

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 5 January 2005**

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

## **MEMBERS PRESENT:**

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN 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, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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 LAU KONG-WAH, J.P.

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

THE HONOURABLE MIRIAM LAU KIN-YEE, 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 TIMOTHY FOK TSUN-TING, G.B.S., J.P.

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

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

THE HONOURABLE LI FUNG-YING, B.B.S., J.P.

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE FREDERICK FUNG KIN-KEE, J.P.

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H.

DR THE HONOURABLE JOSEPH LEE KOK-LONG

THE HONOURABLE DANIEL LAM WAI-KEUNG, B.B.S., J.P.

THE HONOURABLE JEFFREY LAM KIN-FUNG, S.B.S., J.P.

THE HONOURABLE MA LIK, J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, S.B.S., J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE CHEUNG HOK-MING, S.B.S., J.P.

THE HONOURABLE WONG TING-KWONG, B.B.S.

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

**MEMBERS ABSENT:**

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

**PUBLIC OFFICERS ATTENDING:**

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

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

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

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

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

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

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

THE HONOURABLE AMBROSE LEE SIU-KWONG, I.D.S.M., J.P.  
SECRETARY FOR SECURITY

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

DR THE HONOURABLE YORK CHOW YAT-NGOK, S.B.S., J.P.  
SECRETARY FOR HEALTH, WELFARE AND FOOD

**CLERKS IN ATTENDANCE:**

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Air Transport (Licensing of Air Services) (Amendment) (No. 2) Regulation 2004.....	215/2004
Lai Chi Wo (Special Area) Order 2004.....	216/2004
Designation of Libraries (No. 2) Order 2004.....	217/2004
Air Pollution Control (Petrol Filling Stations) (Vapour Recovery) (Amendment) Regulation 2004 .....	218/2004
Deposit Protection Scheme Ordinance (Commencement) (No. 3) Notice 2004.....	219/2004
Companies Ordinance (Amendment of Eighth Schedule) Order 2004 (Commencement) Notice 2004 .....	220/2004
Building (Administration) (Amendment) Regulation 2004.....	221/2004
Building (Oil Storage Installations) (Amendment) Regulation 2004.....	222/2004
Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) (No. 3) Order 2004 .....	223/2004
Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) (No. 3) Order 2004.....	224/2004

**Other Papers**

- No. 47 — Report of changes to the approved Estimates of Expenditure approved during the second quarter of 2004-05 (Public Finance Ordinance : Section 8)
- No. 48 — Employees Retraining Board  
Annual Report 2003-2004
- No. 49 — Consumer Council  
Annual Report 2003-2004
- No. 50 — Hong Kong Council on Smoking and Health  
Annual Report 2003-2004

**OBITUARY TRIBUTE**

**PRESIDENT** (in Cantonese): Honourable Members, on the 26th of last December, South Asia was struck by the worst tsunami of the century. The devastating tsunami brought extensive damages to dozens of countries in South Asia, causing millions homeless and claimed the lives of over 150 000 victims of many nationalities, including our compatriots.

Members of the Legislative Council would like to express their deepest sympathy to the victims. May I ask all present to stand and observe silence for one minute in honour of the victims?

(All Members and government officials stood and observed one minute's silence)

**PRESIDENT** (in Cantonese): Please be seated.

**ADDRESSES**

**PRESIDENT** (in Cantonese): Address. Miss CHOY So-yuk will address the Council on the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 and Waste Disposal (Charges for Disposal of

Construction Waste) Regulation, which are subsidiary legislation laid on the table of the Council on 3 November 2004.

**Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 and Waste Disposal (Charges for Disposal of Construction Waste) Regulation**

**MISS CHOY SO-YUK** (in Cantonese): Madam President, in my capacity as Chairman of the Subcommittee on Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 (the DWDF Regulation) and Waste Disposal (Charges for Disposal of Construction Waste) Regulation (the Charging Regulation), I now report the deliberations of the Subcommittee to this Council.

The DWDF Regulation stipulates the types of construction waste with a certain percentage of inert content to be accepted at different waste disposal facilities. The trade has grave concern over the difficulties associated with the differentiation of inert and non-inert construction waste as well as the determination of waste content. The authorities carried out a survey in this respect to ascertain the relation between the weight of the waste load carried by a vehicle and the inert content of such waste, and a preliminary reference table was worked out. However, members pointed out that the Regulation did not empower the Director of Environmental Protection (DEP) to determine the inert content of waste according to the criteria set out in the reference table. Therefore, the authorities will propose an amendment to stipulate that the DEP should give notice in the Gazette of the relevant criteria. Members pointed out that such notice was not subsidiary legislation, so it would be difficult to keep track of any changes in the criteria. In response to the request of the Subcommittee, the authorities promised that the Secretary for the Environment, Transport and Works would give an undertaking in her speech at the Council meeting when she moves an amendment to the relevant regulation, stating that any changes to the criteria deemed necessary must be discussed with the Tripartite Working Group. The role of the Tripartite Working Group would also be explained clearly in her speech.

As to whether waste haulers may be turned away by waste disposal facilities on the grounds that the waste content carried by the vehicles fails to comply with the type of waste to be accepted at specific facilities, the authorities explained that, in future, waste hauler would be given a receipt showing the

reason for rejection and the appropriate waste disposal facility where the waste would be accepted for disposal. Therefore, no vehicles would be rejected entry to waste disposal facilities more than once.

The trade is particularly concerned about the level of disposal charges, the operation of billing accounts, the requirement for deposit and exemption accounts stipulated in the Charging Regulation. The relevant regulation states that all disposal charges shall be paid through a billing account, and that any person may apply to the DEP for the opening of a billing account. However, a main contractor who undertakes construction work with a value of \$1 million or above under a contract awarded on or after the commencement of the Charging Regulation is required to establish a designated billing account for that contract. The arrangement aims to ensure that the main contractor will not shift his responsibility for payment of disposal charges to sub-contractors, in particular waste haulers, and to monitor the waste to be produced from the specific contract.

To reduce the administration cost to be incurred by account-holders managing a number of billing accounts, the authorities proposed to allow an account-holder to use the account to cover the relevant payment of other contracts. However, members considered that the proposed arrangement would not only defeat the intended purpose of opening a designated billing account, but would also be unfair to contractors who failed to secure contracts with a value of \$1 million or above. After negotiations with the trade, the authorities agreed to state in the Charging Regulation that an account opened for a specific contract could not be used to settle charges arising from other contracts, and the account-holder should notify the DEP when the account was no longer required, so as to provide against possible abuse of the billing account.

Under the proposed billing arrangement, an account-holder has to apply to the DEP for chits prior to the disposal of construction waste at designated reception facilities, and the deposit for each chit was set at \$350 initially. The trade in general considered the level of deposit too high, and that the deposit requirement would not only increase their administration cost but would also hold up their capital, in particular for larger-scale projects where a large number of chits would be required, thereby giving rise to cash flow problems. In response to the request of the Subcommittee, the authorities conducted further negotiations with the trade and worked out a two-tier system for deposits for billing accounts. Under the relevant arrangement, billing accounts opened for contracts with a value of \$1 million or above would be charged a minimum of

\$15,000 for 200 chits. As for other billing accounts, a deposit of \$300 for each chit would be charged. Members pointed out that charging different deposit rates for different billing accounts may result in possible abuse of billing accounts. Some members even considered that the authorities should apply a flat rate of deposit to all billing accounts. In response to the request of members, the authorities undertook to review the two-tier system and the feasibility of applying a flat rate of deposit six months after the implementation of the charging scheme. To ease the concern of the trade over cash flow, the authorities also agreed to extend the payment period of waste disposal charges from 30 days to 45 days.

Madam President, the authorities have accepted most of the suggestions of the Subcommittee and will move a motion to amend the two Regulations mentioned.

## **ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): All Members are quite familiar with the rules for question time, so I am not going to repeat them. I just hope that Members would be as concise as possible and would not make statements when they ask supplementary questions. First question.

### **Postponement of Listing of The Link REIT**

1. **MR JEFFREY LAM** (in Cantonese): *Madam President, the Housing Authority (HA) announced on the 19th of last month that in consideration of the legal and other implications that might arise from the relevant lawsuits, it had decided to postpone the listing of The Link Real Estate Investment Trust (The Link REIT), for which the procedure for public offering had already been completed. In this connection, will the Government inform this Council:*

- (a) *whether it has evaluated the tangible and intangible economic losses resulting from the failure to list The Link REIT as scheduled; if it has, of the results;*
- (b) *whether it has evaluated the respective responsibilities to be borne by the Hong Kong Exchanges and Clearing Limited, the Securities and Futures Commission (SFC), the HA, the investment banks and*

*consultants concerned, and the relevant bureaux and departments for the failure to list The Link REIT as scheduled; if it has, of the results; and*

- (c) *of the lessons learnt from the incident, and whether it has assessed how the future privatization plans of public assets will be affected by political factors?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese):  
Madam President, in response to Mr LAM's three-part question, my reply is as follows:

- (a) Broadly speaking, since The Link REIT cannot be listed as scheduled, the HA must repeat some preparatory work in order to relaunch the listing. Such work will incur additional expenses. Moreover, should interest rates go up or investors' sentiments change, pricing of The Link REIT upon the relaunch will be affected. This may in turn affect the divestment proceeds to the HA.

As for investors, whilst all their application monies have been refunded in a timely manner in accordance with relevant provisions in the Offering Circular, they may suffer a loss in terms of opportunity costs. Brokers lose the chance of earning transaction fees from the listing and subsequent trading of The Link REIT.

However, from a different perspective, the incident showcases the strength of Hong Kong's financial and stock market systems. The high transparency in information dissemination and efficiency in refund arrangement testify that the market is orderly and stable, and is able to deal with unexpected turns of event.

- (b) The HA is an independent statutory body and is fully responsible for taking the divestment project forward. As a matter of policy, the Government agrees with the HA's initiative and has been providing necessary support to the HA.

Given the significant magnitude of the divestment project, a number of public and private organizations are involved. Firstly, the Housing Department, being the executive arm of the HA, is responsible for the formulation and implementation of the project. The three investment banks serving as the Joint Global Coordinators, the financial advisor to the HA, The Link Management Limited which will manage The Link REIT, and the legal advisors of the various parties have been working closely on the project. Some government agencies, such as the Financial Services and the Treasury Bureau and the Lands Department, have also participated in the preparation work and provided support in various areas. The SFC and the Stock Exchange of Hong Kong play an approving and regulatory role in matters relating to the Link REIT and its listing.

I must emphasize that the divestment has a firm legal basis. The HA and the investment banks and lawyers involved in the project have carefully undergone considerable analytical work in this regard during the early preparatory stage of the project. They have also obtained clear opinions from both local and British senior counsels that the HA possesses the power to divest its retail and car-parking facilities under the Housing Ordinance. Therefore, there is no need to amend any law for the project to go ahead. As a matter of fact, since the HA announced its decision on the divestment in July 2003, the matter has been reported from time to time in the media and discussed a number of times in the Legislative Council Panel on Housing. It was also discussed in the full Council during a lengthy adjournment debate on 1 December. During all that time, the lawfulness of the divestment has never been questioned.

It is evident from the above background that the listing of The Link REIT could not proceed as scheduled was not a result of inadequate preparation or weak legal basis. It was due to the filing of a judicial review application, which challenged the HA's statutory power to divest its property, by some members of the public just one day before the public offering period for The Link REIT closed. Although both the Court of First Instance and the Court of Appeal of the High Court have expedited their deliberation process and ruled that the HA did possess the power to divest, the applicants had the

right to appeal to the Court of Final Appeal (CFA). As such, and with an applicant's refusal of the HA's proposal to expedite court action, it was not possible to take the case to the CFA for a ruling on the matter before the scheduled listing date of The Link REIT. In making our utmost efforts to proceed with the listing as scheduled, we examined thoroughly various remedial options with the Joint Global Co-ordinating Banks and legal advisors. However, given the time constraint, it was not possible to complete in time all the measures required under those remedial options. To safeguard the interests of both investors and the HA, the HA decided not to proceed with the listing of The Link REIT on 20 December. This was in the best interest of the public and was the most prudent and responsible arrangement in the circumstances.

- (c) The sudden emergence of the judicial review during the offering period of The Link REIT is both unprecedented and hard to predict. Before relaunching the listing of The Link REIT, we will carefully examine together with the investment banks and legal advisors how best to make reasonable disclosure for any potential legal challenges that may arise during the offering period, so as to reduce the risk to the listing to a manageable level.

Summing up the experience from The Link REIT incident, we recognize that some commercial tenants, residents of public housing estates and members of the public are still not very clear about the divestment project and the future business strategy of The Link Management Limited for its shopping malls and car parks. We will step up our efforts to communicate with and brief relevant parties in a more in-depth and comprehensive manner, with a view to removing their doubts and misgivings as far as possible.

As for the impact on future privatization plans of the Government, the aborted listing of The Link REIT is an isolated incident, and will not affect the implementation of other privatization plans by the Government along the "small government, big market" principle. When developing each plan, the Government will examine carefully all possible factors that may affect the plan, and will listen extensively to the views of various parties to ensure the plan's smooth implementation.

**MR JEFFREY LAM** (in Cantonese): *Madam President, the Secretary has not really answered part (a) of the main question. May I ask the Secretary via the President whether he can provide specific figures to state clearly the tangible and intangible losses involved? For example, specific figures on the administration costs incurred by the Government or the HA, brokers' commission and interest costs to small investors in respect of the relevant arrangement. This is the largest real estate fund in the history of Hong Kong that .....*

**PRESIDENT** (in Cantonese): Mr LAM, please just state your supplementary question.

**MR JEFFREY LAM** (in Cantonese): *Since the incident takes a heavy toll on the international status and reputation of Hong Kong, causing intangible loss, will the Secretary give a reply in this respect?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, in respect of specific figures, for the HA, about \$350 million has been spent since the introduction of the divestment project to date. To make arrangement for relaunch of the listing, we have to repeat some preparatory work, such as valuation and printing of the offering prospectus. The extra expenses so incurred will be about \$100 million. The HA estimates that the divestment project and the two items of work mentioned earlier will approximately cost \$900 million.

In respect of the losses suffered by brokers, I believe it is hard to be quantified, for we do not know the transaction amount and commission level concerned. However, we can provide a figure on the funds frozen during the offering period, which is about \$280 billion. Certainly, the HA has earned a meager income of about \$7 million from the offering. However, other losses in terms of opportunity costs involved in the incident can hardly be quantified. As to the intangible influence on Hong Kong and the impact on its status as an international financial centre, Madam President, I shall defer to my colleague, Secretary Frederick MA, with your indulgence.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, our status as an international financial centre is founded on our judicial independence and the spirit of the rule of law in Hong Kong, as well as our good regulatory regime and excellent infrastructural facilities. In terms of talents, Hong Kong also has considerable advantages, and that is why we can establish a good reputation as an international financial centre. As Secretary Michael SUEN said, the unsuccessful listing of The Link REIT this time is only an isolated incident, and I believe it will not affect our status as an international financial centre. Definitely, we hope to do the best we can in every single listing. As Secretary Michael SUEN said earlier, this incident was unpredictable. Therefore, we hope that we will do a better job when the listing is relaunched in the future, so as to further consolidate Hong Kong's status as a financial centre.

**PRESIDENT** (in Cantonese): Members, we have spent twelve and a half minutes on a single supplementary question with two replies. There are altogether 17 Members waiting to raise their supplementary questions now, I would thus exercise my discretion to extend the time limit for this question, but I believe some Members may still be disappointed. Mr Andrew LEUNG.

**MR ANDREW LEUNG** (in Cantonese): *Madam President, after this incident, if the listing of The Link REIT is relaunched in future, what kind of impact will there be? Will it result in a cut in offering price?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, as I said in my main reply, if we were to relaunch the listing, we have to face circumstances which would be different. The interest at that time may have risen or fallen, which is something we cannot estimate accurately at the moment, and the investment climate then prevalent may have changed. All such factors will have a bearing on the offering price, thus affecting the proceeds from the divestment of assets. Of course, it is not possible for us to answer clearly whether the change will be an increase or a decrease. However, we hope that we can strive for the early completion of all outstanding work so as to launch the listing as soon as possible. If the time lag involved is shorter, the differences then prevailing will be smaller.

**MR VINCENT FANG** (in Cantonese): *Madam President, The Link REIT incident reflects that many commercial tenants of public housing estates are indeed worried about the commercialization followed by the listing, for they are anxious that their rent and interest will be affected. If the listing of The Link REIT is relaunched, how the interest of commercial tenants and residents of public housing can be assured, and the provision of good development opportunity be ensured?*

**PRESIDENT** (in Cantonese): Mr Vincent FANG, I am afraid I do not see how the worries of commercial tenants cited in your supplementary question are related to the theme of this question, the evaluation of the relation between tangible and intangible losses. Perhaps you may give some thought to it, and I will let you raise your question again later.

**MR VINCENT FANG** (in Cantonese): *Fine.*

**MR RONNY TONG** (in Cantonese): *In the main reply, the Secretary stated that clear legal opinions had been obtained from local and British senior counsels before the listing. However, the judgements of the Court of First Instance and the Court of Appeal on the case pointed out clearly that the applicants had strong grounds and substantial legal justification for the case, and the trial Judge even pointed out that the listing had been a rash move.*

**PRESIDENT** (in Cantonese): Mr TONG, please state your question direct.

**MR RONNY TONG** (in Cantonese): *May I ask the Secretary, in the course of seeking legal opinion, had the two senior counsels been required to assess the legal basis for a possible challenge of the listing; if an assessment has been made, why a clear explanation in this respect has not been included in the offering prospectus?*

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

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, in retrospect, facts speak for themselves. Four Judges from the two levels of Courts unanimously ruled that the legal basis of the listing was valid and the challenge was not successful. When we sought advice from local and British senior counsels, the same opinions were given. Naturally, no one foresaw the possible challenge to this basic point at that time, and thus this had never been regarded as a risk. The risk assessment conducted by us was not without foundation; instead, a set of criteria was followed. Also, we had to answer questions raised by the regulatory authorities. We assessed the need for the disclosure of certain matters according to those criteria and questions, and the legal advice we obtained on this was very clear. Though some people may now question why an amendment to the ordinance had not been proposed, I do not consider an amendment necessary as the two levels of Courts had already ruled in favour of us. This means there is no problem with the ordinance. So, how are we going to amend the ordinance, we really do not know.

In view of the circumstances at the time, where our opinions in this respect were in agreement, we did not see the need for disclosure of anything in this regard. We went through a very stringent procedure at the time and had answered all the questions of the regulatory authorities. Neither we nor the regulatory authorities considered disclosure in this respect necessary. Now, after this incident, as I just said, if we are to relaunch the listing, we may have to, in the light of the progress of the court case and the circumstances then prevailing, make some appropriate disclosure.

**PRESIDENT** (in Cantonese): Mr Martin LEE.

**MR RONNY TONG** (in Cantonese): *Madam President, may I ask a follow-up?*

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

**MR RONNY TONG** (in Cantonese): *The Secretary has not answered my supplementary question at all. My supplementary asked him whether the two senior counsels had been requested to assess the possible challenge of the legal basis of the listing. Is the Secretary saying that he did not ask them, or that he did ask them but the information was not disclosed in the offering prospectus? The reply of the Secretary was very long, but I heard no answer to my supplementary question.*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, as I said earlier, we decided the extent of disclosure in the light of the large number of questions raised by the regulatory authorities. We had gone through the relevant procedures and did not consider such disclosure necessary. Besides, the regulatory authorities also considered such disclosure not necessary.

**MR MARTIN LEE** (in Cantonese): *Madam President, the tangible and intangible economic losses resulting from the incident should definitely include the people's confidence in government officials. May I ask whether the government official responsible for the listing of The Link REIT has, under any circumstances, disclosed any information as an "informed source" to deliberately mislead the media, the public and even the Court to think that the listing, if failed to proceed smoothly, might render the financial status of the HA vulnerable or even make it bankrupt, and might affect the target of allocating flats to waiting list applicants within three years? For such act may intensify public sentiments, mounting pressure on the Court to process the case as soon as possible.*

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

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, every day, there are lots of opinions expressed in society on all kinds of issues. I do not know what sort of misleading information Mr Martin LEE was referring to earlier. He did not make it clear, so I do not know who is misleading as he said. However, I have also heard of similar comments.

The question is that the HA is actually facing enormous financial pressure. We are now facing the court case in question as well as another court case on rent reduction. Therefore, if both cases were ruled against the HA, we would of course face tremendous pressure. As to when we will become incapable of discharging the statutory work stipulated under the relevant ordinances, we do not know how long before we come to that state, for it depends on the prevailing circumstances. Certainly, I believe Members all know that I have not made those comments to which Mr Martin LEE referred earlier, and I have never commented on it.

**MR MARTIN LEE** (in Cantonese): *I am not referring to the Secretary. I mean to ask whether government officials have disseminated information which was not true as informed sources to mislead the media, or even the Court.*

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

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I have nothing to add. As far as I know, none of my colleagues have ever done so.

**MS MIRIAM LAU** (in Cantonese): *Madam President, the Secretary said earlier that they could have done a better job regarding The Link REIT incident. Having learnt a lesson from the postponed listing of The Link REIT, how will the authorities strengthen their communication with the parties concerned in future or in which aspect can the authorities do better, so as to prevent the relaunched listing of The Link REIT or the privatization of other government assets in future from meeting similar hurdles?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, as I said in my main reply earlier, summing up the experience of the incident, we will explain to commercial tenants and residents of public housing estate as well as members of the local community the divestment project and business strategy to be adopted by The Link Management Limited in future for its shopping malls and car parks, for some of them are still not clear about

these issues. Before the last adjournment debate, some Members from the Liberal Party had reflected this opinion to us, and we undertook to step up our efforts in this respect at that time. Now, we have more time in our hand. So, started from last week, we began to explain the case again to District Councils and the relevant trade associations. Again, pamphlets are issued to explain our policy and future strategy in this respect, with frequently asked questions and information included. We hope that by doing so, we can address their questions as far as possible.

**MR CHIM PUI-CHUNG** (in Cantonese): *Madam President, just now, the Secretary replied that about \$350 million were lost in The Link REIT incident. Losses incurred by other investors in terms of interest, manpower, resources and time are definitely substantial. My supplementary question is: Who should be held responsible for this incident? Should it be the sponsor, the underwriter, the counsels or the SFC? Has the Government made any assessment? If it turns out to be fruitless, how can worldwide or local investors have confidence in Hong Kong?*

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

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, the major difficulty we are facing at the time, as I said in my main reply, is that we cannot launch the listing so far despite the two levels of Courts have already confirmed our legal basis and legality of the divestment, for the legal proceedings initiated by the court case are still pending. Madam President, I remember at the adjournment debate held by the Legislative Council on 1 December last year, extensive discussion on this question was held. At that time, no Member gave any indication on the possible legal challenge we might face, nor had any Member given any oral reminder to us. I recalled that, at that time, Members only raised questions on three main aspects: First, the dirt cheap prices; second, the proportion of divestment; and third, the communication with commercial tenants. At that time, no Member mentioned this; even the press gave no indication of a possible challenge against the legality of the listing. The challenge was an extremely sudden and unpredictable move. I, thus, consider it premature to draw a conclusion now. However, at this very moment, this seems to be the major cause.

**MR CHIM PUI-CHUNG** (in Cantonese): *The Secretary has not answered my supplementary question. Who should be held responsible? Is it the fault of society and that no particular person should be held responsible?*

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

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, as I said earlier, we say that this is the cause of the incident or the reason for this. We have to wait until the entire incident is over before we can have a blow-by-blow account of it, examining the responsibility issue.

**PRESIDENT** (in Cantonese): We have spent more than 26 minutes on this question. Mr FANG, I have given you time to consider your question, please raise your question again.

**MR VINCENT FANG** (in Cantonese): *Madam President, my supplementary question is on the worries of small commercial tenants about the listing. The Secretary said earlier that communication would be enhanced if the listing was to be relaunched. May I ask what specific measures the authorities will implement to enhance their communication with tenants?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, in my earlier reply to Ms Miriam LAU, I talked about communication, and such communication will be enhanced via trade associations and District Councils, making the information known to more people. Certainly, in addition to this, we will also go to the shopping malls direct to explain the case to tenants face to face. We will do such work.

**PRESIDENT** (in Cantonese): I hope that those Members who have not had the chance to raise supplementary questions on this question will follow up the issue through other channels. Second question.

**Investors to Complete Subscription Forms in Chinese**

2. **MRS SELINA CHOW** (in Cantonese): *Madam President, the application forms for The Link Real Estate Investment Trust (The Link REIT), which was offered for sale to the public last month, specified that except for the Chinese names, applicants should complete the forms in English; otherwise their applications might be rejected. Such a practice has caused inconvenience to some members of the public who intended to subscribe for The Link REIT. According to the Administration's reply to a relevant question raised in this Council in April 2001, the Securities and Futures Commission (SFC) would discuss with members of the Federation of Share Registrars and market participants to explore possible means to allow investors to complete subscription forms in Chinese in the future. In this connection, will the Government inform this Council:*

- (a) *given that it has been more than three and a half years since the Administration replied to the above question in April 2001, of the reasons for the failure of the authorities concerned to make arrangements to allow investors to complete the subscription forms in Chinese;*
- (b) *given that stakeholders of the securities sector expected a large number of retail subscribers of The Link REIT, whether the authorities concerned had considered allowing such retail subscribers to complete the application forms for The Link REIT in Chinese; and*
- (c) *given that the authorities concerned announced last month that the listing of The Link REIT had been put on hold, whether they will consider adopting measures to allow members of the public to complete subscription forms in Chinese when they arrange for the listing of The Link REIT and other public assets in the future?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President,

- (a) First of all, I would like to clarify that existing Listing Rules and the SFC's regulations do not impose any specific requirements on the

language to be used in the completion of share application forms. In fact, these documents are agreements between the issuers and the applicants. The prevailing market practice is to require investors to complete the application forms in English.

Since 2001, the SFC has on many occasions discussed the issue of allowing the use of Chinese in completing the IPO application forms with the Federation of Share Registrars as well as various financial intermediaries and market participants involved in the IPO process.

However, due to the legal and technical difficulties set out below, the industry has considered it not technically feasible at this stage to move towards using Chinese characters to complete the IPO application forms:

First, many of the companies listed in Hong Kong are incorporated overseas. According to the laws of many overseas jurisdictions, the names on the register of members (shareholders) of the company must be maintained in English. So, it is necessary for the issuers to obtain such information in English from the subscribers.

Second, many of the computer systems used by the market operators and intermediaries who are involved in the IPO process and the subsequent share transfer activities (for instance, share registrars, brokers, banks, and so on) can, at present, only process information in English. To allow subscribers to submit application forms in Chinese, it is necessary for the computer systems of market operators and intermediaries to be changed to allow the processing of the Chinese data in applications forms. It is a matter of commercial decision for market operators and intermediaries as to whether investment should be made in changing their computer systems having regard to the perceived investors' needs and the costs involved.

We understand that some share registrars have begun looking into Chinese language processing capabilities and the SFC will continue to liaise with the industry on this issue.

I also wish to point out that, in addition to the completion and submission of the application forms by themselves, investors have other means to lodge an application to participate in an IPO. For instance, they can apply through a broker or a bank of their choice who will lodge an application on their behalf, or they can open an investor participant account with and apply through the Hong Kong Exchanges and Clearing Limited (HKEx).

- (b) According to the SFC, the issue of the language for completing the IPO application forms was discussed with the Joint Global Coordinators and other stakeholders involved in The Link REIT IPO process. Due to the aforementioned legal and technical difficulties, the industry considered it not technically feasible at this stage to move towards allowing the filling of IPO application forms in Chinese. Nevertheless, in order to facilitate the participation of the investing public, the SFC specifically asked the Joint Global Coordinators to ensure that where IPO applications were collected, there were measures, resources and arrangements in place to assist applicants in the completion of application forms. At all of the receiving banks, trained staff were available to provide assistance to those investors who require such help to complete application forms in English.
- (c) The SFC intends to reiterate its request to the Joint Global Coordinators that they should ensure that similar measures, resources and arrangements to assist applicants in filling IPO application forms in English would be put in place during the coming listing of The Link REIT, and urge them to consider how such measures could be further strengthened to provide investors with more convenience. The SFC will continue to liaise with the market operators and other concerned parties on ways to allow the completion of application forms in Chinese.

**MRS SELINA CHOW** (in Cantonese): *Madam President, I felt very disappointed at hearing the Secretary's reply because he has shifted a responsibility that should be borne by the Government to the SFC and replied the question in the tone of the SFC. This is entirely unacceptable. The point behind my main question is: Since both Chinese and English are official*

*languages in Hong Kong, how can the Government tolerate that only forms completed in English by applicants are accepted and forms completed in Chinese, which is the other official language, are rejected? Neither have the authorities proposed any timetable to change such an unacceptable practice. Can the Secretary inform us of the Government's attitude and whether the Government would set a target date for changing such an unacceptable practice because people think that it is very inconvenient and totally unacceptable?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, just now Mrs Selina CHOW might have not caught my main reply clearly. In my main reply, I have already pointed out that these application forms are an agreement between the issuers and the applicants. Since a lot of technical difficulties are involved, legislative amendment by the Government stipulating that the mandatory use of Chinese is a must may not be feasible. A lot of changes to the computer systems are required which are beyond the ability of the Government. This is an agreement in the market and a commercial decision as well. So, with regrets, I have to say that the Government cannot set down a timetable for this because the Government basically cannot assume any role in this. Just now Mrs Selina CHOW said that the Government seemed to consider that this was the duty of the SFC. As a regulatory authority, the SFC will provide a lot of guidance in relation to listing matters and liaise with the Stock Exchange. Members should understand that under our three-tier supervisory framework, the Government's role is policy formulation in relation to financial matters instead of supervision. So, Members and the public may have confusion in this aspect. I am very thankful to Mrs Selina CHOW for giving me the opportunity to elaborate the different roles played by the two bodies. Decisions concerning such matters as listing are made by the SFC and the HKEx. There is no role for the Government to play at all.

**MR ALBERT CHENG** (in Cantonese): *Madam President, I would like to ask the Secretary a question. In some fully developed international financial centres, investors are not required to complete any forms on the occasions of large-scale share allotment or other listing activities. Why are investors in Hong Kong, an international financial centre, required to complete forms? Secondly, in his reply to Mrs Selina CHOW's supplementary question, the Secretary said that it was provided in the legislation that both Chinese and*

*English should be used. As legislation has been laid down and there is legislation for people's compliance, why do some people still fail to observe the law? I hope the Secretary can answer my supplementary question.*

**PRESIDENT** (in Cantonese): Mr CHENG, Members can only ask one supplementary question. Which question do you want the Secretary to answer?

**MR ALBERT CHENG** (in Cantonese): *Madam President, it is the first question which is about the reasons for the requirement of filling these forms in view of the fact that even institutional investors are not required to do so in subscribing the same type of shares.*

**PRESIDENT** (in Cantonese): The question is allowed. Secretary.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I thank Mr CHENG for his supplementary question. As Mr CHENG has just said, in many fully developed markets such as the United States and Canada, retail investors need not adopt the system in Hong Kong. Very often, they will make use of the broker's firms. After they have opened an account with the broker's firms, shares will be allotted to them by the broker's firms on the occasion of allotment of new shares. The system in Hong Kong has both its uniqueness and advantages. Through a fair ballot system, anyone can purchase funds or shares by completing a white form even though he has not opened an account with a broker's firm. This is the advantage of our allotment system. There are many retail investors in Hong Kong. Compared with many international cities, the proportion of retail investors in Hong Kong is quite high and our system has certain advantages. Of course, we understand that investors consider the system too complicated. For instance, they are required to complete forms, submit cheques and a large sum of money is frozen. These are the problems of our system. But in all fairness, since not everybody has opened an account with a broker's firm, the system has been well received by investors. In view of the difference between our system of broker's firms and that in foreign countries, I admit that the system we have adopted for this occasion has some inadequacies. But in all fairness, I personally consider this a good way to allot shares.

**DR KWOK KA-KI** (in Cantonese): *Madam President, in the main reply, the Secretary mentioned that since legislation had been formulated, the Policy Bureau did not have any role to play in relation to the fact that Chinese was not used and this was a matter between the SFC and the agent. I am very dissatisfied with this reply because, if so, the Secretary needs not appear before this Council. Although the Secretary is reluctant to reply, I would like to ask whether the Government will set down a timetable for the use of Chinese as an official language by the public in filling the subscription forms. What policy will be adopted by the Government to put this into practice?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, as regards languages, both Chinese and English are the official languages of Hong Kong. From the listing documents of the SFC, for instance, the offering circular of The Link REIT, it can be seen that they are bilingual. Undoubtedly, this is the fact. In other words, both Chinese and English can be used. Regarding the filling of forms, as I have just explained, this is a commercial agreement between the applicants and the issuers. In addition, this involves arrangement concerning computer systems. We have also asked the costs involved if Chinese is used in all computers in Hong Kong. The message we got is that the costs will be enormous. So, it is absolutely not true that the Government has attached importance to English only. This is absolutely not true. The Government has made it clear that both Chinese and English are our official languages. But regarding this issue, sorry, I have to say that the Government does not have any role to play. I have explained this point very clearly. Even if Members intend to enact legislation on this, I do not know where we can start. So, I hope Members can understand that this is not a matter of legislation. As quite a number of Members in the Chamber come from the legal profession, I would like to listen to their views if they consider legislation on this is necessary. But insofar as I understand it, this is not a matter of legislation. Meanwhile, as I have pointed out clearly in the main reply, the issue concerning listing particularly involves where the company will eventually be incorporated. So we cannot simply say that we should legislate to stipulate the use of Chinese in completing forms. I hope Members can understand and will not blame the Government for doing nothing regardless of the matter involved.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary mentioned that some listed companies were not incorporated in Hong Kong. This I can understand. However, if investors are allowed to complete application forms in Chinese on the occasion of share offering by local incorporated companies, it will encourage more investment. Although the Government should not legislate on this matter, will it consider the practice of other stock exchanges which use Chinese? For instance, Taiwan has a mature stock exchange and the stock exchange in the Mainland also enjoy rapid development. Will the Government look into how they solve the problem and whether huge cost is involved and then encourage the industry to adopt their practice? Can this be done by the Government?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): *Madam President, I thank Mr YOUNG for this supplementary question. This is a good question because I have also asked this question before. The markets in Taiwan and Mainland started to use Chinese computers from day one and ours use English. If changes are made, as I have just said, the cost involved will be huge and the entire software has to be replaced. The exorbitant cost is the main reason. In fact, since The Link REIT is a fund launched in Hong Kong, the SFC has requested that all banks should assign their staff to help clients complete the forms and all broker's firms are also prepared to translate their Chinese names into English based on the information in their identity cards. We have provided as much assistance as possible. I hope Members will understand the technical difficulties and other regulatory problems.*

**MR LEUNG KWOK-HUNG** (in Cantonese): *Madam President, I feel strange after hearing the Secretary's reply. The listing of The Link REIT is in fact determined and arranged by the Government. May I ask, if a person is denied the investment opportunity simply because he does not know English and cannot complete the application form, who should be held responsible? Does the Government owe him anything? According to the Basic Law, both Chinese and English are official languages in Hong Kong. In my understanding, the relevant article stipulates that Chinese language should be dominant. Why has such a ridiculous phenomenon emerged? I think the Government should really be held responsible if somebody who .....*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, have you raised your supplementary question? Because many other Members are still waiting for their turns.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Should the Government provide compensation? If someone who can only complete the form in Chinese is rejected, will the Government consider providing compensation to him?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, just now I have mentioned time and again that the banks have made all kinds of arrangements. If it is stipulated in the form that it must be completed in English and I do not know English, I can tell the bank staff that my name is LEUNG Kwok-hung and I do not know English. I can request the bank staff to fill in the form for me. Arrangements have been made for all this. If we think that Chinese should be the dominant language in the listing matters of the Housing Authority, the only thing we can do is to tell the banking Coordinators that this is one of the conditions. The Coordinators may tell us that it is not feasible for the time being and the cost involved is so huge that it may cause the project to fall through. I hope Members can really understand that this is a commercial decision. The Government cannot force them to use Chinese and say that the project will be given to somebody else if they fail to comply. No one in Hong Kong can do this because the institutions involved include not only the Coordinators, but also the clearing company and the stock exchange. All their computer software is written in English. No matter what Members say, this is the fact. So, I have to point out above all else that it is not that the Government does not want all documents to be completed in Chinese. It does. But it is not practicable on some occasions.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Madam President, this supplementary question seeks a specific answer.*

**PRESIDENT** (in Cantonese): Never mind, please say which part of your supplementary question has not been answered by the Secretary. You need only repeat that part.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Madam President, Secretary Michael SUEN said that privatization would be continued and in his oral reply to the first question, he said that The Link REIT was only the first plan in the implementation of "small government, big market" policy. The Government will continue to implement privatization plans. In other words, some people will suffer loss because they do not know how to complete the forms in English. The Link REIT is not the only occasion. As the Government will implement many other privatization schemes, why does it not solve the problem? A saying comes to my mind and I do not know whether the Secretary understands it. It says, "A Han person, having learnt the language of the Northern barbarian tribes, scolded the Han people at the city gate." As Hong Kong .....*

**PRESIDENT** (in Cantonese): Have you raised a follow-up question? Mr LEUNG Kwok-hung, have you finished with your question?

**MR LEUNG KWOK-HUNG** (in Cantonese): *Madam President, I would like to ask the Secretary: Will such a practice be continued in future privatization plans?*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, this is not part of your previous supplementary question. So this is another supplementary question rather than a follow-up.

Last supplementary question.

**MR CHIM PUI-CHUNG** (in Cantonese): *Madam President, according to the Secretary's reply just now, the main technical problem is that the cost is too big. But we also understand that Chinese language is very important. In view of this, has the Government tried to put a request to the listed companies through the SFC that applications completed in Chinese should be accepted in future?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, in the main reply, I mentioned that this depends on the listed companies concerned. I believe Mr CHIM's question does not target at The Link REIT. If the listed company is registered as an incorporated

company overseas, the register of shareholders overseas must be maintained in English. I cannot say that my Chinese name is MA Si-hang and I insist on filling in these three Chinese characters. This is impossible. Instead, I have to fill in my English name. So, in view of the existence of other legal problems, the practice will not necessarily follow the rules we have laid down. As I have just said, from 2001 onwards — Mrs Selina CHOW was right just now — this problem was raised as early as 2001. The then Secretary for Financial Services and the Treasury explained in his reply to Members that he would encourage banks to use Chinese. After several years, as I have said, no progress has been made since this is a commercial decision. However, I have heard Members' views. I believe that many associated bodies of the banks, including the staff of share registrars, have also heard your voices. I can assure Members that we will continue to encourage the SFC to follow up this matter with organizations involved in listing.

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

### **Tax System of Hong Kong**

3. **MISS TAM HEUNG-MAN** (in Cantonese): *Madam President, regarding Hong Kong's tax system and tax assessment, will the Government inform this Council:*

- (a) *of the time when the last comprehensive review of the Inland Revenue Ordinance (IRO) was conducted, and whether it has assessed if the current IRO confers excessive discretionary powers on the Commissioner of Inland Revenue; if it has, of the assessment results; and whether it will consider conducting a comprehensive review of the Ordinance; if not, the reasons for that;*
- (b) *of the measures to enhance the fairness and transparency in tax assessment, and whether it will follow the practice of publishing the Assessors' Manual, which has been adopted in countries such as the United Kingdom and the United States, to inform taxpayers of the assessment criteria of the Inland Revenue Department (IRD); if not, the reasons for that; and*

- (c) *whether it has assessed if Hong Kong lags behind other developed economies in its tax system; if the assessment results show that Hong Kong's tax system so lags behind, of the authorities' strategies to eliminate such situation?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President,

- (a) The last comprehensive review of the IRO was carried out in 1976. Since then, the Administration has kept the various tax items under constant review in the context of the annual budget exercises and other policy review exercises. On a more technical level, the various provisions of the IRO are also reviewed regularly to make sure that our taxation system is competitive in the global context. Enhancements are introduced to meet the ever-changing social and economic environment. All these amendments are effected after detailed deliberations by the Legislative Council. The Administration welcomes views from the public on taxation matters. Every year, the Financial Secretary organizes budget consultations with legislators, political parties, professional bodies and organizations in related industries as well as members of the public.

In this connection, in 1987, in order to better and more systematically gauge the views of the practitioners and chambers on tax legislation, which could be very complex and highly technical, the Administration initiated and encouraged the establishment of the Joint Liaison Committee on Taxation (JLCT), the main liaison body between the Administration and the industry on taxation matters. The JLCT is an umbrella organization comprising private sector representatives nominated by chambers of commerce, the Hong Kong Institute of Certified Public Accountants, the Taxation Institute of Hong Kong, The Law Society of Hong Kong, and the International Fiscal Association. It also invites members from the academic, legal as well as tax-related fields to attend its meetings from time to time. Representatives from the Legislative Council, the Financial Services and the Treasury Bureau, the IRD and the Department of Justice also attend JLCT meetings on a regular basis.

Invariably, the Administration consults the JLCT on all major amendments to the IRO and other taxation legislation before submitting the relevant bills to the Legislative Council in order to make sure that the views of the industry and business community are duly reflected in our legislative proposals. The JLCT is functioning well in providing a constructive forum for liaison between the Administration and representatives of the private sector, to formulate advice to the Government, and to conduct or sponsor researches and educational activities in connection with taxation matters. Various subcommittees are formed from time to time under the JLCT to study different taxation topics of interest, contribute to the drafting of the IRD's Departmental Interpretation and Practice Notes (DIPNs) and provide advice on the drafting of tax legislation.

The JLCT has recently invited Miss TAM Heung-man to join, and we note that Miss TAM nominated a representative to attend the JLCT meetings. Miss TAM is welcome to make use of this channel to provide advice on taxation matters.

Other well-established consultation channels between the Administration and taxation professionals include the annual meeting between the IRD and the Hong Kong Institute of Certified Public Accountants.

As a result of the regular reviews and after consultation with the industry and tax professionals, legislative changes were made and implemented from time to time. For example, a total of 34 bills have been introduced into the Legislative Council since 1991 proposing various amendments to the IRO. These amendments seek to introduce both policy and technical changes to keep our taxation regime competitive and up-to-date.

The Administration would also establish ad hoc committees and working parties to undertake in-depth study on specific issues, whenever there is such a need.

We consider that the present approach of keeping various tax items under constant review in annual budget exercises and other policy

review exercises and reviewing various provisions of the IRO regularly with inputs from the industry, the profession and the business community through the various consultative channels including the JLCT is effective and efficient. At present, we do not see any genuine need for conducting an overall review of the IRO.

On the question of whether or not the existing IRO gives excessive discretion to the Commissioner of Inland Revenue, the Administration is of the view that all the powers vested in the Commissioner under the IRO are necessary for her to discharge the tax assessment and collection duties effectively in order to protect public revenue. Such powers were carefully deliberated by the legislature in the course of enactment. Besides, our tax and legal system has a well defined system of objection and appeal, which enables taxpayers to contest the judgements or assessments made by the Commissioner. For instance, the disagreements will be adjudged by the Board of Review, which is an independent statutory body established to determine tax appeals, as well as the independent Courts. This mechanism provides very effective checks and balances on the discretionary power exercised by the Commissioner or other tax officials and has been operating effectively.

- (b) Ensuring integrity and transparency in the exercise of tax-assessing duties are important objectives. Towards this end, the IRD has published a series of DIPNs setting out the Department's view on applications of the tax law and the usual practices in conducting the tax assessment functions. To facilitate taxpayers' access to such information, these notes are also published on the website of the IRD. The IRD also has a statutory scheme of providing advance ruling on taxation matters. Rulings that may be of interest to the tax-paying public are published on the website. Other more important policies that may affect taxpayers, such as the policy of imposing penalty by way of Additional Tax on tax evasion offences, are also published on the IRD website for easy reference.

The Assessor's Manual serves as a training tool for newcomers to the IRD and a procedural manual detailing the operation procedures

for day-to-day assessing duties for individual officers. It should not be of much reference value to taxpayers or their representatives. The Administration does not think that publishing the Assessor's Manual will help enhance the transparency of the tax system. We will continue to work with the JLCT to expand and update the DIPNs with a view to improving their usefulness and reference value to taxpayers.

- (c) In terms of competitiveness, Hong Kong's tax system compares favourably with other tax jurisdictions. Hong Kong is well-known for its simple and low taxes. We adopt the territorial source concept in taxation. Only income arising in or derived from Hong Kong is chargeable to tax. These tax rates are very low compared to European, North American and some Asian countries. They are also lower than almost all of our neighbours in the Asian region. Besides, we do not have worldwide tax. Nor do we have any capital gains tax, dividends tax or interest tax. These other taxes are usually present in other tax regimes.

Apart from having low tax rates, our tax system is also very simple and fair. Certainty and simplicity in the taxation system are very important to foreign investors. We rank the first in 2005 (for the 11th consecutive year since the index's inception in 1995) amongst 161 places as the freest economy in the world by the Index of Economic Freedom published jointly by the Heritage Foundation and the Wall Street Journal. One of the criteria adopted in determining the ranking is taxation.

We are mindful that these advantages of Hong Kong's taxation regime should be maintained, and that we have to stay ahead of the global competition for investments. We have assessed and kept under constant review our tax system and our competitiveness with other tax jurisdictions.

**MISS TAM HEUNG-MAN** (in Cantonese): *Madam President, I am very grateful to the Secretary for giving us such a detailed reply. But I still wish to point out that the JLCT is just an advisory group, and as such, it cannot possibly conduct any comprehensive review to ascertain whether the IRO is adequate and*

*whether it can keep abreast of the times. I hope the Secretary can reconsider whether the JLCT is capable of overseeing the taxation reform of Hong Kong.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I shall relay Miss TAM Heung-man's opinion to the JLCT.

**MS EMILY LAU** (in Cantonese): *Madam President, as pointed out by the Secretary in the main reply, the last comprehensive review of the IRO was carried out in 1976, which was a very long time ago. In the past few years, whenever we in The Frontier met with the Financial Secretary on the Budget, we would request a comprehensive review of the IRO. And, at a number of meetings of the Panel on Financial Affairs, representatives of the accountancy and other sectors also pointed out that the Government should do so. A few years ago, there was a certain committee on widening the tax base; its members once told us that the current approach was not good enough, as it was very much "piecemeal" in nature. But now the Secretary has pointed out in the main reply that there is no practical need for a comprehensive review of the taxation system. Is the Secretary aware that many people in society have expressed the view that a comprehensive review of the existing taxation system is now necessary, after the passage of several decades?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, as pointed out in my main reply, although there has been no comprehensive review of the taxation system, the Financial Secretary will still consult Members and various professional bodies in the context of annual budgeting exercises, and taxation is brought up for discussions in our annual meetings. Therefore, it cannot be said that the taxation system has never been reviewed since 1976. Such a problem simply does not exist. Besides, I have also explained that the JLCT has been offering frequent advice to the Government on many technical issues or other matters relating to taxation. The Government is therefore of the view that the existing mechanism can already cope with any need for changes. And, there is one more point. As Members are also aware, the taxation system of Hong Kong is very simple, and this is one of the main reasons for our strong competitiveness. Members all know that it is a very simple matter to fill out a salaries tax return in Hong Kong. I myself just

need roughly 10 minutes. In contrast, people in the United States may need many days to do so. The difference is all due to our simple taxation system. And, precisely because of this, we do not need any frequent and large-scale reviews of our taxation system. But as I have explained, we will always keep the situation in view through different channels. If necessary, we will definitely introduce the improvements required. Should Members have any opinions about our taxation system, or if they think that certain improvements are necessary, they are most welcome to raise them with us.

**MS EMILY LAU** (in Cantonese): *The Secretary has not answered my supplementary question. My question asked the Secretary if he is aware that the accountancy sector, professional bodies and many members of the public all want the Government to conduct a comprehensive review now, instead of trying to do so only when it considers whether the tax base should be widened. Has the Secretary heard all these views? Why does he refuse to listen to them?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I did once receive a copy of the letter addressed by Miss TAM Heung-man to the Chairman of the Panel on Financial Affairs after her assumption of office as a Legislative Council Member. In this letter, Miss TAM requested us to take actions on reviewing the taxation system. This was the first time that I had ever received such a request since my assumption of office in 2002. And, in response, we raised the issue with the Chairman and Deputy Chairman of the Panel for discussions. I can confirm with Ms Emily LAU that it was the first time I had ever received any request from Members or organizations for a comprehensive review of our taxation legislation. That was the first time.

**DR RAYMOND HO** (in Cantonese): *Madam President, in the past, many people who had engaged in short-term employment in Hong Kong must settle all taxes payable before they were permitted to leave. But it seems that this is not necessarily the case in recent years. Is this matter related to the discretion of the Commissioner of Inland Revenue or that of other departments, such as the Director of Immigration?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I wish to clarify Dr Raymond HO's question. Was he asking whether it is within the authority of the Commissioner of Inland Revenue to decide whether the persons concerned should be permitted to leave Hong Kong? Or, was he asking whether it is within the authority of the Director of Immigration to do so?

**DR RAYMOND HO** (in Cantonese): *Can I make a clarification, Madam President? My point is that as I have recently heard, some outsiders who come to Hong Kong for short-term employment may still be able to leave the territory after the cessation of their employment even though they have not settled all the taxes payable. Who has the power to exercise discretion to allow them to leave without settling all taxes payable?*

**PRESIDENT** (in Cantonese): Secretary, please listen to me before answering this supplementary question. Dr Raymond HO, this oral question is about a comprehensive review of the IRO, but your supplementary question is just about one of the many relevant aspects. How is it related to the main question?

**DR RAYMOND HO** (in Cantonese): *Madam President, my question is on part (a) of the main reply, that is, the part relating to the excessive discretionary powers of the Commissioner of Inland Revenue.*

**PRESIDENT** (in Cantonese): Do you wish to ask whether such cases fall within the discretionary powers of the Commissioner of Inland Revenue?

**DR RAYMOND HO** (in Cantonese): *Yes, I wish to ask whether such cases fall within the discretionary powers of the Commissioner of Inland Revenue.*

**PRESIDENT** (in Cantonese): I see your point now. Thank you.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, Dr Raymond HO's question is about a very fine detail, so if he does not mind, I would like to gather the required information from the Commissioner of Inland Revenue and submit a written reply later on. (Appendix I)

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

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, my question is about the Assessors' Manual. How is the Assessors' Manual of the Hong Kong IRD different from those of the United Kingdom and the United States mentioned in the main reply? Why can the manuals of other countries be published? Although the Secretary has already explained why the Assessors' Manual of Hong Kong is not published for public information, I still wish to know the differences between it and the Assessors' Manuals of the two countries. Are there any marked differences in terms of specific contents?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, as far as we understand it, our Assessors' Manual is largely the same as those of other countries. But there is high transparency in our case, for a good part of the information in our Assessors' Manual has been incorporated into the DIPNs mentioned earlier. I have pointed out in my main reply why we do not wish to release the Assessors' Manual. But this has nothing to do with transparency or other considerations. The main reason is that the Assessors' Manual is just a procedural manual for IRD staff, detailing their due duties. Another reason is that since most of the information in the Assessors' Manual is already found in the DIPNs, we do not see any further need for its publication. Coming back to Mr SIN Chung-kai's supplementary question, I can confirm that our Assessors' Manual is largely the same as those of most other countries, insofar as I understand it.

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

**AsiaWorld-Expo and Temporary Use of Tamar Site for Exhibition Purposes**

4. **MR ALBERT CHENG** (in Cantonese): *Madam President, regarding the AsiaWorld-Expo (AWE) and the temporary use of the Tamar Site for exhibition purposes, will the Government inform this Council:*

- (a) *whether there are any undisclosed agreements with AWE; if so, of their details and whether they include an undertaking that new exhibition venues will not be built, nor will existing exhibition venues be expanded, within five years after the commissioning of AWE; and whether the documents and correspondence exchanged between the Administration and the AWE shareholders will be made public;*
- (b) *although the authorities have indicated that AWE and the Hong Kong Convention and Exhibition Centre (HKCEC) will complement each other, the promotional materials of AWE indicate that exhibitions organized by AWE will principally be similar to those organized by the Trade Development Council (TDC) and other private exhibition organizers, whether AWE is acting in contravention of the above complementary arrangements; if so, whether the accountable officials concerned have failed to discharge their supervisory duty; and*
- (c) *the authorities indicated earlier that they were prepared to permit the TDC's temporary use of the Tamar Site for exhibition purposes under short-term tenancies for the periods 10 April to 8 May and 26 September to 23 October in the three years of 2005 to 2007, but the tenancies have not yet been granted so far; since recruiting exhibitors takes time, and delay in granting the tenancies will affect the exhibiting activities scheduled for the peak season in April this year, thereby dealing a direct blow to the conference and exhibition sector as well as the related economic and business activities in Hong Kong, why the authorities have not yet granted such tenancies?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): *Madam President, my reply to Mr Albert CHENG's three questions is as follows:*

- (a) The Administration reported to the Legislative Council Panel on Commerce and Industry the gist of the Joint Venture Agreement with AWE in August 2003. The Administration has never undertaken to AWE that new exhibition venues will not be built, nor will existing venues be expanded, within five years after the commissioning of AWE.

It is the usual practice of the Administration that it will not make public documents and correspondence with a business entity. Therefore, we will not make public the documents and correspondence exchanged between the Administration and the AWE shareholders.

- (b) AWE is about to be completed in end-2005. The area available for exhibition uses in Hong Kong will then be greatly increased. AWE and the HKCEC will complement each other in enhancing the overall competitiveness and development of the convention and exhibition industry in Hong Kong. This will reinforce Hong Kong's position as the trade fair capital of Asia. As to what exhibition organizers the two venues should be let to as well as the nature and themes of exhibition activities to be held, this should ultimately be decided by the market demand and commercial considerations of the exhibition sector. As in the case of the HKCEC, the Government will not pose restrictions on the themes of exhibitions to be held at AWE. Even if the exhibitions in these two venues share similar themes, we do not consider that either of them has not acted in line with the principle of complementing each other. As we understand it, AWE Management has successfully confirmed the bookings of 15 international exhibitions to be staged at AWE in 2006, more than 90% of which have never taken place or have not taken place in Hong Kong in recent years, including the ITU TELECOM WORLD 2006 which will be staged outside its home base in Geneva for the first time since 1971.
- (c) There is absolutely no delay in the Administration's granting of short-term tenancy of the Tamar Site to the TDC. The Administration and the TDC are actively engaged in discussions on the details of how the tenancy is to be granted, its rental and other technicalities, and so on. In the meantime, I understand that the

TDC is considering some longer-term measures to address the problem of prolonged waiting time of the wait-listed exhibitors. I also understand that the TDC has earlier announced that it will not use the Tamar Site to hold exhibitions in April this year.

**MR ALBERT CHENG** (in Cantonese): *Madam President, the Secretary said in part (a) of the main reply that the information concerned would not be made public. But information which I have obtained shows that when the lease agreement was signed between the Government and AWE, an undertaking was given to the investors and the management company that no expansion would be permitted in the existing HKCEC in Wan Chai, including short-term use of the Tamar Site. The Secretary in replying to my main question said that the TDC had decided not to lease the Tamar Site to hold exhibitions in April this year. Has the TDC been subject to any pressure in this? Has the Government been subject to any pressure such that a decision is made not to lease the site to the TDC or that compromises have to be made with respect to the venues of AWE?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, we have never been subject to such pressure, nor have we given any undertaking as Mr CHENG has suggested. However, we have on various occasions explained our position with respect to the policy on the expansion of the HKCEC. I have also mentioned it in public a number of times, so I am not sure if I need to explain the Government's position on this once again here.

**PRESIDENT** (in Cantonese): Secretary, that is up to you.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Let me perhaps talk about it once more.

We have explained many times that the policy of the Government is that it will consider the question of support only if it is satisfied that there will be unmet demand taking into account, *inter alia*, the additional 100 000 sq m of exhibition space to be provided by AWE and the timing of its availability, and that government support to development plans for phase III of the HKCEC proposed

by the TDC is fully justified for the good of the economy. Due regard will also be given to the Government's interest as a shareholder in AWE and to the private sector's investment. This has been our policy on the expansion of the HKCEC.

**DR LUI MING-WAH** (in Cantonese): *Madam President, a few years ago when a decision was made to build AWE, people had expectations that AWE would be used to exhibit heavy machinery and that consumer goods would not be exhibited there. Why does AWE oppose to the proposal made by the HKCEC to hold an exhibition on consumer electronic products at the Tamar Site? What is the Government's view on this?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, I do not think I can explain on behalf of the management company of AWE here as to why it opposes a certain matter. But as we can see, besides holding exhibitions on light industries, AWE is also an appropriate venue to hold exhibitions on heavy industries. At present, exhibitions on heavy industries cannot be held in the HKCEC because of the physical constraints. Therefore, we think after AWE is commissioned, these two venues may complement each other to the benefit of the development of the convention and exhibition industry in Hong Kong and we can be more competitive in this regard.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, may I ask the Secretary whether or not AWE or other new venues would result in an apportionment of the clientele for the existing exhibition venues or there are actually different clienteles for various exhibition venues?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, I believe we have business opportunities in both respects. On the one hand we may further develop our light industries while on the other, as I have said, the new exhibition centre is suitable for holding exhibitions on heavy industries. That will enable more types of exhibitions to be held.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, when plans were made by the Government to build this exhibition centre, I had hopes then that the Government would undertake to build an exhibition centre of 200 000 sq m, but in the end only a venue of 100 000 sq m is built. It can be seen clearly from recent developments that there is a shortage in the supply of exhibition venues. May I ask the Secretary if there are any plans to build more exhibition venues in addition to the existing facilities?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): *Madam President, we frequently keep a close watch on the needs of the convention and exhibition industry. After this 100 000-sq m exhibition centre has come into operation, we will certainly follow up if unmet demand is still seen.*

**MR ANDREW LEUNG** (in Cantonese): *Madam President, when responding to part (b) of the main reply, the Secretary pointed out that the HKCEC and AWE are two different institutions managed by two different operators. May I ask the Secretary how it can be ensured that they will complement each other in paving the way for the development of convention and exhibition industry in Hong Kong instead of engaging in vicious competition among themselves? Would the authorities consider issuing any guidelines on the themes of exhibitions to be held in AWE?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): *Madam President, the Government attaches great importance to ensuring that Hong Kong has adequate exhibition facilities for use by the market and that the overall competitiveness of the convention and exhibition industry in Hong Kong will be enhanced. In the light of the development of the convention and exhibition industry by our neighbours in the region, we are convinced that more efforts should be made to give full play to the synergy and complementary effect within the industry. We hope to make ourselves more competitive so that greater and better development of our convention and exhibition industry can be fostered. Only by doing so can we rise to the challenges posed by our neighbours in the region and reinforce our position as an international trade fair capital.*

AWE and the HKCEC are two independent convention and exhibition venues operated by two different private institutions. They will act in the best of their corporate interests. AWE will be operated according to prudent commercial principles. When it is officially commissioned, exhibition organizers will be given another option in exhibition venue. These exhibition organizers may consider the needs of the participants and buyers and decide from a business perspective which exhibition venue will best fit a certain type of exhibition. As I have said, in terms of hardware design, AWE in the airport best suits holding exhibitions on both light and heavy industries. Now this kind of heavy industries exhibitions cannot be held in the HKCEC. Therefore, AWE and the HKCEC can complement each other in the promotion of the development of the convention and exhibition industry in Hong Kong and making it more competitive.

In addition, we also encourage the AWE Management to look for clients and partners to hold new kinds of exhibitions. This will result in a more comprehensive development of the convention and exhibition industry in Hong Kong. As far as we know, the TDC is considering co-operating with private sector convention and exhibition institutions to organize some exhibitions in AWE. We believe this attempt to join hands with the convention and exhibition industry to explore business opportunities will be conducive to the overall development of the industry in Hong Kong. As to which institutions will be permitted to lease the two exhibition venues, what kinds of convention and exhibition activities will take place and under what kinds of theme, these will after all depend on market demand as perceived by the organizers and the commercial considerations of the industry. The Government will not impose any restrictions on the specific themes of exhibitions held in AWE, in the same way as the Government will not impose any restrictions on the specific themes of exhibitions held in the HKCEC.

**MR ABRAHAM SHEK** (in Cantonese): *Madam President, may I ask the Secretary whether or not in the six months past AWE has issued any threat to the Hong Kong Government in any direct or indirect way that if the Hong Kong Government leases the Tamar Site to the HKCEC, it will sue the Hong Kong Government?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, during the past six months no legal action has been taken against us. However, I am aware that the joint-venture partners have expressed concern to the Government about the application made by the TDC to use the Tamar Site for exhibition purposes. We have explained to them that permission is given to the TDC to use the Tamar Site for two months each year for a three-year period in order to meet unmet demand for the two exhibition venues. The move does not contravene government position as previously explained to AWE.

**MR JEFFREY LAM** (in Cantonese): *Madam President, the Secretary pointed out in his reply that the TDC is considering a package of measures to shorten the time taken by exhibition organizers waiting for their turn to use the venue. It is learned that one of the proposals being considered is an extension of the atrium link to the HKCEC. May I know the Government's view on this?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, the TDC has submitted a proposal to the Government on extending the atrium link to the HKCEC. According to the proposal, the extension will provide 19 400 sq m of additional exhibition area, an increase of 42% over the existing capacity. This additional area can accommodate approximately 1 000 standard booths. Subject to approval from the Government, the TDC hopes to commence works in 2006 and complete the project in 2009. The Government is examining the TDC's atrium link extension proposal. We will take into account factors affecting the desirability and feasibility of the proposal, such as the overall supply and demand situation of exhibition facilities in Hong Kong, the interest of the exhibition and tourism industries, the technical aspects of the proposal, and the potential implications on planning, transportation and the environment of the HKCEC vicinity.

As I have said, the policy of the Government is that it will consider the question of support only if it is satisfied that there will be unmet demand taking into account, *inter alia*, the additional 100 000 sq m of exhibition space to be provided by AWE and the timing of its availability, and that government support is fully justified for the good of the economy. Due regard will also be given to

the Government's interest as a shareholder in AWE and to the private sector's investment. We expect a decision will be made around mid-year.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, I wish to follow up this part too. May I ask the Government whether or not it has received any letter containing any threats or indications of any intention to take legal action, to the effect that proceedings will be initiated once government approval is given to the HKCEC extension?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, as in my reply to the supplementary question raised by Mr SHEK just now, they have expressed their concern to us and we have made a detailed explanation in response to their concern.

**PRESIDENT** (in Cantonese): Eighteen minutes have been spent on this question..... Mr SIN Chung-kai.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, I am not following up, but I would like the Secretary to clarify whether or not the concern expressed includes contemplations on legal action.*

**PRESIDENT** (in Cantonese): Do you wish the Secretary to give a reply to your supplementary question?

**MR SIN CHUNG-KAI** (in Cantonese): *Yes.*

**PRESIDENT** (in Cantonese): Secretary, would you please do so.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, we are not aware that legal action has been taken against us in this matter.

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

**DR RAYMOND HO** (in Cantonese): *Madam President, according to part (a) of the Secretary's reply, it is hard to understand why investors would not require the Government to give some kind of undertaking on the competition they may face in future after they have made an investment which cannot be deemed small at all. What conditions have the Government offered to convince the investors that they can expect reasonable returns from their investment despite the competition they may face? According to the Secretary, the Government has never undertaken to AWE that new exhibition venues will not be built, nor will existing venues be expanded, within five years after the commissioning of AWE. Are there other conditions or has any request been made to the Government that an undertaking should be given?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, as regards the policy and position of the Government, I have spoken thrice during the last 20 minutes and I do not think I would repeat it again.

**DR RAYMOND HO** (in Cantonese): *Madam President, I think the reply given by the Secretary just now is not directed at the supplementary question which I have just raised. Could the Secretary be asked to give a reply to this supplementary question of mine?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, if the Member so wishes, I can read it out once more.

Sorry, I have to find my papers, for I do not want to give a different reply every time I read it out.

The policy of the Government is that it will consider the question of support only if it is satisfied that there will be unmet demand taking into account, *inter alia*, the additional 100 000 sq m of exhibition space to be provided by AWE and the timing of its availability, and that government support is fully

justified for the good of the economy. Due regard will also be given to the Government's interest as a shareholder in AWE and to the private sector's investment. This has all along been our policy and position.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. My supplementary is, apart from what is mentioned in part (a) of the main reply, have investors ever asked the Government to give other undertakings. This is what I have asked and the Secretary has not given a reply to this point.*

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

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, the answer is no.

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

### **Gender Mainstreaming**

5. **MS EMILY LAU** (in Cantonese): *Madam President, regarding the implementation of "gender mainstreaming" promoted by the Women's Commission (the Commission) to take account of women's needs and perspectives, will the executive authorities inform this Council of:*

- (a) *the progress made in the implementation of "gender mainstreaming" by various government departments, and specific results achieved thereof;*
- (b) *the policies and measures implemented by the Government which have taken into account or made an assessment of gender perspectives, and those which have not, together with the reasons for that; and*

- (c) *the reasons why the majority of the civil servants who have participated in the gender-sensitivity training programmes conducted in the past three years are either from the Social Welfare Department and the Hong Kong Police Force or are newly-recruited Administrative Officers, and whether they have plans to encourage civil servants from other departments to participate in the relevant training programmes; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, gender mainstreaming is a policy principle and concept which enables the Government and other sectors to take into full account the perspectives of both sexes in the process of formulating their policies. In the process, the different needs of men and women would be identified and appropriate services could then be provided according to their different needs. Although the social status of women in Hong Kong has risen in recent years, the needs of women may still be overlooked. Therefore, we should continue our efforts in, *inter alia*, removing society's preconceived notions of women and addressing the specific needs of different women groups. Gender mainstreaming is an effective strategy to help us achieve these goals.

The groundwork on which gender mainstreaming initiatives have been put forward was laid down by the Commission. The Commission has drawn on overseas experience in implementing gender mainstreaming and consulted various women groups and academia to develop an analytical tool in the form of a Gender Mainstreaming Checklist (Checklist) to assist government officials in carrying out gender mainstreaming.

In the past two years, we have introduced this Checklist to 13 policy areas or measures as follows:

- (i) Health, Welfare and Food Bureau: Health Care Reform, Enhanced Home and Community Care Service for the Elderly;
- (ii) Social Welfare Department (SWD): Family Education;
- (iii) Education and Manpower Bureau: Secondary School Places Allocation;

- (iv) Home Affairs Bureau: District Council Reviews and Review of Advisory and Statutory Bodies;
- (v) Commerce, Industry and Technology Bureau/Information Technology Services Department (ITSD): IT Education in the Community;
- (vi) Architectural Services Department (ASD): Design of Facilities in Public Buildings;
- (vii) Food and Environmental Hygiene Department (FEHD): Provision of Public Toilets;
- (viii) Information Services Department (ISD): Major Publicity Campaigns;
- (ix) Office of the Telecommunications Authority (OFTA): Review of Composition of Advisory Committees and Consumer Education Programmes; and
- (x) Electrical and Mechanical Services Department (EMSD): Publicity Programme on Electricity and Gas Safety.

We are rolling out the Checklist to other policy areas on an incremental basis. Plans are also being prepared to extend gender mainstreaming to more policy areas in 2005-06.

To take forward the gender mainstreaming initiatives, all bureaux and departments have already designated a senior officer (a Directorate Officer in most cases) as a Gender Focal Point (GFP) to help promote the implementation of gender mainstreaming as well as provide assistance and advice to relevant officers within their organizations.

In some policy areas where gender mainstreaming is implemented, subject officers have demonstrated greater gender awareness with more thorough consideration given to women's needs and perspectives. For example, the Buildings Department has considered stipulating an increase in the required number of water closets in the female toilets in shopping arcades, cinemas and places of public entertainment. In the Review of Advisory and Statutory Bodies

(ASBs), the Home Affairs Bureau has affirmed the policy of stepping up efforts to reach out, identify and cultivate women who are able and willing to serve the community, and of introducing a working target of 25% as a benchmark for participation by either gender in ASBs. The ISD has also included certain gender-sensitive provisions in its tender documents.

As for gender-related training for civil servants, a total of 25 workshops/seminar have been organized for some 700 staff of the SWD, the police, the former Education Department, the ISD and the Leisure and Cultural Services Department, newly recruited Administrative Officers, as well as the GFPs of all bureaux and departments since 2001. These workshops are tailor-made to the needs of different departments and grades. Priority has been given to staff of departments or grades which have close contact with the general public, or are responsible for carrying out publicity work, providing training programmes, or co-ordinating the formulation and implementation of policies straddling different areas.

Apart from the civil servants in the abovementioned grades, we have also attached great importance to enhancing gender awareness in the whole Civil Service. In this connection, we have plans to provide gender-related training and information to other civil servants. A self-learning kit is now under production. It is scheduled to be released early this year for front-line staff in various government departments. Seminars and workshops on fundamental gender concepts and their applications will also continue to be conducted for civil servants of different grades and ranks in the coming year.

**MS EMILY LAU** (in Cantonese): *Madam President, the Secretary explained in his main reply that gender mainstreaming means the process in which the Government takes into full account the perspectives of both sexes in the formulation of their policies, and in the process, the different needs of men and women will be identified and appropriate services can then be provided according to their different needs. May I ask the Secretary whether Accountability Officials, Principal Officials and Members of the Executive Council will be included as targets of training in gender mainstreaming, so that they will take into full account the principle of gender mainstreaming in the formulation of policies?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, the gender mainstreaming policy was approved by the policy committee in the presence of all principal officials and it was generally agreed that the policy should be implemented. We have designated a GFP in all bureaux and departments to help promote the implementation of gender mainstreaming. Certainly, the implementation of the policy will cause various degrees of impact on different Policy Bureaux and departments, and we will endeavour to promote this policy in the year to come.

**MS EMILY LAU** (in Cantonese): *Madam President, the Secretary has not answered my supplementary at all. I asked if there were plans to provide training to Accountability Officials and how the Executive Council would realize this principle in the formulation of policies?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): There is no specific training for the time being, but we can certainly consider it. I believe Members perhaps have to attend the training too. Moreover, before the policy was commended to the Executive Council, the relevant Policy Bureaux and departments should have examined the relevant policy and determined if it conforms to the Checklist. For that reason, I believe our policy has passed examination before submission to the Executive Council.

**MRS SOPHIE LEUNG** (in Cantonese): *Madam President, I would like to follow up the Checklist mentioned by the Secretary in the main reply. May I ask whether the Secretary has figures at hand to show which policy areas have conformed to this Checklist so far? Moreover, in case a need to amend any existing policy or to draft a new policy arises, should consistency with this Checklist be in order? Can the Secretary answer this?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I have listed 13 policy areas or measures in which the Checklist has been introduced. Certainly, the arrangement was made two years ago, therefore I believe the process was not applied to policies introduced before that time.

**PRESIDENT** (in Cantonese): Mrs Sophie LEUNG, has your supplementary not been answered?

**MRS SOPHIE LEUNG** (in Cantonese): *Yes. May I ask the Secretary whether he can tell us firmly that all future policies will conform to this Checklist?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): I can tell Members firmly that we will definitely introduce the Checklist to existing policy areas, and as to other Policy Bureaux and departments, we will keep on promoting it so as to make the adoption of this policy as wide as possible.

**MS AUDREY EU** (in Cantonese): *Madam President, the question is actually about the progress and specific results of gender mainstreaming, and my supplementary is focused on the specific results of gender mainstreaming. The Secretary explained in the main reply that since the needs of women might still be overlooked, thus the Government had to continue its efforts in addressing their specific needs. Nevertheless, Madam President, after reading the whole main reply, the only result I can see was the consideration made by the Buildings Department mentioned by the Secretary, in the third last paragraph of his main reply, to increase the required number of water closets in the female toilets in shopping arcades, cinemas and places of public entertainment, but it was only a consideration, Madam President, not enforcement. In this respect, may I ask the Secretary, since he said that so many policy areas would consider the introduction of gender mainstreaming, besides increasing the number of water closets in the female toilets, what specific results have been achieved to make women feel that gender mainstreaming has actually taken place?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, first of all, I consider that this policy would cause a major impact on our traditional concepts and culture, thus specific results cannot be achieved in a couple of years. Nevertheless, I feel that some results could be seen in certain areas, and the example I cited earlier was only one of them. In respect of public facilities, since women need more time in using toilet facilities and it takes them more time to line up, therefore the number in this respect

should be increased accordingly; it does not mean that we are considering to implement the policy, in fact, we have implemented it in some places. However, in my opinion, the most important point is how society at large looks at the role of women. For example, the ISD should step up its efforts, in particular the preparation of government publicity work, in order to prevent a labelling of women which makes people have a feeling that specific positions should be filled by a certain gender. In this regard, I consider that we have achieved this objective with different publicity instrument or media. A more specific example is that during last year's SARS outbreak, we intended to call for more people to engage in cleaning work. We only had women cleaners in our past publicity materials, but this time around, we also engaged some male cleaners in our publicity programme. Every time when we set out to produce a publicity programme, we would give realistic consideration because we do not wish to make the public feel that certain jobs have to be performed by a certain gender. We have done some work. Certainly, we still have a lot to do in the promotion of gender mainstreaming in society, and it may take sometime before the public live with this notion.

**DR FERNANDO CHEUNG** (in Cantonese): *Madam President, may I ask the Secretary whether the Checklist fits these 13 policy areas after its introduction? Is there any situation that the Checklist does not fit? Moreover, after introducing the Checklist, what specific proposal was made with regard to these 13 policy areas, and whether there is any report on this?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): *Madam President, we have not conducted any detailed analysis or review for the time being. Nevertheless, the Commission is prepared to follow up in this respect, and it is not easy to measure the effectiveness.*

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, I think women groups would be most frustrated by the reply of the Secretary, as it seems that gender mainstreaming rolls out like a carpet and everything is swept under it. There were only three specific results according to the Secretary's repeated explanations, and one of them was that the Home Affairs Bureau should step up efforts to enhance women's participation in ASBs. Today, Mr Albert HO has*

*asked another written question on this, and according to my calculation, the ratio of women's participation is less than 25%. It is thus evident that the standard is not met in most cases, in other words, these are merely empty talks as they are simply not delivered. May I ask whether the Secretary can give us some specific results to encourage us, and not just telling us to be patient and to wait as it will take a long, long time. In fact, the objective of introducing the policy is to address women's needs promptly.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I have explained earlier that we can hardly see the results in a year or two, because we have to change a lot of prejudices and society's preconceived notions. Even in the Legislative Council, there are only 11 lady Members, and the ratio is just 18.33%. I do not know whether society is being selective, but we should promote gender mainstreaming at various strata, and actions should be taken not by the Government alone. I hope the Government can take the lead, then the community at large, Members and social leaders will follow suit. Mr LEE Cheuk-yan requested me to list the results, and I can enumerate a long list, but I cannot make casual remarks if there are no substantial results. For that reason, I can only tell Members work that we have done, nevertheless, I wish to take this opportunity to urge Members that if we genuinely wish to take forward work in this respect, society should make concerted efforts as a whole.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, just now the Secretary said he could enumerate a long list, but he did not do so. What has happened actually? Madam President, just now I mentioned the Home Affairs Bureau, and it is actually rather specific, for if women's participation in ASBs is so scarce, the Legislative Council may have to wait until ASBs have .....*

**PRESIDENT** (in Cantonese): Mr LEE, please do not express too many opinions because other Members are waiting for their turn to raise supplementaries, and they will have no chance to raise supplementaries if you go on like that. If the Secretary has the information but does not have it at hand, he may provide Mr LEE Cheuk-yan a written reply. However, if the Secretary has no such information indeed, then I can do nothing to help.

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I know the Commission will decide next year how the results of introducing this policy can be assessed. So I hope we can give Members a detailed results report after the assessment is completed.

**MISS TAM HEUNG-MAN** (in Cantonese): *Madam President, what is the difference and similarity between the gender mainstreaming initiatives proposed by the Commission and the initiatives pinpointing sex discrimination of the Equal Opportunities Commission (EOC)? Have they exchanged views on this question? If so, what are the details; if not, what are the reasons?*

**PRESIDENT** (in Cantonese): Miss TAM Heung-man, I am sorry, for I cannot see the direct connection between your supplementary and the subject of this question on gender mainstreaming. Can you please elaborate your supplementary?

**MISS TAM HEUNG-MAN** (in Cantonese): *May I ask the Secretary to further explain whether gender mainstreaming is identical to anti-sex discrimination initiatives made by the EOC, or is there any difference?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I consider the EOC's scope to deal with discrimination against women mentioned by Miss TAM Heung-man is somewhat narrower while gender mainstreaming is a broader framework, in which elements of discrimination caused by certain preconceived notions are of course included. For that reason, we are not only looking into issues as simple as discrimination, but also the different perspectives of both sexes, and hopefully we can take into full account of the impact caused by different policies on both sexes. For that purpose, we hope all Policy Bureaux will review each of the 27 items in the Checklist to ensure that the views of both sexes are taken into full account in policy formulation.

**PRESIDENT** (in Cantonese): We have spent more than 20 minutes on this question. Last supplementary question.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, I agree gender mainstreaming is a new policy, but I consider that the progress of promotion by the Government is relatively slow. From 2001 to now, the Checklist is only introduced to 13 policy areas, and I consider that inadequate. As the Secretary explained earlier, due to certain preconceived notions in society .....*

**PRESIDENT** (in Cantonese): Miss CHAN, please raise your supplementary direct.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, I know you are urging me to speed up. I hope the Secretary can tell us, despite he is prepared to launch a full-scale promotion, nevertheless, I saw some problems in the course of promotion, for example, the incident in Tin Shui Wai has reflected the police's preconceived notions of women. I hope the Secretary will, firstly, promptly table the assessment to the Legislative Council; secondly .....*

**PRESIDENT** (in Cantonese): Miss CHAN, I wish to remind you to raise your supplementary direct.

**MISS CHAN YUEN-HAN** (in Cantonese): *.....I hope the Secretary will provide a timetable. May I ask whether the Secretary has a timetable for this? That is, when will he introduce this Checklist to all Policy Bureaux?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I wish to seek clarification. Did Miss CHAN Yuen-han ask me for a timetable?

**MISS CHAN YUEN-HAN** (in Cantonese): *Firstly, I dislike the slow pace that the Secretary was making, besides, during the implementation process .....*

**PRESIDENT** (in Cantonese): Miss CHAN, please state directly what you wish the Secretary to reply. If your supplementary is too lengthy, the Secretary will

be at a loss. You said that was your hope on the one hand, and said you wish to express your opinion on the other, it is better to raise your supplementary direct. Please?

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, I wish to thank you for allowing me to reorganize my supplementary. Madam President, I consider the pace in promoting the policy too slow, so I hope the Secretary can give us a timetable. How would the Government incorporate this Checklist into its policies in the course of policy formulation?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): The Checklist is there, and I believe what Miss CHAN Yuen-han wished to ask was how the implementation could be accelerated. I can tell her that we will work as hard as we can to introduce it to the District Councils (DCs) by next year, that is, we do wish to introduce it not only to government bodies. We also hope that we can formulate policies which can better address the needs of both sexes through the pressure exerted by the DCs.

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

### **Progress of Redevelopment Projects**

6. **MR ALAN LEONG** (in Cantonese): *Madam President, in early 1998, the predecessor of the Urban Renewal Authority (URA), the Land Development Corporation (LDC), announced the implementation of 26 redevelopment projects, including the Kwun Tong Town Centre redevelopment project. So far, 18 out of those projects have commenced and even completed the acquisition, compensation and rehousing of the affected residents in relation to these projects. However, the Kwun Tong Town Centre redevelopment project has not yet commenced. The residents have been waiting hard for almost seven years to date and are faced with the threat of their landlords forcing them to move out in order to obtain vacant possession. As for the other seven projects, except for implementing the two projects in Tai Kok Tsui in mid-December 2004, the URA has not commenced the other five redevelopment projects in 2004. In this connection, will the Government inform this Council:*

- (a) *whether the dates of the acquisition, compensation and rehousing of the affected residents in relation to the Kwun Tong Town Centre redevelopment project have been extended indefinitely, making it impossible for the project to commence; if not, of the implementation timetable and whether the URA has any plans to rehabilitate rather than redevelop the premises in the Kwun Tong Town Centre;*
- (b) *of the measures to be taken by the Administration and the URA, between now and the commencement of the acquisition, compensation and rehousing of the affected residents in relation to the Kwun Tong Town Centre redevelopment project, to help the residents who are being forced to move out by their landlords; and*
- (c) *whether it knows why the URA has not commenced the above five redevelopment projects in 2004; whether the Administration has deferred the implementation of the URA's Annual Business Plan approved in 2004; and whether the Administration and the URA will abandon the five projects?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese):  
Madam President, before I answer Mr Alan LEONG's question in detail, I would like to clarify two points.

First of all, the role of the Government is to formulate and co-ordinate the overall urban renewal policy and to monitor the implementation of the urban renewal programme. The URA is an independent statutory body tasked to undertake urban renewal. The URA Board is empowered to determine its own policies in respect of, *inter alia*, the timing and mode of project implementation as well as the compensation policy.

Secondly, of the 26 projects announced by the former LDC in 1998, one was launched by way of "owners participation scheme" between the former LDC and the owners concerned before the establishment of the URA. Regarding the other 25 projects, the URA has so far launched 19 of them. The remaining six projects, including the Kwun Tong Town Centre project, will be commenced by the URA in accordance with its approved five-year Corporate Plan and Annual Business Plan.

My reply to the three parts of the question is as follows:

- (a) The URA has already included the Kwun Tong Town Centre project in its third five-year Corporate Plan approved by the Financial Secretary. We understand the URA is conducting detailed studies on the project for working out a concrete implementation plan. Since the project will affect a large number of residential and commercial buildings and involve complex issues on infrastructural facilities, the URA needs time to carry out detailed planning and preparation work as well as to gauge the views of the community.

As regards the actual implementation schedule for the Kwun Tong Town Centre project, it is the URA's established policy not to announce such information in advance. This is to prevent people who intend to abuse the compensation and rehousing arrangements from moving into the URA's project areas, resulting in a waste of public resources.

The URA has adopted a comprehensive and holistic approach to regenerate the older urban fabric by way of redevelopment of dilapidated buildings, rehabilitation of older buildings, revitalization of older districts and preservation of buildings with historical and architectural value. In determining the renewal needs and the mode of implementation of the Kwun Tong Town Centre, the URA, as an independent statutory body, will take into consideration all relevant factors, including the age and condition of the buildings, the living conditions of residents therein, the urgency of the project (such as the availability of basic sanitary facilities and potential fire hazards of the affected buildings) and the URA's financial position.

- (b) In the context of the enactment of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004 (LTO 2004), the URA undertook to provide, through administrative measures, rehousing or *ex gratia* payments to eligible domestic tenants of the remaining ex-LDC projects (including the Kwun Tong Town Centre project) who are affected by its redevelopment works. The amount of such *ex gratia* payments would be calculated on the basis of the statutory formula previously in force before the enactment of the LTO 2004. For tenants who are required by their landlords to

move out upon expiry of their tenancies and Transitional Termination Notices (TTNs) before the commencement of the ex-LDC projects, the URA would still offer *ex gratia* cash payments or rehousing to these eligible tenants upon the commencement of such projects. The Government and the URA briefed the Panel on Planning, Lands and Works of this Council on details of the relevant URA policy on 23 November 2004.

While the URA respects the legal right of the landlords to recover their properties upon the expiry of tenancies and TTNs, it has struck a fine balance between the interests of the tenants and the landlords when working out the compensation policy which is applicable to the remaining ex-LDC projects. Landlords will not be able to obtain a higher compensation by recovering their properties, thus minimizing the incentive for them to evict the tenants. Moreover, the URA has decided and announced earlier the elimination of the difference in valuation between tenanted and vacant flats so as to prevent landlords from evicting tenants to take advantage of the difference and obtain a higher compensation. Designed to safeguard the legitimate interests of both the tenants and landlords, this initiative will cost the URA an additional \$27 million in compensation for the remaining ex-LDC projects.

- (c) As stated in my opening remarks, the URA has already included the remaining six ex-LDC projects in its third five-year Corporate Plan. Neither has there been procrastination on the part of the URA in implementing its current Annual Business Plan. In fact, as pointed out by Mr Alan LEONG, the URA launched two ex-LDC projects in Tai Kok Tsui in mid-December last year. As far as we understand, in the first half of the current business plan year, the URA has focused its efforts on rehabilitation work and has devoted considerable resources and manpower to the acquisition work of the Lee Tung Street, Wan Chai project, which involves more than 600 residential flats and shops. The URA has indicated that it intends to commence more redevelopment projects before the end of the current business plan year.

**MR ALAN LEONG** (in Cantonese): *Madam President, with your permission, I wish to follow up the first sentence in the main reply given by the Secretary to part (a) of the three parts of the question that I asked. The Secretary said that the Kwun Tong Town Centre project had already been included in the third five-year Corporate Plan. We know that every year, the URA will draw up a development plan for the next five years and the Kwun Tong Town Centre project was proposed as early as 2002, that is, it appeared in the first five-year Corporate Plan. In fact, some residents are now worried that if the project is now slated for the third five-year Corporate Plan, does that mean the URA will not launch the Kwun Tong Town Centre project until the year 2009-10? In this regard, may I know if the Secretary can guarantee and undertake that he will instruct the URA to definitely launch the Kwun Tong Town Centre project before 2007?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, Mr Alan LEONG said that he wished we could instruct the URA, however, he is also aware that it is not up to us but the URA to decide. Of course, we will convey Members' views to the URA for its consideration.

Perhaps I have to explain the facts as we understand them here. In saying that the project will be included in the third five-year Corporate Plan, it does not necessarily mean that it will be launched only at the end of the fifth year. I believe whether it will be launched before 2007 will depend on the progress of the work that I have mentioned in the main reply.

Here, I wish to explain the complex infrastructural and planning problems involved. Concerning the planning for Kwun Tong, a lot of people criticize that the density in Kwun Tong is much too high, so they advocate that the density in Kwun Tong be reduced. In that case, we have to consider the issue of complementing facilities, since this will have a direct bearing on the financial commitments to be made for the project. Furthermore, we also have to examine if the financial arrangements of the entire project can adequately back up the project. Concerning the density, I think Miss CHAN Yuen-han will be very pleased to learn that the proposal at present is to reduce it. However, it may be necessary to keep to the heights of some buildings and to make the ridgeline visible. All these will have a great bearing on the whole project. In this regard, the URA has to carry out detailed planning and consult the community concerned. Inevitably, this will lead to some delay. However,

concerning when the task can be done, what we can do is only to relay the message. I am sure the URA wants to do it as soon as possible.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, the Secretary has given a very clear reply but I wish to make a declaration of interest here, that I am a board member of the URA. Although the URA has the power to set the implementation schedule of its urban renewal projects, what matters most is to secure the co-operation of various departments. May I know if the Secretary will undertake to instruct various other departments to co-operate with the URA and provide support to it, particularly on the Kwun Tong K7 renewal project?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): *Madam President, I will be glad to do so. I hope Members and colleagues of the URA are not making an implicit complaint to us or saying that we have not made adequate corresponding efforts in this area. Of course, we also hope that the URA can launch its work smoothly. So, we will definitely do whatever we can.*

**MR FRED LI** (in Cantonese): *Madam President, I also wish to declare my interest as a non-executive director of the URA. The Government pointed out in the main reply that the URA is a statutory body tasked to undertake urban renewal. However, I hope the Secretary can give me a reply as to whether the Government supports the Kwun Tong Town Centre project, which is such a major project and arguably the largest project ever undertaken by the URA because five hectares of land are involved. I wish to know the position of the Government. The implementation of such a huge project requires the co-ordination and support of many government departments, without which it will be impossible for the URA to complete the project on its own. Does the Government support it? At present, many residents living in Kwun Tong town centre hope that the launch of the redevelopment project can be expedited. I hope the Government can state its position clearly as to whether it supports expediting the launch of the Kwun Tong Town Centre redevelopment project?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): *Madam President, as Mr Fred LI put it, this project is huge and involves five*

hectares of land and about 75 buildings over 40 years of age. About 1 600 families, 5 000 people and 300 shops will be affected. I believe Members all know that such a huge project will require a well-designed plan and the URA will also face a lot of problems, for example, those concerning the views and expectations of the residents and the relevant compensation arrangements. There are no easy solutions to them all. Therefore, we support implementing this plan but at the same time, we should not underestimate the difficulties that will be encountered. I hope that we can do our utmost to assist the URA in formulating a detailed plan which it is capable of undertaking. I think this is more important and better than promising when we will be able to deliver rashly. This project requires an appropriate level of manpower and resources to deal with some rather complicated problems. In addition, a lot of interpersonal problems also call for very careful and delicate handling.

**MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, I believe the Secretary is aware that the URA once made an undertaking here that it would implement the projects within five years after its establishment. In view of this, in theory, the Kwun Tong Town Centre project should be launched in 2005. In that case, why has it still not been launched? May I ask the Secretary if the Government has actually received any complaint or request from the URA expressing the wish that the Government assist it in handling problems brought about by the relevant departments in implementing this project?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, this huge project of course requires the assistance of many departments. Put simply, at the beginning of this huge project, it is not possible to just carry out the demolitions without rehousing the affected residents. Obviously, we have to identify some government land and see how they can be made available and how rehousing can be carried out. Of course, the Government plays a rather significant role in this. In this connection, as I have said, we have to look closely at how we can co-operate with the URA. However, the most important issue is still that of density which I raised at the beginning. If we want to make the density lower, then the new buildings will not be sufficient for rehousing purposes in phase one and we have to find ways to get around this. We are now considering these problems. I can confirm that government departments have to work closely as well as take corresponding measures.

**PRESIDENT** (in Cantonese): Oral questions end here.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Setting up of Regional Headquarters and Regional Offices in Hong Kong**

7. **MR WONG TING-KWONG** (in Chinese): *Madam President, according to the results of a survey conducted by the Census and Statistics Department, as at 1 June 2004, the respective numbers of regional headquarters (RHQs) and regional offices (ROs) set up in the territory by companies incorporated outside Hong Kong had increased by 13.7% and 12%, compared to the figures of the same time in 2003; and these percentage increases are the biggest since 2000. However, 33% of the RHQs and 26% of the ROs considered that high rentals for residential and business accommodation are not business-friendly. In this connection, will the Government inform this Council:*

- (a) *whether it has studied if the implementation of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) is the main reason for the increase in the number offices of companies located in Hong Kong; if it has, of the results of the study; if not, the reasons for that;*
- (b) *among these RHQs/ROs, the number of those which are mainly engaged in import/export trades, and how the figure compares with that of the same time in 2003; and*
- (c) *the measures in place to lower business costs in order to attract more companies incorporated outside Hong Kong to set up their RHQs or ROs in the territory?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): *Madam President, the Census and Statistics Department conducts an Annual Survey of Regional Offices Representing Overseas Companies in Hong Kong (the Survey) to study RHQs, ROs and local offices in Hong Kong of companies incorporated outside Hong Kong.*

The 2004 Survey revealed that as at 1 June 2004, there were 1 098 RHQs and 2 511 ROs of companies incorporated outside Hong Kong, representing 13.7% and 12% increase respectively compared to the figures in 2003 and the largest percentage increases since 2001.

The Annual Survey also collects views from these RHQs and ROs regarding Hong Kong as a location for setting up RHQs and ROs. The 2004 Survey showed that among the factors affecting the choice of location for setting up RHQs and ROs, 26% and 33% of the responding companies considered "cost and availability of business accommodation" and "cost and availability of residential accommodation" as unfavourable factors for Hong Kong, representing two percentage points and 4.1 percentage points less than the corresponding figures in 2003.

Regarding the three parts of the Mr WONG Ting-kwong's question, my reply is as follows:

- (a) According to the information collected by InvestHK, among the companies assisted by InvestHK in setting up or expanding their business in Hong Kong, over 20% have indicated that CEPA had been one of the reasons leading to their decision to invest in Hong Kong. Some companies even said that they had invested in Hong Kong only because of CEPA. We consider that the implementation of CEPA brings to Hong Kong companies more business opportunities in the mainland market, thereby increasing the attractiveness of Hong Kong to overseas investors. With the business opportunities brought by CEPA, overseas companies will have greater access to the mainland market through Hong Kong.
- (b) According to the 2004 Survey, as at 1 June 2004, there were 1 945 RHQs and ROs in Hong Kong engaged in wholesale, retail and import/export trades, 13.3% higher than the figure in 2003 (that is, 1 716).
- (c) To maintain a business-friendly environment and Hong Kong's position as the best place in the world for doing business, the Administration launched the Helping Business Programme in 1996. To enhance the work under the Programme, the Economic and Employment Council (EEC) was established in January 2004. A

Subgroup on Business Facilitation under the EEC is currently reviewing various business-related regulatory activities, with a view to eliminating unnecessary or outdated regulations, and streamlining and speeding up government licensing and other procedures affecting business, to reduce the cost of compliance to business.

In addition, to attract foreign and mainland companies to set up RHQs and ROs in Hong Kong, InvestHK has been publicizing Hong Kong's advantages to potential investors, including those important factors rated by over 60% of the companies as favourable factors for Hong Kong as a location for setting up RHQ and ROs, that is, free flow of information; low and simple tax system; corruption free government; absence of exchange control as well as communication, transport and other infrastructure.

Apart from promotion, InvestHK also assists investors in setting up and expanding business in Hong Kong, and provides aftercare services to them after establishment. This targeted approach is complemented by proactive marketing efforts, for example, sponsoring and/or participating in major international business conferences, building media relationships, and undertaking advertising campaigns, and so on, to increase Hong Kong's global exposure and help identify potential investors.

The Administration will continue to work to improve the business environment and publicize and uphold all existing favourable factors.

### **Arrangements for Students with Special Educational Needs**

8. **MR LAU CHIN-SHEK** (in Chinese): *Madam President, in the consultation document on reforming the academic structure for senior secondary education and higher education, the Government states that the existing practices for students with special educational needs (SEN) would continue in the new senior education system. The needs of SEN students, including those with visual impairment, hearing impairment, physical disability or emotional and behavioural problems, as well as the needs of gifted students, would be catered*

*for in the new system through a differentiated curriculum. In this regard, will the Government inform this Council:*

- (a) of the details of the above curriculum;*
- (b) whether it has any plans to provide additional resources to adequately cater for the needs of SEN students under the proposed new senior education system; if it has, of the details of the additional resources; and*
- (c) whether it will consult the parents of the students concerned and the relevant bodies on how to incorporate special education into the proposed new senior education system; if it will, of the details?*

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

- (a) Generally speaking, apart from schools for children with mental handicap, all special schools provide a curriculum comparable to that of mainstream schools. Appended below is a table setting out the category, number and curriculum level of the existing aided special schools:

<i>Category</i>	<i>No. of Schools</i>	<i>Current Curriculum</i>
School for Children with Visual Impairment	1	Up to junior secondary level
School for Children with Hearing Impairment	4	Up to Secondary Five level
School for Children with Physical Disability	7	Up to junior secondary level with two offering curriculum leading to the Hong Kong Certificate of Education Examination (HKCEE)
School for Social Development	7	Up to junior secondary level with two offering a pilot HKCEE curriculum

<i>Category</i>	<i>No. of Schools</i>	<i>Current Curriculum</i>
School for Children with Mental Handicap (including Mild Grade, Moderate Grade, Mild and Moderate Grade, Severe Grade, Visual Impairment and Mentally Handicap)	42	10 years alternative curriculum; a two-year follow-up programme of Extension of Years of Education was introduced by the Education and Manpower Bureau at these schools since the 2002-03 school year
Hospital School	1	Up to junior secondary level (adopting the tutorial learning mode)
<b>Total</b>	<b>62</b>	

At present, children completing their junior secondary programmes at special schools may, depending on individual abilities, continue their studies at special schools of the same category which offer the HKCEE curriculum or transfer to other mainstream secondary schools. They may also take up various training courses provided by vocational training centres, skills centres, sheltered workshops and day activity centres under the Vocational Training Council or the Social Welfare Department.

While working out proposals for the new academic structure, we have considered the provision of six-year secondary education for all students with SEN. The Education and Manpower Bureau met and discussed with the Special Schools Council and special schools of various categories on 3 December and 7 December 2004 respectively, seeking to explore how education services should be provided to meet the needs of SEN students under the academic structure and curriculum development of these schools. As students of different special schools have different educational needs, we have to give due consideration to their case through consultation and make appropriate arrangement to cater for them.

As regards the needs of gifted students, since 2000, the Education and Manpower Bureau has been encouraging and assisting schools

to assimilate the elements of gifted education into classroom teaching to cater for the development of these students. Off-site support has also been provided for the exceptionally gifted to meet their unique educational needs. Under the proposed academic structure for senior secondary education, the above measures will continue and more multi-faceted enrichment programmes will be provided for gifted students.

- (b) In consultation with the special schools sector, we are studying how the proposed academic structure should be applied to these special schools to meet students' diverse needs. We will take into account relevant views in working out the implementation details, including deployment of necessary resources to cater for the SEN students.
- (c) Special education is a part of our education system and hence an integral subject in the consultation on the academic structure reform. Children with SEN are entitled to the same rights and access to education as all other children of the relevant age group. The Education and Manpower Bureau met with the Special Schools Council and special schools of various categories as well as the parents concerned on 3 December and 7 December 2004 respectively, soliciting their views as to how education services should be provided to meet the needs of SEN students under the academic structure and curriculum development of these schools. Members of the public are also welcome to send their views on the proposed academic structure reform for senior secondary education and higher education to the Education and Manpower Bureau on or before 19 January 2005.

### **Employees' Compensation Insurance**

9. **MR ANDREW LEUNG** (in Chinese): *Madam President, since 1990, employers taking out insurance cover for their employees are required to pay a levy set at a certain percentage of the premium through insurers. The management board concerned will subsequently distribute the levy to the Employees Compensation Assistance Fund Board, the Occupational Safety and Health Council and the Occupational Deafness Compensation Board (ODCB). The levy rate has gradually risen from 2% at the initial stage to 6.3% at present.*

*Moreover, the Administration has implemented the Employees Compensation Insurer Insolvency Scheme since April 2003, with a levy rate charged at 2% of the premium. In this connection, will the Government inform this Council:*

- (a) as it has planned to increase the percentage of levy distributed to the ODCB from 1.2% to 1.8% on 1 July 2007, whether it will adjust the percentage of levy distributed to the ODCB in accordance with any increase or decrease in the number of compensation claims received by the ODCB; and*
- (b) whether it has assessed the funding requirement of the three management boards mentioned above and reviewed the employees' compensation insurance levy plan, including whether these management boards can be self-financing and require no levies from employers, as well as lowering the levy rate?*

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

- (a) The levy distribution was drawn up after taking into account the statutory functions, operational requirements and projected income and expenditure of the ODCB, Occupational Safety and Health Council and the Employees Compensation Assistance Fund Board. If the actual income and expenditure patterns of these bodies deviate substantially from their forecasts, the Government will review the relevant levy rates and determine if they should be adjusted.
- (b) The Government assesses annually the financial position of the three bodies. At present, they rely mainly on the levy for carrying out their statutory duties. In 2003-04, the levy contributions accounted for 81% to 98% of the income of these bodies and they are therefore not in a position to operate on a self-financing basis at this stage.

As to whether the levy rate can be lowered in future, as explained in my reply to part (a) of the question, when the actual income and expenditure patterns of these bodies show obvious changes from the

forecasts, the Government will review the situation and determine if the relevant levy rates should be adjusted.

### **Gender Benchmark for Appointment of Members to Advisory and Statutory Bodies**

10. **MR ALBERT HO** (in Chinese): *Madam President, at present, the gender benchmark adopted for the appointment of members to advisory and statutory bodies (ASBs) is set at 25%; that is, at least 25% of the members of such bodies are of either sex. In this connection, will the Government inform this Council:*

- (a) *of the respective total numbers of male and female members of ASBs and their ratio, as well as a breakdown of the number of ASBs by the percentage of female members in the total membership (in groups each covering 5%);*
- (b) *when it expects all ASBs to attain the 25% gender benchmark; and*
- (c) *whether it has any plan to raise the gender benchmark?*

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

- (a) As at 1 December 2004, 1 971 non-official members appointed to our ASBs were women while 6 667 members were men. The ratio of female to male non-official members was 0.3 to 1. The breakdown of the number of ASBs by percentage of female members in the total membership (excluding official and ex-officio members) is at Annex.
- (b) We strive to enhance women's participation in the work of ASBs. Women's participation in ASBs has been improving: from 21.3% in December 2003 to the present level of 22.8%. We aim to achieve the 25% gender benchmark in the near future.
- (c) The gender benchmark may be raised in the longer term in line with international norms.

**Breakdown of the Number of ASBs by the  
Percentage of Female Non-official Members  
(Position as at 1 December 2004)**

<i>Percentage of Female Members</i>	<i>No of ASBs</i>
Less than 5%	77
5% to < 10%	36
10% to < 15%	55
15% to < 20%	52
20% to < 25%	69
25% to < 30%	56
30% to < 35%	46
35% to < 40%	26
40% to < 45%	33
45% to < 50%	10
50% or more	41
<b>Total</b>	<b>501</b>

**Asia-Pacific Economic Co-operation Business Travel Card Scheme**

11. **DR DAVID LI:** *Madam President, regarding the Asia-Pacific Economic Co-operation (APEC) Business Travel Card Scheme (the Scheme), will the Government inform this Council:*

- (a) of the number of such Cards issued each year since the implementation of the Scheme;*
- (b) of the average processing time for applications for such Cards; and*
- (c) whether it has evaluated the Scheme's target group's awareness of the Scheme; if it has, of the evaluation results?*

**SECRETARY FOR SECURITY:** Madam President,

- (a) The Scheme was introduced in May 1998. Up to the end of November 2004, a total of 1 710 APEC Business Travel Cards (ABTCs) have been issued. The breakdown by year is as follows:

<i>Year</i>	<i>1998*</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004**</i>	<i>Total</i>
No. of ABTCs issued	314	211	43	211	200	197	534	1 710

\* May to December 1998

\*\* January to November 2004

- (b) The average processing time for applications for an ABTC is about seven weeks, including that for preclearance by participating economies.
- (c) In addition to distributing leaflets on the Scheme, the Immigration Department keeps in regular contact with trade related organizations, such as chambers of commerce, industrial associations and professional bodies, to promote the Scheme. The Scheme has been operating smoothly so far.

**Statistics on Schools and Students**

12. **DR YEUNG SUM** (in Chinese): *Madam President, will the Government inform this Council of the following in respect of each school district:*

- (a) *the numbers of students and classes in each grade of kindergartens, primary schools and secondary schools in September 2004;*
- (b) *the respective numbers of secondary and primary schools and the total numbers of standard classrooms;*
- (c) *the respective numbers of whole-day government and subsidized secondary and primary schools; and*

- (d) *the estimated respective numbers of children who will be in the age groups for Primary One and Secondary One in 2008-09 and in the two subsequent school years?*

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

- (a) Provisional number of students and classes in each grade of kindergartens, primary schools and secondary schools as at September 2004 are provided in Annex 1 (Tables 1A to 3B).
- (b) Number of secondary and primary schools and number of registered classrooms as in 2004 are given in Annex 2. Table 1 shows the statistics on number of schools, covering all secondary day schools and primary schools (but excluding special schools and skills opportunity schools). Since information on number of registered classrooms is not available for some of the private schools, the statistics on number of schools and registered classrooms listed in Table 2 only cover schools for which the required information is available.
- (c) Please refer to Annex 3 for the respective number of whole-day government and aided secondary and primary schools as at October 2004.
- (d) Based on the latest population distribution projections provided by the interdepartmental Working Group of Population Distribution Projections, the projected number of school-age children (aged six) for Primary One in each district in 2008-09 and in the two subsequent school years are given in Table 1A in Annex 4. It should be noted that the actual number of Primary One students in each district depends on parental choice, the prevailing demand in each of the school nets as well as under-aged and over-aged students. As such, the actual numbers may be different from the projected figures.

As the planning for secondary school places is on a territory-wide basis, the projected number of school-age children for Secondary One by district is not available. Based on the latest territorial population projections provided by the Census and Statistics Department, the territorial-wide (all districts) projected number of school-age children (aged 12) for Secondary One in 2008-09 and in the two subsequent school years are given in Table 1B in Annex 4.

## Annex 1

Table 1A: Student Enrolment in Kindergartens by District and by Grade as at September 2004

<i>District</i>	<i>K1</i>	<i>K2</i>	<i>K3</i>	<i>All Grades</i>
Central and Western	1 445	1 660	1 604	4 709
Wan Chai	1 365	1 885	1 722	4 972
Eastern	2 537	3 442	3 345	9 324
Southern	949	1 288	1 406	3 643
Yau Tsim Mong	1 040	1 274	1 191	3 505
Sham Shui Po	1 722	2 203	2 099	6 024
Kowloon City	5 036	5 826	5 424	16 286
Wong Tai Sin	1 835	2 309	2 376	6 520
Kwun Tong	2 560	3 229	3 332	9 121
Sai Kung	2 300	2 650	2 484	7 434
Sha Tin	2 690	3 205	3 158	9 053
Tai Po	1 318	1 682	1 643	4 643
North	1 795	2 093	2 243	6 131
Yuen Long	3 877	4 624	4 792	13 293
Tuen Mun	2 678	3 372	3 314	9 364
Tsuen Wan	1 225	1 525	1 407	4 157
Kwai Tsing	2 744	3 019	3 125	8 888
Islands	940	1 160	990	3 090
All Districts	38 056	46 446	45 655	130 157

Note: Figures are provisional and subject to revisions later on.

Table 1B: Number of Operating Classes in Kindergartens by District and by Grade as at September 2004

<i>District</i>	<i>K1</i>	<i>K2</i>	<i>K3</i>	<i>All Grades</i>
Central and Western	74	86	79	238
Wan Chai	62	89	76	227
Eastern	145	195	190	530
Southern	59	73	79	210
Yau Tsim Mong	61	67	63	192
Sham Shui Po	87	116	105	307
Kowloon City	233	254	234	722
Wong Tai Sin	95	119	120	335
Kwun Tong	139	170	163	471
Sai Kung	125	146	137	408
Sha Tin	147	171	171	488
Tai Po	68	85	88	240
North	91	113	116	320
Yuen Long	187	220	226	633
Tuen Mun	147	186	180	512
Tsuen Wan	60	76	73	208
Kwai Tsing	138	158	154	450
Islands	59	68	63	191
All Districts	1 974	2 390	2 317	6 682

Notes: (1) There are fractional numbers of class due to combined class. The numbers have been rounded to the nearest integer, and they may not add up to the respective totals.

(2) Figures are provisional and subject to revisions later on.

Table 2A: Student Enrolment in Primary Schools by District and by Grade as at September 2004

<i>District</i>	<i>P1</i>	<i>P2</i>	<i>P3</i>	<i>P4</i>	<i>P5</i>	<i>P6</i>	<i>All Grades</i>
Central and Western	2 437	2 614	2 808	3 116	3 112	3 102	17 189
Wan Chai	2 628	2 810	2 832	2 966	2 936	2 956	17 128
Eastern	3 993	4 540	5 029	5 261	5 347	5 377	29 547
Southern	1 892	2 089	2 156	2 315	2 298	2 243	12 993

<i>District</i>	<i>P1</i>	<i>P2</i>	<i>P3</i>	<i>P4</i>	<i>P5</i>	<i>P6</i>	<i>All Grades</i>
Yau Tsim Mong	2 754	3 288	3 491	3 974	4 022	4 111	21 640
Sham Shui Po	3 395	3 614	3 925	4 100	4 088	4 241	23 363
Kowloon City	5 053	5 510	5 936	6 318	6 439	6 466	35 722
Wong Tai Sin	3 913	4 571	4 706	5 184	5 412	5 285	29 071
Kwun Tong	4 032	4 777	5 098	5 532	5 661	5 785	30 885
Sai Kung	3 313	3 811	4 040	4 094	4 023	3 888	23 169
Sha Tin	4 578	5 276	5 659	6 488	6 517	6 620	35 138
Tai Po	2 424	2 742	2 947	3 291	3 569	3 645	18 618
North	2 881	3 267	3 460	3 874	4 037	4 178	21 697
Yuen Long	6 077	6 771	7 327	7 781	8 065	8 027	44 048
Tuen Mun	4 389	4 851	5 356	6 003	6 323	6 630	33 552
Tsuen Wan	2 346	2 730	2 850	3 214	3 265	3 173	17 578
Kwai Tsing	3 467	3 897	4 199	4 705	4 985	5 034	26 287
Islands	1 404	1 401	1 586	1 562	1 553	1 487	8 993
All Districts	60 976	68 559	73 405	79 778	81 652	82 248	446 618

Notes: (1) Primary schools include government, aided, Direct Subsidy Scheme schools, other local private schools, English Schools Foundation schools and other international schools but do not include special schools.

(2) Figures are provisional and subject to revisions later on.

Table 2B: Number of Operating Classes in Primary Schools by District and by Grade as at September 2004

<i>District</i>	<i>P1</i>	<i>P2</i>	<i>P3</i>	<i>P4</i>	<i>P5</i>	<i>P6</i>	<i>All Grades</i>
Central and Western	86	88	91	100	99	100	564
Wan Chai	89	87	89	92	92	92	541
Eastern	134	152	168	168	168	168	958
Southern	66	68	72	76	73	73	428
Yau Tsim Mong	90	101	107	119	121	126	664
Sham Shui Po	111	114	122	126	122	128	723
Kowloon City	172	179	187	194	195	193	1 120
Wong Tai Sin	129	144	142	149	155	149	868

<i>District</i>	<i>P1</i>	<i>P2</i>	<i>P3</i>	<i>P4</i>	<i>P5</i>	<i>P6</i>	<i>All Grades</i>
Kwun Tong	135	147	150	159	164	170	925
Sai Kung	115	119	125	125	123	119	726
Sha Tin	155	171	181	204	198	202	1 111
Tai Po	83	88	98	111	121	123	624
North	91	97	106	122	129	132	677
Yuen Long	193	209	223	242	249	251	1 366
Tuen Mun	139	147	163	177	187	194	1 006
Tsuen Wan	77	85	88	96	99	96	541
Kwai Tsing	110	117	122	134	142	143	768
Islands	53	49	57	55	56	53	321
All Districts	2 028	2 162	2 290	2 449	2 492	2 510	13 931

Notes: (1) Primary schools include government, aided, Direct Subsidy Scheme schools, other local private schools, English Schools Foundation schools and other international schools but do not include special schools.

(2) There are fractional numbers of class due to combined class. The numbers have been rounded to the nearest integer, and they may not add up to the respective totals.

(3) Figures are provisional and subject to revisions later on.

Table 3A: Student Enrolment in Secondary Day Schools by District and by Grade as at September 2004

<i>District</i>	<i>S1</i>	<i>S2</i>	<i>S3</i>	<i>S4</i>	<i>S5</i>	<i>All Grades</i>
Central and Western	2 664	2 584	2 555	2 635	2 550	12 988
Wan Chai	2 926	2 948	2 823	3 344	3 219	15 260
Eastern	5 823	6 023	5 981	5 570	5 646	29 043
Southern	3 119	3 125	3 034	2 930	2 877	15 085
Yau Tsim Mong	3 118	3 096	3 017	2 892	2 904	15 027
Sham Shui Po	4 316	4 208	4 186	4 290	4 370	21 370
Kowloon City	7 061	7 032	6 645	6 743	6 760	34 241
Wong Tai Sin	4 641	4 551	4 349	4 237	3 912	21 690
Kwun Tong	6 377	6 429	6 129	6 422	6 446	31 803

<i>District</i>	<i>S1</i>	<i>S2</i>	<i>S3</i>	<i>S4</i>	<i>S5</i>	<i>All Grades</i>
Sai Kung	4 537	4 125	3 637	3 895	3 640	19 834
Sha Tin	8 170	7 791	7 623	7 900	7 633	39 117
Tai Po	3 946	4 070	4 474	4 294	4 469	21 253
North	4 196	4 191	4 300	3 750	3 684	20 121
Yuen Long	7 717	7 470	7 172	5 937	5 931	34 227
Tuen Mun	7 488	7 245	6 960	6 815	6 520	35 028
Tsuen Wan	2 494	2 568	2 412	2 386	2 426	12 286
Kwai Tsing	6 227	6 276	6 162	5 879	5 753	30 297
Islands	1 368	1 288	1 092	1 094	973	5 815
All Districts	86 188	85 020	82 551	81 013	79 713	414 485

Notes: (1) Secondary day schools include government, aided, Caput, Direct Subsidy Scheme schools, other local private schools, English Schools Foundation schools and other international schools but do not include special schools and skills opportunity schools.

(2) Figures are provisional and subject to revisions later on.

Table 3B: Number of Operating Classes in Secondary Day Schools by District and by Grade as at September 2004

<i>District</i>	<i>S1</i>	<i>S2</i>	<i>S3</i>	<i>S4</i>	<i>S5</i>	<i>All Grades</i>
Central and Western	77	74	75	74	75	375
Wan Chai	80	79	79	91	93	422
Eastern	167	164	166	148	154	799
Southern	89	90	89	85	89	442
Yau Tsim Mong	80	80	77	73	78	388
Sham Shui Po	119	113	113	116	118	579
Kowloon City	187	184	180	182	191	924
Wong Tai Sin	116	113	113	106	103	551
Kwun Tong	167	165	161	165	169	827
Sai Kung	121	112	100	101	97	531
Sha Tin	219	206	209	207	204	1 045
Tai Po	106	109	121	110	115	561
North	104	110	114	93	93	514
Yuen Long	193	186	184	152	158	873
Tuen Mun	187	184	182	170	166	889

<i>District</i>	<i>S1</i>	<i>S2</i>	<i>S3</i>	<i>S4</i>	<i>S5</i>	<i>All Grades</i>
Tsuen Wan	65	64	64	60	63	316
Kwai Tsing	160	160	162	148	147	777
Islands	38	37	35	34	32	176
All Districts	2 275	2 230	2 224	2 115	2 145	10 989

Notes: (1) Secondary day schools include government, aided, Caput, Direct Subsidy Scheme schools, other local private schools, English Schools Foundation schools and other international schools but do not include special schools and skills opportunity schools.

(2) There are fractional numbers of class due to combined class. The numbers have been rounded to the nearest integer, and they may not add up to the respective totals.

(3) Figures are provisional and subject to revisions later on.

## Annex 2

Table 1: Number of Secondary Day Schools and Primary Schools by District as at September 2004

<i>District</i>	<i>Secondary Day Schools</i>	<i>Primary Schools</i>
Central and Western	19	33
Wan Chai	20	31
Eastern	36	48
Southern	20	29
Yau Tsim Mong	19	35
Sham Shui Po	32	41
Kowloon City	42	67
Wong Tai Sin	25	39
Kwun Tong	35	44
Sai Kung	25	31
Sha Tin	52	54
Tai Po	25	35
North	24	51
Yuen Long	44	77
Tuen Mun	37	54
Tsuen Wan	16	28

<i>District</i>	<i>Secondary Day Schools</i>	<i>Primary Schools</i>
Kwai Tsing Islands	34 14	39 24
All Districts	519	760

Notes: (1) Secondary day schools include government, aided, Caput, Direct Subsidy Scheme schools, other local private schools, English Schools Foundation schools and other international schools but do not include special schools and skills opportunity schools.

(2) Primary schools include government, aided, Direct Subsidy Scheme schools, other local private schools, English Schools Foundation schools and other international schools but do not include special schools.

Table 2: Number of Secondary Day Schools and Primary Schools and Number of Registered Classrooms by District in 2004

<i>District</i>	<i>Secondary Day Schools</i>		<i>Primary Schools</i>	
	<i>No. of Schools</i>	<i>No. of Registered Classrooms</i>	<i>No. of Schools</i>	<i>No. of Registered Classrooms</i>
Central and Western	14	400	22	338
Wan Chai	18	492	19	263
Eastern	30	829	40	664
Southern	15	387	21	373
Yau Tsim Mong	18	477	34	568
Sham Shui Po	25	672	31	480
Kowloon City	35	959	41	695
Wong Tai Sin	23	587	36	719
Kwun Tong	34	896	42	859
Sai Kung	25	679	29	813
Sha Tin	47	1 208	52	1 133
Tai Po	23	617	32	546
North	22	569	51	637
Yuen Long	35	895	73	1 153
Tuen Mun	37	966	54	954
Tsuen Wan	14	327	27	465
Kwai Tsing	34	852	38	810

<i>District</i>	<i>Secondary Day Schools</i>		<i>Primary Schools</i>	
	<i>No. of Schools</i>	<i>No. of Registered Classrooms</i>	<i>No. of Schools</i>	<i>No. of Registered Classrooms</i>
Islands	13	278	21	318
All Districts	462	12 090	663	11 788

Notes: (1) Unlike Table 1, secondary day schools in this table only include government, aided, Caput, Direct Subsidy Scheme schools but do not include other local private schools, English Schools Foundation schools, other international schools, special schools and skills opportunity schools.

(2) Unlike Table 1, primary schools in this table only include government, aided and Direct Subsidy Scheme schools but do not include other local private schools, English Schools Foundation schools, other international schools and special schools.

(3) Number of schools in this table refers to the position as at October 2004.

(4) Number of registered classrooms in this table refers to the position as at November 2004. Figures include classrooms that have been permanently converted into special rooms in schools which were built at a time when the provision of learning accommodation was lower than the Y2K standards.

### Annex 3

#### Number of Whole Day Government and Aided Secondary and Primary Schools by District as at October 2004

<i>District</i>	<i>Whole Day Secondary Schools</i>			<i>Whole Day Primary Schools</i>		
	<i>Government</i>	<i>Aided</i>	<i>Total</i>	<i>Government</i>	<i>Aided</i>	<i>Total</i>
Central and Western	1	9	10	2	13	15
Wan Chai	3	11	14	1	9	10
Eastern	4	23	27	2	15	17
Southern	0	15	15	2	13	15

<i>District</i>	<i>Whole Day Secondary Schools</i>			<i>Whole Day Primary Schools</i>		
	<i>Government</i>	<i>Aided</i>	<i>Total</i>	<i>Government</i>	<i>Aided</i>	<i>Total</i>
Yau Tsim Mong	2	13	15	2	17	19
Sham Shui Po	1	15	16	2	15	17
Kowloon City	3	28	31	5	22	27
Wong Tai Sin	1	21	22	1	23	24
Kwun Tong	2	25	27	0	31	31
Sai Kung	1	18	19	1	26	27
Sha Tin	3	39	42	0	37	37
Tai Po	2	20	22	1	21	22
North	3	17	20	0	34	34
Yuen Long	4	29	33	1	50	51
Tuen Mun	2	35	37	0	27	27
Tsuen Wan	1	13	14	2	13	15
Kwai Tsing	2	31	33	0	29	29
Islands	2	9	11	0	21	21
All Districts	37	371	408	22	416	438

## Annex 4

Table 1A: Projected Number of School-age Children (Aged six) for Primary One by District between 2008 and 2010

<i>District</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Central and Western	2 400	2 100	1 700
Wan Chai	1 400	1 100	800
Eastern	4 800	4 700	4 100
Southern	2 000	1 700	1 800
Yau Tsim Mong	2 900	3 200	2 700
Sham Shui Po	3 100	3 200	3 300
Kowloon City	3 100	3 100	3 000
Wong Tai Sin	2 600	2 700	3 200
Kwun Tong	4 500	5 000	5 500
Sai Kung	3 700	3 900	3 600
Sha Tin	4 800	5 100	5 000
Tai Po	2 200	2 300	2 300
North	3 200	3 400	3 400
Yuen Long	5 700	5 700	5 400

<i>District</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Tuen Mun	4 300	4 500	4 200
Tsuen Wan	2 600	2 600	2 300
Kwai Tsing	4 400	4 400	4 700
Islands	1 600	1 500	1 500
All Districts	59 200	60 300	58 200

Notes: Figures refer to September of the respective years. They are compiled on the basis of the 2003-based projected population distribution by District Council district released by the interdepartmental Working Group of Population Distribution Projections in October 2004. They include estimates for cross-boundary students but exclude mobile residents.

Table 1B: Projected Number of School-age Children (Aged 12) for Secondary One between 2008 and 2010

	<i>2008</i>	<i>2009</i>	<i>2010</i>
All Districts	81 300	76 500	68 900

Notes: Figures refer to September of the respective years. They are compiled on the basis of the 2003-based territorial population projections released by the Census and Statistics Department in June 2004. They include estimates for cross boundary students but exclude mobile residents.

### **Retired Directorate Grade Civil Servants**

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

- (a) *of the names of the civil servants ranked at Directorate Pay Scale point 4 (D4) or above who retired in the past 10 years, the titles of their posts before retirement and the dates of their retirement; and*
- (b) *whether these officials took up employment in private or statutory bodies after retirement; if so, of the respective titles of the posts, the*

*dates of their appointment to these posts, and whether they took up these posts within the first three years after retirement?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): Madam President, under the pensions legislation, all retired civil servants have to seek prior permission from the Chief Executive before they enter into business on their own account, become partners or company directors, or become employees, if the principal part of the business or employment is carried on in Hong Kong, within two years after their retirement. For officers retiring at the rank of Administrative Officer Staff Grade A1 (AOSGA1) or above, the control period is three years after retirement. Once the relevant control period has lapsed, the retirees concerned are no longer subject to the requirement.

Given that retired directorate civil servants are only subject to a control period of two or three years during which they are required to seek approval prior to taking up outside employment and in view of the limited time available to prepare for a reply to this question, we have focused on providing information relating to directorate civil servants ranked at D4 or above who have retired in the past three years.

My reply to the individual parts of the question is as follows:

- (a) A table showing the names of directorate officers ranked at D4 or above who retired between 1 January 2002 and 31 December 2004, their former ranks and bureaux/departments is at Annex A.
- (b) Of the pool of retirees, a total of 31 applications involving 18 directorate officers for paid post-retirement employment were approved. In addition, there are 13 cases involving honorary appointments or unpaid service. A breakdown of the nature of employment of these approved applications is at Annex B. Under the current mechanism, once approval has been given for a retired civil servant to take up a particular employment, we do not require the officer concerned to notify the Government if he/she for whatever reason does not eventually take up the proposed employment or ceases the employment in due course.

## Annex A

List of Directorate Officers at D4 or above who retired between  
1 January 2002 to 31 December 2004

## (A) Thirteen officers who retired between 1 January 2002 to 31 December 2002

<i>Name</i>	<i>Former Rank</i>	<i>Former Bureau/Department</i>
TSANG Yam-kuen, Donald	Chief Secretary for Administration	Chief Secretary for Administration's Office
CHAN Anson	Chief Secretary for Administration	Chief Secretary for Administration's Office
SUEN Ming-yeung	AOSGA1	Constitutional Affairs Bureau
TONG Kai-hong	Deputy Director of Education	Education Department
YIP Chi-pang	Consultant	Department of Health
HUI Ki-on	Commissioner of Police	Hong Kong Police Force
WONG Tsan-kwong	Deputy Commissioner of Police	Hong Kong Police Force
LEE Man-kong	Consultant	Hospital Authority
CHOW Yat-ngok, York	Consultant	Hospital Authority
SIU Kwing-chue	AOSGA1	Planning and Lands Bureau
LEE Siu-kwong, Ambrose	Director of Immigration	Immigration Department
LAU Kam-hung	Director of Information Technology Services	Information Technology Services Department
PHILLIPSON Hugh Brian	Director of Water Supplies	Water Supplies Department

## (B) Fifteen officers who retired between 1 January 2003 to 31 December 2003

<i>Name</i>	<i>Former Rank</i>	<i>Former Bureau/Department</i>
WEI CHUI Kit-ye	AOSGA	Agriculture, Fisheries and Conservation Department
PAU Shiu-hung	Director of Architectural Services	Architectural Services Department
LAU Ching-kwong	Director of Civil Engineering	Civil Engineering Department

<i>Name</i>	<i>Former Rank</i>	<i>Former Bureau/Department</i>
COLLIER John	Director of Drainage Services	Drainage Services Department
LEE Shing-see	AOSGA1	Environment, Transport and Works Bureau
HSU King-ping	Director of Fire Services	Fire Services Department
LAU Yuk-kuen	Deputy Commissioner of Police	Hong Kong Police Force
WONG Shing-wah, Dominic	AOSGA1	Housing Bureau
NG Wing-fui, Nicholas	AOSGA1	Transport Bureau
WONG Wing-ping, Joseph	AOSGA1	Civil Service Bureau
CHAU Tak-hay	AOSGA1	Commerce and Industry Bureau
CHEUNG Man-yea	Director of Broadcasting	Hong Kong Economic and Trade Office
HARBINSON Stuart Wreford	AOSGA	Hong Kong Economic and Trade Office
HWANG Shu-tak, James	Consultant	Hospital Authority
LEUNG Sai-wah, Paul	AOSGA	Leisure and Cultural Services Department

## (C) Nine officers who retired between 1 January 2004 to 31 December 2004

<i>Name</i>	<i>Former Rank</i>	<i>Former Bureau/Department</i>
CHAN Yin-tat	Director of Audit	Audit Commission
NG Ching-kwok	Commissioner of Correctional Services	Correctional Services Department
YAN Sik-wing	Consultant	Department of Health
CHAN FUNG Fu-chun	Director of Health	Department of Health
LAM Hung-kwan	Director of the Hong Kong Observatory	Hong Kong Observatory
CHUNG Lai-kwok	AOSGB1	Housing Department
LUK Ping-chuen	Postmaster General	Post Office
WONG Hung-kin	Director of Territory Development	Territory Development Department
SHUM Man-to	Director of Accounting Services	Treasury

## Annex B

Post-retirement Employment approved in respect of Directorate Officers at D4 or above who retired between 1 January 2002 and 31 December 2004

<i>Nature of Approved Employment</i>		<i>Cases</i>	
<i>Broad Category of Trade</i>	<i>Position</i>	<i>No.</i>	<i>Sub-total</i>
<i>Paid Full-time Commercial Appointments</i>			
Commerce	Corporate Management	4	
Construction/Engineering	Corporate Management	1	
Property Management	Corporate Management	1	6
<i>Paid Part-time Commercial Appointments</i>			
Commerce/Finance	Advisory/Non-executive	10	
Management Consultancy	Advisory/Non-executive	2	
Construction/Engineering	Corporate Management	1	
	Advisory/Non-executive	1	14
<i>Paid Full-time Non-commercial Appointments</i>			
Medical	Hospital Management	3	
	Clinical Service	1	
Education	School Management	1	
Others	Executive Management	2	7
<i>Paid Part-time Non-commercial Appointments</i>			
Medical	Clinical Service	1	
Education	Teaching	1	
	Advisory	1	
Religious	Clergy	1	4
		<b>Total</b>	<b>31</b>

<i>Honorary Appointments or Unpaid Service<sup>1</sup></i>		<i>Cases</i>
Education	School Management	4
	Advisory	1
Medical	Construction Consultancy	1
Charity	Advisory	2
Others	Advisory	5
		<b>Total</b>
		<b>13</b>

<sup>1</sup> These appointments are advisory and voluntary in nature and do not constitute employment with monetary remuneration.

**Services for Vulnerable Elders**

14. **DR JOSEPH LEE** (in Chinese): *Madam President, it is learnt that in Hong Kong, the suicidal mortality rate of the elderly has always been comparatively higher than those of other age groups. There are also survey findings which indicate that nearly 40 000 elderly persons in Hong Kong are suffering from depressive illnesses, but 80% of them have not sought medical assistance. On the other hand, the figures of newly reported elder abuse cases during the first quarter of 2004 reveal that psychological abuse cases are the second largest category of all cases reported. In this connection, will the Government inform this Council:*

- (a) *whether Mental Health Community Service or Community Psychogeriatric Nursing Service has been provided to the above vulnerable elders; if so, of the number of cases handled by the authorities, the average waiting time for a case, as well as the average number of cases required to be handled by a nurse in each of the past five years; and*
- (b) *whether there are any plans to review the above services; if so, of the review timetable; if not, the reasons for that?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Chinese): Madam President, suicide is a complicated issue caused by multi-faceted factors. To address the problem, the Administration has established a Working Group on Suicide to co-ordinate the work of suicide prevention, and assess the effectiveness of various suicide prevention services on a multi-disciplinary basis. While elderly suicide mortality rate in Hong Kong has been higher than those of other age groups, this situation is similar to that of many other overseas countries. According to the findings of a previous elderly suicide study commissioned by the Administration, it is noted that most of the elderly suicide cases involved elders in poor health, with some of them suffering from depression.

To reduce elderly suicide, apart from putting in place a number of general preventive measures, the Administration has also implemented specific measures to tackle the problem. General preventive measures include services provided by the Social Welfare Department (SWD), the Department of Health and non-governmental organizations (NGOs), geared towards promoting the physical

and mental health of elders, raising their awareness of the psychological and physical changes associated with ageing, and helping them to make the necessary adjustments. Specific measures include the intervention services provided by the welfare and health care sectors, such as the territory-wide Elderly Suicide Prevention Programme (ESPP) run by the Hospital Authority (HA), and the elderly suicide preventive training courses arranged by the SWD for both professionals and non-professionals.

On the specific questions raised by Dr Joseph LEE, my reply is as follows:

- (a) The HA has launched the ESPP in the second half of 2002, with the objective of referring elders identified by the SWD, NGOs, doctors and social workers to have suicidal tendency to the psychogeriatric service for fast-track follow-up services, so as to reduce the incidence of elderly suicides. Under the programme, training courses have been organized for front-line staff on the prevention of elderly suicide. Home visits as well as telephone calls to elders in need are also made. At present, seven such fast-track clinics have been set up in Hong Kong. Attendance by elders at the fast-track clinics over the past two years is as follows:

<i>Year</i>	<i>Number of Attendances at Fast-track Clinics</i>
2002-03	1 063
2003-04	3 624

In addition, the psychogeriatric teams attached to different clusters also provide community psychiatric service to elders living in the community (including those in elderly centres/subvented institutions/residing in their own homes).

The statistics on psychogeriatric outreach attendances in the past five years are as follows:

<i>Year</i>	<i>Number of Psychogeriatric Outreach Attendances</i>
1999-2000	30 408
2000-01	31 173
2001-02	37 462
2002-03	38 046
2003-04	41 502

The HA has not compiled specific statistical data on elders' waiting time for psychiatric specialty service. However, the median waiting time of new cases for psychiatric specialty out-patient service during 2003-04 was four weeks. As the psychogeriatric team, which comprises health care staff such as doctors, nurses and allied health staff, handles cases jointly on a multi-disciplinary basis, and as nurses' duties cover outreaching service, as well as those in hospitals/day hospitals and clinics, nurses do not work on the basis of a specific number of cases.

- (b) The HA reviews its specialty services on a regular basis. The findings of an interim review of the ESPP showed that there was marked improvement in the psychological state of elders who had received service under the programme. The HA will continue to deliver the service to reduce the risk of elderly suicide.

### **Concept Plan for Lantau**

15. **MR DANIEL LAM** (in Chinese): *Madam President, regarding the Concept Plan for Lantau, will the Government inform this Council:*

- (a) *whether it will adjust the development objectives and infrastructure planning of Lantau, so as to achieve balanced development of different areas in Lantau and enable the residents of different areas to share the fruit of development;*
- (b) *whether and how the local community may participate in the projects currently proposed under the Concept Plan, which include the development of a logistics park, a theme park, a museum, an eco-tour centre, a leisure and recreational centre, as well as the Hong Kong-Zhuhai-Macao Bridge under planning;*
- (c) *apart from those mentioned in part (b) above, of the development projects to be carried out in Lantau; and*
- (d) *whether it will consider incorporating the planning of the islands in the vicinity of Lantau into the Concept Plan?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Chinese):  
Madam President, my reply to the four parts of the question is as follow:

- (a) With the development of the Hong Kong International Airport, the Tung Chung New Town and the strategic transport links in recent years, the Lantau Development Task Force, led by the Financial Secretary, was set up in February 2004 to re-examine the future planning and development of Lantau. The Task Force has recently published a "Concept Plan for Lantau" which aims at providing a balanced and coherent planning framework for the development of Lantau. In gist, the Concept Plan has proposed the development of economic infrastructure in North Lantau to enhance Hong Kong's economic competitiveness, while nature conservation and environmentally sustainable recreational and tourism uses are proposed for other parts of Lantau which comprise high-quality landscape and ecologically sensitive natural environment. The Task Force will consider carefully the development potentials and constraints of Lantau and widely seek the views of the public through extensive consultation, to ensure a proper and co-ordinated approach is adopted for mapping out the development of different areas of the Island and to achieve a balanced planning objective.
- (b) The development proposals in the Concept Plan are at their conceptual stage. The Task Force welcomes comments from the community, especially local residents in Lantau. From December 2004 to the end of February 2005, we will organize a series of public forums and briefings to exchange views and invite comments from the general public, local communities and stakeholders of various sectors on the Concept Plan. The Islands District Office is also considering other possible means to facilitate continuous active participation of the Lantau community and concern groups in the discussion of the Concept Plan.

As regards the proposals in the Concept Plan, it is important to listen to the views from the public at this stage with a view to reaching a consensus on which proposals should be taken forward.

- (c) The proposals under the Concept Plan can be grouped under four broad themes, namely, (i) economic infrastructure and tourism; (ii)

theme attractions based on heritage, local character and natural landscape; (iii) maximizing the recreation potential of country parks; and (iv) meeting nature conservation needs. The detailed proposals are listed in the consultation documents. The Task Force will take into account views gathered from the public on the proposals set out in the consultation document as well as any additional proposals put up by members of the public and conduct detailed feasibility studies on the proposals selected for implementation.

- (d) Although the Concept Plan focuses on Lantau, the Government has not lost sight of the development of other outlying islands. The majority of the outlying islands have been covered by relevant town plans. The plans aim at preserving the unique attractiveness of the islands while providing development plans of appropriate scale to enhance their visitors' appeal.

### **Safety of Blind MTR Passengers**

16. **DR FERNANDO CHEUNG** (in Chinese): *Madam President, the surcharge of 10 cents per passenger trip levied on users of Octopus tickets since July 2000 is, according to the MTR Corporation Limited (MTRCL), for funding the retrofitting of platform screen doors (PSDs) at MTR stations. The MTRCL said at the time that the entire retrofitting programme would be completed by 2006. On the other hand, some organizations for the blind have told me about the frequent occurrence of accidents involving blind MTR passengers falling onto the rail track. In this connection, will the Government inform this Council whether it knows:*

- (a) *the total amount of surcharge received by the MTRCL since levying the additional fares;*
- (b) *the number of blind MTR passengers who accidentally fell onto the rail track over the past four years;*
- (c) *whether the MTRCL will expedite the retrofitting of PSDs, so that the completion date of the retrofitting programme can be advanced; if it will, of the details; if not, the reasons for that; and*

- (d) *the measures that the MTRCL will take to ensure the safety of blind persons awaiting trains on the platforms of at-grade and overhead MTR stations where PSDs have not been retrofitted?*

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

(in Chinese): Madam President,

- (a) as at end-December 2004, the contribution of 10 cents for each Octopus passenger trip collected by the MTRCL since July 2000 totalled about \$300 million for funding the Corporation's \$2 billion programme to retrofit PSDs at MTR stations.
- (b) According to the MTRCL, the numbers of visually impaired MTR passengers falling onto the rail track in the past four years are as follows:

<i>Year</i>	<i>Number of visually impaired passengers falling onto the rail track</i>
2001	3
2002	0
2003	2
2004	2
Total	7

- (c) The retrofitting programme of PSDs at 74 platforms of the 30 MTR underground stations (list at Annex) is scheduled for completion by 2006. The MTRCL has advised us that such retrofitting works cannot be advanced as they involve major alterations to the stations, and the tunnel ventilation, air-conditioning and smoke extraction systems. Added to the complexity of the works is the need to carry out the works during the non-operating hours between 2 am and 5 am. Despite the technical complexities, the MTRCL aims at completing the programme by 2006 as planned.
- (d) The MTRCL always considers passenger safety its primary responsibility. It has adopted the following safety devices and arrangements in its daily operation to ensure the safety of visually impaired passengers in particular:

- (i) tactile guide paths are installed alongside each MTR platform with special tiles to indicate the position of the train door openings for the visually impaired to wait for the trains;
- (ii) tactile yellow lines are installed at edges of platforms without PSDs to enable cane users to detect the platform edge;
- (iii) public address and train door closing chime are arranged to announce the approaching of trains and their destinations and indicate the closing of train doors;
- (iv) CCTV cameras are installed at every station platform to facilitate effective platform monitoring and management;
- (v) station staff and additional platform assistants are deployed to maintain order and provide assistance to passengers at platforms especially during peak hours; and
- (vi) "Help Line" telephones and Emergency Train Stop buttons are installed at each platform for emergency use.

Appreciating the importance of maintaining communication with visually impaired passengers with a view to better understanding their needs when using the MTR service, the MTRCL has regular meetings with various visually impaired groups to exchange views on how to further improve MTR facilities for their benefit.

Annex

#### List of MTR Stations Included in PSD Retrofitting Programme

1. Sheung Wan
2. Central
3. Admiralty
4. Wan Chai
5. Causeway Bay
6. Tin Hau
7. Fortress Hill
8. North Point
9. Quarry Bay
10. Tai Koo

11. Sai Wan Ho
12. Shau Kei Wan
13. Lam Tin
14. Choi Hung
15. Diamond Hill
16. Wong Tai Sin
17. Lok Fu
18. Kowloon Tong
19. Shek Kip Mei
20. Tsim Sha Tsui
21. Jordan
22. Yau Ma Tei
23. Mong Kok
24. Prince Edward
25. Sham Shui Po
26. Cheung Sha Wan
27. Lai Chi Kok
28. Mei Foo
29. Lai King
30. Tai Wo Hau

### **Hong Kong's Economic Co-operation and Integration with the Mainland**

17. **MR ABRAHAM SHEK:** *Madam President, regarding Hong Kong's economic co-operation and integration with the Mainland, will the Government inform this Council of:*

- (a) *the progress of the issues which were raised in the Pan-Pearl River Delta (PRD) Regional Co-operation and Development Forum held in June last year;*
- (b) *the plans regarding the co-operation and development of the Pan-PRD Region in the coming year; and*
- (c) *the efforts and progress made by the Government in boosting Hong Kong's role in the PRD, which is a target set in the 2004 policy agenda?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS:** Madam President,

- (a) Since the first Pan-PRD Regional Co-operation and Development Forum and the signing of the Pan-PRD Regional Co-operation Framework Agreement (the Framework Agreement) by the Pan-PRD (also known as "9+ 2") governments in June 2004, progress has been made on a number of fronts in taking forward Pan-PRD regional co-operation.

The first liaison meeting among Secretaries-General of the "9+ 2" governments was held in Sichuan Province in July 2004, at which representatives reached broad consensus on the liaison and operation mechanism for the Forum, laying a solid foundation for facilitating the effective implementation of the co-operation initiatives.

In order to facilitate early implementation of the various co-operation initiatives under the Framework Agreement, provinces/regions concerned have started discussions in respect of co-operation in commerce and trade, tourism, environmental protection, education, health and prevention of infectious disease, labour and agriculture, and have reached broad consensus on the future direction and work plans.

In addition, the first Pan-PRD Regional Economic and Trade Co-operation Fair was successfully held in Guangzhou from 14 to 17 July 2004. According to the statistics provided by the organizing committee, over 800 co-operation contracts were concluded among the participants during the four-day fair, with a total amount exceeding RMB 290 billion yuan, which sets the record of trade fairs of its kind on the Mainland. Among the contracts concluded, over 200 items with a total contract sum exceeding RMB 20 billion yuan were entered into between Hong Kong and mainland enterprises.

Furthermore, in order to promote better understanding of the business sector on the opportunities and challenges that Pan-PRD regional co-operation may bring, the Central Policy Unit of the Government, in collaboration with the Chinese Manufacturers' Association of Hong Kong, the Federation of Hong Kong Industries,

the Hong Kong General Chamber of Commerce, the Chinese General Chamber of Commerce and the Hong Kong Trade Development Council, held a seminar on Exploring the Pan-PRD Business Opportunities on 19 July 2004. The Central Policy Unit also released the first monthly report of a consultancy study on Socio-Economic-Political Trends in Pan-PRD Region on 25 November 2004. The Report collates information and analyses the socio-economic and political trends of these provinces and autonomous region in the Pan-PRD Region. The Central Policy Unit also held a meeting with government think tanks in the region on 26 November 2004 and another discussion forum on Pan-PRD co-operation in conjunction with the Asia Pacific Research Institute of The Chinese University of Hong Kong on 13 December 2004.

- (b) The Government of the Hong Kong Special Administrative Region (SAR) attaches much importance to Pan-PRD co-operation and will continue to play an active role and work closely with our partner provinces/regions.

Later this month, we will attend the second liaison meeting among Secretaries-General to be held in Sichuan. The meeting would discuss issues of common concern among members of Pan-PRD co-operation, and start preparation for the second Pan-PRD Regional Co-operation and Development Forum and Pan-PRD Regional Economic and Trade Co-operation Fair to be held in Sichuan later this year.

In addition, the establishment of an expert group under the auspices of the Hong Kong/Guangdong Co-operation Joint Conference has been agreed. This will enable us to build on the solid foundation of and the synergy generated by Hong Kong/Guangdong co-operation in various aspects and extending the positive impact across the Pan-PRD Region. The expert group is expected to hold its first meeting shortly.

To foster closer co-operation with our partner provinces and regions and to enhance the SAR Government's understanding of the Pan-PRD Region, we have launched a visit programme to the Pan-PRD Region. This programme enables us to gain a broader

understanding of the development and policies of the respective provinces and regions. The first visit of the series was held last month and the 14-member delegation with representatives from 10 different government bureaux/departments paid a three-day visit to Hainan Province. The next visit to the other provinces in the Pan-PRD Region will take place later this month.

The SAR Government will also continue to work closely with our partner provinces/regions to implement the co-operation initiatives already covered in the Framework Agreement, and also to identify new areas of co-operation.

- (c) To boost Hong Kong's role in the PRD Region, we have been pursuing various initiatives. The key areas include:
- (i) agreed with the Central People's Government to provide further liberalization measures on trade in goods and services under the second phase of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA). This will in turn boost Hong Kong's role in the PRD;
  - (ii) working closely with mainland authorities, including those in Guangdong Province, to ensure the smooth and effective implementation of CEPA and to promote greater understanding of the opportunities under CEPA;
  - (iii) conducting joint promotion with Guangdong Province and its municipalities to attract foreign investors to invest in the Greater PRD Region;
  - (iv) organizing business visits to Zhanjiang and Yangjiang in western Guangdong, Shaoguan and Qingyuan in northern Guangdong, and Shantou and Meizhou in eastern Guangdong to explore business opportunities and to enhance economic co-operation between Hong Kong and the areas concerned;
  - (v) encouraging Guangdong enterprises to set up businesses or to list in Hong Kong to raise capital, as well as making use of

Hong Kong as a platform for business expansion and access to the international market;

- (vi) launched a Joint Funding Scheme with Guangdong in September 2004 to support research and development projects in six key technology areas, namely radio frequency identification technologies, automotive parts and accessory systems, electronic and information technology, new materials and fine chemical processing; critical precision manufacturing equipment, and new energy and energy-saving related technologies;
- (vii) undertaking improvement projects at Lok Ma Chau, Lo Wu and Sha Tau Kok to speed up traffic flow at these control points;
- (viii) constructing the Hong Kong-Shenzhen Western Corridor for completion in the second half of 2006;
- (ix) working with Guangdong on the feasibility studies on the Hong Kong-Zhuhai-Macao Bridge and the Guangzhou-Shenzhen-Hong Kong Express Rail Link; and
- (x) expanded the ferry services between the Hong Kong International Airport and the PRD to Zhongshan and Lianhuashan in Panyu in December 2004.

### **Enhancing Language Proficiency of Language Teachers**

18. **MS AUDREY EU** (in Chinese): *Madam President, starting from the 2004-05 school year, new teachers recruited to teach Chinese and English language subjects in primary and secondary schools must have a Bachelor of Education (BEd) degree in the relevant language subject or a first degree in the relevant language subject and qualifications of relevant teacher training. It has been reported that 86% of the serving language teachers in primary schools as well as 42% and 51% of the serving Chinese and English teachers in secondary schools have not yet acquired such qualifications. In this connection, will the Government inform this Council:*

- (a) *regarding the Professional Development Incentive Grant Scheme for Language Teachers launched last April to enhance the subject knowledge and pedagogical skills of language teachers, whether it has assessed the effectiveness of the Scheme; if it has, of the assessment results; if not, the reasons for that; and*
- (b) *of the further measures to enhance the language proficiency of language teachers?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Chinese): Madam President, in the Final Report of Language Education Review published in June 2003, the Standing Committee on Language Education and Research (SCOLAR) pointed out that language teachers should be proficient in the language they teach, well grounded in subject knowledge and acquainted with the latest theories and practices in language teaching and learning so as to ensure that they are adequately prepared for their work. Therefore, the SCOLAR recommended and the Government agreed that starting from the 2004-05 school year, new language teachers should hold at least a BEd degree majoring in the relevant language subject, or both a first degree and a Postgraduate Diploma (or Certificate) in Education (PGDE/PCed) majoring in the relevant language subject.

The Government also encourages serving language teachers, particularly those who have neither a degree nor any teacher training in the relevant language subject, to upgrade their qualifications and pursue continuing professional development. According to the 2003 Teacher Survey, the profile of academic qualifications of language teachers in primary and secondary schools in Hong Kong is as follows (in terms of number of teachers and percentage):

<i>Academic Qualifications of Language Teachers</i>	<i>Primary School</i>		<i>Secondary School</i>	
	<i>Chinese Language Teachers</i>	<i>English Language Teachers</i>	<i>Chinese Language Teachers</i>	<i>English Language Teachers</i>
Hold a degree majoring in the relevant language subject and have received teacher training in the relevant language subject	1 637 (13.8%)	1 269 (13.8%)	3 110 (58%)	2 753 (48.2%)

<i>Academic Qualifications of Language Teachers</i>	<i>Primary School</i>		<i>Secondary School</i>	
	<i>Chinese Language Teachers</i>	<i>English Language Teachers</i>	<i>Chinese Language Teachers</i>	<i>English Language Teachers</i>
Either hold a degree majoring in the relevant language subject or have received teacher training in the relevant language subject	9 574 (80.7%)	4 369 (47.5%)	1 547 (28.8%)	2 060 (36.1%)
Have neither a degree majoring in the language subject nor any teacher training in the relevant language subject	648 (5.5%)	3 561 (38.7%)	708 (13.2%)	895 (15.7%)
<b>Total</b>	<b>11 859 (100%)</b>	<b>9 199 (100%)</b>	<b>5 365 (100%)</b>	<b>5 708 (100%)</b>

It follows that at present 94.5% primary school Chinese Language teachers, 61.3% primary school English Language teachers, 86.8% secondary school Chinese Language teachers and 84.3% secondary school English Language teachers fully or partially meet the qualifications requirements that the SCOLAR has recommended, accounting for 82% of all the serving language teachers.

To encourage more serving teachers to upgrade their qualifications, the SCOLAR allocated \$225 million from the Language Fund to set up the Professional Development Incentive Grant Scheme for Language Teachers (the Scheme) last year to assist serving language teachers in paying tuition fee. Under the Scheme, each successful applicant may be reimbursed, upon completion of an approved programme for qualification upgrading, 50% of the tuition fee, up to a maximum of \$30,000. The Scheme commenced in April 2004. As at 21 December 2004, the SCOLAR has already received 3 949 applications of which 3 619 have been approved. The grant earmarked amounts to approximately \$186 million. Qualifications of language teachers who have successfully applied for the Scheme are as follows:

<i>Qualifications of Successful Applicants of the Scheme</i>	<i>No. of Chinese Language Teachers</i>	<i>No. of English Language Teachers</i>
Hold a degree majoring in the relevant language subject and have received teacher training in the relevant language subject	90	213
Either hold a degree majoring in the relevant language subject or have received teacher training in the relevant language subject	1 047	746
Have neither a degree majoring in the language subject nor any teacher training in the relevant language subject	1 011	512

Meanwhile, to help teachers with a degree not majoring in the relevant language subject to acquire the subject knowledge in the language they teach, six local tertiary institutions have offered eight approved postgraduate programmes in subject knowledge for English Language teachers and seven local tertiary institutions have offered seven approved postgraduate programmes in subject knowledge for Chinese Language teachers. As at November 2004, the programmes for English and the ones for Chinese have received about 1 100 and 1 350 applications from teachers respectively.

The Scheme has received about 4 000 applications in only a few months and the above programmes have commenced with a high enrolment rate, indicating that serving teachers are strongly committed to their professional development. We expect that these teachers will complete the programmes in the coming year or in the next few years and will be able to enhance their subject knowledge and pedagogy in the language they teach and, thus, help improve the quality of teaching. We also expect that more serving teachers will apply for assistance under the Scheme so as to undertake relevant programmes. As such, we consider that the Scheme and the abovementioned programmes have initially achieved the aim of encouraging more serving teachers to upgrade their qualifications and pursue continuing professional development.

The SCOLAR will review the way forward for the Scheme sometime mid-2005 and decide whether additional resources should be allocated to encourage more eligible serving language teachers to undertake relevant

programmes. We shall also continue to discuss with local teacher education institutions matters such as whether more places should be provided for teacher training.

### **Employment Earnings and Wage Rates**

19. **MR JASPER TSANG** (in Chinese): *Madam President, the Census and Statistics Department (C&SD) carries out quarterly surveys on the employment earnings and wage rates of the Hong Kong population, and gives a breakdown of the relevant data by industry/occupation. In this connection, will the Government inform this Council:*

- (a) of the relationship between employment earnings and wage rates;*
- (b) of the distribution of employment earnings and wage rates in each of the past three years (including the highest, median, average and lowest figures), broken down by industry/occupation; and*
- (c) whether it will consider switching from its current practice of making mandatory requirement on wage rates for service contracts (excluding construction services) that rely heavily on the deployment of non-skilled workers to making a mandatory requirement on employment earnings of the workers concerned, so as to expressly specify their wages, and whether it knows if various public bodies will consider making similar mandatory requirements on employment earnings?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): Madam President,

- (a) At present, the C&SD compiles the wage rates and monthly employment earnings on separate bases.

Wage rates are compiled on the basis of the findings of the Labour Earnings Survey, which is conducted on a quarterly basis. Given that a more detailed statistical classification of occupations is used in the Labour Earnings Survey, wage rates are available for specific occupations (for example, cleaners and guards).

Wage rates cover the following elements of payments to employees:

- (i) basic wages/salaries (including paid holidays and leave);
- (ii) commission and tips (tips received directly from customers are excluded);
- (iii) shift allowance;
- (iv) cost-of-living allowance;
- (v) meal allowance and meal benefits;
- (vi) good attendance bonus;
- (vii) guaranteed year-end bonus; and
- (viii) other regular and guaranteed bonuses and allowances.

Wage rates however do not cover any variation of wage payments due to changes in the actual number of working days and working hours (such as overtime work or shorter working hours). Furthermore, irregular bonuses and allowances are also not included.

Wage rates are usually regarded as the "price" of labour. As such, wage rates are usually expressed as time rates which refer to the amount of money paid for normal hours of work and relate to a time-unit such as an hour, a day, a week or a month. Hence, in publishing the wage rates, the C&SD also publishes the corresponding number of normal working hours per day and number of standard working days per month. The wage rate hence reflects the income or earnings received by an employee when he works for a specific job according to such number of normal working hours per day and number of standard working days per month.

As regards monthly employment earnings, the statistics are compiled on the basis of the findings of the General Household Survey, which is conducted on a continuous basis. Since the

occupation classification is less detailed in the General Household Survey, no corresponding detailed breakdowns are available for monthly employment earnings as in the case of wage rates.

Monthly employment earnings measure the actual amount of money earned from all jobs by an employed person in a given month, including basic wage/salary, all bonuses, commissions, tips, housing allowance, overtime allowance, attendance allowance and other cash allowances.

In sum, there is a two-level relationship between monthly employment earnings and wage rates. First, a person's monthly employment earnings cover the earnings from all the jobs taken by him. In comparison, wage rate is only related to the time rates of a specific job only. Secondly, for individual jobs of an employed person, the monthly earnings of the job is equal to the wage rate plus payment for overtime work and irregular bonuses and allowances. In case the employed person works shorter hours, the monthly employment earnings derived from the job will be lower than the wage rate of the job.

- (b) Statistics on wage rates are compiled on the basis of information on individual occupations provided by those establishments randomly selected for the Labour Earnings Survey. In that survey, the establishments are only required to provide the average values of wage data for all the relevant employees of individual occupations, rather than data for individual employees. Hence, the C&SD can only compile the average wage rates, instead of the highest, lowest and median wage rates. The average wage rates by industry and occupation (including wage rates for specific occupations) are regularly published in Tables 6 to 8 of the Quarterly Report of Wage and Payroll Statistics published by the C&SD on a quarterly basis (the tables consist of some 25 pages). Tables 1 and 2 attached show a summary of the statistics for the past three years. Tables 3 shows the average wage rates over the past three years for selected occupations in relevant industries involving non-skilled workers commonly employed under government service contracts.

As regards the monthly employment earnings, they may vary greatly among individual employed persons. The average values

can easily be affected by the extreme cases. It is therefore considered that the median monthly employment earnings can better reflect the overall situation. The C&SD publishes information on the median employment earnings in the Quarterly Report on General Household Survey on a quarterly basis. Tables 4 and 5 attached show the more detailed statistics for the past three years.

- (c) The Government implements the mandatory wage requirement for service contracts (excluding construction services) that rely heavily on the deployment of non-skilled workers in order to ensure that the average wage rates (which relate to average number of normal hours of work per day and average number of standard working days per month) offered to non-skilled workers employed by contractors of government outsourced services will not be lower than those of their counterparts employed in the relevant industry or occupation in the market. The Government adopts the average monthly wage rates stipulated in the Quarterly Report of Wages and Payroll Statistics published by the C&SD as the basis of the mandatory wages because it is considered that such figures best reflect the market wage rates of employees working under the normal number of hours of work per day and standard number of working days per month.

It is considered not appropriate to adopt the monthly employment earnings in place of wage rates as the basis of the benchmark for mandatory wages. First, the monthly employment earnings are much affected by the actual number of hours worked by the employees. Indeed, the actual hours of work vary greatly among different employees. Thus, the monthly employment earnings could not represent the general level of earnings for employees working under normal hours of work. Secondly, for the compilation of the monthly employment earnings, the General Household Survey does not have information on specific occupations (for example, cleaners and guards).

As for other public bodies, it should be noted that these bodies have their own procurement policies, contract approval procedures and authority for awarding contracts. It will be up for them to decide on their own policies and practices in this regard.

Table 1 Average Monthly Wage Rates Analysed by Industry Sector

<i>Quarter/Year</i>	<i>Industry sector<sup>1</sup></i>					
	<i>Manufacturing</i>	<i>Wholesale, retail and import/export trades, restaurants and hotels</i>	<i>Transport services</i>	<i>Financing, insurance, real estate and business services</i>	<i>Personal services</i>	<i>All selected industries<sup>2</sup></i>
3Q 2002	9 792	11 767	13 136	10 636	6 302	10 970
3Q 2003	9 562	11 549	12 841	10 583	6 164	10 795
3Q 2004	9 447	11 293	12 759	9 627	6 502	10 496

Source: Labour Earnings Survey conducted by the Census and Statistics Department

Notes:

1. Owing to a more limited coverage of the Labour Earnings Survey, the industry sectors shown in this table and Table 4 are not strictly comparable. For example, the transport services sector shown in this table does not include firms engaged in the business of storage and communications, in contrast to the corresponding sector shown in Table 4.
2. Figures under "all selected industries" refer to the overall average monthly wage rates of all the industries shown in this table. They are all the industries covered in the Labour Earnings Survey. Please note in particular that the Labour Earnings Survey only covers occupations at supervisory/technical worker level and below, in all the industries included in the survey.

Table 2 Average Wage Rates Analysed by Occupational Group

<i>Industry sector<sup>1</sup></i>							
<i>Quarter/Year</i>	<i>Average monthly wage rates</i>				<i>Average daily wage rates</i>		<i>Overall average monthly wage rates</i>
	<i>Supervisory and technical workers</i>	<i>Clerical and secretarial workers</i>	<i>Services workers</i>	<i>Miscellaneous non-production workers</i>	<i>Craftsmen</i>	<i>Operatives</i>	<i>All selected occupations<sup>2</sup></i>
3Q 2002	15 605	11 084	8 764	7 208	485	308	10 970
3Q 2003	15 608	10 755	8 403	6 883	481	314	10 795
3Q 2004	15 036	10 474	8 299	6 879	466	322	10 496

Source: Labour Earnings Survey conducted by the Census and Statistics Department

Notes:

1. Owing to a more limited coverage of the Labour Earnings Survey, the occupation groups shown in this table and Table 5 are not strictly comparable. For example, "supervisory and technical workers" shown in this table is only part of "associate professionals" shown in Table 5.
2. Figures under "all selected occupations" refer to the overall average monthly wage rates of all the occupations shown in this table. They are all the occupations covered in the Labour Earnings Survey. Please note in particular that the Labour Earnings Survey only covers occupations at supervisory/technical worker level and below, in all the industries included in the survey.

Table 3 Average Wage Rates for Selected Occupations of Non-skilled Workers Employed Under Government Service Contracts

<i>Average monthly wage rates of selected occupations in selected industries</i>					
<i>Quarter/Year</i>	<i>Guard in Security and detective services<sup>1</sup></i>	<i>Building attendant/guard in real estate maintenance management<sup>1</sup></i>	<i>Gardener in real estate maintenance management<sup>1</sup></i>	<i>Cleaner (lavatory) in Sanitary and similar services<sup>2</sup></i>	<i>Cleaner (general) in Sanitary and similar services<sup>2</sup></i>
3Q 2002	6 824	7 648	8 094	6 143	5 138
3Q 2003	6 767	7 340	8 201	4 569	4 970
3Q 2004	6 639	7 107	8 098	4 675	5 051

Source: Labour Earnings Survey conducted by the Census and Statistics Department

Notes:

1. This industry is classified under the industry sector of "Financing, insurance, real estate and business services" as shown in Table 1.
2. This industry is classified under the industry sector of "Personal Services" as shown in Table 1.

Table 4 Employed persons by monthly employment earnings and industry

Monthly employment earnings (HK\$)	Q3 2002							
	Industry sector							
	Manufacturing	Construction	Wholesale, retail and import/export trades, restaurants and hotels	Transport, storage and communications	Financing, insurance, real estate and business services^	Community, social and personal services^	Others#	Total@
	Number (‘000)	Number (‘000)	Number (‘000)	Number (‘000)	Number (‘000)	Number (‘000)	Number (‘000)	Number (‘000)
< 4,000	18.8	18.1	83.7	14.0	11.1	230.3	3.8	379.7
4,000 - 5,999	29.3	27.3	103.2	24.0	30.2	76.2	*	291.7
6,000 - 7,999	39.9	46.2	172.3	56.7	65.9	57.0	2.0	440.1
8,000 - 9,999	44.5	50.2	155.5	59.9	56.0	55.2	*	423.2
10,000 - 14,999	66.9	72.9	222.4	99.4	101.7	109.4	5.6	678.1
15,000 - 19,999	35.1	33.3	92.6	44.8	61.0	72.4	3.8	343.0
20,000 - 29,999	35.6	22.8	83.1	29.5	67.3	108.1	4.3	350.8
30,000 and over	23.9	17.9	65.5	24.0	84.3	122.8	4.0	342.4
Total	293.9	288.6	978.3	352.3	477.5	831.4	26.9	3 249.0
Median monthly employment earnings (HK\$)	10,000	10,000	9,000	10,000	12,000	9,600	12,500	10,000

Notes: ^ No corresponding detailed breakdowns for specific industries/occupations such as "Cleaners in Sanitary and similar services" and "Guards in Security and detective services" are available for monthly employment earnings as shown in Table 3 in the case of wage rates.

# Including such industries as "Agriculture and fishing"; "Mining and quarrying"; "Electricity, gas and water" and industrial activities inadequately described or unclassifiable.

@ Covering all employed persons in all industries.

\* Figures are based on small number of sample observations and suppressed owing to relatively low statistical precision.

Figures may not add up to the corresponding totals owing to rounding.

Source: General Household Survey conducted by the Census and Statistics Department

Table 4 (Con'd) Employed persons by monthly employment earnings and industry

Monthly employment earnings (HK\$)	Q3 2003							
	Industry sector							
	Manufacturing	Construction	Wholesale, retail and import/export trades, restaurants and hotels	Transport, storage and communications	Financing, insurance, real estate and business services <sup>^</sup>	Community, social and personal services <sup>^</sup>	Others <sup>#</sup>	Total <sup>@</sup>
	Number ( <sup>'000</sup> )	Number ( <sup>'000</sup> )	Number ( <sup>'000</sup> )	Number ( <sup>'000</sup> )	Number ( <sup>'000</sup> )	Number ( <sup>'000</sup> )	Number ( <sup>'000</sup> )	Number ( <sup>'000</sup> )
< 4,000	18.4	16.9	90.4	20.5	14.6	241.5	2.6	404.9
4,000 - 5,999	30.9	31.7	115.2	33.7	37.1	87.5	*	337.6
6,000 - 7,999	41.1	38.6	183.2	58.3	66.3	61.4	*	449.8
8,000 - 9,999	45.2	47.4	164.1	60.8	51.7	56.7	2.1	428
10,000 - 14,999	54.7	64.8	192.3	81.8	89.5	100.1	4.7	587.7
15,000 - 19,999	28.1	30.4	85.7	43.5	58.4	70.1	3.7	319.9
20,000 - 29,999	31.3	18.7	81.5	26.4	66.4	108.1	3.9	336.4
30,000 and over	19.7	14.1	67	22.6	87.4	118.4	4.3	333.5
Total	269.4	262.7	979.4	347.6	471.5	843.8	23.5	3 197.9
Median monthly employment earnings (HK\$)	9,800	9,500	9,000	10,000	13,000	9,000	15,000	9,600

Notes: <sup>^</sup> No corresponding detailed breakdowns for specific industries/occupations such as "Cleaners in Sanitary and similar services" and "Guards in Security and detective services" are available for monthly employment earnings as shown in Table 3 in the case of wage rates.

<sup>#</sup> Including such industries as "Agriculture and fishing"; "Mining and quarrying"; "Electricity, gas and water" and industrial activities inadequately described or unclassifiable.

<sup>@</sup> Covering all employed persons in all industries.

\* Figures are based on small number of sample observations and suppressed owing to relatively low statistical precision.

Figures may not add up to the corresponding totals owing to rounding.

Source: General Household Survey conducted by the Census and Statistics Department

Table 4 (Con'd) Employed persons by monthly employment earnings and industry

Monthly employment earnings (HK\$)	Q3 2004							
	Industry sector							
	Manufacturing	Construction	Wholesale, retail and import/export trades, restaurants and hotels	Transport, storage and communications	Financing, insurance, real estate and business services^	Community, social and personal services^	Others#	Total@
	Number ( '000)	Number ( '000)	Number ( '000)	Number ( '000)	Number ( '000)	Number ( '000)	Number ( '000)	Number ( '000)
< 4,000	16.5	18.0	92.0	17.7	12.7	245.5	3.4	405.8
4,000 - 5,999	25.3	29.3	119.7	32.1	43.9	83.8	2.2	336.3
6,000 - 7,999	35.9	43.5	199.0	62.1	64.8	62.1	*	469.0
8,000 - 9,999	36.9	54.2	165.4	69.3	60.7	65.7	2.3	454.5
10,000 - 14,999	47.0	66.8	228.2	84.7	88.6	98.4	4.7	618.5
15,000 - 19,999	26.4	25.9	99.0	43.6	60.2	74.0	*	330.9
20,000 - 29,999	22.8	17.4	94.9	27.2	63.0	99.3	3.1	327.6
30,000 and over	14.0	12.6	79.9	22.5	84.2	123.8	3.1	340.1
Total	224.7	267.9	1 078.1	359.1	478.0	852.6	22.3	3 82.6
Median monthly employment earnings (HK\$)	9,500	9,000	9,000	9,600	12,000	9,000	12,000	9,500

Notes: ^ No corresponding detailed breakdowns for specific industries/occupations such as "Cleaners in Sanitary and similar services" and "Guards in Security and detective services" are available for monthly employment earnings as shown in Table 3 in the case of wage rates.

# Including such industries as "Agriculture and fishing"; "Mining and quarrying"; "Electricity, gas and water" and industrial activities inadequately described or unclassifiable.

@ Covering all employed persons in all industries.

\* Figures are based on small number of sample observations and suppressed owing to relatively low statistical precision.

Figures may not add up to the corresponding totals owing to rounding.

Source: General Household Survey conducted by the Census and Statistics Department

Table 5 Employed persons by monthly employment earnings and occupation

Monthly employment earnings (HK\$)	Q3 2002									
	Occupational group									
	Managers and administrators	Professionals	Associate professionals	Clerks	Service workers and shop sales workers	Craft and related workers	Plant and machine operators and assemblers	Elementary occupations <sup>^</sup>	Others <sup>#</sup>	Total <sup>@</sup>
	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)
< 4,000	3.8	*	20.2	23.0	56.1	16.8	14.2	240.4	3.7	379.7
4,000 – 5,999	*	*	16.0	33.0	58.2	27.7	24.0	129.4	*	291.7
6,000 – 7,999	*	*	28.8	98.6	96.6	45.8	43.3	121.5	2.0	440.1
8,000 – 9,999	4.3	3.0	49.1	122.7	74.0	55.7	54.2	59.6	*	423.2
10,000 – 14,999	24.1	19.2	137.0	165.4	98.3	95.4	76.6	61.2	*	678.1
15,000 – 19,999	39.4	26.0	116.2	56.9	37.2	33.7	26.5	6.5	*	343.0
20,000 – 29,999	86.4	38.4	123.5	39.1	46.2	8.8	6.4	*	*	350.8
30,000 and over	140.4	105.5	83.2	4.3	7.0	*	*	*	*	342.4
Total	301.0	196.5	574.0	542.9	473.6	284.9	245.9	620.5	9.6	3 249.0
Median monthly employment earnings (HK\$)	25,000	30,000	15,000	9,500	8,000	9,500	9,000	5,000	5,500	10,000

Notes: ^ No corresponding detailed breakdowns for specific industries/occupations such as "Cleaners in Sanitary and similar services" and "Guards in Security and detective services" are available for monthly employment earnings as shown in Table 3 in the case of wage rates.

# Including such industries as "Agriculture and fishing"; "Mining and quarrying"; "Electricity, gas and water" and industrial activities inadequately described or unclassifiable.

@ Covering all employed persons in all industries.

\* Figures are based on small number of sample observations and suppressed owing to relatively low statistical precision.

Figures may not add up to the corresponding totals owing to rounding.

Source: General Household Survey conducted by the Census and Statistics Department

Table 5 (Con'd) Employed persons by monthly employment earnings and occupation

Monthly employment earnings (HK\$)	Q3 2003									
	Occupational group									
	Managers and administrators	Professionals	Associate professionals	Clerks	Service workers and shop sales workers	Craft and related workers	Plant and machine operators and assemblers	Elementary occupations <sup>^</sup>	Others <sup>#</sup>	Total <sup>@</sup>
	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)
< 4,000	3.3	*	22.6	25.0	64.3	16.1	16.4	253.4	3.7	404.9
4,000 – 5,999	*	*	18.7	41.2	70.9	33.5	27.4	141.9	*	337.6
6,000 – 7,999	*	*	32.4	101.4	102.8	46.4	46.4	117.4	2.0	449.8
8,000 – 9,999	4.5	5.5	56.6	112.4	76.6	59.9	53.7	57.8	*	428.0
10,000 – 14,999	19.0	18.8	130.5	140.8	83.4	80.4	67.2	46.9	*	587.7
15,000 – 19,999	29.4	23.5	113.9	59.2	35.5	29.3	22.5	5.9	*	319.9
20,000 – 29,999	79.0	40.6	125.8	34.7	40.0	8.0	7.2	*	*	336.4
30,000 and over	125.4	103.8	89.9	5.0	7.3	*	*	*	*	333.5
Total	262.5	197.0	590.4	519.7	480.8	274.4	242.1	624.5	9.6	3 197.9
Median monthly employment earnings (HK\$)	27,000	30,000	15,000	9,100	8,000	9,000	9,000	4,650	4,000	9,600

Notes: ^ No corresponding detailed breakdowns for specific industries/occupations such as "Cleaners in Sanitary and similar services" and "Guards in Security and detective services" are available for monthly employment earnings as shown in Table 3 in the case of wage rates.

# Including such industries as "Agriculture and fishing"; "Mining and quarrying"; "Electricity, gas and water" and industrial activities inadequately described or unclassifiable.

@ Covering all employed persons in all industries.

\* Figures are based on small number of sample observations and suppressed owing to relatively low statistical precision.

Figures may not add up to the corresponding totals owing to rounding.

Source: General Household Survey conducted by the Census and Statistics Department

Table 5 (Con'd) Employed persons by monthly employment earnings and occupation

Monthly employment earnings (HK\$)	Q3 2004									
	Occupational group									
	Managers and administrators	Professionals	Associate professionals	Clerks	Service workers and shop sales workers	Craft and related workers	Plant and machine operators and assemblers	Elementary occupations <sup>^</sup>	Others <sup>#</sup>	Total <sup>@</sup>
	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)	Number ('000)
< 4,000	2.1	2.7	21.0	23.6	69.4	15.1	14.3	254.2	3.4	405.8
4,000 – 5,999	*	*	19.7	44.4	72.6	30.2	25.2	140.2	*	336.3
6,000 – 7,999	*	3.0	35.3	112.7	109.0	46.2	49.8	110.2	*	469.0
8,000 – 9,999	4.9	7.2	62.5	120.0	78.0	60.8	53.9	66.5	*	454.5
10,000 – 14,999	18.3	20.9	137.9	158.7	89.9	86.1	67.5	38.8	*	618.5
15,000 – 19,999	29.3	27.4	122.4	59.0	38.7	28.5	21.0	4.2	*	330.9
20,000 – 29,999	76.3	39.1	121.8	29.9	44.5	8.0	6.0	*	*	327.6
30,000 and over	132.2	111.3	82.9	4.3	6.9	*	*	*	*	340.1
Total	266.3	213.0	603.5	552.5	509.0	276.4	238.7	616.0	7.1	3 282.6
Median monthly employment earnings (HK\$)	29,000	30,000	15,000	9,000	8,000	9,000	9,000	4,600	4,000	9,500

Notes: ^ No corresponding detailed breakdowns for specific industries/occupations such as "Cleaners in Sanitary and similar services" and "Guards in Security and detective services" are available for monthly employment earnings as shown in Table 3 in the case of wage rates.

# Including such industries as "Agriculture and fishing"; "Mining and quarrying"; "Electricity, gas and water" and industrial activities inadequately described or unclassifiable.

@ Covering all employed persons in all industries.

\* Figures are based on small number of sample observations and suppressed owing to relatively low statistical precision.

Figures may not add up to the corresponding totals owing to rounding.

Source: General Household Survey conducted by the Census and Statistics Department

**CSSA Statistics**

20. **MISS CHAN YUEN-HAN** (in Chinese): *Madam President, will the Government inform this Council of:*

- (a) *the number of Comprehensive Social Security Assistance (CSSA) cases in each month of last year, in which the categories thereof underwent the following changes;*
  - (i) *from low earning cases to unemployment cases;*
  - (ii) *from unemployment cases to low earning cases; and*
  - (iii) *from unemployment cases to low earning cases, and back to unemployment cases again;*
- (b) *the number of participants in the Support for Self-reliance Scheme (the SFS Scheme) implemented by the Social Welfare Department (SWD) in each of the past two years and, among these participants, the respective numbers of unemployed and low earning CSSA recipients who have secured full-time paid employment through the Scheme;*
- (c) *the number of participants in the Ending Exclusion Project implemented by the SWD in each of the past two years and, among these participants, the numbers of single-parent CSSA recipients who were ready for employment and secured paid employment respectively; and*
- (d) *the movement of the Social Security Assistance Index of Prices (SSAIP) and the rate of change in the actual prices of all the commodities and services in such Index in each month of the past two years; and whether there were opposite movements between the SSAIP and the Consumer Price Index (A) (CPI(A)) in the past two years; if so, of the reasons for that?*

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

- (a) As at November 2004, there were 46 029 CSSA unemployment caseloads and 16 033 CSSA low earnings caseloads, making up 15.5% and 5.4% of the total CSSA caseloads respectively. In the past 12 months, the number of CSSA cases which changed from the unemployment category to the low earnings category continued to double those which changed from the low earnings category to the unemployment category. This reflects the gradual improvement in our labour market and the effect of measures, such as the arrangement of disregarded earnings and the SFS Scheme, so that CSSA recipients have been steadily rejoining the workforce.
- (i) In the past 12 months, the number of CSSA cases which have changed from the low earnings category to the unemployment category is as follows:

<i>Month/Year</i>	<i>No. of cases changed from the low earnings category to the unemployment category</i>
December 2003	167
January 2004	170
February 2004	183
March 2004	239
April 2004	209
May 2004	199
June 2004	189
July 2004	192
August 2004	179
September 2004	207
October 2004	196
November 2004	193

- (ii) In the past 12 months, the number of CSSA cases which have changed from the unemployment category to the low earnings category is as follows:

<i>Month/Year</i>	<i>No. of cases changed from the unemployment category to the low earnings category</i>
December 2003	439
January 2004	348
February 2004	421
March 2004	508
April 2004	439
May 2004	456
June 2004	437
July 2004	432
August 2004	393
September 2004	439
October 2004	453
November 2004	491

- (iii) Of the 5 256 CSSA cases which changed from the unemployment category to the low earnings category in the past 12 months as listed in (ii) above, 575 cases have reverted to the unemployment category during the same period.
- (b) Over the past two years, the SFS Scheme has been effective in assisting about 30% of the participants to secure paid employment. In future, the Administration will continue to assist CSSA recipients without full-time employment through the SFS Scheme. The Administration is also currently reviewing its employment assistance measures for CSSA recipients, and initial results are expected by the middle of the year. We will listen to public views by consulting the working group on CSSA under the Social Welfare Advisory Committee (SWAC) and the Subcommittee on review of the CSSA under the Legislative Council Panel on Welfare Services.

The number of participants in the SFS Scheme who have secured full-time paid employment in the past two years, and, among these participants, the respective number of the unemployed and low earnings CSSA recipients are as follows:

	<i>November 2002 to October 2003</i>	<i>November 2003 to October 2004</i>
(a) No. of participants	53 918 (Unemployed recipients: 53 641 Low earnings recipients: 277)	49 589 (Unemployed recipients: 49 270 Low earnings recipients: 319)
(b) No. of unemployed recipients who have secured paid employment	14 396 (27% of the total unemployed recipients who joined the SFS Scheme)	18 238 (37% of the total unemployed recipients who joined the SFS Scheme)
(c) No. of low earnings <sup>(1)</sup> recipients who have secured full-time employment	211 (76% of the total low earnings recipients who joined the SFS Scheme)	76 (24% of the total low earnings recipients who joined the SFS Scheme)

(1) Denotes CSSA recipients without full-time employment (working less than 120 hours and earning less than \$1,430 per month) who are required to join the SFS Scheme.

- (c) As at November 2004, there were 39 386 single-parent family caseloads. The Ending Exclusion Project (EEP) is targeted at single parents who have been on CSSA for three months or more, and whose youngest child is aged under 15. It aims to maximize their chances of participating in social and economic activities, raise their self-esteem and sense of worthiness, integrate into society and improve their living through employment. The package of services includes "Active Employment Assistance", child care and other supportive services. Participation in the project is voluntary. The Administration is now reviewing the arrangements for single-parent CSSA recipients. We will listen to public views by consulting the working group on CSSA under the SWAC and the Subcommittee on review of the CSSA under the Legislative Council Panel on Welfare Services.

Of the single-parent CSSA recipients who joined the EEP in the past two years, the number of those considered to be ready for employment and those who have secured paid employment is as follows:

	<i>November 2002 to October 2003</i>	<i>November 2003 to October 2004</i>
(a) No. of participants	1 987	1 955
(b) No. of single-parent CSSA recipients who were ready for employment <sup>(2)</sup>	1 095 (55% of the total participants)	1 110 (57% of the total participants)
(c) No. of participants who secured paid employment	247 (23% of (b))	80 (7% of (b))

(2) Recipients who were ready for employment refer to those who accepted employment assistance under the EEP.

- (d) The adjustment of CSSA rates over the past two years only reflected changes in the SSAIP up to March 2002. As at November 2004, there was still room for adjusting the CSSA rates downwards by 1.4% (while changes in the CPI (A) and CPI (A) excluding the housing component over the same period are -4.7% and -2.4% respectively). Despite this, the Administration has no intention of further adjusting the CSSA rates downwards in 2005-06, but will keep a close watch on the movement of the SSAIP to ensure that the CSSA rates will be adjusted in time if the SSAIP increases above the prevailing purchasing power of the recipients.

As to whether there were opposite movements between the SSAIP and CPI (A), it was noted that they had different movements in certain months because the consumption items covered by the two indices are not entirely the same (for example, the SSAIP does not include a housing component, whereas the CPI (A) does). If the housing component is taken away from the CPI (A), it was noted that the movements of the SSAIP and CPI (A) were broadly similar.

In the past 24 months, the movement of the SSAIP and its year-on-year rate of change (including all the commodities and services covered by the Index) are as follows:

<i>Month/Year</i>	<i>SSAIP (October 1999 to September 2000= 100)</i>	<i>Year-on-year Rate of Change of SSAIP</i>
December 2002	96.9	-2.0%
January 2003	93.8	-2.0%
February 2003	94.0	-2.0%
March 2003	96.8	-1.2%
April 2003	96.6	-1.2%
May 2003	96.0	-1.5%
June 2003	95.2	-2.3%
July 2003	95.1	-2.3%
August 2003	95.7	-2.0%
September 2003	96.8	-0.8%
October 2003	96.3	-1.2%
November 2003	96.4	-1.1%
December 2003	96.2	-0.6%
January 2004	96.6	3.0%
February 2004	96.9	3.1%
March 2004	96.8	0.1%
April 2004	97.1	0.5%
May 2004	97.2	1.2%
June 2004	97.4	2.3%
July 2004	97.6	2.6%
August 2004	97.3	1.7%
September 2004	98.2	1.4%
October 2004	98.0	1.8%
November 2004	98.4	2.1%

In the past 24 months, the year-on-year rate of change of the SSAIP and the CPI (A) are as follows:

<i>Month/Year</i>	<i>Year-on-year Rate of Change of SSAIP</i>	<i>Year-on-year Rate of Change of CPI (A)</i>	<i>Year-on-year Rate of Change of CPI (A) (excluding housing component)</i>
December 2002	-2.0%	1.0%	-2.4%

<i>Month/Year</i>	<i>Year-on-year Rate of Change of SSAIP</i>	<i>Year-on-year Rate of Change of CPI (A)</i>	<i>Year-on-year Rate of Change of CPI (A) (excluding housing component)</i>
January 2003	-2.0%	-1.6%	-2.1%
February 2003	-2.0%	-2.0%	-2.5%
March 2003	-1.2%	-1.9%	-2.3%
April 2003	-1.2%	-1.2%	-1.2%
May 2003	-1.5%	-1.7%	-1.8%
June 2003	-2.3%	-2.4%	-2.6%
July 2003	-2.3%	-3.6%	-2.6%
August 2003	-2.0%	-3.5%	-2.3%
September 2003	-0.8%	-2.8%	-1.2%
October 2003	-1.2%	-2.0%	-1.5%
November 2003	-1.1%	-1.8%	-1.4%
December 2003	-0.6%	-1.2%	-0.6%
January 2004	3.0%	-0.7%	1.6%
February 2004	3.1%	-1.1%	1.1%
March 2004	0.1%	-1.8%	0.1%
April 2004	0.5%	-1.5%	0.3%
May 2004	1.2%	-0.7%	1.2%
June 2004	2.3%	0.1%	2.2%
July 2004	2.6%	1.5%	2.4%
August 2004	1.7%	1.4%	2.0%
September 2004	1.4%	1.3%	1.7%
October 2004	1.8%	0.4%	2.0%
November 2004	2.1%	0.6%	2.1%

**BILLS****First Reading of Bills****PRESIDENT** (in Cantonese): Bill: First Reading.

**TRANSFER OF SENTENCED PERSONS (AMENDMENT) (MACAU) BILL**

**CLERK** (in Cantonese): Transfer of Sentenced Persons (Amendment) (Macau) Bill.

*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.

**TRANSFER OF SENTENCED PERSONS (AMENDMENT) (MACAU) BILL**

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I move that the Transfer of Sentenced Persons (Amendment) (Macau) Bill (the Bill) be read the Second time.

The purpose of the Bill is to amend the Transfer of Sentenced Persons Ordinance (the Ordinance) to enable the transfer of sentenced persons between the Macau Special Administrative Region (MSAR) and the Hong Kong Special Administrative Region (HKSAR).

Transfer of sentenced persons to their places of origin, by returning them to an environment free of language and cultural barriers and where their friends and relatives can visit them on a regular basis, is conducive to their rehabilitation. Our policy is to facilitate such transfers between the HKSAR and other places. Consistent with this policy, we have been in discussion with the MSAR Government on an arrangement for the transfer of sentenced persons (TSP arrangement) between the two places. A text of the TSP arrangement has been agreed.

At present, the Ordinance only enables the transfer of sentenced persons between the HKSAR and places outside China. Therefore, we propose to

amend the relevant provisions to make the Ordinance applicable to the TSP arrangement between the MSAR and the HKSAR.

The Ordinance also provides that the Chief Executive shall not issue an outward warrant unless, among other things, the sentenced person is a national of the receiving jurisdiction, or in the opinion of the Chief Executive, has close ties with that place. Under the TSP arrangement between the MSAR and the HKSAR, the sentenced person must be a permanent resident of the receiving jurisdiction or has close ties with it. We therefore propose to amend the relevant provisions to provide that the sentenced person must be a permanent resident of the MSAR or, in the opinion of the Chief Executive, has close ties with it, where the place outside Hong Kong is Macau.

Under the existing provisions of the Ordinance, the Chief Executive has to notify the Central People's Government of every relevant request for transfer and to comply with the instructions given by the Central People's Government. The requirement is not applicable to transfers between the MSAR and the HKSAR. We therefore propose to amend the relevant provisions so that they will not be made applicable to transfers between the MSAR and the HKSAR.

Madam President, the proposed amendments can bring into effect the TSP arrangement between the MSAR and the HKSAR, thereby enabling the repatriation of HKSAR residents imprisoned in the MSAR to serve the remainder of their sentences in Hong Kong, and *vice versa*. I hope Members will support the proposals and pass the Bill as soon as possible.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Transfer of Sentenced Persons (Amendment) (Macau) bill be read the Second time.

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

**MOTIONS**

**PRESIDENT** (in Cantonese): Motions. Two proposed resolutions under the Interpretation and General Clauses Ordinance in relation to amending the subsidiary legislation.

First resolution: Amending the Waste Disposal (Charges for Disposal of Construction Waste) Regulation.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, I hereby move the amendments to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (the Charging Regulation) and the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 (the DWDF Regulation) as set out on the Agenda.

The Waste Disposal (Amendment) Ordinance 2004, which was passed by the Legislative Council on 2 July 2004 with amendments, is the enabling legislation for the Charging Regulation and the DWDF Regulation and provides the statutory basis for the introduction of the construction waste disposal charging scheme. The Charging Regulation and the DWDF Regulation were tabled at the Legislative Council on 3 November 2004 and subsequently scrutinized by a Subcommittee set up for this purpose. The Subcommittee has now completed its scrutiny of the Regulations. Just now, Miss CHOY So-yuk has reported the deliberation of the Subcommittee. I would like to take this opportunity to brief Honourable Members on the amendments to the Regulations proposed by the Administration in response to the comments made by the Subcommittee.

The Charging Regulation and the DWDF Regulation set out the details of the construction waste disposal charging scheme, including the charges for the disposal of construction waste at landfills, sorting facilities and public fill reception facilities and their calculation. The Charging Regulation sets the disposal charges at \$125 per tonne at landfills, \$100 per tonne at sorting facilities and \$27 per tonne at public fill reception facilities in order to fully recover the

capital and recurrent costs of the facilities according to the "polluter pays" principle.

To address the concern of waste haulers over possible cash flow and bad debt problems, we have decided to remove on-site payment and require all charges to be paid through billing accounts. This arrangement is supported by waste haulers and the Subcommittee.

Under the proposed charging scheme, a main contractor who undertakes construction work with a value of \$1 million or above will be required to make an application to the Director of Environmental Protection (DEP) within 21 days after being awarded the contract to establish a billing account. Upon the establishment of the billing account, the main contractor will be required to use the account to pay any disposal charges payable in respect of the construction waste generated from construction work undertaken under that contract. In view of the comments of the Subcommittee, we now propose to amend the Charging Regulation by prescribing in clearer terms that "contract" means "a contract in writing or a contract supported by sufficient evidence in writing" and that a billing account established solely for a construction contract with a value of \$1 million or above cannot be used to settle charges arising from other contracts with a value of less than \$1 million each. In addition, to lower the administration costs of managing multiple billing accounts by small and medium contractors, under the Regulation, a contractor may establish one billing account to cover several contracts with a value of less than \$1 million each.

According to our initial proposal, an account-holder will be required to pay to the DEP all charges payable within 30 days from the day of the notice of demand issued by the DEP. In response to the request of the trades and the Subcommittee, we propose to amend the Charging Regulation to extend the payment period from 30 to 45 days so as to further relieve the cash flow pressure on the trades. If an account-holder fails to make payment as required within 45 days, he will be liable to pay a 5% surcharge. If the account-holder fails to pay the unpaid charges and the surcharge within 14 days, the DEP may suspend the account in question. Upon the suspension of the account, the DEP is required to issue a final notice to the account-holder. If the account-holder fails to pay the unpaid charges and the surcharge within 14 days of the final notice, the DEP may revoke the account.

The Charging Regulation provides that a person may apply for the establishment of an exemption account for a construction contract awarded before the commencement of the Regulation. In response to the request of the trades and the Subcommittee, we propose to amend the Regulation to the effect that in addition to the above situation, a contractor may apply for the establishment of an exemption account for a contract if the closing date, if any, for submitting a tender for that contract is earlier than the commencement of the Regulation.

When delivering a load of waste to a designated waste disposal facility, the waste hauler appointed by the account-holder will be required to produce a valid "chit". Similar to the practice of public utilities, the account-holder will be required to pay a deposit when he applies to the DEP for such chits and the deposit will vary according to the amount of usage. To minimize the financial impact on the trade, we have proposed and the trade has agreed that a two-tier system be adopted. Under this two-tier system, the deposit for the disposal of construction waste generated from a contract with a value of \$1 million or above will be charged at a minimum of \$15,000 for 200 chits. If additional chits are required, additional deposit on a pro-rata basis will have to be paid. For a contract with a value of less than \$1 million, a deposit of \$300 for each chit will be required. This amount is determined on the most lenient assumption that all vehicle loads contain inert materials to be disposed of at public fill reception facilities charging at \$27 per tonne.

In addition, we also propose to amend the Charging Regulation to the effect that the DEP may, on his own initiative or at an account-holder's request, refund the deposit or part of it if the DEP is satisfied that the deposit or that part is no longer required. In making such a decision, the DEP shall have regard to the factors that he considers relevant, including the amount of construction waste that the account-holder proposes to dispose of.

The Charging Regulation specifies the type of construction waste that may be accepted at the various designated waste disposal facilities. If the construction waste delivered by a waste hauler to a designated waste disposal facility is not of the type that may be accepted at that facility, that waste hauler will be turned away. Under these circumstances, to facilitate the waste hauler's delivery of the waste to the appropriate facility, the staff at the facility will give the waste hauler an entry refusal note, which will specify the reason for refusal and the appropriate designated waste disposal facility for the waste to be

delivered to. When the waste hauler delivers the waste to the appropriate waste disposal facility, he will not be turned away again.

For the purpose of enforcing the requirements on inert construction waste content set out in Column 3 of Schedule 2 of the DWDF Regulation, the DEP will determine the content of waste using a reference table based on the net weights and permitted gross vehicle weights of different types of vehicles. The Subcommittee was of the opinion that the Regulation should authorize the DEP to determine the inert construction waste content according to the criteria set out in the reference table in order to avoid disputes in the enforcement process although the reference table is not intended to be part of the subsidiary legislation. We supported the Subcommittee's proposal and, therefore, propose to amend the DWDF Regulation to require the DEP to give notice in the Gazette of the criteria adopted for the determination of the inert content of waste. We also undertake to consult the trades through the Tripartite Working Group (TWG) before making any changes to the reference table in future. The TWG, comprising waste haulers, developers/contractors and government representatives, will continue to operate after the implementation of the charging scheme in order to maintain close liaison and co-operation between the Administration and the relevant trades, and review the operational procedures and monitoring mechanism.

According to our initial proposal, if a main contractor who undertakes construction work under a contract with a value of \$1 million or above fails to apply to the DEP for the establishment of a billing account within 14 days after being awarded the contract, he will commit an offence and, in the case of a continuing offence, will be liable to a daily fine of \$5,000. As the Bills Committee considered the proposed daily fine too high, we propose that the daily fine level be reduced from \$5,000 to \$1,000. In response to the request of the trades, we also propose to extend the period for establishing a billing account from 14 to 21 days. When scrutinizing the Regulations, the Subcommittee was concerned that lowering the penalty might make the provision less effective as a deterrent and suggested that a review be conducted six months after the implementation of the charging scheme. We accept the proposal of the Subcommittee and will review the charging scheme six months after its implementation and at regular intervals afterwards. The scope of review will include the deterring effect of the penalty, the deposit levels and the effectiveness of the reference table. We will submit detailed review reports to the Legislative Council Secretariat in due course.

Subject to the passage of the proposed amendments, we will widely publicize the Regulations through publicity and education activities and inform the public and the trades of the arrangements under the construction waste charging scheme. We will also educate waste producers, including renovation contractors, on their responsibility for minimizing waste and establishing billing accounts. We will also conduct a dry run of the charging mechanism for a period of time with the trades before formally launching the charging scheme in the summer of 2005 so that those involved can fully familiarize themselves with the procedures.

The resolutions proposed by the Administration also include other technical amendments.

Madam President, I hereby move the proposed amendments, which have been endorsed by the Subcommittee. I would like to extend my heartfelt gratitude to Miss CHOY So-yuk, Chairman of the Subcommittee, and all members of the Subcommittee for giving us their invaluable views when scrutinizing the Regulations.

With these remarks, I urge Honourable Members to support the proposed amendments. Firstly, I move the amendments to the Waste Disposal (Charges for Disposal of Construction Waste) Regulation. Thank you, Madam President.

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

"RESOLVED that the Waste Disposal (Charges for Disposal of Construction Waste) Regulation, published in the Gazette as Legal Notice No. 166 of 2004 and laid on the table of the Legislative Council on 3 November 2004, be amended –

- (a) in section 2, by repealing the definition of "contract" and substituting –

"contract" (合約) means a contract in writing or a contract supported by sufficient evidence in writing;"

- (b) in section 3(4)(c), by adding "all" before "the conditions of use";
- (c) by repealing section 7(1) and substituting –

"(1) If the Director is satisfied that the construction waste intended to be delivered by a person or on his behalf to a prescribed facility for disposal is generated from construction work undertaken under a contract, the Director may, on application, give approval for that person to establish an exemption account solely in respect of that contract if –

- (a) that contract has been awarded before the commencement of this section; or
- (b) the closing date (if any) for submitting a tender for that contract is earlier than the commencement of this section.";

- (d) by repealing section 9(2) and substituting –

"(2) Where the Director has approved the application to establish a billing account solely in respect of that contract, the main contractor shall ensure that -

- (a) that billing account is used for paying any prescribed charge payable in respect of construction waste generated from construction work undertaken under that contract; and
- (b) that billing account is not used for paying any prescribed charge payable in respect of any other construction waste.";

(e) in section 10 –

(i) by repealing subsections (4) and (5) and substituting –

"(4) The Director shall refund to an account-holder the deposit or, if it has been applied under subsection (3), the balance (if any) –

(a) upon the closure, at the account-holder's request, of the billing account; or

(b) upon the revocation of the billing account.

(5) The Director may, on his own initiative or at an account-holder's request, refund to the account-holder the deposit or part of it if the Director is satisfied that the deposit or that part is no longer required.";

(ii) by renumbering subsection (6) as subsection (7);

(iii) by adding –

"(6) In making a decision under subsection (5), the Director shall have regard to the factors that he considers relevant to the use of the billing account, including the amount of construction waste that the account-holder proposes to dispose of at any prescribed facility.";

(f) in section 18(2), by repealing "30 days" and substituting "45 days". "

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

**MISS CHOY SO-YUK** (in Cantonese): Madam President, the crisis of an escalating amount of waste is now a pressing issue and the most effective solution is to reduce the generation of waste at source and to implement sorting and recycling of waste on a full scale.

The Democratic Alliance for Betterment of Hong Kong (DAB) has always supported implementing the "polluter pays" principle and has constantly been urging the Government to enforce this policy on all fronts at an early date. Enterprises should be encouraged to reduce waste as far as possible through financial incentives to alleviate the immense pressure that landfills are now facing. To this end, the DAB supports the Waste Disposal (Amendment) (No. 2) Bill 2003 targeting demolition and construction waste proposed earlier by the Government, as well as the two relevant Regulations being scrutinized by this Council today.

However, in one of the Regulations, the Government required the industry concerned to pay large amounts of deposit before they can dispose of demolition and construction waste at landfills. This aroused the grave concern of the DAB, one of the reasons being that several months ago, when this Council was scrutinizing the relevant bill, the Government never disclosed this idea, still less did it consult the industries concerned adequately. However, more importantly, the original proposal put forward by the Government, namely, to charge a deposit of \$350 for each truckload of waste, will be unaffordable to many small and medium enterprises (SMEs).

Madam President, we believe that SMEs will be most seriously affected by an excessively high level of deposit. We must know that their liquidity is limited. It is said that small sums will in the long run add up to a substantial one. It is not unusual for a construction site to generate several hundred truckloads of waste. In other words, according to the requirements proposed at that time, the responsible company would have hundreds of thousands of dollars withheld from its disposal for the purpose of meeting the deposit requirement. The required amount of deposit will constitute a blow to the operation of many SMEs.

In view of this, the DAB had discussions with the Government and the industry a number of times and a consensus was eventually reached. The DAB is also grateful to the Government for proposing amendments and establishing a two-tier system for deposits. That is to say, if the value of a contract is below a certain amount, the deposit for each load of waste will be reduced accordingly. Furthermore, the entire deposit regime will be reviewed after the Regulation has been implemented for six months.

In addition, since the credit period of 30 days originally proposed by the Government was too short and some of the SMEs may experience cash flow problems as a result of the payment of charges, the DAB is glad to see that the Government has taken into account the concerns of the industry and extended the credit period for payment of landfill charges from 30 days to 45 days.

Madam President, although the DAB supports the two Regulations being scrutinized today, it must reiterate that be it the Regulations in question or the Waste Disposal (Amendment) (No. 2) Bill 2003 passed several months ago, they all target demolition and construction waste and the scope of their coverage is very narrow. There is however so far no charging scheme for the equally large quantity of household waste. The work in this area in Hong Kong is obviously more backward than other places.

Various places worldwide have all recognized that levying waste disposal charges is an effective means to reduce waste. In view of this, nearly all modern countries and regions levy different forms of handling charges on household waste. In contrast, charges are levied only on demolition and construction waste in Hong Kong and even this was debated repeatedly over the past 10 years. It was not until several months ago that the charging proposal eventually won the acceptance of the Government, the industry, environmental groups, and so on, and a breakthrough was jointly achieved on waste disposal.

However, the time that remains is a cause for great concern. We know clearly from government information that 19 million tonnes of construction waste was created in Hong Kong in 2003, enough to fill the racecourse to a height of 26 storeys. However, our landfills have an outstanding service life of less than six years only. In other words, we do not have another 10 years for the gradual implementation of measures aimed at reducing waste. Unfortunately, for a long time, the resources that the Government has committed to reducing waste at source are too little and no relevant complementing legislation has been introduced. As a result, the waste reduction measures have

not made any significant achievement. Therefore, the DAB reiterates here that the Government has to make haste and cover the lost ground. Be it by means of policy, legislation or committing resources, it is necessary to put forward various forms of waste reduction measures to enforce the "polluter pays" principle in all areas. Only in this way will it be possible to make up for the precious time lost, resolve a looming crisis and truly relieve the pressure on the landfills, as well as eventually establishing a pattern of waste management that is more sustainable.

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

**MS MIRIAM LAU** (in Cantonese): Madam President, since the first resolution concerning the Waste Disposal (Charges for Disposal of Construction Waste) Regulation and the next resolution concerning the Waste Disposal (Designated Waste Disposal Facility) are related to one another, I will follow the example of the Secretary and speak on both of them together.

Madam President, these two Regulations are aimed at stipulating a charging scheme and the level of charges for using landfills. Initially, the Regulations aroused considerable reaction from waste haulers because the direct payment system is applicable only on major developers or contractors but not minor contractors, and waste haulers had to assume responsibility for collecting the charges from minor contractors. Waste haulers were concerned that if these contractors defer payment or default on payment, they would experience cash flow or bad debt problems.

After representatives of waste haulers had held repeated negotiations with the Government, the Government finally agreed to remove the arrangement for on-site payment. Instead, all charges will be paid through billing accounts, so that waste haulers do not have to be responsible for collecting charges from waste producers. That the Government is amenable to good advice is the main reason that this charging scheme for the disposal of construction waste can be smoothly taken forward.

Although the Government has removed the on-site payment arrangement, waste haulers are still concerned that some waste producers will still evade responsibility and waste haulers will thus be forced to bear all the costs. It is necessary for the Government to launch extensive publicity and educational

activities to make waste producers aware of their responsibility in reducing waste and opening billing accounts, so as to truly realize the "polluter pays" principle.

In addition, concerning the reception of waste, the industry had divergent views on the reference table originally compiled by the Government according to the net weight or permitted gross vehicle weight of different types of vehicles for the purpose of determining waste contents. The Government said that it would hold further discussions with the industry to compile a reference table acceptable to both parties. However, as far as I know, so far waste haulers have still not agreed to the reference table proposed by the Government earlier on. I hope the Government will not go slack in its discussion after these two Regulations have been passed today or even stick to its own way. I hope the Government will adopt a pragmatic attitude in dealing with the views of the industry on the reference table, as it did in dealing with the on-site payment arrangement, and work out a set of reference tables which is acceptable to both parties before formally implementing the charging scheme, so as to avoid disputes in the reception of waste. Concerning the reference table and the implementation of the whole scheme, I hope the Government will conduct a review when necessary in the light of experience gained in actual operation. In this connection, I am pleased to note that the Government has undertaken to conduct a review six months after the implementation of the charging scheme.

Finally, I welcome the Government's establishment of a Tripartite Working Group which comprises representatives of waste haulers, the construction industry, construction contractors and relevant government departments. Since this working group will continue to function even after the implementation of the charging scheme, I hope it will closely monitor the implementation of the entire scheme and note, in particular, whether any instance of waste producers forcing waste haulers to shoulder all the charges has occurred.

Madam President, I so submit.

**MS EMILY LAU** (in Cantonese): I speak in support of the resolution moved by Secretary Dr Sarah LIAO to amend the Waste Disposal (Charges for Disposal of Construction Waste) Regulation, as well as the Waste Disposal (Designated

Waste Disposal Facility) (Amendment) Regulation 2004 to be moved by her later.

Madam President, this matter has been dealt with for 10 years and we have also discussed it here a number of times. About 10 years ago, charges for using landfills were proposed. Probably due to the improper handling of matters at that time, truck drivers threw a blockade around landfills. I believe that for the Government, it is a frightening thing to be blockaded by whatever type of vehicles. It is afraid of taxi drivers as well as truck drivers. As a result, after this matter has dragged on for a long time. I have heard many friends from overseas say, "What? You mean no charges are levied for using landfills here in Hong Kong?" They feel that we are really backward and also very wrong.

However, I also agree that before implementing measures such as levying charges, it is necessary to secure the support of the community. I believe Secretary Dr LIAO cannot afford to see another blockade of the landfills. In every meeting, we would ask the drivers, "Are you going to organize something over this?" Madam President, in fact, they do not want to do anything of this sort either, but they want the authorities to appreciate their difficulties. I was glad to hear the Secretary spell out in detail what would be done in future. On behalf of the industry, Ms Miriam LAU has also spoken on the difficulties faced by the industry just now and we also understand them. Some time ago, we made a site visit to the Tseung Kwan O Landfill. At that time, the facilities had not yet all been put in place, but we still tried to understand how the site would be operated in future. I agree with some Honourable colleagues that the authorities were amenable to good advice, however, it was impossible for them not to be, otherwise, the resolution will not be passed.

However, I still support the authorities in doing all they can. Although some money will be saved, it remains to be seen what will happen in future. If no deterrent effect can be achieved, I am in favour of conducting a review since we are talking about the "polluter pays" principle. If the Government goes on offering subsidies indefinitely, then this principle will never be put into practice. Often, Members of the Legislative Council are criticized for expressing their support during discussions but falter when charges are actually to be levied. Why would they falter? Madam President, as you are aware, voters and residents will sometimes come here and make a scene, so education is a very important aspect. The Secretary also mentioned towards the end of her speech

that she would educate the people concerned to impress upon them their responsibilities, so that the whole society can understand and accept this concept and will be willing to dip into their pockets. I believe Hong Kong is still not yet well-developed in this area. However, I hope that the passage of these two Regulations today is the first step taken.

I welcome the Secretary's remark that the Regulations will be implemented on a trial basis for a period of time. I believe some problems will probably be encountered in the course and I hope that after the trial, these Regulations can be really implemented this summer and what is more, properly and smoothly implemented. Madam President, we also said in the Subcommittee that we were worried that should any problem occur, there was no telling what people would do. They may dump the waste arbitrarily, since they do not have to pay any charges if they do so. In that case, I wonder if the Secretary will have sufficient manpower to carry out enforcement. In fact, at present, there are also people who dump waste arbitrarily. Each day, when you read the newspaper, you will read about such instances. The Secretary has said that there is no way to deal with them and at a lot of places, a great deal of debris can be found dumped all of a sudden. One of these days, if there is an increase in instances of waste dumping, the Secretary has to tell us if it is necessary to increase the manpower to tackle them.

In addition, I also agree with Ms Miriam LAU's remark that it is necessary to approach this issue from several angles. Firstly, it is necessary to continue the discussions, listen to the difficulties of the industries concerned and deal with them with the best effort. However, I also hope the industries concerned can understand that this is a road that must be taken and the measures must be implemented. I believe the Secretary's actions have the support of all Legislative Council Members, however, if the industries have any difficulty, we will also assist them in dealing with it. Of course, we hope that they will be able to reduce the level of waste production. Secondly, about the question how to carry out screening and recycling and the facilities to be used in recycling, it is necessary to adopt complementary incentives as far as possible.

In view of this, Madam President, even if the measure is to be implemented now, it is already late and after so many years, I hope a step forward can really be taken this time. However, it is still necessary to wait until summer. It is now only January, however, I hope the efforts that we have made will not be fruitless. I also understand that there is still a lot of work that the

Secretary and her colleagues have to do, since the situation is rather complicated and discussion is still required in a lot of areas. I am grateful to various officials for the efforts they have made, however, I believe that in the coming months, they have to work even harder if they are not to create an uproar in society when implementing the Regulations because if members of the community think that they cannot comply, there will be trouble again. I do not wish to see anything of this nature happen again, nor do I wish to see any obstacle when the levy of charges for using landfills commences. In view of this, I hope the Secretary and her colleagues will make sure that this mechanism can function as smoothly as possible in the next few months. I welcome the review to be conducted by the Secretary after six months, or at an even earlier time, and her undertaking to revert to the panel concerned to consider if any amendments have to be made and whether it is necessary to enlist even greater support from the Legislative Council.

I so submit.

**MR LEE WING-TAT** (in Cantonese): Madam President, I speak in support of the resolution. In fact, the discussion on levying charges for the disposal of waste at landfills has gone on for a long time.

I was the Chairman of the Panel on Housing in the past two terms of the legislature. We are all aware that large amounts of waste are produced when construction companies demolish buildings and a lot of materials in such waste are still useful. However, since the property prices in Hong Kong were very good in the past — I am talking about the past, not now — it gave rise to an attitude of indifference in the handling of construction waste. Frankly speaking, people did not even consider this to be a source of profit, since selling one unit in a building could already fetch hundreds of thousands of dollars or even a million or several million dollars in profit. Therefore, there was no incentive for developers or construction companies to sort and recycle waste.

The landfills in Hong Kong are being filled up. I wonder if the Secretary has ever considered what places will remain in Hong Kong for us to deal with the large amounts of rubbish and waste produced every day. Since charges are now levied on the disposal of construction waste, I hope that construction companies can begin to introduce measures to reduce waste in response to the charges levied

because I believe what we hope to achieve ultimately is not a simple levy of charges. Although the Democratic Party supports the "polluter pays" principle, I hope that the effect of the measures adopted will be to induce developers, be it major or minor developers, to begin to explore and adopt ways to reduce waste. I know that a committee has now been established specifically for the purpose of reducing waste in Hong Kong and I can see that it is working very hard, but I think the results are not very remarkable. I believe financial incentive alone is not adequate for the purpose of accomplishing many of the tasks.

Coming back to the subject matter today, I think there is one point about which the bureaux and the departments concerned have to do something. After we have formulated a policy on charges, the most important thing is to implement it clearly. I do not wish to see the problems as mentioned by Ms Emily LAU just now recur. These problems have occurred and have been featured in news reports from time to time. Sometimes, we would learn from news reports that construction waste, that is, materials such as concrete were piled in mounts next to the farmland in a village. Obviously, the waste had not fallen from the sky, rather, someone had illegally dumped the construction waste there. It was until members of the public lodged complaints or the Government could no longer put up with this that a clean-up was carried out, however, the use of public funds was involved. Concerning these problems, I hope the bureaux and the departments concerned will begin to consider if such problems will start to occur when some people do not want to pay the landfill charges after the implementation of the Regulations.

In addition, the work on this occasion has set quite a fine example. Although it took us a whole year to proceed from the beginning to the end of the discussions, and perhaps even one to two years for that matter, at least the construction sector, the transportation sector and the Government eventually reached a consensus on the charges and other detailed arrangements. I hope that the charges will eventually have an effect on the charges levied on other sectors, especially in view of the fact that many representatives from the sectors concerned are present here. Often, the Secretary is apprehensive at the mention of representatives of the sector. I hope that through the process of discussion, various sectors will understand that we are in fact working for the interests of all. I hope that the successful example we set this time can pave the way for the

gradual introduction of other charges based on the so-called "polluter pays" principle. Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for the Environment, Transport and Works to reply. This debate will come to a close after the Secretary for the Environment, Transport and Works has replied.

**PRESIDENT** (in Cantonese): I now call on Secretary for the Environment, Transport and Works to give a reply.

(The Secretary for the Environment, Transport and Works indicated that she did not wish to reply by shaking her head)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for the Environment, Transport and Works 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 of the Members present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Second resolution: Amending the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004.

**PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**SECRETARY FOR THE ENVIRONMENT, Transport and Works** (in Cantonese): Madam President, I move the amendments to the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004. I already briefed Members on the amendments in my previous speech. I urge Members to support the proposed amendments. Thank you, Madam President.

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

"RESOLVED that the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004, published in the Gazette as Legal Notice No. 165 of 2004 and laid on the table of the Legislative Council on 3 November 2004, be amended –

(a) in section 3, in the new section 3A, by adding –

"(3) The Director shall give notice in the Gazette of the criteria adopted from time to time to determine, for the purposes of subsections (1) and (2), whether any waste falls within a type of construction waste specified in column 3 of Schedule 2.

(4) A notice under subsection (3) is not subsidiary legislation.";

(b) in section 4(7), in the new section 4(4A)(c), by adding "temporarily" after "close"."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending five items of subsidiary legislation tabled in Council on 15 December 2004.

## **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MS MIRIAM LAU** (in Cantonese): Madam President, I move that the motion standing in my name as printed on the Agenda be passed. Members agreed at the meeting of the House Committee on 17 December 2004 that two Subcommittees should be set up to consider the three items of subsidiary legislation relating to the payment of spectrum utilization fee and two pieces of subsidiary legislation relating to occupational safety and health and employees' compensation respectively tabled before the Legislative Council on 15 December 2004. To allow more time for the Subcommittees to deliberate on the items and report the outcomes to the House Committee, I move a motion in my capacity as Chairman of the House Committee to extend the scrutiny period to 2 February 2005. Madam President, I implore Members to support this motion.

**Ms Miriam LAU moved the following motion:**

"RESOLVED that in relation to the —

- (a) Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2004, published in the Gazette as Legal Notice No. 208 of 2004;
- (b) Telecommunications (Method for Determining Spectrum Utilization Fees) (Third Generation Mobile Services) (Amendment) Regulation 2004, published in the Gazette as Legal Notice No. 209 of 2004;
- (c) Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation, published in the Gazette as Legal Notice No. 210 of 2004;
- (d) Employees' Compensation Ordinance (Amendment of Second Schedule) Order 2004, published in the Gazette as Legal Notice No. 213 of 2004; and
- (e) Occupational Safety and Health Ordinance (Amendment of Schedule 2) Order 2004, published in the Gazette as Legal Notice No. 214 of 2004,

and laid on the table of the Legislative Council on 15 December 2004, 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 2 February 2005."

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

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Miriam LAU 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, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee. Since Members are already very familiar with the time limits on speaking, I will not repeat them here. I only wish to remind Members who are going to speak that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: The Fourth Report of the Constitutional Development Task Force. Mr Albert CHENG.

## **THE FOURTH REPORT OF THE CONSTITUTIONAL DEVELOPMENT TASK FORCE**

**MR ALBERT CHENG** (in Cantonese): Madam President, I move the motion as printed on the Agenda.

Madam President, this motion debate, initiated by me, seeks to urge the SAR Government to assume its due duty in regard to the constitutional development issue.

Mr Michael SUEN, the first Secretary for Constitutional Affairs after the reunification, made it clear in the Policy Agenda of the 1997 Policy Address that the Constitutional Affairs Bureau (the Bureau) was obliged to ensure the implementation of the Sino-British Joint Declaration and Basic Law in practical terms. This point is reiterated by his successor, Mr Stephen LAM, in the web page of the Bureau too.

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

Both Articles 45 and 68 of the Basic Law set forth the ultimate goal of selecting the Chief Executive and electing all the Members of the Legislative Council by universal suffrage. Hence, the Government is duty-bound to put forward a specific proposal for the implementation of Articles 45 and 68 of the Basic Law and a timetable for this. The Government's unreasonable delay of the implementation of Articles 45 and 68 of the Basic Law is undoubtedly, and definitely, an act of negligence of duty.

This Council's proposal to hold motion debates on constitutional reform consultation dates back to as early as February 2003. However, the Secretary, Mr Stephen LAM, has failed to put forward a specific timetable for constitutional reform consultation. The Government has obviously failed in its duty as the Bureau has, since its establishment seven years ago, still not been able to come up with any plan on constitutional reform consultation.

The Constitutional Development Task Force (the Task Force), established in January 2004, could have made up for the Government's inadequacies over the past seven years had it been able to act in tune with public sentiment, speed up the constitutional reform consultation without setting any prerequisites, and expeditiously put forward a number of specific and feasible constitutional reform timetables to facilitate discussion by the Hong Kong public.

It is a great pity that, due to the intervention by the Central Authorities, the Standing Committee of the National People's Congress (NPCSC) has ruled out universal suffrage in 2007 and 2008. In order to fulfil its responsibility of implementing the Basic Law, the Government ought to, in the light of Hong Kong's mainstream public opinion, continue to persuade the Central Authorities to achieve in 2007 and 2008 the goal laid down in Articles 45 and 68. Should

the Government, without asking for explanations, totally accept the NPCSC's decision without raising any objection, I hold enormous doubts about the ability and determination of the Hong Kong Government in implementing the Basic Law, as well as protecting the rights of Hong Kong people in other aspects.

On second thought, even if the Government accepts the NPCSC's decision and decides not to press Beijing for universal suffrage in 2007 and 2008 or, as in Chief Secretary for Administration Donald TSANG's words, accepts the reality, it should still put forward specific constitutional reform proposals in the light of the developments in Hong Kong society and, during the constitutional reform consultation, present Hong Kong people with an analysis of the ways of implementation of various proposals, as well as their pros and cons. When the three-member Task Force was set up in 2004, only three years remained before the election of the third term Chief Executive. Now, with only two-odd years left, Hong Kong people no longer have too much time to discuss various proposals in detail.

What will happen if a consensus is reached without detailed discussion? While we can blame the undemocratic political system for making it impossible for a consensus to emerge in the community in the policy-making process for the constant governance crises confronting the Hong Kong Government during the past seven years, the Government's slapdash policies and its failure to thoroughly consider details before launching its policies was partly to blame too. From the enactment of legislation on Article 23 of the Basic Law (Article 23), Hong Kong Harbour Fest, reclamation of the Victoria Harbour, the Hung Hom Peninsula incident to The Link REIT, we can clearly see that the Government has not consulted the public in detail. Even the specific details were found to be seriously wrong.

Please allow me to illustrate the problems involved by referring specifically to the consultation on the enactment of legislation on Article 23. The Security Bureau set out, in the consultation document on Article 23, merely some principles of legislative provisions without issuing a White Bill. Consequently, countless problems of confusion were spotted in the provisions of the Blue Bill, eventually triggering off a massive procession in which 500 000 people took to the streets.

How can we tolerate the proposal of selecting the third-term Chief Executive and forming the third-term Legislative Council to eventually turn into

a laughing stock. Should we allow the constitutional reform proposal to be launched hastily without concrete discussions. The consequences are indeed imaginable in the light of our experience in the enactment of legislation on Article 23.

However, according to the Fourth Report published by the Government, 10 issues remain to be followed up. As a result, only preliminary conclusions of the views can be drawn. The issues involved include a number of technical problems, such as the number of directly elected seats, the composition of the Election Committee, and so on.

The four consultation documents published by the Government so far are also a departure from the conventional practice of the Hong Kong Government, for they have failed to set out in detail, in the consultation documents, the considerations made by the Government in formulating policies, various categories of background information, as well as various feasible options. The Government has merely set out, in a slapdash manner, a heap of questions for public discussion without setting any parameters. No wonder members of the public have found it difficult to reach a consensus. Actually, it is because the Government's documents are deliberately creating a situation like this. This kind of preliminary consultation without any parameters should actually be launched well before the implementation of the accountability system.

For this reason, I call on the Government to provide us with a number of specific proposals for serious consideration and analysis by the public, thereby putting an end to the current limitless discussion and enabling the public to consider the final constitutional reform proposals in concrete terms. The Government must stop using the lack of a consensus as an excuse to reject the request for putting forward specific proposals.

Chinese President HU Jintao made a public appeal in Macao for TUNG Chee-hwa to summarize his experience and identify inadequacies. What "identify inadequacies" means is to review past mistakes and not to let history repeat itself. As such, I urge the Government to expeditiously put forward specific proposals on constitutional reform to pre-empt the recurrence of mistakes in dealing with this matter.

Lastly, I express deep regrets for the manner in which the Government has consulted the public on the constitutional reform. I hope Honourable colleagues

in this Council can support my motion in calling on the Government to assume its honour its due duty of constitutional reform.

I so submit.

**Mr Albert CHENG moved the following motion: (Translation)**

"That this Council expresses deep regret that, in the Fourth Report of the Constitutional Development Task Force published recently, the Government has disregarded public opinion and rejected the demand of the majority of Hong Kong people for the election of the Chief Executive and all Members of the Legislative Council for the next term by universal and equal suffrage, but has failed to put forward a specific proposal; furthermore, as the Government has an unshirkable constitutional duty to answer, as far as possible, the public's strong demand for universal suffrage, this Council urges the Government to expeditiously present to the Council a constitutional reform proposal, which includes the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008, to facilitate discussion by the public and this Council."

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

**SECRETARY FOR JUSTICE** (in Cantonese): Madam Deputy, the main thrust of Mr Albert CHENG's motion is to express regret that the Government of the Hong Kong Special Administrative Region (SAR) has rejected the public demand for the election of the Chief Executive and all Members of the Legislative Council for the next term by universal suffrage and that the Government has failed to put forward a specific proposal. The motion also urges the Government to expeditiously present to the Council a constitutional reform proposal, which includes the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 so as to facilitate discussion by the public and the Legislative Council.

The Constitutional Development Task Force (the Task Force) was set up on 7 January 2004. One of its objectives, as Mr Albert CHENG has said, is to present to the Legislative Council and the public a constitutional reform proposal

which includes the methods for selecting the Chief Executive in 2007 and forming the Legislative Council in 2008, so as to facilitate discussion by the public and the Legislative Council.

The Task Force has published four reports since its establishment. It has fully consulted Honourable Members and the public and has taken on board their views in the process. In the First Report published in late March last year, the Task Force informed the public of the findings of its study on issues of legislative process, including the legislative process for amending the methods for selecting the Chief Executive and for forming the Legislative Council; the view that there is no need to invoke Article 159 of the Basic Law for making any amendments; the procedures for initiation of amendments; the view that the method for forming the third term Legislative Council in Annex II continues to apply if there is no amendment; and that the method for selecting the third term Chief Executive may be amended although he or she is to be selected in 2007.

In the Second Report released by the Task Force in mid-April last year, the public was informed of the constitutional basis of the SAR and the actual situation at present, and the views of the community over the issues of principle to be considered in constitutional development. The report summed up the factors to be taken into account in constitutional development, and recommended that the Chief Executive should, in accordance with the Standing Committee of the National People's Congress (NPCSC)'s interpretation of Article 7 of Annex I and Article III of Annex II to the Basic Law promulgated on 6 April 2004 and in the light of the views collected, submit to the NPCSC a report with recommendation that the methods for selecting the Chief Executive and for forming the Legislative Council be amended. The consultation conducted before the release of the Second Report has been set out in Chapter Two of that report.

The Task Force published its Third Report on 11 May last year. On the basis of the "Decision on issues relating to the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008" adopted by the NPCSC on 26 April last year, the Task Force set out the areas that could be considered for amendment and invited various sectors of the community to put forward specific amendment proposals. After the publication of the Third Report, the Task Force received more than 480 submissions from groups and individuals by e-mail, post and facsimile, and

organized a number of seminars and group discussions. The participants of these activities included Members of the Legislative Council, District Councils and the Election Committee, and representatives of professional bodies, chambers of commerce, academic institutions, women groups, youth groups, labour organizations and neighbourhood and community associations. They came from different backgrounds, sectors and political parties. With the exception of those kept confidential at the request of some individuals, all of the views collected are contained in the appendices of the Fourth Report. Details of the consultation exercise can be found in Chapter Four of that report.

When the Task Force commenced its work, the general public had varying degree of knowledge of the political framework of the SAR and the provisions of the Basic Law regarding our constitutional development. For this reason, the Task Force has provided the public with relevant information and conducted extensive consultation exercises each step of the way. Taking a step-by-step approach, the Task Force examined the issues together with the public, drew the conclusions and made gradual and steady progress. By so doing, the Task Force tried its best to ensure that the proposal put forward in the future would be representative of the mainstream views of the public as well as a consensus of the community. As the Chief Secretary for Administration said in his address to Legislative Council on 15 December last year, the Fourth Report set out every area which could be amended and their spectrum in the hope that differences of opinion could be narrowed so that a mainstream proposal could be formulated. The results of our last consultation exercise indicate that public opinions are still very much divided in certain areas. It might be difficult for us to reach a consensus if insufficient consultation is conducted. Therefore, the Administration has not disregarded the public opinions as alleged by Mr Albert CHENG. On the contrary, we take public opinions very seriously. The consultation exercise concerning the Fourth Report has begun. In this connection, the Chief Secretary for Administration has announced the consultation plan of the Task Force.

Secondly, I would like to respond to Mr Albert CHENG's statements on the issue of universal suffrage. Honourable Members should be aware that Article 7 of Annex I and Article III of Annex II to the Basic Law set out the procedures for amending the methods of the two elections. The decision made by the NPCSC on 26 April last year also clearly states that the method of universal suffrage shall not be applied to the selection of the Chief Executive in 2007. In the election of the fourth term Legislative Council in 2008, the

method of universal suffrage shall not apply to the election of all Members of the Legislative Council and the half by half ratio for Members of the Legislative Council returned by functional constituency election and by direct geographical election shall remain unchanged. In his visit to Hong Kong to explain the decision by the NPCSC on 26 April last year, Mr QIAO Xiaoyang, Deputy Secretary-General of the NPCSC, said that the decision was a prudent and responsible political decision. The NPCSC had not only considered the views of the Task Force and the public opinions set out in the appendices of the First and Second Reports, but also the views they gathered from different sectors of the Hong Kong community, including the views from many Honourable Members here, in particular those demanding universal suffrage in the two elections in 2007 and 2008. The decision was made after the pros and cons of the issue had been carefully considered and weighed. He had also explained why it was not appropriate to introduce universal suffrage in the two elections in 2007 and 2008.

As a matter of fact, the role played by the Central Authorities in the constitutional development of Hong Kong is clearly provided in the Basic Law. The NPCSC has made a clear and authoritative decision on the issue of universal suffrage for the 2007 and 2008 elections. Insistence on the introduction of universal suffrage for the two elections in 2007 and 2008 will not be supported by the Central Government and will not be in compliance with the relevant provisions in Annexes I and II to the Basic Law. The SAR Government cannot lead the public to discuss a proposal that could not be implemented in 2007 and 2008. Such a proposal will lead to nothing, causing the election methods in 2007 and 2008 to remain in place. As stated in the Second Report, although views of the community on universal suffrage differ, there appears to be a consensus in the community that constitutional development should proceed, and that the methods for selecting the Chief Executive and for forming the Legislative Council should be amended. Thus, it is unrealistic to demand the Government to put forward a constitutional reform proposal which includes amendments to the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 by universal suffrage.

Although the pivotal task of the Task Force is to put forward proposals for amendments to the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008, it has not overlooked other issues relating to constitutional development which fall outside the scope of the two election methods. Some examples include: a timetable to be set and

organization made in preparation for elections by universal suffrage; the roles of the functional constituencies and their future development. All these should be discussed within the community in the future. The Task Force considers that these long-term issues deserve further discussion by the community (see Chapter Five of the Fourth Report), but are too complex to be dealt with at present; otherwise amendments to the two election methods in 2007 and 2008 respectively will be delayed.

I would like to take this opportunity to clarify briefly what I said about "universal suffrage" to the Panel on Constitutional Affairs on 20 December last year. I have leafed through the records. At that meeting, the discussion touched on among other things that "universal suffrage" could in principle include direct elections and indirect elections since that term was not defined in the Basic Law. The meeting also discussed the election rights in the Handbook on Elections under the International Covenant on Civil and Political Rights. At that time I read out certain principles from the United Nations Handbook on Elections, that is, there is no single political system or electoral methodology which is appropriate for all peoples and all states. In 1987, the European Court of Human Rights, in the leading case of *MATHIEU-MOHIN and CLERFAYT vs Belgium (1987) 10 E.H.R.R.*, recognized that, as regards the method of appointing the legislature, the Contracting States had a wider margin of appreciation to fulfil their obligation in this regard, given that their legislation on the matter varied from place to place and from time to time. I therefore suggested that universal suffrage did not necessarily mean that it must be carried out through direct election on a geographical basis. Other election methods of one man, one vote including indirect elections could achieve the ultimate aim of universal suffrage.

It was on the basis of this jurisprudence that I gave my view at the Constitutional Affairs Panel meeting. I stated that the ultimate aim of universal suffrage does not necessarily mean that the selection of the Chief Executive, and the election of all Members of the Legislative Council, will ultimately have to be by one man, one vote by direct election. In my view, indirect elections could lawfully be retained and consistent with the ultimate aim of universal suffrage.

Assigning constituencies according to the geographical area in which the elector resides is only one way of delineating constituencies. Functional constituencies provide an alternative means of grouping together individual electors with common interests. Should all eligible electors be able to vote in

functional constituency elections in the future, this could be one of the models for universal suffrage. The balancing of the weight of votes is a separate issue which requires to be addressed.

These statements were an expression of legal opinion. I was not expressing any view as to whether, as a matter of policy, functional constituencies should or should not be retained in the long run.

The Task Force has deliberately refrained from seeking to determine that important policy question at this stage. I would like to explain the reason for this.

Firstly, as Members are aware, the NPCSC has decided that the ratio between Members of the Legislative Council returned by functional constituencies and Members returned by geographical constituencies through direct elections in the year 2008, who shall respectively occupy half of the seats, is to remain unchanged. This being so, there is no urgent need to determine the form that universal suffrage should take when it is implemented.

Secondly, it is clear that this is a highly controversial issue. If there was an attempt to determine that issue at this stage, it is quite likely that this would derail the plan for other constitutional reforms in 2007 and 2008. That would cause our progress towards greater democracy to remain stagnant.

Thirdly, any further polarization of the issue of universal suffrage at this stage could be counter-productive for the long-term resolution of this issue. Political stability will help us achieve our goal of universal suffrage. Political instability will not.

The Task Force therefore decided that we should adopt a measured, step-by-step, approach to constitutional reform. I hope that Members will agree that this is in the best interests of the community, and is most conducive to achieving the ultimate aim of universal suffrage.

The above issues illustrates that we must carefully deliberate long-term issues concerning constitutional development. The Task Force is of the view that such kind of issues should not be avoided, yet they should not be handled prematurely which would provoke unnecessary arguments. In the long run, the public should consider this issue thoroughly and discuss it at an appropriate time.

For now, it would be best if everybody could concentrate on handling the election methods for the two elections in 2007 and 2008.

Madam Deputy, it is the common wish of the Central Authorities, the Hong Kong people, Members and the Government that the democratic political system should develop progressively. We very much hope that we will all approach this issue which has a profound impact on Hong Kong by striving to find common ground and accommodating differences in a pragmatic manner, so that any preconceived ideas can be put aside and a consensus reached. This way, we may come up with a proposal that is both consistent with the Basic Law and the NPCSC Decision and acceptable to all, so that we could move ahead in the development of a democratic political system that suits Hong Kong's circumstances. Polarizing the issue of elections would only be counter-productive for our long-term development and affect social stability and prosperity. The Task Force is very much willing to co-operate with Members in formulating a specific proposal on the two election methods in 2007 and 2008.

Thank you, Madam Deputy.

**MR LEE WING-TAT** (in Cantonese): Madam Deputy, I rise to speak in support of Mr Albert CHENG's motion.

Actually, in discussing issues relating to constitutional development and universal suffrage, we have to answer a crucial question and that is: What do constitutional arrangements seek to achieve? In principle, every one of us should be born with equal political rights. It is also imperative for us to examine what system can enable our Government to operate and govern effectively. We have actually not grasped the crux of the matter if we focus merely on whether the membership of the Election Committee should be expanded from 800 to 1 200 or 1 600, or whether the Legislative Council election should return five more seats to each side. The crux of the issue is: Given that our political system is not returned by universal suffrage, does our Chief Executive, and even our Government, have adequate authority to govern this community? Have they been politically baptized to answer to public sentiments? Do they have a swift policy-making mechanism to answer the constant demands of the community? Even in the course of implementing universal suffrage, can party politics, an essential element of democratization in all democratic countries, be facilitated in pursuing further development?

Judging from the events in the past month or two, and after reading the Fourth Report, I have to say that I feel very sorry for Hong Kong. This is because we are now merely playing a game of "picking a good person" or "picking the next Chief Executive". We have been ushered into an anti-intellectual community, speculating if the person with whom our leaders have shaken hands for six seconds or four is going to be our future Chief Executive. If we agree that more than 90% of Hong Kong people are literate and more than 20% of the adults and young men have received university education, should we feel very sorry for these anti-intellectual references? Is it the case that our community is so anti-intellectual that we have to decide on our future Chief Executive by judging from who has shaken hands with our leaders for six seconds or four?

Some have even compared the process of selecting the Chief Executive to a horse-race game, saying the chance of success of a candidate depends on the possible support and the internal connections he or she has established. The discussion has nothing to do with the political platform of a candidate, or how he or she will handle the complicated issues and conflicts of society, as well as the balance of interests; and the demand has nothing to do with our right to being born equal and to choose our own leaders.

As Members are aware, Hong Kong is a very advanced place. From whatever angle, whether in terms of education, culture, harmonization of class conflicts and many other elements, we are more qualified to implement universal suffrage than many other countries. I can therefore not see how Secretary Elsie LEUNG could use the reasons she cited just now to justify a refusal to implement universal suffrage in 2007 and 2008.

It appears that we have three extremely unpleasant, boring, and even disgusting games laid before us for our choice. The first one is the game of "picking a good person". As I said earlier, we can find out who is going to be the next Chief Executive by judging from who has shaken hands with the leaders for six seconds or four or, in the future, the one to whom our leaders have made an eye signal or at whom they have cast two more glances. The second game we can choose is called "enlarging the birdcage" — under the existing system, the voices of opposition can be placated simply by putting more questions. The third game is called "offering carrots". For some unknown reasons, Secretary Stephen LAM has recently become greatly concerned about party politics, particularly the rising to the fore of the second echelon of political parties

(especially the Democratic Party). Actually, I do not think I have any respect for the Secretary's comments. I feel that he was merely pinpointing certain members of the political parties who are holding divergent views in an attempt to induce, or even facilitate, divergence of political views among them.

I am not entirely interested in playing these three games at all. However, I feel even more sorry whenever I think about this again. My concern is that our government has absolutely no say in the entire process of constitutional development, because the Central Government has now taken control of the whole discussion on constitutional development. Even some relatively moderate views of the "middle-of-the-road" camp, though only views on the timetable, have become a taboo in the discussions on constitutional development; we are not allowed to express such views through our Chief Executive, Chief Secretary for Administration, or Secretary for Justice. Why can the public not discuss such a moderate piece of opinion? Is it the case that we have to avoid everything unless the Central Government has given us the green light? When did we turn ourselves into a political slave of the 21st century controlled by a master who decides the topic of discussion?

Our current discussion on slightly widening the base for selecting our future Chief Executive and the Legislative Council is actually inconsistent with the demand of the public. This is another issue we should feel pity for ourselves. Here I would like to respond to the comments made by Secretary Elsie LEUNG on such issues as "one person, one vote", indirect election and functional constituencies. Insofar as this development is concerned, the second issue I find it pitiful is that, in addition to our diverse views on the system, the Government has rejected the demand of the public. It is most pitiful that the relevant issues have gone to such a state that facts are being distorted, a stag is being called a horse, and the people are being misled. Of course, I fully understand that election by universal and equal suffrage does not necessarily have to be conducted in a one-person-one-vote manner. The United States President is indirectly elected. However, the election is conducted in a one-person-one-vote manner, regardless of class or race. Generally speaking, each vote carries the same weight. The electors, returned by universal and equal suffrage, will in turn elect the President. This so-called indirect election is actually conducted by universal and equal suffrage. However, I find Secretary Elsie LEUNG's remark that an indirect election by universal and equal suffrage can be conducted by simply grouping certain people from the functional constituencies together to elect their candidates in a one-person-one-vote manner

a big joke, and also an insult to those Hong Kong people who are somewhat learned. I hope the Secretary can elucidate whether this was her point in her concluding speech. Should that be the case, I would feel most sorry for her. Thank you, Madam Deputy.

**MR RONNY TONG** (In Cantonese): Madam Deputy, the Article 45 Concern Group is convinced that the only way to minimize the administrative blunders constantly occurred since the reunification, alleviate polarization in society, truly and effectively resolve the Government's governance problem, and conduct a thorough overhaul is to develop a genuine democratic political system and return the Chief Executive and the Legislative Council by universal suffrage expeditiously in accordance with the goal set down in Articles 45 and 68 of the Basic Law.

On New Year's Day last year, 100 000 people took to the streets to push for universal suffrage. On 1 July last year and the year before, hundreds of thousands of people took to the streets to express their aspiration for universal suffrage. In the 12 September election, more than 60% of the qualified voters, or more than 1 million people, abandoned their feet in favour of their hands to vote for candidates supporting universal suffrage for 2007 and 2008. The persistent activities and discussions over the past 18 months have clearly illustrated the mainstream call in the community for the expeditious implementation of universal suffrage. This iron-clad fact is not to be denied by anyone.

Though such a huge voice from the public has been clearly heard by the international community, it is a pity that the Government of the Hong Kong Special Administrative Region (SAR) has continued to turn a deaf ear and a blind eye to it.

Citing the reason that the universal suffrage proposal is inconsistent with the Decision made by the Standing Committee of the National People's Congress (NPCSC) on 26 April, the Constitutional Development Task Force (the Task Force) has classified the mainstream views in the community as "impractical", thinking that it would be "a waste of time" to consider these views.

On the contrary, the Task Force has continued to perform its duty of collecting the views of the small circle. It has expended enormous sums of money on consulting hundreds of the so-called "dignitaries" to scrape together

the minority views, which can by no means represent the mainstream views, to form the so-called "mainstream proposal which is mostly likely to enable a consensus to be reached by various parties" for consideration by the people. This so-called "mainstream proposal" is indeed more than poles apart from the mainstream public opinion which is consistent with the consensus reached in the community.

Adopting such a self-deceiving approach, the Government has completely ignored the strong public opinion and aspiration of the community. Even if the Government managed to bulldoze this so-called "mainstream proposal" through this Council, it would still not be able to tackle the problem causing the governance woes at root. In the days to come, the governance crisis of the Government will only keep intensifying. As their aspiration for universal suffrage is being suppressed, the public will naturally react more vigorously, thereby eventually pushing our community towards extreme polarization and instability.

Constitutionally, a responsible government should make acting in accordance with public sentiment as its duty. The SAR Government should, even if it is considered impossible to break away from the constraint imposed by the Decision made by the NPCSC on 26 April, seek to identify one or more proposals which are closest to the mainstream proposal on universal suffrage to provide Hong Kong people with more choices. A government failing to do so is simply irresponsible.

In this respect, I hope the SAR Government can, in considering putting forward any proposals, adhere to at least five basic principles as follows: First, universal suffrage is a goal of constitutional development laid down in the Basic Law. Any proposals running away from this goal, such as the proposal of increasing the number of functional constituency seats of the Legislative Council, should not be considered. This is because all functional constituency elections, regardless of the way in which they are conducted, are in breach of "universal suffrage", the definition of which is internationally recognized and clearly specified constitutionally. As Members are aware, universal suffrage calls for equity and universality. This definition, clearly set out in Article 25 of the International Covenant on Human Rights, is internationally recognized and specifically defined constitutionally. To me, Secretary Elsie LEUNG's earlier comment of equating universal suffrage with indirect election or functional constituency election is not only lack of legal justifications, it is also incredible and baffling.

The second principle I hope the Government can adhere to is: All proposals must move towards universal suffrage. In other words, the proposals, acting as a pioneer of universal suffrage, should function as transitional arrangements seeking to make proper preparations for universal suffrage. For instance, such measures as abolishing the corporate or group votes for functional constituency election, widening the electoral base, and so on, can be adopted.

Third, all proposals must be premised on facilitating and encouraging democratization. What is more, they must not produce any side-effect or effect of impeding democratization. For instance, they should seek to create favourable conditions facilitating the development of political parties into ruling parties, abolish the requirement that the Chief Executive must quit his political party membership after being elected, and so on.

Fourth, all proposals should embody the element of universal suffrage as far as possible. For instance, arrangements should be made to turn half of the seats of the Election Committee into directly elected seats, and lessen the restrictions on nomination so that more candidates can be nominated.

Fifth, the proposals put forward by the Government must answer clearly the public aspiration for universal suffrage. Furthermore, a clear timetable should be formulated to achieve such goals as implementing universal suffrage in 2012.

I hope the SAR Government can stop performing its task of implementing constitutional reform in 2007 and 2008 with a mentality of deceiving itself as well as others. Instead, it should fulfil the basic constitutional duty a responsible government is expected to discharge.

With these remarks, I support Mr Albert CHENG's motion. Thank you, Madam Deputy.

**DR YEUNG SUM** (in Cantonese): Madam Deputy, a year ago, the Chief Executive set up the Constitutional Development Task Force (the Task Force), headed by the Chief Secretary for Administration, to conduct an in-depth study of Hong Kong's constitutional development. Now, with the lapse of one year, four reports have been published. Yet, the crux of the constitutional development of the Hong Kong Special Administrative Region (SAR), or the

agenda for the development of universal suffrage in Hong Kong, has remained untouched, not to mention a direction for the development of party politics. This is indeed very disappointing.

However, I believe Hong Kong people find some of the remarks made by the Task Force in its Fourth Report most disappointing and I quote, "there are many views that the selection of Chief Executive to be held in the year 2007 should be by means of universal suffrage and the selection of the Legislative Council in the year 2008 should also be by means of an election of all the members by universal suffrage"; "these proposals are inconsistent with the Decision made by the Standing Committee of the National People's Congress, ..... the Task Force will not take any further actions with regard to these proposals". End of quotes. This shows that the aspirations of Hong Kong people have been completely ignored.

The Democratic Party considers this Report a product of birdcage consultation, because only views consistent with the Decision made by the Standing Committee of the National People's Congress (NPCSC) on 26 April will be considered, whereas the mainstream wish of Hong Kong people to conduct dual elections by universal suffrage in 2007 and 2008 will simply be thrown out of the birdcage. It is thus evident that the so-called mainstream proposals collated by the Government in the future will end up being sham or bogus mainstream proposals. Again, Hong Kong will be plunged into a dead alley or see another retrogression in democracy.

Universal suffrage, being the mainstream public opinion, is also permitted by the Basic Law. It can serve the dual purpose of ameliorating the governance crisis and enhancing solidarity among the people. As the representative of the SAR and the people, the Chief Executive must be elected by universal suffrage in order to achieve full representativeness and acceptance. As the Legislative Council is responsible for passing legislation on behalf of the people, it must be returned by universal suffrage so that it has the full popular mandate to monitor the Government. Only through the mechanism of universal suffrage can the interests of people from different sectors and classes be taken care of. In fact, starting from the long-term goal of Hong Kong's constitutional development and in accordance with the timetable for the imminent new-term election, the Task Force ought to propose the election of the District Councils by universal suffrage, to be followed by electing the Chief Executive and returning all Members of the Legislative Council by universal suffrage. In the interest of

Hong Kong, the Task Force should advise the SAR Government to reflect the mainstream wishes of Hong Kong people to the NPCSC again and re-examine past decisions, instead of acting like a yes-man.

The Democratic Party will continue to, and is determined to, express to the Government the public aspiration for universal suffrage in 2007 and 2008. It will also strongly urge the SAR Government to respect the wishes of Hong Kong people and to consider to set out in the Fifth Report the majority consensus of Hong Kong people, that is, the proposal of electing the Chief Executive by means of universal suffrage and forming the Legislative Council by means of universal suffrage, for the consideration of the Central Government.

Constitutional development is vitally important to the SAR. The Democratic Party expresses deep regret at the decision of the Task Force to postpone indefinitely the discussion of subjects of grave concern to Hong Kong people, such as the timetable for universal suffrage. Hong Kong people have already set down a specific goal on the agenda for universal suffrage and that is, the sooner the better — from the direct election in 1988 to the dual elections by universal suffrage in 2007 and 2008. However, the SAR Government has chosen to drag its feet even in coming up with an agenda for discussing a timetable for universal suffrage. How can a government without a goal and timetable be agreeable to and accepted by the public?

The Democratic Party is worried that the Task Force's indication of its intention to study in detail the role of functional constituencies (FC) and their future development is merely a trick of the SAR Government to extend the FC and betray universal suffrage. It has been separately stipulated clearly in Articles 45 and 68 of the Basic Law that the Chief Executive and all Members of the Legislative Council will ultimately be returned by universal suffrage. According to the remark made by Secretary Elsie LEUNG earlier, the United Nations has in a document raised the point that universal suffrage can take on various forms, not necessarily "one person, one vote". I believe Members have also read the document. I have no doubt that the Secretary has twisted its meaning. It has merely mentioned that universal suffrage can take on various forms, such as the proportional representation system, the "single seat, single vote" system, "one person, one vote" or even "one person, two votes". However, there is one fundamental principle and that is, candidates must be publicly nominated and all votes must be equal. The Secretary should be more careful if she thought that she could cheat everyone by using this disguised FC

proposal put forward by Chris PATTEN, once accused of being the "sinner of a thousand generations". Government officials have, in the panels of the Legislative Council, repeatedly evaded the questions put by Members concerning the definition of "universal suffrage". Are these officials going to learn how to act like a parrot after another interpretation by the NPCSC to re-define the expression "universal suffrage" in the Basic Law?

If we recall how the SAR Government exhausted every means to enact legislation on Article 23, we cannot help worrying that this consultation on constitutional development will become a repeat of the enactment of legislation on Article 23 — by way of sham consultation round after round, that the SAR Government eventually wants to distort public opinion and produce a new version of public opinion, enact its own legislation, as well as burying universal suffrage in 2007 and 2008. The Democratic Party feels most sorry about this.

Although I dare not have high hopes for the future of the constitutional development, I still have expectation for Hong Kong people. My New Year wish is: I hope Hong Kong people can uphold their faith in democracy and push for the expeditious implementation of universal suffrage generation after generation. I hope more Hong Kong people will step forward in the days to come to push for the realization of democracy and universal suffrage by making their voice known so as to make a concerted effort to change the SAR Government, which has refused to admit its mistakes.

I have an intense feeling when I look back at how Hong Kong people united in lending their helping hands in the South Asian tsunami disaster. Now Hong Kong people are no longer satisfied with simply counting on their own luck. Hong Kong people care about the community and the Earth. They are prepared to work together to create a better community. As long as we share the same goal, I hope the Central Government can reconsider giving Hong Kong a chance to conduct dual elections by universal suffrage in 2007 and 2008.

With these remarks, I support Mr CHENG's motion. Thank you, Madam Deputy.

**MISS TAM HEUNG-MAN** (in Cantonese): Madam Deputy, the South Asian tsunami, the disaster of the century that took place on the Boxing Day last year, has traumatized every Hong Kong people in the bitter winter. To assist in

disaster relief, the democrats even postponed the rally for universal suffrage, scheduled to be staged on New Year's Day, for two weeks. However, this does not mean that our position on pushing for universal suffrage for 2007 and 2008 has been shaken in any way.

In delivering the Fourth Report of the Constitutional Development Task Force (the Task Force) in the middle of last month, the Chief Secretary for Administration, Mr Donald TSANG, frankly admitted that there were many views that dual elections by universal suffrage should be implemented in 2007 and 2008. However, he made it very clear that the Task Force would not take any further actions with respect to the strong aspiration for universal suffrage on the ground that those proposals were inconsistent with the Decision made by the Standing Committee of the National People's Congress (NPCSC), following its interpretation of the Basic Law, on 26 April. In my opinion, this act by the Government was virtually defying the strong aspiration of Hong Kong people for universal suffrage.

Madam Deputy, more than 500 000 people participated in each of the two mass rallies that took place on 1 July. Chanting the same declaration for dual elections by universal suffrage in 2007 and 2008 at the top of their voice, the participants left a mark calling for democracy with their feet, though they were exhausted both physically and mentally. How could Chief Secretary Donald TSANG have acted like an ostrich and pretended not to see this irresistible historical fact, or even come up with his own interpretation of history?

In presiding over the fifth anniversary of the reunification of Macao, President HU Jintao instructed Chief Executive TUNG Chee-hwa, who was on his duty visit, and his accompanying two Secretaries of Departments and top officials from the 10 Policy Bureaux, to effect a people-oriented administration and identify inadequacies. What is the point of talking about people-oriented administration if the mainstream public aspiration for dual elections by universal suffrage in 2007 and 2008 can be ignored?

Actually, there was overwhelming response from the public to the Legislative Council Election held in last September, with the voter turnout rate for direct election in geographical constituencies reaching an unprecedented 55%. The fact that nearly 1.8 million voters had cast their sacred ballots to elect their own representatives precisely demonstrated their eagerness to see changes.

Let me cite the Accountancy FC, to which I belong, as an example. Although my political platform had made it clear that I supported dual elections by universal suffrage in 2007 and 2008, I was still able to win with more than 3 000 votes. Before that, I was not considered by many as a favourite candidate, particularly as that would mean they were going to elect a representative who would scrap the FC to which she belonged.

Why did the 17 000 voters in the Accountancy FC dare to make such a choice by giving up their privileges of holding two votes or more? In my opinion, they have intense hatred for this sort of small-circle election, which is governed by extremely unfair rules, because not every sector can elect their representatives by "one person, one vote". Examples are chambers of commerce, the wholesale and retail industry, and even the labour sector. Each chamber of commerce is allowed to cast only one vote and only a licensee is eligible to vote. Practitioners of the industries are not entitled to vote.

Furthermore, the electoral base of each FC may range from hundreds to tens of thousands. Why is it that some sectors are given special treatment in the sense that they can secure a seat through a small-circle election, while others have to fight fiercely? Such arrangements do not accord with the principle of fairness underlined by balanced participation and lack credibility.

In view of this, I issued more than 20 000 questionnaires in November last year through facsimiles, emails and posts to the voters in my FC. According to the findings, more than half of the people in my FC approved of dual elections by universal suffrage in 2007 and 2008.

The Chief Executive, vested with supreme power of governance and responsibility, was merely elected by an 800-member Election Committee. His credibility is a far cry from that of the Legislative Council, which was elected by more than a million voters. This is also one of the reasons for the repeated governance blunders made by the SAR Government over the past seven years. The crux of the problem often lies in the fact that our Chief Executive has not been baptized by direct election. Hence, he has failed to keep tabs on public sentiment. In other words, he has failed to "think in the way the people think and sense the urgency of the people".

For these reasons, I support this motion moved by Mr Albert CHENG today to condemn Chief Secretary Donald TSANG for failing to include in the

Fourth Report dual elections by universal suffrage in 2007 and 2008 as one of the options for the voters as well as his attitude of indifference to the call of the public at large. I strongly demand the Government to expeditiously include universal suffrage as one of the proposals for consultation. Furthermore, it should formulate a specific proposal and refrain from using its "delaying" tactic without even being able to come up with a specific timetable for universal suffrage.

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

**MR ALBERT HO** (in Cantonese): Last year, Madam Deputy, the NPCSC abused the power of interpretation conferred by the Basic Law to unilaterally and forcibly use interpretation as a pretext to achieve its actual purpose of amending the Basic Law by adding something new to Annexes I and II of the Basic Law. As a result, Hong Kong is now completely stripped of its power to carry out constitutional reform in 2007 and 2008. What is more, the Central Government will take full control of any constitutional development in the future. This is indeed the biggest retrogression in the "one country, two systems" set-up since the reunification. If the Central Authorities could distort the interpretation of the Basic Law in such a blatant manner and then intervene in or even take full control of Hong Kong's political development, it is indeed worrying if Hong Kong could permanently and genuinely implement its "high degree of autonomy".

Actually, after the NPCSC has, according to its Decision on 26 April, made it clear that Hong Kong is not allowed to conduct dual elections by universal suffrage in 2007 and 2008, and even the ratio of seats returned by direct election and functional constituency election should remain unchanged, what can the three-member Task Force do within this prefabricated birdcage? What is the point of merely doing some decoration and patch up work inside the birdcage by applying make-up to the sham constitutional reform and create the illusion that the stagnant proposals can be implemented in a gradual and progressive manner? Will the officials responsible for taking forward constitutional reform not feel ashamed and humiliated if the Government is prepared to forcibly distort and ignore the fact that there is a general and intense aspiration among the public for universal suffrage in 2007 and 2008?

Some people hold the view that the NPCSC has made its final decision on constitutional reform in 2007 and 2008. Should Hong Kong people refuse to accept, are they going to confront the Central Government by stirring up separation and riots in Hong Kong? Even if they do so, can "one country, two systems" be preserved? Madam Deputy, my answer is very simple. If we do not distinguish right from wrong, act obediently and resign ourselves to adversity in dealing with everything, can the concept of "one country, two systems" and a "high degree of autonomy" be truly implemented? If the ruling regime, returned by the undemocratic small-circle election, is allowed to reign, thereby enabling such phenomena as collusion between business and the Government, illicit transfer, disparity between the rich and the poor, social injustice, and so on, to persist, thus triggering widespread discontent, can Hong Kong maintain its stability and prosperity in the long run under such rule?

Madam Deputy, given today's circumstances, we can only continue to strive for our aspirations. Regardless of the advice against pushing for universal suffrage in 2007 and 2008, Hong Kong people must understand that we are entitled to, or even ought to, maintain our aspiration for democracy. We should express ourselves even more clearly that we have always been convinced that Hong Kong has the political, social and economic conditions to implement universal suffrage. It is even clearer that the aspirations and demands of Hong Kong people reflect their maturity. At present, it is the joint efforts of the Central and Hong Kong Governments that have stifled the scope for democracy and trampled on the hope for democratization in the territory.

Under such circumstances, Madam Deputy, we must continue to strive for the realization of our aspirations through various peaceful, rational and lawful ways and channels. We will continue to, within the existing political framework, among members of the general public, within the scope of a civil society, outside and inside this Legislative Council Chamber, in big streets and small alleys, in such places as housing estates, campuses, stations, restaurants, and so on, hold high our flags for pursuit of democracy. We will continue to make our sentimental roars and rational aspirations heard through such public media as print and broadcast. We believe different groups in this civil society will continue to strive to carry on the struggle with one heart and one mind. We will definitely continue to consolidate the community's consensus for democracy to provide Hong Kong with the impetus to truly move in the direction of democratization.

Madam Deputy, today, we have only one request for the Hong Kong Government. I know that there are a lot of things that the Government is reluctant to do. However, we hope it can at least demonstrate its courage by honestly expressing the public aspiration and, according to the mainstream public opinion, writing down the aspiration of Hong Kong people for universal suffrage in 2007 and 2008 as an option for the Legislative Council formed under the mechanism provided for by the Basic Law and to be decided by the Chief Executive. In the event that the proposal is passed one day, the Central Government would have to decide whether it should smash the birdcage by changing its previous decision or it is prepared to be called a sinner in history. The Government had better quit if it does not have such will and the courage to demonstrate honesty for, in so doing, it can at least keep its good reputation untarnished.

**MR MA LIK** (in Cantonese): Madam Deputy, to do it justice, the Fourth Report of the Constitutional Development Task Force has summarized the views and specific proposals put forward by a considerable number of people in the community concerning the election of the Chief Executive in 2007 and the Legislative Council election in 2008. On the whole, the DAB considers the report acceptable. It also hopes that members of the community will adopt a rational and pragmatic attitude and hold further discussions on the two elections in 2007 and 2008 on the basis of this report, so that a broad-based consensus can be reached on the specific proposals of the two elections, thus enabling the Government to subsequently propose a mainstream proposal that meets the long-term overall interests of Hong Kong for final discussion by us all.

In today's motion, Mr Albert CHENG expresses deep regret at the Government because of the Fourth Report. Obviously, this is because he and other people of the opposition are not happy with the contents of the Report, which have failed to meet their demands and ruled out dual universal suffrage in 2007 and 2008. However, since the NPCSC already made the very definite decision last April of not to introduce universal suffrage in 2007 and 2008, is it practical for them to insist on this? Or are they opposing for the sake of opposition?

Some people in the opposition often stress that 60% of the voters voted for them in the Legislative Council Election held last year and this shows that most

of the people in Hong Kong supports democracy and universal suffrage, and it looks as though they were the icon of democracy. I think that many voters who voted for candidates of other parties or independent candidates, including those who support the DAB, also support the development of democracy in Hong Kong, eventually attaining the goal of universal suffrage. The only difference is that they disagree on the pace of and timetable of democratization and on other considerations.

The DAB believes that the existence of differences in this regard does not matter, since I believe the SAR Government and Central Government both know clearly and fully understand the general public's aspiration for the early implementation of universal suffrage. However, we are convinced that the overwhelming majority of members of the public, while supporting universal suffrage, also respect the Basic Law, the "one country, two systems" requirement and the rights and decisions of the Central Government. We all understand that, insofar as the constitutional development in Hong Kong is concerned, we cannot sidestep the Central Government and go it alone. Any attempts to take forward the constitutional development in Hong Kong must have regard for the views and concerns of the Central Government. Therefore, to insist that the Fourth Report discuss the issue of universal suffrage in 2007 and 2008 is totally unrealistic, and this not only negates the decision of the NPCSC but will also lead to a situation of confrontation between Hong Kong and the Central Government, thus doing a disservice to the future development of democracy in Hong Kong. We are gravely concerned that people who insist on doing so will in the end become the saboteurs of the development of democracy in Hong Kong. Therefore, the SAR Government, in proposing that universal suffrage not be introduced in 2007 and 2008 in the Fourth Report, is showing respect for the decisions of the NPCSC and we should not express our regret at the Government because of this.

Some people in the opposition also levelled the criticism that, since the Fourth Report has ruled out introducing universal suffrage in 2007 and 2008, the Government should propose a timetable on ultimately attaining full universal suffrage as soon as possible. However, as mentioned in the Fourth Report, there are different views on the pace of constitutional reform in society. There are people who support introducing universal suffrage in 2007 and 2008, those who support having universal suffrage in 2012, those who support introducing universal suffrage in different years after 2012, and even those who oppose setting any timetable. From this, it can be seen that society has not yet reached

any broad-based consensus at all on such issues as when it will be appropriate to introduce universal suffrage. Therefore, the demand that the SAR Government should set a timetable on introducing universal suffrage in the Fourth Report not only runs counter to the original intent that consultation should be comprehensive, so as to reach as broadly based a consensus on constitutional development as possible, but it will also create serious social division.

The DAB does not oppose drawing up a specific timetable, however, we are of the view that apart from a timetable, it is also necessary to create conditions that are conducive to the development of universal suffrage in Hong Kong, including: (a) to lay a solid economic foundation for constitutional development; (b) to nurture enough political talents that can represent different strata of society; (c) through strengthening national education, to enhance the public's understanding of the "one country" concept, their nation, the status of Hong Kong laws and a true understanding of the meaning of universal suffrage; and (d) to further consolidate the status of the Basic Law as the constitutional law of Hong Kong through extensive publicity and learning activities. The DAB looks forward to fostering these conditions hand in hand with the Government, other parties and members of the community and to strive together to turn universal suffrage into a reality at an early date.

Some people in the opposition charge that the deliberations and proposals espoused in the Fourth Report run counter to the goal of universal suffrage, but the DAB disagrees with this. Although the Report rules out the possibility of universal suffrage in 2007 and 2008, it does not mean that the elections in 2007 and 2008 are undemocratic, since there is still considerable scope for discussing the specific arrangements for the two elections and the methods of election and formation. There are a lot of suggestions in society on increasing the number of members in the Election Committee that selects the Chief Executive and the number of seats in the geographical constituencies and functional constituencies of the Legislative Council. We believe these suggestions can provide more opportunities for the public to participate directly in politics and are consistent with the principle of gradual and orderly progress. These electoral arrangements should be considered a step forward in the development of democracy rather than a step backward as claimed by the opposition. The First to the Fourth Reports published by the Government in succession is a step-by-step methodical approach and one cannot criticize it as disorderly.

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

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam Deputy, the Fourth Report of the Constitutional Development Task Force (the Report) prepared under the leadership of the Chief Secretary for Administration, Mr Donald TSANG, is an embodiment of birdcage election and puppet politics and represents the demise of a high degree of autonomy for the political system in the SAR.

The Report admits that a lot of views in Hong Kong consider that the Chief Executive should be elected by universal suffrage in 2007 and so should the Legislative Council be in 2008, but it adds that these proposals are "inconsistent with the decision of the Standing Committee of the National People's Congress (NPCSC) will not be processed further by the Task Force".

The views of the Report are very clear. The decision of the NPCSC to rule out universal suffrage is the final word and it rules out everything. Hong Kong people cannot object to it and they can only say that black is white and act like parrots and mynahs in a birdcage in which there is no universal suffrage.

Parrots and mynahs are all stooges that echo what others say. Although Donald TSANG said that he grew up nourished by the water in Hong Kong and he had the blood of Hong Kong people flowing in his veins, he has never put in a fair word for democracy in Hong Kong or lobbied hard for the mainstream public opinions in Hong Kong. This is failing the trust of Hong Kong people and being negligent in his political duties.

I will always remember the time when Donald TSANG, while drafting the Second Report, asked Hong Kong people to first discuss the principles of constitutional reform rather than proposals on the political system and wait until the principles had been established before discussing specific proposals. However, the Central Authorities then gave the final word and took pre-emptive measures by ruling out the proposal of dual universal suffrage without carrying out any consultation. The system of voting by groups in the Legislative Council was even maintained. Why did Donald TSANG adopt double standards and did not utter a word on the decisions of the Central Authorities and treated them as sacrosanct? Is Donald TSANG giving the Central Authorities complete licence while barring Hong Kong people from expressing any views?

Now that the fire set by the NPCSC of the Central Authorities has incinerated dual universal suffrage in 2007 and 2008, the Report can, by

invoking the decisions of the NPCSC, say with vindication that any public opinion on universal suffrage will not be processed any further. However, what are the grounds on which the NPCSC ruled out dual universal suffrage? They are the so-called nine major principles set out in the Second Report, which include "the ultimate aim of universal suffrage should proceed in a gradual and orderly manner, and should accord with the actual situation, the pace should not be too fast" and "consideration must be given to the interests of different sectors and strata of the community for a balanced participation in politics by various means", thus paving the way for the continued existence of the functional constituencies. The nine major principles in the Second Report eventually became a birdcage for democratic universal suffrage and the basis on which the Chief Executive submitted his report to the NPCSC, as well as the justifications with which the NPCSC ruled out dual universal suffrage.

Madam Deputy, the four reports prepared under the leadership of Donald TSANG was from the beginning to the end a play, the script of which was written by him and the play directed by him to clear the way and create justifications for the Central Authorities to rule out universal suffrage in the SAR. Therefore, Hong Kong people should no longer hold any fantasy or hope on the Report. If they really have the free time and do not mind killing it, they can read the Report to see how much foreshadowing there is and how many ruses are concealed in it, how many hurdles and pitfalls are created to defer universal suffrage, how to write servile articles that say neither one thing nor the other, how to go out of one's way to ingratiate oneself with another, how to manipulate and cover up everything and how to turn black into white.

What is so pathetic about this Report is also a pity for Hong Kong. We have lost the opportunity and right to decide our own fate. In the colonial era, we did not have democracy. Seven years after the reunification, we still do not have democracy or even a timetable for universal suffrage. Hong Kong people can only look on helplessly as the mediocre and incompetent TUNG Chee-hwa secured a majority of over 700 votes in a small circle and won a second term. Hong Kong people can only look helplessly at a society that has lost its democracy, at the intrigues in contesting the office of Chief Executive, the collusion between officials and businessmen and the transfer of benefits, the silent howls of the middle class, and the class conflicts between the rich and the poor, all of which has made Hong Kong lose its lustre and hope and the Pearl of the Orient its glow.

The President of our country, HU Jintao, said that the SAR has to sum up its experience and identify its inadequacies. In the seven years after the reunification, the greatest inadequacy lies not in an individual like TUNG Chee-hwa but in the political system that produced TUNG Chee-hwa, which preordained and nurtured a Chief Executive by shaking hands with him, in the small circle politics that has lost the support of the public and alienated them. This is a serious mistake and a taboo in politics. Without any major change of course and a complete awakening, then no matter how hard we try to sum up our experience or identify inadequacies, we are not seeing the wood for the trees.

Madam Deputy, I oppose not only the Fourth Report prepared by Donald TSANG, I also oppose the First Report to the Fourth Report prepared by Donald TSANG, since these four reports have betrayed democracy. They are a waste of paper and deceptions to society.

Finally, I wish to respond to Mr MA Lik's views. Mr MA Lik has advanced a crooked argument, saying that by insisting on democracy, one is doing a disservice to democracy. Such an argument is similar to the theory of saving the country by devious means as proposed by WANG Jingwei. This is a crooked argument and it claims that the more we insist on democracy, the less the Central Authorities will be willing to give us democracy. Therefore, this will do a disservice to democracy. In fact, if something is bestowed as a favour, how can it be considered democracy? It will only be patronage, a democracy bestowed as a favour. The democratic system will be considered a favour bestowed by the Central Authorities, not the right of the people. Under these circumstances, there will be perpetual waiting and longing for the Central Authorities to give us democracy. This is a very pathetic view. This is not advocacy from the standpoint of the people, but a conclusion made from the standpoint of the master. However, Hong Kong people should display their own moral integrity and courage. The fight for democracy has been going on for a long time. We should not wait for the favour to be bestowed on us but should strive to get it with our own efforts. It is this kind of democracy that will be genuine and solid.

Thank you, Madam Deputy.

**DR KWOK KA-KI** (in Cantonese): Madam Deputy, I speak in support of Mr Albert CHENG's motion.

The policy address last year announced the establishment of the Constitutional Development Task Force (the Task Force) comprising Chief Secretary for Administration Donald TSANG, Secretary for Justice Elsie LEUNG, and Secretary for Constitutional Affairs Stephen LAM, to deal with the selection of the Chief Executive in 2007 and the formation of the Legislative Council in 2008. At that time, Chief Secretary Donald TSANG said with sincerity that he will respond to the demands concerning the constitutional review made by various quarters.

However, one year has lapsed, and the year 2004 has passed. There is no proposal, no timetable, no public consultation. Instead, the Task Force published the First Report at the end of March after carrying out limited consultations with different groups and professionals involving only several hundred people. The discussions in the First Report focused on the procedures for initiating amendments to the legislation on constitutional development. However, in the end, the original proposals on having joint discussions between the Central Authorities, the SAR Government and the Legislative Council, on formulating and amending electoral laws, on the timetable and progress for constitutional reform and the procedure for decision-making were all but discarded.

In April last year, the SAR Government accepted the interpretation of the Basic Law by the NPCSC. That was the most miserable and the hardest days for Hong Kong people. The principles of "one country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong" were all smothered in a hard-line, authoritarian and perverse move.

Have the Central Authorities and the SAR Government ever attached any importance to the demands and aspirations of the people? After many years of discussion and street rallies, as well as the two 1 July rallies, all sectors can now see that there is a very strong consensus that Hong Kong people are demanding dual universal suffrage. In the two District Council Elections and the votes cast in the recent Legislative Council election, a strong message was delivered and civic power has flexed its muscles. Has the Central Government or the SAR Government ever grasped the vociferous demands that really originate from the populace? The interpretation of the Basic Law and the sanctioned decisions of

the NPCSC have become a judgement that must not be countered, an orthodoxy that must be obeyed.

At that time, Mr QIAO Xiaoyang stated that the Central Authorities had appreciated the unpleasant feelings of Hong Kong people and Chief Secretary Donald TSANG advised the public to soften their stance and not to insist on the impossible. The SAR Government, by conducting birdcage consultations with many shackles attached, stifled the expression of opinions by the public, imposed an array of hurdles and mechanisms to stymie discussion and request Hong Kong people to give up their demand for democracy. In sum, it is determined to ignore the aspiration of Hong Kong people for democracy and their wish to have dual elections by universal suffrage in 2007 and 2008.

Under this general mood of indignation and helplessness among the Hong Kong public and a boycott of such bogus consultation, the Task Force published the Second and Third Reports, and the Fourth Report at the end of last year, one after another. The contents of these reports offer nil novelty and are filled with banality and platitudes. They can be described as oozing a cadaverous smell and stale and ossified contents, like inscriptions on a stone tablet stating repeatedly that the NPCSC had ruled clearly last year on the future progress of democracy in Hong Kong and the legislative process. Dual elections by universal suffrage in 2007 and 2008 were sent to the guillotine on 26 April and executed, their heads and bodies now asunder and they have been put into coffins and laid to rest. Hong Kong people should never even think of reincarnating them in any form or harbour any unrealistic wish that the miracle of resurrection will occur, even though Easter is now around the corner.

Where do the three senior Hong Kong officials in the Task Force, having acted as callous executioners, intend to drive grieving Hong Kong people to? After the officially staged seminars, sample group discussions and collation of a narrow spectrum of views, the reports were cobbled together and bogus consultations were conducted one after another in a perfunctory manner. The executioners have transformed into Taoist priests in a funeral parlour, chanting canticles repeatedly and incessantly, hinting at everyone to shut up, "Universal suffrage is dead, dual elections by universal suffrage are gone", "lobbying for democratic elections is impractical, there is no point in bickering, it is a waste of time and fruitless", "do not hold any illusion for politics or democracy, do not contravene the interpretation of the Basic Law by the NPCSC and the decisions

made on 26 April". Do we really have genuine democracy, what sort of consultation do we have and what are our aspirations?

Hong Kong people have never really participated in any genuine consultation on constitutional reform. No representative of public opinion has ever attended any such meeting and no Hong Kong people has ever participated in making the final decisions on the death of dual elections by universal suffrage. If Hong Kong people still have rights and freedoms and still cling onto .....

**DEPUTY PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, please pause for a while. Chief Secretary for Administration, is it a point of order?

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): It is an impassioned debate, and impassioned speech, but it appears a quorum is not present to listen to it. I only wish to remind Madam Deputy of this point.

**DEPUTY PRESIDENT** (in Cantonese): Since a quorum is not present in the Chamber, I now order the Clerk to ring the bell to summon Members back to the Chamber.

(THE PRESIDENT resumed the Chair while the summoning bell was ringing)

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

**PRESIDENT** (in Cantonese): A quorum is now present. Dr KWOK Ka-ki, please continue with your speech.

**DR KWOK KA-KI** (in Cantonese): Madam President, if Hong Kong people still have rights and freedoms and cling onto the conviction that democracy has not died and the aspiration for universal suffrage is still alive, then even if it is a tomb and a no-go zone into which the Central Government wants horde Hong Kong people, it is still the SAR Government that made a birdcage and a coffin on its own.

If the Central Authorities and the SAR Government respect the Basic Law and the spirit of "one country, two systems", then they should protect the development of a democratic political system in Hong Kong and should not bar us from holding discussions or striving for it. If the Central Authorities and the SAR Government respect the Basic Law and the spirit of "a high degree of autonomy", then they should reinforce the traditional cornerstone of the rule of law in Hong Kong and should not deprive us of our rights and duties. If the Central Authorities and the SAR Government respect the Basic Law and the spirit of "Hong Kong people ruling Hong Kong", then they should safeguard the system of equal universal suffrage in Hong Kong and should not ignore our wish and aspiration for universal suffrage and democracy.

According to the constitutional principles and legal base provided by the Basic Law to the SAR Government, we have reasons to believe that Hong Kong is allowed to implement a democratic political system, realize universal suffrage and equal participation, as well as freely expressing the hope for and striving for a reasonable, fair and open political system.

As far as the methods of selecting the Chief Executive in 2007 and electing Legislative Council Members in 2008 are concerned, do we have to accept that dual elections by universal suffrage are dead? Even if it is really impossible to have universal suffrage in 2007 and 2008, is the alternative to accept undemocratic electoral arrangements? Does this include the options mentioned in the last meeting of the Panel on Constitutional Affairs by Secretary Elsie LEUNG, who turned black into white by considering some types of indirect elections and functional constituency elections a type of universal suffrage?

Last year, the Task Force resolutely refused to conduct a genuine consultation. If the SAR Government continues to refuse to listen to public opinion and refuses even to conduct an extensive and in-depth opinion poll among the Hong Kong public, should this not be considered a violation of the state sovereignty, a contravention of the decisions of the NPCSC and a heretic act?

In mid-2005, the Task Force will have to put forth a mainstream proposal on constitutional development in the Fifth Report. It is important to have a mainstream consensus by that time. I do not wish to see the Task Force stick to its former approach of consulting a few groups and carrying out birdcage consultations, claiming that a consensus has been reached in this way.

In the past eight years, politics in the SAR has relied on consulting a few privileged non-mainstream groups, together with small-circle discussions that reinforced the unreasonable constitutional arrangements. I think it is time the SAR Government and the Task Force pulled back from the brink. I hope that they can really do something adequate and thorough and enable the Hong Kong public to express their demands on the future constitutional review. I hope Hong Kong will be able to gradually enjoy genuine democracy.

With these remarks, I support Mr Albert CHENG's motion.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, I am very disappointed by the Fourth Report. As I said last time, I think this Report is like the handiwork of a primary school pupil. Of course, Secretary Stephen LAM will not admit it, but the entire Report is in fact an assortment of various types of materials patched together. First and foremost, the decision of the NPCSC to rule out dual elections by universal suffrage was cut and pasted onto it, then some materials from the Third Report was also cut out and pasted onto it. In addition, some of the most agreeable opinions collected were also selected and pasted onto it, and this medley was compiled into the Fourth Report. For this reason, I think this Report is a very crude and perfunctory piece of work. However, I cannot blame the Secretary. It is only natural that he did this in a perfunctory fashion, since the most important issue of all, that is, the consultation on dual elections by universal suffrage in 2007 and 2008, will not be undertaken and given that the NPCSC had already made its decisions and the Secretary was prepared to comply with them, it is only a matter of course that things were done in a perfunctory way.

In addition, the Fourth Report and all the discussions surrounding the constitution have given me the impression that the decisions made by the NPCSC are in fact a rope used in hanging. We all know that a rope used in hanging will tighten gradually. The NPCSC tossed this rope down and democracy in Hong Kong was tied to it. The rope is then tightened with each report published, until democracy is eventually strangled and then everything is over. Each report is tighter than the previous one and the Fourth Report is tighter than the Third. In the Fifth Report, a so-called mainstream proposal may be set out and democracy will be strangled then. Therefore, it is obvious that the entire situation with regard to constitutional development is that democracy in Hong Kong has been tied to a hanging rope.

On this hanging rope, the Fourth Report has foreshadowed subsequent developments. Not only does it intend to strangle the elections in 2007 and 2008, it also wants to strangle the future. Last time, in a meeting of the Panel on Constitutional Affairs, Secretary Stephen LAM and Secretary Elsie LEUNG disclosed this foreshadowing and I was utterly shocked. On that occasion, we were discussing a sentence in page 52 of the Fourth Report which says, "Should we start examining the long-term future of functional constituencies? Likewise, should we begin to explore different forms of universal suffrage?" After that, a lot of follow-up questions focusing on the merits and demerits of setting a timetable for universal suffrage were asked. My feeling was, was something amiss? How can we talk about starting to examine the long-term future of functional constituencies? How can this be possible? I remember that last time, it was either Secretary Elsie LEUNG or Secretary Stephen LAM who said that there were different forms of universal suffrage. Secretary Elsie LEUNG also said that there were different forms of universal suffrage and she even cited an example. I think this is foreshadowing a development on the election of the Chief Executive by universal suffrage. I remember Secretary Stephen LAM once said that on the method of election of the Chief Executive by universal suffrage, nominations made by a committee will precede election by universal suffrage. I wonder if Secretary Stephen LAM meant by extension that in the future method of universal suffrage, functional constituencies will nominate people in their sectors for Hong Kong people to vote on. Nominations will be restricted to functional constituencies so that the public can only choose among the representatives nominated by functional constituencies. Will things be like this? I do not know.

However, I think we should not even think of this because this is in fact a devious thought. Is the Government harbouring the devious thought of retaining functional constituencies in the long run? If not, then why is it necessary to start the examination? Who told the Government to start the examination? We have always been talking about the end of functional constituencies after the introduction of universal suffrage, so why is it necessary to examine their long-term future all of a sudden? The Basic Law has clearly stated that universal suffrage is the ultimate aim. Does the Government now intend to distort the Basic Law and make a new interpretation by changing the meaning of universal suffrage, so that functional constituencies can be retained in the long run and allowed to make nominations and then let the public elect the candidates by universal suffrage? I wonder if this is how things will be like. If so, then that will be outrageous. I have talked about the noose round the

neck. It is in fact intended for strangling the future development of democracy in Hong Kong.

If this is indeed the case, I think the Fourth Report is not simply about an undemocratic proposal or merely about the issues surrounding 2007 and 2008, rather, there is also the underlying problem of smothering democracy in the long run. Actually, is it because the Government has to wait for the decision of the Central Authorities on everything that it dared not mention any timetable for universal suffrage and foreshadowed what may happen? If there is an undemocratic electoral system in Hong Kong, does it mean that we can propagate this deformity on the basis of an already weird democratic system and a weird method for forming the executive and legislature? When will the Government return to Hong Kong people the right to take part in popular and fair elections by universal suffrage? I think this is something all Hong Kong people badly needs and something the Government has owed us for so many years. Thank you, Madam President.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, after the NPCSC has made an interpretation on the issue of universal suffrage in the dual elections of 2007 and 2008, which has dashed all of our hopes, no breakthrough will be forthcoming in any reports, no matter it is the Fourth Report or the Fifth Report, or even the Sixth, Seventh, Eighth, Ninth or 10th Report in future.

We can predict what kind of outcome will eventually emerge, that is, only some minor patch-up jobs will be introduced to the existing systems. This is especially so for the election of the Chief Executive: It will be like what the Fourth Report is saying now, that the membership of the Election Committee will be expanded. Besides, for the election of Legislative Council Members, I think the only new measure would be to make more people become eligible voters of functional constituencies. These are the two major directions. However, I would like to tell Secretary Elsie LEUNG that, if this is really the course of action, consideration must be given to another issue. As Mr LEE Wing-tat said just now, if we want to build up a democratic system, what is the objective of doing so? Do we want to see stable and harmonious development in society, or do we actually want to see the emergence of more conflicts, confrontation or even division in society? These are questions that we are most concerned about. Take the election of the Chief Executive as an example.

What kind of benefits will it bring if the membership of the Election Commission is expanded? Secretary Elsie LEUNG may feel smug in saying that, according to certain public opinion collected, some people think that the increase from the present 800 members to 1 200 or even 1 600 members represents a 50% or even 100% increase; this is already very democratic. She can add such a cosmetic touch to the figures. However, I would like to ask the Secretary not to forget that, today we already have more than 3 million voters in Hong Kong. How can this group of a thousand or so people express the aspirations of the 3 million or so voters? How can their opinions be reflected? Apart from this, most importantly, why are these 3 million or so voters deprived of the right to vote? How can we demonstrate that democracy does exist in our systems? With regard to making democracy more universally popular among the people, how can the Government explain this point clearly?

Besides, the Secretary mentioned that, according to the opinions collected, the number of seats for functional constituencies in the Legislative Council can be increased, such as increasing by five to 10 seats. But what differences will it make even if this is implemented? Are we not still retaining the functional constituency elections? Many Honourable colleagues have queried earlier: Does this really comply with the requirements of Article 68 of the Basic Law? Just now Secretary Elsie LEUNG replied that this may comply with the Basic Law because this could be considered as a kind of universal suffrage. If Secretary Elsie LEUNG is so confident in upholding the belief that functional constituency elections do possess some element of direct election, then maybe we can put aside our academic arguments and let the people decide whether they would support the Secretary's viewpoint or ours. I think this is the best method. Sometimes making reference to the opinion of the people is a better way of realizing democracy than insisting on our own viewpoints. When we talk about democratizing the functional constituency elections, maybe we can make a democratic decision, which may prove to be better. Why does the Secretary not do that?

I very much worry that these two major directions may bring about some consequences that we do not wish to see. Take the recent case of the West Kowloon Cultural District as an example. Some people suspect that a transfer of benefits may be involved as someone would like to do this in order to enhance his chances of success in the Chief Executive election which will be voted by a small circle of people. This is a consequence brought about by small-circle elections, does it bring about any benefit for the development of Hong Kong?

Not just the people are asking such questions, but even the representatives of certain consortia are also asking such questions. What kind of benefits will it bring to Hong Kong? This point alone is sufficient for making us suspect that some problems do exist. Moreover, some people are even saying that the duration of time of shaking hands with national leaders in the Central Government is some kind of indication of whether someone will be selected as the Chief Executive. Seeing that someone enjoyed a longer time of shaking hands with national leaders, a group of people will come forward to make some comments. What good do such arguments bring? These are obviously some internal power struggles, explicit or otherwise. Will it be possible for society as a whole to continue enjoying a harmonious atmosphere? Will it help to promote prosperity and stability in Hong Kong?

Secretary Elsie LEUNG said that expanded functional constituencies could be an incarnation of universal suffrage. Even if I am willing to make unreserved concessions in order to accept this claim made by Secretary Elsie LEUNG, but internal competition will still emerge among different interested parties within a certain functional constituency, in order to make themselves included in certain functional sectors. Therefore, the struggle between different organizations could be very keen, and the competition between different sectors may also be very serious. Under such circumstances, is it possible to enhance social harmony and promote smooth development in society? Therefore, I hope the Government can understand what the objectives of constitutional reforms are. I hope the Government can strengthen its governance, step up the level of accountability of its administration and make it face the people. However, both the functional constituency elections and the small-circle election cannot achieve such effects.

Nowadays, the past seven or eight years of administration by the SAR Government has already demonstrated clearly to us that the small-circle election and functional constituency elections have really created great obstacles to social harmony and development. Therefore, if we still allow such drawbacks to continue, intensify and worsen, how on earth can we achieve the goals of constitutional reform? Therefore, I hope the Government can reconsider the directions it should take in proceeding with constitutional reform.

**MR FREDERICK FUNG** (in Cantonese): Madam President, the Fourth Report of the Constitutional Development Task Force (the Task Force) released recently

is a sequel to the two significant decisions made by the Standing Committee of the National People's Congress (NPCSC) in April this year regarding the future constitutional development of Hong Kong.

To begin with, on 6 April last year, the NPCSC made its second interpretation of the Basic Law since the reunification of Hong Kong with China. The NPCSC stated that according to the provision of Article 158 para 1 of the Basic Law, the Central Government has the ultimate authority of deciding the election methods and the election systems through which the Chief Executive and Members of the Legislative Council of Hong Kong are elected. In other words, any proposed amendments will have to be "endorsed in accordance with the law or reported for record" before they could become effective. Subsequently, on 26 April, the NPCSC made another decision on the issue of universal suffrage for the dual elections in 2007 and 2008. The NPCSC explicitly stated that at the current stage, Hong Kong does not have the appropriate conditions for implementing universal suffrage; therefore, universal suffrage shall not be applied to the two elections to be held in 2007 and 2008. It also stated that insofar as the existing election methods are concerned, amendments can be made provided they do not violate the above conditions and are in compliance with the principle of gradual and orderly progress.

In this regard, both the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I have actually stated on several occasions that we disagree with the NPCSC on its decisions regarding the constitutional development of Hong Kong. The Central Government has once again acted in such a way as to let the concept of "one country" override that of "two systems" when implementing the principle of ruling Hong Kong under the concepts of "one country, two systems and a high degree of autonomy". As a result, Hong Kong people, being a party under the "two systems", have been deprived of the rights to hold discussions and being consulted on matters related to the dual elections in 2007 and 2008. None of the current election methods for electing the Chief Executive or forming the Legislative Council are in full compliance with the truly democratic system of "one person, one vote", in which each vote carries the same weight.

In other words, the ADPL and I think that if the consultations on the issue of universal suffrage for the 2007 and 2008 elections conducted by the Government of the Hong Kong Special Administrative Region (SAR) could only proceed within the framework and limitation of the decisions made by the NPCSC on 6 April and 26 April in its interpretation of the Basic Law, such

patchwork approach for our existing election systems will have no positive effect on the future development of democracy in Hong Kong.

Yet, the ADPL and I are thoroughly disappointed that the Task Force has stressed right in paragraph 1.05 of the Report that any proposed amendments that are inconsistent with the provisions of the Basic Law or the decision of the NPCSC on 26 April will not be processed further. This is a downright denial of the strong aspirations of Hong Kong people for implementing universal suffrage in the 2007 and 2008 elections as well as the inclusion of this subject in the consultation. This move has failed to tackle the core issue in the constitutional development of Hong Kong. In this regard, the ADPL and I think that the consultation conducted by the Task Force is a "birdcage consultation". It is a farce that is devoid of substance, and only carries nominal significance.

Furthermore, judging from the actual result of this consultation exercise, it appears that the Task Force is actually working for nothing. Why should I say so? This is because, according to an information paper submitted by the Constitutional Affairs Bureau to the Panel on Constitutional Affairs of the Legislative Council in December last year, the only direction the authorities could establish for the current consultation on the constitutional development is: "..... the community expects that progress could be made towards the ultimate aim of universal suffrage, that there could be more scope and more opportunities for the public to participate in the elections of the Chief Executive and the Legislative Council, and that the representativeness of the Chief Executive and the Legislative Council could be further enhanced."

The ADPL and I think that, it is a known fact to all that the so-called only direction that the authorities have worked out has long been stipulated and endorsed in Articles 45 and 68 of the Basic Law. In fact, since the Basic Law has been promulgated, Hong Kong people have never voiced any strong or open objection to the notion that ultimately there will be universal suffrage in the elections of the Chief Executive and the Legislative Council. The focus of arguments in society has all along been the timetable and the specific arrangements for implementing universal suffrage.

In other words, the work of the Task Force turns out to be just reconfirming the aim that has already been stipulated in the Basic Law. To this, the ADPL and I cannot help asking this question: Is there any meaning in such a consultation? Is this consultation helpful to implementing universal suffrage in

Hong Kong, or is it just another political show that is as routine as "stream of water passing on the back of a duck"?

On the whole, it appears to both the ADPL and I that, in the entire consultation exercise on constitutional development, the Task Force and even the SAR Government has taken a "take-it-easy" approach and has been taking circuitous routes within the framework laid down by the NPCSC, proposing patch-up jobs here and there with neither concrete proposals for the constitutional reform nor the timetable for implementing universal suffrage. To the ADPL and I, no matter how the SAR Government changes the election methods for electing the Chief Executive and forming the Legislative Council, so long as a popular and impartial democratic election system is not adopted, Hong Kong will remain an international metropolis with no democracy. It will not only put us in the opposite direction of the main trend of the world, but will also make us drift further away from that trend.

**MS EMILY LAU** (in Cantonese): Madam President, I am speaking in support of Mr Albert CHENG's motion. Although the subject of the motion debate today is very important, I believe the community is aware of it. Madam President, I say this because I noticed that the mass media have deliberately shied away from this subject (I believe the omission is not unintended).

If a certain subject really has to be discussed in society, it cannot be discussed only in this Chamber — we rely on the mass media to report the discussion. Now I am all at sea, quite unable to understand why this motion has completely failed to capture any media attention. Recently, I have talked with many people, including some civil servants. We all feel that society has been changing very rapidly, and the media have assisted in facilitating such changes — some even feel that my days could be numbered. If Hong Kong people do think in this way, I am no longer qualified to represent them anymore.

However, if someone really has exercised his dictatorial power to suppress the truth and silence public opinions, I shall, on behalf of this society, feel very miserable for the present situation. Madam President, Secretary for Justice Elsie LEUNG mentioned her clarification just now. In fact, she did not have to. All she did was nothing more than reiterating her remarks made the other day. On 20 October, she said that universal suffrage did not mean "one person, one vote", nor is "one person, one vote" required. I am not sure if Secretary Elsie

LEUNG has ever read the International Covenant on Civil Rights, which says that elections by universal suffrage must be universal and equal. How on earth can it be possible that such elections should be conducted in the form of functional constituency elections, in which some noble people first choose some candidates and then let them vote on such candidates by way of "one person, one vote"? This is totally unacceptable to me. I do not know how she can explain this to the United Nations.

Madam President, apart from the Secretary for Justice who made such novel remarks in this Chamber on 20 October, the State President also mentioned in Macao that the SAR had to identify its inadequacies. Many interpreted this as a criticism against the SAR Government. Sure enough, this is criticism. However, Madam President, why should there be such criticism? The SAR Government that has to identify its inadequacies was appointed by the Central Government. I do not believe that President HU Jintao would feel that he should bear full responsibility for the present state of affairs. Therefore, I was very surprised at seeing such a scene. Several years ago, he should have already known very well that the entire Hong Kong did not like the TUNG Chee-hwa regime, but still he wanted TUNG to assume the office despite the unfavourable circumstances. As a matter of fact, does he need to identify inadequacies as late as today? He should have said this to TUNG much earlier. What did he mean when he said something like that? Therefore, the Central Government, please do not think that you can wash your hands of the responsibility, so as to make others think that you have no responsibility at all for the present state of affairs, and everything will be fine as long as we are obedient and united. In fact, they were the ultimate culprits. If it were not the Central Government that insisted on using these useless and incompetent people who refused to listen to public opinions and promoted collaboration between the Government and the businesses, why should we end up in such predicaments? Therefore, the Central Government's comments really baffle me. I am all at sea.

I just said that the media would not report this debate. However, today I came across a headline story on constitutional reform in a newspaper. Madam President, I am not sure if you have read it. The headline reads, "Beijing officials probe into the backgrounds of four hot Chief Executive candidates. A preliminary report shall be presented to the Central Government before June." In the report, it is mentioned that the Vice President of the State ZENG Qinghong had ordered the Central Hong Kong Macao Coordination Group to

complete the report by the first half of the year. The report is said to be assessing the latest political and economic circumstances in Hong Kong as well as comments on the possible candidates of the third Chief Executive of the SAR. The Central Hong Kong Macao Coordination Group, headed by ZENG Qinghong, has lined up all the heads of departments charged with the responsibility of Hong Kong and Macao policies. The Deputy Head of the Group is LIAO Hui, Director of Hong Kong and Macao Affairs Office of the State Council, and TANG Jiaxuan, the State Councillor, while other members include representatives from the Foreign Ministry, the Ministry of National Security and the People's Liberation Army, and so on. Even HUANG Huahua, Governor of Guangdong Province, is also a member of the Group. The report quoted pro-China sources as alleging that this Central Hong Kong Macao Coordination Group, headed by ZENG Qinghong, had been charged with the overall responsibility of co-ordinating the Central Government's policies on Hong Kong since the 1 July march in which 500 000 people had participated. The Group is in the process of compiling a conclusive report in the first half of the year with specific reference to the latest political and economic situations in Hong Kong. As for the report on the election of the third Chief Executive, the present information just contains some preliminary views and considerations. This is because, according to the timetable of Beijing, a clearer picture of the possible candidates will emerge in the second half of the year. Madam President, you must have noted it, that your name is also on the list, though you are not among the hot picks (*laughter*). The report did mention a few names before concluding that basically there are only four hot picks, namely, Henry TANG, Donald TSANG, LEUNG Chun-ying and Peter WOO.

Madam President, this report occupies more than half a page of the newspaper, and many Honourable colleagues have mentioned it. What is the reason for it? It is because we do not have any say. As Dr Raymond WU said, this is the real authority — they were appointed by the Central Government. If something like this continues to happen, and if the media are keen to pursue such stories, why should we still hold such discussions? Just now some Honourable colleagues said that this was not just a "birdcage consultation", but pure crap. It is a waste of time, which disgraces Hong Kong people. The whole decision is to be made by a handful of people — a small group of rich tycoons — and the Central Government. What is there for us to discuss here today? It is totally meaningless to have the Fourth, the Fifth or even the Tenth Report. But Hong Kong people do not want to see the emergence of such a

situation. They hope that the SAR Government can stand tall and fight for something for Hong Kong people, instead of begging for sympathy.

Madam President, we shall hold fast to our goal and keep up with our fight, regardless of the external circumstances. I support Mr Albert CHENG's motion.

**MS MARGARET NG** (in Cantonese): Madam President, as a matter of fact, the Fourth Report offers nothing to write home about. There is nothing that is worth responding to. What warrants discussion, conversely, is what Hong Kong people should do in the face of the attitude and performance presented by the Government as such. We, the four of us, in the Article 45 Concern Group, have published a leaflet, in which we state our stances by using 10 simple questions and answers (Q&A).

Therefore, we state our overall response in the first Q&A. Our overall response is, the Report has totally failed to respond to the public aspiration for universal suffrage for 2007 and 2008 and simply ignored it as if it has not been expressed. Mr Frederick FUNG also mentioned this point earlier. The Report has not even made any suggestions on when universal suffrage would be introduced if it is not forthcoming in 2007 and 2008.

All along, we have been asking this question: Why is universal suffrage so important? It is because our present governance has gone wrong. However, the Report has failed to address the pressing governance problem and turned a blind eye to the harm persistent bad governance is doing to Hong Kong's prosperity and stability. Therefore, in short, our overall comment is: The Report reflects that the SAR Government is burying its head into the sand.

What are the contents put forward in the Report? A few words in our second Q&A are sufficient for covering the Report. Dr YEUNG Sum mentioned the "birdcage consultation" earlier, and I think it is not necessary for me to delineate the details of this birdcage, which simply reflects how limited the options are.

Therefore, in the fourth Q&A of our leaflet, we ask: Do Hong Kong people have any alternative other than accepting the Report's offer? Our advice

is: Yes, of course. Hong Kong people do not have to accept what they do not want. They should continue to fight for what they really want. What they really want is universal suffrage in 2007 and 2008. The proposal put forward by the Report is not even a half-way point to universal suffrage.

In our sixth Q&A, we raised the question which has been asked by so many people, that is, why are we so "stubborn" in our fight for universal suffrage for 2007 and 2008? Is it not more important to concentrate on improving our economy? Our response is, we are more determined than ever to fight for universal suffrage, because we need to move to universal suffrage in order to change the present governance, and good governance is essential to our economic success. In particular, if we want all sectors of the community to benefit from an economic recovery, then the need to improve governance becomes all the more pressing. Why did we have so much discussion on the disparity between the rich and the poor in the beginning of this Legislative Council Session? It is because even if our economy does show some improvement, not many people will benefit from it.

Therefore, if we continue to have bad governance, it will lead to instability and inefficiency. Many people have asked this: Why is our society so divided? Bad governance will lead to wastes of time and money, and this will hinder our economic development. We can quote some examples, such as the Hunghom Peninsula incident, the West Kowloon Cultural District development project and The Link REIT incident, and so on. I am sure we are all very familiar with these incidents.

In our eighth Q&A, we ask: What would we recommend Hong Kong people to say to the Government in response to the Fourth Report? Our recommendation is: We should demand that the Government must respond to the strong aspiration of the people for universal suffrage for the 2007 and 2008 elections. We call on the people to tell the Government that it should not just discard the majority view and then hobble together a proposal from the remaining views and call it the "mainstream opinion" and impose it upon the community. If the Government cannot implement universal suffrage in 2007 and 2008, it should at least propose a model as close as possible to it, and explain how far that model can address the problem of governance and lead to universal suffrage.

Mr Ronny TONG also conveyed a very strong goodwill by making some suggestions just now. I do not know why he had to waste his time in making

such suggestions. Some people ask us why we do not put forward some proposals other than the one on universal suffrage in 2007 and 2008, that is, a "one-step backward option with universal suffrage", or even a "one-step backward option without universal suffrage". In fact, we have considered indeed the notion that it might not be possible to achieve any target in one single step. But we realize even more that, in the process of fighting for universal suffrage in our political system and in our constitutional development, we will slip backwards if we cannot advance. If we have to take the initiative of moving backwards (the essence of the game is to see who makes the backward move first), we must know that even if we have moved backwards, the authorities will still find our suggestion unacceptable. Members must have heard of a suggestion made by someone for the implementation of universal suffrage in 2012. But have the authorities accepted it? Of course not. Instead, the proponent of this suggestion has proposed a further backward move. However, if we do not make any backward move at all, then the authorities have to. Several months ago, the authorities said that, it did not matter; do not worry too much, universal suffrage would eventually be implemented after all. But today we have said this many times already: Universal suffrage has already been re-defined in such a way that even functional constituencies can stay permanently because they have become part of universal suffrage. Therefore, what merit is there in being the first one to make the backward move? Absolutely no.

Therefore, in our ninth Q&A, we ask: What is the Government's next move? According to government officials, a Fifth Report will be released in May or June this year, and the mainstream proposal will be tabled to the Legislative Council for voting, and if a two-third majority is obtained, it will be submitted to the Central Government for approval. Therefore, in our 10th Q&A, which is the last one, we suggest what the people should next do is to require every Legislative Council Member to demand that the proposal to be put forward by the Government in the Fifth Report should genuinely address the needs and aspirations of the people. In addition, the people should also require every Legislative Council Member to vote in any event according to the wishes of Hong Kong people. These are our responses. We would distribute this leaflet to the people.

Thank you, Madam President.

**MR HOWARD YOUNG** (in Cantonese): Madam President, the Constitutional Development Task Force, led by Chief Secretary for Administration Donald

TSANG, released the Fourth Report at the end of last year. Based on the Third Report, the Fourth Report consolidated the opinions and suggestions made by different sectors of the Hong Kong community on the methods for selecting the Chief Executive in 2007 and forming the Legislative Council in 2008, and then took one further step to conduct a public consultation, so as to narrow the differences of different sectors, thereby reaching an early consensus on the future constitutional system of Hong Kong. The Liberal Party supports this approach.

The Report stated explicitly that "there are many views that" the Chief Executive and all the Members of the Legislative Council should be elected by universal suffrage in 2007 and 2008 respectively. However, the Report also said, "As this proposal is inconsistent with the Decision of NPCSC, the Task Force will not process it further."

This point serves to illustrate that the Government is fully aware that there are many views in society aspiring for universal suffrage in the dual elections in 2007 and 2008; and all the submissions in support of universal suffrage in the dual elections have been included and printed in the Appendices of the Fourth Report. So it is not a case of totally excluding such opinions from the Report. As such, we think that the Government has not ignored public opinion. On the contrary, if the Government proceeds to present a specific proposal without first conducting extensive consultation, then it will lead to some negative impact — it may even trigger off radical public reactions.

Undoubtedly, in many surveys conducted prior to the announcement of the Decision of the NPCSC, people supporting universal suffrage in the dual elections were slightly in the majority, but those opposing it were not too few in number. Furthermore, the support of the majority of the people did not mean that a consensus had already been reached on the issue of universal suffrage in the dual elections. We cannot ignore the aspiration of other people, even though the majority of the people support the proposal. Moreover, changes in the political systems will affect the interest of people from all walks of life as well as the long-term prosperity and stability of Hong Kong, therefore such changes will have a far-reaching impact on Hong Kong. As such, a consensus must be reached in society before they can be implemented.

As a matter of fact, the general public does have reservations about any constitutional reform proposal that is intended to achieve the ultimate target in

one single step. It is because so far no requisite matching measures are in place for implementing universal suffrage in the dual elections, such as well developed party politics and policy research, a good accountability system and a solid relationship between the executive and the legislature, and so on. Opinions expressed in this regard should also be taken into consideration seriously.

Furthermore, the NPCSC has already ruled out the possibility of implementing universal suffrage in the dual elections in 2007 and 2008. I believe many people will hope that we can act more pragmatically, and concentrate our energy on improving the present electoral arrangements.

Therefore, the Government's plan to release the Fifth Report in the middle of the year in order to put forward a mainstream proposal for public consultation is acceptable to the Liberal Party. Of course, we also welcome an early release of the proposal, so as to allow the public to have more time for discussion. However, as any proposal must secure the support of two thirds of the Members of the Legislative Council before it can be passed, so the Government should fully consult Members of different parties when it is formulating the mainstream proposal. Under the major principle of "striving for consensus while tolerating the differences", we should do our best to identify the "highest common factor", so as to avoid presenting any proposal that can never secure the support of two thirds of the Members of this Council, which might ultimately leave us where we are without making any progress at all. In the event that a proposal that really cannot secure the support of two thirds of the Members (and thus cannot be passed) has been presented, then we would really be moving backwards. In that case, the movement of democracy in Hong Kong will suffer as no progress can be made at all, thereby hampering the long-term development of democracy in Hong Kong.

At present, the economy of Hong Kong has just witnessed its first signs of recovery. "Aspiring for stability and harmony" is a mainstream consensus in society. I believe such consensus does exist in Hong Kong. National leaders in the Central Government have also repeatedly said that Hong Kong people should treasure the present opportunities that have emerged under tough circumstances, therefore we should focus our energy on working together harmoniously and promoting the economic development of Hong Kong, which is the first and foremost task now.

The Liberal Party thinks that, the Decision of the NPCSC has just provided the framework; with regard to the electoral arrangements for the elections in 2007 and 2008, there is still a lot of room for amendment. Hong Kong people should not devote too much energy to conducting endless arguments on the issue of whether universal suffrage should be implemented in the dual elections in 2007 and 2008. And in fact, we may carry on with the debate on this subject in future. But right now we should focus our attention on seeking a consensus on how we should amend the arrangements for the two elections in accordance with the Decision of the NPCSC, and ensure that this consensus can really be passed with the support of two thirds of Members of the Legislative Council. And I cannot see that the proposal of implementing universal suffrage in the elections of 2007 and 2008 can ever be passed with the support of two thirds of Members.

For example, can we increase the number of seats in the Legislative Council, so as to provide more opportunities for the second echelon of different political parties to be elected, so as to groom politicians of the next generation? Can we further expand the memberships of the functional constituencies and the Election Committee — not just slightly, but substantially — so as to enhance the credibility of the elections of both the Legislative Council and the Chief Executive. These are all desirable and achievable targets within the framework of the Decision of the NPCSC, provided they can be passed with two thirds of the votes in the Legislative Council. These issues are by no means less significant than the subject of universal suffrage. If we handle these issues smoothly, we can lay a good foundation for the future elections by universal suffrage, and then it may become possible for universal suffrage to be implemented much earlier as well.

Madam President, I so submit.

**MR CHIM PUI-CHUNG** (in Cantonese): Madam President, it appears to me that a quorum is lacking now.

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

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

**PRESIDENT** (in Cantonese): Mr CHIM Pui-chung, you may now speak.

**MR CHIM PUI-CHUNG** (in Cantonese): Madam President, insofar as the Fourth Report is concerned, I personally think that the Government has not done enough. What is the deficiency? Because the Government must admit the facts — that Hong Kong is not independent, that its power is subject to restrictions imposed by the People's Republic of China, or even the National People's Congress (NPC) or even the Standing Committee of NPC (NPCSC). The Government should explicitly tell Hong Kong people that universal suffrage will not be implemented in the dual elections in 2007 and 2008, instead of explaining in technical terms that suggestions violating the decisions of the NPC will not be discussed anymore. The fact is the fact, there is no need to hide the truth.

I have listened to the speeches delivered by many Honourable colleagues, which reminded me of 1992 when Mr Chris PATTEN arrived at Hong Kong to assume office as the last Governor of the territory. He triggered the controversy of political reforms. What was the eventual outcome? Even with the support of the British Government, he still could not defeat China. Now just by the strength of the 25 Members from the so-called pro-democracy camp, do they think that they stand any chances of success in opposing China? Please have a better understanding of the limitations of your own strength! Some Members have been talking as if the Chinese Government has robbed them of something. It is misleading the people. We must understand that Hong Kong is not an independent city, but a Special Administrative Region of China. Has the Central Government ever promised to give you everything? No. The Central Government has just said that it would act according to the Basic Law. Although the Basic Law does not explicitly prohibit the pursuit of universal suffrage in 2007 and 2008, people still insist on fighting for it even after the NPCSC has promulgated its interpretation of the Basic Law in this regard. In doing so, they are absolutely not showing respect to the Central Government. If the SAR Government has not done its part adequately, it must admit that. What should it admit? It must admit that when the SAR Government governs Hong Kong on behalf of the Central Government, it has allowed Members to criticize the Central Government and to challenge the Central Government in a most naked manner. Can this be considered appropriate? Dear Secretaries of Departments and dear Directors of Bureaux, you are duty-bound to shoulder the responsibility. If you are too cowardly, then this is the source of the sin.

Why? Because if you appear to be intimidated, others will certainly not be afraid of you. Mr LAU Wong-fat once said that, if you encounter a dog in a rural village, it will go after you if you choose to flee. But if you stay where you are, then all it will do is just to stare at you. If you make a gesture of picking up a piece of stone and throw it at it, it will walk away or withdraw slowly. Therefore, I would like to tell the SAR Government that: There are only two years and six months left, so it must proceed to do what it should do in a brave and resolute manner.

Yes, we understand that Hong Kong has a population of 6.7 million people, do the several hundred thousand people who had participated in the elections really stand for anything? If a decision has to be made by the entire country, there are even 1.3 billion people on their side. What do you think they are? May I offer you a piece of advice: Do not despise your own country. I can understand the mentality of some Members who hold foreign passports, even though this is permitted by law. However, it is no good for you to hold foreign passports on the one hand, and instigate the people to act against the country on the other. I have great respect for Mr CHEUNG Man-kwong because he is an eloquent speaker with great power of instigation. Of course, he does have his own viewpoints, but he should not promote among the people a strong feeling of hatred and hostility towards the country. I hope to see that our country can go on moving forward after having gone through so many different reforms. Although you may not have the opportunity to see the places where progress has been made, you still have to grasp the messages conveyed by your friends in this regard. I hope, in the overall interest of Hong Kong, everyone can strive to make good contribution in his own right. Only by doing so can we play our useful role with realistic meaning.

We understand that the Central Government holds the strong and great aspiration of telling the whole world that, upon the resumption of sovereignty over Hong Kong, what can be achieved by foreigners can also be achieved by the Chinese people, thereby achieving the ultimate goal of national unification, which includes Taiwan. It also wants to demonstrate to the world that, for what Germany has done, China can do it as well. We do not oppose democracy, but please do not use the word "democracy" to deal a blow to the country and level criticism against it.

We would like to ask: Does the Chinese Government owe Hong Kong people anything? Let me make a very simple analogy. Suppose someone

provides us with a house to live in, do we demand him to give us the title deed as well? Are we demanding the Central Government to transfer all the power to us, and then proceed to apply pressure to it by describing such an act as a democratic move? To this end, I think they can never succeed.

Frankly speaking, I have to confess that the SAR Government did make some mistakes during the past seven and a half years, which consequently made the general public filled with grievances. And the people are also looking for opportunities to vent their spleen. Of course, politicians are working for their own political ends and for securing votes in elections. Perhaps some politicians still hold some lofty ideals, but the proportion of ideal in their work may not be too high. Therefore, personally I think the SAR Government must conduct some good self-reflection. Should there be some worthy causes, the Government should bravely proceed to implement them. But for some policies that stand no chances of implementation, the Government better abandon them because they really cannot be enforced. Personally, I am of the view that, if those people continue to be at loggerheads with the Central Government, the dual elections by universal suffrage are inattainable not just in 2007 and 2008, but will remain remote targets even by 2012 and 1017. If so, what can we do about it? Let me say it once again. The best option would be to carry out a good consultation and work for the common good of Hong Kong. Otherwise, you may launch a revolution and engage in confrontation. I already said last time that it did not matter at all if we did not have any confidence in Hong Kong. We must understand that to whom does Hong Kong belong? Hong Kong belongs to China. Who are in charge of the affairs of Hong Kong? We are. Therefore, after all, we must first ensure that our country is intact before we can enjoy the comfort of our own homes; and that the country always comes before Hong Kong. I so submit.

**DR FERNANDO CHEUNG** (in Cantonese): I respect Mr CHIM Pui-chung. However, insofar as the logic of Mr CHIM is concerned, he must have made some mistakes about the perspectives and the missions of both the SAR Government and Members of the Legislative Council. Our main service target is the people of Hong Kong, not the Central Government. For this reason, we must attach the greatest significance to the welfare of Hong Kong people, instead of blindly following the instructions of the Central Government.

As regards the consultation conducted by the Constitutional Development Task Force, I can only use this phrase to describe it: "Making fools of the people"! Hong Kong people strongly demand the implementation of democratic reforms as soon as possible. Even Chief Secretary for Administration Donald TSANG admitted that he had received many submissions requesting the implementation of universal suffrage in the elections of both the Chief Executive and the Legislative Council. However, the Task Force keeps acting against public opinion by excluding the proposal of implementing universal suffrage in the dual elections from the Fourth Report. Basically, the consultation is a sham, which absolutely has not taken Hong Kong people seriously.

Chief Secretary Donald TSANG has advised the people and us pro-democracy Members to adopt a pragmatic attitude and strive for a consensus on the constitutional reform — since no further progress can be made with regard to universal suffrage in the dual elections, we should not spend any more time on meaningless arguments. In recent press interviews, Secretary Stephen LAM has also given some advice to "enlighten" pro-democracy Members, saying that with an increased number of seats in the Legislative Council and the enlarged membership of the Election Committee for electing the Chief Executive, the opportunity of participation in politics would be open to more people. He even said that politicians should exercise flexibility in dealing with the situation, and he also hoped that the pro-democracy camp could return to the 26 April decision of the NPCSC as a "common starting point".

From the words of these two officials, we can see that they are accusing the people and Members who insist on implementing universal suffrage in the two elections as "blocking the progress of the world" because we are not pragmatic and not flexible. As such, the most probable outcome would be: Because of this stance, the mainstream proposal could not be passed by two thirds of the Members in the Legislative Council, so consequently the existing system will continue to be used. People upholding democracy and the pro-democracy camp are surprisingly blamed as the culprits for impeding the progress of democracy. I think it is absolutely absurd for them to employ this logic to explain the situation. I must correct Secretary Stephen LAM: The so-called "common starting point" mentioned by him is by no means common. The 26 April decision of the NPCSC was actually a unilateral decision handed down by Beijing in a lightning manner without any prior consultation with Hong Kong people. It is directly contrary to the thinking of the majority of Hong Kong people who demand the implementation of universal suffrage in the dual

elections. There is no common foundation in the decision. May I ask Secretary Stephen LAM how we can start the process together from this starting point?

By insisting on the implementation of universal suffrage in the dual elections, we do not intend to "block the progress of the world". Instead, we can envisage that universal suffrage in the dual elections will enable us to walk out of our present political predicaments. By proposing this motion, "Tai Pan" is urging the Government to expeditiously put forward a constitutional reform proposal for 2007 and 2008. Apart from the proposal for 2007 and 2008, I also hope that the Government can put forward a timetable for implementing direct elections as soon as possible. As a matter of fact, I am afraid it will take a very long time before we can see a timetable for direct elections. This is because under the existing framework, it seems that democracy will be restricted, and those in power will put forward a proposal closer to democracy only when they think that the situation is under control. However, very unfortunately, they fail to realize that the spirit of democracy lies in checks and balances, not in control. I believe the forthcoming so-called mainstream proposal will incorporate some ideas from the Fourth Report, and after excluding universal suffrage in the dual elections, then what is left is the so-called "new room for participation in politics" mentioned by Secretary LAM. However, these measures can by no means pinpoint the deficiencies of the existing system.

The Fourth Report points out that some people have suggested that the membership of the Election Committee be extended from the existing 800 members to 1 200 or 1 600 members. The increase sounds very good, given a rate of increase of 50% or 100%. However, compared with the total population of 7 million people in Hong Kong, this figure still highlights the fact that these elections are absolutely small-circle elections. While the nature remains unchanged, the outcome will be: The Chief Executive is still not accountable to the people. Whenever he makes a mistake, the people still cannot check on him. He still cannot garner support from the people and the Government continues to be a lame duck administration. If the Chief Executive is elected in this way, he will continue to command no credibility. What differences does it make even if the membership of the Election Committee is increased by a rate of 100%?

Hong Kong is a modernized cosmopolitan city. Yet unfortunately, our political system is absolutely not modern. A modern political system should

have incorporated the element of public opinion as the basis and into the process for policy-formulation, and such a system should hold the persons in power accountable to the people, so the public will monitor the officials for any possible abuse of power, thereby making the operation of the Government more transparent. However, these are exactly the elements that are missing in our present systems. The Government often talks about the need to conduct consultations. But unfortunately, these consultations are neither scientific nor objective. And the officials are at their own discretion to take heed of such views or otherwise. The Accountability System for Principal Officials has degenerated into a system which just makes the officials "accountable to only the Chief Executive". Finding no outlets to release grievances, all that the people can do is to take to the streets to express their discontent and to make the Government give in. As a result, the civil society and the Government are pushed to the extremes, and eventually they find themselves in confrontation.

Madam President, being the representative of the social welfare constituency, naturally I am more concerned about the poverty problem, the disparity between the rich and the poor and the people's livelihood. But I am aware that the people's livelihood and democracy are interrelated. Without democracy, we may not even hold any hope to improve the people's livelihood.

Madam President, I so submit.

**DR RAYMOND HO:** Madam President, it is disappointing that no specific proposals nor timetables have been provided in the Fourth Report of the Constitutional Development Task Force (the Report) following rounds of public consultation and despite repeated requests from this Council and the public in the last few years. The divergence of views summarized in the Report affords the Government a good excuse for procrastination. The absence of any viable option or timeframe in the Report may likely invite more generalized rather than specific views from the public on the methods for selecting the Chief Executive and for forming the Legislative Council.

Given the fact that the National People's Congress Standing Committee (NPCSC) has already ruled out universal suffrage in 2007 and 2008, we should focus on the best way forward for achieving universal suffrage in accordance with the Basic Law.

As far as I can see, there may not be unresolvable problems to elect the Chief Executive by universal suffrage in 2007 with a well-designed nominating procedure. Though the abovementioned ruling of the NPCSC has disappointed many Hong Kong people, it is clear that the ruling of the NPCSC must be followed. It has not discouraged me from seeking its implementation in 2012. Indeed, this is what I have included in my 2004 Legislative Council Election platform.

Even if the first election of the Chief Executive by universal suffrage is to be held in 2012 instead of 2007, requirements for the nomination of the candidates for the Chief Executive should be relaxed in due course whenever practicalities of the actual situation allow, and in accordance with the principle of gradual and orderly progress as stipulated in Article 45 of the Basic Law.

With regard to the election of the Legislative Council, I am of the view that functional constituency (FC) seats should be retained, as FC representatives have an important role to play in this Council in the foreseeable future. Besides providing their expert advice on related subjects, FC representatives tend to offer more balanced views on a wide range of issues based on their professional opinions and experience rather than politically inclined considerations. Their presence will also provide an important stabilizing force in this Council to ensure a smooth transition in the light of the actual situation to achieve the ultimate aim of electing all its Members by universal suffrage, as stipulated in Article 68 of the Basic Law.

For the same consideration, the 50% composition of FC seats in the Legislative Council should remain unchanged, pending the subsequently agreed election arrangements in the future. Indeed, in accordance with the interpretation of the NPCSC, the ratio of Legislative Council Members returned by FCs to those returned by geographical constituencies by direct election should remain unchanged at 50% each for the 2008 Legislative Council Election. Therefore, the FC seats can be increased or decreased according to this ratio. But reducing or merging existing FC seats will definitely create problems amongst existing FCs. Nevertheless, increasing FC seats is not problem-free either, as different sectors will fight for the newly-created seats. The issue must be handled with great caution.

In the meantime, the electorate base of the FCs, be it corporate voting or individual voting, should be broadened to ensure its representativeness. With

regard to the engineering constituency which I belong to, I will consult my constituents in due course to seek their opinions on the expansion of the electorate to include graduates and associate members of the Hong Kong Institution of Engineers.

As laid down in Articles 45 and 68 of the Basic Law, the methods for selecting the Chief Executive and for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress.

Madam President, we must observe this principle in our pursuit of universal suffrage. With these remarks, I so submit. Thank you.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam President, the story of the Emperor's New Clothes has been told so frequently that people have probably become tired of it. Today, I am going to tell a new story to Chief Secretary Donald TSANG — But where is Chief Secretary TSANG? He remarked earlier that a quorum was not present in the Chamber and now, he is gone too. I wonder if he can listen to my speech or not. But he can listen to it tomorrow.

The story goes like this: There was this cock. It very much hated the people of a town and so, it decided not to crow to wake the people up. One morning, it did not crow but it was useless, because the sun still rose and the sunlight woke up the townspeople. Chief Secretary TSANG is like that cock. He thinks that so long as he makes no mention of them, the facts can be wiped off at one stroke. This Fourth Report has wiped off the public's opinions on universal suffrage in 2007 and 2008 at one stroke, just as this stupid cock did. As regards the criticism of the democratic camp having failed to read the trends of the time and impeding the progress of democratization by persistently insisting on or proposing a referendum, it makes me think of another saddening story.

The story goes like this: There was this father who was a gambler. He did not pay for his children's school fees. The eldest son, therefore, came forth bravely to tell his father to fulfil his responsibilities as a father. It so happened that this gambler father was drunk and he harshly beat up his eldest son and said, "Make no noise again or I won't give you any meals!" Do Members think that the rest of the children in the family will scold their eldest brother? No, they

certainly will not because a father addicted to gambling and drinking is not qualified to be a father. A person who tells the truth and fights for his entitlement is nevertheless considered as an obstacle to development. I do feel sad for this gambler, alcoholic father.

To many pro-communist organizations or organizations claiming to be pro-China, can they understand better what I am trying to say if I use the language of the Communist Party? Since everyone is saying that universal suffrage is out of the question for 2007 and 2008, and since the NPCSC has interpreted the Basic Law, do we intend to create confrontation in persistently raising this demand? Are we putting up opposition purely for the sake of opposition? Members, many years ago DENG Xiaoping was falsely accused to be the "culprit" behind the 5 April Tiananmen incident. He was criticized by "old Mao" (MAO Zedong) as anti-Party and counter-revolutionary. At that time, many people had sought to reverse the wrong verdict passed on DENG, but I believe there were still many people continuously criticizing DENG at the time. Mr TAM Yiu-chung would have continuously criticized DENG, for he is the leader of trade unions. Had there not been someone fighting for "old Deng", "old Deng" would have been given the notorious name of an eternal sinner. In fact, the unfounded allegations against "old Deng" back then had been endorsed by the NPCSC, the Standing Committee of the Political Bureau of the Communist Party, and so on. Although the allegations were supported by ironclad evidence then, is it entirely impossible for a verdict to be reversed?

Besides, some people said that the "grandfather" had now spoken and so, we would be fighting against the Motherland if we insist on taking further actions. But another senior member of the Communist Party of China (a spirit) has now come forth and said something. He is CHEN Yun. Having experienced the Cultural Revolution and having seen "old Deng" being criticized as counter-revolutionary, CHEN Yun said to the effect that we must guard ourselves against the "superior oriented theory" in our lives, and he had severely criticized the "superior oriented theory". What is the "superior oriented theory"? It means that the "grandfather" is absolutely correct and the superiors are always right.

Many people said that they had difficulties. They said that they agreed with what "Long Hair" had said, but what could they do since a decision had been made? They said that I should first learn how to act like a "human being" and speak the "language of human beings". Then the opposite party will

understand the "language of human beings" and treat me as a "human being". Moreover, they went further to cite from the greatest leader, "old Mao". MAO Zedong had said that only the people are the impetus of history. Now, Hong Kong people are demanding universal suffrage. Could it be that the "grandfather's" words are the final decision? So, my advice to the Democratic Alliance for Betterment of Hong Kong is that they should support Hong Kong people. Mr MA Lik is not in the Chamber now. He said that we should act rationally. The Democratic Party also talked about rationality. So, everyone is talking about rationality. But do Members know that in the dark age, the popular opposition to the integration of church and state and to the divine right of kings means that no person is more superior to any other person? Nobody can say that when he is right, he will be absolutely right. Today, as we are talking about rationality, we must precisely uphold this spirit. No one can claim to be God and then truly become God.

If democratization in Hong Kong is impeded, Hong Kong people will eventually suffer. I only wish to make one point. One-party dictatorship is an abyss of total darkness. It has even cast a huge shadow on Hong Kong. This is an ironclad fact. Noble is the epitaph of a man of noble attributes; despicable is the epitaph of a despicable person. I hope Honourable colleagues will bear this in mind. What is going to be written on your epitaphs? It all depends on your choice, a choice made by human beings, not by God. You have the ultimate right to make this choice.

Thank you, Madam President.

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

**MR ABRAHAM SHEK:** Madam President, as we enter 2005, there are two more years left before the selection of a new Chief Executive in 2007 and three years from the Legislative Council Election in 2008. Time is rapidly running out for preparing proposed amendments to the methods for selecting the Chief Executive and for forming the Legislative Council. Specifically, discussion about the two important elections has progressed to the stage of practicable measures and procedures. The community as a whole should now work together to formulate a consensus on the methods for both elections, bearing in mind they need to comply with the provisions of the Basic Law and in

accordance with the decision made by the National People's Congress Standing Committee (NPCSC). This is a much more practical approach than to continue with the procrastinating ructions around the issue of universal suffrage.

Since the NPCSC made its decision on 26 April last year, the demand for universal suffrage for the 2007 and 2008 elections has become unrealistic. As a result, I consider today's motion which pushes for the introduction of universal suffrage in selecting the Chief Executive in 2007 and in the Legislative Council Election in 2008 entirely meaningless. However, it serves as a reminder for the Government to be more accountable in the development of constitutional affairs.

Nevertheless, Madam President, I do not agree with the connotation of this motion which criticizes the Government for disregarding public opinions in the Fourth Report of the Constitutional Development Task Force (the Report). I believe that the Report has basically reflected public views, and generally, most people do support making certain amendments to the selection method for the Chief Executive in 2007 and the method for forming the Legislative Council in 2008, in compliance with the provisions of the Basic Law and within the scope of the NPCSC decision. Such views represent the rational and responsible attitudes held by our community in promoting democratic development in an orderly and stable manner.

The criticisms that the Report does not reflect the public views are unfair since the Report does mention that many people do desire a more expeditious introduction of universal suffrage. Even though the demand is strong, the reality is that the NPCSC has already made its decision. So, it is impossible to introduce universal suffrage in 2007 and 2008. Yet, some people continue to push for universal suffrage and have refused to take part in public consultation. Like Don Quixote, they would rather tilt at windmill and chase the impossible than come down to reality. If they can simply look further ahead, take a more proactive role and participate in the public consultation process, I believe the content of the Report will be even more comprehensive and the community would be more harmonious. This will not only promote future constitutional development but also social stability. I hope the democratic camp can give priority to the overall interests of Hong Kong and not forgo their rights and responsibilities with regard to taking part in future constitutional discussions regarding amendments to the selection method for the Chief Executive in 2007 and the method for forming the Legislative Council in 2008. This can truly demonstrate how they care for Hong Kong's future.

A fortnight ago, President HU Jintao pinpointed three specific areas for the Chief Executive and his team to review and improve. This clearly shows that the Central Government does worry about the governance of the Hong Kong Special Administrative Region (SAR) and is requiring Mr TUNG's cabinet to do better. Since the handover seven years ago, the "Hong Kong people administering Hong Kong" principle has been implemented, but it is still a far cry to call it a success. There is room for the Government to improve its governance. All these much sought-after improvements will benefit our social and political environment. Properly formulating the methods and procedures for selecting the Chief Executive and forming the Legislation Council in 2007 and 2008 will provide concrete basis to improve the implementation of "Hong Kong people ruling Hong Kong" and the SAR's governance.

With regard to the views reflected in the Report, I believe the Constitutional Development Task Force should conduct more in-depth studies into the views collected in order to be better prepared to revise the formulation proposals. Two years is a short time and will go by very swiftly. The more time is available for public discussions, the more fully public views can be expressed, and a consensus can more easily be reached on the topic of constitutional reform. Therefore, I sincerely hope that the next report can set out comprehensive proposals for public discussion. Also, it is my hope that Hong Kong people can compromise on some minor differences to build unity in the community, and give a little more patience for democratic developments to progress forward thoughtfully.

However, as this motion moves for the implementation of universal suffrage for the elections in 2007 and 2008, which inherently infringes on the NPCSC's decision, I have no choice but to vote against it.

Thank you. Madam President.

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, the Constitutional Development Task Force (the Task Force) published its Fourth Report last month, setting out and summarizing the views and proposals of various sectors of the community on the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. It is a true reflection of public opinions and a report on facts. So, the allegation that the Government has "disregarded public opinion" is purely unfounded.

Over the past year, there have been many discussions in the community on the future constitutional development. The Task Force has published three other reports before, and this Fourth Report has summarized the responses of various sectors in the community to the Third Report. From these discussions and responses, we can see that there are still many different opinions in the community on the pace of constitutional reform. Some people support universal suffrage, and there are also many people who have concerns about universal suffrage. Some people support universal suffrage in 2007 and 2008, whereas some support its implementation in 2012, and there are also many people requesting the implementation of universal suffrage only after 2012. So, a consensus has not been reached in the community on the constitutional development of Hong Kong. The SAR Government must therefore step up its efforts to further collect the views of the community and help narrowing the differences among various sectors for them to seek a common ground while preserving differences, in order to come up with a package of electoral proposals supported by all sectors of the community.

In this Report, the Task Force has explicitly stated that any proposals that are inconsistent with the provisions of the Basic Law or the decision of the Standing Committee of the National People's Congress (NPCSC) will not be processed further. We think that this is precisely the responsibility of the Task Force. By virtue of the powers conferred by the Constitution and the provisions of the Basic Law of the Hong Kong Special Administrative Region, the NPCSC adopted the motion on "The Interpretation of Article 7 of Annex I and Article III of Annex II of the Basic Law" on 6 April last year, and in the light of the report submitted by the Chief Executive, adopted the motion on the "Decision on issues relating to the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008" on 26 April, thus defining clear parameters for constitutional development in Hong Kong. The interpretation and decision are constitutionally binding on Hong Kong and have achieved the effect of dispelling disputes in the community. It is indisputable that the NPCSC has exercised its powers and functions in accordance with law. The NPCSC had not, as suggested by Mr Albert HO earlier, abused its power of interpretation. Therefore, the NPCSC's interpretation of the Basic Law and decision in respect of the constitutional development of Hong Kong must be respected. The Task Force must duly perform its role as the gatekeeper and should not accept any proposal which

contravenes the decision of the NPCSC, in order to uphold the Basic Law and the constitutional status of the NPCSC.

The Basic Law has provided that constitutional development in Hong Kong must proceed in a "gradual and orderly" manner. Therefore, the two elections in 2007 and 2008 should not be a quantum leap. Nor should they remain stagnant. The decision made by the NPCSC on 26 April has provided clear parameters for the constitutional development of Hong Kong. Insisting on universal suffrage in 2007 and 2008 or overturning the decision of the NPCSC is neither pragmatic nor positive. If confrontation is further created between Hong Kong and the Central Government as a result, it would be catastrophic to the overall interest of Hong Kong. Any proposal on constitutional reform which deliberately seeks to boycott the SAR Government will only result in the *status quo* being maintained for the methods of the two elections, which is not in the least conducive to the promotion of democratization in Hong Kong.

As we enter into a new year, the two elections in 2007 and 2008 have drawn nearer to us. The Hong Kong community must step up efforts to reach a consensus on how to increase and extend the electorate of the Election Committee and the eligibility of its members, how the number of seats in the Legislative Council should be increased, how the electorates and sectors of functional constituencies should be expanded, and so on, with a view to promoting the stable development of the constitutional system of Hong Kong in a pragmatic manner.

The DAB has actively proposed to expand the electorate of the Election Committee and increase the number of seats in the Legislative Council, in order to enhance the representativeness of the two elections and create favourable conditions for the early implementation of universal suffrage in Hong Kong. Regarding the method for selecting the Chief Executive in 2007, we consider that the electorate of the third term of the Election Committee should be increased from 800 members at present to 1 600 members, while maintaining the present requirement of 100 nominations, in order to lower the threshold for participation in the election and increase the number of candidates. As for the method for forming the Legislative Council in 2008, the DAB proposes that the numbers of functional constituency seats and directly-elected geographical constituency seats should increase by five seats each, so that the total number of seats in the Legislative Council will increase to 70. With regard to functional

constituencies, the Chinese Medicine Functional Constituency and the Chinese Enterprises Functional Constituency should be included. Moreover, consideration can also be given to splitting some existing functional constituencies. We sincerely hope that these proposals can be supported by more members of the public and put into effect by the Government.

Madam President, the tsunami attack in Southeast Asia has claimed the lives of many in a split second. We wish to express our profound sympathy and condolences to Hong Kong people and people of other countries who have fallen victims of the disaster, and we will do everything we can to provide them with assistance. We know that storms and waves are merciless. Hong Kong cannot stand the attack of a tsunami. Nor can we stand the relentless attack of political storms. We hope that a consensus can be reached early among various sectors in the community on the methods of the two elections in 2007 and 2008, thereby promoting the stable development of democracy on the premise of safeguarding the continued stability and prosperity of Hong Kong. I so submit. Thank you, Madam President.

**MR ALBERT CHAN** (in Cantonese): Madam President, I thank Chief Secretary Donald TSANG for returning to the Chamber just in time to listen to my speech. The constitutional review, especially the Fourth Report, can be said to be consistent with the development in the past 15 years. From the system provided for in the Basic Law to the establishment of the Provisional Legislative Council (PLC), this Fourth Report has a lot in common with these two major milestones: The proposal and conclusion are basically the product of a lack of mutual trust, a lack of sincerity and a lack of confidence. The Basic Law was born out of the "Cha-Cha proposal" formulated after the June 4 incident when the Central Government had no confidence in Hong Kong, particularly the Hong Kong-British Government. Subsequently, changes were abruptly made to the constitutional set-up in a short time and in haste. As a result of the constitutional reforms carried out by Chris PATTEN who sought to set up a democratic system before the honourable retreat of the British Government, the PLC was established out of a lack of mutual trust between China and Britain in an attempt to overturn the fruits of Chris PATTEN's constitutional reforms.

Similarly, the Fourth Report on constitutional reform is the same. Basically, the Central Authorities' decision to veto universal suffrage for the dual elections in 2007 and 2008 is also an outcome of the Central Authorities' view

that Hong Kong people are or TUNG Chee-hwa's administration is incapable of handling the constitutional reform. With a lack of mutual trust, the constitutional reform has been sentenced to death. The chances of setting up a democratic system in 2007 and 2008 in Hong Kong are, therefore, extremely slim.

When we look back on the whole course of development, the entire layout of the constitutional reform, the "Cha-Cha proposal" and the many hurdles created by the PLC, we will see that the constitutional reform of Hong Kong is basically built on quicksand. Without a solid and firm foundation, it is purely imaginative to think that a political system that accords with the wish of Hong Kong people can be set up.

Moreover, as I have mentioned just now, the lack of sincerity is another major problem now. To what extent can sincerity be demonstrated by the relevant officials tasked with the constitutional reform given that the Central Authorities have already decided to fully reject universal suffrage for the dual elections in 2007 and 2008? As far as we can see, the timetable drawn up by the relevant officials and the scope of discussion in the Report are apparently decisions seeking to delay the constitutional reform by taking advantage of or leveraging on public consultation. Regarding the views on constitutional reform, in fact, public opinions have already been very clear since 1988 when universal suffrage was put on the agenda, and many opinion polls have clearly shown the aspiration of Hong Kong people for the election of the Chief Executive and the legislature by universal suffrage. It is a conventional bureaucratic ploy of the Hong Kong Government to make use of consultation to delay. They basically intend to stall for time while waiting for the Central Authorities to instruct them to enforce the decision of the Central Authorities, rather than respecting the views of Hong Kong people and giving effect to the wish of Hong Kong people.

Two days ago I read from newspaper that our "Eunuch LAM" had shed crocodile tears, pretending to be sympathetic and saying that he wished to narrow the gap between the Central Authorities and the democratic camp and advising Members of the democratic camp to accept an increase in the number of seats. In saying so, he was actually giving out sugar-coated poison to Hong Kong people. In fact, the increase in the number of seats is a retrogression in democracy. An increase in the number of seats will certainly mean an increase in the number of functional constituency seats. This hypocritical attitude seeking to do Hong Kong people injustice by political plots and dirty tricks, an attitude indicative of a lack of sincerity, is precisely a clear example of why

Hong Kong people lack confidence in the responsible officials. I hope they will not think that their purpose can be served by using these dirty tricks and political plots and by misleading the people. Hong Kong people will persevere with their position and persist in the fight for democracy.

Besides, speaking of the lack of confidence, the Central Government lacks confidence not only in Hong Kong people, but also in the bureaucratic structure of Hong Kong. Otherwise, it would not have resorted to the interpretation of the Basic Law by the NPCSC to veto universal suffrage for the dual elections in 2007 and 2008. I think this is most saddening. The implementation of "one country, two systems" means that the decisions on many issues should rest with Hong Kong people and the Hong Kong Government. The economy is already in a mess. So is politics now. Therefore, in order to truly implement reforms and review the constitutional system, and in order to conduct a constitutional review which truly accords with the wish of Hong Kong people, I think it is a must to re-establish mutual trust, to show sincerity and to build up confidence. These three elements are all indispensable.

To establish mutual trust, it is necessary to believe that Hong Kong people can decide their future and systems. Invariably wielding the "imperial sword" to pressurize Hong Kong people into accepting something high-handedly must not be an option in all circumstances. Without mutual trust, any system would only be built on quicksand. Sincerity is also vitally important. Dirty tricks and political manoeuvres should not be adopted anymore to mislead the people.

It takes a two-way process to establish trust. The Central Government must have confidence in Hong Kong people, and Hong Kong people must certainly have confidence in our future. Otherwise, any system which builds on quicksand will only collapse and is doomed to fail.

**MR MARTIN LEE** (in Cantonese): Madam President, from news reports on television recently, we saw officials and the Chief Executive of the Hong Kong Special Administrative Region (SAR) as well as the Chief Executive of Macao, Edmond HO, being lectured by the state leader, HU Jintao. I do not know how other people felt, but I personally felt very bad about it. I do not understand why our Chief Executive had to be reprimanded so openly. His ability of governance does compare less favourably with Edmond HO, but should he alone be blamed for everything? In fact, Macao and Hong Kong are different in many

ways. Hong Kong is an international metropolis and a financial centre. We have a fair society; our media dare to criticize the Government; our Members of the Legislative Council dare to speak out; and we also have the spirit of the rule of law here. All these cannot be found in any other city in the Mainland, not even in Macao. So, a comparison cannot be drawn in such a simple way.

In fact, I think TUNG Chee-hwa is the natural product of a bad system. Why do I say that it is a bad system? Mr DENG Xiaoping once said that if there is a good system, the bad people cannot do bad things; but if there is not a good system, the good people cannot do good things and may even be forced to do bad things. Certainly, a good system means a democratic system. But since the 1 July march in 2003, we all know that all the important decisions about Hong Kong rest in the hands of ZENG Qinghong. We all understand that "Hong Kong people ruling Hong Kong" actually no longer exists, for it is "Beijing people ruling Hong Kong" now. So, that the Beijing Government made the final decision of not allowing us to have full direct elections in 2007 and 2008 is a great embarrassment to the SAR Government. Members may recall that Secretary Stephen LAM had promised to give us a timetable on public consultation, but he did not keep his words. His superiors had already made a final decision even before he could come up with a timetable.

The many reports published are actually meant only as "cloths to cover up shame". Do the two Secretaries of Department and the Director of Bureau not know that this is a gross shame? Everything has been decided by the Central Authorities and yet, they have to bite the bullet and even pretend that they have the decision-making power. Reports have been published one after another. The more reports they published, the more cloths they used to cover up shame. These cloths are used to cover up shame after shame and now, there have been four pieces of such cloth and the fifth one is coming. This is so pitiful indeed. I do feel ashamed for them. They can cover up their shame, but they cannot cover up mine. I, being a Hong Kong citizen, do feel ashamed.

The state leader asked our Chief Executive to be people-oriented. But without democracy, how could he be people-oriented? Certainly, "people-oriented" as referred to by the state leaders means giving the people what the leaders think the people need. It is still the Communist Party and the state leaders at the centre, and this may still be taken as people-oriented. But in this civilized society of Hong Kong, there is no room for this kind of Singaporean-styled rule and so, it is not going to work here. If we do not wish

to see the continuation of this bad, appalling style of governance, we must not delay the progress of democratization. Delaying the progress of democratization is not a solution to the problem. Rather, it would only create more problems. Now, we all see that the Central Government is telling us that there will not be democracy in 2007 and 2008. Then when can we have democracy? The Fourth Report, of course, dares not mention this.

Madam President, our problem is that we cannot establish dialogues with those people who have the decision-making power direct. Up to this moment, I am still not allowed to go to Beijing. In fact, we should not be talking to them on these issues, for these issues should be handled and settled by Hong Kong people on our own. That is to say, the question of when democracy will be implemented is entirely within the purview of the SAR. We are unable to do it because the Central Authorities do not allow us to do so, and we cannot go to Beijing to discuss it with them either. So, it is impossible to solve the problem.

What is on the mind of Mr ZENG Qinghong? We do not know. When will he let us have democracy? We do not know. From the developments to date, I think he will put off the implementation of universal suffrage in Hong Kong indefinitely. He will postpone it indefinitely. He will think that not telling us anything will be to their advantage. Now that universal suffrage is vetoed for 2007 and 2008. Five years later, he will say again that there will be no universal suffrage in 2012, and another five years later, he will say that universal suffrage still cannot be implemented in 2017. Then, when will it be implemented? He will not tell you. Do we have to even accept this?

Many in the pro-government camp hope that we can accept it and they wish that we can work out something together. But what can we work out? Even if we demand universal suffrage only in 2012, would they accede to our request? As I have often said, if they say that we can have democracy if only Martin LEE behaves obediently, I would be willing to kneel down. I can kneel down every day as long as they agree to give us democracy. But this is not the case now. Even if I am willing to kneel down, and even on broken glass, democracy is still beyond our reach.

How should we solve this problem? We must make the Central Authorities understand that as long as they do not trust Hong Kong people and do not let us build the good system as referred to by DENG Xiaoping, bad governance will only continue. Can a replacement of the Chief Executive see

any improvement? Even if the Chief Executive is replaced, the replacement still cannot do what he wishes to do. So, on the comment made by a Member earlier about you, Madam President, being considered as a candidate for the Chief Executive election, it is actually not a good thing at all. If the Chief Executive is elected by the people of Hong Kong, then it would be a good thing, because he could have the people's mandate and be accepted by the people, in which case he could do whatever he thinks fit. Otherwise, no matter who will take up this post, the problem will still exist and remain unsolved.

So, in the final analysis, we must strive for democracy, and the sooner the better. Otherwise, how could we live up to the expectations of Hong Kong people? We saw hundreds of thousands of people taking to the streets in 2003, and we saw this happen again in 2004. The Basic Law has given us a green light to implement universal suffrage in 2007 and 2008. Can we just forego this right of the people on their behalf? No, we cannot do this. But if we must do so in order for democracy to be bestowed on us in return, that would be a different matter. But I entirely do not think that if we do so, we will have it ..... (*the buzzer sounded*). Thank you.

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

(No Member indicated a wish to speak)

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, my colleagues in the Government are very grateful to the many Honourable Members who have spoken today, for their time and effort in considering this issue and for their invaluable input. I would like to take this opportunity to respond to a few key points.

Mr Albert CHENG has expressed deep regret for the Fourth Report of the Constitutional Development Task Force (the Fourth Report) for the reasons that the Government has disregarded the demand of the public for election by universal suffrage and has failed to put forward a specific proposal to facilitate discussion by the public.

These two reasons are, however, unfounded and inconsistent with the facts.

The Standing Committee of the National Peoples' Congress (NPCSC) has made the Decision that the elections in 2007 and 2008 would not be conducted by universal suffrage. We respect the responses and views expressed by individuals which included those of disappointment, failure to understand and reservations and have truthfully reflected them to the Central Authorities.

Therefore, there is no short-changing in the Fourth Report at all. The demands by some members of the public for dual elections by universal suffrage and all views gauged by the Constitutional Development Task Force (the Task Force) during the last stage of consultation have been incorporated into the Report in the wordings as they were submitted.

Notwithstanding that, whenever there are demands from Honourable Members and the public in this respect, we shall continue to relay such views. We also hope that the Hong Kong community can understand that, other than that, we cannot process the demands of the public for universal suffrage in the elections in 2007 and 2008 any further.

The NPCSC is the most authoritative standing organization of the country. As the government of a Special Administrative Region, the Government of the Hong Kong Special Administrative Region (SAR) has the responsibility to enforce the decision of the NPCSC. As the NPCSC has made the Decision that the elections in 2007 and 2008 would not be conducted by universal suffrage, the SAR Government must handle any questions relating to the electoral reforms in 2007 and 2008 on this premise.

In the Fourth Report of the Task Force, it was necessary to indicate clearly that proposals for universal suffrage in both elections in the years 2007 and 2008 would not be processed any further, for we did not want to give the public the impression that there was a possibility for universal suffrage. If we had conveyed such a message which would cause misunderstanding, it would be an irresponsible thing to do.

Mr Albert CHENG remarked that we had not set out any specific proposal for amendment in the Fourth Report. There were reasons for this arrangement of ours.

Although we have certain directional views on the amendment of the election methods for the two elections, opinions still differ as to their specific

implementation. For instance, there are many proposals on how to broaden the electorate base of the Election Committee, including the addition of a women's sector, a young people's sector, a middle and small enterprises sector and the number of representatives returned by the District Councils to the Election Committee. In fact, there are so many different views that no consensus can be finalized yet.

Therefore, in the Fourth Report, we decided to set out the views of the public again so that the public can see clearly how wide the spectrum of opinions is. Afterwards, we shall encourage the public to hold in-depth discussions on the merits and demerits of the various proposals for amendment in the next few months. Using them as a basis, we can then pool all the merits and narrow the differences, with a view to forming a consensus.

Therefore, the Fourth Report is a "transit point" between the Third Report and the Fifth Report, setting out the overall direction in the hope that a consensus can gradually be developed to shape a mainstream proposal.

We hope that round about the middle of this year, the community can reach a consensus on electoral reforms for the elections in 2007 and 2008. Then we shall publish the Fifth Report which will set out the mainstream proposal.

Mr Martin LEE mentioned the timetable which we had mentioned in 2003. We have just completed the consultation exercise which lasted for a year. In fact, at the time when we mentioned the work plan, we also said that the public consultation exercise would be conducted in 2004 and amendments to Annexes I and II of the Basic Law would be made in the year 2005, and that we expected to tackle the issue of local legislation in 2006. So far, we are still carrying out our work according to this overall timeframe.

Madam President, among the views we have collected over the last few months, there are questions worthy of further consideration and debate.

For example, on the question of whether the number of seats in the Legislative Council should be increased, proponents and opponents of the proposal have advanced different reasons. Those who support the proposal have considered two main aspects. First, they hope that, with more Members, the heavy workload of the Legislative Council can be shared out. Second, more

opportunities can be provided to those who are willing to take part in politics and so more politicians can be trained up.

It seemed that Mr LEE Wing-tat was rather sensitive to the question of the second and third echelons mentioned by me. In fact, the question of how to train up a new generation of politicians is actually something for Mr LEE Wing-tat and the chairpersons of other parties to deal with. However, from the Government's point of view, we have the responsibility to open up the election system even further so as to create new room and provide a favourable environment for those willing to serve the community and participate in politics. That is a very simple reasoning. This view of ours is positive and visionary. It would not increase tensions within a party, as alleged by Mr LEE Wing-tat. If there was any tension, it would be an internal matter for the party itself.

Madam President, I have already mentioned the two reasons for the proposal to increase the number of seats. Here I have to mention the reasons against the proposal to increase the number of seats as well. Their worry was that if the number of seats was increased, for example, by 10 in Legislative Council, and if half of them were to be returned from functional constituencies, those who had reservations would be even more worried that this move would create additional obstacles on the progress to the ultimate goal of universal suffrage in the future.

However, it is indeed unnecessary to eliminate this possibility at this stage and we can still discuss the representation, sectors and the basis of the seats to be added, no matter whether they are to be returned through direct elections or from functional constituencies, bearing in mind that a consensus can only be reached on this issue after continuous discussion within and outside the Legislative Council.

Next, I shall talk about the models of universal suffrage which many Honourable Members have mentioned. In fact, the Fourth Report raised two interrelated long-term issues, namely, models of universal suffrage and the way forward of functional constituencies.

The Basic Law has a relatively clear outline of the arrangements for the selection of the Chief Executive by universal suffrage. Article 45 stipulates that the Chief Executive shall be selected by universal suffrage upon nomination by a nominating committee in accordance with democratic procedures. However,

insofar as the formation of the Legislative Council is concerned, Article 68 states that the ultimate aim is for all Members of the Legislative Council to be elected by universal suffrage. The model of election is, however, unclear.

There are various models of election by universal suffrage for the formation of a legislature. Direct election is one way of universal suffrage, and so is indirect election.

In fact, we are clear that elections by universal suffrage should conform with the principles of universality and equality. The traditional method of "one person, one vote" direct elections through geographical constituencies is one way of achieving the goal of universal suffrage, realizing this ideal and conforming with the principles.

"All roads lead to Rome". Every place is different in terms of historical background and social circumstances and therefore requires different solutions to its problems. If there is a model of universal suffrage which not only conforms with the principles of universality and equality, but also suits the local circumstances of Hong Kong, then we should not rule it out at this stage.

During the last stage of consultation, a view was expressed that in the long term, we could consider the proposal that representatives of various sectors be returned by members of the public using the "one person, one vote" method, selecting from a few candidates nominated by such organizations as professional bodies, trade unions and chambers of commerce. In fact, Mr Eric LI also mentioned a similar model in the past, and individuals have suggested to establish a bicameral system, so that the functional sectors can maintain their representation and keep their voices in the legislature.

Mr LEE Cheuk-yan was very worried and concerned that this proposal was related only to the election of Legislative Council Members and was not made in preparation for developing a model for the nominating committee for the future selection of the Chief Executive. I can clearly tell Mr LEE Cheuk-yan that the views reflected in the Fourth Report concerned the election of Legislative Council Members and not that of a nominating committee for the selection of the Chief Executive.

Although we do not have to set down a direction for the long-term development of functional constituencies in dealing with the election methods for

the elections in 2007 and 2008, we believe that open discussions and in-depth studies on these issues at this stage will be helpful to us in formulating models for the elections in 2007 and 2008 and considering ways to increase the representation of these election models.

Some Honourable Members spoke about a timetable for universal suffrage. They hope there will be a road-map setting out the long-term constitutional development of Hong Kong, so that all the political parties can make preparations and the necessary arrangements, and Hong Kong can also be spared of arguments over constitutional development every few years.

As we have pointed out in the Fourth Report, a timetable is a very important and yet complex issue. The Task Force considered that the question of a timetable should only be tackled further in due course in the future. However, we shall continue to listen to the views of the public and relay them to the Central Authorities.

We shall make adjustments in the light of the views expressed for the arrangements of the last consultation exercise and increase the scope of consultation so that more members of the public can participate in the consultation exercise and express their views.

In the next three months, we shall go on our rounds to the 18 District Councils and listen to the views of District Council members on constitutional development direct. I visited Tuen Mun District Council yesterday and will visit Southern District Council tomorrow.

In addition, the Task Force will entrust the Home Affairs Department with organizing public forums and members of the public who are interested are welcome to participate. We shall continue to arrange for seminars in the districts, so that participants from different backgrounds and sectors can hold in-depth discussions on individual topics. The public can also continue to send their views to us in writing through email, fax and post.

Madam President, the years 2007 and 2008 are an important milestone and transit point on our way toward the ultimate goal of universal suffrage. We should not forgo the opportunity to take forward the development of the two election systems only because there will not be universal suffrage in 2007 and 2008. Unrealistic insistence could eventually cause the development of the two

election systems to remain stagnant. This is not the way to create favourable conditions for universal suffrage, and it would instead bring about the opposite results.

I can describe all 60 Honourable Members present here as a "pro-democracy camp", for all of you are supporters of democracy. The differences among you only lie in the desired pace, with some thinking that the pace should be quicker while others preferring to take more steady steps.

Despite these differences, I hope that Members can still agree in principle that the election systems for 2007 and 2008 should be liberalized further, so as to facilitate more participation of the people of Hong Kong, thereby increasing the representation of the legislature and the Chief Executive. This is a reflection of the common wish of the people of Hong Kong.

Mr CHIM Pui-chung — who incidentally is not here at the moment — reminded the SAR Government to take a clear stance. In fact, every time when we have debates on constitutional development in the Legislative Council, we will reiterate a few fundamental principles: First, Hong Kong is not a sovereign territory; second, the question of constitutional reform cannot be decided by Hong Kong alone; third, as a Special Administrative Region, we should act within the authority given by the Basic Law. Therefore, when Mr Martin LEE said that Hong Kong could decide on its own the timing for pushing democracy forward, he was misleading the public. The Basic Law was not so designed and in order to make the design of the Basic Law work, "consensus among the three parties concerned" and "co-operation of all sides" are required.

"Consensus among the three parties concerned" means obtaining the support of the Legislative Council, the consent of the Chief Executive and the approval of the Central Authorities. Mr CHEUNG Man-kwong and his friends in the pro-democracy camp have, on many occasions, mentioned that they represented 62% of the voters. However, at the same time, the other Honourable Members also represent 38% of the voters. The Basic Law was not designed for the views of those Members returned from direct geographical election to take control.

"Co-operation of all sides" means that support of two thirds of the Members of the Legislative Council is required, for 30 Members were returned

from direct geographical election and the other 30 from functional constituencies. Therefore, if a proposal has to obtain the support of two thirds of the Members of the Legislative Council, neither the views from geographical constituencies nor those from functional constituencies should dominate. We have to co-ordinate with and support one another in the Legislative Council in order to take forward the reform on constitutional development.

In fact, it is not surprising to seek "consensus among the three parties concerned" and "co-operation of all sides". To carry out constitutional reform any where in the world, a number of obstacles have to be overcome. Such an approach serves to maintain constitutional stability on the one hand, and ensures that any reform will have wide and relatively thick support on the other. Therefore, we call on everyone to return to the same starting point, which is, the Decision made by the NPCSC and the Basic Law, before we consider how to amend the election methods for the two elections.

Today Mr Albert HO mentioned the proposal of holding a referendum and Mr Albert CHAN also mentioned the importance of mutual trust. In order to perform our tasks for the years 2007 and 2008 well, we really need to continue to communicate and develop mutual understanding with the Central Authorities. The proposal of a referendum does not help to develop mutual trust, instead it will only create an additional obstacle. Therefore, the SAR Government has a very clear stance regarding the proposal for a referendum. We will not adopt any method which deviates from the procedures set down in the Basic Law to deal with constitutional development.

Madam President, Mr TAM Yiu-chung mentioned the tsunami in South Asia in his speech. That reminded me of the co-operation of different parties in raising funds over the last two weeks, showing that the parties could actually put aside their differences and do something substantive for Hong Kong.

The Task Force and the whole SAR Government will absolutely not forgo any opportunity to improve the election systems of the two elections. We sincerely hope to work together with all the parties and other people, both within and outside the legislature, so that the work that Hong Kong has done over these past few years in preparation for constitutional development will eventually turn into solid fruits, make the systems for the two elections more open, answer more the expectations of the community and lead Hong Kong further on the agenda of democratization.

With these remarks, Madam President, I implore Honourable Members to vote against Mr Albert CHENG's motion.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr Albert CHENG, you may now reply and you have seven minutes 44 seconds.

**MR ALBERT CHENG** (in Cantonese): Madam President, this term of the Legislative Council has held meetings for several months. During past meetings, there were many amendments to every motion, but no amendment whatsoever has been proposed to my motion today. This does not mean that my motion will be unanimously carried, just that some people did not even bother to read my motion. When they heard and saw the words "universal suffrage" or "constitutional reform" or words expressing regret at the Government, they decided right away that no amendment would be necessary and that they would vote against it unanimously. By voting against it unanimously — Mr MA Lik, Chairman of the DAB referred to us as the opposition party today. If we are considered the opposition party, it means that they have admitted to be the ruling part or the pro-government party. They, therefore, need not read my motion and can already decide that it is pointless to propose any amendment; they consider it a waste of effort to discuss it and all they need to do is to put up their hands to vote against it, for it is pointless to discuss it. However, this is something that has to be discussed.

Earlier Mr Abraham SHEK — I wonder if he had read my motion; perhaps he should be summoned to the Chamber or else he could not hear me scolding him — said that I am demanding universal suffrage in 2007 and 2008. But I have read the motion all over again and these words are not written in the motion. When did I demand universal suffrage in 2007 and 2008? Of course, this is what I hope for. But I did not make this demand in the motion. In my motion, I only pointed out that "as the Government has unshirkable constitutional duty to answer, as far as possible, the public's strong demand for universal suffrage, this Council urges the Government to expeditiously present to the Council a constitutional reform proposal, which includes the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008". The words "universal suffrage" are not mentioned. I do not know

what exactly Mr Abraham SHEK had read. In a nutshell, opposition is opposition, and they put up opposition purely for the sake of opposition. At the start of my speech, I originally intended to ask the President to summon Members to return to the Chamber but now, Members returned and so, it is unnecessary to summon them. For those who have decided to vote against my motion without actually reading it, I urge them to listen to what I am going to say. Everyone is sitting here now; the royalists are back too. On the contrary, many of us in the democratic camp are not here.

Just now I was criticizing Mr Abraham SHEK, who is back now. So, let me say that again. He did not read my motion and yet, he had prepared a long speech to oppose me. Earlier on, Secretary Stephen LAM — I wonder if he knows the meaning of "shameful". Pardon me, but I still have to ask him this. The Constitutional Affairs Bureau has been established for seven years and he has worked there for two years (more than two years to date), but he has done nothing at all. It was only until 1 July 2003 that he set up the three-member task force and solicited the assistance of the two Secretaries of Department as a result of 500 000 people having taken to the streets and the intervention from the Central Authorities. This is not the first time that I make the following comment. I have said it to the Secretary of Department and on radio, and I have said it openly: Don't send a man — sorry — Don't send a boy, not a man, to do a man's job, for the boy can do nothing at all. What sort of consultation were the last four consultation exercises? What sort of consultation were they? They were conducted in a manner of "by invitation only", which means that only those who were invited could attend. What sort of consultation were they? He consulted the District Councils yesterday, but the press today described that as a bogus consultation.

In the existing system of the Legislative Council — let us not talk about whether there should be universal suffrage for the time being — the separate voting mechanism is basically not viable. How could it be viable? How could it be explained to other people? It is inexplicable. If I am asked how the votes are counted and why a motion cannot be passed even with a majority vote but a motion with less votes can be passed, and if I am asked what sort of system it is, I really cannot explain it, although I did attempt to explain it.

Earlier on a Member mentioned that we in the democratic camp or the opposition party (just as we were referred to by Mr MA Lik) have obtained 62% of votes but we have 25 seats only. The pro-government party or the ruling

party has obtained 38% of votes and yet, they have a majority of seats. Are those in the majority bullying those in the minority, or those in the minority bullying those in the majority? If we look at the number of voters or votes, it is a case of the majority rules, but in this Council, it is actually the minority rules. This is a fact. How should it be explained? It is inexplicable. Some people have asked why sometimes a motion is still negated even though it is expressly supported by many people, say, over 25 Members. Why? I wonder if Members can answer this question. I can answer it; you do not have to nod to show that you know the answer. I have the answer too. It is because under the existing system, some pro-government Members, in order to please the public and knowing that the motion does not have enough votes to be carried, will raise their hands to support or oppose the motion just to show that they are on the side of public opinion. They know that the motion will not be carried anyway, but doing so can give them an opportunity to put up a show. So, this mechanism is not viable.

I did not put forth any demand. I have heeded the advice of the Secretary of Department and faced the reality. The reality before us is that there is no universal suffrage in 2007 and 2008. Assuming that I have accepted the reality. Certainly, we in the democratic camp will not accept this reality. But assuming we have accepted the reality, the Government still has to provide us with a timetable, telling us when there will be universal suffrage. Even if the methods of elections in 2007 and 2008 should be amended, how should they be amended? Should we continue to campaign for it? It is because the Government cannot give us a timetable and come up with a proposal that I proposed this motion. I did not put forth any demand. That said, the Government should at least let us know.

The Government said that consultation would continue in order to seek a consensus. But how can a consensus be reached? The Government said that a referendum should not be an option, and I have agreed with this. But what does a consensus mean? In Hong Kong, we put emphasis on institutions and the rule of law. Is a consensus reached with the support of 51% of the people? Should we obtain support from 75% of the people in order for a consensus to be reached? Or does it mean obtaining support from 100% of the people? The Government must set a target for us by stipulating that a consensus is reached when support is obtained from, say, 51% of the people. That will be very clear. Regarding the so-called "simple majority", does it mean obtaining support from 75%, 99% or 100% of the people? The Government must give us a figure.

Now, the Government said that consultation would continue. But how was consultation conducted? Could everyone attend the consultation forum where every participant had the right to speak? No. So, let me tell Members that for this debate today, I will not urge Members to support my motion as is usual practice in this Council. I will only thank Members for continuously opposing my motion. Do go to the banquet after voting against the motion. Congratulations to Mr James TIEN on the joyous event happening to him today. Thank you, Madam President.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHENG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert CHENG has claimed a division. The division bell will ring for three minutes, after which the division will start.

**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:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the motion.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung and Mr KWONG Chi-kin voted against the motion.

**Geographical Constituencies:**

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the motion.

Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming 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, 27 were present, seven were in favour of the motion and 20 against it; while among the Members returned by geographical constituencies through direct elections, 26 were present, 17 were in favour of the motion and eight 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): It is now 8.55 pm. I will suspend the meeting at around 10.00 pm until 2.30 pm tomorrow. So, although the debate on the second motion will now start, I think we will have to carry on with the debate tomorrow.

Second motion: Development of the West Kowloon Cultural District.

**DEVELOPMENT OF THE WEST KOWLOON CULTURAL DISTRICT**

**MR ALAN LEONG** (in Cantonese): Madam President, my reason for proposing this motion on the WKCD development is that ever since the Chairman of the Steering Committee, Chief Secretary for Administration Donald TSANG, announced the results of the Invitation for Proposals in this Council in November last year, society at large has expressed great concern about the development of this last prime site in the Victoria Harbour and, most importantly, reached a consensus on a number of points.

The contents of my motion are all meant to reflect and give expression to these points of consensus.

They are as follows:

First, since the WKCD development is highly significant to the local property market and even the development of local culture, the consultation period must not be shorter than six months.

Second, all the proposals submitted (including their financial details) must be released for public evaluation.

Third, it will still be possible to proceed with the WKCD development even without the canopy.

Fourth, there is no justification for awarding the development of the 40-hectare site and the associated cultural facilities to a single consortium in one go. The land lot should be split up for auctioning in batches, so as to maximize Treasury gains for ploughing back into culture and arts promotion.

The last or fifth point of consensus I can observe in society is that a sustainable cultural and arts policy must first be formulated before deciding what venues and facilities should be constructed. In this connection, civil participation must be institutionalized instead of being treated as mere political embellishment.

Madam President, I am very pleased to note that with the exception of parts of Mr CHEUNG Hok-ming's amendment, Members' amendments to my

motion are all in keeping with and able to fully reflect the consensus mentioned above.

But how about the situation outside the Legislative Council? Since the announcement of the WKCD development, the two allegations that have been most frequently heard are "collusion between business and the Government" and "transfer of benefits". I am afraid it is not at all easy to substantiate these allegations, and no one will possibly hope to substantiate them either. But it is certainly not quite so glorious to be criticized by the people in this way day and night.

All these criticisms can be ascribed to the failure of the Government to meet modern-day expectations of effective governance in its handling of the WKCD development. From the perspective of public administration, good governance must be founded on healthy interaction of the government, the civil society and the market. Government decisions must meet the standards of equity and the rule of law, marked by openness and transparency. All consultation must be conducted with the utmost seriousness and integrity, with the full and institutionalized participation of the civil society. Policy formulation should be based on objective studies and data, underpinned by consistent principles at all times. And, policy continuity and predictability should also be upheld. How far can the WKCD development meet all these requirements?

Basically, it is entirely proper and consistent with public expectations to perfect the cultural and arts policy of Hong Kong and upgrade the venues and facilities. However, the nature of the WKCD development has by now been altered. Worse still, owing to the complete departure of the Government from the principles of good governance I have just mentioned, the WKCD development has even degenerated from a good policy that can otherwise foster social cohesion to something that may split up society yet again. The common people have even come to regard the WKCD development as a synonym of the "outrageous" governance of the Government of the Special Administrative Region (SAR).

What everybody finds most difficult to understand is the haste. Why all this haste? The government official concerned says that Hong Kong needs to construct three more theatres, one more performance venue, four more museums, one more arts exhibition centre and one water amphitheatre. It is

also said that without the single tender approach, the WKCD development is bound to be aborted, that the canopy is absolutely necessary, and that it will not be righteous to change the tendering arrangements at this stage. Is the situation really so critical in reality?

Denuded of all the rhetoric, the arguments of the government official are not sufficiently supported by any facts and empirical data. It simply sounds as if the common people must obey the wish of the authority and stop voicing any dissenting views. To put it simply, the government official just wants to say this: the wish of the authority must not be challenged. The vow on respecting public opinions has been brushed aside altogether. I hope the Administration can handle this issue with a responsible attitude and really try to solve the problem. It must first realize that public accountability should be the primary concern of the Government, that it must fight for the best interests of the people, and that it must protect the social resources belonging to all in Hong Kong. Righteousness should be for the people, and it must not be taken to mean any obligation towards individual property developers. Since the Invitation For Proposals already states clearly that the Government may alter the existing tendering arrangements, an abandonment of the current development approach will not constitute any failure to honour contractual obligations. There is simply no need for the authorities to adhere blindly to an erroneous approach set down by themselves.

The Government has from the very beginning reduced the number of choices to the three screened-in proposals. It has so shamelessly forced members of the public to choose one from these proposals, thus severely restricting the room for public participation and discussions. Members of the public have never taken any part in setting down the screening criteria, but they are forced to choose from the three proposals thus short-listed. Can this be called respect for public opinions?

Regarding the means adopted, the Government has done everything conceivable, including bypassing the Legislative Council, in the hope of taking forward the WKCD development. There is also the so-called consultation session with the precondition of excluding any discussions on the single tender approach and the canopy. With all this, "respect for public opinions" is turned into a mere slogan, and "gauging the public sentiment" is reduced to an unscrupulous device of influencing public opinions.

Madam President, having searched the relevant records, I am so taken aback to discover that most of the professional bodies and non-government organizations which expressed their views in 2003 were still holding the same views in 2004, or it can be said that they still stick to the same position now, that is, they still have reservations about the single tender approach, the canopy and the arrangement of allowing property developers to make policy decisions on the overall development of arts and culture in Hong Kong. Unfortunately, all the professional advice and well-intentioned criticisms are simply regarded by the government official as "noises".

In order to prevent the Government from continuing to rush the WKCD through and to ensure that the people can regain their rights to know and make choices, I have put forward the first two proposals of my motion.

The third proposal of my motion aims to turn the canopy from a mandatory component into one that may be dispensed with. It does not rule out the retention of the canopy after a serious and genuine public consultation.

However, on my part, I am still not convinced that we should ever construct such a "landmark" that costs as much as \$5 billion in construction and several million dollars in annual maintenance. The beauty of the canopy's continuous and undulating structural form can only be seen from the Peak, and if one looks up from the ground level, one will only see all the pillars and beams that may become dust-clad with the passage of time. In brief, the canopy will only be a huge cover blocking views of the natural landscape. It is claimed that it will be warm in winter and cool in summer under the canopy, but the temperature range will just be 2 degrees Celsius to 3 degrees Celsius. This micro-climatic environment is simply not worth the high price we have to pay, so it is better to dispense with it.

There are basically just two ways to develop this land lot, the size of which is 40 times that of the Hong Kong Stadium. First, the Government may grant the whole lot to a developer at a certain price under a private agreement. Second, the Government may first formulate a planning blueprint and split up the lot into smaller sites for public auctioning.

The latter approach can enable small and medium developers to participate in bidding, and under this approach, all prices will be determined by the market

in a fair and open manner. Consequently, the adoption of this approach will definitely maximize Treasury revenue.

As regards the long-term supervision of contract enforcement, the Government will likely face fewer difficulties and risks, because the scopes of individual contracts are comparatively small.

For the abovementioned considerations, I have put forward the fourth proposal of my motion.

The Government has not disclosed too much information on the cultural contents of this gigantic infrastructure project. I must say that in the absence of a cultural and arts policy that can cater for the realistic needs of Hong Kong, the WKCD development will just be like a soulless giant, a white elephant and a symbol of over-ambition. A cultural and arts policy with a tenure of 30 years will affect all Hong Kong people and their children. How can the Government allow a private developer with no relevant expertise to experiment with the promotion of arts and culture, to make all the decisions? Why does it refuse to entrust the task to all the 7 million people in Hong Kong, to allow the civil society to determine the cultural contents?

My fifth proposal aims precisely to set down the direction of formulating a suitable cultural and arts policy.

Some Members have the misunderstanding that my proposal advocates the spending of all relevant land sale proceeds on arts and culture. My proposal is in fact clearly worded, but, Madam President, I am still prepared to make a clarification here. When I say that the proceeds from the sale of the land lot should be used to support and promote arts and cultural activities, I actually mean that the proceeds should first be accounted to the Treasury and sufficient funding should then be allocated to meet the expenditure on cultural and arts activities. We all hope that after catering for the needs of cultural and arts activities, the proceeds can still help relieve the worsening funding problem facing other public expenditure items. This Council has been responsible for approving applications for funding. I am convinced that Members will act prudently, take account of the actual needs and decide suitable levels of funding.

Madam President, a rumour has been doing the rounds over the past few days that, according to a top government official, if the approach chosen by the Government cannot be implemented in its entirety, the WKCD development will be brought to a halt. There will be no cultural facilities, not even one single pillar or beam. These words of the piqued government official are really "noise", and they can aptly show his high-handedness and opinionated attitude. This is a highly irresponsible attitude which members of the public find utterly disappointing.

I am so surprised at seeing that such a high-ranking official of the SAR Government is behaving just like a three-year-old kid who, when his mother refuses to buy him candies, will just fling himself down at her feet before the very eyes of everybody, crying and refusing to get up. They are simply threatening all those Hong Kong people who hope that they can do something for them. People all find this heartrending, very sad and very regrettable, for these government officials simply cannot live up to their expectations.

We of course hope that all these are just rumours. We still hope that the Government can handle things like a mature, practical person, always seeking to safeguard people's interests and our social resources. The Government should be broad-minded enough to listen to and accept the opinions of the public, that is, the opinions of its clients. It is hoped that the Government can stop before it is too late. It must consult the people as widely as possible, so as to perfect and re-formulate the planning of the WKCD development and make the participation of the civil society an institutionalized and indispensable component of the policy-formulation process.

Madam President, Hong Kong people are also sensible and reasonable. We all love Hong Kong and treasure its valuable land resources. Our pursuit is just a society marked by effective and responsible governance, harmony, fairness, openness and transparency, one in which everybody can live and work happily. This is nothing but a fundamental right of every citizen. The Chief Executive and the Government should take the lead in all this. They should respect the people and genuinely listen to their views and those of the Legislative Council. They should treat the civil society as their ally, abandon their superiority complex and facilitate the institutionalized participation of the public in policy-formulation. That way, they will be able to accommodate diverse opinions and restore social harmony.

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

**Mr Alan LEONG moved the following motion: (Translation)**

"That, as the Administration has decided to award the development of the 40-hectare West Kowloon Cultural District (the WKCD development) to a single consortium in one go and allows the public only 15 weeks to comment on the three proposals selected in the first stage, such course of action has failed to ensure the optimal use of precious land resources in Hong Kong and safeguard public interests while nurturing arts and culture, this Council strongly asks the Administration to:

- (a) extend the consultation period to six months to allow sufficient time for public participation;
- (b) make public all the proposals submitted to the Government by persons interested in participating in the WKCD development, including information on financial arrangements, so as to enable the public to fully grasp the details of the development proposals during the consultation period;
- (c) remove the requirement that the canopy, which requires huge funds to construct, be a mandatory component of the WKCD development;
- (d) withdraw the decision to award the entire piece of land together with the WKCD development by way of one single tender, and break the lot into smaller pieces of land for public tender or auction in the market by batches so that small and medium developers in Hong Kong can participate in the development, with a view to maximizing the proceeds from the land sale; and
- (e) formulate long-term and sustainable policies on Hong Kong's arts and culture, use the proceeds from the sale of the 40 hectares of land to support and promote the related policies and, in drawing up the specific details and implementing the policies, allow institutionalized participation of the civil society and, in particular, solicit and adopt the views of the local art and cultural sectors."

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

**PRESIDENT** (in Cantonese): Mr CHEUNG Hok-ming, Miss CHAN Yuen-han and Mr James TO will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the amendments will now be debated together in a joint debate.

I will call upon Mr CHEUNG Hok-ming to speak first, to be followed by Miss CHAN Yuen-han and Mr James TO, but no amendments are to be moved at this stage.

**MR CHEUNG HOK-MING** (in Cantonese): Madam President, the West Kowloon Cultural District development project (the WKCD development) is probably the first "Rose Garden" project of Hong Kong since the advent of the 21st century. It will involve billions of dollars and create thousands of jobs, and not only this, it will also set down the direction of Hong Kong's cultural and arts development in the next 30 years. It is therefore highly significant.

In regard to the idea of turning West Kowloon into a cultural district, there are not too many disagreements in society. However, when it comes to the question of development approach and specific cultural contents, there are numerous heated arguments everywhere in society. If the Government fails to reconcile the divergent views of the various social sectors on the WKCD development, I am afraid the project may have to be aborted.

The DAB does not wish to see the termination of the WKCD development. To avoid this, the Government must make sure that it can really gauge public opinions, allay anxieties and reconcile all disputes. And, in order to do so, the Government must first release the financial information submitted by all the screened-in consortia and extend the consultation period, so that members of the public can have access to more information and more time to express their views.

The Government has been extremely unwilling to disclose the financial information submitted by the screened-in consortia. It has expressed the worry that any disclosure will reduce its bargaining power and hence jeopardize the

public interest. We simply do not agree to this explanation. The involvement of billions of dollars in land proceeds is precisely the bone of contention surrounding the WKCD development. Some people have even started to suspect the Government of "transferring benefits" to the consortia. In order to eliminate such suspicion and increase people's acceptance of the WKCD development, the Government must ensure a high degree of transparency for the project and disclose all relevant information, especially the relevant financial information.

For this reason, the DAB supports the proposals in Mr Alan LEONG's motion that ask for an extension of the consultation period and the disclosure of the contents of the Proposals, including the relevant financial information. I hope that the Government can reconsider these proposals.

However, the DAB still has some reservations about other points in the original motion, namely, those on dispensing with the construction of a canopy and the single tender approach. Consequently, I would like to move the following amendments.

Madam President, we must make a reiteration here. The DAB is not saying that a canopy must be constructed, nor does it think that the single tender approach must be adopted. The position of the DAB is very clear: We must seriously "listen to public opinions" instead of trying to "create public opinions". There should be "consultation before finalization". In other words, we must first listen seriously to all divergent views from members of the public and the cultural sector on the single tender approach and a canopy. It is only after doing so that we can make judgement from the perspective of users. Under no circumstances should we draw "conclusions before consultation", nor should we draw any final conclusions based on our subjective judgement or personal interests, ignoring the need for listening to people's views.

It cannot be denied that the construction of a canopy and the adoption of the single tender approach are highly contentious in nature, and the latter has attracted more attention than the former. The DAB is of the view that members of the public should also be given opportunities to raise their dissenting views on these two proposals during the consultation period. For this reason, the Government should disclose information on the various possible approaches, such as the single tender approach, the division of the land lot into smaller sites and public auctioning. Moreover, there should also be a detailed comparison of

the pros and cons, expected returns, operation mode of cultural items and operating costs of all the approaches, so that people can decide on the basis of objective data which approach will be most beneficial to the public at large.

Madam President, if society at large still objects to the single tender approach and the construction of a canopy after sufficient discussions and consultation, the DAB does not rule out the possibility of voicing its objection to the Government, and it will continue to look for development approaches and designs in line with the public interest.

The DAB regards the WKCD development as a highly significant project, which is why it has set up the DAB Concern Group on the West Kowloon Cultural District. We have met with some members and organizations of the construction industry, and we have also arranged for meetings with a number of consortia. Many of the criticisms we have heard actually boil down to the allegation that the Government is just conducting a "bogus consultation". First, they think that the Government will not accept people's opinions. Second, they complain that the Government will only pick one from the three Proposals submitted by the screened-in consortia without considering any other alternatives. Consequently, there has recently been a new trend of development. People have started to say that the three Proposals must be gradually broken apart. And, some are saying that they would rather abandon all the planning that has been done for the WKCD so far and start planning anew.

Madam President, if starting all over again is consistent with the public interest, the DAB will certainly render its full support. But so far, we have failed to see what advantages this can bring about. In regard to the problem mentioned just now, we have recently heard some people say that the Government can actually collate all the recommendations put forward in society on the WKCD development, including the Proposals of the three screened-in consortia, retaining their strengths and discarding their weaknesses. The contents of all the recommendations can then be set down as the mandatory components of proposals to be submitted in a new round of formal tendering. The merit of this approach is that the efforts made during the consultation period will not be wasted and there will also be the full participation of the civil society. Besides, this approach can also ensure that we will not have to start the WKCD development afresh because of the disputes in the interim; as a result, time will

not be wasted, and the WKCD development will have been spared the fate of abortion eventually. I hope that the Government can consider this proposal carefully.

Madam President, the DAB proposes to amend the original motion by adding in the setting up of a statutory body with broad representation to further promote and take forward the WKCD development. All along, the cultural and arts policy of Hong Kong has been very vague in focus. The WKCD development will have a positive effect on the cultural development of Hong Kong. With this project, we can genuinely lift the arts and culture of Hong Kong from their present sluggishness and foster their development. The development of local cultural industries may also be fostered.

As I mentioned just now, the WKCD development will set down a direction for the development of Hong Kong's cultural industries in the next 30 years. In order to ensure that the operation of the cultural district in the future can realize the "people-based" and "people-led" principles, the Government should actively explore the establishment of a statutory body. Members of this statutory body should be appointed from various social sectors, especially the cultural sector, and they should be vested with the responsibility of co-ordinating the development and management of the cultural district and formulating its operating policy in future.

Another point in the DAB's amendment aims precisely to prevent the WKCD development from being turned into a property project. The DAB does not oppose the idea of employing the aid of property development to maintain cultural activities. But there must be a clear-cut relationship of dominance and subordination, and cultural activities must take precedence before property development. The Government must ensure that the successful bidders will spend part of their profits from property development on establishing a fund for the development of the WKCD in the next 30 years. This will make sure that the WKCD development can become a sustainable cultural project.

Madam President, the last point in the amendment of the DAB urges that the Government, when formulating the specific contents of its various cultural and arts policies and implementing such policies, must take account of the blend of eastern and western arts and culture to highlight the edge of Hong Kong as the meeting point of East and West. Owing to geographical and historical reasons, Hong Kong is a bridge linking the Mainland and the world, and not only this, it is also a society where East and West meet, where the features of traditional

Chinese culture are preserved alongside those of foreign cultures. For this reason, the DAB is of the view that the blend of eastern and western arts and culture must not be ignored in the WKCD development. There must not be any bias in the development of hardware and software. Besides drawing on Western arts management experience, we must also learn from the Mainland and continue to highlight the edge of Hong Kong as the meeting point of East and West.

Madam President, I so submit.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, this term of the Legislative Council attaches great importance to culture. In less than four months, there have been three motions including this one on culture. We have had one on conserving the Central Police Station Compound and developing town planning and urban designs featuring local characteristics for the 18 districts. Today we can see a new motion topic. All these motions can be considered to have cultural themes. Madam President, through each community with its distinctive features and buildings which bear witness to the development of Hong Kong, a sense of belonging is fostered among us — as people who live and work here. This is how we develop our self-identity. In our opinion, the fundamental social function of culture is to enable us to recognize the fact that we live here.

Madam President, after finishing my prologue I would like to start talking about the motion topic today. My amendment aims mainly at urging the Government to formulate a cultural policy for Hong Kong, draw up specific details for it and establish a culture and heritage commission. At a time when these are not yet in place, we see that the proponents of this West Kowloon Cultural District (WKCD) development pledge to turn Hong Kong into an arts and cultural hub of Asia, a value-added cultural centre and an international capital in culture and the arts. These claims sound somewhat impractical and superficial. As the Government fails to draw up a blueprint to enrich the substance of Hong Kong culture, this hasty development of the hardware would impress us that this does not necessarily relate to the development of local culture. I am very much worried that this WKCD will relegate into a cultural colony of countries that are hegemonies in culture. The arts and cultural facilities which would have been developed as a result of so much hard work would in the end become carriers of alien cultures. What will be manifested in West Kowloon

are cultures not of our own. That is why I doubt if the WKCD development will be of any help to the development of local culture.

This is more so the case when I learn recently that Sunbeam Theatre, which is a symbol of the development of traditional Chinese opera in Hong Kong, may be forced to close down due to problems with the new tenancy agreement. The theatre has a seating capacity of more than 1 000 seats, equipped with an orchestra pit and it is a one-of-a-kind theatre for the performance of traditional Chinese opera in Hong Kong. It may follow the footsteps of Lee Theatre and bow its exit from the Hong Kong stage because it is unable to find enough support for its survival. If the final result comes to this, then this is another incident of us witnessing the silent demise of another landmark building in Hong Kong. And sad feelings will just swell in us. Often times we can see that the Government will just sit back and do nothing while culture is eaten away by economic development. Examples abound where local culture is ruined because of government acts. Such examples include the tendering of the Central Police Station Compound which has been discussed in the current term of the Council, the proposed demolition of the "wedding invitation cards" street in Wan Chai, and the Nga Tsin Wai walled village which boasts a history of some 600 years, the survival of which has been an ongoing cause championed by me. In all these cases we are sad to find that there is no comprehensive policy on the part of the Government to promote cultural development. There is no outlook on culture in government departments. Therefore, how can the WKCD project alone ever convince us that culture in Hong Kong will flourish all of a sudden?

At a time when the development of local culture is neglected, the Government is hard-selling the WKCD project which is a showcase of co-operation between public and private sectors. Public opinion is not consulted extensively and contents of the development are drawn up behind closed doors. The relevant information is not made public. The period for public consultation is shortened. All these leave us with an impression that there is no sincerity on the part of the Government. Many members of the public are worried that if the WKCD project is to adopt the single tender approach and the rights to plan, design, build, operate and manage this 40-hectare plot at the waterfront are granted to the winning bidder, it is tantamount to letting the developer to take control of the development of West Kowloon in the absence of public monitoring. Culture may be used to serve mercenary interests, too. Madam President, when the Cyberport and Discovery Bay fiascos are still fresh in our memory, this single tender approach

for the WKCD project will only lead to raised eyebrows that there could be a hidden agenda between the Government and the developers. Though our suspicions may not be founded, countless events in the past have served to convince us that there is a great chance that our suspicions are real. The Government therefore is obliged to make a clarification in this regard.

The public has kept a close watch on the impact on monuments with the granting of the right to operate the old Marine Police Headquarters in Tsim Sha Tsui as well as developments in connection with the tender exercise for the Central Police Station Compound. These two cases are miniatures of government conception of the WKCD project. They show that society has not yet reached a consensus on this input of business elements into cultural affairs.

All along the Government has been holding the reins in the management of most of the cultural facilities. Likewise it defines the development direction of arts education, the conservation of monuments and community planning. At a time when these powers are not yet devolved and when cultural and community resources are not handed over to community organizations, this big Government of ours tells us all of a sudden that the developers will take the lead and join hands with the cultural sector to develop the WKCD. This is also our worry. Now besides the lack of government support received by these hardware projects which I have just mentioned, some cultural workers have encountered some problems caused by a lack of matching and supportive government policies. In such circumstances, we are convinced that the current government actions are self-contradictory and so we have doubts about the Government's true purposes of taking forward the WKCD project.

Madam President, for some time the community groups have raised many doubts about the WKCD project. These views have been heard in the last term of the Council and in the current term of the Council. A number of constructive views and proposals have been put forward. There are some strong views that if no cultural policy is formulated and if only some slogans are shouted, it would be very difficult indeed to construct an icon of culture in West Kowloon. That is why I have added some very important contents to the motion proposed by Mr Alan LEONG, that is, the establishment of a culture and heritage commission by community groups and it should be given independent resources. The commission will be tasked with advocating proposals on a cultural policy and resource allocation, and it should also be responsible for the planning of

developments in culture and the arts and monitoring the impacts of government administration and law enforcement on culture. The significance of the re-establishment and strengthening of this culture and heritage commission lies in the adherence to the principle of a community-driven development of culture and tackling the abovementioned problems. Before this community-driven principle is realized, the Government should never reach any hasty decisions on the WKCD project.

Madam President, I would like to illustrate with a fragment from history the point I made at the beginning of my speech when I talked about the relationship between culture and self-identity. President ROOSEVELT of the United States launched the New Deal at the time of the Great Depression and he proposed the idea that jobs instead of welfare should be handed out to the people. One of such initiatives was named Federal One. What was the project all about? The project inspired more than 40 000 artists and many unemployed young people to go into the communities across the country and worked on sculptures, murals, music, drama, writing and historical records. Not only did the project provide jobs, but it also enhanced quality in the communities and most important of all, it helped raise the cultural awareness, sense of community belonging and national identity among the American people. In the long term, the project promoted the formation of a civil society.

I therefore strongly hope that the proponents of the WKCD project can look at the development of culture from a far-sighted perspective and never isolate themselves from the community and the people. For if not, a landmark will lose its life and lustre despite its outward splendour. I long to see this milieu of the ROOSEVELT era reincarnation in Hong Kong and that our Government can promote the development of society at large and the people can be given a chance to take part in the development of the WKCD when so much has been talked about it. The people of Hong Kong can be mobilized into action, there is no question about it. Of greater importance is how the Government can harness this mighty force and direct it to take part in the development, rather than making a rash decision.

I would like to end my speech by quoting a line from Prof LUNG Ying-tai, a distinguished essayist and cultural critic. She says in Chinese the following: Culture is in our back alleys. Thank you, Madam President.

**MR JAMES TO** (in Cantonese): Madam President, the stand of the Democratic Party and that of Mr Alan LEONG are almost cognate. If the motion drawn for debate today is the one proposed by me — actually I have proposed it for five times but it has not been drawn — as much as 80% to 90% of the contents of my motion would be the same as Mr LEONG's. The reason is simple: We have both discerned the situation and gauged the public opinions. I think that the few items proposed by Mr LEONG are actually the consensus reached by the people at this stage.

Let us hear what the Government has to say on this. The Chief Secretary mainly mentioned two points of view in the many speeches he made in the debates, on public occasions and even in private. These two points of view make us think that he is being arbitrary and he has deviated from previous practice. Some doubts are even cast. So the Chief Secretary has these two points of view on this matter. What I will do could be seen as giving the Chief Secretary a platform to retract, or some kind of foresight or constructive views.

First of all, what comes to the Chief Secretary's mind is a plot of land. And it can be put up for sale. Of course, this can be done. But how can the money he gets from the land sale be used to truly promote culture and the arts? A lot of problems about the competition for resources are involved here. We have to be careful about it. It could be that I am petty-minded and so I add to Mr Alan LEONG's motion that the proceeds from land sale which could be some tens of billion dollars or even one hundred billion dollars cannot be used in their entirety to promote culture and the arts. It may be that out of his intuition, Mr LEONG also thinks that this should not be done. But I want to play safe and so I want to make this point clear. It is because even if the amendments proposed by other Members are passed, I think that the pace of launching the project is still very important, as competition for resources is involved.

Now after the project has been under discussion for a long time, the public would also feel that culture and the arts should be promoted. Actually, the entire concept of the WKCD project was no more than building an opera house in the beginning, and that was the idea seven or eight years ago. Now the facilities proposed have gone far beyond that of a single opera house. Perhaps the public thinks that it is not bad to have more facilities of this sort after all because they can promote the development of a cultural policy and more thoughts can be put

on arts and culture education from bottom up. This is the consensus so reached after some time in society.

What I have in mind about part of the proceeds does not, of course, mean just one dollar. What I mean is at least several billions or tens of billion dollars. Without such an amount of money, how can we build our infrastructure or other facilities into world-class cultural and arts facilities? Without such an amount of money, even in the tourist industry, nothing can be done to enhance our facilities at a local level or upgrading them to an international level. So after this period of time with all the discussions made, it is not that we have made no progress. We have made some progress indeed and that is, the people are convinced that even though the resources may be tight, we should set more aside for the infrastructure and software of culture and the arts. This is the first point I wish to make. I hope the Chief Secretary will not say anymore that we should take it or leave it and all will become nothing if we do not agree to it.

Second, it is about the master layout plan and how it should be drawn up. The Chief Secretary says that a great deal of time is needed to do this. But actually it is not the case. Why am I saying so? Of course, if the master layout plan is to be drawn up from scratch, it may indeed take a long time. But we should remember that currently three consortia have provided at least three master layout plans. These consortia think that it is perfectly fine to have one developer undertake all the construction. For if not, they will not sell their plans to Members. I also know that after the Hong Kong Institute of Architects and other professionals have undertaken a preliminary examination of the plans, at least two consortia point out from their professional perspective that the project can be completed phase by phase, that is, in different stages. As a matter of fact, these three consortia, as well as the Taikoo Group which was screened out in the previous round, have offered some inspirations and basic concepts which have become the basic elements of the master layout plan. If positive and negative feedbacks from the public or professional bodies are gathered after examining the models, some revisions may be made to the future master layout plan. This will mean that the time taken to draft the master layout plan is advanced. In other words, the public can now give their comments on the future master layout plan. Mr CHEUNG Hok-ming queried earlier whether or not it was possible to gather views from all quarters, adopt the merits and remedy the demerits. Of course, this may not necessarily be possible. But at least views can be gathered in advance and those from the public and the professional bodies can be discerned before this master layout plan is drafted.

Much time can be saved in this way. So in a certain sense, the consultations to be undertaken in future will become second round consultations because now the first round consultations are being undertaken in advance.

I therefore hope that the Government will not disseminate any messages such as the project will abort once this motion is passed. It is not a responsible act to say so. I agree completely with Mr LEONG when he said that this is not a children's game. I also believe that after the passage of this motion, there will be people who are committed and capable of shouldering great responsibilities and they will try their best to garner the merits from the views expressed and draw up a new plan. The people will then be in a position to know what the public opinion on this project is and what the cultural sector and other related sectors think. A person who is able to do this may use the results of this work as an asset for the Chief Executive race he or she may choose to run. But so what? It does not matter as that person is a person of such outstanding calibre and he or she does not overturn the project and start it all over again.

Another point I wish to make is on why I cannot support the amendment proposed by Mr CHEUNG Hok-ming. It is because he said that an assessment should be made on whether the canopy is really necessary. As seen from the history of the event, someone has won the concept plan competition by proposing a canopy. But if this concept plan is now made an implementation plan, this is not endorsed by public opinion at all. This point I make for the record. Therefore, if we say that an assessment should be made of the canopy, it would be fair to consult the public again on the winning concept plan, instead of treating the canopy idea specifically as a kind of established advantage. I think it is not fair to think this way.

In addition, with respect to the single tender method, had there been no canopy in the plan, there would be no need to conduct any single tender for it. What the Government has been saying is that the most important reason for adopting the single tender method is that there is a canopy in the original plan and so the canopy will have to fit in with works in the other stages. However, as seen in past examples, such as the 10 core projects for the airport and other large-scale projects, various projects can proceed together provided there is a good master layout plan. So there is no need to conduct any single tender at all. An advantage of not conducting single tender is, as Mr Alan LEONG has mentioned in the motion, that maximum benefits in resources can be obtained. This I think is very important.

As to why we cannot support the amendment proposed by Miss CHAN Yuen-han, it is precisely because we think that when this project is implemented, a statutory body would be better than a culture and heritage commission which is not a statutory body, for the former will have statutory powers and it is more representative. As we would imagine, this statutory body will only oversee the development of the WKCD, instead of undertaking studies on all the districts in Hong Kong. The general understanding is that the culture and heritage commission should carry out studies on the overall cultural policy for Hong Kong. We think that the organization we have in mind should be specifically tasked with studying the WKCD project.

Another point made by Mr Alan LEONG earlier is that the proceeds from the land sale should be transferred to the Treasury and then be ploughed back into the project. However, that is not the only way. If part of the proceeds can be transferred, that would allay the Government's concerns. In other words, when the management authority for the project is set up, some of the land can be transferred to that management authority. This would pre-empt the problem of competition for resources which is an issue of concern to the Government. Saleable land should be transferred to that management authority and sold through it. If it is found that the cultural facilities built fall short of demand, then the Government may inject capital and build more of such facilities. Therefore, the idea is very flexible. Another way of doing this is to transfer a few hectares of land to the management authority, and then a few tens of billion dollars are injected into it to enable it to have an abundant supply of money and land. The authority may then finance itself when it runs into losses, though it would be better if it can make profits. The land can be used to build cultural facilities. As we would imagine, there will not be any need for the Government to scrap the project and start it all over again. What it can do is to base on the current work done and incorporate into it public opinion which has been gathered during the recent consultations. With this, we can expect some rapid and far-sighted developments and that an icon for Hong Kong can truly be constructed. This will be a giant world-class cultural project in which the Hong Kong people can truly take pride.

**MR ALBERT HO** (in Cantonese): Madam President, government officials are infested with hollow, grandiose and exaggerated ideas, hoping to launch the WKCD project in great haste. A quick decision has been made to adopt the single tender method and the entire project is to be executed by a single

developer. As a result, the Government has come under fire for the way it is handling the project. There are accusations of suspected collusion between the Government and big businesses and a channelling of interests from the former to the latter.

Why is so much discontent caused? There are a few points which I would like to raise. First, in 2001 a so-called design contest was held, which was supposed to be a contest in planning design rather than architectural design. Actually, government papers at that time showed that a second round of architectural design contest would be held. However in the first round when the design by Norman FOSTER was picked by the Government as the first choice and even the only love, the second round was cancelled. Many other architects had their own original ideas, but they were barred from turning them into concrete architectural designs. As a result, much discontent is caused in the profession.

Second, the mandatory requirements of the cultural facilities leave people with a feeling that these resemble a superior giving orders to his subordinates, or even a kind of A Great Leap Forward or Three Red Flags in the arts and culture sphere. Not only is there no report of any study done on the actual demand for cultural facilities, but there are also no long-term manpower training programmes and active participation from people of the arts and cultural sector. We know that if Hong Kong is to become a place where arts and culture are to take root and flourish, we need to train up talents in arts and culture. We need to foster the development of an ethos of culture. There may only be a mismatch if we have only the hardware but not the spirit. It is like someone who wears a designer label outfit from head to toe, thinking that he is classy and sophisticated. But he has no fine taste and lacks decorum. As such, he is only fit to become a subject of mockery.

Third, on the canopy design by FOSTER, as far as I know, no feasibility study or environmental impact assessment has ever been undertaken on it. The price tag of this canopy is staggering — as much as \$4 billion to \$6 billion. Annual repairs and maintenance would cost tens of million dollars. But this canopy has been made a mandatory requirement in the proposals invited from shortlisted bidders. Have adequate discussions been held in the community on this colossal item of expenditure which we will have to bear? Given the current economic conditions, when a decision is made on using public resources this

way, are we able to meet public expectations? Will it be rational and wise to prioritize the use of our social resources this way? Has any open and adequate consultation ever been undertaken on this?

Fourth, at a certain point in time the Government raised the ideas of a public tender, development in phases and development by areas to take forward the WKCD project. But after the Government had fallen in love with the canopy design at first sight, everything then became subservient to constructing this canopy. A decision was made consequently to have a unified and concerted development in everything and that there could be no other alternative but to have one developer to take up the entire project. I have talked to many people in the profession and they are of the view that this is not necessarily the case. But if this has to be the case, then there is no reason all the more for us to make the canopy a mandatory requirement at this stage.

Another point is that the scope of the Invitation for Proposals is extremely flexible. The specified plot ratio should not be lower than 1.81, but there is no ceiling for it. There is no guarantee that the other selection criteria will remain transparent, fair and open. During the period when the proposals are under examination, members of the selection panel or even the steering group may hold discussions with the proponents and even modify their proposed terms. This kind of practice is like constantly changing the goal posts. How can those who take part think that the match is fair after all?

Fifth, the thing which the public is most frustrated to see is that, despite the undisguised and unabashed intention of the developers to make use of the profits from property development to finance the building of the canopy, the various cultural facilities as well as their maintenance and operation costs in the long run, the Government goes so far as saying that the project is not a property development project and it even gives an assurance that developers will not reap excessive profits. It appears the Government is thinking that these developers will turn into patrons of arts and culture and so far it still refuses to disclose the financial information of the participating developers.

Madam President, if it is said that only business consortia will be flexible and creative enough and possess a flair for business and that only these consortia can design into perfection a holistic and harmonious cultural district, and that the Government is only fit to lease out the tenancies, and if such is how the Government looks at its abilities, then I can only doubt whether government

officials will have the calibre to tell which proposal is the best, most cost-effective and will best suit the long-term cultural development of Hong Kong.

Madam President, now I do not think there is any other choice left for us but to go back to square one. I agree with the many principles raised by Mr Alan LEONG, such as removing the requirement of the canopy, breaking up the lot into smaller pieces of land for public tender, and so on. The most important thing of all is, I think, to set up a public body, one which is formed by people from all sectors across the community and representative enough. This body should be tasked with the co-ordination, planning, design, building and operation of the entire cultural district. Moreover, all these should contribute to the implementation of a long-term cultural policy for Hong Kong. We do not oppose the idea of using property development projects to support the development of the cultural district. But all these must be done in accordance with the principles of fairness, openness and honesty.

A waste of time is not the most important thing. But the waste of an entire plot of land will surely become a cause of grave discontent in society. Thank you.

**MR RONNY TONG** (in Cantonese): Madam President, it is no exaggeration at all to say that the site for developing the West Kowloon Cultural District is the last jewel in the urban areas. This site in West Kowloon is the last and probably the largest piece of reclaimed land measuring 40 hectares with a magnificent view of the harbour. According to the calculation made by some people using a plot ratio of 4.3, the site could fetch a premium as high as \$160 billion. The development of such a prime site is very important to Hong Kong.

To begin with, I would like to give recognition and commendation to the Government's West Kowloon Cultural District development (the WKCD development) for two reasons. Firstly, this is the first large-scale development of a building cluster other than traditional commercial and residential buildings by the Government, aiming to strike a balance in the cityscape of this overly commercial city of Hong Kong. This is a very encouraging new attempt. Secondly, this is the first attempt of the Government to introduce private capital and public private partnership, which can facilitate participation by private developers in public facilities and hence reduce the cost and risk borne by the

Government, while bringing the advantages of business enterprises in the market into play to ensure the sound operation of the cultural district. This also merits our commendation.

However, if the entire development is awarded to a single private developer for planning, construction and operation for 50 years, which will even transcend the 50-year period of keeping everything unchanged as guaranteed in the Basic Law, problems are bound to arise.

Firstly, the fundamental objective of a business organization is to make profits, whereas the Government must at the same time have regard to public interest in developing the cultural district. Conflicts are likely to emerge between the principles upheld by the two parties. For example, the business organization has to rely on ticket sales to sustain operation and this may result in non-mainstream and less popular arts or arts groups being eliminated by excessively commercialized operation, and when a decision has to be made in the event of conflicts between the private developer and public interest, how will the private developer make a choice? How will the Government perform its monitoring role? How can Hong Kong people participate in the process? All these are major problems.

Secondly, the *modus operandi* of the developer. To date, we have yet been provided with any financial information, including how the estimated expenditure and revenue of the cultural and arts facilities are arrived at, as well as the supply of and demand for such facilities. We have seen many examples in overseas countries, including examples of cultural and recreational facilities operated by public-private partnership running into problems. The most typical example is the Millennium Dome in London, England, which has caused the company to go bankrupt because of serious deficits. If such a large-scale development project runs into problems, what should we do about it? Should the Government be made to underwrite all losses? The Government said that there would be performance bonds. But can the problem be solved solely by money?

Moreover, two of the three screened-in developers operate in the form of joint venture. What should be done if there are conflicts between the companies in the joint venture? If one of the consortiums refused to inject capital anymore and refused to suffer losses any longer, what should we do? Will the Government proceed to acquisition? Will the companies agree to such? What about a transfer of business? How should crises brought by operational risks be

handled in the future? The most worrying thing is that we are talking about keeping everything unchanged for 50 years. This is such a long period of time, and in view of a fast-changing international market and the fact that there may be drastic changes in the economic conditions anytime, can Hong Kong people bear these risks? What I have said are issues that must be considered in long-term infrastructure and business investment. To the Government, being an investor, its first and foremost task is to prevent this investment project from changing into a pure commercial property project. The Government should also have the duty to employ different investment strategies, including a diversified portfolio of investment, with a view to reducing the operational risks. The biggest shortcoming of single tender is that all the eggs are put in a basket. Can we bear the risk?

A more important problem may be the impact of single tender on fair competition. Yesterday, my colleagues and I went to the exhibition hall to view the models of the three development proposals. They all looked very appealing. But then, we found that all the three designs provided a huge shopping mall. In one of the most popular designs, in particular, the area of the shopping mall is as large as more than 300 000 sq m. What will be the impact of the completion of such a huge shopping mall on the leasing market of shops in the entire Kowloon and even on both sides of the Victoria Harbour? The most direct consequence is that the winning consortium, which will own this shopping mall, will become the "king of all kings" among shops in the district. It will become the torchbearer, for any rent movement in the shopping mall rents is set to affect the operation of all shopping malls in Hong Kong. The SAR Government will be intentionally or unintentionally creating another instance of monopolization. Can this be acceptable to us?

Madam President, breaking the project into smaller parts for public tender will encourage healthy competition, for this will enable all consortiums, big or small, to take part in the tendering process, thus injecting diversity into the project. The Government can also be put in a more equitable position in its co-operation with the consortiums. What I mean is that if the project is awarded to one single property developer, the developer would be in a stronger position to negotiate with the Government. Thank you, Madam President.

**DR LUI MING-WAH** (In Cantonese): Madam President, owing to its mammoth scale, the WKCD development has induced extensive debates in the community.

The discussions have focused mainly on several aspects. First, is it necessary to build a canopy at such a high construction cost? Second, the Government is suspected of transferring benefits in awarding the entire project to one single developer. Third, the hardware and contents under the canopy should be the most important elements. However, the Government has still not disclosed detailed information on all these issues. The last argument concerns the exceedingly high plot ratio of property development. Because of the extensive implications in these several aspects, all sectors of the community and a vast number of stakeholders are involved. From the heated reactions of the community, it is evident that it would be extremely difficult for the Government to secure the support of Hong Kong people. In order to achieve a consensus, the Government must explain to and discuss with the stakeholders. In the final analysis, this gigantic piece of land, worth some hundreds of billions of dollars, is a valuable property of Hong Kong people, who are entitled to enjoy the facilities and services to be provided there in the future. Hence, if the Government can listen more to the views of Hong Kong people, the operation of the WKCD development in the future will be even more successful.

Here I would like to confine my discussion to the controversial canopy. To start with, the shape of the canopy has given rise to many imaginations. As the design of the canopy is limited by the terrain, some people have compared its shape to a sting ray or a whale exposing its head out of water, yet without the magnificent jets of water. Some say that, when viewed from the sky, the canopy looks like a dragon, which is not a good omen, because a dragon should be high up in the sky. There must be something wrong with a dragon lying on the ground. (*Laughter*) I also find the point raised by some critics that the gigantic canopy can become a landmark of the territory and represent Hong Kong invalid. This is because a landmark building should be tall and upright. Examples are the Empire Building in New York, Eiffel Tower in Paris, Sydney Opera House, Tiananmen Square in Beijing, CN Tower in Toronto, and so on. The canopy of the WKCD development is designed in such a way that its length has far exceeded its height, and that it is facing down. Whether viewed from the front, back, left or right, it is by no means a landmark building. Neither can it demonstrate the vitality and vibrancy of Hong Kong.

Secondly, because of the massive scale of the canopy, the buildings under it, such as the opera house, museums, arts and exhibition centres, and so on, will be completely concealed. However magnificent and glamorous they are, these buildings can never rise to the top because, like all visitors, they have to bear the

feeling of being suppressed. While the design and style of these buildings may be perpetually remembered, the canopy, however tall and gigantic, is nothing but an empty shell built solely for aesthetic appeal.

It is commonly thought that the canopy should look like a gigantic tent. In the case of the newly completed opera house in Beijing, its canopy is able to create a spring-like environment all year round and protect the opera house from the elements. The WKCD is, however, not entirely covered by the canopy, for 45% of the WKCD is outdoor. In other words, people entering the canopy zone will still need to bring their rain gear on rainy days because there will still be light rain inside when it is raining heavily outside, whereas on windy days, female visitors will have to bring along their scarves. In times of typhoon, visitors will even have to stay inside the buildings. It is thus evident that the canopy can only serve an ornamental purpose. Certainly, we have been told by the developer that the canopy can reflect sunlight and thus lower the temperature in the canopy zone by approximately 4 degrees Celsius. But is it worthwhile to spend billions of Hong Kong dollars building a canopy without too many practical benefits merely for the sake of lowering the temperature by 4 degrees Celsius? Moreover, the canopy has a service life of some 20 years only. The Government will have to spend enormously on its maintenance, cleansing and replacement in recurrent expenditure.

Madam President, I have no objection to the construction of the canopy or the Government's inclusion of the canopy as one of the requirements of the WKCD development. However, we have to examine its concept and design to determine if the canopy can perfectly tie in with the outlook, culture, ecology and conventional notion of Hong Kong as a city .....

**PRESIDENT** (in Cantonese): Dr LUI Ming-wah, please pause for a while. Chief Secretary for Administration, do you have a point of order?

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Dr LUI has told us a great joke. However, a quorum is not present to listen to his joke.

**PRESIDENT** (in Cantonese): Dr LUI, please sit down first. Will the Clerk please ring the bell to summon Members to return to this Chamber.

(While the summoning bell was ringing .....)

**PRESIDENT** (in Cantonese): Honourable Members, it is now one minute to ten o'clock. I have already announced that I will suspend the Meeting at around ten o'clock until tomorrow. If Dr LUI does not mind, shall we continue tomorrow? Would you mind?

### **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the Council until 2.30 pm tomorrow.

*Suspended accordingly at one minute to Ten o'clock.*

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Dr Raymond HO's supplementary question to Question 3**

As regards whether the Commissioner of Inland Revenue (CIR) has the power to stop a taxpayer in default of tax payment from leaving Hong Kong, and if so, whether such a discretionary power is excessive, the CIR does not have the discretionary power of stopping a defaulted taxpayer from leaving Hong Kong. Such power will only be exercised by a District Judge having considered the public interest.

Under section 77 of the Inland Revenue Ordinance, CIR or an officer authorized by her may apply in writing to a District Judge for a Departure Prevention Direction by satisfying the District Judge that the person has not paid all tax assessed on him and that there are reasonable grounds for believing that the person intends to depart, or has departed from Hong Kong to reside elsewhere.

If the District Judge is satisfied that it is in the public interest to ensure that the person does not depart from Hong Kong or, if he returns, does not depart again, without first paying the tax or furnishing security to the satisfaction of CIR for payment of that tax, he shall give a direction to the Director of Immigration and the Commissioner of Police directing them to prevent the person from departing from Hong Kong without paying such tax or furnishing such security.