only proprietary Chinese medicines, are required to make different arrangements in the light of different markets.

It is for these two reasons that I consider it not justified for the commencement date of the legislation to be postponed. Of course, it is of the utmost importance for such regulatory measures to be implemented expeditiously — I am not going to repeat the points as Dr LO has mentioned them earlier — it is of vital importance to assure that Chinese medicines sold and used by the public in Hong Kong meet certain standards.

As far as I understand it, the Government has acceded to the requests of the trade in different areas and programmed its schedule as far as possible. I believe there are bound to be teething problems during the initial period of commencement. In sum, hiccups are probable. Basically, we hope the Government can adopt a flexible approach, appreciate the hardship encountered by the trade, and do its utmost to help the trade with its compliance.

I would like to take this opportunity to say a few words on the issues raised by Ms Cyd HO earlier in the meeting. In the course of deliberations, members of the Subcommittee have often gone so far as to bring the Chinese Medicine Practitioner Board (CMPB) into their discussion. Strictly speaking, the practitioners are not our concern at present. Many considerations in relation to Chinese medicine practitioners, such as whether there are problems with registration, the reasons for the occurrence of unfairness in the CMPB, and so on, should not be discussed here. I have no justifications or information to judge

whether the problems are related to the registration operated by the CMPB or the people who are actually responsible for the handling of the registration, or whether the voices of dissatisfaction are attributed to the poor standard of applicants. We can simply not rule out these two possibilities.

I was among those who took part in the deliberations on the legislation and the endorsement of maintaining the standards while giving consideration to livelihood issues. For instance, a Chinese medicine practitioner having practised for a number of years must meet a certain standard at registration. The inevitable problems thus arisen might affect the livelihood of some people. The emergence of problems in the course of registration is therefore not at all surprising. Surely, I will greatly support this Council in giving attention to this matter should there be a growing number of complaints. The Government should also take this matter seriously and improve the situation. But is postponing the commencement date of the Regulation a proper solution to the problem? I consider this solution absolutely inappropriate.

Given the good intention of this Regulation, the trade and the public should rightfully acknowledge the need to clearly specify the standards and safety criteria to be met by certain Chinese medicines, for easy reference of the public. At this juncture, it is inappropriate for the problems related to the CMPB and the registration of Chinese medicine practitioners to be included in the discussion. Of course, I very much support the proposal of following up the registration of Chinese medicine practitioners by the Panel on Health Services of this Council, and this is really what the Panel is supposed to do. However, it should not be done at the cost of postponing the commencement of the Regulation or switching our attention to another irrelevant matter.

There is one point I still wish to make. Madam President, I am feeling quite uncomfortable about this issue because all Members present at the time when the legislation was passed unanimously agreed that the Chinese Medicines Board should comprise representatives of the trade. Though no one can ensure the representatives fully represent the trade, we can see that, and so do Honourable Members, the five representatives chosen are either chairmen, presidents of different associations, or representative figures. They have made their best efforts in giving play to their role. Broadly speaking, the concern of the legislation is to enlist the participation of all members of the trade because the regulation of Chinese medicines is extremely complicated. It is very unfair to say that those people have taken part in the meetings in their own interest. Even though they cannot fully represent the entire trade, they have made their best

efforts. The same thing will happen to every trade and industry. I have been working in this Council for a very long time. Very often, when we believe we have consulted every representative association of a certain trade, some Members would invariably tell us that they have not be informed of the consultation. This is inevitable. For these reasons, we as Members of this Council are obliged to support the participation of the trade for this is going to benefit the trade. It is also a good thing if voices from the trade can be heard in the course of consideration. For these reasons, I do not consider the support for the participation of the trade a negative position. Thank you, Madam President.

MISS MARGARET NG (in Cantonese): Madam President, I rise to speak in support of the motion moved by Ms Cyd HO to repeal three Commencement Notices in relation to the Chinese Medicine Ordinance (the Ordinance) and its subsidiary legislation.

It is extremely rare for a Subcommittee set up by this Council to oppose a Commencement Notice in relation to an ordinance. This is because a consensus will generally have been reached between the executive and the legislature on the commencement date of a piece of legislation upon its passage. In most cases, Members and members of the community will merely be dissatisfied that the commencement date is too late. The present situation is exceptional. The Government has been requested by the Subcommittee to repeal the commencement date and not to allow the relevant part of the Ordinance to take effect until certain issues have been clarified and reviewed. This is attributed to our great concern about the actual effectiveness of enforcement, for we believe there is a great likelihood that serious problems of a fundamental nature have arisen. Without immediate action to rectify the matter, the part concerning the commencement date, once it takes effect, is likely to cause greater confusions and arouse more intense public concerns.

Under the Ordinance, the registration of proprietary Chinese medicines is subject to the approval of the Chinese Medicine Practitioner Board (CMPB) set up under the Chinese Medicine Council (CMC). The CMPB and the Chinese Medicines Board (CMB), set up under the CMC, mainly comprise members of the trade appointed by the Government. They hold solid powers to decide whether a certain person can register as a Chinese medicine practitioner, or certain Chinese medicines can register for sale and business legally. However, they are not required to be personally accountable to the public or this Council. Neither is their discipline monitored by any professional guilds. As the

appointment is not based on any objective standards and a transparent procedure is absent, abuse of power can easily occur and there is no way that conflicts of interests can be prevented. If an unfair outcome is brought before the Court, there will be a number of constraints, including money, time and legal constraints. In the end, it is literally impossible for justice to be done.

On the other hand, there are practical problems with the support measures. While the lack of objective standards will render applicants at a loss as to what they should do, the existence of a huge grey area has left CMC members with undue subjective inclination. The outcome of an application for registration, whether for Chinese medicine practitioners or Chinese medicines, will have an impact on the interest of the applicant and the public. Of course, an overly liberal approach will run counter to the interest of public safety; but an overly stringent approach will however lead to unfairness, particularly if the approach is sometimes liberal, and sometimes stringent. The development of Chinese medicine will thus be stifled as well.

The Bill tabled by the Government to this Council in July 1999 sought to realize the objectives outlined in the 1997 policy address in which the Chief Executive pledged his commitment to developing Hong Kong into an international centre for Chinese medicine practitioners and Chinese medicines. Under the Ordinance, arrangements are made to gradually set up a proper regulatory framework and, in the long run, regularize Chinese medicine practitioners and Chinese medicines, with the ultimate aim of enabling them to meet the most stringent requirements. This development process must proceed in an orderly manner in the interest of meeting the actual needs of the community. Since its passage in June 2000, the Ordinance has started to take effect in a progressively manner. As of today, are the people satisfied, and do they feel comfortable with the enforcement of the Ordinance?

Madam President, it was shown by the experience of a number of members of the Subcommittee that the enforcement of the Ordinance had led to intense disputes. A large number of affected people have complained and sought help from Honourable Members through the Complaints Division of this Council. In October 2002, for instance, more than a hundred Chinese medicine practitioners listed under the Ordinance affected by the transitional arrangement sought help from us. Many of them were members of an organ named "Concern group on the interest of Chinese medicine practitioners"; though some did not belong to any organs. They raised questions concerning a number of aspects, including the criteria for assessing the experience of Chinese medicine

practitioners, the arrangement for Licensing Examinations, the syllabus of the examinations, training, and so on. Members were deeply surprised and worried by the unwillingness to co-operate and the subjective and uncompassionate attitude of the CMC, the CMPB, and even the responsible government officials when they approached the CMC, particularly the CMPB, on behalf of the help-seekers for discussions on the matter. We have even encountered repeated difficulty in fixing a date for a meeting to be held for discussion.

Madam President, as mentioned by Mrs Selina CHOW earlier, it is probable that some affected people are actually not qualified. However, we can see that, judging by common sense, many complainants are well qualified and experienced. We deeply feel that they have not been treated fairly. We also feel that the formal recognition of the qualification of these people will benefit Hong Kong and the development of Chinese medicine. Nevertheless, the existing mechanism has made it impossible for their applications to be dealt with in their favour.

Madam President, I have gained some in-depth experience and feeling in private practice as a barrister. I would like to declare an interest here. I am representing a Chinese medicine practitioner taking part in research on Chinese medicines in Hong Kong, whose application for registration has been turned down, to appeal to the CMC in a case involving his application for limited registration as a Chinese medicine practitioner. The research conducted and the observations made by me in relation to this case have intensified my concern about the enforcement of the whole Ordinance.

The Commencement Notices being dealt with by this Council today are apparently concerned with proprietary Chinese medicines only. After thorough discussions by the Subcommittee, we came to understand that, compared to other parts of the Ordinance, including the parts relating to Chinese medicine practitioners and the registration of Chinese medicine traders, the problems with the part concerning proprietary Chinese medicines can be considered relatively minor. This is mainly because the Administration is largely responsible in this case for the Chairman of the Chinese Medicines Board which is the organ responsible for the approval of registration is a government official. Not only can this Council assume a direct monitoring role, objective standards can been made more specific and open. However, this part cannot be operated and enforced independent of the rest of the Ordinance. I believe Members will agree that the registration of proprietary Chinese medicines should be

implemented expeditiously in order to protect the health and safety of the public. However, if the vetting and approval system is still not perfect, criteria are still obscure, and the organ responsible for exercising the decision authority cannot inspire confidence in the public, the implementation of registration will only lead to unfairness. In the end, the health and safety of the public will not be safeguarded.

Madam President, before making the next step of implementing the Ordinance, this Council has to review the overall enforcement of the entire Ordinance to ascertain whether there are serious mistakes, particularly in terms of co-ordination among various stakeholders. On the one hand, there is apparently no prospect of practical training and practicising for the first year's graduate of the Chinese Medicine programme this year. On the other hand, I have received some help-seeking cases. The police have begun charging some people who believed they were merely administering traditional cures with the offence of practicising as Chinese medicine practitioners without registration under section 108 of the Ordinance. After being arrested by police officers posing as customers, the accused will be ascertained by the prosecution with the help of the opinion of Chinese medicine experts as to whether they have committed an offence of "practicising as Chinese medicine practitioners". This offence, not yet included in the scope of Duty Lawyer Service, will on conviction carry a maximum penalty of three years' imprisonment. I would like to ask the department concerned to explain to us later whether the Government has decided to launch a massive arrest of these people policy-wise. Upon learning this in a help-seeking case received recently, I discussed the matter with the executive administrator of the Duty Lawyer Service and, fortunately, assistance was offered shortly afterwards.

Is government publicity adequate? Are members of the public clearly aware of the act that may constitute an offence? "Practising as Chinese medicine practitioners" is a new definition in law. Before the commencement of the Ordinance, it is not an offence to operate a proprietary Chinese medicine business. However, it will become an offence in future. Insofar as Chinese medicines are concerned, the Subcommittee has, in the course of meeting with deputations, identified a number of problems. The lack of adequate communication between the Administration and organizations not represented on the CMB has made me more determined to support the repeal of the Commencement Notices. In doing so, the matter can be reviewed and communication strengthened before reconsideration is given to taking the next step to prevent the matter from worsening further.

Madam President, in his speech delivered earlier, Dr LO Wing-lok accused people opposing the commencement of the legislation of being selfish. Such a distasteful remark indeed amounts to putting others in the wrong. Our prime concern is to ensure a fair system is in place, not to create greater unfairness which will make it impossible to achieve the objectives of the Ordinance. I believe the current situation has raised an alarm, and this is something that must be addressed. We are just being responsible in postponing the commencement date and reviewing the matter promptly.

With these remarks, Madam President, I support Ms Cyd HO's motion.

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

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, with regard to today's motion which seeks to repeal the commencement notices, I have to state clearly here that despite members of the Subcommittee had opined that repealing the commencement notices was necessary, and the relevant regulations should not be hastily implemented, it does not mean that we consider a regulatory framework for proprietary Chinese medicines unnecessary. Nor does it mean that we consider the development of the entire proprietary Chinese medicine trade unnecessary.

In fact, we feel that there is a need and an urgency for the development of the trade, but we have proposed to repeal the commencement notices today on several major grounds, and two Members have already explained them on my behalf just now. Nevertheless, I wish to add one thing, that is, I actually agree and admit that in the discussions of the Subcommittee, we did discuss the registration system for Chinese medicine practitioners. Why? The question is that the registration mechanism for Chinese medicine practitioners and the regulatory mechanism for proprietary Chinese medicines are cognate, which leaves us no option but to draw on the previous experience in our discussion. If they are two different things, then we would naturally treat them as separate issues in our discussion.

For that reason, first of all, I wish to respond to the question raised by Mrs Selina CHOW. We are of the view that it is neither unjust nor unfair, because as far as the registration system for Chinese medicine practitioners is concerned,

we have actually seen that even now, the Government could only tell us that it would like to help, but it is in no position to help, and it could do nothing at all. In future, if the commencement notice on proprietary Chinese medicines is endorsed and problems arise, then the Government would also tell us: We are sorry, we would like to help but we are in no position to help. What should we do, then? Should the matter be dropped in that manner?

Today, Mrs Selina CHOW said that our Panel on Health Services should follow up the registration system for Chinese medicine practitioners, have we carried out any follow-up action? Even if we do that, could that be effective? This is our greatest concern. Why? Because the Chinese Medicine Council (CMC) is vested with the power as far as the entire operation is concerned, and it is up to the CMC to make all the decisions, and nobody could make any changes apart from its Boards and Committees. Everything is up to the CMC to decide: If it has decided not to meet with you, it will not meet you; if it has decided not to discuss with you, it will not discuss with you. Under this circumstance, what else can we do? In fact, the problem with the process, operation and mode of regulation for proprietary Chinese medicines is the same as this one, how could we be confident enough to do the same thing?

Moreover, I wish to mention one more thing, that is, both Miss Margaret NG and I are most concerned about the appeal mechanism. Unfortunately, the problem with the appeal mechanism is identical. For example, Miss Margaret NG and I have been asking: Should an independent appeal channel similar to the Pharmacy and Poisons Appeal Tribunal be established? The answer has been "no". We are not trying to stifle the overall development of the trade, instead, we have a genuine wish that we could make some good suggestions, racking our brains to enable the development of the trade in a fair, impartial environment with objective assessment. However, it is unfortunate that we have received no response in that respect. For that reason, we have a feeling that if we hastily pass the Regulation here, it would not necessary benefit the trade. On the contrary, some potential troubles may be induced. Do we really have to pass it so hastily?

For that reason, Madam President, today I wish to point out strongly that we are not doing this for any interest. In fact, there is no interest behind us, nor there are any instigators behind us who request us to oppose it. We raise our opposition because we have seen some operational problems from the big picture. Therefore, we hope the authorities and the Government will only put it into effect after a comprehensive mechanism has been put in place.

Unlike what Dr LO Wing-lok said, we are not dragging the whole thing on and on, indefinitely. That is not our attitude. We are looking at the issue in a positive manner. Conversely, I really hope that the authorities can look at this matter in a positive way and put forward some improvement proposals that we can support. We are not opposing the matter in principle, we have simply observed so many operational problems from an objective perspective. Thus why should we not make a better job of it?

Madam President, I support the views of Ms Cyd HO. Thank you, Madam President.

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

DR YEUNG SUM (in Cantonese): Madam President, I would only like to give a brief speech on behalf of the Democratic Party in support of the motion proposed by Ms Cyd HO.

The Democratic Party is greatly concerned about the registration of Chinese medicine practitioners and the registration and regulation of Chinese medicines. In the event that there are problems with the operation of the Chinese Medicine Council (CMC) — we have actually received a number of complaints — can more time be given, on the premise of supporting the regulation of Chinese medicines, to allow relevant members of the trade to negotiate with the Government further and review the existing system? I believe, in doing so, the overall development of Chinese medicine can be further promoted, and there is thus a possibility for Hong Kong to become an important centre for Chinese medicine in the world. As such, I hope a solid foundation can be laid for this purpose.

In principle, there is no objection to the introduction of a wide range of regulatory measures. It is just that Members hope more time can be given for the trade and the Government to conduct further negotiations, and for the Government to conduct a fresh review of the existing system with the assistance of the trade. For this reason, we support the motion proposed by Ms Cyd HO. Thank you, Madam President.

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

(No Member indicated a wish to speak)

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, I would like to thank Members for their views on the registration system for proprietary Chinese medicines.

As this system will bring under control substances which hitherto are unregulated, its implementation will be a milestone in the Administration's efforts to better protect the health of the public. Given the large volume of business involved, the registration system will also have far-reaching impact on the industry concerned. The Administration welcomes comments and views to ensure the system meets the expectations of the community and facilitates the development of Chinese medicine.

The Chinese Medicine Ordinance was enacted in 1999 to provide a statutory framework for the regulation of the practice, manufacture and trading of Chinese medicines. It stipulates, among others, that all proprietary Chinese medicines manufactured or sold in Hong Kong must be registered. It also stipulates that the safety, quality and efficacy of the proprietary Chinese medicines must be taken into account in assessing an application for registration.

The Administration had conducted extensive consultations on the registration system for proprietary Chinese medicines. Over 30 consultative forums were held with Chinese medicines traders in the past two years. The Chinese Medicines Board has now finalized the technical guidelines on the assessment of the safety, quality and efficacy of proprietary Chinese medicines and drawn up the timetable for submission of test reports which are required to support applications for registration. The registration criteria are objective and are drawn up in consultation with the trade. I am informed that the traders generally find the registration requirements reasonable and acceptable.

The Chinese Medicine Ordinance provides for transitional arrangements for proprietary Chinese medicines already in the market. Proprietary Chinese medicines manufactured or sold in Hong Kong on 1 March 1999 will be deemed to be registered until the application is accepted/refused, if the application for

registration is made during the period specified by the Chinese Medicines Board. In this connection, the traders concerned have up to 30 June 2004 to submit applications for registration and they are given adequate time to fulfil the required registration requirements. For example, they are required to submit certain test reports by June 2005 whereas other reports are only required by June 2009.

The Chinese Medicines Board is working at full steam to prepare for the implementation of the registration system for proprietary Chinese medicines. It is inviting specialists in Chinese medicine, both locally and from the Mainland, to provide professional advice in the assessment of applications for registration. To address the trade's concerns over laboratory support, liaison was made with the mainland authority and local laboratories to ensure adequate support for the traders. In addition to local laboratories, 15 mainland laboratories have been recognized for the purpose of conducting tests to support the application for registration of proprietary Chinese medicines.

I appreciate that some Members are concerned about the implementation of other aspects of the Chinese Medicine Ordinance, namely, the registration system for Chinese medicine practitioners. The system has been implemented, following extensive consultation, since the end of 2000, and at present there are over 8 000 persons who are regulated either as registered Chinese medicine practitioners or listed Chinese medicine practitioners. I am sure the Chinese Medicine Council will continue to look into concerns arising from the registration system.

As regards some Members' concerns about the appointment system for the Chinese Medicine Council and its Boards and Committees, I would like to reiterate that their structure and composition are stipulated in the Chinese Medicine Ordinance, which fully reflected the outcome of deliberations at the Legislative Council leading to the enactment of the Ordinance. As provided for in the Ordinance, members of the Council and its Boards and Committees include representatives from the trade in Chinese medicine, academia as well as lay persons. They are experienced and enthusiastic in promoting the development of Chinese medicine in Hong Kong. Appointees from the Chinese medicine trade are usually heads of respective Chinese medicine associations who are elected to these positions by their members and are well respected by their peers. There should be no question about their representativeness.

The regulatory system for Chinese medicine consists of three components, namely, Chinese medicine practitioners, Chinese medicine traders and proprietary Chinese medicines. The registration system for Chinese medicine practitioners has been implemented since 2000 and the licensing system for Chinese medicine traders was introduced earlier this year. The regulatory system for Chinese medicine will be implemented in full upon implementation of the registration system for proprietary Chinese medicines.

Madam President, I can see a clear consensus in the community for early introduction of the registration system for proprietary Chinese medicines. Members of the public are eagerly expecting. The trade is willing and ready. The Chinese Medicines Board has made the necessary arrangements. All we need now is the greenlight from this Council.

Madam President, I call upon all Members to vote against the motion repealing the commencement notices.

PRESIDENT (in Cantonese): I now call up Ms Cyd HO to reply.

MS CYD HO (in Cantonese): Madam President, actually, no organizations or Members object to the registration system. All organizations are supportive of registration; only that they oppose the immediate commencement of the legislation while support measures are still inadequate. Members also very much support perfecting Chinese medicines and upgrading their quality. However, given the imperfection of the appeal mechanism, they oppose the immediate commencement of registration on the ground that many aggrieved cases will be denied fair treatment because of irresponsible administration. Today, we are here in this Council exercising our power. Should the matter be dealt with loosely and lead to unfairness, making it impossible for justice to be done to the aggrieved, we should actually be held greatly responsible.

The motion moved today to repeal the commencement notices of several pieces of legislation is not meant to be a delaying tactic. The timetable is actually in the hands of the executive, if it is able to review the matter in practical terms. I believe the system, if sound, can be presented to this Council in June next year or earlier, and I believe Members will support it without reservations.

I hope Members can seriously consider supporting the motion on repealing the commencement notices of the Regulations.

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

(Members raised their hands)

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

(Members raised their hands)

Ms Cyd HO rose to claim a division.

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

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

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

Functional Constituencies:

Miss Margaret NG, Mr SIN Chung-kai, Dr LAW Chi-kwong and Ms LI Fung-ying voted for the motion.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Dr Eric LI, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok and Mr IP Kwok-him voted against the motion.

Mr Michael MAK abstained.

Geographical Constituencies and Election Committee:

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

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, four were in favour of the motion, 19 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, 14 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee. Members should be well aware of the time limits for each Member to speak. I just wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Digital 21 Strategy.

DIGITAL 21 STRATEGY

MR SIN CHUNG-KAI (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, I have moved this motion in response to the public consultation paper on Digital 21 Strategy published by the Government earlier.

Over the past five years, the Digital 21 Strategy has successfully promoted the application of information technology (IT) widely across all sectors of the community. We were ranked first in the International Telecommunications Union Mobile/Internet Index 2002. Of the personal computer and Internet penetration rates among households and business organizations, the lowest is close to 50%. Our achievements in promoting e-government have also received international recognition. For instance, *The Economist* ranked Hong Kong first in Asia in 2003 in terms of e-readiness. Accenture ranked Hong Kong seventh in the world in 2003 in terms of e-government leadership, and the Electronic Service Delivery Scheme also won the Stockholm Challenge Award in 2001. Certain success has already been achieved in promoting the popular application of IT and in upgrading the people's ability of IT application. However, more efforts should be made to promote IT application in the operation of small and medium enterprises (SMEs).

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

Our next step, which is also the most important area of work, should be to develop IT as an industry. In this connection, the Government should assume the role of an advocate. In the next IT Strategy, it is necessary to draw up a forward-looking and proactive IT policy with a clear direction to provide sufficient support and consolidate the foundation of the IT industry, so that the IT industry can be enabled to take root and expand in Hong Kong, thereby creating more employment opportunities for Hong Kong. In fact, it is a global trend to develop the IT industry. In Europe and the United States, South Korea and Taiwan, active efforts are being made to develop IT activities on all fronts. In India, in particular, the IT industry is a prime engine of economic growth.

In 1998, the Indian Government set the target of developing India into an information technology superpower in 10 years. Five years later, India has now become a new production base of IT after the Silicon Valley of the United States, undertaking overseas IT projects. In 2002-03 alone, the IT industry in India grew at a rate as fast as 26% with the total business turnover amounting to US$12.7 billion. Their export of IT services this year, when compared to

1997-98, even registered a seven-fold increase at US$10 billion, 56% of which being export to the United States, 13% to Britain and the rest to other parts of the world. The IT industry as a whole accounts for 2.4% of the Gross Domestic Product (GDP), employing over 650 000 IT talents. This shows that the IT industry, especially software services and business process outsourcing, has pushed the overall economic development in India. It is envisaged that in 2008, the IT industry will account for a greater share of the GDP at 7%, attracting foreign direct investment at a value of US$4.5 billion.

The Mainland has also adopted a very positive attitude towards the development of high technology. Not only is the information industry, which is commonly called IT industry in Hong Kong, recognized as a major driving force of future economic growth, there is also the principle of "enhancing trade by relying on science and technology". So, it is now the best time to come up with a new Digital 21 Strategy and it is also time we mapped out a comprehensive policy to promote Hong Kong's IT industry. This policy can be divided into two major parts. First, an integration of Hong Kong's IT industry with that in the Mainland, and second, increasing domestic demands in the local IT market. To promote integration between Hong Kong and the Mainland, the Government should first gain a full understanding of the scientific research programmes and policy directions in the Mainland. For example, the several policy papers on promoting the development of the software industry and the integrated circuit industry (Paper No. 18), the Torch Plan, foundation studies programmes, key national scientific achievements promotion programmes, the action plan to reinvigorate the software industry, and so on. Take the 863 plan as an example. Under this plan, a number of technology domains are selected for focused studies, such as information technology, advanced manufacturing and automation techniques, and so on, and in each of these domains there are a number of technical themes. Through understanding these forward-looking, guiding research programmes and policies, Hong Kong can tie in with these programmes in the Mainland in formulating the local IT development strategy. This will enable Hong Kong to keep tabs on the direction of IT development in the Mainland more closely, hence reinforcing the basis for co-operation between companies in the two places.

Second, under the existing framework of CEPA, the Government should strive for the local IT industry national treatment in the Mainland and a policy under which local IT companies can enjoy the same status as that of their counterparts in the Mainland. It should also strive for relaxed restrictions on

Hong Kong businessmen in undertaking IT projects, participating in scientific research projects, and providing IT professional training, e-teaching, e-sales/marketing, and so on, in the Mainland. It should at the same time strive for establishment of a telecommunications special zone in the Pearl River Delta Region to ensure fair competition between Hong Kong businesses and mainland enterprises.

Third, developing the software outsourcing industry. This is also a factor contributing to the success of India as mentioned by me just now. Given the advantage of closer ties with Hong Kong, coupled with the ever rising technological standards in the Mainland, the Mainland has the qualities to compete with India and become a base for IT exports. So, the software outsourcing industry will be a way out. In this regard, the Government can focus on the following areas:

Firstly, the Hong Kong Trade Development Council (TDC) and Hong Kong Productivity Council have done a good job in assisting the local manufacturing industry to develop northwards and in upgrading the technical standard of the manufacturing industry. I hope that apart from promoting industrial development, they can also promote the service industry of Hong Kong, including the software industry and IT services. Their experience and network should be able to help the local IT industry to identify business partners in the Mainland and hence establish a firm foothold in the mainland market.

Secondly, Invest Hong Kong and the Economic and Trade Offices should, apart from their general promotion endeavours, provide matching services for Hong Kong's service industry. Take the promotion of IT services as an example. They should proactively promote to overseas buyers software outsourcing services jointly provided by Hong Kong and mainland companies and collect the latest information on outsourcing projects overseas. They should also encourage European and the United States buyers, when outsourcing IT services, to consider outsourcing their projects to IT companies jointly set up by China and Hong Kong rather than Indian companies.

Thirdly, efforts should be made to actively and widely encourage local industries to adopt internationally recognized quality standards for software, such as the Capability Maturity Model (CMM), ISO 9000, SIX SIGMA, and so on. Ad adoption of these quality standards can enhance the competitiveness of the local IT industry. Apart from this, there is one factor which is even more

attractive to overseas buyers and that is, the "gold lacquer logo" of "Hong Kong Government".

Local IT firms which have been awarded IT service contracts by the Government should be Q-marked for service quality assurance. In simpler terms, the Government should "certify" the services of local companies that have been awarded government IT contracts. That is, the Government should stamp a mark on them, so that they can compete for projects or works more effectively in the Mainland or overseas. Therefore, the Government should utilize the Information Technology Professional Services Arrangement (ITPSA) and improve the mechanism for outsourcing IT services by, for instance, setting up a service providers registration system which is open for registration by all service providers for the Government's reference in procurement exercises, awarding more government IT contracts to local small and medium IT companies, allowing providers who have provided IT services to the Government to keep the intellectual property rights of the relevant services or software and to put them on sale in the market or in the overseas market after they have completed the contracts, thereby enhancing the industry's competitiveness in competing for IT contracts overseas.

Moreover, in recent years, the products of IT companies in the Mainland have already attained a very high standard and these companies have the qualities to access the international market. Nevertheless, there is still room for improvement in the foundation of business operation in the Mainland, such as in the area of marketing, product packaging and the quality of sales service. In this connection, the Government can consider establishing a centre of excellence for software in the Cyberport to support the industry to "mainlandize" overseas software and "internationalize" mainland software, providing software quality tests and accreditation services for professional IT examinations in the Mainland or overseas, and actively promoting the development of Software Process Improvement or SPI, with a view to developing Hong Kong into a gateway for the entry or exit of software in the Mainland. In the meantime, the Government will need to pay attention to how foreign investment can be attracted and how Hong Kong's role as a bridge between China and foreign countries can be enhanced, such as providing logistics or back-up support including concessionary policies, rental concessions, residence arrangement, capital matching, and so on, in order to attract local IT talents as well as those from the Mainland and overseas to start business or engage in research studies or training in Hong Kong.

On the nurturing of talents, the Government has to review the local training courses relating to IT, computer and telecommunications, in order to solve the problem of a mismatch or shortage of talents, particularly the lack of telecommunications experts constantly faced by the industry. In order to upgrade the professional status of local IT personnel, the Government should expeditiously set up a mechanism for mutual recognition of professional qualifications in the two places, so that IT courses organized by local tertiary institutions are recognized and also exempted from IT professional examinations in the Mainland. For instance, graduates of such training courses can be exempted from part of the examination of our country's IT engineers accreditation examination, in order to facilitate the flow of talents between Hong Kong and the Mainland and ensure that we have all-round talents equipped with professional skills and business acumen.

While attention is given to the overseas market, the development of the local market must not be neglected. Over the past few years, the local IT market has largely relied on outsourced government IT projects. However, government projects have dropped 22% this year. This is a cause for concern to us, for it would be a wrong measure of the Government to reduce the number of IT projects as part of its initiatives to cut expenditure. While the Government has stated that outsourcing would continue, but as the e-government programme matures, the IT services required may diminish and may be confined to system repairs and maintenance. It can thus be seen that it is not viable in the long term to rely solely on the Government's outsourcing programme to maintain a substantial market. Nor can this continuously create business opportunities for the industry.

In fact, the ability and creativity of the local business sector in IT application are quite good. The Hong Kong Computer Society has since 1998 organized the Outstanding IT Achievements Award every year to commend the achievements of local companies in the application and development of IT products. Last week, Hong Kong even netted a number of awards in an Asian-Pacific competition in Thailand. So, the Government should assist the industry in facilitating IT application in business operation. More proactive measures should be adopted in respect of IT expenditure/training, tax rebates, industry schemes, and so on, to encourage the application of IT and e-commerce by SMEs. This can upgrade the competitiveness of SMEs and at the same time boost the demand for IT services in the local market, thus killing two birds with one stone.

All in all, in respect of assisting Hong Kong's IT industry to take root, the Government should be able to assume a more active role. I must stress that the IT industry is not asking the Government for additional resources or funding or special care and attention for it. It is only asking the Government to more effectively utilize the existing system to co-ordinate the resources of government departments in promoting IT, including the Government's IT outsourcing programme, the Cyberport, the TDC, Invest Hong Kong, the Science Park, the Hong Kong Productivity Council, the Innovation and Technology Fund, and so on. Work should be carried out in greater depth and a more focused manner. If the Government can actively strengthen Hong Kong's role as the doorway of the Mainland to the international market, the local IT industry will be in a position to assist the access of foreign capital to the Mainland and to support the development of mainland enterprises in the international market or even work with mainland enterprises to receive orders in the international market, and this will create new impetus for economic prosperity both in Hong Kong and in the Mainland.

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

Mr SIN Chung-kai moved the following motion: (Translation)

"That this Council considers that the Government should take the opportunity of reviewing the Digital 21 Strategy to promote the use of information technology (IT) by local enterprises, the public and the Government itself so as to achieve the target of enhancing Hong Kong's competitiveness and creating business opportunities for the IT industry; the Government should also tie in with the Mainland's IT policies and understand the complementary advantages of the IT industries in both places, with a view to facilitating co-operation between enterprises in Hong Kong and the Mainland in receiving IT goods orders from the world market, developing products jointly or promoting mainland products in the world market, thereby achieving mutual benefits."

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

Mr Howard YOUNG will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate. I now call upon Mr Howard YOUNG to speak and move his amendment.

MR HOWARD YOUNG (in Cantonese): Madam Deputy, in regard to Mr SIN Chung-kai's request on the Government to deepening the effectiveness of the Digital 21 Strategy, create business opportunities for the IT industry and promote co-operation between enterprises in Hong Kong and the Mainland, the Liberal Party very much supports it.

Many neighbouring regions or countries, such as Japan, South Korea, Singapore and Taiwan, have introduced similar policies in recent years, vigorously encouraging the application and development of IT. Japan, for instance, already set down plans in early 2001 to become one of the most digitized countries in the world.

We acknowledge the importance of the implementation of IT. Our competitors have also grasped its very significance and invested substantial resources in boosting its development. Thus, it is necessary for the Government of the Hong Kong Special Administrative Region (SAR) to promote continuously the IT development to facilitate economic restructuring, or its overall competitiveness will lag behind other neighbouring places in the near future, and will encounter difficulties in moving in the direction of high value-added and high technology activities, thus failing to accomplish economic restructuring.

The Digital 21 Strategy has been implemented for a couple of years. In retrospect, it seems that it has made limited achievement. The most apparent result is the number of government websites developed (the Government has made strenuous efforts in this regard and achieved high browse rates in the community), an Electronic Service Delivery (ESD) website and the liberalization of the local telecommunications market, while initiatives in other aspects seem to have been inadequate.

In fact, I wish to point out that the government-oriented programmes, such as the liberalization of the telecommunications market, ESD scheme and IT outsourcing programme, are far from adequate. If the Government really hopes to develop a knowledge-based economy by means of the Digital 21 Strategy, the local business sector should be used as a starting point for focused promotion of IT application among traditional industries, fostering and improving application of technologies by industries to enhance local productivity, and active strengthening of training to expedite the skill transformation of the local workforce. This is the best way to promote economic development in the long run.

While Hong Kong looks like an information-led society on the surface, as far as the business sector is concerned, the application of IT in most companies, in particular those SMEs is only minimal. Specifically, they only use computer more frequently in their day-to-day operation. Besides, IT training programmes provided in Hong Kong focus on skills training without paying attention to fostering a life-wide IT culture. If Hong Kong really wants to transform into a knowledge-based society, or to explore a way out for Hong Kong economy through IT, the Government should intensify its efforts in the promotion of IT among the public and enterprises, and not to regard it only as some kind of formality and get it done in a slapdash manner.

It is worth noting that, apart from striving to become a world factory and vigorously developing the manufacturing industry, the Mainland has made the IT industry as one of the major development projects for the country, with a view to achieving the objective of an information-led industrialization. As an international information and financial centre, and also a leading city in the Pearl River Delta (PRD) Region, Hong Kong sees no reason to take the development in this aspect lightly and not to do anything to tie in with it.

The main aspiration in the original motion proposed by the Democratic Party aims at promoting co-operation among the IT industries across the border, consolidating Hong Kong's role as the springboard of IT enterprises in the Mainland, and co-operating with the mainland enterprises in vying for more orders from the world market. We certainly support this, but we also consider that we should exploit the business opportunities brought about by CEPA, to develop our business further by making use of the liberalization of the mainland market early. Thus, I have proposed an amendment today on behalf of the Liberal Party, in the hope that we can take into account the interests of both places and develop the world market in co-operation with the Mainland without overlooking the enormous business potential of the mainland market.

For instance, the Central Authorities have opened up five value-added services in telecommunications for enterprises in Hong Kong three months earlier, that is, in October. However, as there are now more than 6 000 companies providing the five services on the Mainland, competition is extremely keen. Furthermore, as telecommunications operators of foreign ownership will be allowed to enter the mainland telecommunications market in less than half a month, the advantages enjoyed by Hong Kong businesses will relatively diminish.

Thus, the Liberal Party hopes that the SAR Government can continue to strive for more favourable conditions of development with the Central Authorities. For instance, the restriction of no more than 50% share in the partnership with their mainland counterparts is still an obstacle for Hong Kong businessmen to operate businesses in the Mainland.

As a result, the Liberal Party is of the view that the Government may consider appealing to the Central Authorities to allow, modelling on the preferences offered to the retail industry by CEPA and using Guangdong Province as a test point, Hong Kong businessmen to operate telecommunications businesses as sole proprietorships and to compete with their mainland counterparts in a level playing field.

We believe that if Hong Kong businessmen are allowed access to Guangdong Province as sole proprietors, apart from enhancing mutual competition and learning, as well as the level of services among industries of both places, more importantly, the information integration between the two places can be expedited. Following the gradual economic integration in the PRD, the future Great PRD economic and trade zone can be materialized and Hong Kong's position as the trade, logistics, finance and information hub in the region can be strengthened. The idea can be described as a beneficial and complementary arrangement for both sides.

Besides, the SAR Government should continue to strive with the Central Authorities for the opening up of more areas of value-added services, such as on-line data processing and transaction services targeted at corporate clients and exclusive virtual webpage services to Hong Kong businesses.

The potential of IT products is tremendous in the mainland market, for the demand of software alone will reach RMB 250 billion yuan by 2005, and the amount of exports will be US$5 billion. Thus, the Liberal Party believes that the SAR Government should assist the community to seize properly the opportunities brought about by CEPA, and apart from gaining greater access to the mainland market, it also helps gearing Hong Kong towards a high-tech economic restructuring.

Madam Deputy, I so submit.

Mr Howard YOUNG moved the following amendment: (Translation)

"To add "enhance the exploitation of the market opportunities in the Mainland for the local telecommunications industry brought about by the Mainland/Hong Kong Closer Economic Partnership Arrangement," after "the Government should also"; to delete "co-operation between" after "with a view to facilitating"; and to delete "and the Mainland" after "enterprises in Hong Kong" and substitute with "in developing the mainland market or co-operating with the mainland enterprises"."

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

DR RAYMOND HO (in Cantonese): Madam Deputy, it is an IT era now. We communicate with the outside world by means of various IT products and services every day. The telephone and Internet, for example, have become our daily necessities. If one day the IT industry in Hong Kong reverted to the level in the '60s, I am afraid the development in the territory would grind to halt. The IT industry is a symbol of civilization and the benchmark indicating the level of advancement and development of a country. If Hong Kong were to develop into an international metropolis, we must upgrade our IT.

Undeniably, IT has become indispensable in the modern world, particularly to those developing countries where IT development is one of their key projects. India and China, for example, have seen an extremely rapid development in their IT industry in recent years. It is understandable as IT, just like other infrastructure, is essential for the development of a country — our flows of people and goods will be impeded in the absence of a comprehensive and sound transport network. Likewise, our communications will be obstructed without comprehensive IT services. Come to imagine this. Not a moment can be lost in the finance sector, so what will be the outcome should a breakdown occur in the computer system or network showing the market movements? I think there is no need to elaborate further. As such, the upgrading of IT is not only for enhancing our position in the world, but also our competitiveness.

IT development is one of the key policy areas of the Government in recent years. I recognize the policy objective in this regard. However, it will be

even better if the Government can intensify its efforts in promoting the use of IT among local enterprises and the public. Apart from enhancing the efficiency of enterprises and people, it can also offer development opportunities for related industries and infuse life into our weakened economy.

In my opinion, the Government must note two points in order to make the IT development a success. First is talents, and second is market. To develop IT, we must have a sufficient pool of talents. In this regard, the Government should make appropriate adjustments to its education policy. As regards market, since the Hong Kong market is limited, we must make an outward movement in developing the IT industry. Thus, I consider that we must grasp the business opportunities offered in the Mainland to expand the domain for development of local enterprises. In this connection, the Government must take the lead in promoting co-operation between the two places, and provide the necessary assistance and information to the industry.

IT development is the trend of the times. If Hong Kong wants to enhance its competitiveness, we must improve our efficiency, and IT is the means to this end. The Government published a consultation paper on Digital 21 Strategy in October this year. I hope that the Government can, after collecting views from various parties, formulate an appropriate IT strategy, push forward the use of IT and expedite IT development, so as to make Hong Kong a genuine digitized city.

Madam Deputy, I so submit.

MR TOMMY CHEUNG (in Cantonese): Madam Deputy, Mr SIN Chung-kai and Mr Howard YOUNG have separately put forward their views on how the Digital 21 Strategy can help Hong Kong undergo the economic transformation and the importance of developing local and overseas markets. In my opinion, the viewpoints of the two Honourable Members are complementary, rather than contradictory, to each other. They have also reminded us that we must not take the development of IT lightly in this era of knowledge-based economy era.

Before exploring business opportunities related to IT, I think we should start by reviewing the application of IT in Hong Kong. According to the latest survey, there is a growing popularity in the usage of personal computers and the Internet among households. This year, approximately 1.48 million households, nearly 70% of all households in the territory, possess personal computers at

home, and 60% of these households are hooked up to the Internet. This represents a remarkable improvement over last year when only 62% of the households possessed personal computers and 53% of them were connected with the Internet.

In business organizations, however, the percentages of using personal computers and connecting with the Internet are similar to those of last year. The fact that only 54.8% of the business organizations are using personal computers and approximately 47.5% have Internet connections does show that no substantial progress has been made.

For instance, there is still limited application of IT in the catering sector represented by me. In addition to the fact that it is still necessary for the industry to gain an in-depth understanding and knowledge of how IT can apply to its businesses and the management of the industry, some application obstacles have been created as IT companies used not to pay much attention to gaining a good understanding of the operational features of the industry in the course of software development. For instance, there is a wide range of food establishments, such as Chinese restaurants, hotels, karaoke establishments and cafeterias, which are operating in a totally different manner. Let me cite restaurants, particularly those serving Cantonese cuisine, as an example. The software specially designed for placing orders has to be particularly flexible. This is because restaurants have to constantly change their trademark dishes and concessionary dishes. Moreover, customers might make such additional requests as "double the portion", "mix frying", "fried both sides", and so on. For software designed for billing, the 10% service charge and charges for tea and sauces have to be included for calculation purposes as well. In addition, hundreds of people may have to be served at the same time when banquets are held, and the number of tables may have to be adjusted at any time in the light of the situation. This is so complicated that software designed for Western restaurants may not be able to serve the purpose.

Undeniably, thanks to the efforts made in run-in and adaptation in recent years, the problems cited above have started to ameliorate. This shows that an in-depth understanding of the needs of the industries is essential to software development, and one must not make a cart behind closed doors. I hope the authorities can enhance publicity and endeavour to promote the application of IT to the industry by explaining complicated issues in a simple and comprehensible manner to help people in the trade understand how IT can upgrade productivity and management, and thus in turn further promote the application of IT.

Madam Deputy, the IT profession is currently faced with rapidly-changing challenges. For this reason, innovative planning is warranted. We hope government officials can give up their thinking that, without considerable experience in IT management, they are still capable of formulating strategies best suited to the development of Hong Kong by allowing the laymen with general knowledge to lead the experts. Instead, thy should enhance communication with the industry and take the opinions of front-line research and development personnel seriously. Only in doing so can they grasp the crux of the problems and come up with a more appropriate IT development strategy.

Furthermore, vigorous efforts should be made to promote the IT transformation among traditional industries. Let me cite the catering industry as an example again. A good application of computer technology is going to enhance management efficiency and make the flow of the entire process from "taking orders" to "billing" smoother. What is more, it will help explore new markets through better adapting to changing market tastes and injecting new elements into traditional dishes by studying the pattern in which diners make their choices. Coupled with publicity and promotion by means of webpages, twice the result can naturally be yielded in promoting the development of business by half the effort.

Furthermore, we can very often find people using different names apply for and expend resources supposedly earmarked for supporting and assisting in the application of IT by small and medium enterprises (SMEs). The record publicized on the Internet on the applications for the Innovation and Technology Fund is a prominent example. Among the applicants, there is a wide range of television programmes and a small number of short-term exhibitions. Furthermore, a substantial number of academic studies have not been publicized. Only a handful of independent SMEs have genuinely been benefited. Should this bureaucratic approach of performing duty perfunctorily be allowed to remain by adhering to the IT strategy of "disregarding effectiveness and innovation", it will only result in a further mismatch of resources. Eventually nothing can really be done to assist Hong Kong in developing its knowledge-based economy.

Lastly, I hope more efforts can be made by the Government in breaking the "digital divide". In particular, the Government has to offer solutions to training middle-aged or poorly educated unemployed people, or our colleagues in the catering industry to enable them to catch up with the general trend of IT

and enhance their application of IT. Only in so doing can IT application be expected to lead Hong Kong to undergo the economic transformation and make another take-off.

With these remarks, Madam Deputy, I support the two motions.

MR CHAN KAM-LAM (in Cantonese): Madam Deputy, the future of Hong Kong's IT industry is unlikely to be confined to Hong Kong. Rather, it must over the geographical or ideological barriers to look for greater room of development by capitalizing on the advantages of the Mainland. We are very pleased to note that in the Consultation Paper on 2004 Digital 21 IT Strategy published by the Government, it is stated that Hong Kong must leverage on CEPA and the geographical advantages of the Pearl River Delta Region and co-operate with the Mainland in order to facilitate the development of IT in Hong Kong. It is pointed out even more clearly in the Consultation Paper that the Mainland "has ambitious aspirations to become a major world player in the information industry; and its motivation to play a major role in the world information technology market is fully justified. This is an ideal background against which to promote a vibrant information technology industry in Hong Kong." This reflects that the Government has the breadth of mind and vision to break conventions. The remaining question is how to achieve this objective and how to put things into practice, in order to achieve the mutual benefits of co-operating with the Mainland.

The Annexes to CEPA which have just been signed formally incorporated value-added telecommunications services as one of the liberalized sectors under Trade in Services. Hong Kong businesses are allowed to form joint ventures in the Mainland in the five value-added telecommunications service areas in October this year, which is earlier than originally scheduled. The industry has attached great importance to the signing of this part of CEPA and has generally agreed that this signifies a milestone of the liberalization of the telecommunications market in the Mainland. The industry has also put forward many opinions. Some hold that Hong Kong businesses are allowed to enter the mainland market only three months earlier than foreign-funded companies and so, the local industry is not in a very advantageous position in terms of timing; there is also the view that the areas of telecommunications services to be liberalized in the Mainland are too narrow and so, their attractiveness is rather limited. The purpose of signing CEPA is to open up more business opportunities for the

industry. To this end, the Government of the Hong Kong Special Administrative Region (SAR) must seriously take on board the views of the users. We consider that the SAR Government, when holding further discussions with the Mainland on arrangements under CEPA, should listen to as many views of the industry as possible by all means or through all channels in order to duly reflect their aspirations.

According to the statistics of the Ministry of Information Industry of China, the airtime of international phone calls using the IP telephone network in China in the first seven months this year was close to 500 million minutes, whereas that of phone calls to Hong Kong, Macao and Taiwan using the IP telephone network even exceeded 620 million minutes, representing an increase of about 30% and 26% respectively comparing to the same period last year. In the meantime, the accumulated airtime of domestic long distance calls in China was close to 32 billion minutes, and the penetration rates of fixed telephone lines and mobile telephones stood at 19% and 18% respectively. This shows that many types of telecommunications business with great potentials for development have not yet been incorporated into the sectors for liberalization in CEPA this time. Voice value-added services and domestic long distance call service are among such businesses. CEPA is an ongoing arrangement. We hope that the SAR Government will, in future negotiations, actively strive for the Central Authorities' approval for Hong Kong businesses to extend their investment and business operation to cover high value-added and high quality sectors in the Mainland where possible, so that Hong Kong businesses can avail themselves of the business opportunities brought by CEPA and hence enjoy advantages in the market.

Software development is another IT sector which is growing rapidly in the Mainland. The Central Authorities have clearly stated that the future target of the development of the software market is to increase the sales to RMB 250 billion yuan in 2005, and policy objectives have also been set to actively expand exports. Places all over the world have already been watching the mainland market very closely. The neighbouring Singapore is working vigorously to develop higher technology to tie in with the development of high-technology industries into which huge resources have been channelled in China. It is impossible for Hong Kong to sit by and wait for opportunities to come. In fact, Hong Kong is very experienced in software development, and the Mainland has an abundant supply of talents. We can therefore complement each other with our own advantages and co-operate to develop software products. Officials of

the Ministry of Information Industry of China have stated that there is a large pool of software talents in the Mainland and as long as Hong Kong needs such talents, the Central Government will provide as much support as possible. The SAR Government should grasp the opportunity and decide on the positioning and the relevant policies of the Government in the software development industry, and should explore ways for more effective consolidation and integration of resources with the Mainland, with a view to identifying the direction for co-operation.

With our advantages in the Mainland and a wide global market network, Hong Kong has long been considered a springboard for mainland products to access the international market and at the same time a bridge for foreign capital to enter the mainland market. Low production costs in the Mainland complemented by highly cost-effective sales channels in Hong Kong has been a *modus operandi* adopted by the local industrial and commercial sectors over the years. The financial services industry in Hong Kong has, in the past few years, actively developed and given play to its role as a trading platform between the Mainland and the international community. This can in fact be applied to the IT industry in a way that Hong Kong enterprises can co-operate with mainland enterprises in product research and development with Hong Kong assuming the role of a promoter for such products. On the other hand, this can also attract foreign investors to set up their base in Hong Kong for expansion into the Mainland and the Asian-Pacific Region and hence upgrade Hong Kong's IT industry. Such institutions as the Trade Development Council and the Productivity Council are very experienced in organizing promotional and publicity campaigns in the Mainland and overseas, only that they used to focus more on business and trade promotions. In view of the direction of developing Hong Kong into a knowledge-based economy in the future, it is necessary for the SAR Government to review its support policy on the IT industry and enhance the work of the relevant institutions for the promotion of the IT industry.

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

MR MA FUNG-KWOK (in Cantonese): Madam Deputy, the Hong Kong economy is now looking for a new direction of development, and IT can be a way out. The IT industry has entered a period of consolidation after the bursting of the bubble of IT stock a few years ago. During this period of time,

the industry should discuss with the Government in depth its future direction of development. Through this debate today, we hope to arouse public attention and urge the Government to assume a leading role in identifying the advantages of Hong Kong and confirming the areas suitable for development by Hong Kong. The Government should also set long-term objectives for the development of the IT industry and plough in resources to assist the industry to achieve these objectives.

Firstly, I think the Government should take the lead in IT application. I support that the Government should set up a dedicated IT department and a commissioner be made specifically responsible for the co-ordination of IT-related initiatives. Although all government departments have their own IT units and the Information Technology Services Department also effects co-ordination in a small number of inter-departmental initiatives, the computer systems of government departments have not been interconnected and so, the information resources cannot be shared among them, leading to unnecessary duplications and wastage. For example, the exchange of information between the many departments still relies on papers and it is therefore impossible for the inter-departmental workflow to be consolidated by electronic means.

After the setting up of this department to specifically oversee IT services, government departments will have to be divided into groups according to their nature of work, and each group of departments should be managed by one IT co-ordinator. In that case, information can be exchanged and resources shared among government departments. These IT co-ordinators, who are like CIOs in the IT industry, should be well-versed in IT. More importantly, they must have a good understanding of the management and operation of various departments, and by making full use of IT, they can improve the workflow and hence achieve the objective of enhancing work efficiency.

Since 1998 when the Government began to promote IT application in society, the usage rate of computer and the Internet among the public has been on the increase. Having said that, however, the Government still has to do more in two areas. First, the usage rate of IT in small and medium enterprises (SMEs) which account for a majority of enterprises in Hong Kong remains unsatisfactory, for only about half of the SMEs are connected to the Internet and only 1% of them sell their products or services by electronic means. The Government should actively assist the SMEs in the application of IT. Otherwise, it would be impossible for them to increase their operating efficiency and productivity to rise to competition.

Besides, in respect of IT education, on-line learning has yet become popular after five years of investment. During the SARS outbreak, students had to learn through the Internet and this already proves the value of on-line learning. The Government should review the curriculum to ensure that on-line learning is developed for a certain proportion of the curriculum of primary and secondary schools and universities. More emphasis should be put on the need to set eyes on China, and on-line learning materials should be developed for each subject. Only in this way can we keep up with the development trend of flexible on-line learning.

Madam Deputy, while gearing up to promote popular IT application, the Government should also make an effort to promote IT research and development. At present, the expenditure on IT of the Hong Kong Government is about $4.6 billion yearly. Against a local IT market with a total value of over $10 billion, the Government is the largest single user of IT services and has certain influence over the market. When developing software for the Government, the industry often engages in large-scale and complicated projects which often carry great potentials for commercialization and can also be sold in the market for profits. Regrettably, as the Government insists that it owns the intellectual property right of these projects, the industry can only let go of these business opportunities in the end.

In many advanced countries, when the IT industry provides services for the government and if new products are developed in the process, the industry can own the intellectual property right of such products. The industry can also commercialize such products and even promote them in overseas markets for profits. This will enable the Government to put resources to better use, open up business opportunities for the industry and even increase revenue, serving multiple purposes at the same time.

Moreover, the Government, being the largest single user of IT services, should take the lead in adopting more open source software in order to create more favourable conditions for diversified development of the market. In fact, the governments of many places, such as some provinces and municipalities in the Mainland and also in France, have already switched to open source software platforms.

Madam Deputy, universities are the cradle of IT research and development, but IT-related research and development projects in universities now are often

detached from the needs of the Government and the public. The reason is that there is not a sound mechanism to encourage co-operation among the Government, the market and universities. Since research programmes in universities are funded by public funds, the Government should communicate more with universities and make use of university research as far as possible. In that case, the findings of the studies will better meet the needs of the Government. Universities will therefore find a way out for their research studies, rather than working on their own without reference to the actual needs.

The development of IT requires a huge market and massive capital input. It is insufficient to rely only on the domestic market. Countries with an advanced IT industry will open up new markets worldwide, and Hong Kong should not be an exception, particularly as there is an abundant supply of IT talents in Hong Kong. But after the bursting of the IT bubble, job opportunities have been seriously lacking. It is therefore imperative for the Government to explore new markets for the industry.

As we all know, the Mainland is a market with great potentials for development. Take the software market as an example. The software market in the Mainland totals US$13 billion yearly, accounting for 1.6% of the global software market, and there is still ample room for further growth. Following the implementation of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA), Hong Kong companies and products can enjoy various concessions in their access to the Mainland. Hong Kong can become a springboard for overseas IT companies to the mainland market. No doubt many large corporates have already set up companies in the Mainland. But let us not forget that there are still many companies which are smaller in scale but with potentials for development aspiring for a share of the mainland market. The Government should grasp this opportunity to attract these companies to come to Hong Kong and hence create more employment opportunities here. On the other hand, Hong Kong companies, given their international outlook and experience, can co-operate with their mainland counterparts in the development of products beyond the Mainland to gain access to the world market.

Furthermore, IT application in transport, logistics, financial services and retail sectors in Hong Kong is more mature than in the Mainland. At present, the IT systems used by the airport, Mass Transit Railway and the shipping industry are well known internationally. I believe there are demands among the governments and also large enterprises of mainland cities for these systems. I

hope that these systems can be introduced to mainland enterprises through the Government, for this will be much more effective than the industry working all on its own.

The IT industry has the potentials for development and can also facilitate competition in traditional industries. For example, in the financial services, logistics and retail industries, their productivity can be enhanced through IT application. This is why advanced countries have injected resources into the vigorous development of IT. The Government should not cling to the positive non-intervention policy and wait for the market to tell the industry what the market needs. On the contrary, the Government should adopt a forward looking attitude and keep tabs on world trends, with a view to opening up opportunities for the development of IT. With these remarks, I support the motion and the amendment, and I urge the Government to grasp the opportunity, particularly the opportunity brought by CEPA, identify targets for development and channel resources into the development of the industry.

Thank you, Madam Deputy.

MR CHAN KWOK-KEUNG (in Cantonese): Madam Deputy, media technology has been developing by leaps and bounds. Digital technology and IT has now become the key to business success and also the infrastructure of society in the future. Since the Digital 21 Strategy was drawn up quite some years ago, it is high time that an interim review was conducted. At this time, we should lay emphasis on how creative industries can upgrade our productivity and how Hong Kong can tie in with the development in the Mainland.

IT is now pretty popular in Hong Kong, and its usage and penetration here is among the highest in Asia. A survey conducted by the Census and Statistics Department this month shows a 5.4% increase in the number of households acquiring personal computers (PCs) in the year under survey and also a drastic increase in the Internet connection rate from 52.5% to 88.8%. Hong Kong is now very close behind South Korea in terms of Internet access.

The survey also indicates an increasing Internet penetration rate among teenagers, presumably for reasons of market demand and supply. The emergence of online games as a corollary to the Internet has induced many households to acquire PCs and connect them to the Internet via broadband. The

demand of teenagers for media entertainment has been increasing very rapidly, and the wide range of media games or products available in the market has kept dazzling us with their frequently updating versions.

It is worth the while for the industry concerned in Hong Kong to develop web-based media products, as online games, audio/visual products and programs are believed to be a market of enormous potentials. However, the Government's assistance to the industry is still in need of improvement. There are plenty of business opportunities for creative industries, but exchanges between the Government and these industries have been inadequate, with the result that software manufacturers and developers, thus fearful of market risks, have failed to turn their market advantage into economic benefits and employment opportunities.

Many Hong Kong-made digital animations, 3D advertisements and online games, such as GU Long's Heroes, Super Stable and Mcdull, are in fact of very high quality, but the Government has been slow in promoting their development. So far, there has been no marked progress in the Film City project, and the relevant digital post-production facilities are still nowhere in sight. Although the Digital Media Centre is expected to be completed early next month, its exact inauguration date has not yet been announced. We must realize that the product cycles of digital media products are very short, and they are replaced at an even greater pace. If we lag behind others in the competition for market share, with the result that even Hong Kong users are made to buy the digital products of other places, we will be plunged into a most disadvantageous position.

The creative media departments of several local universities have gradually built up their reputation, so we should really make use of the products or technologies developed by them to build up a local production line, with a view to competing with other places in the world market as soon as possible. Should we fail to gain the lead, we will only fall behind the general trend. I agree that it takes time to construct the infrastructure, but still we should demonstrate our strengths in media application and software development, so as to gain a secured footing in the market.

As for local developers and manufacturers, they will need more guidance from the Government. It is simply not enough to provide mere loans and financial assistance for training. The Commerce, Industry and Technology

Bureau must grasp every available opportunity to promote local products in other places and create opportunities for the local developers and manufacturers to liaise direct with overseas buyers. Once they are able to see prospects of profits, they will automatically make investments. And, if buyers can get to know the strengths of local developers and manufacturers, or if buyers are attracted by local manufacturers, "patronage" will certainly follow, and joint development projects may even be possible. It is true that local developers and manufacturers may well have to face some domestic competition, but they can rest assured that as long as they are creative enough and can control costs reasonably, they will be able to meet market requirements. In this respect, the Government must assume responsibility for publicity and promotion.

In particular, if any local universities can win international recognition of their digital technology, local developers and manufacturers should really co-operate with them, in the hope that through this kind of partnership, the technologies of Hong Kong can be displayed to the rest of the world for people's better understanding, thus achieving the aim of building up Hong Kong brand names.

Since the Mainland has also developed its IT for quite some time, if Hong Kong and the Mainland can complement each other, their respective strengths can be combined and consolidated. That way, their complementary advantages in the world market will achieve greater mutual benefits for both of them. I agree to the motion's advocacy that Hong Kong and the Mainland should jointly take orders, develop products and promote mainland products in the world market, so as to achieve mutual benefits.

Madam Deputy, I so submit.

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

MR MICHAEL MAK (in Cantonese): Madam Deputy, I will speak on this motion from the health and medical care angle.

The report of the Severe Acute Respiratory Syndrome (SARS) Expert Committee (Expert Committee) has made 46 recommendations on the control of

infectious diseases in Hong Kong. A number of these recommendations are related to IT.

The Expert Committee recommended to upgrade the data management systems, including the e-SARS system, the Major Incident Investigation and Disaster Support System, and the SARS-Case Contact Information System into standing systems to provide support for the control of infectious diseases. After the data management systems are upgraded, they should be expanded to link up with systems of other sectors, including the private health care sector and community clinics.

The Department of Health and the Hospital Authority have gradually computerized the information of patients by transmitting patients' information to central data processors. In fact, processing and computerizing such data is indeed conducive to surveillance on the development of conditions and is also helpful to medical and health care personnel in providing suitable services of assured quality.

Medical knowledge changes rapidly and medical technology develops by leaps and bounds. With knowledge of IT, the medical and health care personnel can access information on up-to-date medical knowledge, techniques, trends of epidemics, and so on, through the Internet and hence upgrade their service quality and efficiency. Moreover, high technology can facilitate medical research and the conduct of accurate analyses, which will be profoundly helpful to upgrading the quality of medical services in Hong Kong.

Therefore, I think the Government must encourage the use of IT among medical and health care personnel as far as possible. The Government and the relevant institutions should also provide relevant training courses to medical and health care personnel, so that they can grasp IT knowledge better.

IT is advancing at an amazing speed. In the era of an explosion of technology knowledge, it is indeed necessary for the Government to encourage IT application among the public and enterprises. Only in this way can we enable Hong Kong to maintain sustained competitiveness.

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 SIN Chung-kai, you may now speak on Mr Howard YOUNG's amendment. You have up to five minutes to speak.

MR SIN CHUNG-KAI (in Cantonese): Mr Tommy CHEUNG has just left the Chamber. I wish to tell him that a software has been developed for the catering industry, which won a prize in ITX, and it has been adopted for use by the Hong Kong Jockey Club. I hope Mr CHEUNG can bring along his colleagues and people in his sector to take a look at the actual operation of this software. If necessary, I may give him assistance and let him examine if this software really serves their need. The software has defeated its foreign rivals for hotel application, and it is specifically developed for the menus of the Asia-Pacific Region. Many Hong Kong products, in fact, possess prize-winning qualities, including restaurant softwares.

Madam Deputy, first of all, I would like to thank Mr Howard YOUNG for moving an amendment to my original motion. Basically, his amendment does not have any major conflict with my motion. What Mr YOUNG proposes is just the addition of a few words such as "the telecommunications industry".

What I am proposing is, from a macro perspective, to request the Government to formulate a policy for the Hong Kong information industry or the IT industry, on the basis of mutual benefits for both Hong Kong and the Mainland. IT is no longer confined to hardware and software mentioned in our daily discussion. Instead, telecommunications, broadcasting, Internet, e-commerce, digital entertainment (as just said by Mr CHAN Kwok-keung), data services, and so on, are also included in this sphere. Therefore, a complete and comprehensive policy on the information industry should cover all the different aspects.

(THE PRESIDENT resumed the Chair)

Regarding the opportunities brought about by CEPA for the IT industry, as just said by Mr Howard YOUNG, the business opportunities, frankly speaking, will last for three months only, and by now, only one and a half months are left. The advantages involved (yes, they are advantages, not business opportunities) are just advantages lasting for three months, as opposed to the situation of international companies intending to tap the mainland market. Mr Howard YOUNG mentioned the carrying on of business as sole proprietorships just now. I completely agree with him on this point because this is exactly what the industry is longing for. However, the advantages that Hong Kong is currently enjoying will basically be over in about half a month's time.

In fact, friends in the telecommunications sector have written to the newspapers on their experience in applying for certificates with the Trade and Industry Department. They said it seemed to be a simple matter for them to apply for the certificates (required because they wanted to do business related to CEPA in the Mainland), but the application procedure was quite complicated. They had spent more than $100,000 on applying for the certificates, including the expenses required for appointing Hong Kong registered solicitors under the Association of China-appointed Attesting Officers to do the certifying procedure, and a fee payable to the solicitor for processing the affidavit before the applications were submitted. But, the applicants still could not get the certificate yet. This is very much in line with an ancient Chinese saying, "Before seeing the Magistrate, you have to first suffer the torture of thirty beatings by the plank." However, the torture is not really so significant. I hope the Government can see where the problem lies from such procedures.

However, several Honourable colleagues, including Mr Howard YOUNG, have mentioned Guangdong Province earlier. On this point, the opinions of the industry have also been included. In my speech moving the motion, I also mentioned that, the industry was actually striving for the establishment of a so-called "telecommunications special zone". This is largely identical to my concept. It is about the Pearl River Delta (PRD) Region as it will be relatively more difficult to request for the opening up of the entire market of China. In the PRD Region, there are a lot of Hong Kong manufacturers, who are also Hong Kong people. Is it possible to open up this area for Hong Kong IT companies to award them with the licences to operate their businesses as sole proprietors on an equal footing?

As far as I know, the Government has established a so-called consultative committee on telecommunications which will hold its first meeting tomorrow, and I shall take part in it as well. Thanks for the undertaking made by the Secretary. However, I strongly agree with what several Honourable colleagues have said just now. In fact, we really have to think about how to open up the mainland market, how to establish the "telecommunications special zone", and even the electronic games, as mentioned by Mr CHAN Kwok-keung just now. As regards such electronic games, it means that they want to become Internet content providers (ICP) as it is known on the Mainland. But it is impossible for us to operate the ICP business as sole proprietorships, and it must be conducted on a 50/50 ratio, that is, on a 50% holding of the business. But this is relatively difficult. Of course, some successful companies have done quite well. For example, an airline company launched its business in Shanghai two years ago, and as a result, the market value of this company has since grown enormously and rapidly. If Hong Kong companies can launch their business in the field of online games as sole proprietorships in the Mainland, the market before them will be very enormous.

We are still at a very early stage in the implementation of CEPA. Maybe the IT industry is just the last industry added after 17 or 18 other industries on the list of CEPA. The Government should spend more time on examining how it can assist the IT industry to tap the mainland market in its future discussion on CEPA, such as the building up of the "telecommunications special zone", the ICP network games, and so on. It will be a blessing for the Hong Kong IT industry if we are allowed to operate as sole proprietorships, or if a certain area can be designated for the business operations of the Hong Kong IT industry.

I also hope that the several Honourable colleagues who have spoken can work together with us in the IT panel in future to continue with our ongoing efforts. We are working in the same direction. However, I also hope that the Government can give us some assistance, as in the case of the banking sector, which eventually has successfully secured the right to accept Renminbi deposits. Can the same success be repeated in the IT sector in striving for the establishment of a "telecommunications special zone" in the Mainland for Hong Kong?

I so submit. I support Mr Howard YOUNG's amendment.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, first of all, I thank the eight Members who have spoken in the debate for their precious views. Since publishing the Digital 21 Strategy in November 1998, the Government of the Special Administrative Region (SAR) has been actively promoting the development of IT, and encouraging and assisting the application of IT by enterprises and members of the public, in order to enhance the competitiveness of Hong Kong and the quality of life of the public, and to develop Hong Kong into a leading e-commerce society and digital city.

The Digital 21 Strategy announced in 1998 puts emphasis on strengthening the IT infrastructure and services of Hong Kong and laying down a solid foundation for IT application. Subsequently, in May 2001, we announced a revised strategy and mapped out a series of measures for strengthening the e-commerce environment of Hong Kong, developing e-government, training IT personnel, building up a digital inclusive society, and applying technology that facilitates the development of IT. The target is to develop Hong Kong into a leading digital city.

Thanks to the efforts of the Government and various sectors of society over the past five years, IT development and application in Hong Kong have become more sophisticated. As regards our prominent achievements, as Mr SIN has already introduced them in detail, I will not repeat them here.

Although we have already made important progress in IT development, we will not feel complacent or stop moving forward. We have reviewed the implementation of the Digital 21 Strategy in 2001 and drafted a new strategy. And the draft new strategy will be put through public consultation between October and early December this year.

We consider that the future work of the Government under the new strategy is to render the momentum built up over the past five years sustainable, the proper application of IT continued, so that the business sector and the public can benefit from this and the status of Hong Kong can be strengthened globally.

The focus of the motion today is that the Government should take the opportunity of reviewing the Digital 21 Strategy to promote the use of IT by local enterprises, the public and the Government itself, enhance the exploitation of the

market opportunities for the local telecommunications industry brought about by CEPA, and to tie in with the Mainland's IT policies, with a view to creating business opportunities for both places, thereby achieving mutual benefits. All these are precisely the highlights in the new draft Digital 21 Strategy. Today, I will concentrate on introducing the four areas of work in the new draft strategy. The four areas are government leadership, e-government, promotion of IT application by enterprises and the public, and assistance to the IT and telecommunications industries in creating business opportunities, which also includes co-operation with the Mainland.

Government leadership and commitment are vital in promoting the application of IT by all sectors of society, enhancing the competitiveness of enterprises and Hong Kong as a whole, and improving the living quality of the people. The Government will continue to exercise its influence through public policies, utilization of resources, implementation of information systems and procurement arrangements to help achieve our goals. A very good example is the promotion of more extensive application of IT by enterprises and the public through the implementation of e-government programme.

Similar to the e-government programmes of other cities, our target and focus as a start is to provide services with an e-option. In the future, we have to deepen the development programme of e-government. Our focus will be to raise the utilization rate, improve the quality of services and increase cost-effectiveness. In the first half of 2004, we will draw up a strategy to further the development of e-government.

The promotion of the use of e-government services by enterprises and the public is very important, as this can assist us in promoting more extensive application of IT by various sectors and reap the maximum benefits brought by e-government. To this end, we have to ensure that e-government services, whether in terms of service quality, handling time and conveniency, can bring genuine benefits to the public. We will increase the utilization rate of selected services and consider implementing various incentives to drive the community and the business sector to take the electronic path. Besides, the Government will expand the scope of application of electronic procurement, starting with certain government procurement items. We will also introduce appropriate arrangements to encourage adoption by suppliers.

In line with the new emphasis of work for the next stage of e-government development, we will review the institutional arrangements in respect of business procedures, the role of private service providers, and so on, to ensure that there are proper leadership, resources and professional knowledge to cope with various challenges.

In the promotion of the use of IT by enterprises, we will continue to assist enterprises, especially small and medium enterprises (SMEs), through financial subsidies and other support measures, to apply IT in order to enhance their efficiency, productivity and competitiveness. The Government, together with various business support bodies and trade organizations, has provided a series of support services, including organizing some awareness building talks, workshops and seminars, in order to provide IT assessment services, training, consultation and hotline support services, and so on.

The Government has already set up four SME funding schemes totalling $1.9 billion to provide subsidy to SMEs of various trades for their training and market development needs, and to provide credit guarantee for SMEs in equipment procurement. SMEs can make use of these funding schemes to procure IT equipment and provide training for employers and employees, with a view to enhancing competitiveness through the application of IT in business operation.

In addition to the abovementioned assistance schemes applicable to various sectors, we will also launch other sector-specific programmes. As a first step, the Information Technology Services Department will assist the Travel Industry Council of Hong Kong in organizing activities to encourage IT application by travel agents. We will also co-operate with trade associations to make use of the related government subsidy programmes to develop common protocols, data standards and business solutions.

The Government will continue to endeavour to raise the awareness of the public to IT and increase their opportunities of using computers and the Internet, so that various sectors in the community can benefit from the development of IT and improve the quality of life. We will specifically take care of the needs of those who have less opportunities of using IT, including the elderly, housewives, new arrivals, people with disabilities, and so on.

First of all, the Government will continue to implement the "IT Hong Kong" Campaign, which comprises the introduction of free IT awareness programmes for different community groups, the organization of district promotional activities, the establishment of a dedicated website to provide information on IT and related activities, and the production of infotainment television and radio programmes, in order to introduce to the public the government measures in promoting IT development and the latest developments in IT. Besides, we have already extended the service period of IT Easy Link hotline enquiry service to June 2004, which is intended to answer the questions of the public in using general IT application systems. All government websites are already in compliance with the web accessibility guidelines to facilitate browsing by the visually impaired. The Government will continue to encourage private institutions to adopt this set of guidelines.

To cater for the need of those people who do not possess personal computers, the Government has already installed more than 5 300 public computers with Internet access at various convenient locations for free public access. Some of them have even installed screen enlarging software, power braille, voice synthesizer, and so on, to cater for the need of the blind and the visually impaired. The Government has also participated in and provided subsidy to the computer recycling programme launched by a non-government organization, by donating redundant computers to those who are in need. Other support measures include the provision of subsidy for purchase of computers to people with disabilities to facilitate their working at home.

The Government will continue to introduce more measures to build up a digital inclusive society. These measures include the provision, on a pilot basis, of a sound version of selected information on the websites of four government departments to enhance accessibility by the elderly and the visually impaired. We will also produce more informative radio programmes to encourage application of IT by the public. The Government has also installed over 150 additional computers in public libraries to enhance public access to the Internet and the Multimedia Information System of the libraries.

In terms of the policy on IT industry, the policy of the Government is to play the role of an enabler who promotes the development of IT industry into a vibrant and competitive industry. Although the economic policy of the Government will not provide direct subsidy to the industry, we will co-operate with the support groups of the sector and the trade associations concerned to

provide support in various aspects, as well as to explore more local, mainland and overseas business opportunities.

Our e-government programme ties in with the positive outsourcing strategy on government IT projects, and the extensive application of IT by enterprises and the community. All this will provide more business opportunities for the IT industry. However, the local market is after all very limited. The IT industry of Hong Kong must vigorously explore the mainland and other overseas markets in order to sustain vibrant development.

In this connection, the Government has been, through support institutions like the Hong Kong Trade Development Council (TDC) and the Hong Kong Productivity Council (HKPC), providing market information, research data and services like business matching to the IT industry, in order to assist the IT enterprises of Hong Kong in exploring mainland and other markets. The Government also join hands with support institutions to organize large-scale international exhibitions in Hong Kong, make arrangements for IT enterprises to participate in exhibitions in the Mainland and other places, as well as organize various activities under the memorandum of understanding on co-operation signed between Hong Kong and 12 countries, in order to assist the industry in exploring business opportunities and looking for business partners. Through the SME Promotion Fund, we also provide assistance to SMEs in the IT industry to participate in marketing activities like exhibitions.

The abovementioned measures can assist local IT enterprises in exploring business opportunities in international and mainland markets. Nevertheless, the Mainland is actually not only an enormous market, it is also one of our very important partners of co-operation. The Mainland possesses abundant technical and human resources for research and development, while its land and manpower costs are also relatively low. The Central Government and various provincial and municipal governments have also adopted the direction of information-led industrialization, providing a series of concessionary measures in various aspects like investment, taxation, industrial technology, attraction and training of talents, and so on, in order to vigorously pressing on the development of IT industry.

Hong Kong is an international trading centre and financing market, and it possesses a free business environment, a legal system which is sound and compatible with international standards, including the protection of intellectual

property rights. Hong Kong also possesses sound information infrastructure, and local IT enterprises also have rich experience in project management, marketing and sales, and so on.

The respective IT industries of the Mainland and Hong Kong have their own edges and are strongly complementary to each other. The officials of the Mainland and Hong Kong responsible for IT industry also maintain communication and exchange ideas at different levels, so as to enhance mutual understanding on the policy for the industry. Both sides also positively provide assistance in the co-operation between their respective IT enterprises, in order to complement each other's edges and to create a win-win situation. Governments of both sides are also actively assisting their respective IT enterprises in stepping up co-operation as well as in establishing partnerships to explore international market join-handedly. Under CEPA, both sides will strengthen co-operation in e-commerce, including such aspects as business application, promotion and e-government services.

As regards the telecommunications industry, since 1 October this year, companies in Hong Kong can operate a basket of five value-added telecommunications businesses in the form of joint ventures, subject to no regional restrictions. In order to assist the Hong Kong telecommunications sector in better grasping the business opportunities under CEPA, we have been exerting our utmost in ensuring the smooth implementation of CEPA. This includes leading a deputation of the Hong Kong telecommunications industry to Beijing in October this year to participate in a briefing on the implementation arrangements of CEPA conducted by the Ministry of Information Industry. Besides, we have also placed on the website of the Trade and Industry Department some mainland regulations on value-added telecommunication services to facilitate access of Hong Kong industries to the mainland market through CEPA.

CEPA is an arrangement of sustainable development. We are now at the starting point and will maintain liaison with the industry, with a view to working out further areas for inclusion into CEPA for the development of business opportunities on the basis of mutual benefit to Hong Kong and the Mainland. As regards the application procedures, we will try to simplify the procedures according to the need of the industry.

Apart from CEPA, through other mechanisms, Governments of both sides have also been assisting their respective IT industries in strengthening co-

operation. The Expert Group on Co-operation in Innovation and Technology under the Guangdong-Hong Kong Co-operation Joint Conference has also signed an arrangement on co-operation in innovation and technology in order to support the development and upgrading of the related industries in both places. That arrangement covers the software industry. The Commerce, Industry and Technology Bureau (the Bureau) and the Guangdong Provincial Information Industry Department will take turns to hold the forum on software industry in the Pearl River Delta on a regular basis, so as to strengthen the co-operation of both sides in software industry.

The SAR Government, together with the TDC and industry organizations, has been actively assisting in the co-operation of IT enterprises on both sides, in their taking orders in the international market, promoting mainland products in the international market or joint development of products. The Bureau has already earmarked some funds to set up a database on IT enterprises in Hong Kong, so that mainland enterprises, through the TDC website, can find suitable Hong Kong IT enterprises to establish partnerships for joint market development.

Besides, the Torch Hi-Tech Industry Development Centre under the Ministry of Science and Technology of China will be the co-organizer of the International ICT Expo in April next year. The Centre will organize the enterprises from a number of software parks in the Mainland to participate in the Expo at China Hall. The TDC will also assist enterprises of the mainland software parks to look for Hong Kong business partners, and will organize forums and talks on business matching during the Expo. It will also arrange for participation by software procurers and users of other regions in order to secure orders from the international market for Hong Kong and mainland enterprises.

The SME Development Fund has also agreed in principle to earmark some funding for an organization in the sector to launch a programme to enhance the knowledge of Hong Kong IT enterprises about overseas outsourcing businesses, assist Hong Kong and mainland IT enterprises in bidding together for overseas outsourcing projects, as well as setting up focused zones in the United States, European and Japanese outsourcing exhibitions together with mainland enterprises to fight for outsourcing projects.

Moreover, the Bureau and the HKPC are now studying with the related institutions in the Mainland on the provision of training to those mainland

software enterprises interested in taking international software outsourcing orders. As the next step, the Bureau will study the feasibility of setting up a software centre in Hong Kong together with the local sector and the related sector on the Mainland. The target is to enable the centre to operate on a commercial self-financing basis, to support the sector in internationalizing mainland software and localizing overseas software in the Mainland, and assisting Hong Kong and mainland IT enterprises in forging partnerships to take international software outsourcing orders together.

As competition in the international market intensifies, IT enterprises in Hong Kong must upgrade the quality of their products and services in order to maintain competitiveness. In recent years, the mainland authorities have been actively supporting the software enterprises to achieve internationally recognized software quality standard. The purpose is to attract overseas enterprises to outsource their software projects to software enterprises in the Mainland. The SAR Government, through its support institutions like the HKPC, has also been providing quality assurance support services and promoting some internationally recognized standards among the local software industry, such as Capability Maturity Model (CMM). In order to assist the local software enterprises in adopting CMM, the SAR Government has, through funding from the Innovation and Technology Fund, set up a CMM assessment fund to provide financial support that will help software enterprises to achieve CMM Level 2 or higher.

The Government also encourages the local sector to promote software process improvement (SPI). One example is to subsidize the sector in organizing the Asian-Pacific Software Engineering Conference 2003 so as to enhance the quality of products and services of the local IT industry.

As regards product development, the Government is studying how to effectively bring our strengths in scientific research into play to tie in with the enormous market in the Mainland and its productivity, so as to strengthen the practicability of applied research to the industry and to promote commercialization of the results of scientific research. We will step up co-operation and exchange with the mainland authorities, study how to make use of the resources of both sides to complement each other's edges, press ahead with projects that yield mutual benefits, speed up dovetailing of applied research with the industry, and provide a technology platform to enhance competitiveness of the industries in both areas.

In respect of the training of IT personnel, the Education and Manpower Bureau, in the light of the Government's goals for education in the future and the past experience, is now mapping out a strategic direction for the further development of IT education. Besides, we will continue to liaise with the industry and training organizations and encourage various educational institutions and training organizations to continue reviewing and improving the contents of IT courses to tie in with the development of the IT sector and to meet the needs of the market.

We will continue to study with the industry the methods of raising the professional status of local IT personnel, and the proposal of setting up a mechanism for mutual recognition of professional qualifications of both places.

Madam President, the Digital 21 Strategy is the blueprint for IT development of Hong Kong in the coming years. The public consultation on the new strategy already completed on 10 December. We have received more than 80 submissions and we are going to study them in detail before finalizing a new strategy, which will be announced early next year. We will, building on the existing foundation, endeavour to maintain the momentum accumulated over the past five years, strengthen and deepen various measures so as to encourage and assist enterprises and the community in using IT properly, enhance the competitiveness of Hong Kong, and assist the IT and telecommunications industries in creating business opportunities. The Government will also continue to act as an example in promoting the e-government programme vigorously and to provide higher quality and more convenient public services to various sectors.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Howard YOUNG to Mr SIN Chung-kai's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(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 SIN Chung-kai, you may now reply and you have one minute five seconds.

MR SIN CHUNG-KAI (in Cantonese): During the speaking time just now, eight Members and the Secretary for Commerce, Industry and Technology have spoken. As a recapitulation of the IT strategy in the past five years or so, I should say that the first phase, or the initial phase, should be about capacity building, that is, about encouraging IT application among people. The next phase should be about job creation, that is, about studies on how the IT industry can create more employment opportunities. IT itself is after all an industry. India is a success example and worthy reference for us. We must examine how we can work with the Mainland to create more jobs for Hong Kong people.

With these remarks, I hope Members can support the motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mr SIN Chung-kai's motion, as amended by Mr Howard YOUNG, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by

functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion as amended passed.

PRESIDENT (in Cantonese): Second motion: Labelling scheme on nutrition information.

LABELLING SCHEME ON NUTRITION INFORMATION

MR FRED LI (in Cantonese): Madam President, currently, our legislative control on the labelling of prepackaged food is mainly exercised through the Food and Drugs (Composition and Labelling) Regulations (Regulations) under the Public Health and Municipal Services Ordinance (Cap. 132). The Regulations mainly provide that prepackaged food shall be marked or labelled with a list of ingredients (including additives), the appropriate durability indication and the name and address of the manufacturer or packer.

However, there is currently no legislation in Hong Kong requiring the labelling of the nutrition contents of prepackaged food, nor do the laws stipulate any standards for labelling. Though nutrition labelling is sometimes found on some prepackage food, it is merely provided by the manufacturers of their own accord. But when it comes to whether there is any exaggeration, it is very difficult for the consumer to know whether the nutrition contents claimed by the manufacturer is true and accurate.

We believe that as the living standard in Hong Kong rises, people's expectations regarding their food are no longer confined to flavour and basic nutrition. The food information people want is similarly no longer restricted to ingredients; instead, they also want to know the nutrition contents of the food they buy. Recently, in December, the Democratic Party conducted a survey and found that over 60% of the respondents would buy food with nutrition claims, such as those claimed to have high-calcium, high-fibre, low-fat or cholesterol-free contents. And, nearly 60% of the respondents also said that they "entirely believe" or "quite believe" these nutrition claims, showing that such food does appeal to consumers.

But according to the product tests conducted by the Consumer Council this year on prepackaged food for sale in Hong Kong, the fibre content of some so-called high-fibre food is even lower than that of those that do not carry such claims. The bread I have now in hand is one of the food products with a high-fibre claim, but the test finds that its fibre content is even lower than that of ordinary rye bread with no such claim. What actually is meant by "high-fibre"? In the absence of any labelling law, practically any claims can be made, and this is basically what the situation is. In some cases, the food product concerned even fails to meet the requirements on "high-fibre" claims set down in the Nutrition Labeling and Education Act of the United States. In the case of some so-called high-calcium and low-fat milk, the calcium contents are even lower and the fat contents higher than those of other milk making no such claims. To ordinary consumers, manufacturers' exaggeration of nutrition contents is at worst mere cheating, but in the case of an already obese consumer suffering from hypertension or heart disease, if he is taken in by such a claim and buys these so-called low-fat food regularly, his health and disease will certainly deteriorate. In the end, this will only add to the health care burden of the Government and society. Let me quote one more example. What I have here is a pack of so-called light digestive biscuits, claiming to have 25% less fat. But nowhere on the entire package is it mentioned why this is the case. Nor is the package marked by any nutrition labelling or contents. This is made in the United Kingdom. When the consumer sees "25% less fat", he may immediately think that it is really "good stuff". But is this really the case? Is there any proof? There is simply no such information. In contrast, on the package of this bottle of coffee from the United States, there is information on the specified 14 core nutrients, giving the consumer a clear and instant idea about its content. I have covered its brand name because I do not want Members to see it, do not want to do a commercial for it here. All American food products will carry very clear information on the 14 core nutrients, because the United States Government makes it mandatory for all prepackaged food to label information on the 14 core nutrients.

Nutrition labelling can assist consumers in knowing more clearly the nutrition contents and values of food, thereby enabling them to select the kinds of food that better suit their personal needs. In the case of a kidney disease patient, for example, he should be careful with the sodium content of his food. I believe Dr LO Wing-lok will also agree that with nutrition labelling, such a patient will be able to compare the sodium contents of different food products, find out their

respective sodium contents, and then choose the one with the lowest level, so as to avoid an excessive intake of sodium and aggravating his condition. Unfortunately, the patient cannot do all this now.

The information on overseas examples supplied by the Government shows that, as estimated by the Food and Drug Administration of the United States, a mandatory labelling scheme on nutrition information will save as much as US$4.4 billion to US$26 billion in 20 years; the Canadian Government thinks that this can reduce the incidence of chronic diseases, achieving a saving of 5 billion Canadian dollars in 20 years. As for the Australian and New Zealand Governments, they estimate that 320 to 460 lives can thus be saved every year. In Hong Kong, heart diseases, stroke, kidney-related diseases and diabetes are currently the top ten killer-diseases. These diseases all require food therapy as a form of treatment and a means of preventing complications. However, due to the absence of a labelling scheme on nutrition information in Hong Kong, local patients or chronic patients, or the dieticians assisting them in selecting food, all face many difficulties, because when food products carry no labelling on their nutrition contents, it is simply impossible to know whether there is any unsuitable ingredients, or any excessive quantity of a particular ingredient, such as excessive saturated fat. What is more, even if a food product is labelled with nutrition information, it will still be difficult to ascertain whether the manufacturer is telling the truth.

I attended a consultation forum held by the Government last week. According to Dr HO Yuk-yin, who represented the Food and Environmental Hygiene Department in the forum, 30% of Hong Kong people are obese (I am one of them), 7% of them are fat (I am again one of them), and 45% of old age females are suffering from osteoporosis, which is a very high proportion. Therefore, though people may not suffer from any incurable diseases, if they can know the nutrition information on their food through a mandatory labelling scheme, they will definitely — definitely, I must stress — be better able to select wholesome food. Such a scheme will have a very positive bearing on protecting people's health. The medical doctors and dieticians present at the forum all asked for the prompt establishment of a mandatory labelling scheme.

Madam President, I maintain that the establishment of a mandatory labelling scheme on nutrition information by the SAR Government will definitely be a very significant step towards protecting public health. To care for and look

after Hong Kong people's health, to be able to choose wholesome food, to alleviate the conditions of chronic patients, to lighten the Government's health care burden and to achieve the aim of preventive medicine, we must put in place an exhaustive and mandatory labelling scheme on nutrition information.

In the consultation paper on a labelling scheme on nutrition information recently released by the Government, it is proposed to phase in a labelling scheme. Initially, there will be a grace period of two years for the related industries to make adaptations. Two years after that, Phase I will be implemented, during which the industries can decide on their own whether to provide nutrition labelling except for foods with nutrient-related claims. Phase II will be introduced only three years after the implementation of Phase I, and in this phase, the labelling scheme on nutrition information will be enforced on a full-scale and mandatory basis. However, the proposed scheme will not be applicable to infant/follow-up formulae, foods for infants and young children, and other foods for special dietary uses.

The primary concern of the Government in the formulation of food safety policies should be the protection and promotion of public health. Any other factors, such as industry interests, though should also be considered, must never be allowed to take precedence over the interest of the wider public in Hong Kong and to stop us from heading in the direction of establishing a mandatory labelling scheme on nutrition information. Therefore, the Democratic Party supports the general direction proposed by the Government as a means of regulating prepackaged food in general. We also think that the "9+1" proposal, that is, the proposed set of nine core nutrients plus energy is an appropriate starting point.

Although we fully support the Government, we still think that we should look further at the timeframe for implementing the proposed scheme. According to the schedule proposed by the Government, except for food with nutrient-related claims, there will be a grace period of five years in total for all the other kinds of food. The grace period is much too long; even if we now start to count the two-year grace period before the implementation of Phase I, the full-scale implementation of the scheme will still not come until as late as 2009. From the perspective of protecting and promoting public health, the pace of the Government is really too slow, and its position is also much too conservative. We hope that the Government can set down a legislative timetable, implementing

Phase I and Phase II of the proposed scheme in the consultation paper over a span of three years. We are not the only ones advocating an expedited legislative process; the Consumer Council, the medical doctors and dieticians who spoke during the Government's consultation forum last week and also many of the members of the public interviewed by us all hold the same view.

As for infant/follow-up formulae, foods for infants and young children, and other foods for special dietary uses, we are of the view that they are in even greater need of nutrition labelling than other types of food. Members present who are parents should agree that when our children were still infants, we had to choose the food for them very carefully. But without any nutrition information, how can any choice be made? Therefore, we hope that the Government can launch the studies as soon as possible to explore the feasibility of bringing theses types of food under the ambit of the scheme.

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

Mr Fred LI moved the following motion: (Translation)

"That this Council urges the Government to expeditiously introduce a mandatory labelling scheme on nutrition information for prepackaged food and draw up a legislative timetable to implement, in three years' time, the first and second phases of the scheme as proposed in the consultation paper, so as to facilitate consumers in choosing foods that are beneficial to health; besides, as the international community has not yet arrived at a consensus on how to regulate foods for infants and foods prepared for people with special dietary needs, this Council also asks the Government to carry out a study as soon as possible, to explore the feasibility of including these food products in the scheme."

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

Mrs Selina CHOW will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate. I now call upon Mrs Selina CHOW to speak and move her amendment.

MRS SELINA CHOW (in Cantonese): Madam President, I move that Mr Fred LI's motion be amended as printed on the Agenda.

Madam President, the numerous legislative control measures introduced in recent years have in fact imposed a very heavy burden on the food industry. Having said that, I must first make it very clear that if the industry is thinking about operating long term in Hong Kong, it is most important for it to look after the long-term interests of consumers (that is, their bosses, so to speak). And, the interests of the industry and those of consumers are never mutually exclusive, never conflicting, because customers will after all have to pay, not to speak of the fact that looking after consumers' interests as well as publicity on product functions are a means of market promotion, which, if properly used, will help boost sales.

What then does the industry oppose? It opposes the Government's attempt to rush to the forefront of the world without first adequately understanding the realistic situation and the limitations faced by us in the industry, and without assessing what price has to be paid. Such an attempt will probably impose an unnecessary burden on the market and the economy without benefiting consumers as desired.

To begin with, one must realize that Hong Kong has to import 90% of its foods — 18% from the Mainland and 72% from the rest of the world. To the countries and places supplying us with foods, Hong Kong is just an extremely tiny market. That is why it is unlikely that their manufacturers will make any special adaptations to satisfy the laws of Hong Kong. In that case, local importers, wholesalers and retailers will have to assume the responsibility of fulfilling all the labelling requirements under the law. And what we are discussing now, the printing of nutrient labels, for example, will have to be carried out by the various business sectors I have just mentioned.

Some constituents of mine have told me that a medium-sized company, for example, which imports roughly 400 types of products will have to spend $1.2 million on labelling all the 400 types of products to meet the proposed nutrient labelling requirement. In the case of a large supermarket chain, it will have to label roughly 30 000 types of products. So, we must assess, first, the pressure exerted by labelling on operating costs and, second, by how much the prices paid by consumers will increase in the end. I am not saying that they will definitely be reluctant to pay, but the problem is, the most important point is, that they

must find it worthwhile. They must be able to see the benefits before they find it worthwhile to pay.

The problem now is that there is simply no commonly accepted nutrient labelling system in the world, as was mentioned clearly by Mr Fred LI when quoting product examples. The United Kingdom, for example, is a developed country having very advanced systems, but its product labelling system is still different from that adopted by the United States. Actually, as we all know, different systems exist in the world. In the European Union and China, both being so vast, there has so far been no legislative requirement on nutrient labelling, nor is there any in Singapore. All of them simply advise suppliers and retailers to provide such labelling on a voluntary basis.

I am sure that Mr Fred LI will immediately try to refute my point, arguing that there are such requirements in the United States and Canada. But the point here is that in every different market, there will be different legislative requirements on the provision of such labelling, and there is simply no commonly accepted system. We in Hong Kong have to import 90% of our foods, and all these come from many different places with different systems. So, are Members in fact saying that local merchants should themselves arrange laboratory tests or do other highly expensive work for all these products coming from different markets, so as to meet the requirements of this nutrient labelling scheme, this nutrient labelling scheme established by ourselves?

The problem is that it will not be easy to satisfy many of the requirements proposed by the Government, one example being the labelling of the 10 specified items of nutrition information. And, what worries the industry even more is the question of "nutrition claims". This is about what Mr Fred LI has just talked about — the definition of "low fat", of sugar (he talked about that too), of "high calcium", of "low calcium", and so on. It seems that the Government is proposing an approach of setting down rigid indicators; for example, any food product containing less than 3% fat in its content will be classified as "low fat", and those with more than 3% will be classified as "high fat". The problem here is that the "low fat" foodstuffs that we import, such as butter and margarine, all contain 40% fat. Does this mean that we should forbid people to describe these so-called "low fat" foodstuffs as "low fat". If not, what are we going to do? To cover up the word "low" on the package? Or, to require them to be repackaged before sale? And, is the Government going to ban their sale

altogether, or to allow their sale all the same but forbid any reference to "low fat"?

Another example is that the food product concerned may indeed be "low fat", because "full fat" butter contains 80% fat. This means that butter containing just 40% fat can already be considered "low fat" butter. This example can enable us to realize the crux of the problem. When it comes to milk containing fat, full milk contains 3.2% fat, but the proposal now is that milk containing 3% fat should be considered "low fat". Do Members thus agree that full milk is actually more or less able to fulfil the "low fat" requirement? This is simply impossible, downright ridiculous.

Therefore, a rigid approach can never work. And, Members must also be very careful in this respect, because claims are themselves very important. In the sales process, claims can tell consumers what types of products they are looking at, so that they can make their choices accordingly. But if no claims are allowed, how can we set down any rigid indicators to ensure that consumers are not prevented from getting the true information? All these are problems which we should look at.

Besides, there is also the question of whether or not the provision of all such information can really help consumers. As mentioned just now, there is just so much information on nutrients, ingredients, and so on, particularly on protein, fat and various others. Mr Fred LI even expressed the hope that our food can help us prevent diseases (presumably believing that a proper diet will bring us better health and fewer diseases). But the problem here is that all this will have to depend entirely on whether consumers in society can know what amounts of nutrient are beneficial and proper to themselves. This then involves not only the question of nutrition claims, but also wider education, or precisely, a small part of wider education. As long as consumers know the benefit of all these nutrients, they will certainly know how to make their own choices. If the opposite is the case, all will just become nothing but just a bunch of figures. They may not necessarily derive any benefit, because such information will not help them make their choices unless they know the direct connection of these nutrients with their health.

To sum up, all in fact boils down to whether it is sensible to set down any rigid indicators, or whether or not the Government should set down a timetable deemed to be acceptable to all only after it has conducted negotiations, studied

the development of other countries in this respect, made sufficient education efforts and allayed anxieties. In fact, this is the only way to really ensure that business operation will not be adversely affected while also protecting consumer choice and avoiding any increase in their burden. Only this can benefit society and the public.

Thank you, Madam President.

Mrs Selina CHOW moved the following amendment: (Translation)

"To delete "the Government to expeditiously introduce" after "That this Council urges" and substitute with "that, before introducing"; to delete "and draw up a legislative timetable to implement, in three years' time, the first and second phases of the scheme as proposed in the consultation paper" after "prepackaged food" and substitute with ", the Government should conduct a regulatory impact assessment, taking into account the views of the public, consumers, importers, distributors, wholesalers, suppliers and retailers, and make reference to relevant overseas experience and practices"; and to delete "; besides, as the international community has not yet arrived at a consensus on how to regulate foods for infants and foods prepared for people with special dietary needs, this Council also asks the Government to carry out a study as soon as possible, to explore the feasibility of including these food products in the scheme" after "foods that are beneficial to health"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mrs Selina CHOW to Mr Fred LI's motion, be passed.

MR HUI CHEUNG-CHING (in Cantonese): Madam President, a labelling scheme on nutrition information undoubtedly enables people to choose healthy food and safeguards public health, as well as imposes effective regulation on misleading or deceptive nutrient-related labels and claims to protect people from being cheated. In the long run, the Government really needs to introduce a labelling scheme on nutrition information. However, a good policy not only requires a correct objective, but also full consultation to assess the impact on various sectors and to balance all the interests before implementation.

Although the Government has considered a number of factors, including the Codex Alimentarius Commission Guidelines, health condition of the local people, and so on when devising the scope and requirements of the labelling scheme which appears to be very comprehensive, I urge the Administration to fully consult the trade before implementing such a scheme. If the views of the trade are neglected, it runs every risk of doing something bad out of good intentions. Any regulatory measures have to avoid overkill. Otherwise, stepping up protection becomes dealing a blow and only the opposite effect will be achieved. Therefore, before the implementation of a mandatory labelling scheme on nutrition information, the Government must first assess the impact of such a scheme on the trade, which includes the impact of the new measures on importers and exporters, retailers, wholesalers and suppliers. Otherwise, if the new measures deal a heavy blow to the trade, I worry that it will only lead to fewer choices of food for the people.

The primary concern of the trade is that once the proposals are implemented, the trade has to pay the fees for laboratory tests, which will inevitably lead to a rise in costs. Although mandatory labelling on exports and imports is in place in the United States, Malaysia, Japan, Australia and New Zealand, their standards are quite different from those proposed by the Hong Kong Government. The standards proposed by the Hong Kong Government are set mainly in accordance with the health condition of the local people. Therefore, the 10 core nutrients selected are different from those in the other regions. Most importantly, China is, in fact, the greatest importer and exporter of prepackaged food of Hong Kong, but not a word has been mentioned in the consultative paper prepared by the Government about the current condition of nutrient labelling of prepackaged food in the Mainland. As far as I know, there is no mandatory labelling on nutrition information for prepackaged food in China. Given this, in order to add nutrient labels in compliance with the new scheme, the trade itself has to pay the fees for laboratory tests of food and this will inevitably raise the operation costs.

However, business is business, we have to acknowledge the fact that Hong Kong only takes up a very small share of the global food market. Hong Kong is a city but not a country. To introduce an independent labelling scheme on nutrition information will encounter difficulties in implementation. I am concerned that some overseas manufacturers will eventually give up the small Hong Kong market after considering the rise in costs. Since most of our food is imported, if legislation on nutrient labelling really becomes an obstacle to the

import and export of food, the impact will be very great. The people will be indirectly deprived of their right of choice. I think the Government must conduct an assessment on the impact of introducing regulation.

A Member suggested the labelling scheme on nutrition information be implemented in three years' time. In other words, it is two years shorter than the five-year period proposed by the Government to implement the mandatory labelling scheme on nutrition information. This proposal obviously fails to consider the fact that the trade needs time to tie in with the scheme. We should realize that the intention of the Government of giving a grace period is to allow the trade time to make preparations. Without full consultation of various sectors and comprehensive assessment of the impact of the scheme on the trade, the implementation of the scheme is rather hasty. Certainly, as a labelling scheme on nutrition information can safeguard the health and the right to information of the people, theoretically, the sooner it is implemented the better. However, as I have said earlier, before a good policy is formulated, its impact on various sectors should be assessed and all the interests should be balanced. I believe a lot of people in the trade may not be able to cope with the scheme if it is implemented in such a hasty manner. If importers reduce the variety of food in order to avoid a rise in costs, it is the people of Hong Kong who will ultimately suffer.

Madam President, I so submit.

MR WONG YUNG-KAN (in Cantonese): Madam President, the former Minister of Health of the United Kingdom said not long ago that the most severe health problem the world now faces is not AIDS, but obesity and chronic diseases like diabetes and heart disease caused by the consumption of "junk food" like potato chips, candies and soft drinks. The problems caused by "junk food" not only plague the Western societies but also Asian countries where obesity, diabetes and heart disease have started to become a cause of concerns. This leads to a rise in medical expenses and a direct drag down of the national health level. In Hong Kong, cancer, heart disease, kidney disease and diabetes constantly rank high among the 10 leading fatal diseases. In the year of 2002 only, 20 000 people died of these four diseases. It is estimated that in Hong Kong this year, 400 000 people will contract diabetes, 440 000 will have hypertension and 1.6 million will suffer from extreme overweight like me. Although the causes of these diseases are many, an imbalanced diet and over-

consumption of "junk food" is undoubtedly one of the major contributory factors.

Madam President, the current principle of food regulation in Hong Kong focuses on safety, that is, as long as no one immediately dies or falls sick after consuming a certain type of food, it is regarded as up to standard. However, no special policies are formulated to remind consumers to maintain a healthy diet. In fact, back in the year of 2000, when Mr CHAN Kam-lam of the Democratic Alliance for Betterment of Hong Kong (DAB) moved the motion on a review of the labelling scheme of prepackaged food, he, on behalf of the DAB, had already proposed to conduct a study on the feasibility of introducing a labelling scheme on nutrition information. The DAB thinks that while consumers buy food with "real money", apart from meeting their appetite, they should also have the right to know the nutrient content of the food.

Some people in the food trade regard sound legislation on food labelling as a great disaster. First of all, they object to the labelling of genetically modified food. Now they object again to the introduction of a labelling scheme on nutrition information. Their grounds for objection are merely that the introduction of such a new labelling scheme will raise the business costs and reduce the choices of food for the people. Although they keep talking about protecting the right and interest of consumers, and recognize the importance of increasing the transparency of food information, they are dead against the introduction of a mandatory labelling scheme. They only agree to voluntary labelling.

The DAB understands that the introduction of a labelling scheme on nutrition information will raise the operation costs of the trade. However, to what extent does it affect the trade that it should become a cause for concern? According to the figures provided by the Government, the maximum cost of laboratory tests for food nutrition is $6,000. This may account for 1% or not even 0.1% of the annual advertising budget of some food traders. Moreover, a grace period will be granted before the implementation of the scheme so that the trade will have time to re-design the labels and adapt to the legislation. Therefore, we cannot see that the operation costs of the trade will suddenly leap to an unacceptable level. As regards the choice of food, some food traders who have no confidence in their own products may be put off by nutrition labelling. However, the introduction of nutrition labelling exactly aims at showing food nutrient so that people have a right to know and a right to choose. We believe

that people would rather have fewer choices than a whole array of junk food flooded into Hong Kong, making Hong Kong a paradise for dumping of junk food.

Madam President, as regards the consultative paper on labelling scheme on nutrition information, our prime concern is about two areas, namely, the nutrient-related claims and the timeframe of implementation. Nowadays, there are a lot of food products in the market that claim to contain high calcium, low fat or to be rich in vitamin C, and so on. These claims are similar to those by health food products, which we discussed some time ago, stating that those products have the effect of slimming, weight loss, detoxification, and so on, which all sound very attractive to the consumers. However, on such questions as whether those food products in fact contain high calcium and low fat, and how high calcium and low fat can be defined, currently, there is no objective definition and proper regulation in Hong Kong. To quote a rather extreme example, under the present circumstances, even if a food product contains only 0.1 mg vitamin C, it may still claim it is rich in vitamin C. A survey released by the Consumer Council on Monday also stated that the absence of clear definitions of nutrient-related claims of food products presently is detrimental to consumer interest. Therefore, the DAB supports imposing stringent regulation on nutrient-related claims to safeguard the right of the consumer.

As regards the timeframe of implementation, the consultation paper proposes to allow the trade a two-year grace period before implementing the voluntary labelling scheme, and another three years before implementing the mandatory labelling scheme. If the consultative and legislative processes can be completed smoothly in the next two years, the mandatory labelling scheme will be implemented in 2009 at the earliest. However, from the experience of setting up a labelling scheme on genetically modified food, it is impossible to have the consultative and legislative processes completed in two years' time. By deduction, this talk of implementing the mandatory labelling scheme on nutrition information in 2009 is all just pie in the sky. Therefore, in order to protect the right and interest of consumers and to improve the imbalanced diet of the people, it is imperative for the Government to shorten the timeframe. The original motion proposes to implement Phase I and Phase II of the labelling scheme mentioned in the consultative paper in three years' time, the DAB thinks that the timing is appropriate. Therefore, we will support the proposal of the original motion.

Madam President, I so submit.

MR MICHAEL MAK (in Cantonese): Madam President, the people in general do not have comprehensive knowledge on nutrition. They often take some "junk food" such as potato chips, soft drinks, fishballs and cuttlefish fillets, and so on. They often eat such food of high fat, high calories and high cholesterol content without realizing it. When they become overweight, they will try all the kinds of methods to lose weight. That explains why advertisements on slimming products and programmes are so prevalent now. However, this is not the greatest problem. It is the possible emergence of various kinds of diseases that worry us most.

As a common saying goes, "Prevention is better than cure." Instead of taking on some slimming programmes afterwards, it is much better for us to control our own eating habits. Therefore, it is necessary for the Government to introduce a mandatory labelling scheme on nutrition information for prepackaged food, so as to facilitate the people in choosing foods that are beneficial to health. In the long run, the Government should also review the issue of labelling non-prepackaged food. For example, fast food shops should specify the nutrition facts of a serving of potato chips. Only in this way can we protect the health of the people in a comprehensive manner.

According to the findings of a survey released by the Department of Health in August, among secondary and primary schoolchildren who had received health screening, the ratio of fat children is one to five, which represents a 1.5% increase over the previous academic year. According to the statistics of the Hospital Authority, there were 11 062 stroke patients in 1981. However, this figure escalated to 15 577 persons in 1991, and it even soared substantially to 24 982 persons in 1999. Now, there is a rising tendency for people in their prime to have stroke attacks. In fact, many diseases are definitely related to our eating habits, and the effects are cumulative. The labelling scheme on nutrition information are surely helpful to the people in building up good and balanced eating habits, thus reducing the chances of disease incidence. Upon the implementation of the labelling scheme, the public will be benefited because this will help improve the people's understanding of nutritional concepts, which will enable them to choose the nutritional food for themselves according to their own physical conditions.

Teaching the people to maintain a healthy eating habit is one of the significant elements in promoting primary health services. However, presently the people do not have sufficient understanding of the labelling of nutrition

information. Therefore, the Government must strengthen its educational initiatives and promotion in the community through such channels as seminars, advertisements, pamphlets, leaflets, and so on, so as to teach the students and the people how to tell the differences from the food labels as well as how to choose nutritionally balanced foods for themselves.

The nutrition labelling system is especially important for patients. As we do not have a labelling system now, many patients do not know the exact nutrition information of foods. So all they can do is to make a good guess about it. For example, kidney patients should not have excessive protein intake, or their kidney function will be impaired. People suffering from hypertension have to control their sodium intake. Heart disease patients cannot eat too much food with high cholesterol and excessive saturated fat, otherwise it will lead to hyperlipidemia, and they will become vulnerable to stroke attacks. If all the food is properly labelled with nutrition information, patients can determine their food intake according to such information on the food labels.

According to the findings of a survey conducted by the Consumer Council on nutrition information for prepackaged food in mid-December, of the 45 samples tested by it, 15 do not carry any nutrition tables at all. The survey also reveals that many products belonging to the same categories do not adopt the same benchmark contents, and it is very difficult for consumers to compare the nutritional contents of different products. In order to protect consumers' rights to know and choose, it is imperative for the Government to expeditiously introduce a mandatory labelling scheme on nutrition information for prepackaged food.

The Government proposes to implement the nutrition labelling scheme in two phases, and recommends a two-year grace period for the industry before launching the first phase. This has provided absolutely sufficient time for the industry to make the necessary preparations. Mrs Selina CHOW has proposed an amendment simply out of commercial considerations, with the intention of deferring the legislative timetable indefinitely, in total disregard of the people's health. Therefore, I cannot support the amendment.

Many countries, such as the United States, Canada, Australia, New Zealand and Japan, have already implemented mandatory nutrition labelling. In order to protect the health of the people of Hong Kong, the Government must, apart from expeditiously introducing a mandatory labelling scheme on nutrition

information for prepackaged food, step up its effort in inspecting certain foods already labelled with nutrition information, as well as prosecuting manufacturers of prepackaged food that carry misleading information. With these remarks, I support the original motion.

DR LO WING-LOK (in Cantonese): Madam President, on the minds of the people of modern times, it is very important that we can be the masters of ourselves. To be our own masters, we certainly must not eat whatever we are fed — not eating whatever put before our mouths without knowing what it is. I think as the people of modern times, we must hold a more conscious attitude as far as eating is concerned. I am not telling people to be pretentious, nor am I preaching the philosophy that we should be very picky in the food we eat. All I am saying is, I hope, before Hong Kong people eat anything, they can think for a moment why they should eat such food, whether such food answer their reasons for eating. And we should never be eating without distinguishing what are the good foods and what are the bad ones — we should never allow ourselves to swallow up whatever is served to us, even the "garbage".

To a healthy person, if we can maintain a conscious eating attitude, we shall be able to become healthier both physically and mentally. This is because if we can maintain a conscious eating attitude, we can get the right nutrition required by our bodies — not too much, nor too little. And we shall not become too thin, nor too fat, and this is very good to us psychologically as it gives us a feeling that we are more active and more positive. For some chronic patients, such as patients suffering from diabetes, overweight, heart disease, kidney disease and hypertension, a conscious eating attitude is particularly important, because these patients, even if they have taken a lot of medicine, will not be able to get the desired curative effect if they do not have a clear understanding of what should be eaten and exercise no self-discipline.

The most conscious way of eating must start with the ingredients. If you involve yourself in all the procedures — you buy the ingredients, cook them and eat them, this is of course the best way of controlling what you eat. Although some people can do this some of the time, they still inevitably have to eat some prepackaged food. Taking the condiments as an example, we cannot possibly manufacture them all by ourselves. If we want to find out the nutrition ingredients of the condiments, we have to rely on appropriate labelling. For

most Hong Kong people, even if they want to adopt a conscious eating attitude, it is absolutely impossible for them to buy the ingredients and cook the food themselves in all their meals. So, to a certain extent, they have to rely on some prepackaged food. For this reason, it is very important for such food to carry accurate and detailed labelling if we want the people to have a conscious eating attitude and habit. And insofar as labelling is concerned, the nutrition information is of course an indispensable part of such labelling. Therefore, I support the introduction of a mandatory labelling scheme on nutrition information by way of legislation; and the Government's proposed requirement of listing 10 nutrients is a reasonable starting point. Some people hold the view that the requirement of listing 10 nutrients is too harsh, for Southeast Asian countries or places do not require the listing of so many nutrients. Some only require four. I have to point out that, according to the timetable provided by the Government, when the listing of 10 nutrients is implemented, it will possibly be 2010, that is, seven years later. By then, the requirement of listing 10 nutrients may only be the basic requirement for compliance with the world standards. Therefore, if we are preparing ourselves for 2010, the requirement of listing 10 nutrients is by no means a stringent requirement. I think it seems too conservative to ask the people of Hong Kong to wait until 2010. For this reason, I support the proposal of shortening the grace period to three years as proposed in the original motion. In fact, three years are already sufficient time for the industry to make the necessary preparations. I believe all the printed packings produced ahead of time would surely be used up by then. If we could give an advance notice, the market will be in a better position to adapt to the change.

Lastly, I would like to highlight one fact, that is, the introduction of this measure of nutrition labelling alone is insufficient because we need to make the people know how to read those nutrition labels. Therefore, the Government and all the relevant non-government organizations as well as those sectors related to medicine and health should work jointly to provide a chance for the people of Hong Kong to learn about the significance of a balanced diet and understand the meaning of nutrition labels. In this way, they can buy prepackaged foods with full knowledge of their nutrient contents, thereby making all the people in Hong Kong adopt a more conscious eating attitude and eventually becoming healthier and happier.

Madam President, I so submit.

MR TOMMY CHEUNG (in Cantonese): Madam President, altogether three motion debates have been held on food labelling and the regulation of food claims during this year. Regarding the genetically modified food labelling system, Mr Fred LI proposed to adopt a "voluntary first, and then mandatory" approach. In this discussion on the nutrition labelling system, Mr LI demands that the lead time for implementing a mandatory labelling scheme on nutrition information be shortened. Once implemented, such stringent regulatory measures will not just deal a blow to the food industry and the retail market, but also undermine the competitiveness of the business environment of Hong Kong. Before the relevant problems are properly resolved, we are unable to support the Government's hasty implementation of the mandatory labelling scheme on nutrition information.

In fact, in the Codex Guidelines on Nutrition Labelling formulated by Codex Alimentarius Commission (CODEX), the food authority of the world, not all foods are required to carry nutrition labels on a mandatory basis. The set of guidelines suggests that the industry should decide for themselves according to the actual circumstances of their respective food markets. For foods with no nutrition claims, the manufacturers may determine of their own accord whether labels should be provided. Only foods with nutrition claims are required to have nutrition labels attached to them.

Regarding the situation in Hong Kong, according to the consultation paper, nearly all prepackaged foods are required to carry nutrition labels on a mandatory basis. It is really unnecessary to implement such a requirement which is even more stringent than those advocated by CODEX. There is presently no consensus on the nutrition labelling system in the world. Just quoting the European Union and the United States as examples, there are already two completely different systems. As for Singapore, which is very similar to Hong Kong in many ways, it has only implemented a voluntary nutrition labelling system with reference to the suggestion of CODEX. Why should Hong Kong alone act with such great haste in implementing the most stringent labelling system without ever considering the impact that may be brought about by this policy on the relevant parties?

Furthermore, the safety of prepackaged foods on sale in the market of Hong Kong has already been safeguarded by law, such as the labelling methods as stipulated in the Public Health and Municipal Services Ordinance and its subsidiary legislation the Food and Drugs (Composition and Labelling)

Regulations. These are already adequate for the purpose of supervising food labelling and preventing false representation. As for some foods with medical elements, their claims and ingredients are already regulated by a series of laws such as the Pharmacy and Poisons Ordinance, Chinese Medicine Ordinance and Undesirable Medical Advertisements Ordinance. Therefore, there is already very good protection for food safety in Hong Kong.

In fact, the labelling system would impose very strict requirements on the wordings, formats and units used in the labels. This would constitute very substantial intervention in the local food market which is not self-sufficient. In Hong Kong, over 90% of prepackaged foods are imported, of which 80% are not packaged specifically for the Hong Kong market. Once such a stringent labelling system is implemented, food manufacturers would be deterred from shipping their products into Hong Kong. This would deal a major blow to the importers, authorized dealers, retailing industry and consumers of Hong Kong. The Liberal Party does not wish to see that the local business environment is affected by the implementation of yet another policy, and in the end, even the people have to share such a burden. Therefore, we hope the Government can act with prudence even if the system must be implemented.

We do not oppose the establishment of a nutrition labelling system. All the Liberal Party hopes to see is that, before implementing the scheme, the Government can assess the cost implications for the industry, the survival issue faced by the small and medium enterprises, as well as the likelihood that the consumers will have less choices and pay higher prices. In the policy address of this year, the Chief Executive, Mr TUNG Chee-hwa, specifically said that the Administration will strive to improve the business environment, minimize various cumbersome regulations related to business operation, and abolish excessive regulatory measures, so as to reduce the costs of business. However, in the process of implementing the labelling system, we cannot see how the Administration has reduced the costs of operating businesses, and how cumbersome regulations are minimized. We really do not wish to see our economy, with its vigor just recovered, to suffer a heavy blow again.

Thank you, Madam President. I so submit.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, Hong Kong has often been described as a city of excessive nutrition. But the hectic pace of life and the distorted eating culture have made the people pay a hefty price as far as

their health is concerned. Diabetes, cardiovascular disease, cerebrovascular disease, kidney diseases and even liver diseases are all top killers threatening the lives of the people of Hong Kong.

Fortunately, in recent years, we observe that Hong Kong people have displayed a tendency of a gradually increasing health awareness. In supermarkets, it is not uncommon for us to see people reading information labels on food packings by the side of goods shelves. This fully illustrates that the people have become more and more concerned about the health conditions of themselves as well as those of their families, and they are very meticulous in food choice. It can be predicted that, in the near future, food nutrition labels will play an increasingly important role in improving the quality of life of the people.

Madam President, good nutrition labelling means a lot to consumers. According to the basic labelling requirements commonly accepted by the international community, a good nutrition label should provide information on the calories and nine core nutrient contents of the relevant food items. Such information is significant to our physical health. At the moment, many prepackaged foods have already carried nutrition labels. However, as the laws do not stipulate the exact requirements, there is great discrepancy among different manufacturers in the provision of information, the label formats or even the accuracy of the information; and some of the information may even be misleading. The Democratic Alliance for Betterment of Hong Kong (DAB) believes that, implementing a food nutrition labelling scheme on a mandatory basis will not only enhance the people's right to know, but at the same time, through strict regulation on the comparative nutrition claims of different products, also lead food manufacturers to move in the direction of healthy eating, thereby making them pursue higher product quality. Meanwhile, the enactment of legislation will help to deter dishonest food manufacturers from exaggerating the efficacy of their products in a bid to boost their business through such false claims. In the long run, this is beneficial to the food industry.

Madam President, the DAB understands that the nutrition labelling system will only provide information on food nutrients which the people should know, but it is no panacea to changing the unbalanced eating habits of the people. Therefore, educating the people is still the most important part of the work. In fact, there is a polarized phenomenon in Hong Kong — some people suffer from worsening obesity due to unbalanced diets, whereas under influence of the prevalent trend of pursuing a more slender figure, many excessively thin people

still stress on the need to embark on further slimming programmes. Even for some skinny ladies, they still go on diet to lose more weight. This phenomenon does not just reflect the twisted values in respect of our body shapes which are so prevalent in society now, it also highlights the failure of the educational efforts of the Government over the years in promoting a balanced eating habit. At present, there are many so-called slimming recipes which are very popular in Hong Kong such as "the meat diet approach", "the fruit diet approach", and so on. They are better accepted by the people than the balanced eating pyramid which has been advocated by the Government over the years. In this connection, it is necessary for the Government to launch some focused educational campaigns which should, apart from changing the misconception that "eating is a great blessing", promote the concept of balanced eating in general. In addition to promoting the need of eating in a healthy way, the Government should also formulate different eating suggestions catering to the different preferences of different age groups and communities. Furthermore, the concepts of standard body weights and body shapes should be promoted again among the people.

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

MR ANDREW CHENG (in Cantonese): Madam President, in 1985, the Codex Alimentarius Commission issued a document entitled Codex Guidelines on Nutrition Labelling, and it was then revised in 1993. The main objectives of the document are:

(a) to provide information to consumers to facilitate their choice;

(b) to state that labelling is a tool to convey information on nutrients;

(c) to bring about benefits in public health;

(d) to provide an opportunity for labels to show supplementary nutrition information;

(e) to ensure that nutrition labels are not false, misleading, deceptive or insignificant for the purpose of food advertising; and

(f) to ensure that nutrition claims are made under nutrition labels.

Although the Commission does not require its member states or other places to append nutrition labels onto prepackaged foods in a mandatory manner, many countries are beginning to move in the direction of mandatory nutrition labelling in a bid to protect the health of their people. Even those countries such as the European Union countries and Singapore, and even Taiwan which are the most lax in such legislation have complied with the request of the Commission, that is, if some food products have made some nutrition claims, then they should be required to show the nutrient contents. They should show the energy, protein, available carbohydrate and fat. If Mrs Selina CHOW's idea of conducting a regulatory impact assessment first before the introduction of a mandatory labelling scheme on nutrition information is adopted, then a full-scale implementation of the scheme will become a remote impossibility. And for those food products claiming to be "low fibre", "low fat" or even "cholesterol-free", the Government of the Hong Kong Special Administrative Region would be powerless to take any action even if it knows that some of these food producers are being deceptive and making false representation. For the existing legislation permits them to make such claims. So even if these food producers know that their nutrition claims are inconsistent with the facts, they can still do a roaring trade and use attractive slogans to induce consumers into buying their products. The Democratic Party thinks that if this situation is allowed to continue, it will be difficult for consumers to choose products which are good to their health. For people with chronic diseases, a wrong choice made on these food products with false claims will only aggravate their condition. I do not think this is the kind of result which Mrs Selina CHOW will like to see.

Madam President, people who are opposed to the setting up of a mandatory nutrition labelling scheme would usually argue that the Hong Kong market is too small, so the introduction of such a scheme would only force food producers to withdraw from the Hong Kong market. With regard to this argument, we have visited some supermarkets and department stores which sell imported foodstuff and we find that even among food producers from the European Union, a very large proportion of them have put nutrition labels on the food packing for consumers' information. It remains, of course, that the information shown does not follow any uniform format and there is no guarantee for the authenticity of the information. But in our opinion, we do not think that these producers would strongly oppose to the stating of nutrition facts in the label format proposed by the Government. In fact, many food products have listed

out various kinds of nutrition contents and the format requirements found in the consultation paper would easily be met if a few items are added and the format revised. If food producers can provide a labelling system in compliance with the law which is trusted by the people, then they will not only enhance the confidence of the consumers but also the sales will increase as consumers commend the products by words of mouth. When the corporate image of the food producers is enhanced, will those credible and reputable producers withdraw from the market? In our opinion, withdrawal from the market is therefore very unlikely.

Madam President, those who oppose to the scheme will also argue that the scheme will add to the costs borne by the industry. Mr Fred LI cited examples earlier to show that the increased costs, when compared to the overall sales turnover, would only take up a very small percentage. Last week, some members of the industry attended the consultative meeting organized by the Government for the labelling scheme on nutrition information and pointed out that the present state of technology would make it possible to use computers to determine the nutrition contents of foods. The error margin of the findings so obtained would be minimal, the costs involved would be small and the situation was unlike what other people might think, that to determine the nutrition contents, the food samples had to be taken to a laboratory and tested by technicians. In this regard, costs have actually been greatly reduced. Moreover, even if the formulation of a uniform labelling format might have costs implications on the industry, that would only be felt mainly in the first year of its introduction. I believe the industry would be willing to list out the nutrition information of its products in the interest of public health.

In the consultative meeting organized by the Government last week, it appeared that supporters of the scheme had outnumbered the opponents. Apart from the chronically ill, the Consumer Council, the dietitians and medical doctors who gave their full support to the introduction of a mandatory labelling scheme on nutrition information and expediting the legislative process, there were also members of the industry who expressed support for the scheme through the host of the meeting. We believe that while there was no overwhelming industry opposition to the scheme at the meeting, at least there was no one-sided opposition to it. The strongest opposition views, as we saw, came from the two giant supermarket groups.

We think that a period of three years as proposed in the original motion would give the industry an adequate grace period to make the adaptations and preparations. We hope that when the consultation period is over, the Government can proceed with the drafting of the legislation and conduct a regulatory impact assessment as soon as possible. The relevant bill and the assessment findings should be submitted to the Legislative Council for scrutiny and deliberation by 2005. A consensus should then be sought among all the stakeholders and the amendments made to the bill before passage. Once the bill is passed, the two-year grace period in the first phase as recommended in the consultation paper should come into immediate effect with a view to launching on a full scale the second phase on or before 2007 as scheduled.

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

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, I hope Mrs Selina CHOW can look at this debate in another capacity. She is the Chairman of the Hong Kong Tourism Board and she has made contribution in promoting local consumption.

Now many tourists will visit Hong Kong on an individual basis. They like to shop in Hong Kong. They buy things like formulae milk because there are lots of false or counterfeit products on the Mainland. The reason why Hong Kong can attract so many mainland shoppers is Hong Kong's reputation. Most merchants here sell genuine goods. Many mainlanders come here to buy gold ornaments and jewellery because Hong Kong exercises very strict regulation on ornament gold. The most important reason for us proposing such regulation is we hope that the consumers will make an informed choice so that they can make a clear choice before they buy anything.

Of course, costs are a factor which must be considered. But that is a start-up cost and the related costs in future may not be so significant. Even if costs increase, we should determine if this part of the costs value for money. We should also consider whether this will boost Hong Kong as a place for consumption.

I think Mrs CHOW should think about this. For if we are to convince people to come here for spending, one important thing is to let them know that the things they buy here are genuine and that they can always refer to the labels. All these are very important.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Fred LI, you may now speak on the amendment moved by Mrs Selina CHOW. The time limit for your speech is five minutes.

MR FRED LI (in Cantonese): Madam President, the Democratic Party finds it very difficult to support the amendment proposed by Mrs Selina CHOW. We also hope Honourable colleagues will not lend their support to Mrs CHOW's amendment in the interest of public health. The reasons we hold are: First, the amendment does not affirm the introduction of a mandatory labelling scheme on nutrition information. In view of this, we find the amendment unacceptable, for there must be a labelling system for industry-wide compliance before the people can be asked to make their choice of healthy foods.

Second, as I have said earlier, countries like the United States, Malaysia, Japan, Australia and New Zealand have introduced a mandatory labelling system and it is definitely not as Mrs Selina CHOW puts it, that our proposal is moving way ahead of the times. The proposal made by the Government is by itself a much belated effort and on top of it, the scheme will not be in force before 2009. As a matter of fact, by the year 2010, there will not be any other alternative for us except to implement this scheme, for a global organization — I have forgotten its name — will require all countries to implement this labelling scheme by 2010. So Hong Kong will be the last place to put this into force. A Member from the Liberal Party mentioned that the European Union and Singapore had adopted a voluntary system. However, if they show any nutrition claims, then they are mandated to state the nutrition contents of the products and no false representations can be made. In fact, the European Union is actively

considering a full-scale mandatory labelling system and so it is not right to say that these places are planning to let the system remain voluntary forever.

Hong Kong actually lags far behind the United States and other places in the Asia-Pacific Region. As in the example cited by me, not all wheat breads are high-fibre. If the amendment is passed, how can consumers tell which ones are really high-fibre if some which do not claim to be high-fibre actually have a higher fibre content than those which claim to be high-fibre? What is meant by less than 25% fat? As compared to what? Do we know and is everything clear? Consumers who see the claim of less than 25% fat will buy the product if they are satisfied with the claim. But what in fact is the case? I do not think Mrs Selina CHOW will know herself, nor can she tell me whether or not this pack of biscuit really has less than 25% fat. This is what happens when there is no labelling. The Codex Alimentarius Commission is presently studying the relevant standards and soon they will come up with a set of standards. If it is said that we should not do anything before the standards are issued, then would this be the kind of attitude that we should hold?

There are many chronically ill people in Hong Kong, have we ever considered their problems? Many dietitians are in fact unable to give them any advice or to suggest to them the kinds of food they should choose. Information shown on the packages only claims that the food is high-fibre or high-calcium, so the dietitians are unable to advise the patients as to how they should make their choices. As legislators, do we not have the responsibility to do our level best to protect public health?

Third, the amendment suggests that a regulatory impact assessment should be conducted before the scheme is introduced. Much time has been spent on assessing genetically engineered foods and the result has come to nothing. We are of the view that the making of legislation and the introduction of a system should proceed in parallel with conducting a regulatory impact assessment. I believe the Government is doing that. In a seminar, it seemed government officials had said that this assessment would be conducted. But to conduct an assessment does not mean that no consideration of the matter will be made before the assessment is completed. Assessments will certainly add to the costs of the industry and that is certain. Likewise, costs will increase if this labelling scheme is introduced. The costs incurred will be transferred onto the consumers. The purpose of this scheme is to require producers to provide true nutrition information. So what does it matter if the consumers accept the costs?

Why is the industry so nervous about it? Has the industry ever consulted the consumers to see if they accept the costs?

Many people say that there are too much junk foods in Hong Kong. But some Honourable colleagues have said earlier that people in Hong Kong are worried that the choices available will be reduced. I am sorry to say that there are too many choices available for Hong Kong people and it would not matter at all if some choices are taken away. As to the question of costs, what we are discussing now is imported food. The total value of prepackaged food is over $10 billion. Take genetically modified foods as an example, the largest amount of related costs would be incurred in the first year and the amount would be $90 million and that would diminish over the years. The impact on costs would hence not be great. We need to see actual examples as to how the industry would be affected. If no actual examples can be provided, all these will become nothing more than empty talks and the industry cannot always put up business environment as an argument. With these remarks, I oppose the amendment.

SECRETARY FOR HEALTH, WELFARE AND FOOD: Madam President, I would like to thank Members for expressing their views on the important subject of nutrition labelling. I believe we all subscribe to the view that nutrition information is extremely valuable and important to the consuming public, for they may choose to obtain their daily food products wisely, and in a way which would not be detrimental to their health and would promote their future healthy development. It is also clear to me that most Members would also agree that a system of nutrition information labelling would also enable us to deal with misleading nutrient-related claims effectively in order to protect public health.

Nutrient refers to any substance normally consumed as a constituent of food which provides energy or is needed for growth and development and the maintenance of healthy life, or a deficit of which will cause characteristic bio-chemical or physiological changes. While undernutrition is not a major public health problem in Hong Kong nowadays, chronic degenerative diseases, such as coronary heart disease, diabetes and certain types of cancer are major public health problems. Although the causes of these diseases are often multifactorial, an imbalanced diet is often one of the important contributing causes. In fact, the World Health Organization reported that dietary factors are estimated to account for approximately 30% of cancers in industrialized countries. These

diet-related diseases are important public health problems in many parts of the world, including Hong Kong.

Food label is an important communication channel whereby consumers can obtain specific information on individual food products. Thus, providing nutrition information on food labels is an important public health tool to promote a balanced diet. A balanced diet can also help lower the risk of these diet-related diseases.

Overseas experiences have shown that nutrition labelling can have a positive impact on food consumption pattern, save health care costs and human lives. For example, in the United States, the cost-benefit study of a nutrition labelling scheme commissioned by the Food and Drug Administration estimated that if consumers changed their consumption practices as a result of nutrition labelling, the benefits associated with the reduction in the risk of cancer and coronary heart disease ranged from US$4,400 million to US$26,000 million over a period of 20 years. Similarly, the Agriculture and Agri-Food Canada and Health Canada calculated that the reductions in the direct and indirect costs associated with cancer, diabetes, coronary heart disease and stroke would be about CAD$5 billion in Canada over the next 20 years. In Australia and New Zealand, it is estimated that between 320 to 460 lives could be saved each year with the introduction of mandatory nutrition labelling due to reduced risk in diet-related diseases.

In recent years, there is clearly a global movement towards the labelling of nutrition information. Various places have developed their labelling scheme on nutrition information based on the principles and recommendations of the Codex Alimentarius Commission (Codex). The European Union and Singapore have adopted the approach that nutrition labelling is voluntary unless with nutrient-related claims. On the other hand, the United States, Canada, Australia, New Zealand, Japan and Malaysia have taken the approach to require mandatory nutrition labelling. We understand that countries currently adopting the voluntary approach, including countries of the European Union, are taking active steps to move towards a mandatory nutrition labelling regime.

In the year 2002, we completed a feasibility study on nutrition labelling. In the course of conducting the feasibility study, we reviewed the local situation and international practices on nutrition information on food labels. We have also kept a close watch on new developments in food manufacturing methods and

sales patterns. We note that there is an increasing demand for information about nutrients contained in food intended for human consumption so that consumers can make important choices which may have a bearing on their health conditions. Although many prepackaged foods sold in Hong Kong carry nutrition labels, there is no uniformity in the way in which nutrient information is presented on food labels. This is because the existing legislation in Hong Kong does not impose any specific requirements on nutrition labelling, and there is no legal definition on nutrient or standard, such as "high" or "low" of a particular nutrient. Hence, consumers may find the nutrition information provided on the food labels variable, difficult to comprehend, and sometimes misleading.

As part of the Government's ongoing efforts to protect and enhance public health, we believe that the time is now right for us to introduce a nutrition labelling scheme in Hong Kong, with the aim of (1) facilitating consumers to make healthy food choices; (2) encouraging food manufacturers to apply sound nutrition principles in the formulation of foods which would benefit public health; and (3) regulating misleading or deceptive labels and claims on nutrients. It is for this reason that we have recently issued a public consultation document, setting out our proposals on the detailed components of the labelling scheme on nutrition information for prepackaged food products sold in Hong Kong.

In our consultation document, we propose to implement a mandatory nutrition labelling scheme for prepackaged food products by phases through legislative amendments to the regulations made under the Public Health and Municipal Services Ordinance (Cap. 132). In Phase I, nutrition labelling is required for prepackaged food products with nutrient-related claims only. Prepackaged food products without nutrient-related claims may provide nutrition labelling on a voluntary basis in accordance with the specified requirements. In Phase II, nutrition labelling will be required on all prepackaged food products sold in Hong Kong, except for those prepackaged food products exempted from the requirements. Examples of exempted items include food packed in a container of which the aggregate surface area is less than 100 sq cm; fresh fruits and vegetables; and food sold at a catering establishment for immediate consumption. We also propose to establish a set of local Nutrient Reference Values (NRVs) for nutrition labelling purposes by making reference to those recommended by Codex and other countries.

Although many nutrients are important for individual health, it is considered that nutrients of public health significance should be identified and

recommended for listing on the nutrition label. We recommend the mandatory listing of 10 parameters on the nutrition label of prepackaged food. These 10 parameters are "energy" plus "nine core nutrients". The nine core nutrients are protein, carbohydrate, total fat, saturated fat, cholesterol, sugars, dietary fibre, sodium and calcium. The core nutrients for labelling have been selected having regard to the public health significance of these nutrients, and after having reviewed the 10 leading causes of deaths and leading morbidities in Hong Kong. In drawing up the list, reference was also made to the Codex Guidelines, information from other nutrition labelling programmes worldwide, and the findings from a local market survey.

In our proposals for nutrients for which a claim is made, we have also taken reference from the Codex Guidelines which require declaration of the amount of nutrients for which a claim is made. Furthermore, where a claim is made regarding the amount of and/or the type of carbohydrate, the amount of total sugars should be listed. The amounts of starch and/or other carbohydrate constituent(s) may also be listed. Similarly, where a claim is made regarding the amount of and/or the type of fat or the amount of cholesterol, the amounts of saturated fat, monounsaturated fat and polyunsaturated fat and cholesterol should also be declared. The Guidelines also require that nutrients should be expressed in absolute amount in metric unit, per 100 g (or per 100 ml) of food. If the package contains only a single portion, nutrients may be expressed in absolute amount in metric unit per package.

We have also taken reference from the Codex Guidelines for the use of nutritional claims in 1997. These guidelines laid down the appropriate criteria for making nutrient content claim, nutrient comparative claim and nutrient functional claim. In essence, nutrient content claim should only be made when a specified maximum or minimum level of a particular nutrient is present. Nutrient comparative claim should only be made when the reference food is clearly identified and a specified amount of difference in the amount of that particular nutrient is present among the comparison foods. Nutrient functional claim should only be based on scientific substantiation. I should not talk about the details proposed in the document, but refer Members to the consultation document which has been issued.

To allow sufficient time for the trade to prepare for the changes, including re-packaging, and taking into account the wide variety of foods which will be affected and the shelf-lives of a large variety of prepackaged food products, we

propose that a two-year grace period be allowed before implementing Phase I of the proposed labelling scheme, and Phase II, which is mandatory nutrition labelling, be implemented three years after the implementation of Phase I. A two-year grace period is considered necessary in Phase I, as a large number of food products will be covered by the proposed labelling scheme, and it will take some time for the trade to replace their products with labels not meeting the new requirements which are already in the market. A grace period is also necessary for Phase II as the number of food products affected will increase markedly from Phase I to Phase II, of which some of them are products of small manufacturers and traders, and many of these products do not have readily available nutrition information.

Many Members have also spoken tonight about the implementation timetable of our proposal. We will certainly consider the views expressed very carefully, and discuss with the trade to see if there are likely to be any insurmountable difficulties. What is important is that we seek to strike a right balance between the consumers' interests and the trade's ability to comply with the new regulatory regime, and strive for what is achievable and practicable without sacrificing the overall interests of the community.

I would also like to briefly explain why foods for infants and young children and other foods for special dietary users are not included in the proposed nutrition labelling scheme. In considering and determining the scope and requirements of our proposed nutrition labelling scheme, we have taken into account local public health concern of the general population and the Codex Guidelines on nutrition labelling which are not applicable to these foods. The reason is that these foods are targeted at subgroups of the population with special dietary needs which are very different from that of the general population. It is also international practice that their labelling requirements are dealt with by separate sets of guidelines and standards. We will consider the need to introduce nutrition labelling requirements covering these products at a later stage.

I am very grateful for the views expressed by Members today. Our existing regulatory system, plus the proposed additional measures set out to regulate nutrition information on food labels should meet many of Members' concerns. We invite the public and the trade to comment on our proposal so that it can meet the public health needs of our community. The public consultation period will end on 31 January 2004.

We will consider carefully the views from members of the public and the trade in response to our consultation exercise before we make a firm decision on the way forward. We will also conduct a Regulatory Impact Assessment to evaluate the overall costs and benefits, including the potential benefits of lowering the overall health costs to the whole community. While we are mindful of the cost implications to the food industry, it must always be remembered that our responsibility to protect public health is of paramount importance.

Thank you. Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mrs Selina CHOW to Mr Fred LI's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Fred LI rose to claim a division.

PRESIDENT (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Henry WU and Mr Tommy CHEUNG voted for the amendment.

Dr Raymond HO, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Dr LAW Chi-kwong, Ms LI Fung-ying, Mr Michael MAK, Dr LO Wing-lok and Mr IP Kwok-him voted against the amendment.

Geographical Constituencies and Election Committee:

Mr Andrew WONG, Dr David CHU and Mr Ambrose LAU voted for the amendment.

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr WONG Sing-chi, Mr Frederick FUNG, Ms Audrey EU, Mr YEUNG Yiu-chung and Mr MA Fung-kwok voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 12 were in favour of the amendment and 12 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, three were in favour of the amendment and 18 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Fred LI, you may now speak in reply, you have four minutes 42 seconds.

MR FRED LI (in Cantonese): Madam President, I would like to thank the nine Members who have spoken on this motion. With regard to the speech made by the Secretary, there are many points which are quite similar to my speech, such as the figures quoted and the views expressed, and so on. Rarely is my stand so much in line with that of the Government, and there is really nothing I wish to say on the reply given by the Secretary.

As a matter of fact, the stand of my original motion is even more conservative than that of the Consumer Council, for the Consumer Council demands that foods for infants and foods for people with special dietary needs be included in the labelling scheme on nutrition information. In an attempt to seek common grounds and hoping that the principal nutrition labelling be introduced as soon as possible, I have put aside these two types of food products which are more controversial and about which the international community has not yet reached a consensus. I have only asked the Government to carry out a study into the matter.

On the subject of business environment which Mr Tommy CHEUNG has repeatedly stressed, I feel very disappointed. For what we are facing now is not a problem of removing the hurdles and restrictions. Mr Tommy CHEUNG said that such a rigid regulation would not be feasible, for it would affect our competitiveness. But the question is there is no regulation now and the hurdles therefore do not exist. Information which claims that the foods are low-fat, high-calcium and cholesterol-free is printed so often on the package, but honestly I do not know what they stand for. That is the most fundamental question. The Liberal Party cannot tell us whether or not the contents of these foods really tally with their claims.

What we are demanding presently is to show these contents clearly in compliance with certain standards. I hope that the Liberal Party will not use business environment as a sweeping argument to oppose the motion. I hope the industry or the industry they represent can take the health of the Hong Kong people into their consideration. For it is the health of the people, that is, public health, which should be made the most important consideration. So please do

not disregard public health which is the most important consideration for the people simply because of business environment. We have too many people in Hong Kong who suffer from diabetes, heart diseases and hypertension. Our friends from the DAB have said a lot on this and to cope with the needs of these patients, the medical system of Hong Kong has to spend huge amounts of money. So in the final analysis, the money would have to come from taxpayers, for the money is spent in our public health system. Have we ever factored this into our consideration?

I hope Honourable colleagues can think again about this and support this attempt to protect the health of the people and vote in favour of this original motion. That will truly be a Christmas gift for all people in Hong Kong. I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Fred LI, as printed on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mrs Selina CHOW rose to claim a division.

PRESIDENT (in Cantonese): Mrs Selina CHOW has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Dr Raymond HO, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Timothy FOK, Dr LAW Chi-kwong, Ms LI Fung-ying, Mr Michael MAK, Dr LO Wing-lok and Mr IP Kwok-him voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mr HUI Cheung-ching, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU and Mr Tommy CHEUNG voted against the motion.

Mr Henry WU abstained.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr Andrew WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr WONG Sing-chi, Mr Frederick FUNG, Ms Audrey EU, Mr YEUNG Yiu-chung and Mr MA Fung-kwok voted for the motion.

Dr David CHU and Mr Ambrose LAU voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 13 were in favour of the motion, 10 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, 19 were in favour of the motion and two against it. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

NEXT MEETING

PRESIDENT (in Cantonese): Members, this is the last meeting of the Legislative Council in the year 2003. Here, I would like to wish you all a merry Christmas and a happy New Year. For those who will be out of town, I wish you a nice trip, come wind come weather. *(Laughter)*

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 7 January 2004.

Adjourned accordingly at twelve minutes past Eight o'clock.

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Health, Welfare and Food to Miss CHAN Yuen-han's supplementary question to Question 1

As regards the latest situation of the liver patient mentioned by the Member, his clinical condition has varied in the past few months. The variation has affected his placement on the central registry. At present, all adult liver patients waiting for a liver transplant at the Hospital Authority (HA) hospitals are prioritized on the central registry on the basis of a scoring system known as the Model for End Stage Liver Disease (MELD). Adopted from the liver allocation mechanism in the United States run by the United Network for Organ Sharing, the scoring system was developed with aid of complex statistical analysis. The calculation of patients' MELD score is based on objective and verifiable medical data. The scoring system provides clinicians with an objective tool to quantify the patients' risk of dying within three months without a transplant.

The HA updates the MELD score of all adult patients on the central registry regularly so as to ensure that patients with the most serious conditions would receive priority. Since the number of patients and the clinical conditions of the patient mentioned by the Member as well as that of other patients on the central registry vary from time to time, the former's placement on the central registry also varies. In addition, the HA has asked the experts from both the Queen Mary Hospital and the Prince of Wales Hospital to review the case of the patient mentioned by the Member. Their conclusion was that his placement on the registry was reasonable and fair, having regard to the conditions of the other patients on the registry.

Both the Health, Welfare and Food Bureau and the HA hope to be able to arrange for an early transplant for the patient mentioned by the Member and all other patients who are in need of one. Regrettably, the supply of donor livers in Hong Kong is insufficient to meet the immediate needs of every patient on the registry. In the interest of fairness, and having regard to the clinical needs of individual patients and the benefits of all patients waiting for a transplant, the HA would continue to arrange liver transplants for patients on the registry, including the patient mentioned by the Member, in accordance with the order of priority on the registry.

Appendix II

WRITTEN ANSWER

Written answer by the Secretary for Financial Services and the Treasury to Dr Eric LI's supplementary question to Question 2

As regards letting Members have a copy of the auditing standards adopted by the Audit Commission, both for their reference and to demonstrate that they are consistent with international practice, we have since obtained the relevant chapter of the Audit Manual from the Audit Commission. This is now attached at Annex A (English only). Members may particularly note from paragraph 3.1 that these standards are indeed in line with those promulgated by the International Organization of Supreme Audit Institution. For comparison and Members' ease of reference, a copy of the latter is also attached at Annex B (English only).

Annex A

CHAPTER 3

AUDITING STANDARDS

Introduction

3.1 The audit staff act on behalf, and in the name of the Director of Audit. An inadequate performance by an audit officer may undermine the integrity of, and reflect adversely on, the Director and the Department. All audit staff therefore should aim to achieve the highest possible standards in their behaviour and in their work. This Chapter specifies the auditing standards as a framework for the proper conduct of public sector audits. These standards are in line with the auditing standards issued by the International Organisation of Supreme Audit Institutions (INTOSAI), a copy of which is kept in the Library.

Operational Standards

3.2 Operational standards are set out below in paragraph 3.4. They are intentionally brief, concentrating on the essential aspects of sound practice applicable to the extent indicated, whenever an audit is carried out. It is important that the standards are understood and applied by staff at each stage of the audit. In the event of any formal dispute concerning the adequacy of the Audit Department's performance, it can be expected that reference will be made to the degree to which the standards have been observed.

3.3 Detailed guidance is provided in this Manual on the procedures which the auditor should apply in order to meet the standards. However, it is not practicable to produce a code of rules sufficiently elaborate to cater for all situations which the auditor may encounter. There may be occasions when it is appropriate to depart from the guidance given; this will be a matter of judgement for the auditor acting under delegated authority and with the circumstances of departure properly documented and considered.

3.4 The operational standards are :

(a) **Planning, controlling, recording and supervision**

The auditor should adequately plan, control and record his work. Assistants, if any, should be properly supervised.

(b) **Audit evidence**

The auditor should obtain relevant and reliable audit evidence sufficient to enable him to draw reasonable conclusions.

(c) **Accounting systems**

The auditor should ascertain the audited body's system of recording and processing transactions and assess its adequacy as a basis for the preparation of financial statements.

(d) **Internal controls**

A sufficient understanding of the internal control system should be obtained in order to plan the audit. If the auditor wishes to place reliance on internal controls (including the work of internal audit), he should ascertain and evaluate those controls and perform compliance tests on their operation.

(e) **Review of financial statements**

The auditor should carry out such a review of the financial statements of the audited body as is sufficient, in conjunction with the conclusions drawn from other audit evidence, to give him a reasonable basis for his opinion on the financial statements.

3.5 Items (a) and (b) of the above operational standards apply to all audits including examinations of economy, efficiency and effectiveness. Items (c) to (e) apply additionally to audits carried out in support of the certification of financial statements.

Reporting Standards

3.6 **Certification audits** The reporting standards applicable to certification audits of financial statements are :

(a) On conclusion of the audit of financial statements, the auditor shall provide a certificate giving his opinion on those statements. The certificate should state expressly :

(i) the financial statements to which it relates;

(ii) that the audit has been carried out in accordance with relevant statutory or other authority; and

(iii) the auditor's opinion as to whether the financial statements are properly presented or give a true and fair view of the state of affairs of the audited body.

(b) The auditor should qualify his certificate where he is unable to satisfy himself in all material respects that :

(i) no limitations have been placed on the scope and conduct of the audit;

(ii) the sums expended have been applied to the purposes intended and the expenditure conforms to the authority which governs it;

(iii) the financial statements properly present the transactions of the body concerned or give a true and fair view of its state of affairs; and

(iv) all accounting and reporting requirements, statutory or otherwise, have been observed.

(c) The auditor should supplement his certificate by a separate report on the circumstances and reasons for qualification and, where relevant and practicable, quantify the effect on the financial statements.

3.7 **VFM audits** The reporting standards apply to examination of economy, efficiency and effectiveness are :

The auditor shall, at his discretion, present to the appropriate authority reports which result from the examinations he has carried out into the economy, efficiency and effectiveness with which the audited bodies have used their resources in discharging their functions.

Professional and Ethical Standards

3.8 Attaining satisfactory standards for the conduct of the audit is in practice closely linked with, and even dependent upon, the personal conduct and approach of audit staff. The professional and ethical standards given in paragraph 3.9 below set out the principles applying to personal professional conduct. These should be read in conjunction with any relevant rules in the Civil Service Regulations or the Standing Orders of the Audit Department.

3.9 The professional and ethical standards for Audit Department staff are :

(a) **Propriety and integrity**

Audit staff should maintain a high standard of professional and personal conduct in performing their work and in their relationships with staff of audited bodies.

(b) **Independence**

Audit staff should be independent of the audited body and maintain an independent attitude.

(c) **Objectivity**

Audit staff should carry out their work impartially and objectively.

(d) **Constructiveness**

Audit staff should adopt a constructive and positive approach to their work and relationships.

(e) **Proficiency**

Audit staff are expected to maintain and develop their professional competence and expertise.

(f) **Reasonable care**

Audit staff should take all reasonable care in planning and carrying out their audit work, in gathering and evaluating evidence, and in reporting findings.

(g) **Confidentiality**

Audit staff must respect the confidentiality of information obtained in the course of their work.

(h) **Economy, efficiency and effectiveness of operations**

Audit staff should seek to improve the economy, efficiency and effectiveness with which the Audit Department uses its own resources in carrying out its work.

3.10 Further explanatory notes on the professional and ethical standards are given in Appendix 3/1.

APPENDIX 3/1

EXPLANATORY NOTES - PROFESSIONAL AND ETHICAL STANDARDS

Propriety and Integrity

1. In order to sustain the confidence of the audited bodies and all others with whom audit staff come into contact in their work, the Audit Department and its staff must be above suspicion and beyond reproach. Improper conduct reflects badly on the integrity of the individual and the quality of his work. In addition, it casts doubts on the reliability and competence of the Department as a whole. Staff should therefore maintain the highest standards of personal conduct.

2. The Department is concerned only with any private and personal activities of its staff which impinge on the performance of their duties or risk bringing discredit to the Department. Particular difficulties may arise in the following areas, either in the course of undertaking official duties or outside the Department :

(a) Staff should not make financial commitments beyond their means, should avoid heavy gambling or speculation which may put them in financial difficulties;

(b) Staff should adopt high standards of personal discipline, appearance and punctuality, and avoid any forms of over-indulgence or addiction which may adversely affect their conduct or impair the performance of their official duties;

(c) Staff should be careful in their personal relationships not to cause embarrassment for the Department, the audited body or their colleagues;

(d) Staff should be reticent in matters of public and political controversy so that their audit impartiality is not in doubt (see also paragraph 3 below); and

(e) Staff should seek to prevent any conflicts arising between their duties and private interests, and must not make use of their official position to further their private interests.

Independence

3. Independence implies impartiality and freedom from, or rejection of, improper influences in conducting the work and in reaching judgements and conclusions. Staff must not only be independent but be seen to be so; otherwise the authority of their opinion and its value to those who seek to place reliance on it could be eroded.

4. Independence may be impaired in the following ways :

(a) restriction of access to sources of information;

(b) actions or persuasion designed to influence the conduct or scope of an audit or the content of an audit report;

(c) previous employment by the body being audited or association with its executive decisions;

(d) relationships, particularly with the staff of the audited body, which might cause the auditor to fail to carry out his duties in full;

(e) preconceived ideas towards individuals or audited bodies or their projects or programmes; and

(f) financial interest by the auditor, or close associate, in the audited body or its activities.

Objectivity

5. The validity of the Department's work and the confidence placed in it by audited bodies and the Legislature depend on the objectivity that is brought to bear. Audit opinions and reports should be influenced only by the evidence obtained and assembled in accordance with auditing standards. This standard requires that staff should not pre-judge an issue.

Constructiveness

6. This standard encourages staff to adopt a constructive rather than a negative attitude in their audit work. Although the Department should avoid compromising its independence through acting as a consultant, staff should aim to reach helpful conclusions by offering constructive advice. Criticism is not an end in itself; its purpose is to point the way to necessary improvement.

Proficiency

7. Staff are expected to demonstrate their professionalism by carrying out their duties with competence and expertise. They should seek the highest levels of proficiency and have a professional responsibility for self-improvement and development.

Reasonable Care

8. This standard requires professional performance of a quality appropriate to the audit being undertaken. Exercising reasonable care means evaluating the nature and risks involved in the audit and taking appropriate steps to obtain and evaluate necessary evidence and to prepare audit reports.

Confidentiality

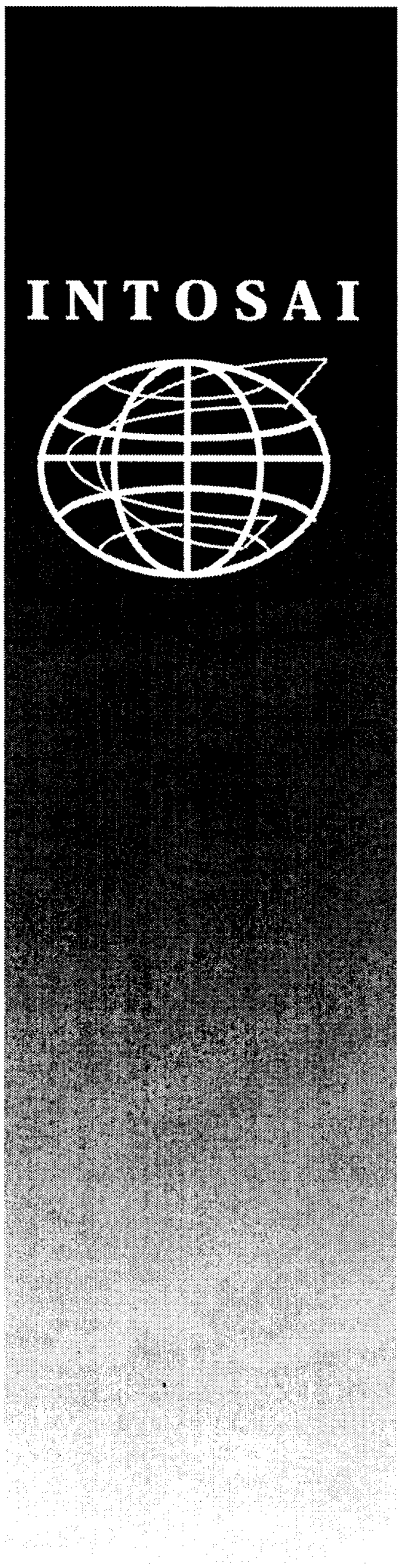
9. Information obtained from or about an audited body must not be disclosed to a third party without the body's knowledge and consent. No official information may be disclosed to an unauthorised person unless official permission has been received or the information has already been made public officially.

10. All staff should exercise care and discretion in discussing work in which they are engaged or other audits being undertaken in the office with colleagues and more importantly with friends, relatives and others outside the office. The appropriate security and confidentiality of all information, in whatever form it may be held, must be ensured at all times.

Economy, Efficiency and Effectiveness of Operations

11. The Department advocates and attempts to stimulate economy, efficiency and effectiveness in audited bodies; this standard sets the staff an obligation to pursue the same ends in their own work.

Annex B



Code of Ethics and Auditing Standards

Auditing Standards Committee

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Preamble

At the XVI[th] INCOSAI in Montevideo in 1998, the Congress unanimously approved and issued The INTOSAI Code of Ethics.

At the same meeting it was furthermore decided that the INTOSAI Auditing Standards Committee should restructure the Auditing Standards in order to facilitate updates and additions in the future, but without changing its content. The Committee has now produced a restructured version of the Auditing Standards.

For practical reasons it has been proposed that the Code of Ethics and the Auditing Standards are made available jointly in one volume.

It is however important to see the relationship between the relevant INTOSAI documents:

With the Lima Declaration of Guidelines on Auditing Precepts as its foundation, the INTOSAI Code of Ethics should be seen as a necessary complement, reinforcing the INTOSAI Auditing Standards issued by the INTOSAI Auditing Standards Committee in June 1992.

In the minutes of the XVI[th] INCOSAI meeting in 1998 the following was stated.

The different documents may be regarded as a comprehensive framework with the following elements:

- *The Lima Declaration is the foundation with its comprehensive precepts on auditing in the public sector.*

- *The Code of Ethics represents the next level with its statement of values and principles guiding the daily work of the auditors. One of the principles outlined in the Code of Ethics is the auditor's obligation to apply generally accepted auditing standards.*

- *The Auditing Standards on the next level, contain the postulates and principles for carrying out the audit work.*

- *Guidance Material, which is the fourth level provides practical assistance to SAIs in implementing the Standards in their individual constituents.*

In this volume, thus, will be found the Code of Ethics together with the Restructured Auditing Standards, which was approved by the XVIIth Congress of INTOSAI in Seoul 2001.

Inga-Britt Ahlenius
Chairman of the Auditing Standards Committee

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Code of Ethics

Issued by the
Auditing Standards Committee at the
XVIth Congress of INTOSAI in 1998 in
Montevideo, Uruguay

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Foreword

I am pleased to provide the members of the International Organisation of Supreme Audit Institutions (INTOSAI) with this Code of Ethics for auditors in the public sector, which received the Governing Board's approval at the 44th meeting in Montevideo in November 1998.

The Code constitutes a significant step forward in the process of harmonising the ethical concepts within the INTOSAI. It consists of only the basic postulates of ethics, since national differences of culture, language and legal and social systems bring about the need to adapt such postulates to the environment of the specific country. Therefore, this Code should be seen as a foundation for national codes of ethics to be developed by each Supreme Audit Institution.

Finally, I wish to express, on behalf of the Auditing Standards Committee, my deep gratitude and appreciation for the co-operation of all of the INTOSAI members in our effort to develop this Code of Ethics. I also thank my Committee colleagues for their timely support and positive contribution to this activity.

Inga-Britt Ahlenius
Chairman of the Auditing Standards Committee

Preamble

This draft Code of Ethics is the result of the joint labour of the members of the INTOSAI Auditing Standards Committee, which has included the Supreme Audit Institutions of:

Austria
Australia
Argentina
Brazil
Costa Rica
Japan
Philippines
Portugal
Saudi Arabia
Sweden; Chairman
United Kingdom
United States

A working plan for the Committee was presented and approved by the Governing Board at its 42nd meeting held in Vienna on June 24, 1996. The development of this Code of Ethics was one of the tasks set in that plan. The actions to fulfil it started with the collection of Codes of Ethics from all INTOSAI members in order to study similarities and differences. This led to a first preliminary draft discussed at a Committee meeting in Sweden in January 1997.

After the Committee meeting a new draft was developed and sent to all INTOSAI members for comments. After these comments were considered this final draft was developed.

The Governing Board has been informed of the progress of the work at its 43rd meeting in Montevideo in November 1997.

I would like to thank all the members of the INTOSAI Auditing Standards Committee for their dedication and co-operation in completing this project.

Inga-Britt Ahlenius
Auditor General, Swedish National Audit Office
Chairman, INTOSAI Auditing Standards Committee

Chapter 1

Introduction

Concept, Background and Purpose of the Code of Ethics

1. INTOSAI has deemed it essential to establish an international Code of Ethics for auditors in the public sector.

2. A Code of Ethics is a comprehensive statement of the values and principles which should guide the daily work of auditors. The independence, powers and responsibilities of the public sector auditor place high ethical demands on the SAI and the staff they employ or engage for audit work. A code of ethics for auditors in the public sector should consider the ethical requirements of civil servants in general and the particular requirements of auditors, including the latter's professional obligations.

3. With the Lima Declaration of Guidelines on Auditing Precepts[1] as its foundation, the INTOSAI Code of Ethics should be seen as a necessary complement, reinforcing the INTOSAI Auditing Standards issued by the INTOSAI Auditing Standards Committee in June 1992.

4. The INTOSAI Code of Ethics is directed at the individual auditor, the head of the SAI, executive officers and all individuals working for or on behalf of the SAI who are involved in audit work. However, the Code should not be interpreted as having any impact on the organisational structure of the SAI.

Due to national differences of culture, language, and legal and social systems, it is the responsibility of each SAI to develop its own Code of Ethics which best fits its own environment. Preferably these national Codes of Ethics should clarify the ethical concepts. The INTOSAI Code of Ethics is intended to constitute a foundation for the national Codes of Ethics. Each SAI has the

[1] From the IXth Congress of INTOSAI, meeting in Lima. Can be obtained from the INTOSAI General Secretariat in Austria.

responsibility to ensure that all its auditors acquaint themselves with the values and principles contained in the national Code of Ethics and act accordingly.

5. The conduct of auditors should be beyond reproach at all times and in all circumstances. Any deficiency in their professional conduct or any improper conduct in their personal life places the integrity of auditors, the SAI that they represent, and the quality and validity of their audit work in an unfavourable light, and may raise doubts about the reliability and competence of the SAI itself. The adoption and application of a code of ethics for auditors in the public sector promotes trust and confidence in the auditors and their work.

6. It is of fundamental importance that the SAI is looked upon with trust, confidence and credibility. The auditor promotes this by adopting and applying the ethical requirements of the concepts embodied in the key words Integrity, Independence and Objectivity, Confidentiality and Competence.

Trust, Confidence and Credibility

7. The legislative and/or executive authority, the general public and the audited entities are entitled to expect the SAI's conduct and approach to be above suspicion and reproach and worthy of respect and trust.

8. Auditors should conduct themselves in a manner which promotes co-operation and good relations between auditors and within the profession. The support of the profession by its members and their co-operation with one another are essential elements of professional character. The public confidence and respect which an auditor enjoys is largely the result of the cumulative accomplishments of all auditors, past and present. It is therefore in the interest of auditors, as well as that of the general public, that the auditor deals with fellow auditors in a fair and balanced way.

9. The legislative and/or executive authority, the general public and the audited entities should be fully assured of the fairness and impartiality of all the SAI's work. It is therefore essential that there is a national Code of Ethics or similar document which governs the provision of the services.

10. In all parts of society there is a need for credibility. It is therefore essential that the reports and opinions of the SAI are considered to be thoroughly accurate and reliable by knowledgeable third parties.

11. All work performed by the SAI must stand the test of legislative and/or executive scrutiny, public judgements on propriety, and examination against a national Code of Ethics.

Chapter 2

Integrity

12. Integrity is the core value of a Code of Ethics. Auditors have a duty to adhere to high standards of behaviour (e.g. honesty and candidness) in the course of their work and in their relationships with the staff of audited entities. In order to sustain public confidence, the conduct of auditors should be above suspicion and reproach.

13. Integrity can be measured in terms of what is right and just. Integrity requires auditors to observe both the form and the spirit of auditing and ethical standards. Integrity also requires auditors to observe the principles of independence and objectivity, maintain irreproachable standards of professional conduct, make decisions with the public interest in mind, and apply absolute honesty in carrying out their work and in handling the resources of the SAI.

Chapter 3

Independence, Objectivity and Impartiality

14. Independence from the audited entity and other outside interest groups is indispensable for auditors. This implies that auditors should behave in a way that increases, or in no way diminishes, their independence.

15. Auditors should strive not only to be independent of audited entities and other interested groups, but also to be objective in dealing with the issues and topics under review.

16. It is essential that auditors are independent and impartial, not only in fact but also in appearance.

17. In all matters relating to the audit work, the independence of auditors should not be impaired by personal or external interests. Independence may be impaired, for example, by external pressure or influence on auditors; prejudices held by auditors about individuals, audited entities, projects or programmes; recent previous employment with the audited entity; or personal or financial dealings which might cause conflicts of loyalties or of interests. Auditors have an obligation to refrain from becoming involved in all matters in which they have a vested interest.

18. There is a need for objectivity and impartiality in all work conducted by auditors, particularly in their reports, which should be accurate and objective. Conclusions in opinions and reports should, therefore, be based exclusively on evidence obtained and assembled in accordance with the SAI's auditing standards.

19. Auditors should make use of information brought forward by the audited entity and other parties. This information is to be taken into account in the opinions expressed by the auditors in an impartial way. The auditor should also gather information about the views of the audited entity and other parties. However, the auditors' own conclusions should not be affected by such views.

Political neutrality

20. It is important to maintain both the actual and perceived political neutrality of the SAI. Therefore, it is important that auditors maintain their independence from political influence in order to discharge their audit responsibilities in an impartial way. This is relevant for auditors since SAIs work closely with the legislative authorities, the executive or other government entity empowered by law to consider the SAI's reports.

21. It is important that where auditors undertake, or consider undertaking, political activities they bear in mind the impact which such involvement might have - or be seen to have - on their ability to discharge their professional duties impartially. If auditors are permitted to participate in political activities they have to be aware that these activities may lead to professional conflicts.

Conflicts of interest

22. When auditors are permitted to provide advice or services other than audit to an audited entity, care should be taken that these services do not lead to a conflict of interest. In particular, auditors should ensure that such advice or services do not include management responsibilities or powers, which must remain firmly with the management of the audited entity.

23. Auditors should protect their independence and avoid any possible conflict of interest by refusing gifts or gratuities which could influence or be perceived as influencing their independence and integrity.

24. Auditors should avoid all relationships with managers and staff in the audited entity and other parties which may influence, compromise or threaten the ability of auditors to act and be seen to be acting independently.

25. Auditors should not use their official position for private purposes and should avoid relationships which involve the risk of corruption or which may raise doubts about their objectivity and independence.

26. Auditors should not use information received in the performance of their duties as a means of securing personal benefit for themselves or for others. Neither should they divulge information which would provide unfair or unreasonable advantage to other individuals or organisations, nor should they use such information as a means for harming others.

Chapter 4

Professional Secrecy

27. Auditors should not disclose information obtained in the auditing process to third parties, either orally or in writing, except for the purposes of meeting the SAI's statutory or other identified responsibilities as part of the SAI's normal procedures or in accordance with relevant laws.

Chapter 5

Competence

28. Auditors have a duty to conduct themselves in a professional manner at all times and to apply high professional standards in carrying out their work to enable them to perform their duties competently and with impartiality.

29. Auditors must not undertake work they are not competent to perform.

30. Auditors should know and follow applicable auditing, accounting, and financial management standards, policies, procedures and practices.

Likewise, they must possess a good understanding of the constitutional, legal and institutional principles and standards governing the operations of the audited entity.

Professional Development

31. Auditors should exercise due professional care in conducting and supervising the audit and in preparing related reports.

32. Auditors should use methods and practices of the highest possible quality in their audits. In the conduct of the audit and the issue of reports, auditors have a duty to adhere to basic postulates and generally accepted auditing standards.

33. Auditors have a continuous obligation to update and improve the skills required for the discharge of their professional responsibilities.

Glossary

The terms used in this Code of Ethics have the same interpretation or definition as those used in the INTOSAI Auditing Standards.

Auditing Standards

Issued by the
Auditing Standards Committee at the
XIVth Congress of INTOSAI in 1992 in
Washington, D.C.,
United States as amended by the
XVth Congress of INTOSAI 1995 in Cairo, Egypt.

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Foreword

This revision of the INTOSAI Auditing Standards is a significant step forward in the development of truely international auditing standards. It flows from a recommendation of the XIIIth INCOSAI (Berlin) that the previous version be amended to recognise the particular needs of countries whose SAIs are constituted as courts of accounts.

I speak for the Committee on Auditing Standards in expressing appreciation of the efforts made by all INTOSAI members in developing the standards. In particular I wish to acknowledge the invaluable contributions of the Court of Accounts of Belgium, the newest member of the INTOSAI Auditing Standards Committee, and other SAIs constituted as courts of accounts. I also wish to thank my other Committee colleagues for their support and positive contribution to the revision.

While INTOSAI Auditing Standards do not have mandatory application they reflect a "best practices" consensus among SAIs. Each SAI must judge the extent to which the standards are compatible with the achievement of its mandate.

It is the view of both the Governing Board and the Auditing Standards Committee that these Standards are a "living" document. As such they should reflect, to the extent possible, the current trends, issues and concerns in auditing methodology and practice.

The Governing Board gave its approval to these Standards at its 35th meeting in Washington in October 1991. I commend to members of INTOSAI the revised standards.

J.C. Taylor
Chairman of the Auditing Standards Committee

Preface

As chairman of the INTOSAI Committee on Auditing Standards, I am very pleased to present the final draft of our work.

Our Committee was established in May 1984 to present recommendations and plans for developing an INTOSAI auditing standards project. Subsequently, the Committee was expanded to include the Supreme Audit Institutions of:

- Austria: ex-Officio
- Argentina
- Australia
- Brazil
- Costa Rica
- Japan
- Philippines
- Saudi Arabia: Chairman
- Sweden
- United Kingdom
- United States

A working plan for the Committee was presented to and approved by the Governing Board at its meeting held in Sydney in March 1985. This working plan called for the formation of four study groups to divide the work as follows:

- The first group consisting of the United States (Group Coordinator), Costa Rica, and the Philippines to work on "General Principles in Government Auditing".
- The second group consisting of Australia (Group Coordinator) and Argentina to work on "General Standards in Government Auditing".
- The third group consisting of Sweden (Group Coordinator) and Japan to work on "Field Standards in Government Auditing".
- The fourth group consisting of United Kingdom (Group Coordinator) and Brazil to work on "Reporting Standards in Government Auditing".

Each of the four groups developed a discussion memorandum on their subject and elicited, analysed and researched comments and suggestions from other committee members. On the basis of these discussion memoranda, suggestions and comments were incorporated into preliminary exposure drafts on each topic. Further research, suggestions and comments received from the INTOSAI Governing Board and committee members resulted in the preparation of final exposure drafts. The Governing Board approved these drafts at the May 1987 meeting in Vienna and commissioned the Committee to meet in London to harmonise terminology and style of the four drafts.

A group of experts representing the Committee met for five days in London during June 1987 to prepare the final consolidated draft. This group of experts consisted of Mr. Abdullah I. Al Saleh and Dr. Issam J. Merei from Saudi Arabia (Chairman), Mr. W.A. Broadus (United States), Mr. Nazario Anis (Philippines), Mr. Cyril Monaghan (Australia), Mrs. Gunhild Lindstrom (Sweden), Sr. Fernando Goncalves (Brazil) and Messrs. John Pearce and Andy Burchell (United Kingdom).

The Governing Board at its 31st meeting in Berlin agreed to the following arrangements concerning the re-exposure of the INTOSAI Auditing Standards and the consideration of any comments received:

1. The comments received shall be compiled and transmitted to the Committee Chairman by the Secretary General.

2. The INTOSAI Auditing Standards Committee Chairman and the Secretary General shall decide jointly on the necessity and appropriateness of possible changes.

3. The document shall then be submitted to the Berlin Congress for adoption.

The Committee Chairman and the Secretary General have analysed the comments received and have made the changes as deemed appropriate.

Although the word "Standards" was used throughout this document, it is understood that this word is to be used synonymously with the word "guidelines" which keeps the authority for compliance within the domain of each Supreme Audit Institution.

I would like to thank all the members of the INTOSAI Auditing Standards Committee for their dedication and cooperation in completing this project. Special thanks is given to the group of experts who improved the final drafts during their meeting in London.

Omar A. Fakieh, State Minister
President, General Auditing Bureau of Saudi Arabia
Chairman, INTOSAI Auditing Standards Committee
Rijadh, March, 1989

Chapter I

Basic Principles in Government Auditing

1.0.1 The general framework of the auditing standards for the International Organisation of Supreme Audit Institutions (INTOSAI) has been deduced from the Lima and Tokyo Declarations, the statements and reports adopted by INTOSAI in various congresses, and the report of the United Nations Expert Group Meeting in Public Accounting and Auditing in Developing Countries.

1.0.2 The INTOSAI auditing standards consist of four parts (see chart):

(a) Basic principles

(b) General standards

(c) Field standards

(d) Reporting standards

INTOSAI has developed these standards to provide a framework for the establishment of procedures and practices to be followed in the conduct of an audit, including audits of computer-based systems. They should be viewed in the particular constitutional, legal and other circumstances of the Supreme Audit Institution (SAI).

1.0.3 The basic principles for auditing standards are basic assumptions, consistent premises, logical principles and requirements which help in developing auditing standards and serve the auditors in forming their opinions and reports, particularly in cases where no specific standards apply.

1.0.4 Auditing Standards should be consistent with the principles of auditing. They also provide minimum guidance for the auditor that helps determine the extent of auditing steps and procedures that should be applied in the audit. Auditing Standards constitute the criteria or yardstick against which the quality of the audit results are evaluated.

1.0.5 Interpretations and explanations of these standards are the prerogative of the INTOSAI Governing Board, while amendments are the responsibility of the INTOSAI Congress.

1.0.6 The basic principles are

(a) The SAI should consider compliance with the INTOSAI auditing standards in all matters that are deemed material. Certain standards may not be applicable to some of the work done by SAIs, including those organised as Courts of Account, nor to the non-audit work conducted by the SAI. The SAI should determine the applicable standards for such work to ensure that it is of consistently high quality (see paragraph 1.0.8).

(b) The SAI should apply its own judgement to the diverse situations that arise in the course of government auditing (see paragraph 1.0.15).

(c) With increased public consciousness, the demand for public accountability of persons or entities managing public resources has become increasingly evident so that there is a need for the accountability process to be in place and operating effectively (see paragraph 1.0.20).

(d) Development of adequate information, control, evaluation and reporting systems within the government will facilitate the accountability process. Management is responsible for correctness and sufficiency of the form and content of the financial reports and other information (see paragraph 1.0.23).

(e) Appropriate authorities should ensure the promulgation of acceptable accounting standards for financial reporting and disclosure relevant to the needs of the government, and audited entities should develop specific and measurable objectives and performance targets (see paragraph 1.0.25).

(f) Consistent application of acceptable accounting standards should result in the fair presentation of the financial position and the results of operations (see paragraph 1.0.28).

(g) The existence of an adequate system of internal control minimises the risk of errors and irregularities (see paragraph 1.0.30).

(h) Legislative enactments would facilitate the co-operation of audited entities in maintaining and providing access to all relevant data necessary for a comprehensive assessment of the activities under audit (see paragraph 1.0.32).

(i) All audit activities should be within the SAI's audit mandate (see paragraph 1.0.34).

(j) SAIs should work towards improving techniques for auditing the validity of performance measures (see paragraph 1.0.45).

1.0.7 The following paragraphs discuss the importance of the basic principles for auditing.

1.0.8 The basic auditing principles stipulate that

The SAI should consider compliance with the INTOSAI auditing standards in all matters that are defined material. Certain standards may not be applicable to some of the work done by SAIs, including those organised as Courts of Account, nor to the non-audit work conducted by the SAI. The SAI should determine the applicable standards for such work to ensure that it is of consistently high quality (see paragraph 1.0.6a).

1.0.9 In general terms, a matter may be judged material if knowledge of it would be likely to influence the user of the financial statements or the performance audit report.

1.0.10 Materiality is often considered in terms of value but the inherent nature or characteristics of an item or group of items may also render a matter material--for example, where the law or regulation requires it to be disclosed separately regardless of the amount involved.

1.0.11 In addition to materiality by value and by nature, a matter may be material because of the context in which it occurs. For example, considering an item in relation to:

(a) the overall view given to the financial information;

(b) the total of which it forms a part;

(c) associated terms;

(d) the corresponding amount in previous years.

1.0.12 SAIs often carry out activities that by strict definition do not qualify as audits, but which contribute to better government. Examples of non-audit work may include (a) gathering data without conducting substantial analysis, (b) legal work, (c) an information mission of the elected Assembly as regards the examination of draft budgets, (d) an assistance mission for members of the elected Assemblies as regards investigations and consultations of SAIs' files, (e) administrative activities and (f) computer-processing functions. These non-audit activities provide valuable information to decision-makers and should be of consistently high quality.

1.0.13 Because of the approach and structure of some SAIs, not all auditing standards apply to all aspects of their work. For example, the collegial and judicial nature of the reviews conducted by Courts of Account make aspects of their work fundamentally different from the financial and performance audits conducted by SAIs which are organised under a hierarchic system led by an Auditor-General or a Comptroller General.

1.0.14 To ensure that high quality work is done, appropriate standards must be followed. The objectives of the particular type of work or the particular assignment should dictate the specific standards that are followed. Each SAI should establish a policy on which INTOSAI standards, or other specific standards, should be followed in carrying out the various types of work that the organisation conducts to ensure that the work and products are of high quality.

1.0.15 The basic auditing principles stipulate that

The SAI should apply its own judgement to the diverse situations that arise in the course of government auditing (see paragraph 1.0.6b).

1.0.16 Audit evidence plays an important part in the auditor's decision concerning the selection of issues and areas for audit and the nature, timing and extent of audit tests and procedures.

1.0.17 The terms of the audit mandate with which the SAI is endowed override any accounting or auditing conventions with which they conflict, and hence have a crucial bearing on the auditing standards that the SAI applies. Consequently, the INTOSAI auditing standards--and indeed any auditing standards external to the SAI--cannot be prescriptive, or have a mandatory application to the SAI or members of its staff.

1.0.18 The SAI must judge the extent to which external auditing standards are compatible with the SAI's fulfilment of its mandate. The SAI should recognise, however, that the INTOSAI auditing standards embody a consensus of opinion among government auditors and try to apply them where they are compatible with the SAI's mandate. The SAI should seek removal of incompatibilities where this is necessary to permit the adoption of desirable standards.

1.0.19 For some elements of the SAI's mandate, particularly in regard to the audit of financial statements, the SAI's audit objectives may be akin to the objectives of audits in the private sector. Correspondingly, private sector standards for financial statements auditing which are promulgated by official regulatory bodies might be applicable to the government auditor.

1.0.20 The basic auditing principles stipulate that

With increased public consciousness, the demand for public accountability of persons or entities managing public resources has become increasingly evident so that there is a greater need for the accountability process to be in place and operating effectively (see paragraph 1.0.6c)

1.0.21 In some countries, arrangements require the accountable entities to report to a President, Monarch or State Council, but in most they report to an elected legislature, either directly or through the executive branch of government. Certain SAIs have a jurisdictional status. This jurisdictional power is exercised, depending on the country, over the accounts, over the accountants, or even over administrators. The judgements and decisions that these institutions make are natural complements to the administrative audit function with which they are charged. Their jurisdictional actions should be

seen as part of the logic of the general objectives pursued by external audit and in particular those objectives which relate to accounting questions.

1.0.22 Public enterprises are also required to fulfil public accountability obligations. Public enterprises may include commercial undertakings, e.g., entities established by statute or executive order or in which the Government has a controlling interest. Irrespective of the manner in which they are constituted, their functions, degree of autonomy or funding arrangements, such entities are ultimately accountable to the supreme law-making body.

1.0.23 The basic auditing principles stipulate that

Development of adequate information, control, evaluation and reporting systems within the government will facilitate the accountability process. Management is responsible for correctness and sufficiency of the form and content of the financial reports and other information (see paragraph 1.0.6d).

1.0.24 The correctness and sufficiency of the financial reports and statements are the entity's expression of the financial position and the results of operations. It is also the entity's obligation to design a practical system which will provide relevant and reliable information.

1.0.25 The basic auditing principles stipulate that

Appropriate authorities should ensure the promulgation of acceptable accounting standards for financial reporting and disclosure relevant to the needs of the government, and audited entities should develop specific and measurable objectives and performance targets (see paragraph 1.0.6e).

1.0.26 The SAIs should work with the accounting standards setting organisations to help ensure that proper accounting standards are issued for the government.

1.0.27 The SAIs should also recommend to the audited entities that measurable and clearly stated objectives be established and that performance targets be set for these objectives.

1.0.28 The basic auditing principles stipulate that

Consistent application of acceptable accounting standards should result in the fair presentation of the financial position and the results of operations (see paragraph 1.0.6f).

1.0.29 The assumption that consistency in application of accounting standards is a prerequisite of fairness means that an audited entity must comply with accounting standards appropriate in the circumstances, as well as the requirement of applying such accounting standards in a consistent manner. An auditor should not consider compliance with accounting standards in a consistent manner as a definitive proof of presenting fairly the various financial reports. Fairness is an expression of an auditor's opinion that goes beyond the limits of consistent application of accounting standards. Such an assumption emphasises that the auditing standards are no more than the minimum requirements for an auditor's obligation. Going beyond that minimum is for the auditor's judgement.

1.0.30 The basic auditing principles stipulate that

The existence of an adequate system of internal control minimises the risk of errors or irregularities (see paragraph 1.0.6g).

1.0.31 It is the responsibility of the audited entity to develop adequate internal control systems to protect its resources. It is not the auditor's responsibility. It is also the obligation of the audited entity to ensure that controls are in place and functioning to help ensure that applicable statutes and regulations are complied with, and that probity and propriety are observed in decision making. However, this does not elieve the auditor from submitting proposals and recommendations to the audited entity where controls are found to be inadequate or missing.

1.0.32 The basic auditing principles stipulate that

Legislative enactments would facilitate the co-operation of audited entities in maintaining and providing access to all relevant data necessary for a comprehensive assessment of the activities under audit (see paragraph 1.0.6h).

1.0.33 The SAI must have access to the sources of information and data as well as access to officials and employees of the audited entity in order to carry out properly its audit responsibilities. Enactment of legislative requirements

for access by the auditor to such information and personnel will help minimise future problems in this area.

1.0.34 The basic auditing principles stipulate that

All audit activities should be within the SAI's audit mandate (see paragraph 1.0.6i).

1.0.35 SAIs generally are established by the supreme lawmaking body, or by constitutional provision. In some cases elements of the SAI's role may be by convention rather than by specific legal provision. Commonly, the establishing law or regulation sets out the form of the SAI (such as court, board, commission, statutory office or ministry), the terms and conditions of incumbency, tenure, powers, duties, functions and general responsibilities, and other matters governing the holding of office and the discharge of the functions and duties to be performed.

1.0.36 Whatever the arrangements, the essential function of the SAI is to uphold and promote public accountability. In certain countries, the SAI is a court, composed of judges, which has authority over State accountants who must render accounts to it. This jurisdictional function requires the SAI to make sure that whoever is charged with dealing with public funds is accountable to it and is in this regard subject to its jurisdiction.

1.0.37 There exists an important complementarity between this jurisdictional authority and the other characteristics of audit. The characteristics should be viewed as part of the logic of the general objectives pursued by external audit and more particularly those which relate to accounting management.

1.0.38 The full scope of government auditing includes regularity and performance audit.

1.0.39 Regularity audit embraces:

(a) attestation of financial accountability of accountable entities, involving examination and evaluation of financial records and expression of opinions on financial statements;

(b) attestation of financial accountability of the government administration as a whole;

(c) audit of financial systems and transactions including an evaluation of compliance with applicable statutes and regulations;

(d) audit of internal control and internal audit functions;

(e) audit of the probity and propriety of administrative decisions taken within the audited entity; and

(f) reporting of any other matters arising from or relating to the audit that the SAI considers should be disclosed.

1.0.40 Performance audit is concerned with the audit of economy, efficiency and effectiveness and embraces:

(a) audit of the economy of administrative activities in accordance with sound administrative principles and practices, and management policies;

(b) audit of the efficiency of utilisation of human, financial and other resources, including examination of information systems, performance measures and monitoring arrangements, and procedures followed by audited entities for remedying identified deficiencies; and

(c) audit of the effectiveness of performance in relation to the achievement of the objectives of the audited entity, and audit of the actual impact of activities compared with the intended impact.

1.0.41 In practice there can be an overlap between regularity and performance auditing, and in such cases classification of a particular audit will depend on the primary purpose of that audit.

1.0.42 In many countries the mandate for performance auditing will stop short of review of the policy bases of government programs. In any case the mandate should clearly delineate the SAI's powers and responsibilities in relation to performance auditing in all areas of government activity, among other things to facilitate the application of appropriate auditing standards by the SAI.

1.0.43 In some countries the constitution or legislation in force do not always confer on the SAI the authority to audit "effectiveness" or "efficiency" of the financial management of the Executive. In these cases evaluation of the appropriateness or the utility of administrative decisions and the effectiveness of management is for Ministers, to whom is given the task of the organisation of administrative services and who are responsible for their management before the legislative body. The expression which would appear in this case to be the most adequate to describe the audits of the SAI which go beyond the traditional framework of regularity and legality is that of "audit of good management." Such an audit aims to proceed with an analysis of public expenditure in the light of general principles of sound management. The two types of audit--of regularity and of management--can in practice be carried out in one operation, the more so since they are mutually reinforcing: audits of regularity being able to prepare audits of management, and the latter resulting in the correction of situations causing irregularities.

1.0.44 Public accountability will be more effectively promoted where the mandate enables the SAI to conduct, or direct the conduct of, regularity and performance auditing of all public enterprises.

1.0.45 The general auditing principles stipulate that

SAIs should work towards improving techniques for auditing the validity of performance measures (see paragraph 1.0.6j).

1.0.46 The expanding audit role of the auditors will require them to improve and develop new techniques and methodologies to assess whether reasonable and valid performance measures are used by the audited entity. The auditors should avail themselves of techniques and methodologies of other disciplines.

1.0.47 The scope of the audit mandate will determine the scope of the standards to be applied by the SAI.

Chapter II

2.1 General Standards in Government Auditing

2.1.1 This section deals with general standards in government auditing. The general auditing standards describe the qualifications of the auditor and/or the auditing institution so that they may carry out the tasks related to field and reporting standards in a competent and effective manner.

2.1.2 The general auditing standards are that the SAI should adopt policies and procedures to

(a) Recruit personnel with suitable qualifications (see paragraph 2.1.3).

(b) Develop and train SAI employees to enable them to perform their tasks effectively, and to define the basis for the advancement of auditors and other staff (see paragraph 2.1.5).

(c) Prepare manuals and other written guidance and instructions concerning the conduct of audits (see paragraph 2.1.13).

(d) Support the skills and experience available within the SAI and identify the skills which are absent; provide a good distribution of skills to auditing tasks and assign a sufficient number of persons for the audit; and have proper planning and supervision to achieve its goals at the required level of due care and concern (see paragraph 2.1.15).

(e) Review the efficiency and effectiveness of the SAI's internal standards and procedures (see paragraph 2.1.25).

2.1.3 The general standards for SAIs include

The SAI should adopt policies and procedures to recruit personnel with suitable qualifications (see paragraph 2.1.2a).

The following paragraph explains recruitment as an auditing standard.

2.1.4 SAI personnel should possess suitable academic qualifications and be equipped with appropriate training and experience. The SAI should establish, and regularly review, minimum educational requirements for the appointment of auditors.

2.1.5 The general standards for SAIs include

The SAI should adopt policies and procedures to develop and train SAI employees to enable them to perform their task effectively and to define the basis for the advancement of auditors and other staff (see paragraph 2.1.2b).

The following paragraphs explain training and development as an auditing standard.

2.1.6 The SAI should take adequate steps to provide for continuing professional development of its personnel, including, as appropriate, provision of in-house training and encouragement of attendance at external courses.

2.1.7 The SAI should maintain an inventory of skills of personnel to assist in the planning of audits as well as to identify professional development needs.

2.1.8 The SAI should establish and regularly review criteria, including educational requirements, for the advancement of auditors and other staff of the SAI.

2.1.9 The SAI should also establish and maintain policies and procedures for the professional development of audit staff regarding the audit techniques and methodologies applicable to the range of audits it undertakes.

2.1.10 SAI personnel should have a good understanding of the government environment, including such aspects as the role of the legislature, the legal and institutional arrangements governing the operations of the executive and the charters of public enterprises. Likewise, trained audit staff must possess an adequate knowledge of the SAI's auditing standards, policies, procedures and practices.

2.1.11 Audit of financial systems, accounting records and financial

statements requires training in accounting and related disciplines as well as a knowledge of applicable legislation and executive orders affecting the accountability of the audited entity. Further, the conduct of performance audits may require, in addition to the above, training in such areas as administration, management, economics and the social sciences.

2.1.12 The SAI should encourage its personnel to become members of a professional body relevant to their work and to participate in that body's activities.

2.1.13 The general standards for SAIs include:

The SAI should adopt policies and procedures to prepare manuals and other written guidance and instructions concerning the conduct of audits (see paragraph 2.1.2c).

The following paragraph explains written guidance as an auditing standard.

2.1.14 Communication to staff of the SAI by means of circulars containing guidance, and the maintenance of an up-to-date audit manual setting out the SAI's policies, standards and practices, is important in maintaining the quality of audits.

2.1.15 The general standards for SAIs include

The SAI should adopt policies and procedures to support the skills and experience available within the SAI and identify those skills which are absent; provide a good distribution of skills to auditing tasks and a sufficient number of persons for the audit; and have proper planning and supervision to achieve its goals at the required level of due care and concern (see paragraph 2.1.2d).

The following paragraphs explain the use of skills as an auditing standard.

2.1.16 Resources required to undertake each audit need to be assessed so that suitably skilled staff may be assigned to the work and a control placed on staff resources to be applied to the audit.

2.1.17 The extent to which academic attainments should be related specifically to the audit task varies with the type of auditing undertaken. It is not necessary that each auditor possesses competence in all aspects of the audit mandate. However, policies and procedures governing the assignment of

personnel to audit tasks should aim at deploying personnel who have the auditing skills required by the nature of the audit task so that the team involved on a particular audit collectively possesses the necessary skills and expertise.

2.1.18 It should be open to the SAI to acquire specialised skills from external sources if the successful carrying out of an audit so requires in order that the audit findings, conclusions and recommendations are perceptive and soundly based and reflect an adequate understanding of the subject area of the audit. It is for the SAI to judge, in its particular circumstances, to what extent its requirements are best met by in-house expertise as against employment of outside experts.

2.1.19 Policies and procedures governing supervision of audits are important factors in the performance of the SAI's role at an appropriate level of competence. The SAI should ensure that audits are planned and supervised by auditors who are competent, knowledgeable in the SAI's standards and methodologies, and equipped with an understanding of the specialities and peculiarities of the environment.

2.1.20 Where the SAI's mandate includes the audit of financial statements which cover the executive branch of government as a whole, the audit teams deployed should be equipped to undertake a co-ordinated evaluation of departmental accounting systems, as well as of central agency co-ordination arrangements and control mechanisms. Teams will require a knowledge of the relevant governmental accounting and control systems, and an adequate expertise in the auditing techniques applied by the SAI to this type of audit.

2.1.21 Unless the SAI is equipped to undertake, within a reasonable time-scale, all relevant audits, including performance audits covering the whole of every audited entity's operations, criteria are needed for determining the range of audit activities which, within the audit period or cycle, will give the maximum practicable assurance regarding performance of public accountability obligations by each audited entity.

2.1.22 In determining the allocation of its resources among different audit activities, the SAI must give priority to any audit tasks which must, by law, be completed within a specified time frame. Careful attention must be given to strategic planning so as to identify an appropriate order of priority for discretionary audits to be undertaken.

2.1.23 Assignment of priorities compatible with maintaining the quality of performance across the mandate involves exercise of the SAI's judgement in the light of available information. Maintenance of a portfolio of data pertaining to the structure, functions and operations of audited entities will assist the SAI in identifying areas of materiality and vulnerability and areas holding potential for improvements in administration.

2.1.24 Before each audit is undertaken proper authorisation for its commencement should be given by designated personnel within the SAI. This authorisation should include a clear statement of the objectives of the audit, its scope and focus, resources to be applied to the audit in terms of skills and quantum, arrangements for reviews of progress at appropriate points, and the dates by which fieldwork is to be completed and a report on the audit is to be provided.

2.1.25 The general standards for SAIs include

The SAI should adopt policies and procedures to review the efficiency and effectiveness of the SAI's internal standards and procedures (see paragraph 2.1.2e).

The following paragraphs explain quality assurance reviews as an auditing standard.

2.1.26 Because of the importance of ensuring a high standard of work by the SAI, it should pay particular attention to quality assurance programs in order to improve audit performance and results. The benefits to be derived from such programs make it essential for appropriate resources to be available for this purpose. It is important that the use of these resources be matched against the benefits to be obtained.

2.1.27 The SAI should establish systems and procedures to:

(a) confirm that integral quality assurance processes have operated satisfactorily;

(b) ensure the quality of the audit report; and

(c) secure improvements and avoid repetition of weaknesses.

2.1.28 As a further means of ensuring quality of performance, additional to the review of audit activity by personnel having line responsibility for the audits concerned, it is desirable for SAIs to establish their own quality assurance arrangements. That is, planning, conduct and reporting in relation to a sample of audits may be reviewed in depth by suitably qualified SAI personnel not involved in those audits, with consultation with the relevant audit line management regarding the outcome of the internal quality assurance arrangements and periodic reporting to the SAI's top management.

2.1.29 It is appropriate for SAIs to institute their own internal audit function with a wide charter to assist the SAI to achieve effective management of its own operations and sustain the quality of its performance.

2.1.30 The quality of the work of the SAI can be enhanced by strengthening internal review and probably by independent appraisal of its work.

2.1.31 In certain countries the audit of regularity and legality takes the form of a preventative control of public expenditure, by means of an approval by the SAI of the expenditure.

2.1.32 Generally, preventative audit should be understood as an audit which is carried out at a time which still permits the auditing institution to prevent an act which is judged to be irregular.

2.1.33 While "a posteriori" audit may only find irregularities when they have already happened and when it is more difficult to correct them, "a priori" audit brings by contrast an immediate sanction: the refusal to authorise settlement in case of juridical or accounting irregularity established by the SAI.

2.1.34 Some SAIs help develop and/or review and approve accounting systems, and then later review the application of the same systems in operation.

2.1.35 The SAI should ensure that applicable standards are followed on both pre-audits and post-audits and that deviations from the standards which are determined to be appropriate are documented.

2.2 Standards With Ethical Significance

2.2.1 The general auditing standards include:

(a) The auditor and the SAI must be independent (see paragraph 2.2.2).

(b) SAIs should avoid conflict of interest between the auditor and the entity under audit (see paragraph 2.2.31).

(c) The auditor and the SAI must possess the required competence (see paragraph 2.2.33).

(d) The auditor and the SAI must exercise due care and concern in complying with the INTOSAI auditing standards. This embraces due care in planning, specifying, gathering and evaluating evidence, and in reporting findings, conclusions and recommendations (see paragraph 2.2.39).

Independence

2.2.2 The general standards for the auditor and the SAI include

The auditor and the SAI must be independent (see paragraph 2.2.1a).

The following paragraphs explain independence as an auditing standard. In particular, paragraphs 2.2.5 - 2.2.12 explain independence from the legislature, paragraphs 2.2.13 - 2.2.24 from the executive, and paragraphs 2.2.25 - 2.2.29 from the audited entity.

2.2.3 Whatever the form of government, the need for independence and objectivity in audit is vital. An adequate degree of independence from both the legislature and the executive branch of government is essential to the conduct of audit and to the credibility of its results.

2.2.4 Criteria for establishing and maintaining adequate SAI independence can most readily be made explicit for countries in which there is an elected legislature, distinguished from the executive branch of government (whether or not members of the government are also members of the

legislature). As arrangements broadly of this sort operate in a high proportion of INTOSAI member countries, these standards set out SAI independence criteria for countries with such arrangements, acknowledging that modification and adaptation of those criteria would be necessary in other countries.

2.2.5 The legislature is one of the main users of the SAI's services. It is from the constitution or legislature that the SAI derives its mandate, and a frequent feature of the SAI's function is its reporting to the legislature. The SAI can be expected to work closely with the legislature, including with any committees empowered by the legislature to consider SAI reports. Such liaison can contribute to effective follow-up of the SAI's work.

2.2.6 Similarly the important results of audits of the carrying-out of the State budget and of administration and disputes and disagreements with audited administrations should be brought to the attention of the legislative body by way of report or special communication.

2.2.7 Special committees created within the legislative body may be charged with examining, in the presence of Ministers, delegates from the audited services and other representatives, the comments in the SAI reports and special communications. The close link between the legislative body and the SAI can also be implemented by a budgetary enquiry as well as by technical assistance to the work of parliamentary committees charged with the examination of draft budgets.

2.2.8 The SAI may give members of the legislature factual briefings on audit reports, but it is important that the SAI maintains its independence from political influence, in order to preserve an impartial approach to its audit responsibilities. This implies that the SAI not be responsive, nor give the appearance of being responsive, to the wishes of particular political interests.

2.2.9 While the SAI must observe the laws enacted by the legislature, adequate independence requires that it not otherwise be subject to direction by the legislature in the programming, planning and conduct of audits. The SAI needs freedom to set priorities and program its work in accordance with its mandate and adopt methodologies appropriate to the audits to be undertaken.

2.2.10 In some countries the audit of the executive's financial management is the prerogative of the Parliament or elected Assembly; this may also apply to the audit of expenditure and receipts at a regional level, where external audit is the responsibility of a legislative assembly. In these cases audits are

conducted on behalf of that body and it is appropriate for the SAI to take account of its requests for specific investigations in programming audit tasks. It is nevertheless important that the SAI remain free to determine the manner in which it conducts all its work, including those tasks requested by the Parliament.

2.2.11 It is appropriate for legislation to specify minimum reporting requirements, including the matters to be subject to an audit opinion and a reasonable time within which reports should be made. Apart from that, flexible arrangements for the SAI's reporting to the legislature, without restriction on content or timing of reports, would support the maintenance of independence.

2.2.12 It is necessary that the legislature provide the SAI with sufficient resources, for which the SAI is accountable, as well as for the effective exercise of its mandate.

2.2.13 The executive branch of government and the SAI may have some common interests in the promotion of public accountability. But the essential relationship with the executive is that of an external auditor. As such the SAI's reports assist the executive by drawing attention to deficiencies in administration and recommending improvements. Care should be taken to avoid participation in the executive's functions of the kind that would militate against the SAI's independence and objectivity in the discharge of its mandate.

2.2.14 It is important for the independence of the SAI that there be no power of direction by the executive in relation to the SAI's performance of its mandate. The SAI should not be obliged to carry out, modify or refrain from carrying out, an audit or suppress or modify audit findings, conclusions and recommendations.

2.2.15 A degree of co-operation between the SAI and the executive is desirable in some areas. The SAI should be ready to advise the executive in such matters as accounting standards and policies and the form of financial statements. The SAI must ensure that in giving such advice it avoids any explicit or implied commitment that would impair the independent exercise of its audit mandate.

2.2.16 Maintenance of the SAI's independence does not preclude requests to the SAI by the executive proposing matters for audit. But if it is to enjoy

adequate independence, the SAI must be able to decline any such request. It is fundamental to the concept of SAI independence that decisions as to the audit tasks comprising the program should rest finally with the SAI.

2.2.17 A sensitive area in relationships between the SAI and the executive concerns provision of resources to the SAI. In varying degrees, reflecting constitutional and institutional differences, arrangements for the SAI's resource provision may be related to the executive branch of government's financial situation and general expenditure policies. As against that, effective promotion of public accountability requires that the SAI be provided with sufficient resources to enable it to discharge its responsibilities in a reasonable manner.

2.2.18 Any imposition of resource or other restrictions by the executive which would constrain the SAI's exercise of its mandate would be an appropriate matter for report by the SAI to the legislature.

2.2.19 The legal mandate should provide for full and free access by the SAI to all premises and records relevant to audited entities and their operations and should provide adequate powers for the SAI to obtain relevant information from persons or entities possessing it.

2.2.20 Also, by legal provision or convention, the executive should permit access by the SAI to sensitive information which is necessary and relevant to the discharge of the SAI's responsibilities.

2.2.21 Conditions of tenure for the head of the SAI can contribute to the SAI's independence from the executive, for instance through appointment for a lengthy fixed term or until a specified retirement age. Conversely, tenure conditions which put an SAI under pressure to please the executive would have an erosive influence on independence. For this reason it is in principle desirable that provisions relating to the termination of appointment or removal from office should be exercisable only by special process akin to that relating to the holders of judicial or like office.

2.2.22 For those SAIs which exercise a jurisdictional function and which are most frequently organised in a collegial form, the independence of their members should be assured by various guarantees, particularly the principle of irremovability of judges, the privilege of jurisdiction, the determination of the treatment by the law, and the independence of the examining magistrate.

2.2.23 In order that the SAI not only exercise its functions independently of the executive but be seen to do so, it is important that its mandate and its independent status be well understood in the community. The SAI should, as appropriate opportunities arise, undertake an educational role in that regard.

2.2.24 The SAI's functional independence need not preclude arrangements with executive entities in regard to the SAI's administration in matters such as industrial relations, personnel management, property management or common purchasing of equipment and stores, though executive entities should not be in a position to take decisions that would jeopardise the SAI's independence in discharging its mandate.

2.2.25 The SAI must remain independent from audited entities. It should, however, seek to create among audited entities an understanding of its role and function, with a view to maintaining amicable relationships with them. Good relationships can help the SAI to obtain information freely and frankly and to conduct discussions in an atmosphere of mutual respect and understanding. In this spirit, the SAI, while retaining its independence, can agree to be associated with reforms which are planned by the Administration in areas such as public accounts or financial legislation or agree to be consulted about the preparation of draft laws or rules affecting its competence or its authority. In these cases it is not, however, a matter of the SAI interfering in administrative management but a matter of co-operating with certain administrative services by giving them technical assistance or by putting SAI financial management experience at their disposition.

2.2.26 In contrast to private sector audit, where the auditor's agreed task is specified in an engagement letter, the audited entity is not in a client relationship with the SAI. The SAI has to discharge its mandate freely and impartially, taking management views into consideration in forming audit opinions, conclusions and recommendations, but owing no responsibility to the management of the audited entity for the scope or nature of the audits undertaken.

2.2.27 The SAI should not participate in the management or operations of an audited entity. Audit personnel should not become members of management committees and, if audit advice is to be given, it should be conveyed as audit advice or recommendation and acknowledged clearly as such.

2.2.28 Any SAI personnel having close affiliations with the management of an audited entity, such as social, kinship or other relationship conducive to

a lessening of objectivity, should not be assigned to audit that entity.

2.2.29 Personnel of the SAI should not become involved in instructing personnel of an audited entity as to their duties. In those instances where the SAI decides to establish a resident office at the audited entity with the purpose of facilitating the ongoing review of its operations, programs and activities, SAI personnel should not engage in any decision making or approval process which is considered the auditee's management responsibility.

2.2.30 The SAI may co-operate with academic institutions and enter formal relationships with professional bodies, provided the relationships do not inhibit its independence and objectivity, in order to avail itself of the advice of experienced members of the profession at large.

Conflict of interest

2.2.31 SAIs should avoid conflict of interest between the auditor and the entity under audit (see paragraph 2.2.1b).

2.2.32 The SAI performs its role by carrying out audits of the accountable entities and reporting the results. To fulfil this role, the SAI needs to maintain its independence and objectivity. The application of appropriate general auditing standards assists the SAI to satisfy these requirements.

Competence

2.2.33 The general standards for the auditor and the SAI include

The auditor and the SAI must possess the required competence (see paragraph 2.2.1c).

The following paragraphs explain competence as an auditing standard.

2.2.34 The mandate of a SAI generally imposes a duty of forming and reporting audit opinions, conclusions and recommendations. In some SAIs this duty may be imposed on the head of the organisation. In SAIs organised on a collegiate basis the duty is usually placed on the institution itself.

2.2.35 Discussion within the SAI promotes the objectivity and authority of opinions and decisions. Where a SAI is structured in collegiate form, the final opinions and decisions represent the view of the organisation as a whole, even if the action is taken or exercised in bodies differentiated by their composition but not their power--for example, a Chamber, Joint Chamber or section of a Chamber. If the SAI has a single head all opinions and decisions are taken by that head or in his name.

2.2.36 Since the duties and responsibilities thus borne by the SAI are crucial to the concept of public accountability, the SAI must apply to its audits, methodologies and practices of the highest quality. It is incumbent upon it to formulate procedures to secure effective exercise of its responsibilities for audit reports, unimpaired by less than full adherence by personnel or external experts to its standards, planning procedures, methodologies and supervision.

2.2.37 The SAI needs to command the range of skills and experience necessary for effective discharge of the audit mandate. Whatever the nature of the audits to be undertaken under that mandate, the audit work should be carried out by persons whose education and experience is commensurate with the nature, scope and complexities of the audit task. The SAI should equip itself with the full range of up-to-date audit methodologies, including systems-based techniques, analytical review methods, statistical sampling, and audit of automated information systems.

2.2.38 The wider and more discretionary in nature the SAI's mandate, the more complex becomes the task of ensuring quality of performance across the whole mandate. Thus a mandate which leaves the SAI discretion in the frequency of audits to be carried out and the nature of reports to be provided, demands a high standard of management within the SAI.

Due Care

2.2.39 The general standards for the auditor and the SAI include

The auditor and the SAI must exercise due care and concern in complying with the INTOSAI auditing standards. This embraces due care in specifying, gathering and evaluating evidence, and in reporting findings, conclusions and recommendations (see paragraph 2.2.1d).

The following paragraphs explain due care as an auditing standard.

2.2.40 The SAI must be, and be seen to be, objective in its audit of entities and public enterprises. It should be fair in its evaluations and in its reporting of the outcome of audits.

2.2.41 Performance and exercise of technical skill should be of a quality appropriate to the complexities of a particular audit. Auditors need to be alert for situations, control weaknesses, inadequacies in record keeping, errors and unusual transactions or results which could be indicative of fraud, improper or unlawful expenditure, unauthorised operations, waste, inefficiency or lack of probity.

2.2.42 Where an authorised or recognised entity sets standards or guidelines for accounting and reporting by public enterprises, the SAI may use such guidelines in the course of its examination.

2.2.43 If the SAI employs external experts as consultants it must exercise due care to assure itself of the consultants' competence and aptitude for the particular tasks involved. This standard applies also where outside auditors are engaged on contract with the SAI. In addition care must be taken to ensure that audit contracts include adequate provision for the SAI to determine the planning, the audit scope, the performing, and the reporting on the audit.

2.2.44 Should the SAI, in the performance of its functions, need to seek advice from specialists external to the SAI, the standards for exercise of due care in such arrangements have a bearing also on the maintenance of quality of performance. Obtaining advice from an external expert does not relieve the SAI of responsibility for the opinions formed or conclusions reached on the audit task.

2.2.45 When the SAI uses the work of another auditor(s), it must apply adequate procedures to provide assurance that the other auditor(s) has exercised due care and complied with relevant auditing standards, and may review the work of the other auditor(s) to satisfy itself as to the quality of that work.

2.2.46 Information about an audited entity acquired in the course of the auditor's work must not be used for purposes outside the scope of an audit and the formation of an opinion or in reporting in accordance with the auditor's responsibilities. It is essential that the SAI maintain confidentiality regarding audit matters and information arising from its audit task. However,

the SAI must be entitled to report offences against the law to proper prosecuting authorities.

Chapter III

Field Standards in Government Auditing

3.0.1 The purpose of field standards is to establish the criteria or overall framework for the purposeful, systematic and balanced steps or actions that the auditor has to follow. These steps and actions represent the rules of research that the auditor, as a seeker of audit evidence, implements to achieve a specific result.

3.0.2 The field standards establish the framework for conducting and managing audit work. They are related to the general auditing standards, which set out the basic requirements for undertaking the tasks covered by the field standards. They are also related to the reporting standards, which cover the communication aspect of auditing, as the results from carrying out the field standards constitute the main source for the contents of the opinion or report.

3.0.3 The field standards applicable to all types of audit are

(a) The auditor should plan the audit in a manner which ensures that an audit of high quality is carried out in an economic, efficient and effective way and in a timely manner (see paragraph 3.1.1).

(b) The work of the audit staff at each level and audit phase should be properly supervised during the audit; and documented work should be reviewed by a senior member of the audit staff (see paragraph 3.2.1).

(c) The auditor, in determining the extent and scope of the audit, should study and evaluate the reliability of internal control (see paragraph 3.3.1).

(d) In conducting regularity (financial) audits, a test should be made of compliance with applicable laws and regulations. The auditor should design audit steps and procedures to provide reasonable assurance of detecting errors, irregularities, and illegal acts that could have a direct and material effect on the financial statement amounts or the results of regularity audits. The auditor also should be aware of the possibility of illegal acts that could have an indirect and material effect on the financial statements or results of regularity audits.

In conducting performance audits, an assessment should be made of compliance with applicable laws and regulations when necessary to satisfy the audit objectives. The auditor should design the audit to provide reasonable assurance of detecting illegal acts that could significantly affect audit objectives. The auditor also should be alert to situations or transactions that could be indicative of illegal acts that may have an indirect effect on the audit results.

Any indication that an irregularity, illegal act, fraud or error may have occurred which could have a material effect on the audit should cause the auditor to extend procedures to confirm or dispel such suspicions.

The regularity audit is an essential aspect of government auditing. One important objective which this type of audit assigns to the SAI is to make sure, by all the means put at its disposal, that the State budget and accounts are complete and valid. This will provide Parliament and other users of the audit report with assurance about the size and development of the financial obligations of the State. To achieve this objective the SAI will examine the accounts and financial statements of the administration with a view to assuring that all operations have been correctly undertaken, completed, passed, paid and registered. The audit procedure normally results, in the absence of irregularity, in the granting of a "discharge" (see paragraph 3.4.1).

(e) Competent, relevant and reasonable evidence should be obtained to support the auditor's judgement and conclusions regarding the organisation, program, activity or function under audit (see paragraph 3.5.1).

(f) In regularity (financial) audit, and in other types of audit when applicable, auditors should analyse the financial statements to establish whether acceptable accounting standards for financial reporting and disclosure are complied with. Analysis of financial statements should be performed to such a degree that a rational basis is obtained to express an opinion on financial statements (see paragraph 3.6.1).

3.1 Planning

3.1.1 The field standards include

The auditor should plan the audit in a manner which ensures that an audit of high quality is carried out in an economic, efficient and effective way and in a timely manner (see paragraph 3.0.3a).

The following paragraphs explain planning as an auditing standard.

3.1.2 The SAI should give priority to any audit tasks which must be undertaken by law and assess priorities for discretionary areas within the SAI's mandate.

3.1.3 In planning an audit, the auditor should:

(a) identify important aspects of the environment in which the audited entity operates;

(b) develop an understanding of the accountability relationships;

(c) consider the form, content and users of audit opinions, conclusions or reports;

(d) specify the audit objectives and the tests necessary to meet them;

(e) identify key management systems and controls and carry out a preliminary assessment to identify both their strengths and weaknesses;

(f) determine the materiality of matters to be considered;

(g) review the internal audit of the audited entity and its work program;

(h) assess the extent of reliance that might be placed on other auditors, for example, internal audit;

(i) determine the most efficient and effective audit approach;

(j) provide for a review to determine whether appropriate action has been taken on previously reported audit findings and recommendations; and

(k) provide for appropriate documentation of the audit plan and for the proposed fieldwork.

3.1.4 The following planning steps are normally included in an audit:

(a) collect information about the audited entity and its organisation in order to assess risk and to determine materiality;

(b) define the objective and scope of the audit;

(c) undertake preliminary analysis to determine the approach to be adopted and the nature and extent of enquiries to be made later;

(d) highlight special problems foreseen when planning the audit;

(e) prepare a budget and a schedule for the audit;

(f) identify staff requirements and a team for the audit; and

(g) familiarise the audited entity about the scope, objectives and the assessment criteria of the audit and discuss with them as necessary.

The SAI may revise the plan during the audit when necessary.

3.2 Supervision and Review

3.2.1 The field standards include

The work of the audit staff at each level and audit phase should be properly supervised during the audit, and documented work should be reviewed by a senior member of the audit staff (see paragraph 3.0.3b).

The following paragraphs explain supervision and review as an auditing standard.

3.2.2 Supervision is essential to ensure the fulfilment of audit objectives and the maintenance of the quality of the audit work. Proper supervision and control is therefore necessary in all cases, regardless of the competence of individual auditors.

3.2.3 Supervision should be directed both to the substance and to the method of auditing. It involves ensuring that:

(a) the members of the audit team have a clear and consistent understanding of the audit plan;

(b) the audit is carried out in accordance with the auditing standards and practices of the SAI;

(c) the audit plan and action steps specified in that plan are followed unless a variation is authorised;

(d) working papers contain evidence adequately supporting all conclusions, recommendations and opinions;

(e) the auditor achieves the stated audit objectives; and

(f) the audit report includes the audit conclusions, recommendations and opinions, as appropriate.

3.2.4 All audit work should be reviewed by a senior member of the audit staff before the audit opinions or reports are finalised. It should be carried out

as each part of the audit progresses. Review brings more than one level of experience and judgement to the audit task and should ensure that:

(a) all evaluations and conclusions are soundly based and are supported by competent, relevant and reasonable audit evidence as the foundation for the final audit opinion or report;

(b) all errors, deficiencies and unusual matters have been properly identified, documented and either satisfactorily resolved or brought to the attention of a more senior SAI officer(s); and

(c) changes and improvements necessary to the conduct of future audits are identified, recorded and taken into account in later audit plans and in staff development activities.

3.2.5 This standard operates differently in SAIs organised in a collegiate form. In such a structure, decisions, except those of a routine nature, are taken on a collegiate basis at a level appropriate to the importance of the matter. Such an entity, as a whole, decides on the scope of the examination, the tests to be undertaken and the methods to be used.

3.3 Study and Evaluation of Internal Control

3.3.1 The field standards include

The auditor, in determining the extent and scope of the audit, should study and evaluate the reliability of internal control (see paragraph 3.0.3c).

The following paragraphs explain internal control as an auditing standard.

3.3.2 The study and evaluation of internal control should be carried out according to the type of audit undertaken. In the case of a regularity (financial) audit, study and evaluation are made mainly on controls that assist in safeguarding assets and resources, and assure the accuracy and completeness of accounting records. In the case of regularity (compliance) audit, study and evaluation are made mainly on controls that assist management in complying with laws and regulations. In the case of performance audit, they are made on controls that assist in conducting the business of the audited entity in an economic, efficient and effective manner, ensuring adherence to management policies, and producing timely and reliable financial and management information.

3.3.3 The extent of the study and evaluation of internal control depends on the objectives of the audit and on the degree of reliance intended.

3.3.4 Where accounting or other information systems are computerized, the auditor should determine whether internal controls are functioning properly to ensure the integrity, reliability and completeness of the data.

3.4 Compliance With Applicable Laws and Regulations

3.4.1 The field standards include:

In conducting regularity (financial) audits, a test should be made of compliance with applicable laws and regulations. The auditor should design audit steps and procedures to provide reasonable assurance of detecting errors, irregularities, and illegal acts that could have a direct and material effect on the financial statement amounts or the results of regularity audits. The auditor also should be aware of the possibility of illegal acts that could have an indirect and material effect on the financial statements or results of regularity audits.

In conducting performance audits, an assessment should be made of compliance with applicable laws and regulations when necessary to satisfy the audit objectives. The auditor should design the audit to provide reasonable assurance of detecting illegal acts that could significantly affect audit objectives. The auditor also should be alert to situations or transactions that could be indicative of illegal acts that may have an indirect effect on the audit results.

The regularity audit is an essential aspect of government auditing. One important objective which this type of audit assigns to the SAI is to make sure, by all the means put at its disposal, that the State budget and accounts are complete and valid. This will provide Parliament and other users of the audit report with assurance about the size and development of the financial obligations of the State. To achieve this objective the SAI will examine the accounts and financial statements of the administration with a view to assuring that all operations have been correctly undertaken, completed, passed, paid and registered. The audit procedure normally results, in the absence of irregularity, in the granting of a "discharge" (see paragraph 3.0.3d).

The following paragraphs explain compliance as an auditing standard.

3.4.2 Reviewing compliance with laws and regulations is especially important when auditing government programs because decision makers need to know if the laws and regulations are being followed, whether they are having the desired results, and, if not, what revisions are necessary. Additionally government organisations, programs, services, activities, and functions are created by laws and are subject to more specific rules and regulations.

3.4.3 Those planning the audit need to be knowledgeable of the compliance requirements that apply to the entity being audited. Because the laws and regulations that may apply to a specific audit are often numerous, the auditors need to exercise professional judgement in determining those laws and regulations that might have a significant impact on the audit objectives.

3.4.4 The auditor also should be alert to situations or transactions that could be indicative of illegal acts that may indirectly impact the results of the audit. When audit steps and procedures indicate that illegal acts have or may have occurred, the auditor needs to determine the extent to which these acts affect the audit results.

3.4.5 In conducting audits in accordance with this standard, the auditors should choose and perform audit steps and procedures that, in their professional judgement, are appropriate in the circumstances. These audit steps and procedures should be designed to obtain sufficient, competent, and relevant evidence that will provide a reasonable basis for their judgements and conclusions.

3.4.6 Generally, management is responsible for establishing an effective system of internal controls to ensure compliance with laws and regulations. In designing steps and procedures to test or assess compliance, auditors should evaluate the entity's internal controls and assess the risk that the control structure might not prevent or detect non-compliance.

3.4.7 Without affecting the SAI's independence, the auditors should exercise due professional care and caution in extending audit steps and procedures relative to illegal acts so as not to interfere with potential future investigations or legal proceedings. Due care would include consulting appropriate legal counsel and the applicable law enforcement organisations to

determine the audit steps and procedures to be followed.

3.5 Audit Evidence

3.5.1 The field standards include

Competent, relevant and reasonable evidence should be obtained to support the auditor's judgement and conclusions regarding the organisation, program, activity or function under audit (see paragraph 3.0.3e).

The following paragraphs explain audit evidence as an auditing standard.

3.5.2 The audit findings, conclusions and recommendations must be based on evidence. Since auditors seldom have the opportunity of considering all information about the audited entity, it is crucial that the data collection and sampling techniques are carefully chosen. When computer-based system data are an important part of the audit and the data reliability is crucial to accomplishing the audit objective, auditors need to satisfy themselves that the data are reliable and relevant.

3.5.3 Auditors should have a sound understanding of techniques and procedures such as inspection, observation, enquiry and confirmation, to collect audit evidence. The SAI should ensure that the techniques employed are sufficient to reasonably detect all quantitatively material errors and irregularities.

3.5.4 In choosing approaches and procedures, consideration should be given to the quality of evidence, i.e., the evidence should be competent, relevant and reasonable.

3.5.5 Auditors should adequately document the audit evidence in working papers, including the basis and extent of the planning, work performed and the findings of the audit.

3.5.6 Adequate documentation is important for several reasons. It will:

(a) confirm and support the auditor's opinions and reports;

(b) increase the efficiency and effectiveness of the audit;

(c) serve as a source of information for preparing reports or answering any enquiries from the audited entity or from any other party;

(d) serve as evidence of the auditor's compliance with Auditing Standards;

(e) facilitate planning and supervision;

(f) help the auditor's professional development;

(g) help to ensure that delegated work has been satisfactorily performed; and

(h) provide evidence of work done for future reference.

3.5.7 The auditor should bear in mind that the content and arrangement of the working papers reflect the degree of the auditor's proficiency, experience and knowledge. Working papers should be sufficiently complete and detailed to enable an experienced auditor having no previous connection with the audit subsequently to ascertain from them what work was performed to support the conclusions.

3.6 Analysis of Financial Statements

3.6.1 The field standards include

In regularity (financial) audit, and in other types of audit when applicable, auditors should analyse the financial statements to establish whether acceptable accounting standards for financial reporting and disclosure are complied with. Analysis of financial statements should be performed to such a degree that a rational basis is obtained to express an opinion on financial statements (see paragraph 3.0.3f).

The following paragraphs explain analysis of financial statements as an auditing standard.

3.6.2 Financial statement analysis aims at ascertaining the existence of the expected relationship within and between the various elements of the financial statements, identifying any unexpected relationships and any unusual

trends. The auditor should therefore thoroughly analyse the financial statements and ascertain whether:

(a) financial statements are prepared in accordance with acceptable accounting standards;

(b) financial statements are presented with due consideration to the circumstances of the audited entity;

(c) sufficient disclosures are presented about various elements of financial statements; and

(d) the various elements of financial statements are properly evaluated, measured and presented.

3.6.3 The methods and techniques of financial analysis depend to a large degree on the nature, scope and objective of the audit, and on the knowledge and judgement of the auditor.

3.6.4 Where the SAI is required to report on the execution of budgetary laws, the audit should include:

(a) for revenue accounts, ascertaining whether forecasts are those of the initial budget, and whether the audits of taxes and duties recorded, and imputed receipts, can be carried out by comparison with the annual financial statements of the audited activity;

(b) for expenditure accounts, verifying credits to assist budgets, adjustment laws and, for carryovers, the previous year's financial statements.

Chapter IV

Reporting Standards in Government Auditing

4.0.1 It is not practical to lay down a rule for reporting on every special situation. This standard is to assist and not to supersede the prudent judgement of the auditor in making an opinion or report.

4.0.2 The expression "reporting" embraces both the auditor's opinion and other remarks on a set of financial statements as a result of a regularity (financial) audit and the auditor's report on completion of a performance audit.

4.0.3 The auditor's opinion on a set of financial statements is generally in a concise, standardised format which reflects the results of a wide range of tests and other audit work. There is often a requirement to report as to the compliance of transactions with laws and regulations and to report on matters such as inadequate systems of control, illegal acts and fraud. In some countries, constitutional or statutory obligations may require the SAI to report specifically on the execution of budgetary laws, reconciling budgetary estimates and authorisation to the results set out in the financial statements.

4.0.4 In a performance audit, the auditor reports on the economy and efficiency with which resources are acquired and used, and the effectiveness with which objectives are met. Such reports may vary considerably in scope and nature, for example covering whether resources have been applied in a sound manner, commenting on the impact of policies and programs and recommending changes designed to result in improvements.

4.0.5 In order to recognise reasonable user needs, the auditor's report in both regularity and performance auditing may need to have regard to expanded reporting periods or cycles and relevant and appropriate disclosure requirements.

4.0.6 For ease of reference in this chapter, the word "opinion" is used to mean the auditor's conclusions as a result of a regularity (financial) audit, and may embrace the matters described in paragraph 4.0.3; the word "report" is

used to mean the auditor's conclusions following a performance audit, as described in paragraph 4.0.4.

4.0.7 The reporting standards are

(a) At the end of each audit the auditor should prepare a written opinion or report, as appropriate, setting out the findings in an appropriate form; its content should be easy to understand and free from vagueness or ambiguity, include only information which is supported by competent and relevant audit evidence, and be independent, objective, fair and constructive.

(b) It is for the SAI to which they belong to decide finally on the action to be taken in relation to fraudulent practices or serious irregularities discovered by the auditors.

With regard to regularity audits, the auditor should prepare a written report, which may either be a part of the report on the financial statements or a separate report, on the tests of compliance with applicable laws and regulations. The report should contain a statement of positive assurance on those items tested for compliance and negative assurance on those items not tested.

With regard to performance audits, the report should include all significant instances of non-compliance that are pertinent to the audit objectives.

The following paragraphs explain reporting as an auditing standard. Paragraph 4.0.8 relates both to opinions and reports, paragraphs 4.0.9 - 4.0.20 relate to opinions and paragraphs 4.0.21 - 4.0.26 to reports.

4.0.8 The form and content of all audit opinions and reports are founded on the following general principles:

(a) Title. The opinion or report should be preceded by a suitable title or heading, helping the reader to distinguish it from statements and information issued by others.

(b) Signature and date. The opinion or report should be properly signed. The inclusion of a date informs the reader that consideration has been given to the effect of events or transactions about which the auditor became aware up to that

date (which, in the case of regularity (financial) audits, may be beyond the period of the financial statements).

(c) Objectives and scope. The opinion or report should include reference to the objectives and scope of the audit. This information establishes the purpose and boundaries of the audit.

(d) Completeness. Opinions should be appended to and published with the financial statements to which they relate, but performance reports may be free standing. The auditor's opinions and reports should be presented as prepared by the auditor. In exercising its independence the SAI should be able to include whatever it sees fit, but it may acquire information from time to time which in the national interest cannot be freely disclosed. This can affect the completeness of the audit report. In this situation the auditor retains a responsibility for considering the need to make a report, possibly including confidential or sensitive material in a separate, unpublished report.

(e) Addressee. The opinion or report should identify those to whom it is addressed, as required by the circumstances of the audit engagement and local regulations or practice. This may be unnecessary where formal procedures exist for its delivery.

(f) Identification of subject matter. The opinion or report should identify the financial statements (in the case of regularity (financial) audits) or area (in the case of performance audits) to which it relates. This includes information such as the name of the audited entity, the date and period covered by the financial statements and the subject matter that has been audited.

(g) Legal basis. Audit opinions and reports should identify the legislation or other authority providing for the audit.

(h) Compliance with standards. Audit opinions and reports should indicate the auditing standards or practices followed in conducting the audit, thus providing the reader with an assurance that the audit has been carried out in accordance with generally accepted procedures.

(i) Timeliness. The audit opinion or report should be available promptly to be of greatest use to readers and users, particularly those who have to take necessary action.

4.0.9 An audit opinion is normally in a standard format, relating to the financial statements as a whole, thus avoiding the need to state at length what lies behind it but conveying by its nature a general understanding among readers as to its meaning. The nature of these words will be influenced by the legal framework for the audit, but the content of the opinion will need to indicate unambiguously whether it is unqualified or qualified and, if the latter, whether it is qualified in certain respects or is adverse (paragraph 4.0.14) or a disclaimer (paragraph 4.0.15) of opinion.

4.0.10 An unqualified opinion is given when the auditor is satisfied in all material respects that:

(a) the financial statements have been prepared using acceptable accounting bases and policies which have been consistently applied;

(b) the statements comply with statutory requirements and relevant regulations;

(c) the view presented by the financial statements is consistent with the auditor's knowledge of the audited entity; and

(d) there is adequate disclosure of all material matters relevant to the financial statements.

4.0.11 Emphasis of Matter. In certain circumstances the auditor may consider that the reader will not obtain a proper understanding of the financial statements unless attention is drawn to unusual or important matters. As a general principle the auditor issuing an unqualified opinion does not make reference to specific aspects of the financial statements in the opinion in case this should be misconstrued as being a qualification. In order to avoid giving that impression, references which are meant as "emphasis of matter" are contained in a separate paragraph from the opinion. However, the auditor should not make use of an emphasis of matter to rectify a lack of appropriate disclosure in the financial statements, nor as an alternative to, or a substitute for, qualifying the opinion.

4.0.12 An auditor may not be able to express an unqualified opinion when any of the following circumstances exist and, in the auditor's judgement, their effect is or may be material to the financial statements:

(a) there has been limitation on the scope of the audit;

(b) the auditor considers that the statements are incomplete or misleading or there is an unjustified departure from acceptable accounting standards; or

(c) there is uncertainty affecting the financial statements.

4.0.13 Qualified Opinion. Where the auditor disagrees with or is uncertain about one or more particular items in the financial statements which are material but not fundamental to an understanding of the statements, a qualified opinion should be given. The wording of the opinion normally indicates a satisfactory outcome to the audit subject to a clear and concise statement of the matters of disagreement or uncertainty giving rise to the qualified opinion. It helps the users of the statements if the financial effect of the uncertainty or disagreement is quantified by the auditor although this is not always practicable or relevant.

4.0.14 Adverse Opinion. Where the auditor is unable to form an opinion on the financial statements taken as a whole due to disagreement which is so fundamental that it undermines the position presented to the extent that an opinion which is qualified in certain respects would not be adequate, an adverse opinion is given. The wording of such an opinion makes clear that the financial statements are not fairly stated, specifying clearly and concisely all the matters of disagreement. Again, it is helpful if the financial effect on the financial statements is quantified where relevant and practicable.

4.0.15 Disclaimer of Opinion. Where the auditor is unable to arrive at an opinion regarding the financial statements taken as a whole due to an uncertainty or scope restriction which is so fundamental that an opinion which is qualified in certain respects would not be adequate, a disclaimer is given. The wording of such a disclaimer makes clear that an opinion cannot be given, specifying clearly and concisely all matters of uncertainty.

4.0.16 It is customary for SAIs to provide a detailed report amplifying the opinion in circumstances in which it has been unable to give an unqualified opinion.

4.0.17 In addition, regularity audits often require that reports are made where weaknesses exist in systems of financial control or accounting (as distinct from performance audit aspects). This may occur not only where weaknesses affect the audited entity's own procedures but also where they relate to its control over the activities of others. The auditor should also report on significant irregularities, whether perceived or potential, on inconsistency of application of regulations or on fraud and corrupt practices.

4.0.18 SAIs which have a jurisdictional statute have the ability to take action on certain irregularities discovered in financial statements. They may be authorized to reconcile the accounts prepared by the accountants and impose fines with regard to accountants, and in certain circumstances can cause their suspension or dismissal.

4.0.19 In reporting on irregularities or instances of non compliance with laws or regulations, the auditors should be careful to place their findings in the proper perspective. The extent of non-compliance can be related to the number of cases examined or quantified monetarily.

4.0.20 Reports on irregularities may be prepared irrespective of a qualification of the auditor's opinion. By their nature they tend to contain significant criticisms, but in order to be constructive they should also address future remedial action by incorporating statements by the audited entity or by the auditor, including conclusions or recommendations.

4.0.21 In contrast to regularity audit, which is subject to fairly specific requirements and expectations, performance audit is wide-ranging in nature and is more open to judgement and interpretation; coverage is also more selective and may be carried out over a cycle of several years, rather than in one financial period; and it does not normally relate to particular financial or other statements. As a consequence performance audit reports are varied and contain more discussion and reasoned argument.

4.0.22 The performance audit report should state clearly the objectives and scope of the audit. Reports may include criticism (for example where, in the public interest or on grounds of public accountability, matters of serious waste, extravagance or inefficiency are drawn to attention) or may make no significant criticism but give independent information, advice or assurance as to whether and to what extent economy, efficiency and effectiveness are being or have been achieved.

4.0.23 The auditor is not normally expected to provide an overall opinion on the achievement of economy, efficiency and effectiveness by an audited entity in the same way as the opinion on financial statements. Where the nature of the audit allows this to be done in relation to specific areas of an entity's activities, the auditor should provide a report which describes the circumstances and arrives at a specific conclusion rather than a standardised statement. Where the audit is confined to consideration of whether sufficient controls exist to secure economy, efficiency or effectiveness, the auditor may provide a more general opinion.

4.0.24 Auditors should recognise that their judgements are being applied to actions resulting from past management decisions. Care should therefore be exercised in making such judgements, and the report should indicate the nature and extent of information reasonably available (or which ought to have been available) to the audited entity at the time the decisions were taken. By stating clearly the scope, objectives and findings of the audit, the report demonstrates to the reader that the auditor is being fair. Fairness also implies the presentation of weaknesses or critical findings in such a way as to encourage correction, and to improve systems and guidance within the audited entity. Accordingly the facts are generally agreed with the audited entity in order to ensure that they are complete, accurate and fairly presented in the audit report. There may also be a need to include the audited entity's responses to the matters raised, either verbatim or in summary, especially where the SAI presents its own views or recommendations.

4.0.25 Performance reports should not concentrate solely on criticism of the past but should be constructive. The auditor's conclusions and recommendations are an important aspect of the audit and, where appropriate, are written as a guide for action. Generally these recommendations suggest what improvements are needed rather than how to achieve them, though circumstances sometimes arise which warrant a specific recommendation, for example to correct a defect in the law in order to bring about an administrative improvement.

4.0.26 In formulating and following up recommendations, the auditor should maintain objectivity and independence and thus focus on whether identified weaknesses are corrected rather than on whether specific recommendations are adopted.

4.0.27 In formulating the audit opinion or report, the auditor should have regard to the materiality of the matter in the context of the financial

statements (regularity (financial) audit) or the nature of the audited entity or activity (performance audit).

4.0.28 For regularity (financial) audits, if the auditor concludes that, judged against the criteria most appropriate in the circumstances, the matter does not materially affect the view given by the financial statements, the opinion should not be qualified. Where the auditor decides that a matter is material the opinion should be qualified, having determined the type of qualification (paragraphs 4.0.12 - 4.0.15).

4.0.29 In the case of performance audits that judgement will be more subjective as the report does not relate so directly to financial or other statements. Consequently the auditor may find that materiality by nature or by context is a more important consideration than materiality by amount.

Glossary

Accounting Control System

A series of actions which is considered to be part of the total internal control system concerned with realising the accounting goals of the entity. This includes compliance with accounting and financial policies and procedures, safeguarding the entity's resources and preparing reliable financial reports.

Administrative Control System

A series of actions, being an integral part of the internal control system, concerned with administrative procedures needed to make managerial decisions, realise the highest possible economic and administrative efficiency and ensure the implementation of administrative policies, whether related to financial affairs or otherwise.

Audited Entity

The organisation, program, activity or function subject to audit by the SAI.

Audit Evidence

Information that forms the foundation which supports the auditor's or SAI's opinions, conclusions or reports.

Competent: information that is quantitatively sufficient and appropriate to achieve the auditing results; and is qualitatively impartial such as to inspire confidence and reliability.

Relevant: information that is pertinent to the audit objectives.

Reasonable: information that is economical in that the cost of gathering it is commensurate with the result which the auditor or the SAI is trying to achieve.

Audit Mandate

The auditing responsibilities, powers, discretions and duties conferred on a SAI under the constitution or other lawful authority of a country.

Audit Objective

A precise statement of what the audit intends to accomplish and/or the question the audit will answer. This may include financial, regularity or performance issues.

Audit Procedures

Tests, instructions and details included in the audit program to be carried out systematically and reasonably.

Audit Scope

The framework or limits and subjects of the audit.

Auditing Standards

Auditing standards provide minimum guidance for the auditor that helps determine the extent of audit steps and procedures that should be applied to fulfil the audit objective. They are the criteria or yardsticks against which the quality of the audit results are evaluated.

Constitutional

A matter which is permitted or authorised by the fundamental law of a country.

Due Care

The appropriate element of care and skill which a trained auditor would be expected to apply having regard to the complexity of the audit task, including careful attention to planning, gathering and evaluating evidence, and forming opinions, conclusions and making recommendations.

Economy

Minimising the cost of resources used for an activity, having regard to the appropriate quality.

Effectiveness

The extent to which objectives are achieved and the relationship between the intended impact and the actual impact of an activity.

Efficiency

The relationship between the output, in terms of goods, services or other results, and the resources used to produce them.

Executive Branch of Government (Executive)

The branch of government which administers the law.

Field Standards

The framework for the auditor to systematically fulfil the audit objective, including planning and supervision of the audit, gathering of competent, relevant and reasonable evidence, and an appropriate study and evaluation of internal controls.

Financial Systems

The procedures for preparing, recording and reporting reliable information concerning financial transactions.

Findings, Conclusions and Recommendations

Findings are the specific evidence gathered by the auditor to satisfy the audit objectives; conclusions are statements deduced by the auditor from those findings; recommendations are courses of action suggested by the auditor relating to the audit objectives.

Fundamental

A matter becomes fundamental (sufficiently material) rather than material when its impact on the financial statements is so great as to render them misleading as a whole.

General Standards

The qualifications and competence, the necessary independence and objectivity, and the exercise of due care, which shall be required of the auditor to carry out the tasks related to the field and reporting standards in a competent, efficient and effective manner.

Independence

The freedom of the SAI in auditing matters to act in accordance with its audit mandate without external direction or interference of any kind.

Internal Audit

The functional means by which the managers of an entity receive an assurance from internal sources that the processes for which they are accountable are operating in a manner which will minimise the probability of the occurrence of fraud, error or inefficient and uneconomic practices. It has many of the characteristics of external audit but may properly carry out the directions of the level of management to which it reports.

Internal Control

The whole system of financial and other controls, including the organisational structure, methods, procedures and internal audit, established by management within its corporate goals, to assist in conducting the business of the audited entity in a regular economic, efficient and effective manner; ensuring adherence to management policies; safeguarding assets and resources; securing the accuracy and completeness of accounting records; and producing timely and reliable financial and management information.

International Organisaztion of Supreme Audit Institutions (INTOSAI)

An international and independent body which aims at promoting the exchange of ideas and experience between Supreme Audit in the sphere of public financial control.

Legislature

The law making authority of a country, for example a Parliament.

Management Audit

Analysis of public expenditure in the light of general principles of sound management.

Materiality and Significance (Material)

In general terms, a matter may be judged material if knowledge of it would be likely to influence the user of the financial statements or the performance audit report. Materiality is often considered in terms of value but the inherent nature or characteristics of an item or group of items may also render a matter material--for example, where the law or some other regulation requires it to be disclosed separately regardless of the amount involved. In addition to materiality by value and by nature, a matter may be material because of the context in which it occurs. For example, considering an item in relation to the overall view given by the accounts; the total of which it forms a part; associated terms; the corresponding amount in previous years. Audit evidence plays an important part in the auditor's decision concerning the selection of issues and areas for audit and the nature, timing and extent of audit tests and procedures.

Opinion

The auditor's written conclusions on a set of financial statements as the result of a financial or regularity audit.

Performance Audit

An audit of the economy, efficiency and effectiveness with which the audited entity uses its resources in carrying out its responsibilities.

Planning

Defining the objectives, setting policies and determining the nature, scope, extent and timing of the procedures and tests needed to achieve the objectives.

Principles

Basic assumptions, consistent premises, logical principles and requirements which represent the general framework for developing auditing standards.

Public Accountability

The obligations of persons or entities, including public enterprises and corporations, entrusted with public resources to be answerable for the fiscal, managerial and program responsibilities that have been conferred on them, and to report to those that have conferred these responsibilities on them.

Regularity Audit

Attestation of financial accountability of accountable entities, involving examination and evaluation of financial records and expression of opinions on financial statements; attestation of financial accountability of the government administration as a whole; audit of financial systems and transactions, including an evaluation of compliance with applicable statutes and regulations; audit of internal control and internal audit functions; audit of the probity and propriety of administrative decisions taken within the audited entity; and reporting of any other matters arising from or relating to the audit that the SAI considers should be disclosed.

Report

The auditor's written opinion and other remarks on a set of financial statements as the result of a financial or regularity audit or the auditor's findings on completion of a performance audit.

Reporting Standards

The framework for the auditor to report the results of the audit, including guidance on the form and content of the auditor's report.

Supervision

An essential requirement in auditing which entails proper leadership, direction and control at all stages to ensure a competent, effective link between the activities, procedures and tests that are carried out and the aims to be achieved.

Supreme Audit Institution (SAI)

The public body of a State which, however designated, constituted or organised, exercises by virtue of law the highest public auditing function of that State.