

# OFFICIAL RECORD OF PROCEEDINGS

Friday, 28 January 2005

The Council continued to meet at Nine 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 PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

**MEMBER ABSENT:**

THE HONOURABLE LAU CHIN-SHEK, J.P.

**PUBLIC OFFICERS ATTENDING:**

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

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

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

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

PROF THE HONOURABLE ARTHUR LI KWOK-CHEUNG, G.B.S., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

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

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

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**MEMBERS' MOTIONS****MOTION OF THANKS****Continuation of debate on motion which was moved on 26 January 2005**

**PRESIDENT** (in Cantonese): We will now move on to the fourth debate session. The policy areas for this session are "education, home affairs and manpower".

**DR FERNANDO CHEUNG** (in Cantonese): Madam President, education provides many poor people an opportunity to improve their lot, all the parents in this world expect their children to receive higher education, and the Chief Executive also stated in the policy address that "in our transition to a knowledge-based economy, we will insist on substantial investment in education."

However, it is unfortunate that in the past few years, the Chief Executive seemed to be quite resolute in cutting the education budget since the reunification. The Chief Executive also mentioned in his policy address of 2000 that he had set the target of providing 60% of our senior secondary school leavers the opportunity to receive tertiary education. He also mentioned in this year's policy address that the overall participation rate of the relevant age group in tertiary education had increased to 53%. However, let us not forget that of all the subsidized places, only 18% could receive tertiary education, and the remaining students will have to pursue self-financed places, most of them being associate degree programmes.

In fact, in the past few years, the Government has been reducing the number of all subsidized sub-degree places and will reduce them in the coming two years. Given the market orientation principle, I am afraid that post-secondary and tertiary education will turn into a commercial activity. In fact, how can we foster the quality of local talents? After these debt-ridden undergraduates have completed the associate degree programmes and self-financing degree courses, can they find a job in society? I am deeply concerned about it and I hope the Government will not cut the education budget in a more resolute and determined way. Madam President, I so submit.

**MR PATRICK LAU** (in Cantonese): Madam President, the theme of this policy address is to work together for social harmony and Mr TUNG took pains to explain how to help the poor and needy. I believe the most thorough-going measure to help the poor and needy is to start with education. Only through an effective education policy will it be possible to help society as a whole extricate itself from poverty.

Poor people want to rely on themselves to improve their lot and the poor in Hong Kong have backbones. They do not care about those who do not understand them. What they need are opportunities and suitable jobs. In the past, I had a lot of students who lived in public rental housing. After they had become professionals, they then had the opportunity to extricate themselves from poverty.

About the proposal in the policy address to allocate additional resources to strengthen the support on learning, after-school learning, tuition and interest activities for children from poor families, I have reservations. This is because the proposal is impractical and cannot help those children. We can only find poor people giving tuition to well-to-do students. In the past, I gave tuition to a lot of students. Poor people do not want you to make them receive tuition. Therefore, I do not consider this to be the ultimate solution to their problem. I believe what matters most is that schools perform their functions duly and attain the educational ideals of cultivating the morals, intellect, physique, social skills and aesthetics of students. It is more important to provide a suitable learning environment which will enable students to achieve whole-person development.

Given the policy address' proposal to vigorously promote the development of creative industries in the hope that they will drive the future economic development of Hong Kong, a large number of creative talents will be required. I believe that cultivating the intellect and the aesthetics is of the utmost importance. Apart from attracting people from overseas, it is equally important to nurture local talents. There is no need for me to say this as an architect, and we all know that people engaged in creative activities are not inspired out of the blue. This kind of creative trait and personality has to be cultivated from a young age.

How can students' creativity be nurtured from a young age? I believe this is closely related to school education. It is very important. Schools can

take the lead in encouraging society, in particular the parents of students, to accept education that fosters creativity and understand that ditching spoon-feeding and rote learning is the ideal way to nurture creative talents.

I believe that small-class teaching is crucial to promoting creativity education. Many Members have already pointed out in the debate on small-class teaching that in a large-class environment, teachers are in fact at the end of their tether and cannot understand the learning progress and actual needs of each and every student. Therefore, they cannot teach students according to their abilities. In the absence of a suitable environment, it is difficult to encourage students to give full play to their creativity and their creative endowment may even be buried.

Therefore, if we want to nurture creative talents, I hope the authorities can seize the opportunity of implementing the "3+ 3+ 4" academic structure reform and complement it with small-class teaching. In the process of implementing the reform, resources should be committed to rewarding creative industries so that schools will be aware of the publicity and promotion in this area. Of course, often, we find it necessary to draw on the popularity of artists when carrying out promotions. It is necessary to do so because we want to gain greater acceptance from society, so that the concepts of the whole education reform can be implemented smoothly.

An ideal education policy is the most effective way to help society extricate itself from poverty and one important measure to help the poor is to give them jobs. Many families become impoverished due to unemployment. Therefore, the Government should create more employment opportunities as soon as possible. Apart from launching the outstanding projects of the former municipal councils and work that will improve the environment, another focus of this year's policy address is the environmental industry. The environmental industry, including the sorting of waste, can also create a considerable number of job opportunities. As to how to carry out appropriate job matching, it is necessary for the authorities to effect co-ordination.

To achieve social harmony, it is necessary to first of all fix the economy, taking the creation of jobs as the starting point to reduce the number of poor families that rely on the CSSA for extended periods, so that the social welfare policy will not be abused and resources can be allocated more efficiently and truly used on the elderly, the frail and the disabled with genuine needs, since

these people cannot work. In the long term, it is necessary to solve the problem of inter-generational poverty through a well-developed education system.

Madam President, apart from school education, the environment of a community is equally important in fostering good qualities in the next generation. Historical buildings have witnessed the changes in different eras in various districts and offer teaching materials on history and culture. The next generation can personally experience the development of the local culture in different eras. Therefore, I support the formulation of a set of legislation that keeps abreast of the times and preserves historical buildings, as well as expediting the process of assessing historical buildings, so that historical building clusters can be preserved more completely through macro planning. In particular, in carrying out renewal programmes on ageing districts, the best opportunities are offered for preserving the original styles of historical buildings and making the programmes compatible with the local characteristics of the 18 districts.

The heritage compound at the Central Police Station is an important milestone in arousing public concern for historical buildings. Therefore, I very much hope that Secretary Dr Patrick HO and Secretary Stephen IP will hold further discussions and decide the future direction in preserving this cluster of antique buildings after giving serious consideration to the public views collected during the open days in the past few weeks.

Thank you, Madam President.

**MS AUDREY EU** (in Cantonese): Madam President, education in Hong Kong has entered a critical stage and the imminent "3+ 3+ 4" academic structure reform and curriculum reform will have far-reaching implications on the development of education. Teacher training, the morale of teaching staff, the language standards of students and the success or otherwise of the education reform will have a bearing on whether Hong Kong can enhance its competitiveness and affect the sustainable development of Hong Kong.

The policy address this year has proposed a number of measures in the section on education: to provide after-school learning and support services to children from low-income families in response to the concerns of society about the disparity of wealth; to implement specialized teaching to raise the quality of

education and to increase second- and third-year places in local universities to provide further opportunities of learning to those who have completed their associate degree programmes. All these measures deserve our recognition, however, what the public is more concerned about is the blueprint for the future development of education.

Education should start from a young age, however, the Government has all along neglected early childhood education. According to the information provided by the sector, at present, there are over 8 400 kindergarten teachers throughout Hong Kong. Of these, 6 000 have not yet obtained any training certificate. Recently, the funding for the Hong Kong Institute of Education has been slashed by a hefty one third and the area that has taken the brunt is none other than kindergarten teacher training. As disclosed by the Hong Kong Institute of Education, the Education and Manpower Bureau originally requested that all places in the Certificate in Kindergarten Education Programme be deleted in 2006, however, after fighting for this cause with strong justifications, it managed to retain 200 places eventually. Even if the places in other institutions are taken into account, it is estimated that kindergarten teachers still have to wait six to seven years before they can obtain the relevant qualification. It can be said that the Government, in discriminating against kindergarten teacher training, has got the priorities wrong.

Concerning primary schools, the policy address proposes that for every 12 classes or more in public primary schools, an additional teacher can be recruited to improve the teacher to class ratio. This is a kind of progress. I am always of the view that in order to implement the educational goal of "enjoy learning, communicate effectively, has a sense of commitment and be creative" and to pursue quality education, apart from teacher training, which I have already mentioned, the key ultimately lies in implementing small-class teaching — I am very pleased to hear Mr Patrick LAU voice the same opinion — and reduce the number of teaching sessions of teachers.

Mr TUNG stressed that the Government's attitude on implementing small-class teaching is positive. Recently, Secretary Prof Arthur LI put forward a new proposal on small-class education which suggests that popular schools and those enrolling a greater number of students from poor families be accorded priority in implementing small-class teaching. I have no objection to this. Secretary Prof Arthur LI also proposed that popular schools and those experiencing under-enrolment should be merged so as to make room for the

implementation of small-class teaching. However, I am concerned that mergers may create quite a number of practical problems, just like the last occasion when Secretary Prof LI tried to arrange a "forced marriage". I also wish to point out that it is not necessarily the case that schools enrolling fewer students are poorly run, since some parents are concerned about the great pressure of attending traditional elite schools and they prefer to enrol their children into schools with fewer students so that their children can receive adequate attention.

I do not oppose the culling of schools but do not agree that student intakes should be adopted as the sole criteria in culling schools. Moreover, if we want to achieve quality education, we should still less consider this issue purely from the perspective of supply and demand. Furthermore, small-class teaching and the culling of schools are two separate issues. Since small-class teaching is desirable and since the Government claims that its attitude is positive, it should match its words with deeds instead of implementing small-class teaching only after the culling of schools has been completed.

Concerning the "3+ 3+ 4" academic structure reform, although the first round of consultation has recently been concluded, a consensus has not yet been reached on many issues. Furthermore, the Education and Manpower Bureau has totally neglected students with special needs. I am very glad that Secretary Prof LI agreed with the requests I made in the last Legislative Council meeting and will conduct the second round of consultation in the middle of this year and publish a more detailed consultation paper which will cover special education. Concerning the proposal raised by Secretary Prof LI recently to simplify the grading of Liberal Studies into three grades, namely "pass", "fail" and "good", I am in favour of this and I personally hope that Liberal Studies can be introduced as soon as possible. However, the misgivings of many parents and members of the education sector should not be overlooked. Since Liberal Studies is after all a rather new thing, a long period of time is required for the training of teachers and for devising a system of assessment acceptable to all parties, so it is necessary to proceed carefully.

Concerning university education, a subject that must be broached is the controversy surrounding the reduction in resources. In recent years, we can see that the class size in universities are getting larger and larger and tutorials have ceased to exist but in name. A university lecturer once came to the Legislative Council to tell us that giving lectures is like staging a concert. What is even more noteworthy is that university funding allocated to the University Grants

Committee (UGC) for centralized allocation will increase drastically from \$203 million in 2004-05 to \$496 million in 2007-08, with a rate of increase of 144.5%. Many university academics criticized the allocation criteria as not clear. In fact, the Chairman of the UGC, Dr Alice LAM, said last year that in the next three years, 10% of the funds allocated to various institutions would be withheld and handed back only if the institutions play their roles duly. She even said that if parents want their son to be obedient, more pocket money should be withheld. In view of all these developments, it seems the UGC wants to tighten its grip on institutions and establish a culture of obedience. If universities are manipulated with such a mentality using such a way of funding, there will be no end of trouble. Without stable sources of income, it will be difficult for universities to plan for the long-term development of their programmes. They can only rely on launching short-term and random projects as a means to get by and the morale of teaching staff and students will be dampened. In addition, when institutions bid for funds, often they can only offer programmes with market potentials in the hope of obtaining the greatest return. As a result, subjects with academic value are given up. When considering applications, the UGC may also allocate funds according to the principle of awarding them to the lowest bidder and this will have a direct impact on the quality of the projects. Worse still, the institutions will be at the beck and call of the Government and the autonomy of universities will be strangled.

Madam President, finally, I wish to comment on the issue of language education. Recently, a number of newspapers disclosed that the consultation paper on the Review of Medium of Instruction for Secondary Schools would be published next month. One even had the heading "Massacre of English Secondary Schools" splashed out across the page, alleging that the Government intends to tighten the criteria for becoming an English secondary school. For schools to become English secondary schools, 85% of their newly enrolled students must have obtained the result "fit to be instructed in English" in the grading examination. I am concerned that if a good foundation of English is not laid in primary schools and secondary schools cannot enrol the type of students they want, even if there are very good teachers and excellent complementing facilities, the English standard in Hong Kong will only decline further. Therefore, if we want to offer a good education in English, it is also necessary to begin from primary schools.

In fact, in recent years, more and more local students have gone overseas to further their studies and my children are among them. When I look around at

my friends, an overwhelming majority of their children over 12 years old are also studying overseas. According to the statistics of the British Council, Hong Kong students studying in the United Kingdom have gradually increased from 12 900 in 1998-99 to 17 310 in 2001-02. There is also a trend of increase in the number of Hong Kong students going to Australia, the United States and Canada for studies. Many local parents have cast their votes of no confidence on the Hong Kong education system through their actions. This situation warrants the authorities' attention and reflection.

The ultimate goal of any education policy is to raise the quality of education and to put the interests of students above all else. Concerning the utilization of resources, it is natural to hold different views and raising strong objections is not equivalent to putting up a show. I hope that the Education and Manpower Bureau can disclose as much information and data as possible, so that the public can take part in the discussion on the priorities of policies, rather than letting the Bureau have all the say. What is more, I also hope that Secretary Prof Arthur LI can regard the whole education sector as his partner and stride toward the aforementioned goals. This will be good for the welfare of Hong Kong.

Thank you, Madam President.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, education is a typical example of the failures of the SAR Government in its governance that alienates the people from the Government.

TUNG Chee-hwa said that the Government had failed to establish the vision of "people-based" government. In formulating policies, it fell short of thinking what people think and addressing people's pressing needs. Small-class teaching is the iron-clad proof.

The education sector has lobbied for small-class teaching for over 10 years and has obtained 200 000 signatures from parents who support small-class teaching. A motion in the Legislative Council also approved of it. The motion had strong public backing, however, the Government is intent on going its own way and continues to drag its feet. Is this being the enemy of the people or being oriented to the people?

TUNG Chee-hwa maintained that "small-class teaching is a positive development". However, no sooner was this said than the officials of the Education and Manpower Bureau hastened to give explanations and refused to implement the small-class teaching proposals made by the Legislative Council. How did this action put into practice the principle of addressing the education sector's pressing needs and thinking what parents think?

The motion passed by the Legislative Council is pragmatic and feasible. The education sector did not request the adoption of any across-the-board measure to immediately implement small-class teaching on a full scale, rather, it has taken into consideration the financial situation of the Government and suggested following the success example of Shanghai to progressively implement small-class teaching through a "by district and by grade" mode of transition, eventually implementing small-class teaching throughout Hong Kong. During the transitional period, individual districts can make occasional adjustments to the number of students in each class slightly in response to the fluctuations in population, however, as long as the overall population continues to decrease, the ultimate goal of small-class teaching will be attainable.

At present, the Primary School Heads Association and the educational groups in 18 districts, together with academics and members of the legal profession, are drafting the Charter of Small Class Teaching to raise the quality of small-class teaching. This shows the sincerity and hope of the education sector. However, Secretary Prof Arthur LI has put forward an alternative proposal involving the merger of renowned schools with schools experiencing under-enrolment to implement small-class teaching, or to adopt small-class teaching as a measure to help the poor by offering small-class teaching to poor students.

These two proposals made by Arthur LI will cause divisions among parents. Why is it that only students in renowned schools and poor students will be entitled to small-class teaching? Why can we not be equitable and allow all students to enjoy small-class teaching irrespective of their schools or wealth, as long as the conditions exist? Why can we not respect the choices made by parents and implement small-class teaching if schools have the right conditions and a sufficient number of untaken places? In education, students should not be labelled and social class divisions should not be created. Otherwise, this will elicit uproar from parents, create greater trouble and worries in the education sector and lead to complications.

TUNG Chee-hwa said that the Government was "not sufficiently mindful of the impact of some policies on the community's capacity to bear and the potentially controversial nature of these policies.". It also "introduced too many reform measures too hastily, putting heavy burdens on our people.". The mistake made by TUNG Chee-hwa is also the mistake made in the education reform. In the past five years, the measures of the education reform were too many and introduced too hastily. They were beyond what teachers and society could sustain and eventually ended in chaos.

However the Education and Manpower Bureau has still failed to learn a lesson from this. When implementing the "3+ 3+ 4" academic structure reform, it still holds the mentality of accomplishing the goals in one stride and is eager for accomplishments. It has insisted on linking the academic structure reform to the introduction of Liberal Studies and has made their existence mutually dependant. It is so obstinate as to be utterly perplexing. Liberal Studies is a curriculum for the senior secondary level and has already been designated as an essential subject which must be examined, even though the planning and consensus in respect of its subject contents, the complementing measures, assessment criteria and teacher training have not made sufficient headway. Is this not being too hasty and going too far?

The general direction of the academic structure reform has won the initial support of the education sector. However, during the consultation period, there is a very strong call from secondary schools on the Government to increase the manpower ratio of teachers to cope with the tremendous workload and teacher training that the academic structure reform will give rise to. The education sector even pointed out clearly that the academic structure reform must not make teachers lose their jobs. I hope that the Education and Manpower Bureau will listen to the voices of the education sector in the subsequent second round of consultation and resolve the issues that have aroused great controversy. It should not be headstrong and squander the social support for the academic structure reform.

One of the highlights of the academic structure reform is the four-year university education system. At a time when the blueprint for a four-year system is still on the drawing board, the Education and Manpower Bureau continues to cut university funding and uses fund allocation to manipulate

universities. The funding for university has already been cut by 10%. If the Government continues to slash a further 5% in the next three years, universities will find themselves in an extremely painful situation. A quarter seriously stricken by the funding cut is the Hong Kong Institute of Education (HKIEd), which had as much as 47% of its funding cut in four years. The outcome is a *de facto* culling or forced merger of institutions, a move that not only erodes the independent existence and operation of the HKIEd but also hurts the feelings of the education sector. I can in no way understand or agree with the Government's self-contradictory policy of developing the universities on the one hand and slashing university funding on the other. I hope the Government can pull back from the brink, revoke its order and cease to slash the funding for universities and the HKIEd.

Finally, I must reiterate here that the common wish of the education sector is to have stability. In the past few years, the Government has turned a blind eye to the decrease in student population, to the vacant classrooms in schools, refused to implement small-class teaching to raise education quality and continued with its policy to build schools as it culls schools, thus artificially creating an excess of teachers and unemployment, sowing general apprehension among teachers and school heads and rocking the harmony and stability in the education sector. I earnestly hope that the Government will take all kinds of powerful measures to stabilize the team of teachers and their morale.

At present, unemployment among teachers has spread from kindergartens and primary schools to secondary schools. The grievance in universities has also reached stunning proportions because of the salary cuts and layoffs in response to the continued funding cuts. In the 14 years that I have worked in the legislature, I have never seen such persistent occupational crisis involving the teaching staff in universities, secondary schools, primary schools and kindergartens, such gloomy sentiments and morale, such deep-seated melancholy and grievance, such passivity and disillusionment. The education reform has caused teachers unspeakable injuries and pain and no end of frustration and hardships to schools. Nowadays, when even TUNG Chee-hwa knows that he should identify his inadequacies, are the standard-bearers who have been in charge of education reform for five years and the high officials who have caused injuries to teachers troubled by any streak of regret and guilt? Have they shown any tint of remorse and repentance?

What has been done cannot be undone. It is necessary to turn over a new leaf in education. If education reform is to have any hope, please begin by respecting teachers! Please begin by restoring the morale of the people!

Thank you, Madam President.

**MR WONG KWOK-HING** (in Cantonese): Madam President, since there is little left of my speaking time, I have composed a poem concerning the 18th paragraph of the policy address and the incident involving the distressed owners of Albert House who fell ill and threatened to kill themselves by jumping off buildings, and dedicate it to the Secretary and the Chief Executive. The title of the poem is: Would that the Government have greater IQ and EQ in Crisis Management: Albert House has Abject House become, kindness will get the knot undone. Distressed owners have forbearance shown, why are hurdles over their course strewn? Procrastination will more tragedies breed, the Secretary must in this intercede. The Chief Executive must show his abilities, this crisis to turn into opportunities.

Thank you, Madam President.

**MR JASPER TSANG** (in Cantonese): In the policy address, the Chief Executive proposed to encourage more overseas and mainland students to pursue their studies in Hong Kong, adding an international dimension to our tertiary education. In the policy agenda of the Education and Manpower Bureau this year, the policy "to allow the entry of more non-local students into Hong Kong for education" is ranked the first among the three new initiatives to be introduced. I would like to talk about the findings of some studies conducted by the Democratic Alliance for Betterment of Hong Kong (DAB) recently on the internationalization of tertiary education in Hong Kong.

Madam President, Australia and the United Kingdom are two countries which have been quite successful in promoting internationalization of tertiary education. Both countries have drawn up plans to develop international education systematically. For example, in Australia, the number of international students registered in higher education institutes in 2003 was 130 000; in the United Kingdom, 270 000 students enrolled in their institutions of higher education in 2004. In addition to their English-speaking environment,

the reason for Australia and the United Kingdom attracting so many overseas students is that both countries have all along attached great importance to international education and formulated a comprehensive strategy in attracting international students.

These countries attach great importance to international education with a view to developing their countries into an excellent education hub of the region. Moreover, they want to capture the enormous economic benefits generated from international education for their countries. According to the statistics of the authorities of Australia, international education helps to generate AUS\$5 billion per annum for the country, representing the third largest export services industry of Australia, second only to tourism and transportation services. At the same time, international students have brought up domestic consumption by a total of AUS\$1.8 billion and have helped to create 42 000 job opportunities. As for the United Kingdom, international education generates £3 billion of income for the country each year.

Since a growing number of countries have started to develop international education, in 2003, the authorities of Australia allocated about AUS\$100 million for the development of international education in the federal budget to maintain its competitive edge. The funding was used for publicity and the setting up of international centres of excellence and the posting of education commissioners in other regions. The United Kingdom has also conducted a number of studies to formulate strategies for future development. Though the United Kingdom has the most number of international students among European countries, the British Council raised a warning in a report issued last April, stating that the United Kingdom might lose its market share to other countries, such as France, Germany and Singapore, if the country failed to invest more in international education.

All along, the United Kingdom and Australia have put in place concrete complimentary measures to attract international students to pursue studies in their countries. Let us discuss briefly the market strategies, economic policies and immigration policies implemented by these two countries.

In respect of market strategies, the most common practice is the holding of education exhibitions at target places for student admission and arranging for schools from their countries to introduce their own characteristics. Education exhibitions held by Australia and the United Kingdom in Hong Kong are nothing

new to us, both being major events of the year. Both countries continue to conduct surveys on students to understand factors affecting the decisions of international students to study abroad. They also enhance the content of their education information websites to facilitate international students in searching for information on further studies. Free enquiry hotlines have also been set up to facilitate students in making enquiries. Regarding their economic policy, these countries have relaxed the working restrictions on international students, allowing them to take up part-time jobs during their course of studies. Some countries may extend the coverage of their scholarship programme and increase the number of international student recipients. Immigration policies have been implemented by these countries, including the simplification of application procedures for student visas, and the granting of a period of stay for international students upon graduation for seeking local jobs. In 1999, the United Kingdom implemented a series of measures for student admissions. According to their figures, the number of international students enrolled has increased by 6% ever since. We think the experiences of these overseas countries can serve as valuable reference for us.

The internationalization of tertiary education has been developed for some time in overseas countries. Singapore, a neighbouring country of ours, has also planned to increase their intake of international students. In fact, Hong Kong possess the necessary conditions to admit students from countries in Southeast Asia and the Mainland to study in our tertiary institutes. Individual faculties of the eight tertiary institutes in Hong Kong are well-known in the international community and highly praised. For example, the School of Business and Management of The Hong Kong University of Science and Technology and the Faculty of Business Administration of The Chinese University of Hong Kong are on the top hundred ranking list issued by *The Financial Times*. Moreover, some local universities enjoy a good reputation in the Mainland and are put on the list of top 10 universities in China. Among the some 6 000 teaching staff and researchers working in our tertiary institutes, a number of them have made outstanding achievements in research. Moreover, Hong Kong as the hub of Southern China has well-developed communication systems, freedom of information and convenient transportation. For students looking for further development in the Mainland, receiving high standard tertiary education in Hong Kong will indeed facilitate their development in future. The use of English as a medium of instruction in our tertiary institutes is another advantage. Needless to say, our eight institutes provide a very good environment for studying.

International students studying in Hong Kong can enjoy a rich and exciting campus life. As for mainland students, studying in Hong Kong is more convenient. They can enjoy the advantage of Hong Kong's proximity to the Mainland, which means they and their families do not have to make long and arduous journeys to visit each other. Therefore, we do have a unique advantage in this respect.

The DAB considers that in respect of the development of the internationalization of education in Hong Kong, we should not only take on board experience of overseas countries in the formulation of complementary measures, but should also be cautious in setting our tuition fees. As far as we know, according to the existing policy of tertiary institutes, the amount of tuition fees to be charged of non-local students should not be less than \$60,000 per annum, slightly higher than that paid by local students. We know that this is not a standard requirement, and each institute may set their tuition fees at levels higher than \$60,000 per annum according to their individual characteristics.

On the one hand, public funds should not be used to subsidize international students, but on the other, the level of our tuition fees should be set at a competitive level. We think that a tuition fee of \$60,000 per annum is very competitive. However, as we refer to the fees charged by some institutes overseas, we know that the fees charged vary from disciplines to disciplines, with some disciplines charging extremely high fees. We think we may consider adopting this approach, that is, a more flexible charging scheme. No matter how, we think that the tertiary education of Hong Kong actually does have an edge over others. We are looking forward to the introduction of some ambitious and effective complementary measures by the Government to achieve the objective of internationalizing tertiary education in Hong Kong.

Thank you, Madam President.

**MR TOMMY CHEUNG** (in Cantonese): Madam President, in the policy address this year, the Chief Executive mentioned his determination to improve governance, absorb people of greater representation into the advisory framework and to provide more opportunities for the middle class to participate in public affairs. The Liberal Party considers this the right direction and hopes that the Government can really put its words into actions.

I remember that the Chief Executive made a similar promise in the policy address last year, saying he would "attach importance to the middle class" and "involve more middle-class people in political affairs", and he even specified that the Government would "appoint more middle class managers and professionals into the Government's advisory boards and committees". A year has lapsed, but so far, the middle-class forum is still in its preparatory stage, and the Home Affairs Bureau expects that the forum can only be established after another two months. I urge the Government to implement policies aiming to gauge the views of the middle class as soon as possible.

In fact, the Liberal Party all along considers that the Government should overhaul the various statutory committees and policy advisory committees as soon as possible to involve more middle-class people. This will not only allow the Government to solicit more views from the public, enabling it to foster recognition of its governance, but will also help to stabilize the middle class.

Next I would like to talk about issues at the district level. The Government has decided to resume some outstanding projects of the two former Municipal Councils. Taking into account the distribution of recreational facilities and demand arising from increased population in different districts, the Government has set out a list of 25 projects to be commenced first. A total of \$4.4 billion will be invested into these projects, including projects in New Territories West, a district where the provision of municipal facilities obviously falls short of the demand of the growing population, such as the building of a library cum games hall in Tin Shui Wai and a swimming pool complex at Tung Chung New Town. The Liberal Party supports the arrangement made by the Government and hopes that the Government will give an account on the details of each of these construction projects to members of the respective districts and consult the public.

I believe the adequate provision of community facilities will encourage residents to exercise more and participate in civic and leisure activities, thus promoting their physical and mental health, and will indirectly help to foster domestic and social harmony.

Madam President, the Chief Executive particularly mentioned the worsening of building dilapidation in his policy address this year. Right after that, the Hong Kong Housing Society (HS), the Housing Department and the

Urban Renewal Authority announced a number of plans to reinforce building management and repairs. The HS has undertaken to set aside \$3 billion to provide assistance to owners with financial difficulties in carrying out repair works, and to provide "one-stop" management and repair services.

The Housing, Planning and Lands Bureau is also preparing for the introduction of the mandatory buildings inspection plan, which is expected to be implemented in the year 2007-08. On the other hand, the Home Affairs Bureau plans to require Owners' Corporations to take out mandatory third party insurance. The active participation of the various government departments and organizations concerned in reinforcing repairs support for old buildings is definitely worth supporting.

However, since the respective work involves two bureaux, one department and two statutory organizations, the Liberal Party hopes that the Government can learn from its past experience and step up the co-ordination work concerned, avoiding the prescription of remedies too strong for the case, which may turn a measure favourable to the public into a disturbing one. Take the mandatory requirement for taking out third party insurance as an example. Though it is proposed out of good intentions, we have to be cautious in enforcement, such as perfecting the details of the arrangement, setting the appropriate amount of insurance and deciding the assistance to be rendered to needy owners.

Let us look at another example, the proposal for mandatory inspection of buildings. The Liberal Party supports the proposal. However, we do not agree that the Government should adopt a broad-brush approach by requiring buildings of a certain age to undergo regular inspections and repairs. Instead, the Government may only need to require buildings failing to meet the specific management standard be subject to mandatory inspection, thus sparing owners of well-managed buildings undue worries.

The options proposed in the policy address are medium-to-long-term solutions that definitely cannot help to solve the pressing problems faced by the small owners of Albert House. A group of law-abiding owners who have already discharged their legal responsibility in paying compensation are forced to take on extra liabilities just because those people have shirked their responsibility. These owners are still putting up outside the Legislative Council Building, appealing for appropriate assistance from us.

I think the most urgent task the Home Affairs Bureau needs to perform is to think of a reasonable and compassionate option to end the distress suffered by this group of small owners of Albert House who are aged and helpless, allowing them to find a comfortable shelter.

Madam President, I so submit.

**DR RAYMOND HO:** Madam President, Hong Kong is in a transition to a knowledge-based economy, the Government's pledge of substantial investment in education in the 2005 policy address is appreciated. I hope that with the persistence of the Government in education, all people in Hong Kong will have equal opportunities to receive education.

In the 2000 policy address, the Government had a target of providing, within 10 years, 60% of our senior secondary school leavers with an opportunity to receive higher education. I am glad to learn that the overall participation rate of the relevant age group in tertiary education has increased from 30% in 2000 to 53% today. This fact reflects two things: first, the Government has kept its promise of promoting higher education; second, people in Hong Kong are aware of the importance of education and they are willing to devote efforts to upgrade themselves. Both of these deserve our appreciation.

As I have mentioned in the past, it is good to extend the coverage of our higher education as far as possible, but quantity should not be achieved at the expense of quality. I would like to remind the Government of two points.

First, based on the estimated job market demand, the Government needs to plan ahead the types of programmes to be offered to students in the coming years and provide spaces accordingly. An over-supply of graduates in disciplines not much needed by the job market will only lead to an undesirable mismatch of human resources and social problems, such as unemployment.

Second, the quality of education programmes, graduates and lecturers must be ensured. The principle of lifelong learning should apply not only to people engaged in the commercial field but also in the educational field. Therefore, lecturers, professors, and primary as well as secondary school teachers are expected to upgrade themselves from time to time. On the other hand, there is an increasing trend of plagiarism. This problem should be dealt with properly.

Last year, the proposal of "3+ 3+ 4" academic structural reform was introduced. I personally hold a positive attitude towards this proposal. In my opinion, the current three-year duration for a first degree is insufficient for some disciplines, especially those leading to professional qualifications, such as engineering. The proposed four-year system will enable students to acquire more knowledge, making them more competitive than their overseas counterparts. Moreover, this new system works more in line with the other universities overseas. This can facilitate students to achieve credit transfer and further education.

Undeniably, the four-year university system will put a heavier financial burden on the Government, but as I have raised with the Government before, this problem can partly be solved by raising the current overseas student ratio and charging them higher tuition fees. In the United Kingdom, foreign students are required to pay fees several times higher than their local counterparts. Responding to my repeated request, the Government has increased the ratio from 4% to 8%, but it is still very low as compared to universities in other countries. As we are suffering from fiscal deficit, why does the Government not follow the same?

Apart from education, the 2005 policy address also covers some issues relating to home affairs. On 12 January 2005, the Chief Executive announced that 25 projects of the former Municipal Councils had been identified for implementation. While I appreciate the Government's efforts, I must emphasize that most of these projects will only have their construction work started after 2008 and some even after 2010. This is most disappointing and even ridiculous! I strongly suggest that to cope with the citizens' demand more fully, particularly because these municipal projects have very much to do with the citizens' quality of life, Mr TUNG should personally look into this critically.

Hong Kong is a place where stress is often found in people, and it is reported from time to time that citizens do not have enough physical exercise. To ensure that our workforce is healthy mentally and physically, it is necessary for the Government to provide citizens with sufficient relevant facilities, such as sports centres and stadia, to encourage them to do more exercises. However, currently, the facilities of some sports centres are inadequate, outdated and found to be poorly maintained. I hope that the Government will improve on it and

make sure that the management of these sports centres is up to the desired standards.

Lunar New Year is coming. I hope that all people in Hong Kong will enjoy a prosperous year and good health conditions. Hong Kong is undergoing an economic restructuring. An education reform is needed to cope with this change. The "3+3+4" academic structure reform proposal has been introduced, and since it will have a great impact on our children's and Hong Kong's future, a thorough and extensive consultation is necessary. Hopefully, under the new education system, we will have an efficient workforce which is of high quality to work for the future of Hong Kong.

Madam President, I so submit. Thank you.

**MR ALBERT CHAN** (in Cantonese): When I first read the 60th paragraph of the policy address, which stated that the Government would accord priority to 25 projects and would invest \$4.4 billion for these projects, I was somehow pleased. However, when I checked the record for the timetables of those 25 projects, I was disappointed and angry. I think the Legislative Council has been misled and deceived by the Government. Insofar as those 25 projects are concerned, the Government has not only failed to act in accordance with the instruction of President HU to identify inadequacies but also failed to appreciate the sentiments and views of the public. On the contrary, it has distorted public opinions and discredited itself.

The Legislative Council has established a Subcommittee to study the outstanding projects of the two former Municipal Councils. The Subcommittee has studied the issue for several years, and the Government has held many meetings, made a number of undertakings and laid down specific timetables for those projects. Nonetheless, the 25 projects set out in the policy address will not be commenced on schedule as the Government has promised earlier; instead, a number of projects have been delayed substantially. Take the municipal project at Siu Sai Wan as an example. The Government promised at that time that the project would commence in 2004, however, the project is now proposed to be commenced in the year 2009. I am not going to cite other examples. I hope Secretary Dr Patrick HO does understand what identifying inadequacies means. For some new towns, such as Tin Shui Wai, particularly after the Tin Shui Wai tragedy, and Tung Chung, the Government said it has to understand the

difficulties of the residents and help them overcome their difficulties. However, in a new town with some hundreds of thousand residents, not a single indoor sports stadium or sports ground is provided. Neither is there any swimming pool. The Government has not commenced the projects earlier, nor has it appreciated the public sentiment and recognized their plights. I hope that Secretary Dr Patrick HO, after staging his violin performance in the dinning hall, will find some time to go to the impoverished areas of new towns to visit those who do not know how to play the violin. Neither do they have the opportunity to perform in a dinning hall. They only hope that they can have a place to take part in cultural and recreational activities. Unfortunately, they do not have the opportunity. Such a government with governance will only cause public grievances to continue to rise.

Though the policy address has set out the plan of this year, among the 25 projects being accorded the so-called priority treatment, some of them will not commence until next year or the year after next. Therefore, I hope the Secretary can review the Government's attitude in governance. It should identify its inadequacies truly and implement these projects as soon as possible, so that projects for the new towns can be commenced earlier, and those residents, particularly residents of Tin Shui Wai and Tung Chung, will not be deprived of their rights and benefits accessible to the ordinary citizen only because of the administrative blunders of the Government.

**DR JOSEPH LEE** (in Cantonese): Madam President, with regard to the education reform, the Chief Executive stated in his policy address this time around that he would continue the education reform. In the past, the objective of education reform strategy in the Chief Executive's policy address was whole-man education. I wish to emphasize that under the whole-man education policy and a new academic structure, students will take certain compulsory courses, and while they had to take three subjects in the past, now they have to take four subjects. Some academics find that students will have less opportunity to select other elective subjects if they have to take four subjects instead of three. Can we actually achieve whole-man education by implementing this system (that is, to change the compulsory three subjects into four subjects) in secondary education?

Some academics opine that whole-man education should only be reinforced at the tertiary level, while elective subjects such as history,

geography, biology and chemistry should be reinstated at the secondary level with reference to the academic structures adopted by different countries overseas and the Mainland as this will lay down a sound foundation for students. For that reason, we should consider in the coming year and study whether the education reform strategy proposed in the policy address is feasible and should we put them into practice anyway?

Secondly, I wish to look at the development of education reforms. In the 55th paragraph of the policy address, it was stated that after incessant efforts by the education sector, our reforms of primary and secondary education had started to produce results. Students are learning more happily and effectively. Our teachers have enhanced their quality and professionalism. I wish to point out that as far as education reforms are concerned, it seems that they are not at all consistent with the description in the policy address. Why do I say so? In the entire course of education reforms, has the Government actually taken the psychological well-being of students and teachers into account? This is of the utmost importance. Various studies have pointed out that the implementation of all kinds of education reforms have actually put tremendous pressure on teachers and students. A survey pointed out that the major concern of the education sector was the fact that a teacher had to work 67 hours weekly on average, in which most of the teachers had to use 40% of their time to deal with additional administrative tasks and extra learning. Under such pressure, a lot of teachers find themselves suffering from various stress-related symptoms such as insomnia, bad temper, back pains, and so forth, and these situations are worrying. The situations of students are also not so good, for under the pressure of education reform, many students are found to have developed certain psychological problems.

A recent survey showed that 2% of the primary school students had depression symptoms and they had to receive professional psychological treatment and support services. Moreover, 4% of the students were suffering from a certain degree of depression; they belong to the high risk group and should receive close attention and support. Everybody knows that besides dejection and poor academic achievement, depression will also affect the conduct of students, for example, it would cause certain kind of destructive behaviour or drug abuse. The survey also showed that 24% of the students were of stronger mental quality while the remaining 76% were of weaker mental quality. Although 24% were above average, the majority were low in mental quality. In

fact, it precisely shows that under the current education reforms, many students are subject to tremendous psychological pressure and the trend is rising.

Another survey was conducted by the City University of Hong Kong. It showed that many tertiary students were suffering from severe depression, among whom 40% of them had moderate to severe anxiety and 27% had moderate stress symptom. The findings of these local surveys were more severe than that of those conducted overseas. I wish to point out that education reforms are good, we should affirm them; but I also believe that in the course of introducing the entire education reform package, the Government should not only pursue the result-oriented approach, it should also consider the entire process. It should take the entire process into consideration and examine whether the physical and mental health of teachers and students are being taken care of. In so doing, they may be enabled to enjoy the entire process, thus achieving the objective of whole-man education. Madam President, I so submit.

**DR KWOK KA-KI** (in Cantonese): Madam President, education reform is not a novelty. In fact, the SAR Government has been carrying out education reform since the reunification. I understand that the Secretary very much wants to make a good job of the education reform, but while it takes ten years to grow a tree, a hundred years are needed to bring up a generation of good people. The quality of teachers is of paramount importance in the education of children. When I discussed this issue with many of my friends, we thought that the biggest problem with our current education reform is that it creates an excessive burden on many teachers and school principals. I think nobody will object to the teaching of Liberal Studies or the "3+ 3+ 4" academic structure reform proposal, but I believe it is most important to treasure each and every teacher who teaches children by letting them participate and feel respected in the process of reform. These goals definitely cannot be achieved by a few consultation exercises and lots of documentation. Their success depends on the sincerity of the Secretary and the way in which he takes forward this work.

I would like to mention a point about reform of university education. I think it is necessary for Hong Kong to carry out such reform. I think that university development had been too fast before the reunification. At present, the situation in certain tertiary institutions is similar to that of the indiscriminate "big-pot" distribution system. The salaries of teaching staff and the

expenditures of the institutions are the same irrespective of the subject taught, the importance of the subject and the university in which the staff are employed. I think we should encourage every university to develop a direction for its academic pursuits, or even provide the opportunity for privatization of some universities and operation on a trust fund. This will not only attract the business and private sectors to participate but also allow different educational organizations to operate according to their own visions.

Moreover, I would also like to speak on the policies on culture and sports. We have spent lots of money on cultural projects, for example, the West Kowloon Cultural District. However, most of our children unfortunately do not have the opportunity to enjoy the present sports facilities and the majority of schools do not allow students to use the facilities after school. Although the admission fees for most cultural programmes are not high at all, the audiences are small. Under the circumstances, it is futile to make any further demands when the groundwork is not good.

Thank you, Madam President.

**MR ABRAHAM SHEK:** Madam President, education provides citizens with a sense of knowledge, but it is culture which gives us character and identity. We need these factors to create an environment which cultivates innovative thinking, self-initiation, self-awareness and entrepreneurship. In this area of education and culture, I would like to speak and share my thoughts.

Since 2000, our teachers and students have been burdened with many reforms introduced way too hastily. There have been reforms on practically every major aspect of education: curriculum, performance assessment, medium of instruction, the mechanism for school place allocation, and soon, the academic structure itself. I wish to tell the Secretary what is missing is the most important reform of all — that of small-class teaching. The Government in this aspect has got the priority wrong. I believe most teachers would also agree that our education system needs these reforms, but if the changes are starting to produce results, as our bureaucrats so desire, they are being achieved at a price, and the expenses are our teachers and students. Is it fair to ask our teachers to be constantly burdened by the Administration's top-down approach, lack of detailed and complete planning, and little to no professional support? Is it fair and right to treat a generation of students as guinea pigs for untested reforms

when the system seems to be working? These are some of the questions to which I am sure the Secretary could address. Can these reforms be taken as the whole purpose of what a people-based education policy should be?

Our teachers should not be stretched to a breaking point. They should be given sufficient school-based support. Both the teacher-to-class ratio and the teacher-to-student ratio should be further reduced. Small-class teaching should be introduced in phases immediately, first in schools and districts where resources have been freed up by a steady decline in student population. The idea should not be smeared and taken to be the teachers' self-protectionist strategy against the surplus of educators. To be fair, the benefits of small class teaching are equally shared between students and teachers. This very concept of small-class teaching is truly supported by this Council, not like the Cyberport, and also by the general public.

Also, the autonomy of schools should be respected. The divisive gap left behind from the confrontation between schools and the Government on the subject of school-based management initiative has yet to be mended. Education is synonymous with consensus, co-operation and understanding, but not confrontation. Co-operation between educators and the Government would produce the best results in education reforms, and our students would be the beneficiaries of good reforms, and not the victims of unplanned reforms. For the universities, their academic autonomy also seems to have been weakened. The Administration must not try to influence the universities' policies through its subsidies, let alone its administrative orders. Education decisions, such as any proposed merging of the tertiary educational institutes, should best be left to the education experts.

The sector itself has yet to face the biggest reform challenge — that of the "3+ 3+ 4" academic restructuring proposal. This ambitious plan would bring fundamental changes to both secondary schools and universities, and close to half of the students in the mainstream school system will be affected. In principle, I agree with the proposal. A four-year university programme will definitely enrich education more than a three-year one, where everything is done in a rush. But a reform of this magnitude in scale and scope cannot be forced through like previous reforms which were subject to such treatment. This time, the Government cannot rely on the teachers' sacrifice alone. It needs to think and rethink how parents, teachers and students may feel. The first challenge for the

Secretary for Education and Manpower will be to address the public's concern about the financial arrangements and the introduction of General Studies as a core examination subject.

It is evident that the SAR Government, since reunification, has expended enormous amount of resources in education. We are grateful for that, and we are seeing the results which benefit many of our children. However, there is a sector of our society which has been left out in the cold. I am referring to the children of the minority races.

For the wealthy families of this community, their children can have the choice of international schools and the schools of the ESF. But for those who are financially underprivileged and non-English speaking, where can they go? They are being dumped into whatever local schools which accept them, and they are just left in a corner to fade into oblivion. I plead with both Secretaries to help these students, save them from the dark forces of triads who are all too pleased to accept them with open arms. These children are no different from ours, and they have a right to good basic education and equal opportunities like ours.

I urge Patrick to reach out to these sectors of the community and understand the problems they are facing, and I urge Arthur LI to set up special schools for these children, or at least special classes in our existing school system for these children.

Regarding the grant of subsidy to ESF students, I understand that our Secretary is sympathetically reviewing the situation. I must point out that these students amount to 11 000. They are no different from ours who are being provided with grants. That was the whole policy of parity which the former Government had established. I have no doubt about the Secretary's ability and am sure that he can bring about a Solomon's decision of wisdom and fairness.

Madam President, the Chief Executive spent seven lengthy paragraphs in his policy speech expounding on a vision to turn Hong Kong into a regional cultural hub, or Asia's London. The driving force of this goal will naturally be the cultural and creative industries. But even if Mr TUNG has acknowledged this, it will be a difficult task. In his analysis, the sector has a list of growth constraints, almost as long as the sector's strengths.

In particular, two of the constraints are worth the Chief Executive's particular attention. They are a shortage of talents and the lacking in a bureau or department to oversee cultural development. To relieve talent shortage, Hong Kong must consider setting up a visual arts academy. Small-scale industry-specific training centres, like the one the Chief Executive has proposed for video game designers, are simply not enough. They will not help to achieve the goal of nurturing a pool of versatile, composite talents.

Moreover, we also need a more effective cultural development facilitator with a broader scope of power. The proposed advisory structure for the creative and cultural industries is just too limited in scope. There is no guarantee that it will end up becoming just another well-intentioned but toothless commission for culture. Both the Mainland and Taiwan have their own cultural bureau to promote culture and cultural products. In Hong Kong, these important tasks are entrusted to a diluted bureau which also has to tackle many non-cultural issues, including anti-rodent campaigns, soccer gambling, cleaning of swimming pools, and others. In fact, only two of the 14 duties of the Home Affairs Bureau are related to cultural development. We have been asking for a heritage policy for years, where is it? Are we going to have one when all the heritage buildings disappear? This is something which the Secretary must answer. Thank you, Madam President.

**MISS TAM HEUNG-MAN** (in Cantonese): Madam President, it takes ten years to grow a tree and a hundred years to bring up a generation of good men. Education is a long-term cause and the cornerstone which nurtures talents, thus it is of the utmost importance to the future development of Hong Kong.

Nevertheless, Hong Kong's education policy in recent years has been a shambles, extremely confused. For example, in 1998 to 1999, the Education and Manpower Bureau disregarded the importance of the English language in a world city as Hong Kong and forced the introduction of the policy of mother tongue instruction, which created a labelling effect on secondary schools all over the territory. As a result, Chinese Middle school students nurtured under the mother tongue instruction policy have been performing poorly in the English Language (Syllabus B) in the Hong Kong Certificate of Education Examination. Hong Kong is an international metropolis; our training in education should not only be based upon mother tongue instruction, but also bilingual instruction.

In fact, the crux of the problem with the education system in Hong Kong is the spoon-feeding method of teaching, which leaves very little room for students to bring their potentials into play. Moreover, the teacher-student ratio in Hong Kong is comparatively high, teachers have to deal with heaps of administrative work besides shouldering the heavy burden of teaching duties, and they are exhausted to deal with a frequently changing education policy. I furthered my studies in the United Kingdom after I had completed my secondary education in Hong Kong. As I have experienced the education in both places, I can share with Members my personal experience. The education in both places is rather different. In the United Kingdom, a student is trained to think on his own. He will ask questions and he will not be afraid of asking questions in the classroom. He is also trained to solve problems. However, the spoon-feeding method of teaching in Hong Kong makes students afraid of asking questions and thinking on their own. Is it necessary to reform this method of teaching?

In recent years, the number of school-age children in Hong Kong has been dropping sharply. Not only has the Government not seized the opportunity to introduce small-class teaching, it has kept on culling schools and creating redundant teaching staff instead, causing panic in the education sector.

Education reform in Hong Kong comes one after another. We have a reform which incorporates Liberal Studies into the core curriculum, and we also have a reform which switches the existing three-year university education system to a four-year system. The Education and Manpower Bureau has to draw on the experience of mother tongue instruction and it should not do a disservice to mother tongue instruction and victimize our school children, thus destroying the foundation of education in Hong Kong.

Madam President, next I wish to speak on the issue relating to maintaining social harmony. Hong Kong is caught in a worsening social division. Despite the Chief Executive having emphasized the need to maintain social harmony, the Government takes the initiative to divide society on certain issues. For example, the Government failed to appreciate all the risks in The Link REIT incident and to conduct comprehensive consultation beforehand, and pushed the listing of The Link REIT hastily. Subsequently, with the listing aborted, the Government failed to reflect on its shortcomings and tried to put the blame on others. How can it maintain social harmony?

The Government should take complementary actions if it wishes to promote social harmony. I hope the Government will make an anti-racial discrimination law as soon as possible in order to create a fair and just community for the people of Hong Kong.

Madam President, Hong Kong is an international metropolis which is home to people of different races, and it is a place where the culture of the East meets the West. We have to try every effort to maintain such core values as pluralism, tolerance, fairness and justice in order to maintain the social harmony and stability of Hong Kong. I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, over the past two days, whether in this legislature or elsewhere, many Members and government officials have been discussing the problem of "collusion between business and the Government". Secretary John TSANG has repeatedly stressed that outsourcing to private companies will yield higher cost-effectiveness and efficiency. I would therefore like to speak on cost-effectiveness and efficiency .....

**PRESIDENT** (in Cantonese): Sorry, Mr LEUNG Yiu-chung, I have to remind you that the policy areas in this debate session are education, home affairs and manpower.

**MR LEUNG YIU-CHUNG** (in Cantonese): I know that, Madam President, but I shall start here and extend my discussion to .....

**PRESIDENT** (in Cantonese): Fine.

**MR LEUNG YIU-CHUNG** (in Cantonese): First, I would like to concentrate on cost-effectiveness and efficiency, but in the latter part of my speech, I shall talk about education. I have not come to that yet, but I shall do so later.

Madam President, should the Government focus so much on economic benefits and financial returns in taking forward public policies? We should

think deeply about this question. I really doubt whether the Government should adopt its present approach, that is, the approach of viewing all policies from commercial and profit-making perspectives. Or, should it instead focus on the delivery of social services and the promotion of a fairer and more reasonable environment in society? These are also the questions we must discuss. Besides, what is even more important is whether government policies can ensure an environment of healthy competition necessary for the survival of everybody. This is even more important, and the Government is not supposed to be biased in favour of any individuals or syndicates.

Frankly speaking, as far as policy implementation is concerned, the Government must not concentrate only on making money, treating all policies as commercial business and ignoring the principles of fairness and impartiality. I think if it behaves like this, it will be better for us to abandon the term "government" and call it a company instead. What is more, what we are debating today are issues relating to the policy agenda, so if the Government behaves like this, we will in fact be discussing profit-making business plans instead of any policy agenda. Such a debate is pointless and also against the most significant principles we uphold.

What we want to have is a government of integrity, a government that seeks to serve the public, instead of a government that is reduced to a mere commercial organization. Why have I made it a point to criticize the Government for behaving like a private company bent only on making profits? The fact is that sometimes, apart from making profits, a private organization will also want to save costs. If the Government adopts such a mindset, it will often become very myopic and fail to consider the continuity of its policies in the long run. Many people have thus stopped calling the Government "an incompetent government". Instead, they have come to call it "an unscrupulous government", because it no longer has any scruples, no longer works for the multitude, and also because it often looks at things purely from the perspective of the business sector, attaching importance to short-term benefits only.

Madam President, you were right in reminding me that the debate topic today is education. When it comes to education, I must say that there is a similar problem. Why do I say so? I notice that the education policy in recent years has also been marked by a repeated emphasis on cost-effectiveness, efficiency, and so on, displaying myopia and a lack of long-term vision in many cases. In the case of adult evening schools, for example, there has been a

yearly intake of about 20 000 students. Admittedly, many graduates of these schools may not always be admitted to tertiary institutions, and many students may not be able to attain very brilliant academic results either. But should we thus make them our first targets whenever we consider any resource reduction? If the Government really does so, I must say that it is most myopic, failing to consider how the multitude can possibly upgrade their literacy levels and contribute to the long-term and overall development of society. It saddens me so much to see the disappointment of all those middle-aged people who are so eager to learn and pursue knowledge. What they want is not any skills training, and they only want to pursue knowledge. But why are they even deprived of such an opportunity? This is really distressing.

Recently, despite their reluctance, they have accepted the Government's decision to outsource the operation of adult evening schools. And, they have requested the Government to provide some sort of subsidy following the outsourcing of such operation. But the Government has not given any answer so far. If the Government considers this request solely on the basis of practical results and short-term benefits, many people will be deprived of the opportunity to receive education and upgrade themselves.

Apart from all these problems, I also notice several other problems with the Education and Manpower Bureau. Perhaps, the Secretary for Education and Manpower really loves to "whistle a different tune" from that of Mr TUNG — I am not quite sure — but this has induced all sorts of tensions in the education sector. Madam President, why do I say so? I can remember that since his assumption of office, Mr TUNG has repeatedly vowed that the Government will spare efforts to invest in education. I suppose many Members should also have heard Mr TUNG say so. Unfortunately, as far as I can observe, the policies introduced by the Secretary all run completely counter to this undertaking. Why do I say so? Madam President, I may perhaps talk about the parents of students with learning disability as an example to illustrate my point. These parents have been urging the Government to conduct tests or assessments of their children to ascertain whether they really have learning disability, and to ascertain the types of disability they are suffering from. In case learning disability is really detected, they all hope that the Government can deploy teachers with the required expertise to work out some effective teaching methods that can improve the learning ability of their children. Unfortunately, for many years, the Government, when responding to the requests of these parents and society, has simply said, "Sorry, this cannot be done due to resource

shortage." Madam President, you can see for yourself whether it is true that the Government has really spared no efforts to invest in education. This is simply not the case in reality.

As Members also know, it is tentatively estimated that at least 10% of all students in Hong Kong suffer from learning disability. But the Government is so indifferent to this problem and reluctant to invest any resources. Is that because Mr TUNG's promise of sparing no efforts is mere lip-service? Or, is that because the Secretary is pursuing policies exactly opposite to those advocated by Mr TUNG? Is that because whatever Mr TUNG likes, he does not like, and whatever Mr TUNG does not like, he will continue to pursue all the same? Is all this the case? I naturally do not hope that they are really at loggerheads. But this is the situation that we can all see.

Besides this problem, I have also noticed another one. It appears that the Education and Manpower Bureau does not like to listen to public opinions. We have thus failed to formulate a long-term policy on development of education. Madam President, why do I say so? In the case of small-class teaching, for example, I can only stand helplessly by when the Bureau brushes aside all opposition, saying that it will have to conduct some studies before making a decision. We are of course helpless because we cannot possibly stop it from conducting studies. But that again, why does the Bureau see fit to employ a whole bunch of researchers who have expressed clear opposition to small-class teaching? With the employment of these researchers, we can easily imagine what the research findings will be. They will most probably come to the conclusion that small-class teaching cannot yield any practical effects. In this way, the Government can refuse to implement small-class teaching. As we all know, in principle at least, many people support small-class teaching, be they parents, educators or even Legislative Council Members. But the Government has still resorted to such studies, so one can predict that it will most certainly turn down the idea consequently, or agree to its implementation only with many conditions attached. This is just a means of blurring or warding off public opinions. The education sector is very disappointed, or even utterly disappointed, because we all know that small-class teaching is definitely unable to yield any instant practical effects. But we are sure that it will benefit students in the long run, because teachers will have more opportunities to see their students and communicate with them, to say the very least. Even if small-class teaching cannot upgrade students' academic results instantly, it will still help improve their conduct and behaviour. However, the Government has resorted

to such studies as a means of blurring public opinions. This is certainly inappropriate.

Not only is the Government unwilling to heed the public opinions on small-class teaching, it has also displayed the same reluctance regarding the introduction of Liberal Studies alongside the "3+ 3+ 4" academic structure reform. As we all know, the education sector has voiced the strong view that while they see nothing wrong with introducing Liberal Studies and implementing the curriculum reform, they do want to have more time for preparation. They hope that teachers can be given more opportunities of receiving training, so that they can be better prepared for the reform. Recently, I have heard Education and Manpower Bureau officials assert on various public occasions that such a request cannot be entertained, and that all must be implemented simultaneously without any delay. I of course hope that when the Secretary gives his reply later, he can tell us that a decision has been made to implement the two reforms separately — first the "3+ 3+ 4" academic structure, to be followed at a later time by the subject of Liberal Studies. If the Secretary can say so, I will withdraw the comment that he does not respect public opinions. If not, he must tell us why the Government cannot follow the public opinions which have been so clearly expressed. We are really very disappointed.

I think if we are to upgrade our education quality, the Government must improve its approaches and policy objectives. We must not argue for the mere sake of arguing. I hope that all of us can be pragmatic. If there is any need to invest in a certain area, then this should be done as much as possible, and our investments must not be based on any myopic considerations of cost-effectiveness and effects. Instead, we must always take the long view. Many Members have pointed out that education is an undertaking that takes time, that it takes ten years to grow a tree and a hundred years to raise a generation of people. There is no way that any myopic considerations can ever work. As I mentioned just now, adult evening schools have provided opportunities to many people. The results cannot of course be seen instantly, but their usefulness simply cannot be denied. Come to think about this. These people are all in their thirties and forties, but they still want to attend primary school, and then secondary school. They are willing to do so, but why is the Government so reluctant to give them any opportunities? They do not necessarily want to learn any vocational skills. Why are they not allowed to attend conventional grammar schools? Why are they denied even such an opportunity? To many people, all this is really very disappointing.

On this policy area, first, I hope that the Government can refrain from considering education issues from myopic perspectives. Second, the Government should attach more importance to all public opinions instead of listening selectively to some particular voices. If the Government does not do so, the overall policies formulated for the education sector will be biased, failing to offer good education to our children.

Madam President, I so submit.

**MR TIMOTHY FOK** (in Cantonese): Madam President, since Hong Kong economy has turned the corner and the fiscal deficit can thus be eradicated earlier than scheduled, the Government no longer needs to wave the baton of economic development and can allow the market to operate and make adjustments on its own. In the policy address this year, the Chief Executive places emphasis on consolidating our economic growth and forging ahead. There are thus not too many ambitious plans, and the only noteworthy point is the development of cultural and creative industries as a new growth area for our economy.

Hong Kong's economy is now at the stage of post-recovery consolidation and growth. Its foundation is not yet firmly established, and the task of economic restructuring is incomplete. Therefore, in the face of global competition and the countdown to the total liberalization of our country's market, the promotion of economic development and restructuring should remain the primary task of the Government. In the policy address, the Government sets out seven measures to revitalize the economy, namely, consolidating the four pillar industries, intensifying the implementation of CEPA, promoting regional co-operation, facilitating investment by mainland enterprises, developing cultural and creative industries, speeding up urban renewal and attracting talents. All these are indeed old wine in a new bottle, but they are also pragmatic and their objectives and directions are very appropriate.

Currently, cultural and creative industries account for 4% of Hong Kong's Gross Domestic Product. The corresponding percentage in the United Kingdom is 8%, so there is still much room for developing our cultural and creative industries. In this policy address, the Chief Executive has added the word "cultural" before the term "creative industries". This can introduce

greater flexibility and coverage to the development as a whole, and the room for development is thus greatly expanded. But there is still one inadequacy, though — the positioning of Hong Kong's cultural and creative industries is not yet clearly defined to enable these industries to converge fully with the Mainland and the world.

As a metropolis that leverages on the Mainland and engages itself globally, Hong Kong must see to it that its cultural and creative industries do not develop in isolation and must fully converge with those of the Mainland and the whole world. In the Mainland, performing arts, sports and even cultural tourism are all classified as cultural industries. As we all know, the Olympic Games to be held in Beijing in 2008 is itself a large cultural industry with a value of over \$100 billion. In countries like the United Kingdom and the United States, sports activities such as the NBA, the English Premier League, the Grand Slam of tennis and the Olympic Games and the World Cup held once every four years are all cultural industries with unlimited business opportunities. And, in the United Kingdom, the development of creative industries is even put under the charge of the Department for Culture, Media and Sport. Therefore, Hong Kong must re-establish the positioning of its cultural and creative industries, so that there can be a more effective strategic convergence with those of the Mainland and the whole world.

The key to translating creativity into commercial returns involves the integration of cultural and creative industries with the commercial market and also the merging of creativity and marketing strategies. The Chief Executive has proposed to set up a consultative framework for cultural and creative industries. I have heard that he will personally chair this organization, which is to be made up of international experts from the relevant industries, the cultural sector and other related areas. Together, they will study the direction of development and organizational structure required. This can certainly lead and support the development of cultural and creative industries. Of course, having in mind the performance of the various consultative committees made up of international experts, the industries must express their sincere wish that this new organization can, as soon as possible, put forward concrete policies and measures and build up an interactive platform for cultural and creative industries and the business sector.

I so submit.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, I wish to speak for two to three minutes now because I still wish to speak on housing later on. What I am going to talk about in these two to three minutes are actually problems that the Legislative Council has been discussing for a long time. I wish to have some exchanges with the Education and Manpower Bureau.

The Government now attaches very great importance to the youth problem, and it was announced yesterday that a Commission on Poverty would be set up. It was also said that efforts would be made to tackle inter-generational poverty. We of course support all these measures, but when it comes to poverty, I am even more concerned about working poverty. If the parents and elder brothers of a youngster are all unemployed, the whole family of course has to live in poverty. This is a separate problem. But when our society faces such a situation, the Government should seek to rein in the oft-mentioned shortage of resources by co-ordinating the redeployment of resources.

In regard to the Government's provision of training to the youth, the Vocational Training Council (VTC) actually spends more than \$2 billion a year on such training. The VTC was first established to offer technical, craftsmanship and other related training to those youngsters whose academic results could not qualify them for senior secondary and university education. With the development of society, however, the students of certain VTC courses are now required to go to the Mainland for training. This may be necessitated by the development of the times. But I must ask, "At this very time when the unemployment rate among youngsters aged between 15 and 19 is still as high as 21%, when there are still so many youngsters who are neither employed nor at school, what support measures has the entire Government put in place for them?"

Besides, in order to tackle the problem of youth unemployment, the Government has also been implementing the Youth Pre-employment Training Scheme and Project Yi Jin through the Labour Department and other departments. To tackle the unemployment problem, the Government established the Employees Retraining Board in the 1990s. What I am driving at is that our resources are currently scattered among different authorities. But very often, we observe that the Government is simply unable to co-ordinate the deployment of resources devoted to tackling the unemployment problem or the youth unemployment problem.

Madam President, I have been criticizing the Government for this since the beginning of this term of the Legislative Council, and I also did so during the last term or even at earlier times. I am very often saddened. On the one hand, it is said that since there are no resources, the Government cannot possibly do anything. But on the other, we are spending \$2 billion to \$3 billion on the provision of training without knowing what results have been achieved.

In this policy address, the Government says that a total of \$60 million will be spent on providing training to the youth. As legislators, we naturally will not object to the provision of assistance to youngsters. But at the same time, we see that resources are being scattered among different authorities, and we simply do not know whether there is any central co-ordination. We have been, for example, very concerned about the situation of those young people trained up by the institutions under the Education and Manpower Bureau. And, we are also very interested in knowing the results achieved by the Youth Pre-employment Training Scheme and Project Yi Jin operated by the Labour Department. With all the changes occurring in the past seven years, many policies have by now been taken up separately by different Policy Bureaux. But all these bureaux are doing exactly the same thing — helping young people. How is the Government going to reorganize the whole initiative, so as to render assistance to them more effectively?

This leads us back to the same old point I have been making. How can any training or retraining achieve any results if there are not any job opportunities? The Government is spending some \$2 billion a year on youth training, but can one single department be put in charge of this? In this way, if any problems still remain unresolved, we will know that there must be something wrong with the responsible authority. The situation now is just the opposite. Whenever there is a problem, the Labour Department and the Education and Manpower Bureau will always deny responsibility, and in the end, the responsibility may be shifted to yet another Policy Bureau. This is not a satisfactory situation. If the Secretary is interested in studying the issue of vocational training, he should discuss with some of the Members present now. They will probably offer the same advice as mine. I hope that we can really do something to assist the youth in their development. I hope that we can offer a genuine "one-stop" service consisting of training and employment. This is the only way to solve the problem.

Madam President, thank you.

**MR ALBERT CHENG** (in Cantonese): Madam President, I think a quorum is not present.

**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): A quorum is now present. Mr Albert CHENG, you may continue to speak.

**MR ALBERT CHENG** (in Cantonese): Madam President, this eighth policy address of Mr TUNG lays emphasis on one thing — the building up of a harmonious society and the avoidance of social division. More importantly, it reiterates the Government's determination to "address people's pressing needs and think what people think". In regard to urban renewal ..... Madam President, a quorum is not present.

**PRESIDENT** (in Cantonese): Mr Albert CHENG, please be seated first. 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): A quorum is now present. Mr Albert CHENG, you may continue to speak.

**MR ALBERT CHENG** (in Cantonese): Thank you, Madam President. I was talking about "addressing people's pressing needs and thinking what people think". The Government has actually been using the Home Affairs Bureau as its spy. In regard to renewing old districts, it is stated in the policy address that the Home Affairs Bureau will, in conjunction with the Housing Society, set up a

huge fund for the maintenance of old buildings. But I suppose Legislative Council Members and government officials should all have noticed over the past month or so that whenever they enter or leave the Legislative Council Building, they will see a group Albert House residents protesting at the entrance. These residents have been staging a "sleep-in" protest there for many days. We must not turn a blind eye to them.

The Albert House incident exposes the problems of old building maintenance and management. The owners concerned are all embittered owners. When they purchased their flats, their only wish was to have a safe shelter — this is reflected on the placards they put up at the entrance. I suppose Members should see these placards every day, and no one can pretend that they cannot see these placards or remember their contents. All these are law-abiding citizens, but they now have to pay for the offence committed by other irresponsible people. They are all senior citizens, mostly former fishermen, who toiled and sweated for the economy of Hong Kong in the past. They worked very hard and managed to save just enough money for purchasing a residential flat. Their only wish is just to have a safe shelter. The Panel on Home Affairs of the Legislative Council held a meeting on this incident, when it was first brought to public attention before Christmas last year. Secretary for Home Affairs Dr Patrick HO was so sympathetic at that time; he really paid heed to people's voices and realized their plight. He even promised the Panel that the problem would be resolved before the then imminent Christmas. But now, even the Chinese New Year is fast approaching. I hope that Dr HO is not talking about the Christmas this year. Legislative Council Members belonging to different political parties and factions have all been racking their brains to solve the problem faced by the owners. We have worked out many schemes and forwarded them to the colleagues of the Secretary. All these schemes are viable solutions acceptable to the individual owners, or the embittered owners. But unfortunately ..... Well, this reminds me of the Government's frequent complaint about the rift between the executive and the legislature, about how the latter often stands in the way of the former. But the executive authorities ..... I hope Dr HO is present now, and this was precisely why I once again requested to ring the bell to summon Members back. I was waiting for just one person — Dr HO. He is now back. If Members have other business to attend to, they can go ahead. I will not request ringing of the bell again, as long as Dr HO is here.

I wish to offer Dr HO a piece of advice. He must warn his colleagues that as civil servants, they are supposed to be politically neutral and must not

play any tricks. It was first said that there would be a scheme early this week. There was none, so I rang up one of his subordinates, and he told me there would be one on Wednesday (that is, today). But when I rang him up again this morning, he just would not take my call. I suspect that they should already have worked out a scheme that can help the owners of Albert House solve their problem. Only that they have yet to decide which political party should get the credit and benefits. We certainly do not want to claim the credit. We only want to do our job and hope that these owners of Albert House can all go back home early for the Chinese New Year. I believe that all the Members present now, regardless of their political affiliation, will wish to see a solution to the problem. Therefore, please stop playing the villain, for it is no use doing so. I would like to take this opportunity to read aloud a poem written by Mr WONG Kwok-hing. He did not have enough time to read it aloud. My voice may not be as loud as his, but I will just imitate him as much as possible. The rhyming of his poem is not so nice, but this does not matter, and I will just try to make it sound as nice as possible. I shall try to be as loud as possible as well. Here it is: "Only the villains can allay the worries of Albert House owners. Why should there be any more obstacles when the victims have made concessions? It will be tragic if there is any further delay, so the Secretary must take actions. It is a test for the Chief Executive whether this crisis can be averted."

I do not know whether I have read it aloud as nicely as him, or whether I was loud enough. Secretary, there is no more time left for me to speak. I hope that if other Members have any more time, they can take up where I left off. The Secretary must offer a solution today. Our scheme is very simple. The Housing Society should offer loans to the embittered owners. If they have any money later, they are of course obligated to repay their loans. If not, encumbrances can be created, so that when they pass away one day, or when they sell their properties later, the Housing Society can get the money back. This is a possible solution, one which the owners can accept. We cannot wait any longer, for the Chinese New Year is fast approaching. I hope that all the owners can go back home tonight. I am sure that Mr WONG Kwok-hing and other Members present will agree to this. We must now exert pressure on the Secretary, asking him not to play any tricks, and asking his colleagues not to play any either. Also, having told the owners of Albert House that free legal representation has been arranged for them, and that a letter has been sent to the High Court to petition for stay of the bankruptcy order, his colleague has also told the owners that in case encumbrances are created, each unit will be charged \$5,000.

**PRESIDENT** (in Cantonese): Mr Albert CHENG, your time is up.

**MR ALBERT CHENG** (in Cantonese): I am sorry. Thank you.

**MR ALBERT HO** (in Cantonese): Madam President, the Albert House incident can aptly show that the Government lacks any crisis management awareness, and that it often lacks the ability to cope with emergencies. The incident is indeed a fine example.

The unfortunate incident of Albert House occurred in the last century. In fact, its occurrence already exposed the inadequacies of the Building Management Ordinance. We must make it mandatory to take out third-party insurance for all buildings, and no less importantly, there must be a sound monitoring mechanism requiring dilapidated buildings to carry out repairs by qualified persons.

Following the incident, the Government introduced an amendment to the Legislative Council in 2000, that is, the Building Management (Amendment) Ordinance. One of the provisions of the Amendment Ordinance requires that all buildings, that is, buildings with owners' corporations, must take out third-party insurance. However, the Ordinance has not yet come into operation even four years after its passage. If not because of the renewed concern over the Albert House incident, if not because the owners are required to pay compensation yet again, I am afraid the subsidiary legislation will not be put before this Council again. Yet, there is still no timetable. It may be submitted within this Legislative Session. But I simply do not know when the amendment can come into force after its scrutiny and approval by the Legislative Council. But we can all see that the Government has not displayed a sufficient crisis awareness even after the occurrence of an incident.

The reason why the Albert House incident has aroused renewed concern is that the owners are required to pay compensation again and again, and that many elderly owners have thus come to stage a "sleep-in" protest outside the Legislative Council Building. Last year, the Government told the Panel on Home Affairs that it will work out some measures to help the owners deal with their pressing needs. It was even proposed to set up a "HO CHENG Fund".

"HO" means Dr Patrick HO, not me, and "CHENG" means Albert CHENG the "Tai Pan". It was proposed to set up a charity fund to raise money for the owners. Well, nothing more has since happened, and not only this, the authorities have even failed to submit any discussion papers on the loan fund that it has talked about over and over again. We are thus extremely dissatisfied. Other Bureau Directors have made some innovative solutions to help the owners, such as co-operation and redevelopment. It is hoped that the added value can help the owners repay their huge debts. It is alright if the authorities find these proposals too innovative and do not dare to consider them. But at least, they must make arrangements for the provision of loans. They should honour their own promise. But so far, nothing has been done. I hope the Secretary can explain why there has been so much delay, why there has been such a lack of ability to deal with a crisis. This is the first point.

Second, I must talk about the West Kowloon Cultural District development project (the WKCD development). From the very beginning, we have been extremely concerned about the planning problems involved. But Members must bear in mind that the WKCD development is a cultural project. Since the dissolution of the Cultural and Heritage Commission, we have yet to see the formulation of any long-term cultural policy by the Government. In particular, we have not seen any studies on the planning of cultural facilities and their demand. At least, we have not seen any assessment of demand. I think the Secretary must be held responsible because this project, which is essentially a cultural project, has been packaged as a property development. I think the Secretary simply cannot shirk his responsibility. He must tell us what leadership role he has played in the WKCD development, what plans he has put forward to nurture cultural talents and what assessments he has conducted on the demand for cultural facilities. I suppose the Secretary will need to answer all these questions later on.

The last point I wish to make is about the forthcoming enactment of anti-racial discrimination legislation. I understand Members have been arguing whether new arrivals from the Mainland should be covered by the new ordinance, so that they can also be protected by the anti-racial discrimination legislation. Let us not keep on arguing whether considerations of racial discrimination are relevant here, for there is no point in focusing on the details. I hope that they can be treated as a group in the community that needs protection.

Thank you, Madam President.

**MR CHEUNG HOK-MING** (in Cantonese): Madam President, every year, the community will have some expectations on the policy address. Compared with policy addresses of the past few years, the policy address this year may be said to have some breakthroughs. For the first time, the policy address sets out 11 issues of general concern to society and responds to each of them.

Though some of the issues have not been totally solved and the responses to some are only superficial, the Government of the Hong Kong Special Administrative Region (SAR) has at least taken the first step. This is particularly the case for the 100-odd projects left behind since the dissolution of the two former Municipal Councils. The identification of the 25 projects for priority treatment has at least offered a chance for the completion of these projects.

Actually, for new towns developed in the recent years, including Tin Shui Wai and Tseung Kwan O, the shortage of community facilities and recreational facilities is serious. The family tragedy occurred in Tin Shui Wai earlier came as a shock to society, arousing grave concern. The investigation panel appointed by the Chief Executive concluded after investigation that the construction of community and recreational facilities in the district should be expedited to ease the pressure faced by the residents in their daily life and maintain their physical and mental well-being. No wonder the unexpected proposal of building a library cum sports stadium in Tin Shui Wan is included in the policy address. The Government has somehow responded to the need of the residents of Tin Shui Wai. However, the proposal fails to satisfy the demands of residents fully and let the residents rest easy. They are still worrying when the other facilities will be provided upon the completion of the said sports stadium and library. For the Government has not yet given an account for this.

If the Government wishes to establish its vision of "people-based" governance, I sincerely urge the Government to deal with this historical problem as soon as possible, expediting the construction of recreational facilities, so that our citizens may share the fruits of social prosperity.

Another issue worrying the public is the exorbitant transport fares charged for external transport services of new towns, which account for an enormous share of the daily expenditures of new town residents. In the past few years, criticisms on the relatively high fares charged by modes of public transport were heard from time to time in society. I hope the Government will examine and

review if the current fares of public transport have any room for reduction. However, the policy address this year expresses no concern for this issue. Madam President, I am really disappointed, for a lowering of the transport fares for new towns will definitely help to alleviate the shortage of municipal and recreational facilities, as well as possible family problems and emotional problems thus caused. Take Tin Shui Wai as an example. As most of the residents of the district are low-income earners who have to travel to other districts to work or study, they have to spend \$20 or \$30 to travel to and from home each time. If the transport fares remain high, I believe the residents of the district cannot consider taking their family or children out more frequently to spend, neither can they make use of recreational facilities in other districts. It is believed that if they have more opportunities to relax physically and mentally, it will be helpful to alleviating family and juvenile problems, and it may even help in some measure to prevent the occurrence of family tragedies.

Madam President, in the past two decades, new towns in the New Territories have undergone swift development. The community which used to major in agricultural and fishery industries traditionally has now developed into new towns with a forest of high-rises. What is most disappointing is that in the entire development process, the Government has simply ignored the need to synchronize the community facilities of rural areas with the development of society. As a result, disparity between the urban areas and rural areas in the New Territories has been growing. The problem has worsened in the past few years particularly, as the Government abolished its policy on resumption of land by the Government for works projects under the rural improvement strategy in the New Territories. As a result, many rural works could not be launched. Owing to this harsh policy, the relevant works are shelved, leaving helpless villagers in despair.

Madam President, the policy address this year is silent on rural affairs. Is it suggesting that the Government discriminates gravely against the aspirations of the residents of rural areas in the New Territories? Honourable colleagues, nowadays, not only indigenous residents live in the rural areas; a substantial number of residents in rural areas are non-indigenous residents who have moved in from other areas. These residents, like every citizen in Hong Kong, have to pay government rent and rates. But they are unable to enjoy facilities to which they are entitled. This is most unfair. The Home Affairs Bureau, responsible for the administration of New Territories affairs, should not only take on the

responsibility to solve these problems but also take the initiative to review the resumption of rural improvement works. The Secretary may do so by implementing land resumption measures, enabling the smooth commencement of the relevant works. Only in so doing can the vision of governance emphasized repeatedly by the Chief Executive to address the pressing needs of the people thus be truly achieved.

Madam President, the policy address this year promotes the development of cultural and creative industries. It quoted the United Kingdom as an example, stating that with the implementation of a policy to promote creative industries by the British Government, the economic benefits brought about by the relevant industries within a short period of four years had been very satisfactory. The average annual growth rate reached 8%, while the number of people employed by the industries grew by an average rate of 3% annually. It is thus considered the promotion of development in this respect will open a new door for the development of Hong Kong economy. The DAB considers that Hong Kong possesses certain conditions to develop creative industries, and the film and entertainment industry can assume the role of the locomotive of the entire industry. Hong Kong has been dubbed as the Eastern Hollywood. In recent years, singers, movie stars and directors of Hong Kong have acquired a very high status in the international stage. It is believed that if the SAR Government can put in more resources to reinforce its communication with the industry and understand their needs and difficulties, adopting measures to create the necessary conditions and room for their development, it can lead the industry out of the doldrums.

In addition to the entertainment industry, the creative industries of Hong Kong also include design, architecture, advertising, computer software, antiques, and even works of art. In fact, these industries have accomplished considerable achievement in Hong Kong. I think if we want to develop these industries into one of the pillar industries of Hong Kong, the SAR Government must put in more resources and formulate a long-term talent training programme to foster the continuity and sustainability of the industry.

Madam President, I so submit.

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

**MISS CHOY SO-YUK** (in Cantonese): Madam President, recently, the DAB has conducted a survey on the policy address of the Chief Executive. It is found that 65% of the public considered the theme of the policy address in line with the prevailing needs of Hong Kong society and 85% considered that the Government had identified its inadequacies in the past seven years. In fact, the policy address includes three major subjects which the Chief Executive has dwelt at length to elucidate, such as economy and business venture, education and environmental protection. The creative industries have also been mentioned. These focuses do genuinely reflect matters of particular concern to the people of Hong Kong at the moment. The Chief Executive referred to the need of identifying inadequacies. I think, when he does so, he should focus on the above subjects. In fact, many inadequacies can be found among these various aspects of grave concern to the public. I will put forth my opinions on environmental protection during the debate on environmental protection to be held later. I will now express some opinions on home affairs. On the whole, I hope the Chief Executive will try his best to hold rational discussions and identify inadequacies during the course of consultation in respect of the above subjects, for he should not limit his approaches to putting up shows or giving explanation to the public in handling these issues.

I would like to put forth several points of mine and the DAB in respect of home affairs. First, it is on the West Kowloon project. The advertising slogan for the West Kowloon project is "an icon for culture and leisure". The slogan itself is very good, and featuring the culture of Hong Kong is an issue particularly needs to be addressed. However, Hong Kong's policy on culture is very clear: no policy is the policy. Without a very clear cultural policy, I can hardly see how the Government can further promote the cultural district in West Kowloon. The citizens of Hong Kong are at a loss. We do not know how the Government can make Hong Kong stand out with the cultural district in West Kowloon, achieving its target of turning the cultural district into hardware for promoting our cultural policy. During the entire process, we can hardly see how the Government can lead the public to discuss a direction for the overall development of culture and arts, as well as the development we need? As such, discussions on the entire West Kowloon project have been reduced to discussions on real estate development? Should the Government have some kind of a cultural policy, I think the Home Affairs Bureau should come forward to promote such policy to the public clearly.

Madam President, I will then talk about building management legislation. The Albert House incident happened some time ago. We all remember that the incident occurred before the reunification. However, to date, the Chief Executive has not mentioned, not even in the policy address this year, how to resolve the problem, and not a single word about this has been said in his policy address. I am really disappointed. Actually, the Albert House incident is more than a private legal dispute. The entire incident is caused by the numerous loopholes in the Building Management Ordinance. Government officials responsible for the handling of the Albert House incident should at least let us know that they are now working on amendments of the Building Management Ordinance. I can see several possible improvements to the Ordinance. First, it is about the insurance coverage of buildings. In fact, the Government may amend the relevant ordinances to enable insurance companies to offer insurance coverage to buildings with no unauthorized structures. By doing so, the existence of a few unauthorized structures in a building will not deprive other small owners of the whole building access to own insurance coverage, which may cause other small owners to suffer. Second, advertisement signboards pose another serious menace. Actually, the Government may allow owners of a building to collect a deposit for signboard removal whenever large-scale signboards are erected on their building. In case a tenant moves out but fails to remove the signboard erected by him, the owner may then use the deposit to meet the removal costs for that signboard. At present, the numerous old signboards which no one is willing to remove is posing a menace, so the above suggestion may help to solve the problem.

There are many other issues that warrant the attention of the Home Affairs Bureau, among which is the composition of owners' corporations (OCs). Take the Metropole Building in my constituency North Point as an example. The building is managed by the developer. Since the developer is holding the largest share right, it may take advantage of his power to control the OC, allowing the chairman of the OC to bully around. Small owners can thus do nothing. A simple example can illustrate the case. The building is managed by the developer, but the severance payment for the staff employed by it has to be paid by small owners. I had once expressed that the developer had agreed to pay the amount in advance. However, the suggestion was turned down by the chairman of the OC. Instead, they requested each small owner to pay two more

months of management fee as a deposit. These people are influencing the entire OC, manipulating their power to the greatest extent. I think the Government must address these problems seriously.

On the conservation of antiquities and monuments, Madam President, the Government has made a great effort to acquire the Kom Tong Hall with public money in order to conserve the monument. This merits our commendation. We give our full support to this approach. Regrettably, on the other hand, the Government is handing over this cluster of monuments at the Central Police Station Compound which is owned by the Government to a private company for no reason. We do not see how this practice which is contradictory to its past practice can be justified. The cluster of monuments at the Central Police Station Compound is the only largest heritage cluster found in Hong Kong. I can hardly understand why the Home Affairs Bureau has not taken on an active role in the conservation of the monument. The matter has instead been referred to the Commissioner for Tourism. The Commissioner for Tourism and the Economic Development and Labour Bureau to which it belongs will naturally handle the issue from the perspective of economic development, and to them, short-term development is the solution. Today, we sell this heritage compound for several billion dollars, but I believe we may not be able to buy back such a monument even if tens of billion or hundreds of billion are spent. Therefore, I hope the Home Affairs Bureau will make a firm commitment on the conservation of antiquities and monuments, take the matter seriously and speed up the amendment process to plug the loopholes of the existing ordinance, turning the Antiquities and Monuments Ordinance into a tiger with bite.

Madam President, I would then turn to the youth problem. The youth problem includes two aspects. First, it is the inadequacy of hardware. I am most disappointed to note that among the nine works projects proposed by the District Councils for priority treatment, only two of them have been accepted by the Government. We can find no trace of works projects of civic centres and libraries of many districts so far. Even for the 25 projects to be accorded priority treatment as mentioned in the policy address, the actual construction time required has been significantly delayed. Many colleagues have already mentioned this point, so I am not going to repeat it here. Another point that I would like to discuss is about youth organizations. Madam President, apart from those well-known youth organizations subsidized by the Government, many

community youth organizations and voluntary youth organizations at the district level are unable to obtain any assistance from the Government. I am not referring to assistance in money terms alone. Actually, the assistance provided to these organizations in respect of hardware and efforts made for the promotion of their work by the Government are far from adequate. Many youth organizations have expressed their views about these problems. It is hoped that the Secretary will liaise more closely with community youth organizations. In appointing members to the advisory framework, the Secretary should be particularly conscious of not limiting his choices to social celebrities or their "own men" belonging to the same group. He should show more appreciation of the contribution made by many other organizations to the community and give more support to these organizations. Madam President, I so submit.

**MRS SELINA CHOW** (in Cantonese): Madam President, many different views about the "3+ 3+ 4" academic structure reform were expressed in society during the recently completed consultation exercise. Some people hope that the implementation of the reform can be deferred until 2009 or even sometime beyond that. Others doubt whether the academic structure and the school curriculum should be reformed concurrently. Yet some others worry about problems emerging when the new subject of Liberal Studies is introduced. Following consultation both inside and outside the Liberal Party, we have decided to support the "3+ 3+ 4" structure. We also agree that Liberal Studies should be made a subject of the regular curriculum. However, like parents in general, we are of the view that the implementation of the reform must be backed up by all the required ancillary measures. Most importantly, we must ensure the quality of teachers and the availability of training for them, so that the new academic structure can lead to the quality development of education in Hong Kong. The Government must not allow any delay in this respect.

As a matter of fact, the quality of Hong Kong teachers has always been a subject of great public concern. This is particularly so following the English Language Proficiency Assessment for Teachers late last year, in which the worst results since 2001 were scored and more than 70% of the participating teachers failed the writing part. We are of the view that this is a very alarming signal, and that the authorities must seriously review the training of teachers, or else all education reforms will be in vain.

Another feature of the new academic structure is the issue of increased tuition fees. I believe that as long as the reform can genuinely improve education quality, most parents are prepared to shoulder the added burden. But of course, I am sure that finances permitting, the Government will definitely adopt various measures to make sure that no students will be denied access to education due to the fee increases. Actually, the fact that many parents have hastened to send their children to international schools and direct subsidy schools can already tell us that many families will spare no efforts to invest in the education of their children.

The Liberal Party adopts a positive and open attitude towards small-class teaching. We do not object to the gradual implementation of small-class teaching in primary schools as long as the Government can carry out a prudent assessment of resource utilization. But at the same time, we still insist on the precondition that efforts must be made to ensure matching teacher quality and training. The stance of the Liberal Party in this regard is very clear. Any form of small-class teaching should aim only at enhancing the quality of teaching. Some may want to implement small-class teaching as a means to achieve other ends, such as relieving the pressure of class reduction and maintaining the "rice bowls" of surplus teachers, but the Liberal Party must say that all this is entirely inappropriate.

The policy address this year has not said much about the promotion of lifelong learning and on-the-job training. The Institute of Vocational Education (IVE) under the Vocational Training Council can indeed provide a viable alternative to those youngsters who cannot do quite so well in grammar schools, but in contrast, the Employees Retraining Board (ERB) has failed to achieve any satisfactory results in the provision of retraining to middle-aged unemployed persons. In many cases, retrainees are simply taking one course after another, reducing retraining courses into some sort of unemployment assistance. The ERB may need to follow the success example of IVE, so that it can really offer the kind of retraining required by people seeking re-employment. Actually, the labour market has by now become less negative towards older employees. Older people are gradually allowed to apply for jobs not usually opened to them in the past. The key after all lies in training.

In regard to talents, Madam President, I hope you can permit me to also say a few words. I notice that in the policy address, some mention is made of a manpower mismatch in Hong Kong. It is emphasized that we must capitalize on the Mainland's strong economic growth and take advantage of our full convergence with the world, so as to serve mainland enterprises and capitals and help them "go global". I must point out that what Hong Kong is supposed to export should be a whole package of services instead of just talents. I have to make this point because the problem of "brain drain", which occurred in Hong Kong in the 1980s, seems to be threatening Hong Kong once again. In many industries and trades, especially such services industries as logistics, hotel management and architectural design, many talents have been lured away by the Mainland, neighbouring places and even Macao. These people are willing to venture outside Hong Kong because these places can usually offer them more opportunities than Hong Kong does. Middle-level managers cannot be trained up overnight. If we allow this situation to continue, a hollow industrial structure may emerge in Hong Kong. Therefore, we must actively assist Hong Kong enterprises in capitalizing on their competitive edge. They must be helped to offer a comprehensive range of services to mainland and foreign enterprises, and in this way, there will be sufficient opportunities for local talents to give full play to their abilities. Besides, the Government should also relax its restrictions on the entry of talents into Hong Kong. After all, Hong Kong has managed to get where it is mainly because of the contribution made by both local and foreign talents. Their contribution must not be ignored.

On heritage conservation, we should promptly formulate a policy on handling privately-owned monuments instead of waiting until the completion of the consultation exercise. It must be noted that once a building is demolished, it can never be restored again. Currently, we can only prevent the demolition of the hardware of a monument but cannot use the software flexibly. As a result, members of the public are denied any chance to enjoy the monument, and the latter is also rendered unable to perform its social function. I recommend two options here. One is to permit land use changes for privately-owned monuments while requiring the rigid adherence to all provisions of monument protection. If the owner is unwilling to shoulder the responsibility of long-term preservation, the Government may acquire the monument by way of land exchange and invite tenders .....

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, your time is up.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, the meeting shall be suspended for 10 minutes. When the meeting resumes, government officials shall give their replies.

11.18 pm

Meeting suspended.

11.28 pm

Council then resumed.

**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): A quorum is now present. Council now resumes to continue with the fourth debate session. Two public officers will speak in this session. They have up to 45 minutes in total for their speeches, but the first officer to speak may not speak for more than 30 minutes.

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President and Honourable Members, I am grateful to Members for their views on the measures relating to the education and manpower policies in the policy address. I will respond to several areas which have aroused the greatest concern.

The consultation period on the "3+ 3+ 4" academic structure reform has ended on 19th of this month and the Education and Manpower Bureau has received more than 3 200 written representations from members of the public and organizations, as well as 480 questionnaires returned by schools. My colleagues and I are very much encouraged by the positive responses of various social sectors to the academic structure reform.

An initial analysis of the views reveals that members of the public approve of the "3+ 3+ 4" academic structure reform and agree that it should proceed in parallel with the curriculum reform. In order to offer more diverse choices and to cater to students' different abilities, interests and needs, schools in general support the offer of applied learning subjects such as career-oriented studies.

On the subject of Liberal Studies, which has attracted greater attention, most of the views support designating it as a compulsory core subject on which examination must be taken. Further discussions are required on how assessments and appraisals of student performance can be conducted. On special education, the Education and Manpower Bureau has had discussions with the Hong Kong Special Schools Council and the heads of all categories of special schools. All parties agreed that students with special needs in education should also be entitled to six years of secondary level education. On the curriculum contents and other details, the Bureau will maintain communication and discussion with the sector.

The Education and Manpower Bureau will arrange a second round of consultation on the curriculum contents, the methods of assessment and the method of implementation of the proposed subject in the middle of this year. It will also continue to collect the views of the sector on some issues, such as the development of applied learning and special education.

We hope that a decision will be made in the middle of this year on the timetable for implementing the new academic structure. We also hope that universities will publish their admission criteria by that time. We will arrange meetings between secondary school principals and members of the working parties on new admission arrangements in various universities, so that secondary schools can express their views on university admission criteria direct.

In order to ensure the smooth implementation of the reform, the Education and Manpower Bureau will do its best to put in place complementary measures. Of these, the most important one is to allay teachers' concerns and provide appropriate training and support. We will actively consider providing additional resources to schools, including:

- the provision of a recurrent cash allowance equivalent to 0.1 teacher to senior secondary level classes so that instruction in groups can be carried out with flexibility as when necessary with regard to Liberal Studies and diversified modes of instruction can be adopted;
- the establishment of a diversity education fund with an annual funding of \$300 million to encourage schools to offer career-oriented studies and co-operate with other schools in offering subjects for which there is less demand; and
- the provision of one-off funding to create scope for teachers to undergo professional development and receive training.

Recently, there has been considerable discussion on the topical issue of small-class teaching. In view of the long-term financial commitments in implementing small-class teaching full scale, our foremost considerations are on how to put in place complementary measures in a gradual and orderly manner and how to strategically implement small-class teaching in classes, subjects and schools that will yield the best outcome. A study on class size indicates that the effectiveness of small-class teaching is more pronounced in improving the performance of students from families of lower socio-economic status and students requiring special care, and that the results are particularly pronounced in lower grades. Furthermore, we may also consider first implementing small-class teaching in schools which are well-run and popular with parents to encourage them to enrol more students and borrow under-utilized school premises in order to reduce class size. We will continue to exchange views on small-class teaching with front-line education workers in a serious, positive and open attitude and make the interests of students and the choices for parents our ultimate consideration in the joint quest for a fair and practicable proposal.

The Government fully understands that to raise the quality of education, it is necessary to maintain an excellent and professional team of teachers. In the next three years (2005 to 2008), an average of over 7 000 training places will be

offered each year to newly recruited and serving teachers by the teacher training institutions under the University Grants Committee (UGC). This figure of 7 000 training places is calculated on a full-time basis. In addition, the Chief Executive also pointed out clearly in the 2005 policy address that we would allocate additional resources to enable our teachers to pursue further studies and to participate in activities of professional development. In the 2005-06 financial year, the budgeted expenditure will reach \$150 million. In addition, we have allocated \$550 million to establish the Education Development Fund to implement the School-based Professional Support Programmes and to provide professional support services in all schools in the next five years. On the implementation of a new senior secondary academic structure, we are also considering allocating sufficient resources to make proper preparations in various areas, including offering professional development courses with flexible choices to teachers and principals. All of these measures will serve to further raise teachers' professional standards so that they can implement various education reform measures strategically.

In the face of challenges posed by an increasingly globalized economy and the 21st century, our education sector must become more internationalized in order to foster an international outlook and promote diversified development of local students, as well as raising Hong Kong's overall competitiveness. In fact, Hong Kong has the conditions and environment to attract non-local students. Our education system is well developed and diversified, our tertiary institutions offer the best business administration programmes in all of Asia for executives. Furthermore, since Hong Kong is close to the Mainland, and given its unique mixture of Chinese and Western culture, the social milieu in Hong Kong can enrich the learning experience of non-local students. Our educational services do offer a certain degree of appeal.

However, the present immigration policy only permits overseas students to come to Hong Kong to study in full-time programmes at various levels, and mainland students can only study in full-time programmes at the degree level or above in institutions funded by the UGC. Furthermore, their number is limited by the overall quota for non-local students in the sector concerned. In order to maintain the edge of Hong Kong as Asia's world city, we must attract more non-local people to study in Hong Kong. Therefore, we are now actively examining proposals which will further relax the entry restrictions together with the authorities concerned, so as to allow more non-local students, in particular,

those from the Mainland, to come to Hong Kong to study in various types of programmes in various institutions.

We hope that the relevant proposal can be implemented in the 2005-06 academic year. We will closely monitor the actual enrollment situation of the institutions and review the enrollment quota for non-local students from time to time with a view to meeting the needs of society. At the same time as the intake of non-local students is increased, we will definitely take into full account the education opportunities of local students.

One of the highlights of the policy address this year is to help the poor. To help the poor improve their lot, the long-term approach is to offer them and their next generation appropriate education and training. The commitment of the Government in this regard is beyond any doubt.

In education, apart from providing nine-year free education and substantial funding to senior secondary education, we also offer various types of subsidies to students from low-income families, including senior secondary fee remission, examination fee remission, stationary allowance, transport allowance, and so on.

In addition, we will allocate an additional \$750 million in 2005-06 to strengthen the co-operation between schools and non-governmental organizations at the district level and provide appropriate after-school learning activities to students in the greatest need of them, using schools as the bases. We hope that through strengthening the support for poor children, they will have greater opportunities to enhance their social knowledge and broaden their learning experience outside the classroom, thus upgrading their learning abilities and interpersonal skills, enhancing their sense of belonging to society and cultivating a positive outlook on life. The initial concept of the new support programme is to integrate the programme with existing school activities and allocate funds to provide after-school tutorials and other activities conducive to whole-person development. In the coming months, we will discuss the specific arrangements with schools and non-governmental organizations in the hope that the measures can be implemented during the summer holiday.

For young people who choose to pursue further studies outside the mainstream education system, we will also provide various forms of assistance to ensure that they will not miss out on learning opportunities because of a lack of means.

Young people who wish to receive vocational training can receive various types of pre-vocational training offered by the Vocational Training Council with government funding to prepare themselves for various trades. Just like school children in the mainstream education system, students with financial difficulties can apply for various types of subsidies such as tuition fee remission, grants, loans and travel subsidies. If they choose to pursue other types of programmes such as sub-degree programmes, they can also apply for various types of financial assistance such as grants and loans from the Student Financial Assistance Agency.

In addition, we established the Task Force on Continuing Development and Employment-related Training for Youth in March last year and allocated \$50 million to the Task Force for offering pilot training programmes designed for non-engaged youths. So far, the Task Force has approved 11 pilot programmes involving a total cost of \$19 million. These programmes will offer over 3 700 training places, and another 12 programmes at various stages of examination.

Apart from helping young people, we have also put in place a number of measures to assist other types of poor people.

For the unemployed, we are offering free retraining through the Employees Retraining Board (ERB) to raise their employability and help them re-enter the labour market through the employment follow-up service. The ERB also provides subsidized half-day or evening general skills training programmes including such training as basic computer application and job-related language training to assist trainees in upgrading their general skills and keeping abreast of the requirements of the labour market. People who are unemployed or on low income can apply for fee waivers. The ERB will continue to provide over 110 000 training places in 2005 to enhance the employability of workers. We intend to make use of the levy on employers of foreign domestic helpers to broaden the scope of retraining services to benefit more people in need of retraining. Since a foreign domestic helper has applied for a judicial review on the levy, we will pay close attention to the latest developments of this case and then decide when and how to use the sum.

Workers affected by economic restructuring and the ever-changing requirements of their trades can acquire the latest skills through the Skills

Upgrading Scheme to enhance their employability and competitiveness. Under the scheme, the Government subsidizes 70% of the tuition fee and people on low-income can have their tuition fee waived. As of December 2004, the number of workers who have benefited from this scheme stood at more than 107 000.

Other people intent on pursuing further studies can also apply for the Continuing Education Fund. People taking recognized courses will be eligible for reimbursements of up to \$10,000 to prepare them for a knowledge-based economy. At the end of 2004, the number of applicants for the fund was more than 160 000.

The aforementioned measures will all help members of the public in various strata of society equip themselves and upgrade their knowledge and skills, so as to enhance their abilities to improve their lot.

In the long term, we will strive to establish a cross-sector qualifications framework to cover all of the qualifications required by different trades and lay down the objectives to be attained and the progression pathways between qualifications, as well as ensuring the quality of these qualifications. A qualifications framework will help set out clearly an articulation ladder for qualifications of different levels so that members of the public who wish to upgrade themselves and their productivity can draw up their road maps to acquire the relevant qualifications and pursue lifelong learning in the face of the globalization of world economy and ever-changing technological developments.

In sum, the establishment of a qualifications framework will help nurture talents in various areas, give full play to the talents of people, provide relief to the problem of manpower mismatch in Hong Kong and raise the quality of our human resources and competitiveness. Promoting this non-compulsory qualification framework is a long-term and complex engineering endeavour in manpower development. We will definitely liaise closely and co-operate with various industry sectors, including employers, employees, the education and training sector and professional bodies to strive for Hong Kong's development and the future of our next generation.

Thank you, Madam President.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, I will now respond to the matters within the ambit of the Home Affairs Bureau raised by Members and explain the Government's position.

Mr Patrick LAU, Mr Timothy FOK, Mr CHEUNG Hok-ming and Mrs Selina CHOW are all very much concerned about the cultural and creative industries. Actually, the cultural and creative industries refer to industries that use the culture, arts and creativity to create added value and which rely on intellectual property rights to protect their interests. In 2002, the Central Policy Unit commissioned the University of Hong Kong to conduct a baseline study on the creative industries and a report was published in September 2003, in which it was pointed out that the cultural and creative industries consisted of 11 industries including design, advertising, architecture, publishing, music, film and video, software and computer services, interactive leisure software, the performing arts, television and radio, the art and antiques market. The report sets out in detail the current scenes of these trades and their possible directions.

The Home Affairs Bureau carries out promotional work mainly through publicity and by fostering the development of the relevant industries. In the past three years, the Bureau has made enormous efforts to promote the creative industries. We have organized many different types of activities to publicize and promote the creative industries and to enable people from various sectors to share the actual success stories around the world.

We hope that by creating various platforms, creative people and business people can get together and become partners in jointly developing the creative industries.

We must understand that arts and culture are the important foundation in forging a creative society. Therefore, our mission is to encourage Hong Kong people, in particular the young generation, to appreciate and participate in the arts; to enrich the entire society with greater cultural substance; to strengthen social cohesion and shared values; and to build up the confidence and pride of Hong Kong people in their country and society. The Government will at the same time strive to provide a open and flexible social milieu and encourage various sectors of society to appreciate traditional values so that the social atmosphere can be more harmonious and its cultural quality can be raised.

It is not possible to attain the goals set out in the policy to promote the cultural and creative industries overnight. We will continue to fortify the existing system and improve our cultural foundation step by step to enable Hong Kong to successfully forge a creative society with a cultured ambience, in order to meet the challenges posed by the globalization of the economy and industries in the 21st century.

Mr Albert HO and Miss CHOY So-yuk are very much concerned that we do not have a cultural policy presently. I wish to point out that we do have one. The basic principle of our cultural policy is to create as far as possible an environment for free artistic expression and creation and to encourage more members of the public to participate in cultural activities. The role played by the Government is mainly that of a catalyst that promotes cultural and artistic development through funding, education and publicity. In 2000, the Chief Executive established the Culture and Heritage Commission (CHC). After working for three years, it has accomplished a great deal of work. Furthermore, after two rounds of extensive consultation, the CHC submitted a Policy Recommendation Report and made a total of 108 recommendations to the Government.

The Policy Recommendation Report published by the CHC is a visionary document which outlined the long-term direction of cultural development in Hong Kong, after conducting an extended consultation and research. The Government also made an affirmative response in early 2004 by accepting most of the CHC's recommendations. In fact, the Government has accepted, gradually implemented and followed up 94 of the CHC's 108 recommendations. Therefore, insofar as a cultural policy is concerned, the Government already has a set of proposals using the report of the CHC as the blueprint and groundwork.

I wish to point out in particular that chapter six of the CHC Policy Recommendation Report clearly states that the CHC supports the development of the West Kowloon Cultural District (WKCD). The CHC is of the view that the creation of the WKCD is an unprecedented opportunity. It recommends giving emphasis to the principles of "people-oriented", "partnership" and "community-driven" in the planning and development of the cultural district. In addition, importance has to be attached to the planning on cultural "software". The Government totally accepts the recommendations of the CHC and has already incorporated these principles and ideas into the Invitation for Proposals.

Mr Abraham SHEK is concerned about whether there is any venue for artistic training at the tertiary level. I wish to inform Mr Abraham SHEK that a number of institutions and organizations in Hong Kong are now actively offering degree programmes in visual arts. We will do our utmost to provide appropriate assistance to the units concerned. We believe that strengthening visual arts training in tertiary institutions in Hong Kong is one of the best ways to complete the blueprint on cultural development.

Mr Patrick LAU, Mr Abraham SHEK and Miss CHOY So-yuk are all concerned about the policy on heritage conservation in Hong Kong. In this regard, I wish to inform Members that we will think holistically in assessing the historical value, cultural significance, architectural features of such buildings and the collective memory represented by such buildings, so as to formulate a future strategy on heritage conservation. Not only will this move preserve historical buildings and their cultural characteristics and enhance the diversity of buildings, it will also enhance the understanding of the public of our unique history and promote a sense of belonging to the community.

We conducted a public consultation from February to May 2004 on issues relating to the macro policy and the public response was enthusiastic. We received over 500 representations. With reference to these views and suggestions, we have begun to study the implementation proposals which are feasible and hope that the second round of consultation on the specifics of the policy can be conducted this year.

Mr Tommy CHEUNG has expressed concern about the existing system of consultative and statutory bodies. We are now reviewing the roles and functions of consultative and statutory bodies comprehensively to enhance their representativeness, transparency and efficiency, so that they can meet social needs and new challenges. We have submitted a series of interim reports on the discussions focusing on the appointment system and a host of issues relating to the operation of the relevant bodies to the Panel on Home Affairs of the Legislative Council. We will continue to conduct the relevant review and explore feasible ways to streamline the structures of these consultative and statutory bodies and enhance their functions.

At present, the Government listens to and collects the views of the public (including those of the middle class) on government policies through about 200 consultative bodies, the District Councils and local networks. The Public

Affairs Forum is just another new channel for the Government to collect the views of the middle class.

After consulting the Panel on Home Affairs of the Legislative Council in July last year on the proposal to establish such a forum, the Home Affairs Bureau launched the preparatory work for the Forum, including designing and preparing the website and appointing members to the forum. We invited Legislative Council Members, various academic institutions, and so on, to nominate candidates to serve as members of the forum. According to the present progress, the consultative forum will begin to operate in March.

Mr Abraham SHEK and Miss TAM Heung-man are very concerned about schooling for children of ethnic minorities and racial harmony.

In September 2004, we issued a consultation paper to consult the public on legislation to prohibit racial discrimination. The consultation period has been extended to 8 February 2005. We will analyse the views collected before drafting a bill. If everything proceeds smoothly, we expect the bill to be tabled to the Legislative Council in the 2004-05 Session.

In fact, public education remains our prime task. We will continue to deal with the problem of racial discrimination and to promote racial harmony through the Committee on Promotion of Racial Harmony and the Race Relations Unit. We have also adopted some new measures, including financing the broadcast of radio programmes in the languages of ethnic minorities and organizing cultural and arts performance on Sundays to enhance the sense of belonging among these minorities at the same time as they retain their cultural identity.

In July 2003, we established the Ethnic Minorities Forum to strengthen the liaison with minorities. We will continue to fund various educational and promotional activities aimed at fostering racial harmony.

A number of Members, including Mr Patrick LAU, Mr Tommy CHEUNG, Dr Raymond HO and Mr Albert CHAN, are very concerned about the outstanding public works of the two former Municipal Councils. The Chief Executive mentioned in the policy address this year that the Government had reviewed these projects individually and initially identified 25 projects for

priority treatment. The works projects are expected to commence successively over the next few years. I will now give a brief account on these projects on which priority treatment is recommended.

In response to the concerns expressed by members of the public, the District Councils and the Legislative Council on the outstanding public works of the two former Municipal Councils, we have recently conducted a review on these projects. In the course of the review, we have taken into full consideration the views expressed by the District Councils concerning cultural and recreational facilities when they conveyed local needs and community expectations. In addition, we have also considered some objective factors, including the allocation of financial resources, the pressing need for recreational facilities due to the increases in the population of new towns and the distribution and utilization of cultural and recreational facilities throughout Hong Kong.

After the review, we recommended as an initial step actively pursuing 21 outstanding projects of the former Municipal Councils, which include parks, football pitches, playgrounds, libraries, stadiums, swimming pools and waterfront promenades. In addition, we also proposed of our own accord the launch of four projects not included in those of the former Municipals Councils, including two involving the improvement of existing venues and two to provide new recreational facilities. Through these projects, we hope that the need in urban areas for recreational facilities can be catered to on the one hand, and the need in the New Territories, in particular the new towns where the population is growing rapidly, can be met on the other.

In fact, the Leisure and Cultural Services Department (LCSD) will not only discuss with people in local communities about the projects, it will also frequently review the priorities and development schedule of the projects according to their scale, complexity, demand and urgency.

The LCSD will apply for funding in the annual resource allocation exercise to be held in either June or July. After obtaining the funding for the projects, the Architectural Services Department will commission consultancies to carry out detailed design and invite tenders.

After consulting the District Councils on the design drafts, briefings will be given to the Panel on Home Affairs, the Public Works Subcommittee and the

Finance Committee of the Legislative Council and applications for funding will be made. After obtaining the required funding, tenders can be invited to hire contractors to implement the projects. Therefore, the lead work in respect of all the projects will take about 36 months and, depending on the scale of the projects, the construction of cultural and leisure facilities will be completed in 24 to 48 months in general. That is, they can be open for public use only after three years of lead work and it will take another two to four years after that.

Since 2000, we have completed 43 of the outstanding projects of the former Municipal Councils and 14 of them are now under construction. In addition, funds have been earmarked for another 25 and they can be launched at any time. Since the lead work has not yet commenced for the 25 additional projects in question, therefore the time for their launch will vary.

Mr Albert CHAN is concerned about the facilities in new towns. I am pleased to inform him that of the projects under construction or for which funds have been allocated or reserved, three are in Tin Shui Wai: the district open space in area 15, the construction of which commenced in December 2002. Another one under construction is the stadium in area 17 in Tin Shui Wai, of which construction commenced in December 2003. Another project has already had funds allocated or reserved for it, namely, the district open space in areas 25, 25A and 25B in Tin Shui Wai, Yuen Long and its construction will begin in December 2005.

Moreover, one project is now under construction in Tung Chung New Town, namely, the district open space in area 7 of Tung Chung, of which construction commenced in February 2003. Two other projects have been allocated funds or have funds reserved for them, which are the district open space in area 2 and the private sports stadium cum district library in area 17, Tung Chung, Lantau Island, on which work will commence soon. Funds have been reserved for these projects, the lead work has been completed and the projects can be launched at any time. In this batch of 25 new projects, two are in Tin Shui Wai, namely, the district open space in area 107 in Tin Shui Wai and a public library cum stadium in Tin Shui Wai. We will carry out the lead work on these two projects before commencing their construction. As regards Lantau Island, the swimming pool complex in area 2 and district open space in area 18, Tung Chung New Town, Lantau Island, are also included in these 25 new projects and we will carry out the lead work for them first.

Mr Tommy CHEUNG, Mr Albert HO, Mr Albert CHENG and Miss CHOY So-yuk are also very concerned about the Building Management Ordinance.

We carried out a large-scale consultation exercise from May to July 2003. The proposed amendment seeks to assist owners' corporations in fulfilling their duties and exercising their powers, rationalize the procedure for appointing management committees and their members and offer protection to owners. We will table the amendment bill to the Legislative Council in April this year.

The final issue is the incident involving the Albert House. A number of Members, including Mr Albert CHENG, Mr Albert HO, Miss CHOY So-yuk and Mr WONG Kwok-hing, are all very concerned about this incident. In fact, after the Albert House incident, the Home Affairs Department has already actively embarked on the work in this regard.

We have also heard views which maintain that the Albert House incident is in fact originally a civil case about financial matters. Since it has dragged on for over a decade, why did the Government decide to intervene on this occasion? In fact, the Home Affairs Department carried out the mediation on compassionate grounds. In addition, this incident is also related to the Building Management Ordinance.

In fact, the work we are now doing includes carrying out mediation through a professional intermediary and discussing actively with the institution concerned about the loan scheme. We are now in the final stage of finalizing the detailed arrangements of the loan scheme and the specific arrangements must fulfil the principle of being convenient, fair and compassionate.

The Government will help small owners solve the problems as soon as possible. We are intent on making a good job of this work. The question of whether we are trying to claim credit or who will get the credit is never a consideration to us.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): The fourth debate session ends. We will now move on to the fifth debate session. The policy areas for this debate session are housing, planning, lands and works, environmental affairs and transport.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, the nightmare of SARS and the calamity of the South Asian tsunami have brought home to mankind that apart from treasuring their own lives, they must also think seriously about the environment and the Planet Earth, so as to ensure the perpetual propagation of all living species.

Sustainable development is at the core of environmentalism. TUNG Chee-hwa ..... Sorry, Madam President, I must first put on my lapel microphone because I did not expect that my turn to speak would come so soon.

Sustainable development is at the core of environmentalism. In his policy address of 1999, TUNG Chee-hwa established the Council for Sustainable Development and instructed all Policy Bureaux to carry out sustainability impact assessments before implementing any major policy proposals. Mr Donald TSANG, concurrently the Chairman of the Council, explained that the sustainable development strategy of Hong Kong should aim at:

1. finding ways to increase prosperity and improve the quality of life while reducing overall pollution and waste;
2. meeting our own needs and aspirations without doing damage to the prospects of future generations; and
3. reducing the environmental burden we put on our neighbours and helping preserve common resources.

For this reason, I must mention some past incidents, especially the Hunghom Peninsula, because its demolition would have been the greatest irony to sustainable development and also a negative textbook example of environmental education. The Government not only sold off the Hunghom Peninsula cheaply, but also deleted an important provision from the relevant land lease. This would have enabled the developer to resort to the excuse of environmentally-friendly demolition and redevelop the site into a luxury

residential development for the generation of excessive profits. This would have resulted in the wastage of the Earth's resources and set a bad example for our children.

Madam President, in its handling of the Hunghom Peninsula incident, did the Government ever assess the sustainability impacts on society, the environment and education? Or, was that because it was not as acute and far-sighted as the developer, in apt reflection of TUNG Chee-hwa's self-criticism in the policy address: "We also lacked a sense of crisis, political sensitivity as well as the necessary experience and capability to cope with political and economic changes. We were also indecisive when dealing with emergencies"?

Whether because of social pressure or the awakening of enterprises, the Hunghom Peninsula incident has brought home to us that while enterprises pursue profits, they must also shoulder their corporate social responsibilities. Recently, society has witnessed the emergence of anti-business sentiments. One reason for this is that some insatiable consortia have gone so far as to damage the environment and waste resources in a bid to maximize their profits, thus causing public outcries. The business sector should learn a lesson and formulate an environmental protection charter for enterprises, so as to set down a way of sustainable development.

Environmental protection is not the sole responsibility of enterprises. It is also a civic responsibility, which requires the support of education and laws. The most notable examples are waste recovery and recycling.

A number of environmental measures are put forward in the policy address, one of which is the construction of a Recovery Park in Tuen Mun to boost the development of the waste recovery industry. I agree with Secretary Dr Sarah LIAO that the key factor is sorting at source. Waste recovery has in fact been conducted in many housing estates and schools, but either because of high handling costs or the lack of profits and business prospects, the waste recovered is often dumped at landfills eventually. Therefore, while encouraging sorting at source, the Government must also foster the development of recycling industries, so as to provide outlets for the wastes recovered, lest all its efforts are rendered futile and reduced to empty slogans. It must make sure that the Recovery Park will not be reduced to a mere waste transfer station, a reception centre of foreign refuse and even the habitat of red fire ants.

Madam President, the film "The Day After Tomorrow" tells of how the people of a highly capitalistic country have ignored the warning signs of the Earth and how the arrival of a new Ice Age finally makes them realize that they have to suffer the punishment of Nature as a result of their own misdeeds. As early as more than a decade ago, a Nobel Laureate already warned that the various environmentally-destructive economic activities must not continue, and that mankind must thoroughly change their ways of managing the Earth and the lives on it.

The warning of scientists reminds me of the illegal excavation of Tung Chung River, which almost brought total destruction to the River itself and its ecology. They also make me realize that the South Asian tsunami was exactly the same as the disasters depicted in "The Day After Tomorrow". Mankind should take the warning of scientists seriously, stop doing any more damage to the Earth and make environmentalism the core value of their life. We must follow the example of those primary students who opposed the demolition of the Hunghom Peninsula, who thus rewrote the fate of this housing development and changed the mind-set of Hong Kong people.

Thank you, Madam President.

**MR ALAN LEONG** (in Cantonese): Madam President, the spirit and courage behind the Chief Executive's self-criticisms and admission of inadequacies in the policy address are indeed commendable. However, what is so disappointing is that despite all the discussions on inadequacies and problems, the policy address simply fails to offer any remedies and solutions, giving people the feeling that he has the will, but not the ability. Recently, the Chief Executive has even refused to face the people and this Council openly. We therefore cannot help suspecting whether his avowed adherence to "people-based" governance is nothing but mere lip-service, whether his admission of inadequacies is just meant to satisfy the State President, having nothing to do with any genuine intention of resolving the governance problem.

Having undergone seven and a half years of poor governance, the people of Hong Kong are still willing to look at the eighth policy address with such relative magnanimity. The Chief Executive and the Administration should appreciate and treasure such magnanimity. What the Chief Executive must do

now is to make concrete and determined efforts to improve governance, so as to repay the people's goodwill.

The development of society is now at crossroads. Whether or not Hong Kong can grasp the opportunities precisely and overcome the challenges will hinge on its standard of governance. In the past, the term "governance" sounded both abstract and academic to the ordinary public. But having been battered by the governance of the Government of the Hong Kong Special Administrative Region (SAR) over the past seven years or so, everybody can now feel the terrible pain inflicted by failed governance.

To the ordinary masses, good governance is all about the manifestation of several significant criteria: fairness, the rule of law, transparency, civil participation in decision-making, serious and genuine consultation, consistent policy principles and the continuity and predictability of policies.

Madam President, that the governance of Hong Kong is problematic is already a fact well recognized by all in society. The improvement of governance can ill-afford any further delay. But, just how should we go about the task?

In recent years, the several incidents that can best illustrate the poor governance of Hong Kong and the Government's departure from the sound principles of modern public administration are all related to land planning and administration. Land is the most valuable resource of Hong Kong. If the Government can improve its land planning and administration and eradicate any mismatches of resources, more resources can then be channelled to all those policy areas in dire need of resources for promotion.

Precisely for this reason, I have chosen to focus on reforming land planning and administration as my main concern. The discussions on this will also show us how we can restore good governance and social harmony in Hong Kong.

Madam President, let me first discuss the West Kowloon Cultural District development project (the WKCD development), an issue of great concern to me. Despite all its impacts on our future blueprint of cultural and art development, the landmark of Hong Kong, the cityscape of the Victoria Harbour and revenue to the coffers, and also despite the widespread social concern and even criticisms that it is a form of "collusion between business and the Government and transfer

of benefits", this development project is only given very brief mention in the policy address, and I quote, "..... the Government keeps an open mind when listening to views. We will definitely pay heed to public opinion and the overall and long-term interests of Hong Kong when taking a decision after the completion of the consultation exercise." (End of quote) In this way, the Chief Executive simply glosses over the matter, paying no heed to the anxieties of society about this project, and literally failing to "address people's pressing needs".

Early this month, the motion debate I moved on the WKCD development was passed by an overwhelming majority in this Council. In this way, the Legislative Council unequivocally told the authorities what our society wants: the investment of an appropriate amount of land proceeds in the promotion of a sustainable cultural and art policy. The concern of the public is that the 40-hectare land lot worth hundreds of billion dollars should not be awarded to one single developer in any slapdash manner. What the public ask for is just a chance to voice their views in the planning process, so that they can participate in perfecting the implementation of the cultural and art policy. What the public ask for is that the Government must satisfy us that the whole WKCD development is guided by market principles and marked by openness, fairness and transparency. The people of Hong Kong are so humble and modest in their concern, aspiration and request. How can all this be regarded as excessive by a SAR Government that is sincere in rebuilding social harmony?

In the very divisive community of Hong Kong today, anyone determined to rebuild social cohesion by embarking on a programme with widespread consensus will find it difficult to identify any project that can compare with the WKCD development. Unfortunately, what members of the public have heard so far are just the hackneyed defence of the original plan by the government official in charge, his "refusal with regret" and also the rumour that once the original plan falls through, nothing more will be done.

Last Friday, this Council responded actively to people's aspiration and agreed to set up a subcommittee under the House Committee with sole responsibility for following up the WKCD development. It is hoped that on the existing basis and platform, Hong Kong can make achievements in its cultural and art development as soon as possible. This can aptly show that this Council is making a genuine attempt to answer the aspiration of society, to address people's pressing needs.

My purpose of speaking in such great detail is just to ask this question: What actually is the Government doing at a time when the various social sectors and the Legislative Council are so keenly discussing the WKCD development, in the hope of taking it forward? Whenever it finds any honest advice distasteful or meets any pressure, it will react violently in an opinionated manner instead of asking itself why the original plan cannot command widespread acceptance. How can it talk about sound public administration in that case?

Madam President, please allow me to reiterate that it has never been the intention of the people and the Legislative Council to stir up any trouble in opposing the single-tender approach. Nor is there any PHD attempt (attempt to pull him down, that is to say). It is not our intention to foil the WKCD development and topple any specific government official. Instead, our hope is that despite the huge public outcries and the Government's insistence on forcing through the original plan, we can still help all sides to break the deadlock, so that they can quickly take the WKCD development forward in accordance with public opinions.

The WKCD development can still be turned into a good opportunity for the Government to foster social cohesion and rebuild the platform of sincere negotiations between the people and the governing authorities. I earnestly hope that the government official in charge can rein in his charge at the cliff, grasp this opportunity, pay heed to the worries of the people and professional bodies and handle the WKCD development properly. If it fails to do so, people's suspicion of and discontent with the governing authorities will only increase, much to everybody's regret.

I notice that in recent years, the Government seems to be very keen on adopting Public Private Partnership (PPP) for various development projects. Some have pointed out that to the Government, this is a very good tactic to bypass the Legislative Council. Let me just leave such a conspiracy theory aside for the time being. As a matter of fact, Madam President, a successful form of PPP will certainly bring benefits to the public, the Government and private investors, and it is also the precondition and cornerstone of sustainable development. But what is so baffling is that the SAR Government has turned something so good into something very bad, something that divides Hong Kong and creates class conflicts. Besides making people more convinced of the existence of "collusion between business and the Government and transfer of benefits", this also testifies to the total disintegration of the Government's administrative and governing authority. Time and again, the people of Hong

Kong have witnessed just how powerless and helpless the Government seems to be when dealing with property developers wishing to dictate the planning and use of lands.

Madam President, I think there are six reasons for this:

1. The Government has never adhered to the principles of good governance in modern public administration and clearly explained to the people of Hong Kong, through the disclosure of sufficient information to the public, why PPP is suitable for individual development projects.
2. The Government has never carried out any honest, serious and institutionalized public consultation exercises. All of its consultation exercises are farcical, meant merely as embellishments and not intended to bring about any substantial effect on predetermined policies.
3. On the finalization of PPP projects, the Government has argued that land administration is part of its executive authority. It has also made a narrow interpretation of Article 64 and Article 73 of the Basic Law, arguing that under a private agreement with a private-sector organization for the joint development of public facilities, the use of lands as capitals and the adoption of debt-offsetting as a means of meeting the costs of public facilities or even the day-to-day expenditure of the Government do not involve any "public expenditure", so the approval of the Legislative Council is not required. The Legislative Council is bypassed as a result, being rendered unable to exercise any *de facto* power of approval or veto.
4. The Government has never explained the benefits and roles of the Government, business and the people in PPP projects, nor has it ever described their respective rights and obligations.
5. The Government has failed to allay the anxieties of the people by putting in place a mechanism for public monitoring of PPP projects.
6. The Government has failed to act as a middleman in fostering communication between business and the people. As a result,

some misunderstandings which could otherwise be cleared easily at an early stage have eventually developed into head-on conflicts, because dialogues can only be conducted through the mass media.

Madam President, to make matters worse, the Chief Executive himself used to belong to the business sector and was elected by an Election Committee with a predominantly business composition. The intricate entanglement of interests has understandably led people to suspect the secretive handing out of benefits as rewards. Since the Government lacks any popular mandate and political legitimacy and it has also failed to establish any mutual trust with the civil society through the direct or indirect assistance of public opinion leaders, it is only natural for allegations like "collusion between business and the Government" and "transfer of benefits" to emerge and spread.

Madam President, let us now look at how much revenue we may have lost due to erroneous land administration in some well-known cases such as the Cyberport, the Hunghom Peninsula and the Discovery Bay. The Cyberport site measures 26 hectares. Had it been auctioned as a low-density residential lot in 2000, the Government could have obtained an instant revenue of \$14 billion in land proceeds, assuming that it could be auctioned at a price of \$2,500 per sq ft like other similar residential land lots at that time. But under its arrangement with the developer, the Government only asked for a premium of \$7.9 billion, which was far smaller than what could have been obtained in a public auction. And, it is still not yet known how much the Government can eventually get from its share of the development profits.

In the case of the Hunghom Peninsula, assuming that the price per unit is \$1.5 million, the entire development project should be worth at least \$3.7 billion. After deducting the \$1.9 billion for buying back the property development and the premium of \$850 million, it is estimated that there can be a profit of as much as \$950 million. How about the Discovery Bay? Since 1976, the developer has repeatedly altered the development plan of Discovery Bay. The Treasury has thus suffered revenue losses amounting to hundreds of million dollars. The losses involved in all these cases alone are already several dozen times more than the annual saving of \$360 million resulting from the Government's 5.4% reduction of elderly CSSA in October 2004. They are enough to cover the annual expenditure of small-class teaching (being \$310 million) for three years and also equal to the deficit of the Hospital Authority over a decade or so, for its annual deficit now stands at \$600 million.

All these statistics show us that failed governance may well lead to losses amounting to hundreds of million dollars. Public auctions and tenders constitute just about 30% of the Government's revenue from land disposal. The rest of the lands are disposed of through private treaty grant following premium negotiations with grantees. In these cases, the premiums charged are neither determined by the market in any public auctions nor monitored by the public in any way. In other words, if the government officials concerned fail to discharge his duties properly, the losses of public money will be enormous.

Madam President, there were many concrete instances where people queried the approaches and even integrity of individual government officials. But we cannot possibly solve the problem simply by pointing our fingers at individual government officials, for I think that the system itself should be the crux of the whole problem. The mode and mind-set of land planning and administration in Hong Kong is already outdated, because it simply equates faith in the market with favouritism towards large consortia and fails to balance the various public interests. If a comprehensive review is not carried out, the land policy of the Government will continue to create resource mismatches in society and incur heavy social costs. The policy will continue to lead to criticisms and social antagonism and conflicts.

I am of the view that the Government should reform its existing mode of land planning and administration with a new mind-set. All fundamental problems must be examined and reviewed. In this connection, Madam President, I wish to raise five points:

First, land planning and administration in Hong Kong and the related decision-making have been undertaken by government bureaucrats, and the philosophy of development has been dominated by the profit-oriented business sector. The mode of decision-making within the Government simply does not permit the effective, constructive and institutionalized input of the civil society. As a result, large consortia and developers have come to exert an increasing influence on the land planning policy of the Government. The Government has thus unnoticeably come under the domination of large consortia. It is small wonder that more and more people now have the feeling that land uses in Hong Kong are dictated by private developers.

Second, to the Government, the opinions on land planning and administration expressed by this Council, District Councils, the civil society and

members of the public are all "noises" that will only slow down the pace of development. For this reason, whenever the Government wants to launch a certain project as quickly as possible, it will invariably operate in a clandestine manner, trying as much as possible to bypass the Legislative Council and persuade members of the public, instead of sincerely listening to their views and ascertaining the needs of society. But has it ever occurred to the Government that the many different voices heard in society are in fact reminders that its policy must take account of the wide spectrum of public interests? When the decision-makers ignore all these public interests, the only recourse of the people will be to make even more "noises".

Third, under the land administration directed by government bureaucrats, the concepts of environmentalism and of conserving monuments, historical relics and community cultures all seem to be entirely absent. The only concern of bureaucrats is the amount of commercial profits that can be generated by the buildings concerned. Consequently, the former Stanley Police Station has been turned into a supermarket and the Murray House restaurants. The former Marine Police Headquarters Compound in Tsim Sha Tsui will be developed into a luxury cultural hotel, accessible only to hotel guests. And, the development of the Central Police Station Compound will also be put to tender as a commercial tourism project. All along, the Government's tender assessment procedures and criteria for the sale of valuable social resources are biased towards economic benefits, ignoring the actual contents of development and other public interests. Such a mind-set of governance is extremely myopic, lacking in any sense of commitment.

Fourth, the Government has failed to play the role of a good "goalkeeper" in land sales and the monitoring of land uses. Individual developers can thus gain an upper hand in negotiations by exploiting the loopholes of contracts and exerting their influence. The Treasury has suffered as a result, and there are also many other social costs. This has radically altered the rules of the game and led to the emergence of "anglers", bidders who will first submit tenders containing very attractive conditions in order to out-compete others, and who will later on ask for various amendments of their land leases. Examples of this indeed abound.

Finally, the fifth point, Madam President. I am especially concerned about the Government's handling of "Other Specified Uses" leases. These leases normally provide for the permitted uses of the land concerned, and there

will also be another provision specifying that if the land in question has ceased to be devoted to the specified uses for more than 12 months, the Government may repossess the land immediately and designate it for other uses. Such a provision can safeguard the public interests, prevent losses of Treasury revenue, ensure the thorough implementation of land planning objectives and foster fairness in the market. However, it seems that the Government has failed to fully exercise its power under this provision. In November last year, when I asked an oral question on this in the Legislative Council, the Secretary for Housing, Planning and Lands simply prevaricated. In the written reply, there was no mention of any cases in which the Government had exercised this power, nor was there any clear explanation on why the power had not been exercised, on the rationale behind the policy and whether the interests of property developers were considered more important than those of the general public.

Madam President, the five points mentioned can highlight the fundamental problems with the land planning and administration of the Government. The Government simply lacks the determination to implement any macro planning, and the Hong Kong 2030 Study of the Planning Department is also unable to tackle the fundamental problems. The root cause of the problems is that the SAR Government's mode, policy and mindset of land planning and administration are all unable to catch up with the complex and diversified development of Hong Kong today, becoming completely out of line with our increasingly mature and active civil society. They are also heavily biased towards the interests of private developers, ignoring the principles of justice and equity.

I maintain that the Government must thoroughly review its existing planning policy. Treating the civil society as its partner, and under the principles of promoting public participation and sustainable development, it should formulate a long-term planning strategy for Hong Kong and do away with the current domination of land uses by private developers. In the process, it must explore how public participation in planning can be effectively and systematically institutionalized.

Madam President, in his meeting with the Hong Kong Chief Executive and accountability officials in Macao, State President HU Jintao urged them to take stock of past experience and identify inadequacies, so as to continuously raise their administrative competence and standard of governance. Is this not the wish of Hong Kong people?

As long as he is willing to do so, Mr TUNG can still do some good deeds for Hong Kong during his remaining term of office. When dealing with the Central Authorities, he should lobby on behalf of Hong Kong people for a feasible timetable on universal suffrage, one which can cater for people's desire for political participation. When dealing with Hong Kong people, he must manifest a determination to implement benevolent policies, cast away his sectarianism, enlist the service of as many talents as possible, pay adequate attention to the vulnerable who are in dire need and turn Hong Kong into a just and caring society. The Government should manifest its determination to maintain the rule of law and a level playing field in Hong Kong, so that children coming from the lower strata of society can become self-made individuals.

Mr TUNG may manifest his determination to change his mind-set by delivering one or two rhetorical speeches. I am convinced that all our fine people and the efficient civil service team will definitely render their enthusiastic and full support, so as to foster the relaunch of Hong Kong. That way, even if Mr TUNG does not work from seven to eleven, there will still be effective governance and social harmony in Hong Kong.

Madam President, Hong Kong has already wasted nearly eight years. I sincerely hope that during his remaining term of office in the next two years or so, the Chief Executive can make serious efforts to reform the governance of the SAR, including land planning, so as to pave the way for the third term of the SAR Government. This is what he should deliver in response to the State President's request; not only this, it is also the last thing he can and should do for the people of Hong Kong. He is duty-bound to do so.

Madam President, although I will not vote for the motion of thanks today, I still very much hope that one day, in this very Chamber, I can rise to give my warm applause to a Chief Executive who does not render mere lip-service only.

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

**MR LEE WING-TAT** (in Cantonese): Madam President, since time is running out, I shall express my personal opinions about three main issues only.

The first issue is the financial position of the Housing Authority (HA). I must first voice my dissatisfaction with some government officials who have blown the balloon, claiming that if The Link REIT cannot be listed, the HA will not have the means to build any more housing units. I agree that the financial conditions of the HA are not that good. Currently, the HA has a liquidity of around \$10 billion to \$20 billion. On the basis of the current pace of housing construction, it is thus estimated that this amount of liquidity can at most meet the construction expenses for only two to three more years. But past experience tells us that rental income is not usually a substantial component of the HA's overall sources of revenue, because its books usually show a deficit in property rental, which may range from \$1 billion to \$2 billion a year. The situation last year was slightly better, as there was a smaller deficit. As for commercial properties, there are usually profits, which may amount to some \$2 billion. The sale of housing units, on the other hand, will generate an income of about \$7 billion to \$10 billion.

I think Secretary Michael SUEN also knows very well that the main source of funds for the HA's construction projects used to be the very sizeable profits obtained from the sale of Home Ownership Scheme (HOS) flats. For this reason, one can say that the levels of rentals and whether The Link REIT can be listed are not actually the main reasons for the HA's current financial difficulties and its projected shortage of funds for housing construction. The greatest reason is that the HA has ceased the sale of HOS flats. I do not think that the Government has told the true reason, nor do I think that it should lump the two things together.

As I understood it on that day, the Secretary issued a housing statement two years ago, announcing that they did not intend to put HOS flats on the market in the short-term future. I agree that credibility is very important to the Government, so it must not change its position, say, just two or three months after the release of the statement. But, equally, I do not think that the Government should refuse to make any change and completely ignore the overall finances of the HA and the conditions of the property market after issuing the statement. The property market has reportedly turned more stable — although I usually take the analyses of property developers and real estate agents with a pinch of salt, I must say that there is indeed such a trend now. It cannot be denied that the property market is on a stabilization trend. Consequently, even if the Government now decides to resume the sale of HOS flats one or two years ahead of schedule, property developers and members of the public will not probably voice any strong objection. The Government should really consider

whether it is time for conducting a review, and whether the sale of HOS flats should be resumed at an earlier time.

Second, I wish to point out that the HA's main source of income is the sale of HOS flats. I have discussed this many times with Secretary Michael SUEN and Mr LEUNG Chin-man, Director of Housing. Both of them have told me that from 1992 to 2000, that is, during the period when I was a member of the HA, surpluses from the renting of residential properties were recorded just in a year or two. It is indeed very difficult to get any surpluses from the renting of residential properties. The Democratic Party and I have been urging the authorities to consider the possibility of resuming the sale of HOS flats. On the one hand, this can provide a stable source of income, because the sale of 10 000 flats each year will yield an income of roughly \$2.5 billion to \$3 billion. On the other hand, this can also ease the deficit resulting from the renting of residential properties and tie in with the Government's existing policy of handing over property management to flat owners. The cash flow situation can at least be improved as a result.

I have also discussed another issue with Secretary Michael SUEN. The Government frequently advocates the adoption of an innovative approach, but down from the time of Dominic WONG, no one has ever paid any heed to this. But academics are all for an innovative approach, and they are even more radical than me. As we all know, there are now some 200 000 to 300 000 HOS flat owners. These owners are in fact living in the very expensive properties of the Government, because in each case, 50% or even 60% of the ownership actually belongs to the Government. However, many owners are reluctant to pay regrant premiums, because the amounts involved are very high. Some academics and even former Legislative Council Members have therefore recommended the Government to waive the payment of regrant premiums and simply give its share of ownership to HOS flat owners for free. Some of these academics are well-known economists. I of course do not agree to this approach, because what are involved are not just economic theories but also political considerations.

Former Secretary for the Treasury Denise YUE, former Secretary for Housing Dominic WONG and even the incumbent Secretary for Housing, Planning and Lands Michael SUEN all share my view that some sort of financial incentives must be offered to induce the movements of public assets in the property market, or else most HOS flat owners will remain reluctant to sell the

very expensive public residential properties in which they are living. Our recommendation involves the offer of discounts or payment by instalments as a means of inducing them to sell their properties. Owing to the time constraint, I am not going to dwell on this, but I must still point out that the rationale behind the recommendation is very important. It has been pointed out that the HA is caught in a shortage of funds, but we also reckon that the total worth of all HOS flats is as much as \$100 billion to \$120 billion, so if only we can turn a very tiny portion of it into the cash flow of the HA, we will not need to increase rentals or resort to The Link REIT over a comparatively long period of time.

Madam President, I now wish to turn to the West Kowloon Cultural District development project (the WKCD development). Owing to the time constraint again, I shall be very brief. I am of the view that the Government should conduct pragmatic and constructive discussions with us. The Legislative Council has already established a subcommittee to follow up the issue, and I hope that Members can put forward more different opinions for discussion. The Democratic Party has worked out four proposals for the WKCD development, all of which do not adopt the single-tender approach but are still financially viable. We shall write up these proposals and forward them to the Government for consideration. On the one hand, we do support the construction of a cultural district, but on the other, we do not think that the single-tender approach is absolutely necessary; we are convinced that there are many alternatives to this approach. We must now seek a consensus in society, so as to convince the public that we should spend \$6 billion to \$8 billion on constructing cultural and performance venues in a cultural district. Another point is that according to the analysis of a University of Hong Kong professor, the operation of the cultural district will require the establishment of a fund amounting to \$10 billion to \$15 billion for the generation of sufficient profits and surpluses. The Government should really put forward all these issues for discussions. If it does not do so, then in the absence of sufficient information, all discussions are bound to be futile and end up in unnecessary disputes.

There is one last point, a point that I must raise in the presence of Secretary Dr Sarah LIAO now. I hope that she can tackle the problem of air pollution as quickly as possible. Last week, when I dined with members of the American Chamber of Commerce, they all said that the Government and the Legislative Council could no longer convince others by claiming that they had made lots of efforts to tackle air pollution, because no effects had been seen at all. As a result of deteriorating air quality, visibility in Hong Kong is getting worse

and worse. I know that the Secretary has been doing her utmost, but she needs a greater degree of boldness. For instance, she must request Mr TUNG to inform the environmental protection authorities and top officials of the Mainland that the pollution in Guangdong has spilled over to Hong Kong. Only higher-level contacts, positive strategies and effective indicators can give us any real hope of seeing an azure sky in the next five years. Thank you, Madam President.

**MS LI FUNG-YING** (in Cantonese): Madam President, I will focus on presenting my opinions on transport in this session. In recent years, the Government has devoted much effort to developing the railway networks despite a slowdown in the population growth of Hong Kong. As a result, the market share of other modes of public transport has been gradually eaten up by the railway networks, causing a loss of equilibrium in the public transport industry. I am not objecting to the Government's long-standing transport policy of using the railway systems as the trunk. However, I would just like to stress my observation. Although the Government has devoted much effort to the development of railway transport as the trunk, it has not co-ordinated and facilitated the development of the other branches of public transport such as buses, public light buses (PLBs), taxis and others in implementing the relevant policy, causing a loss of balance in the development of Hong Kong's public transport.

At the moment, we can see that the railway networks have expanded into something like a cobweb. The room of survival for other modes of public transport is dwindling and the transport industry is pouring out endless grievances. In order to earn a bit more money in the small room of survival, professional drivers have to work more than 10 hours a day, not only causing damage to their health but also affecting safety on the roads and of passengers. I also worry about the emergence of vicious competition in the industry as operators resort to price cuts for survival. In the end, small public transport operators like taxis and PLBs will inevitably be eliminated.

I hope the Government will review the current transport policy which is based on railway development as soon as possible and balance the importance it attaches to the operation of various modes of public transport. In this way, while putting a strong emphasis on railway development, the Government will

not reduce the room for survival of buses, PLBs, taxis and other kinds of public transport and affect the employment of professional drivers unawares.

Finally, I would like to speak on the issue of merging the two railway corporations. I am most concerned about the impact of a merger on the employment, salaries, welfare and treatment of employees. In the process of negotiations for a merger, I hope that the two railway corporations will not let cost-effectiveness take precedence over employees' rights, but will communicate with the trade unions and staff to obtain their support before proceeding with the merger. The Government is also duty-bound to take up a role in the process.

Thank you, Madam President.

**MR DANIEL LAM** (in Cantonese): Madam President, the Chief Executive, Mr TUNG Chee-hwa, demonstrated his courage and strength in the eighth policy address during his office. He sincerely devoted one tenth of the contents to review experiences gained and inadequacies identified and expressed his commitment in keeping close to the community and working together for social harmony. We can say that the new direction of governance of the Government of the Hong Kong Special Administrative Region has already achieved initial success. The gradual dissipation of sentiments of disputes and opposition in the community and confrontation on the streets will be conducive to maintaining the stability and prosperity of Hong Kong and the early resolution of the realistic social and economic problems.

In the policy address, the Chief Executive has honestly given his explanations and responses to many issues of concern to the community which are very practical and viable in uniting the community, alleviating public grievances and improving the quality of administration. It is certainly invaluable for someone to examine himself and identify his own inadequacies, but if a further step can be taken to correct the mistakes and omissions made as a result of long-standing prejudice, then the visions of "people-based governance" and "improving governance" can firmly be established.

The Government has plans to give additional support to the District Councils and to absorb people of greater representatives into its advisory framework in order to gauge public sentiments more accurately. Madam

President, since the introduction and increase of seats in the Legislative Council returned by geographical constituencies through direct elections, the role of the District Councils has been fading. Last year, the Chief Executive promised in his policy address to strengthen the co-operation with the District Councils, commit to supporting their work and review their responsibilities and roles. The Chief Executive has made similar promises this year. I hope that such promises can be fully fulfilled, so that the District Councils can exercise their important responsibilities duly belonged to them in assisting the Government to achieve quality administration.

I would like to add one point here. While strengthening the roles and functions of the District Councils, the Government should not lose sight of another institution which significantly represents grass-roots opinion. The Heung Yee Kuk, a statutory body of the Government's consultative machinery on the development of the New Territories, represents the rights and interests of the indigenous New Territories residents. Unfortunately, the Government has not attached due importance to the Heung Yee Kuk in terms of policy formulation and implementation and its role to facilitate communication with the community. We have to point out that if the Government failed to strengthen the Heung Yee Kuk's functions of consultation and communication, there would be a blind spot in its vision of "people-based" governance.

In fact, with geographical movement of the people and the establishment and development of new towns, the New Territories has gradually been urbanized. However, the development of rural areas has not been given the same support and they are sometimes even treated as targets of sacrifice. For example, the implementation of conservation policy has restricted or even prohibited many land owners from development and has taken away their basic rights without any compensation. That is not only unfair, but also seriously strangles the development of the New Territories. In addition, the ownership of small houses is the traditional statutory rights of indigenous residents. Since the Government has stressed the importance of governing according to the laws and expects to improve its quality of governance, it cannot leave the long-standing problem of small house aside. Speeding up the procedures for approval is only the first step, a more important step is to set a target for completely resolving the problem. That is what an accountable government should do. Moreover, speeding up the construction of small houses will increase employment opportunities and revenue for the Treasury.

Keeping close to the community and doing solid work is the most prominent feature in this year's policy address. I hope the Government can deliver its verbal commitments promptly and try to create an atmosphere of harmony in the community, starting off by valuing the opinion of the grassroots, promoting regional development and removing defects in its policies. Madam President, I so submit.

**MS AUDREY EU** (in Cantonese): Madam President, in the policy address of 1999, there were these words: "This problem (air pollution), which is affecting our health, is already serious and may get worse. Hence we should no longer delay in taking action against air pollution." These words were said six years ago. The Government knew clearly that the problem was serious, so it said that we should no longer delay in taking actions. The Government also knew clearly that there was an urgent need to hold discussions with Guangdong Province, so as to tackle the problem of regional pollution. Six years has passed, and although many efforts have been made, air pollution in Hong Kong is still deteriorating continuously, much to the worry of everybody.

Actually, the word "deterioration" alone is not enough to describe the gravity of the problem. To be exact, one has to say air pollution here is rapidly deteriorating at a record-breaking pace. Last year, low visibility was recorded for 18% of the time, or one day in six, a record-high level in the history of Hong Kong. And, the roadside air quality monitoring stations in Central also recorded as many as 766 hours when the air pollution level had exceeded the safety standard. This was four times the corresponding record of the year before last. In Mong Kok, there was also a surge of nearly 200%. Madam President, all these statistics are indeed horrifying.

In spite of all these statistics, the policy address this year still fails to put forward any initiatives on preventing air pollution, and it only restates the target of reducing air pollutants by the year 2010. It is basically a good thing to set down emissions quotas for the local power companies, but there is no timetable, so we simply do not know when the targets can be achieved. As for the emissions trading scheme put forward by the Secretary when she assumed office, the details will only be made known to the power companies as late as the third quarter of next year.

The total emission of air pollutants in the Mainland accounts for 80% to 90% of the Pearl River Delta. If this main source of pollutants is not tackled, all efforts made by Hong Kong will be in vain. The irregular practices of mainland power companies are mainly caused by the ever-increasing demand for electricity resulting from rapid economic development. Recently, I have heard Governor HUANG Huahua say that all this is in fact for the good of Hong Kong, because they have to operate production plants for Hong Kong. It is a pity that many Hong Kong and mainland officials still hold the view that "the economy is of paramount importance" and "development is of overriding significance". If the overall development strategy condones or ignores pollution, and monitoring and prosecution is undertaken by just one single department, then what we have will just be something like a small fire brigade having to put out the fires set by numerous people around it. How can this solve the problem?

Madam President, for many times, I have expressed the hope that the Chief Executive can attach as much importance to environmentalism as he attaches to economic development. I hope that he can bring forth another CEPA, with the "E" standing for "Environmental" instead of "Economic". I hope that he can foster the signing of this new CEPA and turn environmentalism into a major consideration in economic development. This is the only ultimate solution, the only way to tackle pollution at source.

Hong Kong must really make determined and stronger efforts to enhance the work of environmental protection. If not, we will never achieve any success. A sole reliance on education and an absence of any punishment and financial incentives will only lead to the accumulation and deterioration of the problem, doing harm to our future generations.

In respect of waste management, the construction of a waste recovery park has at last been finalized. This should be welcomed. But it must still be pointed out that in order to reduce local waste, the operator of the recovery park should concentrate wholly or mainly on handling waste produced locally. At the same time, we should seek to improve the local waste recovery system. In particular, we must make improvements in city and building design. A set of guidelines should be formulated jointly with the relevant professionals, requiring all newly-completed buildings to install waste separation boxes on all their floors. Alternatively, we may consider various financial incentives, one example being the offer of preferential plot ratios or other planning concessions

for environmental initiatives. In the long run, we should consider the imposition of a domestic refuse charge. In Taipei, people are required to buy the specified types of garbage bags, and if they do not do so, their refuse will not be handled. The prices of the specified garbage bags will vary according to their sizes and also cover the charge of refuse handling.

Product responsibility has in fact been adopted for quite some time in advanced places like the European Union and Japan. Hong Kong should also have adopted this a long time ago. The Government has conducted many studies on this, but it has so far put forward only one proposal on trying out the idea with used tyres. To deal with electronic waste and disposable batteries, which may emit toxic substances, and also packaging materials like plastic bags and polyfoam that will damage the environment, the Government should impose regulation in the form of an environmental tax and encourage people to switch to less polluting substitutes. I remember that Miss CHOY So-yuk has once written to a newspaper, suggesting that legislation should be enacted to ban the use of plastic bags in supermarkets. Actually, if supermarkets can be made to pay a tax for plastic bags, or even a much heavier tax for non-environmentally-friendly plastic bags, people will change their living habits very quickly. Since I first became a Member, I have been putting forward suggestions on environmental protection to the Financial Secretary every year when I meet with him. But for reasons unknown, he has never responded to my suggestions.

Lastly, I wish to say a few words about the policy on natural gas. The use of natural gas can reduce the emission of chemical waste and air pollution, but whenever we discuss the topic, Members will invariably look only at the financial side of the matter. I hope that they can also consider the idea from the perspective of environmentalism. Many countries have already started to replace coal gas and other fuels by natural gas. In Shanghai, for example, a switch to natural gas is being phased in, and the whole process will be completed in 2010. The existing gas supply network of Hong Kong can actually be converted to supply natural gas. The only problem is that the costs of conversion will be exorbitant, so Towngas may not be willing to do so of its own accord. I hope that the Government can formulate a policy on introducing natural gas and set down a timetable for the gradual replacement of coal gas by natural gas, so that we can all live in a fresher environment. Madam President, I so submit.

**MR LAU WONG-FAT** (in Cantonese): Madam President, in the policy address, the Chief Executive emphasizes that the Government is committed to upholding the core values of our society, including the protection of private property. However, in regard to environmental protection, we simply fail to see any determination on the part of the authorities to protect private property.

It is stated in the policy address that the Government will seek to conserve valuable ecological resources on private land through the voluntary participation of land owners in management and partnership programmes to achieve a "win-win" situation for the community and the land owners. I think such a high-sounding and seemingly good-for-all approach is completely detached from the reality. It is a departure from the existing conservation policy, a covert attempt to freeze or even take away the private property of land owners.

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

Environmental conservation is admittedly the common cause of all people, but any emphasis on environmental conservation must be matched by the protection of private property. It must not be forgotten that the protection of private property is clearly provided for in the Basic Law. Unfortunately, however, the Government has turned a blind eye to the strong requests of land owners, categorically refusing to accept proposals on land resumption, exchange, leases and transfer of development rights, and just putting forward the so-called management and partnership programmes in such a noncommittal manner. Such "generosity at others' expense" is totally unacceptable. If the authorities insist on having their own way, there is bound to be very strong negative reaction. I urge the Government to honour its pledges on building a caring and just society and protecting private property rights, and to this end, it must formulate a conservation policy that can take account of and balance the interests of all social sectors.

Madam Deputy, the Chief Executive says that the support for District Councils will be enhanced, that efforts will be made to gauge the mood of the people more accurately, and that no effort will be spared to implement "people-based" governance. Ironically, the way in which the Environment, Transport and Works Bureau has handled the Western New Territories Landfill

is a complete departure from the undertaking of Mr TUNG. Earlier on, the Tuen Mun District Council voted against the plan on the grounds of ecological and heritage conservation. But the authorities simply pay no heed to the decision of the District Council and still plan to submit a funding application to the Legislative Council for a feasibility study. Is this in line with the advocacy of "staying close to the community" and "thinking what people think"? The Panel on Environmental Affairs of the Legislative Council strongly condemned the authorities' approach a couple of days ago, much to the satisfaction of all. I hope that the authorities can stop before it is too late and think more about the people's needs, or else they may once again have to "take stock of experience and identify inadequacies".

Madam Deputy, I so submit.

**MR PATRICK LAU** (in Cantonese): Madam Deputy, in the policy address Mr TUNG mentioned at great length the measures to be taken to expedite urban renewal and the maintenance of old buildings. He also announced at the same time that the Hong Kong Housing Society would introduce a "one-stop" Assisted Building Management and Maintenance Scheme at a cost of \$3 billion. This shows that the Government is determined to improve community environment.

With regard to the urban renewal scheme, the policy address encouraged the strengthening of the distinctive characteristics of our districts and made an undertaking that the Urban Renewal Authority would co-operate with the District Councils (DCs) and professionals in urban design and town planning. This is consistent with my proposal which stresses the cultural characteristics of the 18 districts in town planning. However, I still hope that the relevant authorities can devolve specific and solid powers to the 18 DCs in respect of their duties and functions in urban renewal, so that the DCs, which are well versed in the situation of their respective districts, can perform their functions and work in concert with the relevant departments and non-government organizations to promote the 18 districts with distinctive characteristics. For example, an annual competition on good architecture in the 18 districts can be organized to show commendation to the contribution made by the architectural sector, encourage architectural creativity, and enhance public knowledge of architectural culture, thereby instilling a greater sense of belonging among the public to their communities and even attracting tourists, which will, in turn, facilitate the development of local community economy.

To expedite the pace of urban renewal, I think if the Government does not change the existing policy under which 90% of the titles must be obtained before legislation can be invoked to resume the rest of the land there, it would be difficult to expedite the urban renewal scheme. So, the Government should formulate a policy in the light of the realistic situation by relaxing the 90% ownership requirement to 70% or other percentages, in order to more effectively promote the urban renewal scheme.

The authorities should also consider the scale of projects under the urban renewal scheme. Apart from large projects, there should also be smaller projects to allow participation from more small and medium enterprises, in order to further expedite the pace of urban renewal. With regard to urban renewal projects, I hope that the authorities, apart from increasing the proportion of urban design consistent with the distinctive characteristics of districts, will also attach importance to beautifying the cityscape and greening of the environment. Efforts should also be made to provide such facilities as pedestrian boulevards, automatic escalator links, sky cities and underground cities.

In this connection, the inter-departmental Greening Master Plan Committee proposed in the policy address for the purpose of improving the urban environment should, in my view, also conduct detailed studies on community environment improvement and provision of pedestrian precincts and other ancillary facilities. As for the proposal of decking over nullahs espoused in the policy address, no detail has been given on the development plan of the decked area. I hope the Secretary can brief us on this in his response.

Moreover, the ongoing initiatives as set out in the policy agenda included conducting consultation on the small house policy for in-depth discussion. I propose that the Government, apart from speeding up the construction of small houses, should consider adopting new measures to fully utilize the land and improving the safety of buildings. Consideration can be given to the holding of competitions jointly by professional bodies and the Heung Yee Kuk or the relevant departments on, for instance, modern rural planning and architectural design, and then adopting the winning entry as a model of architectural design for small houses. This will not only speed up the construction of small houses but also beautify the rural environment and help develop it into a characteristic of the community.

Madam Deputy, given that the ageing of the population has become more and more obvious, I hope that the Government's urban renewal and building maintenance schemes will put greater emphasis on the provision of support facilities for the elderly, with a view to meeting the actual needs of society.

I think the Government should not only encourage the elderly to go to the Mainland as a means to solve the problem of an ageing population. On the contrary, the Government and private developers should consider how improvements can be made to the community environment and facilities to tie in with the trend of an ageing population in society and how job opportunities can be created to cater for the needs of the elderly.

Those who should be encouraged to go to the Mainland are the professionals, such as architects and planners. They should be encouraged to start their business in the Mainland. I trust that with their many years of professional experience and through the promotion of regional co-operation through CEPA, the threshold for the local architectural industry to start business in the Mainland can be lowered, and this would also enable mainland cities to absorb the experience of Hong Kong in respect of planning, architectural design, and so on.

As for the West Kowloon Cultural District (WKCD) development, Mr TUNG emphasized in the policy address that the Government would keep an open mind and that a decision would be made after the completion of the consultation exercise. I think many people who are concerned about the development in West Kowloon must have heaved a sigh of relief on hearing that. On this issue, the industry and I hope that the WKCD development can continue to be implemented in phases, rather than being overthrown and starting all over again. I wish to emphasize that "collaboration between the people and the Government" is not "collusion between business and the Government". I very much hope that through multi-lateral collaboration, the WKCD project can be put to tender and developed smoothly using an incremental approach as the basis for planning and the phased development process.

The incremental approach includes the establishment of a Provisional WKCD Development Board. It is necessary to identify a positioning endorsed by the cultural sector in Hong Kong. In fact, it takes time to nurture and develop culture and so, we need to set up a fund to support studies on the direction of development. Apart from making ongoing efforts to conduct public

consultation more thoroughly on the core issues, the Government must also draw up a "planning brief" and "master development proposal" and set out strict conditions for development. The Government should put the project to public tender in different phases encompassing various competitions on architectural design. I believe that a phased development process will help enhance the acceptability of the project, reduce the risks involved and truly reflect land values.

On the problems arising from the WKCD development, I hope that the Government can seriously learn a lesson and conduct an in-depth review, in order to set up a fair, open and honest tendering system duly recognized by the community instead of just underpinning the principle of "the lowest bidder wins", and adopt it as the guideline for future tenders.

In respect of the environmental industry, the measures to be taken to encourage the development of the recycling industry merit our support. But I have some misgivings about the adequacy of other matching measures. As to how domestic waste sorting can be implemented or how workers can be recruited for sorting such waste to create more jobs, Ms Audrey EU has provided a lot of input earlier, and I think all her proposals are worthy of consideration. Besides, as the transportation of waste to the Recovery Park in the remote Tuen Mun for recycling will incur a high cost, is this arrangement cost-effective? This is another question.

While the policy address has little coverage on the transport policy, I hope that the authorities can draw conclusions expeditiously in respect of transport fares, that is, the fare adjustment mechanism which allows for increase and reduction in transport fares as often mentioned by Secretary Dr Sarah LIAO, and also on such issues as the development of the West and South Hong Kong Island Lines of the MTR.

Madam Deputy, while I support this relatively practical policy address in general, I am somewhat disappointed with its complete silence on a long-term strategy for the future development of public housing. In order to create a harmonious atmosphere in society, I think it is very important to ensure that the people can live in peace and work in contentment. But in view of the crisis besetting public housing now, that the policy address was completely silent on the strategy of development in this area will cause public disquiet. So, I hope the Secretary can give a response in this regard. Thank you, Madam Deputy.

**MR ALBERT CHAN** (in Cantonese): Madam Deputy, "collusion between business and the Government is worse than robberies". In robberies, only individuals will be victimized and robberies only occur haphazardly. Robberies are illegal and censured by law. In collusions between business and the Government, the general public are victimized and such occurrences are frequent. The victims have a hard time that is beyond description but they have no channel of redress.

The slogan "collusion between business and the Government is worse than robberies" was proposed by me over a decade ago in a rally. I believe this phenomenon has existed for over a decade or some 20 years and is not unique to the TUNG Chee-hwa Administration alone. This is a common social phenomenon in the past decade or so. To say that there is collusion between business and the Government is to criticize the Government for skewing its policies in favour of certain organizations, consortia or families, for making special arrangements on benefits and on the special transfer of benefits. Such instances have recurred time and again in Hong Kong and the examples are innumerable. In the area of land and planning under the charge of Secretary Michael SUEN, such instances and occurrences are particularly rife, so let me cite a few examples briefly: the single-tender approach for the Hung Hom Station of the Kowloon-Canton Railway Corporation, the allocation of the berths of the Container Terminal 9 in the fashion of sharing booties, the Cyberport, the Discovery Bay and the licensing arrangements for satellite television many years ago. In land administration and existing town planning legislation as well as in the conditions on the sale of flats, favouritism is shown to consortia, people with close relationships with the Government and people whom the Government described being in amiable partnerships with it. This is unfair to the ordinary members of the public and is an oppression and a source of injury for them.

Many people say that there is no evidence to prove the existence of collusion between the Government and business. If Members should care to take a look, they will note that many newspapers often say that the democratic camp colludes with foreign powers. Why is it that if people of the democratic camp simply have a meal or a meeting with overseas officials, they are described as colluding with foreign powers? Is there any evidence? Why is it that the existence of such an obvious social phenomenon of collusion between business and the Government is denied by so many people, including Members of the royalist party or those who criticize the democratic camp for colluding with foreign powers? I hope that they can judge the instances in society with the

same yardstick. If the Government really means it — in particular, if Secretary Michael SUEN means it — then please put into practice the first point of the 24th paragraph in earnest, which maintains that the Government is resolutely against collusion between business and the Government and will strictly enforce its monitoring systems to eliminate any transfer of benefits. Doing so is not difficult at all.

First, it is necessary to conduct comprehensive reviews of a number of ordinances, including the Town Planning Ordinance and the so-called standard terms drawn up by the Lands Department for property transactions. When the Government draws up certain terms, it must secure the support and acceptance of consumers.

Second, the Government, in particular, Secretary Michael SUEN, has to make an undertaking that no franchise or land title will be granted by way of agreements or through a single-tender approach.

Third, a fair competition law for the whole Government has to be formulated to ensure that there is fair competition in the market and no transfer of benefits, no special status or special channels for a certain family to influence government policies. Therefore, it is not impossible to put into practice the first point in the 24th paragraph, but the Government has to complement it with relevant policy directions. However, I cannot see any such corresponding measure in this policy address.

In addition, in housing policy, Madam Deputy, another type of lopsided situation has occurred. The nine measures put in place by Secretary Michael SUEN have taken on the guise of helping owners of negative-equity assets. However, the party that ultimately reaps the greatest benefits is the major property developers. Thanks to the nine strokes adopted by Secretary Michael SUEN, developers have become so obese that they cannot even put their socks on. Those affected the most by the moratorium on the construction of HOS flats are not owners of negative-equity assets but residents of public housing. Recently, after Secretary Michael SUEN made his nine strokes, the number of public housing units constructed has also been cut drastically. This will pose seriously problems to residents in public rental housing. While the problem has yet to surface, I believe, after two or three years, the problem of a shortage in public rental housing will emerge. I hope the Secretary can administer the right remedy by building more public rental housing and selling the remaining HOS

flats at an early date. Such a move will improve the finance of the Housing Authority on the one hand, and enable some of the ordinary members of the public to lead better lives on the other.

In addition, concerning the Town Planning Ordinance, I hope the Secretary can finalize the amendment as soon as possible, since he promised that it would be implemented at the beginning of this year. It is necessary to implement it as soon as possible because recently, many developers are exploiting this loophole and keep submitting applications under section 16. They want to exploit this loophole as early as possible to avoid regulation by the new enactment. Moreover, a lot of approval documents issued by the Lands Department, in particular, many standard terms in quite a number of deeds of mutual covenant and sales contracts are still biased in favour of major developers. Secretary Michael SUEN, insofar as such clauses are concerned, I hope you can be more equitable to small owners and stop giving consortia a free hand.

I also wish to comment on transport issues. Transport fares are high and public resentment is simmering. Such a situation has persisted for many years. Many members of the public, including I myself, have pinned high hopes on the mechanism that will allow fare increases as well as reductions. However, we have waited for more than two years but have not learned of any implementation timetable. This is beginning to make us feel being let down. To allow increases as well as reductions is a policy direction of the Government. However, up to now, this still cannot be put into practice. To some extent, it reflects the lameness of the whole Government and shows the domination of consortia which can do as they please and turn a blind eye to everyone, including our Government. Earlier on, Secretary John TSANG said that if consortia do not want to engage in competition, then they had better not take part. In the same vein, if the Government has formulated a policy and the public also support this mechanism that allows increases as well as reductions, but some consortia do not welcome and accept it, then they should not have any part in it and should hand back the franchises, so that people willing to accept such a mechanism can bid for them. This kind of what we call heartless mentality adopted by these consortia, which do not accept the wishes of the public and accept only increases but not reductions, is by no means acceptable.

Another point is about the environment. Air pollution and murky air is a phenomenon. This is just like the situation under the TUNG Chee-hwa

administration. It is just as murky and there is hardly any difference. The Secretary said that the air quality would see an improvement two years later. She is right. TUNG Chee-hwa will have stepped down after two years, is that right? After an improvement to the political environment, hopefully the air pollution will also see an improvement.

Apart from the air, there are also problems relating to water quality, beaches, rivers and streams. I hope the Government will really pay attention to them. The problem in relation to rivers and streams is not just an environmental problem, it is also a problem of land administration under the charge of Secretary Michael SUEN. We have received many complaints about the damages done to our rivers and streams. In fact, rivers and streams are the common natural assets of Hong Kong people and they should be protected. We cannot allow owners of private land to do whatever they want to damage our natural assets just because the rivers or streams fall on private land. Therefore, the Government should consider protecting the common natural assets of the Hong Kong public, of which little may be left, by making changes to the administrative structure and amending the law. As regards our beaches, the pollution at these places is really worrying. In particular, most of the beaches in the Tsuen Wan District have recently been closed because of the water quality. These beaches are no longer gazetted. The pollution of beaches has caused damage to many people as a result of the problems involving the e-coli bacteria. Improving the water quality is vitally important. I hope the Secretary can root out the source of the problem by expediting the introduction of various measures to improve water quality on the one hand and impose a strict ban on the illegal discharge of sewage on the other. The seabed in many areas, in particular, the seabed off Tsuen Wan, is seriously polluted. That is to say, the anoxic layer at the seabed is over one foot thick and no organism can live at the bottom there. It is full of chemicals and pollutants. Therefore, the Government should devise a plan to find ways to gradually restore the ecosystem of the polluted seabed to a good state apart from improving water quality. Be it to relay the seabed or to carry out dredging, there should be a plan to carry out studies. At present, the Government has neither conducted any study nor set any direction to make improvements to the polluted seabed. It is also the common assets of the Hong Kong public, is it not? We should introduce plans to do things properly.

In addition, I also have quite a lot of opinions on public works, for example, on the Hong Kong-Zhuhai-Macao Bridge. Many members of the

public are looking forward eagerly to its construction, but they also hope that this development can conform to the principle of sustainable development. Furthermore, it is also necessary to protect our dolphins. This is very important because the Hong Kong-Zhuhai-Macao Bridge, which will straddle many places, will have great ecological impact on the dolphins. When carrying out development, it is also necessary to take care of small communities. For example, when the Tsing Ma Bridge was constructed on Ma Wan, the Government initially said that it was technically impossible to build a slip road to Ma Wan, but subsequently, Sun Hung Kai Properties Limited did it. Similarly, please build a slip road from the Hong Kong-Zhuhai-Macao Bridge to Tai O because there is no reason that this bridge should bypass Tai O without the residents there being able to use it. Therefore, the relevant planning should tie in with the development in various areas.

I hope the Government can truly identify its inadequacies comprehensively and jointly devote its efforts to developing the economy and building a harmonious society. This will involve all parties and once the Government shows special favour to consortia, it will then be impossible to achieve social harmony. We must protect the interests of ordinary members of the public and must not allow consortia to fatten themselves so much that they cannot even put their socks on, while ordinary members of the public are starving and skinny. This is by no means the phenomenon and development that indicate we are fostering social harmony.

Thank you, Madam Deputy.

**MR FRED LI** (in Cantonese): Madam Deputy, there are only a few minutes left in my speaking time and I will divide them equally between two areas. In that case, I will divide the time equally between the issues under the charge of the two Secretaries.

Concerning urban renewal, the Secretary already knows what I am going to say. Secretary Michael SUEN, the 91st paragraph of the policy address says that the SAR Government, "fully endorsing the importance of the work of the (Urban Renewal) Authority, .....will continue to work hand in hand with the Authority, in order to speed up urban renewal and building maintenance." I fully support this. I wish to comment on this in my other capacity as the elected Legislative Council Member of the East Kowloon geographical constituency. I

wish to tell the Secretary that he has to throw his support behind his subordinates and take corresponding measures to complement the 25 projects and the Kwun Tong Town Centre Redevelopment Project left behind by the former Land Development Corporation, the scale of which will have no parallel in the foreseeable future. We hope that employment opportunities can be created and a very dilapidated community be really redeveloped. Coupled with the fact that it is next to the mass transit railway — in fact, Sun Hung Kai Properties Limited has already built a Millennium City consisting of many buildings and that was a very new development — I hope that it can evolve in tandem with the entire industrial area so that at the town centre, there will be an area jointly redeveloped by the URA and the Government. With such precious land resources — 5 hectares can be considered quite a large area — I hope the Government can really do a good job.

Secondly, I wish to talk about the problem of air quality. Many Honourable colleagues have talked about the air quality and I also want to talk about the air with the Secretary. Our visibility is getting worse by the year. The Secretary has made a plan which sets the year 2010 (if I remember it correctly) as the target together with the Mainland. I hope this air pollution problem can be dealt with properly.

I wish the Secretary to note that, firstly, concerning the two power companies, I have already talked about flue gas desulphurization units with the Secretary. In fact, I also wish that the shareholders can be persuaded to contribute some money towards the installation of the flue gas desulphurization units, rather than making users and consumers pay for them, since I believe the former also have to assume certain responsibilities for the air quality.

Despite the present flue gas desulphurization units, the two power companies, in particular, the CLP Holdings Limited, still discharge large amounts of pollutants. If they continue to use coal to generate electricity, this will definitely have an impact on our air quality.

I wish to come back to the issue of local air pollution. Whether air pollution on the Mainland will drift here is dependent on the wind direction and the air quality, and this we all know. To ameliorate this problem, it is necessary for the mainland side to make an effort. However, here in Hong Kong, the first area in which improvements are called for is the installation of flue gas desulphurization units by the two power companies. Secondly, each

day when I drive, I always take the Tseung Kwan O Tunnel and the Tseung Kwan O Road, which is a long steep road. Secretary, I have been a black smoke spotter for 15 years, ever since I became a district board member. In fact, that should be 20 years by now. At times, I feel rather downcast serving in such a capacity because no matter how hard I work, there are still so many vehicles spewing black smoke, so many that sometimes I cannot keep a record of them all. These vehicles keep spewing black smoke next to me and a lot of them are dump trucks and large trucks travelling up the steep road. This is because many of these heavy diesel vehicles are heading for the Tseung Kwan O Landfill.

I asked the Environmental Protection Department (EPD) if a checkpoint could be set up there to prosecute those vehicles spewing excessive black smoke. The EPD replied that it sets up a checkpoint once a month. In that case, let us make it twice and that will double the frequency. I think that if the authorities really want to do a good job in this area, they can install some monitoring devices in the urban area in advance, and vehicles spewing black smoke will surely be caught. This can surely be done. There is nothing else that we can do. Between carrot and stick, it is sometimes necessary to use the stick. There is no other way and they must be dealt with by means of heavy penalties. I have just come back from Australia and penalties are adopted there. The people there told me that a fine of AUD\$500 to AUD\$600 would be imposed on vehicles discharging black smoke, and the licence would be revoked. Trucks discharging black smoke are also dealt with severely. I hope the Secretary can pay attention to this problem of vehicles discharging black smoke.

With these remarks, I conclude my speech.

**MR CHEUNG HOK-MING** (in Cantonese): Madam Deputy, in this session, I would like to discuss two issues. First, it is about the opening up of the border closed area. Second, it is about the West Kowloon Cultural District (WKCD) project. On the issue of opening up the border closed area, the DAB agrees that the border area should be fully opened up. As early as 2001, we already made the proposal. We think that the following advantages can be achieved by opening up the border closed area: the idle land resources can be fully utilized to create employment opportunities and economic transformation can be promoted which will be conducive to the further co-operation of the economies of Hong Kong and Shenzhen.

Earlier, the DAB has conducted a study on the opening up of the border closed area and suggested that three industries, including manufacturing industry, tourism and business services, can be selected for the development area. We have also proposed four regions and the detailed development of these industries.

The DAB is of the view that the border areas can perform the function of material exchange with radiation effect which cannot be replaced by any other region. Undeniably, the manufacturing industries in Hong Kong are dwindling which will deal a permanent blow to the future capacity of the technological advancement of our manufacturing sector. If the respective advantages of the Mainland and Hong Kong in terms of technology, land and labour can be fully utilized in the border area between Shenzhen and Hong Kong so that resources can be saved through complementation of the two places, I believe it will be conducive to the re-launch of Hong Kong's manufacturing sector.

We are in favour of developing high- tech industries in the closed area. If the IT industry is selected, we suggest that Nokia in Finland, Motorola in the United States and some other multi-national corporations in Japan and Korea which possess innovative technologies should be our targets in attracting international businesses to Hong Kong. If the equipment manufacturing industry is selected, we should attract companies in Japan, Korea, Germany and Singapore to set up firms in Hong Kong.

Madam Deputy, there are queries in the community that the costs of developing the border area are too high and will not yield good economic returns. The DAB is of the view that flexible development approaches should be adopted in order to reduce development costs and enhance effectiveness. For instance, since the land development costs of Ta Ku Ling and Western Corridor land area are higher than the land proceeds, we can consider adopting the following two modes of development: the first is the development approach of Suzhou-Singapore Industrial Park. In other words, the Hong Kong Government provides formed land which will serve as its equity contributed in the joint venture with international consortium. Another is the Build-Operate-Transfer (BOT) approach. As Ta Ku Ling will certainly incur high land resumption costs, we suggest that the approach of Suzhou Industrial Park be adopted. As regards the Western Corridor zone, we suggest that BOT be adopted.

As regards the river-loop area, in view of its high commercial value, we suggest that capital be contributed jointly by the Governments of Hong Kong and Shenzhen for the development of the area, including land formation and the building of infrastructure. After formation, the land should be auctioned according to the practice of the Hong Kong Government with the land proceeds jointly held by the Hong Kong and Shenzhen Governments. By following the *modus operandi* of the Hong Kong Industrial Park in its daily operation, the area should be run by private firms.

The number of jobs to be created by developing the border area, according to a conservative estimate by the DAB, will be 50 000. If the policy of "1:3" is adopted, the number of jobs to be created may exceed 60 000. In addition to the posts to be created by the service industries related to the two industrial parks, it is estimated that around 80 000 to 90 000 posts may be created. In other words, the entire development zone can provide 130 000 to 140 000 jobs, which is estimated to be 4.2% of the total workforce in Hong Kong or 50% of the unemployed workers.

Of course, the DAB insists that development should not bring about damage to the natural ecology. Take the Western Corridor as an example. An ecological isolation belt should be reserved between the developed zone and the wetland in the bay so as to ensure that no adverse impact will be caused to the wetland.

Madam Deputy, I would like to talk about the WKCD project which can be said to be a governance crisis for the Hong Kong SAR in 2005. There are lots of disputes concerning the issue which has become a subject of a motion debate in this Legislative Session. We expect that the project can create tens of thousands of jobs for Hong Kong. Most importantly, the WKCD project will dictate the direction of the cultural development for the next 30 years. The implications are far-reaching. The DAB considers that the Government should extend the public consultation period and set up a statutory organization to take forward the WKCD project.

I believe the WKCD is not too controversial. The focus is now on the development mode and content of the project. As I mentioned in the previous motion debate on the WKCD project, the major controversy is that it involves tens of billions of dollars in land premium. Some people even suspect that the

Government tries to transfer benefits to consortia. In order to dispel such suspicions, it is important that the project's transparency and credibility be enhanced. To ensure transparency, all relevant information, in particular the financial information, should be disclosed.

As regards whether the canopy and single-developer approach should be abolished, the DAB will not insist on building the canopy or adopting the single-tender approach. We hope that the Government can listen to the public views, including the views of the community and the cultural sector, during the consultation period. If there are still divergent views on the single-tender approach or construction of the canopy after thorough discussions and consultations, the DAB will not rule out the possibility of raising objection with the Government and continue to seek a mode of development which is in line with public interests.

The Chief Executive recently mentioned the WKCD project in the policy address and pointed out that the Government was open-minded. The DAB welcomes this. The DAB is of the view that the voices of the cultural sector are loud and clear. They hope that various programmes under the WKCD project can be implemented as soon as possible, and I am concerned that the WKCD project may fall through amidst such controversies. So we hope that the Government will absorb all useful ideas, including the proposals of the three screened-in consortia, during the consultation period, so as to consolidate them into the necessary terms and conditions of the project proposal before a formal tendering is conducted. The merits of such an approach are that efforts during the consultation period will not be wasted and participation by all can be achieved. Moreover, this can ensure that the project will not be aborted.

Madam Deputy, I so submit.

**MR ANDREW CHENG** (in Cantonese): Madam Deputy, on behalf of the Democratic Party, I would like to discuss our views on the transport policy in the policy address with Secretary Dr Sarah LIAO with these last five minutes and 40 seconds of my speaking time.

First of all, I would like to talk about a mechanism that allows for upward and downward adjustments of fares for all transport modes. In recent years,

Secretary Dr Sarah LIAO really hopes that such a mechanism can be implemented. At the last meeting, I asked the Secretary a question about this. The Secretary, in response, hoped that such mechanism could be implemented during her term of office or before 2007. However, whenever the Legislative Council or the Secretary mentions such a mechanism, those who are in charge of the bus companies would come out and express their views. Mr John CHAN came out to say again that such mechanism would tend to become a subject of politicization. He worried that when Members requested for a fare reduction, they would have a strong view but when the bus operators asked for a fare increase, they would turn a deaf ear to it. I think this is his worry.

Madam Deputy, I hope the Secretary can tell those who are in charge of bus companies that the mechanism is in fact a mechanism which can prevent politicization. To put an objective mechanism in place, we can avoid disputes every time. Disputes on whether we have inflation or deflation can also be avoided whenever a fare increase or decrease is proposed. It is also true for arguments on the rate of increase or decrease. I am concerned that some bus companies, especially the Kowloon Motor Bus Company (KMB) which owns a large fleet, will employ a delaying tactic because inflation will soon appear and the discussion will be continued from a period of deflation to a period of inflation. And eventually the discussion on a fare decrease will end up being a discussion on fare increase. We are concerned about this problem because bus companies only care about making money. Even though they have made hundreds of million dollars in profit, they are still very calculating. I hope the Secretary can implement the mechanism before 2007.

The second question is also about fare increase. Madam Deputy, the Tate's Cairn Tunnel Company Limited (TCTC) will come to attend the Transport Panel meeting on 2 February. According to the Government's documents, the Government does not have any predetermined position. It has only stated that it will consult the Legislative Council Members. However, I hope the Secretary can also understand that the Government has the power to scrutinize the fare increase application of the Tate's Cairn Tunnel. If the Secretary considered the transport expenses, certainly including the tunnel tolls, were on the high side when she assumed office, she should urge the operators to lower the fares. I also understand that the Secretary has repeatedly urged the TCTC not to put forth toll increases, but this time, the company has applied for a 20% toll increase for private cars and 30% for buses. Madam Deputy, as the

saying goes, the fleece comes off the sheep's back. I hope the Secretary can still understand that before the introduction of the mechanism, some operators may jump the gun and pressurize the Government into agreeing to a proposal for fare increase during this period. Then whether we are the middle-class private-car drivers or users of bus services, it would definitely add to our burden. I hope the Secretary can be more decisive and more pragmatic. If the TCTC insists on applying for a toll increase, the application should be put to adjudication. At least the rate of increase should be subject to adjudication because once a 30% increase is introduced, I believe Mr John CHAN will come to us and query why there should not be a fare hike for KMB. A slight move in one part may affect the situation as a whole.

So, Madam Deputy, if the Tate's Cairn Tunnel insists on increasing its tolls, the Lion Rock Tunnel will become more and more congested. According to the relevant documents and information, the present number of vehicles using the tunnel is 89 000, which has already exceeded the original design capacity of 78 500 vehicles. As for the tunnel problem, Madam Deputy, you, as we do, strongly hope that the Bureau concerned can consider how the vehicle flows and the toll levels of different tunnels, such as the Tate's Cairn Tunnel, Lion Rock Tunnel and the three cross-harbour tunnels can be adjusted, so that public resources will not be wasted because some tunnels are under-utilized while some others are over-crowded. However, the Government did not mention this point in the policy address. We are worried that the tunnel problem will incur enormous social costs due to the waste of time.

Finally, it is about the issue of railways. Regarding railway incidents, I believe the Secretary fully understands the problem without any elaboration on my part. Railway incidents should be assessed on the number of failure cases instead of the problem of punctuality. I do not want to see that the Sha Tin to Central Link and the South Island Line make no progress because of the merger of the two railway corporations and as a result, residents in the districts cannot enjoy due railway services.

Madam Deputy, I so submit.

**DR DAVID LI:** Madam Deputy, a clean living environment, with ample public amenities, is essential to our economic, social and personal well-being.

The community is making good progress in opening up public places for enjoyment by all. The expansion of pedestrian areas in our major shopping zones and the work done to protect and enhance the harbour are positive signs for the future. However, that future will be bleak if more is not done to fight air pollution, acid rain and other environmental problems. Our position as an international financial centre depends on clean air, as it does on efficient infrastructure and trusted regulation.

Air pollution now attacks our health. It threatens our economic well-being. There is widespread concern that the Chief Executive does not treat this issue with the urgency it demands. In his policy address, the Chief Executive stated that good progress has been made towards achieving the targets set for 2010. Yet, our eyes and our lungs tell us differently.

The Government's own Hong Kong Observatory has released scientific data proving that air quality has declined dramatically during this Chief Executive's term of office. The people of Hong Kong will no longer accept bland assurances.

Why has the Chief Executive not taken ownership of this vital public concern? His own Secretary for the Environment, Transport and Works has told this Council that liaison with the mainland authorities is not an easy task.

I am deeply pessimistic that we will see meaningful improvement, unless the Chief Executive stands on the front line and leads the fight for clean air.

Thank you.

**DR RAYMOND HO:** Madam Deputy, generosity is obviously one of the virtues of our Chief Executive. Even in his annual policy address, Mr TUNG has always tried to give, or has tried to promise to give, Legislative Council Members at least one or two items on their wish lists in the past eight years, hoping to keep them quiet.

As for me, he promised in his policy address of last year to provide government departments with recurrent consequences for their capital works projects. In his 2005 policy address just delivered, he gave a green light to

resume 25 of the 169 projects left over by the two defunct Municipal Councils. In fact, I have been asking for the resumption of all these projects since the dissolution of the two Municipal Councils in late 1999.

As an extra bonus, he promised last year to increase the annual spending on capital works projects from \$27 billion to \$29 billion for the following five years. He reiterated his commitment to the annual allocation of \$29 billion for capital works in his latest policy address.

*More public works to spur the economy*

But my experience tells me that the delivery of Mr TUNG's promises will take "some time". His "some time" could mean several years, or even NEVER! Despite my persistent pursuit and follow-up, it still took almost a year for the recurrent consequences to reach various departments. Worse still, as the Financial Secretary told me, the departments will only receive at the most 75% of the recurrent consequences they have asked for. We must, however, realize that the effect on employment of the construction industry cannot be overstated as long as the recurrent consequences in full amount are still not available to government departments. Numerous projects just cannot commence because the departments concerned simply cannot find enough resources to meet the recurrent expenditure.

Meanwhile, talking about an annual spending of \$29 billion for capital works means nothing if the implementation of these projects fails to catch up. When the projects are packaged too large in scale, only a very small number of companies are capable of or qualified to tender, leaving most of the industry still in a serious hungry state! It is true that some improvements have been made to expedite the implementation of infrastructure and public works projects in the past few years, but there is still too much red tape and many people in the Government have no sense of urgency, or they prefer not to make any decision. The planning and implementation cycles of the Government's infrastructural projects and building works are very excessive and must be drastically shortened further. The existing bureaucratic practices of our Government are simply not compatible with its aspiration to become a world-class city. In many areas, people will still have to go to many departments for individual approvals. We must go for overall and efficient co-ordination, and "one-stop shop" approach should be adopted as far as possible.

Expediting the implementation of public works projects will help boost employment and speed up economic recovery. In fact, unemployment of the construction sector remains relatively high at 15%, more than double the overall unemployment of 6.5%. This is an urgent issue which must be addressed by the Government.

For years, I have been calling for the Chief Executive's urgent attention to this serious unemployment problem which is affecting an industry consisting of over 300 000 people and about one million people if their families are also counted.

Unfortunately, to the utmost disappointment of the construction industry, Mr TUNG, even today, thinks that he has done enough to solve the problem and I can say that he has even lost his interest in listening. This is clearly reflected in my meeting with him on Tuesday this week. He is just like an ostrich putting his head in the sand.

Members of the construction industry have more or less given up hope in the Administration, but they are still very kind and considerate to the Government and will not immediately take to the streets despite our call. Nevertheless, what do they get in return? The Government thinks that this is an issue of the past! Mr TUNG should really pause at this point in time and see if he has discovered all his shortcomings and all the Administration's inadequacies.

To prove this, I need only to mention three points.

First, the issue of recurrent consequences as I have already referred to. I would not repeat here.

Second, I, together with the other colleagues of this Council, prompted the Government to issue bonds to raise funds, capitalizing on the private sector's huge resources of some \$3,500 billion. The Government last year raised \$6 billion in its securitization exercise of five tunnels and one bridge, and \$20 billion in the first bond issue. We all suggested and hoped that these additional resources would only be utilized for infrastructural implementation and NOT to solve the financial deficit problem. But look what happened! All of this \$26 billion will be used to constitute part of the \$29 billion annual expenditure for infrastructure, rather than a further fund to augment the latter.

Third, after more than four years' efforts to press the Government to resume the 169 municipal projects, the Government now brings out 25 of them — at a worth of \$4.4 billion — but the construction of this small number of projects will not commence until after 2008 and some even after 2010!

#### *Ways to finance infrastructural projects*

While using the monies raised from bond issuance to finance current fiscal deficits is a very tempting expediency, investing the proceeds in infrastructural development will increase the competitiveness of our economy, which is the key for future growth. Although the Government is paying lip-service to the latter, its annual expenditure earmarked for infrastructural projects remains at \$29 billion, despite the \$26 billion bond proceeds. In order to create the required impact on our economy, the Government ought to consider increasing the volume of bond issuance for financing more public works projects.

Apart from issuing bonds, the Government should also adopt the Private Finance Initiative to encourage private companies to initiate more new public works projects which have not been included in the existing facilities or may not be built by the Government on its own. To ensure quality delivery of these projects, it is important that sufficient manpower should be deployed from the works or related departments to monitor the works being undertaken by private companies/contractors.

#### *Developing cross-boundary infrastructure to meet growing needs*

We have to beef up our cross-boundary infrastructural facilities to meet the growing needs arising from the Pan-Pearl River Delta Regional Co-operation and Development Framework Agreement, involving nine provinces, HKSAR and Macao SAR. The construction of the Hong Kong-Zhuhai-Macao Bridge should not be delayed further following years of discussion. Meanwhile, development of related facilities and infrastructure to the Bridge in Hong Kong which is worth about \$20 billion will also need early planning, consultation and approval so that their implementation can proceed in phase with the construction of the Bridge.

With the completion of the Shenzhen Western Corridor at the end of this year, the Government should seriously consider building an eastern corridor in Sha Tau Kok to improve the growing cross-boundary traffic. Moreover, it is

imperative for the Government to expedite the planning work of the Guangzhou-Shenzhen-Hong Kong Express Rail Link.

### *Environmental Protection*

In combating the worsening air quality in Hong Kong, I totally agree on the need to strengthen our liaison with the mainland authorities at all levels with a view to broadening both the scope and the depth of the co-operation.

Following years of my call for the development of renewable energy and the environmental industry, I am glad that the Government has finally given a clearer indication of its position on the subjects. Of course, it matters only if the Government backs itself up by concrete actions.

### *Railway and Road Development*

As an effective strategy to reduce emissions from vehicles and help improve our air quality, it is time for the Government to expand our railway network to include the Sha Tin-Central Link which is long overdue. Meanwhile, the long-expected West and South Island Lines proposed for Hong Kong Island should also be given priority. Back to the last decade, the Transport Advisory Committee, of which I was the Chairman from 1995 to 97, agreed that there should be a railway line serving the need of the Island South. With regard to road development, the Central-Wan Chai Bypass has been dragging on for years while the traffic situation in Central keeps worsening. Its construction should commence without delay.

As a conclusion, I hope that the Government will put its words into actions and will be more open to many of the constructive suggestions made by Members of this Council. Madam Deputy, with these remarks, I so submit.

**MR LAU KONG-WAH** (in Cantonese): Madam Deputy, in the debate on the policy address last year, I made some comments on the way in which the Secretary had handled the transport policy. I said that the Secretary had always resorted to procrastination first and then work would be carried out sluggishly and finally deferred, and it appeared that many policies and infrastructure had been put to a halt.

After a whole year of observation last year, there is no substantial change in my view. Madam Deputy, you may also recall that many facilities have basically been discussed and discussed over and over again. Then studies were conducted, followed by further discussions. But after much stalling, we have seen no progress at all. Let me cite the Sha Tin to Central Link as an example. We have been talking about this for ages, and the Government had emphatically said that tenders would be invited and that a competition would be held. Several years have passed and it is finally said that the Link will be built but all of a sudden, it appears that there is no Sha Tin to Central Link, but a Sha Tin to Hung Hom Link. Originally, a Sha Tin to Hung Hom Link should not give cause for complaint. But now, there is news that it may have to be built section by section, and that the Kowloon section will be built first. But will the cross-harbour section be built? This gives me the impression that the project has kept on "shrinking", and we do not even know whether or not it will be built ultimately. I would still consider it acceptable to build the Link section by section. But with further discussions, the result might be that nothing would eventually come about. I am very worried about this. The people do have expectations, and the Government did tell the people that there would be this rail link.

Another rail link is the Easterly Link Road in Yuen Long, about which you, Madam Deputy, are also very concerned. We called it the "appendix" back then. Upon the completion of the Western Corridor next year, a large number of vehicles will emerge in Yuen Long and Tuen Mun. This may cause very serious congestion and so, we must find a way out. We hope that the tunnel of Route 3 can be fully utilized for traffic diversion. For this reason, it is most desirable to build the Easterly Link Road. I remember that we had put forward eight or nine proposals for discussion in this Council back then, and we had discussed with apparent seriousness each and every of these proposals. Finally, we reached a very good conclusion, but who would have expected that this issue seemed to have been shelved again after the Government's discussion with the relevant company? Now, it has even disappeared without a trace. But we are on tenterhooks now. Members of the public are on tenterhooks too, for the Western Corridor will be commissioned next year. What should we do? If massive congestion is resulted, the Government would have unshirkable responsibilities.

Another example to prove my observation is the Canton Road station. Madam Deputy, you were the Chairman of the railway subcommittee at that

time. We very much hoped that the Canton Road station could be an all-win proposal. The Council had thrown great weight behind it, but it fell through in the end. We consider this station necessary whether from the transport angle or from any other angle. Tsim Sha Tsui is among the most thriving districts in the territory. It is impossible to build a railway that passes Tsim Sha Tsui but has no station there. Moreover, building a railway at a cost of \$8 billion with only one station in West Kowloon is far from tenable in terms of cost-effectiveness. I understand that we had gone through a process of discussion but it has now fallen through. The Government has given us the impression that it has failed to live up to its words. Public confidence may be shaken as a result.

Madam Deputy, there will be three major tasks in 2005 which I hope the Government can accomplish and will not stall any longer. The first is the introduction of a fare adjustment mechanism which allows for increase and reduction in transport fares. Second, a merger of the two railway corporations. Third, the construction of the Hong Kong-Zhuhai-Macao Bridge. Now, I will state the position of the DAB. I think the Secretary, in many cases before, often would not discuss with us and consult our views fully before she formulated many a policy. That is why contentions would arise after a proposal was submitted to the Council. But in fact, if we can discuss it clearly beforehand and make clear each other's views, these contentions are unnecessary and the situation may turn out to be better.

A fare adjustment mechanism which allows for increase and reduction in transport fares was actually proposed for discussion in the Legislative Council in August 2003. At that time, a formula of "P= W-KT" (P means price, W means the cost, T means productivity, so to speak) was proposed. This is very complicated. Madam Deputy, we had put forward many views and after 17 months, this is still nowhere to be seen. We have read lots of reports in newspaper; the din of contention has never ceased, but it has never been brought to the Legislative Council. We made it very clear at the time that if the affordability of the people is not incorporated into this formula, we would not agree to it. So, I very much hope that the Secretary can reiterate this point to the companies, making it clear to them that apart from the cost or the operating cost, the people's affordability must also be considered.

I have noticed the recent remarks made by Mr John CHAN about his concern for political pressure in the future. In fact, when she proposed this mechanism, the Secretary was precisely hoping to resolve the problem of

political pressure, for it would obviate the need for discussion year after year. We very much hoped that the fares could be adjusted automatically under this mechanism. But if this mechanism has not yet been introduced and worse still, if a fare increase is proposed once it is introduced, that would be a political issue. In the past few years, we did hope that transport fares could be reduced, but no fare reduction could be effected. If a fare increase will be proposed when this mechanism is introduced, and if the path for such increase may be very long, then this mechanism which allows for increase and reduction in transport fares, so to speak, would only be a "rip-off" mechanism. It will be very unfair to the public. Unless it will have a retrospective effect in that the situation in the last few years will also be factored in, I think this mechanism which allows for increase and reduction in transport fares will abort.

The merger of the two railway corporations has also been discussed for a long time, and I hope that it can be accomplished this year. But we wish to reiterate that apart from considering shareholders' interest, it is also necessary to consider public interest. According to the information available, passengers may interchange only at the Kowloon Tong Station. So, the fares there may have to be reduced. But this will benefit some people only and is, therefore, unacceptable to us. If a merger can neither benefit all customers nor return to the public the savings achieved in the operating cost and hence benefit all passengers, the merger would be meaningless. Added to this are, unfortunately, the many accidents that took place successively at the two railways one or two months ago. We are, therefore, all the more worried about whether their collaborated operation could be truly successful after the merger. We have great misgivings about it. But in any case, we would oppose a merger of the two railway corporations if it will not benefit the people.

Speaking of the Hong Kong-Zhuhai-Macao Bridge, we all think that it must be built more expeditiously. Recently, the Secretary told us that the Central Authorities had agreed to the "single Y" model, which means that vehicles from Macao and Zhuhai will come to Hong Kong. On the surface, this is beneficial to Hong Kong but I consider this decision unwise. I support the "double Y" model, so that vehicles can go to Zhuhai as well. The reason is simple. If only vehicles from Macao and Zhuhai can come to Hong Kong, it means that only vehicles licensed in the two places can use the bridge. This is tantamount to a restaurant which serves members only. Which one will have a greater customer flow? Certainly, it will be the one that does not have a membership system. So, I have doubts about the cost-effectiveness of the

"single Y" model. But on the contrary, the "double Y" model will enable vehicles from all over the country to use the bridge, and its cost-effectiveness will surely be completely different.

Let us take a look at the layout of coastal cities in the country. There is no such gap between Shanghai, Fujian and Guangdong. So, a "single Y" model will actually be an obstacle to the entire layout of the country. Very often, the Central Authorities will consider issues relating to Hong Kong from an overall perspective and give us plenty of support. If Hong Kong only cares about itself to the neglect of the overall interest of the country, then I think we would ultimately be rejected and excluded.

Certainly, the Secretary or some friends may say that it is actually a good thing to attract more vehicles to Hong Kong. But as we have said, vehicles that are not licensed in those two places cannot come to Hong Kong. If the vehicles are only going to Shenzhen via Hong Kong, they will constitute a certain burden to the local traffic although they only pass by. If that is the case, why do we not adopt a double Y model to solve the problem? A concept in Chinese medicine is that "pain is caused by blocked circulation". The case of congestion on roads is the same .....

**DEPUTY PRESIDENT** (in Cantonese): Mr LAU Kong-wah, your speaking time is up.

**MR LAU KONG-WAH** (in Cantonese): So, I do not agree with it. Thank you, Madam Deputy.

**MR ANDREW LEUNG** (in Cantonese): Madam Deputy, the Government has finally accepted the proposal made by the industrial sector for years and implemented measures to develop the environmental industry. This is good news to all citizens of Hong Kong, and I believe this is indeed a win-win-win proposal. First, this policy can help reduce the amount of waste in Hong Kong and put the limited resources of the earth to good use. Second, the recycling industry can bring numerous business opportunities to Hong Kong by turning garbage into gold and hence create about 30 000 additional job opportunities for the labour market. Finally, when the public can live in a community where

waste and pollution are reduced and development is sustainable, the living environment will naturally be further improved.

Environmental protection has already become a world trend. Members of the public have long realized the importance of environmental protection to the ecology on earth, but they may not know very well the associated economic benefits. In Hong Kong, the plastic waste buried in landfills alone is worth about \$250 million a year at a conservative estimate. This does not include other materials, such as glass bottles, copper, iron, and so on. The recycling industry that we are talking about now will be going in a direction of high value-addedness. After processing, the value of the waste can increase by more than three times. Take plastic waste as an example. After processing, PE plastic materials can be turned into high-grade plastic materials, and their value can increase from the original US\$300 per metric ton to about US\$950 per metric ton. In 2002, for instance, the total export value of recovered materials was \$1.9 billion, and as the value of the processed products can increase by three to four times, this can generate proceeds to the tune of over \$5 billion for Hong Kong.

However, can Hong Kong fully tap the economic benefits of the environmental industry? The Government has undertaken to develop a Recycling Park in Tuen Mun. It shows that the Government is sincere in helping the industry. Regrettably, this is the only substantive support measure for the environmental industry that we can find in the policy address. There is no mention of how it is going to operate or how investors will be attracted or the long-term policy on the recycling industry. I do not wish to see that this is just another policy for which no concrete action will be taken despite vows of implementation by the Government, which would only let slip again the business opportunities brought by environmental protection.

Just as I reiterated in the Question and Answer Session following the policy address last year, the policy on environmental protection and recycling involves a diversity of policy areas of government departments. For example, although there are waste separation bins on some streets and in some housing estates in Hong Kong, the public has not made good use of them. What steps will the District Offices (DOs) and even the Housing Department take to co-ordinate with each other, in order to enhance the efficiency of the sorting and recycling of waste collected from the streets or housing estates? What steps should be taken to promote and instil in the public the awareness of

environmental protection, and should the DOs and even the Education and Manpower Bureau have a role to play? The zero-tariff benefit under CEPA is conducive to the development of the recycling industry in Hong Kong. Recyclable commodities can be exported tariff-free to the Mainland for processing. How should the Trade and Industry Department provide assistance? Secretary Dr Sarah LIAO is certainly very competent, but if she alone is tasked with all the co-ordination work, I think that would be too much for her. This shows that it is indeed necessary for the Government to set up a high level department, such as an environmental industry facilitation council, before there will be effective support and co-ordination in the formulation of relevant policies and legislation.

To enable the environmental industry to thrive in Hong Kong, there must be a local market. The Government has spent years imparting to the public knowledge of waste recycling, but it seems that little has been done to teach the public to use, purchase and distinguish recycled products. At present, recycled products only have a very small market of Hong Kong. Given that mass production of these products is not possible, their prices are generally higher, thus deterring many people who wish to use recycled products. I, therefore, urge various government departments to take the lead. A procurement policy requiring the purchase of a higher percentage of green products and the use of green products extensively should be mandated for all departments. If the Government, being such a huge institution, can open up new horizons for the market of green products, which can then boost demand and cause the price to come down, more private companies and members of the public will be encouraged to buy and use such products.

Under normal circumstances, environmentally-friendly products should cost less than products made of new resources. But the situation now is just the opposite, for the cost of environmentally-friendly products is often 30% to 40% higher than new products. Recycled paper is a case in point. In fact, this is a chicken and egg question. If the price is expensive, surely there will be no market, but it is because the market is small that the price is pushed up. So, those who are willing to use green products now are all environmentally conscious people who are willing to earnestly practise what they preach and set a good example. But this has yet to become a popular practice in the community. I hope that under the leadership of the Government, a market can be truly opened up for environmentally-friendly products affordable to the public, thus enabling the public to become good citizens who treasure the resources of the earth.

More frequent use of recycled paper can save trees from being felled and make the world more beautiful.

Indeed, the Government now has a clear direction in its initiatives to promote the recycling industry. The Government understands that the objective is to promote a recycled economy in a direction of high value-addedness. The industry and I will throw great weight behind the Government. So, we will certainly translate words into actions and fulfill the duty of environmentally-friendly citizens. We in the industrial sector have conducted studies on a spectrum of measures and incentive schemes, with a view to encouraging voluntary participation in environmental protection by members of the industry. Through reducing effluent discharge, using recycled materials, and so on, we will work to actively dovetail with the measures of the Government.

I will propose a motion on the recycling industry for debate in the Legislative Council later. I will then speak on this issue in greater detail and put forward a series of proposals. I hope Honourable colleagues will greatly support this motion and participate in all endeavours campaigning for environmental protection.

With these remarks, Madam Deputy, I support the Motion of Thanks.

**MR ABRAHAM SHEK:** Madam Deputy, first of all, I would like to talk about the Cyberport. I am saddened to see the community again embroiled in heated debates on the issue. I thought the subject was a thing of the past and had been buried. For the present, we have much to do: the West Kowloon Cultural Project, public works, public rental housing, rail developments. Our time must be better spent than be engaged in superfluous debates on who is right and who is wrong. It is indeed very difficult to use today's values to pass judgements on yesterday's events. Benefits of hindsight can be blurred by present socio-economic and political events.

The Cyberport and the Disneyland were supported, and both were being implemented as much needed economic projects in those days. Both were property-related and both were implemented for special purposes. The reasons for their implementation were given, accepted or otherwise, and they were executed within the established legal framework. Why did the Government,

after six years, need to give justifications if it knew what it had done was right? Why do we need to bring this subject up again? The Government has itself to be blamed for this debate, but are we not supposed to have an executive-led government under the Basic Law? Policy must not be led by public outcry.

I also understand the reason for reactivating debates on this subject by many of my Honourable colleagues, but they must be fair and should base their arguments on facts which are now available, and not let their imagination run wild. The Cyberport was conceived at the worst of economic times and delivered at a time of economic recovery. The developers had to take all the risks and the Government was protected from any loss. They finally delivered what they have promised. Following the theme of this year's policy speech which is to achieve social harmony through economic development, I urge the community and the Government to put an end to this frivolous debate on the Cyberport, and work for a better and acceptable plan for a culture port at West Kowloon. Then, we would not only have social harmony, but also much more symphony for our enjoyment.

The next subject I would like to touch on is urban renewal. Mr TUNG dedicated four paragraphs to urban renewal and propagandized it as a source of heritage cultural tourism and a reservoir of jobs for our army of unemployed. Mr TUNG's wishes are really the effects of the works of urban renewal rather than the cause of it.

Urban renewal is a sexy and trendy term in the policy debate not only of this year, but also of many preceding ones. Despite what the Administration and the Urban Renewal Authority (URA) have said as to how much they have achieved, the truth is that it is neither fast nor adequate enough to eradicate urban slums, particularly because our Government has set up the URA with an initial capital of \$5 billion, compared to the then Land Department Corporation of only \$30 million.

Mr TUNG talked about alleviating and fighting poverty. I fully concur with his views, and in this regard, I urge him to seriously take up the battle in the streets of urban slums — physically, financially and socially. Urban renewal is synonymous with poverty. No person would prefer to live in urban slums, I can assure you that. If they have a choice, they would like to move out. Has Mr TUNG ever seen 29 families living in a 600-sq ft flat? Does Mr TUNG know the experience of living in a bed cubicle or a caged bed? Yes, Mr TUNG

and some of his officials must have visited them on a short tour. How much do they care? The answer is obvious.

I urge the Government to expeditiously carry out real urban renewal work than to engage in talks about measures of upgrading, maintenance, and so on. They are merely cosmeticizing structures which no SK-II, Lancome or any other well-known brand can save them. To eliminate poverty in urban slums is to get rid of them and build more public housing to give these people a better living and a quality of life which they are entitled to.

Madam Deputy, after several years of pain and unease, the public finally sees a relatively stable property market emerge this year. It is both a triumph of market forces and a reminder of why the Government should refrain from tinkering with the supply and demand of property.

In fact, the only thing the Government should now do is to foster and maintain a stable environment for the property market. The benefits are obvious: land sales and transaction revenue have increased; the consumer price index has nudged back into the positive territory, and developers are more willing to invest as they can now better estimate costs and prices. In turn, property owners, happy that their flats are again worth what they paid for a few years ago, are now willing to spend.

But one of the few areas which still needs the Government's attention is the Land Application List. The reserve prices for many of the sites on the List have been kept at unrealistically high levels. This has prevented the sites from being taken out for auction, and the effect is less property development, less work for construction companies, no work for the unemployed workers. There is no reason why the Government should not take a softer approach on pricing because even if the reserve price is lower than the Government's anticipated value, the plot will eventually be sold at a much higher price when auctioned, as the market forces will take their own course. In any event, to prevent any land asset from being sold cheaply, there is nothing to stop the Government from withdrawing the auction sites. However, under the present economic situation, this is very unlikely.

(THE PRESIDENT resumed the Chair)

As my time is running out, I would like to touch on the subject of transport. The Secretary, upon her appointment, called for an innovative yoyo fare mechanism for all transport modes. I understand that much work has been done, but no policy is in sight, and the question is how long the public has to wait? Also, I would like to remind the Secretary that in devising any new mechanism, creativity is one thing while practicality is another, and this must be observed. The Administration must not interfere with the market forces and the spirit of contract. The rail and bus companies are operators operating on prudent commercial principles, and many of them are responsible not only to the traveling public but also to the shareholders.

To many, road congestion in Northwest New Territories is a way of life, and the West Rail is of not much help in alleviating the daily sufferings of the residents. I know the Administration has tried hard but to no avail, particularly with regard to the Tuen Mun highway. Why can transport not be directed to Route 3? .....*(The buzzer sounded)*

**PRESIDENT** (in Cantonese): Mr Abraham SHEK, your speaking time is up.

**MR ABRAHAM SHEK:** We have been waiting for this for a long time.

**MR JEFFREY LAM** (in Cantonese): Madam President, in his policy address this year the Chief Executive spoke at great length on environmental protection work. There are altogether seven paragraphs, covering areas like the environmental industry, water pollution, air pollution and the development of green tourism. This very positive attitude towards environmental protection merits our support.

However, the haze and smog and the polluted air that we have recently seen in Hong Kong came again as a reminder that we must identify ways to improve the air pollution problem. No doubt the SAR Government has done a lot in this regard, but the problem before us now requires expeditious cross-boundary co-operation. More should be done to increase the strength of measures targeting the source of air pollution before we can see a blue sky and breathe fresh air again.

While the Chief Executive did mention the problem of cross-boundary air pollution in the 49th paragraph of the policy address, he was just harping on the same old tune by sticking to the original goal of achieving the emission reduction targets set jointly with Guangdong Province by 2010 as scheduled, with a view to reducing the emission of four major pollutants, including sulphur dioxide, nitrogen oxides and respirable suspended particulates by 20% to 55%, using 1997 as the base year.

According to a report published by the Hong Kong Observatory early this month, visibility in Hong Kong has shown a long-term deteriorating trend. At the end of last year, the figures of low visibility even reached a record high, and low visibility (meaning visibility below 8 km) was recorded for one fifth of the year. At the Chek Lap Kok Airport on Lantau, low visibility occurred even for a quarter of the year. The *Time Magazine*, a famous foreign magazine on current affairs, also featured a picture of Hong Kong shrouded in toxic smog on its cover page some time ago. This shows that the problem has aroused concern in the international community.

However, a month or so ago, a motion moved by Mr James TIEN on "vigorously reducing air pollution" was passed with amendments in the Legislative Council, unanimously urging the SAR Government to step up discussion with the relevant mainland authorities on ways to improve the situation, including:

- (1) strengthening co-operation with the Guangdong authorities to tighten the emission standards for factories, power plants, motor vehicles, and so on, and achieving the emission reduction targets for 2010 at an earlier date;
- (2) endeavouring to unify the emission standards and regulatory systems in Hong Kong and Guangdong;
- (3) expeditiously implementing the emissions trading pilot scheme in collaboration with the Guangdong authorities; and
- (4) providing Hong Kong business operators in the Pearl River Delta (PRD) who have installed air pollution control systems in their plants with tax relief on depreciation of the relevant machinery.

Therefore, we feel utterly disappointed that the Chief Executive has not actively responded to the demands of the Legislative Council and discussed with the mainland authorities about achieving the emission reduction targets at an earlier date but remained *in situ*, particularly as the Secretary for the Environment, Transport and Works, Dr Sarah LIAO, said in express terms earlier that air pollution might further deteriorate this year and next year. Yet, work has not been expedited to tackle the problem. I am afraid that not even the original emission reduction targets can be achieved, and the situation is indeed worrying.

This will not only constitute health hazards to the public but also lead to substantial economic loss. For example, the Environmental Protection Department commissioned the University of Hong Kong and The Chinese University of Hong Kong to conduct a study in 2002. The study, based on the air quality and Census statistics in 2000, was intended to provide estimates on the number of people hospitalized for diseases relating to air pollution. Findings showed that 3 770 people were hospitalized for respiratory diseases and 3 790 people for heart diseases, accounting for 4.2% and 5.8% of the total number of patients hospitalized in these two categories respectively. The resultant economic loss, including the cost of medical treatment and hospitalization and the loss of productivity due to illness may be as high as \$1.7 billion a year. If we use the figures in the entire PRD for calculation, the economic loss may be astounding.

Second, as air pollution may cause productivity to decline and lead to many other problems, it will dampen the investment sentiments of foreign investors. In fact, according to the findings of a questionnaire survey on business prospects conducted by the Chinese General Chamber of Commerce in November last year, as many as 81.2% of the companies interviewed were dissatisfied with the pollution problem in Hong Kong, reflecting a considerable increase over the percentage of 68% in a similar survey conducted in the year before last. For the well-being of a total population of 400 million in the entire PRD, I think both governments in Hong Kong and Guangdong should positively address the problem. In this connection, the Liberal Party will conduct a study visit to Guangdong Province next week, hoping to act as a bridge in fostering co-operation between Hong Kong and Guangdong. We hope that the SAR Government can adopt a more proactive attitude, so that the amelioration of cross-boundary air pollution will no longer remain as empty talk only.

As for the proposals in the policy address of imposing caps on the total emissions by the power companies and requiring them to maximize the use of natural gas and develop renewable energy, we do welcome them in principle. But we hope that the Government will try to prevent the power plants from shifting to consumers a substantial part of the resultant increase in their operating cost.

Madam President, next, I would like to talk about the housing and land policy. In his policy address this year the Chief Executive did not specifically mention the question of land supply. It may show that the SAR Government is aware that it is most important to maintain the stable and upward development of the property market and that it is inappropriate to make drastic or major changes to the policy on the property market. This is so particularly as the housing policy of building 85 000 flats has dealt a heavy blow to the property market and created hundreds of thousands of cases of negative equity assets over the past few years, seriously jeopardizing the stable development of the economy and society.

Therefore, the Liberal Party welcomes the continuation of the application list system, and we do not consider it necessary to make any major change. It is because as long as a developer is interested in any site on the reserve list, he can apply to the authorities for putting the site to auction for bidding by interested developers at prices which they consider reasonable. In other words, this is a mechanism which operates in accordance with the market demand, unlike the previous practice of putting land to auction regularly irrespective of whether or not there are interested parties or whether or not there is such need in the market.

Recently, given a considerable decrease in the number of private residential property development projects commenced last year, which saw an all time low since 1997, there were concerns about whether the existing application list system should be changed, in order to increase land supply and pre-empt a situation where the demand exceeds supply, which may again cause property prices to surge and hence become detached from the purchasing power of the public. But I wish to point out that while the problem of negative equity assets has been mitigated, as the number of such cases has dropped to only some 25 000 now, the problem has not been fully resolved, and the current property prices are much lower than those during the peak in 1997.

It is, therefore, unnecessary to change the policy substantially or to hastily boost the supply of land, in order not to create uncertainties for the property

market which is recuperating from a steep plunge and hence cause middle-class property buyers to suffer loss again. Moreover, the demand for residential flats in the market has already decreased as a result of a much lower rate of population growth and declined birth rate. Under the circumstance, population growth can only rely mainly on the 150 mainlanders coming to Hong Kong for settlement on One-way Permit daily, most of whom may not have the means to buy property. So, a slight decrease in supply should not be a major problem. Besides, let us not forget that the moratorium on the sale of flats under the Home Ownership Scheme will expire soon and coupled with the property development projects by the two railway corporations, the supply of residential flats will increase considerably from next year onwards. We, therefore, do not consider it necessary to substantially change the housing policy.

Yet, the Liberal Party considers that while the application list policy warrants no substantial changes, the Government should not only focus on large sites. Rather, sites of smaller size should also be made available to enable small and medium developers to take part in bidding.

Madam President, I so submit.

**DR JOSEPH LEE** (in Cantonese): Madam President, the policy address this year has proposed many measures conducive to improvement of the environment. We very much welcome this. But I will try to discuss their inadequacy from the angle of health promotion.

Mr Jeffrey LAM mentioned earlier that the air quality is very bad indeed. According to the findings on long-term visibility change published by the Hong Kong Observatory recently, between 1986 and 2004, the time when low visibility occurred had increased by seven times. In other words, from 1986 to the present, visibility has deteriorated tremendously. As Mr Jeffrey LAM said earlier, serious air pollution may often lead to problems with the functioning of the respiratory system, the circulation system, and so on. It may also cause the incidence of some chronic illnesses or even deaths.

The policy address also mentioned that the Government would actively co-operate with Guangdong Province to improve air pollution. However, a Guangdong official said the other day that while Hong Kong now concentrates on

the development of the service sector, the development of industries in Guangdong is inevitable and so, there would not be considerable improvement in the situation. Secretary Dr Sarah LIAO also said that the next two years should be the worst of times insofar as air quality in Hong Kong is concerned. All these have made the people worry about when there will be fresh air for us. What can we do?

I can see that this seems to be a rather passive question. Since the environment is so passive, can we, being members of the community, be more active? Yes, I think we can. Why do I say so? It is because in recent years, the European Union (EU) and the World Health Organization (WHO) have set new air quality indicators which can tell us when the air will be safer and better.

But according to the information available to me, over the past 20 years, the air quality indicators adopted by Hong Kong have never been revised. Why is it that our neighbouring countries (such as Singapore) have adopted the new WHO standards while we are still using the old indicators? The merit of the new standards is that they enable the public to know clearly on the basis of the air quality indicators how bad the air is today. Under a passive environment, although we cannot control the air in the environment, we can at least avoid going out or choosing to go to places where the air is fresh, in order to protect ourselves.

I hope that the relevant measures in the policy address can be reviewed, in order to examine whether the new standards of the WHO or the EU should be adopted as the indicators of our air quality, so that the people can at least protect themselves.

Second, the incineration of waste. In fact, this issue has lingered on for a long time. I think the Environmental Protection Department (EPD) would be eager to clarify that waste incineration actually does not have an adverse impact on air pollution. Many statistics have told us that the index as shown in the tests is on the safe side. However, the perception that waste incineration is hazardous to health is, I believe, deeply rooted in us in our living. I think the EPD, in implementing its measures, will have to step up education, so as to make the people feel at ease. This is very important.

I hope that the measures proposed in the policy address that are conducive to environmental protection will not only address some technical problems but

also aim to promote health, so that the public can be assured that their physical and mental well-being are taken care of in an environmentally-friendly manner.

I so submit. Thank you, Madam President.

**MR CHIM PUI-CHUNG** (in Cantonese): Madam President, I have three minutes 40 seconds to speak. First of all, in respect of transport, the Chief Executive did not discuss it in detail in the policy address. But I personally think that although in Hong Kong there are the Cross Harbour Tunnel (CHT) in Hung Hom and the Western Harbour Crossing (WHC), we can often see congestion at the CHT but only a small traffic flow at the WHC. With regard to this problem, I think the Government should proactively discuss with the shareholders of the WHC on, say, a buy-out of all their shares by the Government or the selling of the CHT to them as well. If they disagree, the Government certainly has to offer them a discount of about 5%, but I do not think that this would be alleged as another instance of collusion between business and the Government. If the WHC refused the Government's acquisition proposal, I think consideration should be given to constructing an additional tunnel beside the WHC, in order to properly divert traffic.

In respect of housing, we understand that the prices of luxury flats and some shops have increased by a large margin recently. In some cases, the prices have risen to a level higher than that in 1997. The Government has generated sizable tax revenue from conveyance of property and is certainly very happy. As the market is able to make adjustments on its own, no intervention is warranted originally. But if the public is again beset by the problem of negative equity assets one day, the public would put the blame on the Government. So, the Government should remind the public in due course that they should not feel happy when they make money now and cry out loudly when they suffer loss one day. They must not consider it a matter of course to make money and put the blame on society once they suffer loss. I think the Government has the obligation and duty to give a suitable warning to the people. I am not asking the Government to intervene, because the most important policy to which the success of Hong Kong is attributed is the positive non-intervention policy. We must understand that there must be a seller and a buyer in any transaction, and disregarding whether there is profit or loss, it should be subject to regulation by the market. Yet, it is most important for a policy to make its details clear.

Meanwhile, since I still have one minute to speak, I must mention the question of The Link REIT. On this issue, although we understand that the Government (particularly the Housing Department) has actively taken measures to solve the problem, the problem has remained unresolved. I think it is more important to give an explanation to all Hong Kong people and clearly identify who should be held responsible. It is particularly important to give a fair explanation to the 500 000-odd investors by finding out who should be held responsible. I am not saying that the person to be held responsible will have to make compensation. But this lesson has already dealt a heavy blow to the SAR Government. It has made Mr TUNG admit his mistakes once again in the policy address. He admitted that the failure to respond to the circumstances appropriately is a weakness of the SAR Government and that they must make preparation more clearly in the future. We understand that any wanton challenge, other than that to the ability of governance of the SAR Government, will deal a blow to the status of Hong Kong as a financial centre, and the loss so incurred would be immeasurable. I take exception to the approach adopted by some Directors of Bureau of downplaying this matter. It should be given priority in consideration. It would be too late to distinguish right and wrong when problems occur. Hong Kong would not be able to withstand such a heavy blow, because after all, we have no resources.

Madam President, I so submit.

**MR JAMES TO** (in Cantonese): I have only some six minutes to speak, and that is a challenge to me. Madam President, I would start with urban renewal. I actually share the views of Mr Abraham SHEK. Although the Chief Executive did talk about urban renewal, members of the public have been very worried in recent years that the Government, in stepping up building maintenance and rehabilitation, is inwardly less determined to carry out redevelopment or hopes to drag its feet. With regard to many projects, such as the outstanding items of the 20-odd projects of the former Land Development Corporation (LDC), many people have been waiting for them, not knowing when they will commence. These places have been unfairly designated as comprehensive development areas, but the people still have to wait continuously without knowing when the projects will commence.

Moreover, on the question of using a seven-year-old flat in the same district as the basis for calculating compensation for owner-occupiers, I have

asked the Government to disclose the relevant report of the Urban Renewal Authority (URA), but there has been no conclusion. Besides, to resolve disputes between the URA and the public over the use of a seven-year-old flat as the basis for calculating compensation, the ordinance should be amended to empower the Court to perform arbitration or to enable shop owners to conduct out of court arbitration with binding effect, rather than the Government wielding the "imperial sword", in which case owner-occupiers who do not accept the compensation can take their case to the Court only when their flats are resumed and will only receive the "premises shell price" eventually.

On the other hand, while the Hong Kong Housing Society (HS) will set aside \$3 billion for a scheme to assist building maintenance, the Government must clarify whether the HS actually seeks to "catch the big fish" through this building management scheme? Is it actually aiming at large-scale management contracts? Although the scheme is restricted to buildings with no more than 100 flats, as small numbers will add up to a large number and apart from buildings with only a dozen flats which may incur a loss, will it actually become a tool to promote the flats of the HS and to help it win management contracts?

As for the Building Rehabilitation Loan Scheme of the URA, it is actually confined to buildings on which no statutory order or advisory letter has been served by government departments, and only such buildings will be eligible for application. I think this is illogical. The URA has introduced this scheme in the hope that old buildings will not degenerate into dilapidated buildings. Since these buildings may be old but not really dilapidated, there may be some grey areas. For instance, these buildings may be in a stage just before a statutory order or an advisory letter is served on them. Those buildings which have received an advisory letter from the URA but have not served a statutory order are precisely buildings that will be most interested in this scheme. Moreover, if the URA can further rehabilitate these buildings successfully, the degeneration of these buildings can be slowed down and as a result, there will not be increasing pressure on the Government for redevelopment. It goes to show that it is inappropriate to disallow buildings issued with an advisory letter to take part in the scheme, not to mention the requirement that the buildings must be located within or near the target areas.

With regard to planning, I urge the Government to expeditiously give effect to phase one of the amendments, that is, the Amendment Ordinance

enacted in July last year. As the Chairman of the Bills Committee, I hope that the enactment can truly take effect as soon as possible. As it involves the disclosure of the planning applications, transparency will, in fact, be enhanced significantly. However, according to the results of consultation conducted months ago on the application fee, I worry that if the fee is too high, it would pose an obstacle in terms of money to some organizations (such as voluntary organizations or non-governmental organizations) in submitting applications with good planning intentions. Besides, I urge the Government to expeditiously report to the Legislative Council the proposals for phases two and three.

On the other hand, the Government should also review the policies on sites with designated land use, such as the site for oil depots near the South Horizons over which concern has been expressed by the Legislative Council earlier. When these sites are no longer used for the designated use, will they be put to open tender or resumed by the Government for another use? It is because members of the public are concerned about the extensive redevelopment of exchanges by some large companies.

On the transport front, with regard to the Southern Link and the Canton Road Station, as Mr LAU Kong-wah has mentioned earlier, there is no reason to build a rail link costing \$8 billion with only one station. When I asked the Government to set aside space for the Charming Station in my District Council constituency, the Administration was very hesitant at the time, but considering the future development of the community at large and as it was necessary to set aside space at the waterfront to provide for a station in the future, this proposal could still be carried out. As to whether consideration can be given to building the Canton Road Station in the delta area in the Kowloon Park, I have recently provided a preliminary financial analysis report in this connection. According to the initial reply of the District Council, the proposal is considered not feasible technically. I urge the Government to make public the report, so that everyone can give his views.

Residents in Whampoa have already waited for a very long time. An Honourable colleague also mentioned earlier that the original Sha Tin-Central Link has become the Sha Tin-Hung Hom Link, and we do not know if there will really be this Sha Tin-Hung Hom Link. To residents in Whampoa and the adjacent areas, the Government has owed them basic mass transport facilities for almost two decades. I hope the Government will repay this debt very soon.

**MISS CHOY SO-YUK** (in Cantonese): The policy address has devoted a lot of coverage to environmental protection and mentioned a myriad of measures, such as a Recovery Park in Tuen Mun, a green procurement policy, mandatory product responsibility schemes, the use of natural gas in power generation by power companies, the development of renewable energy, co-operation with Guangdong Province on emission reduction, water resources management, sewage disposal, greening plans, decking over nullahs, and so on. These measures seem to cover a wide range of areas, and at a glance, they can indeed win much applause. However, anyone who knows anything about environmental protection in Hong Kong will feel helpless or even disappointed.

Madam President, even though I know that Mr TUNG has repeatedly stated that he would accord priority to environmental protection, and Secretary Dr Sarah LIAO can be considered as the Secretary most conversant in environmental issues in the history of Hong Kong, I must admit that as I listened to those paragraphs on environmental protection in the policy address, I felt very upset and utterly disappointed. I felt disappointed perhaps because I had held too high an expectation of Mr TUNG and Secretary Dr Sarah LIAO, or perhaps I did not know their difficulties. However, my disappointment may be justified and well-founded.

Madam President, in fact, I have no objection to the direction and contents of the environmental measures proposed in the policy address. Basically, I agree that the measures and proposals put forward by the Chief Executive are correct. However, I felt very upset because of the following reasons:

- (1) Other than nullah decking, the green procurement policy and allowing environmental industries to operate in industrial estates, the many measures proposed by the Chief Executive are all old measures. These old measures, including a Recovery Park in Tuen Mun, have been discussed for ages and now, the Government is only taking out these "old wines" from the cellar and placing them on the shelf. It gives the impression that the Government has used the old measures to gloss over its inadequacies.
- (2) The old measures as mentioned in the policy address have attracted criticism in many areas, and many policies also feature inadequacies and slow progress. But the policy address has completely failed to point out the inadequacies of these measures. Nor has it told us

how such inadequacies could be addressed and improved and how their completion could be expedited. For example, desulphurization is not made a mandatory requirement for compliance by the power companies, and no detail has been given on the proportion of natural gas to be used in power generation and the timetable of its application. If there is time, I will explain in detail the inadequacies in individual aspects later on.

The Chief Executive has treated nullah decking, which will be completed in 10 years' time, as an important task and devoted an entire paragraph to discussing it. But little has been mentioned on the more important policies, such as how to ensure that air and water pollution and the waste problem can be earnestly resolved and how measures for the protection of bio-diversity can be expedited. This indeed gives the impression that the Government has confused the major issues with the minor ones and failed to attach the right weight to them.

- (3) The policy address has pointed to some new directions, such as the implementation of mandatory product responsibility schemes, the adoption of a green procurement policy by government departments, the development of renewable energy, and so on. But apart from the slogan itself, nothing has been mentioned on the specific direction, proposal, measures to be taken and the timetable. Madam President, these are all very good policies and they have my full support. But with regard to these aspects, the Government has always been finding excuses. For example, regarding green procurement, the Government has consistently told us that the Government cannot implement it due to the restrictions imposed by the WTO. The Government has all along used this as an excuse to procrastinate for as long as possible, to avoid doing anything as far as possible and to do as little as possible. Although this is overtly written down in the policy address, since there is only the slogan with no specific contents, it is inevitable that the people are again worried that these are just empty words of the Government and that this measure is used only to spice up the policy address.

Madam President, these so-called new initiatives have actually been discussed for years, and there is already a very clear consensus in

society. If the Government is sincere, basically it should be able to propose at this point in time some concrete measures or an implementation timetable. There should not be any difficulty to the Government.

- (4) The fourth reason why the environmental initiatives in the policy address made me feel depressed is that for the several major areas of the utmost public concern, which include expediting the improvement of air quality effectively, enforcing "polluter pays" by focusing on waste reduction, effective conservation policies, and in particular, the prevention of illegal dumping at agricultural land in the New Territories and the problem of increasing damage of water resources, the policy address has only addressed them in a slapdash manner, and the explanation given by the Secretary subsequently also gave us no pleasant surprise.

Madam President, I personally think that it is most opportune for the Chief Executive to tackle the environmental problems now for the following reasons:

- (1) Firstly, since a consensus is already reached in the community at large that the pollution problem has developed to a stage that must be addressed squarely, the people are all willing to shoulder the responsibility of environmental protection, including paying higher fees, changing their habits of living and spending habits, and so on. As far as I understand it, according to a survey conducted by the Hong Kong General Chamber of Commerce in the local business sector, environmental protection has for the first time in history become an issue of the utmost concern to the business community, and the degree of concern is far higher than their concern over other issues.
- (2) In the international community, there are already plenty of experiences, good or bad, successful or unsuccessful, available for our reference. Of course, I am not suggesting that the overseas experience can be applied wholesale to Hong Kong. But insofar as the several aspects mentioned by me just now, it is not difficult for Hong Kong to identify a possible way forward from their experiences.

- (3) The pollution problem besetting us now can actually be resolved technically in many areas. In Pudong, the application of fully automatic sorting and recycling facilities has reduced the amount of domestic waste to below 10%. The technology of renewable energy has been advancing rapidly. For the simplest renewal energy-driven solar electricity heater, the third generation of this product has already been developed in the Mainland and costs a couple of thousand dollars with a capacity for use by more than 10 or up to 20 people. More sophisticated applications, such as the use of wind power to generate electricity and the solar energy technology, have also been developing rapidly.
- (4) Members of the public fully appreciate the difficulties in fighting pollution. They also understand that the problems cannot be solved overnight. We only hope that the Government can come up with some clear measures and clear procedures and that it will tell us where it is going to take us to, and also how and when it is going to take us there. Only in this way can we see light at the end of the tunnel and solve the problems. So, if the Government is genuinely sincere and resolute, it is actually most opportune to put forward these proposals in the policy address this year, and it is precisely because these proposals are not mentioned that I feel so depressed.

Madam President, due to the time constraint, I can only express some of my personal views on some pollution problems. Particularly in relation to the "polluter pays" principle, I very much hope that the Government can levy a surcharge for the purpose of environmental protection. In fact, as early as in 1998 I already proposed this in a motion debate in this Council, advocating proposals on waste disposal and particularly the "polluter pays" principle for discussion in this Council. Seven years later, other than the landfill charges, no progress has been made in other aspects. Apart from the pace of work, I am more concerned about whether the imposition of a fee will serve only to increase government revenue or whether it can genuinely achieve waste reduction.

Take the surcharge on tyres which is recently said to be taking effect soon as an example. All I have heard is that the Government is prepared to levy a surcharge on tyres, and that is all. This can only increase government revenue and will not in the least be helpful to reducing the number of tyres being dumped

at landfills. If, under the fee charging mechanism of the Government, a substantial part of the surcharge received by the Government is not returned to the users or polluters through the recycler — for example, if the Government imposes a fee of tens of dollars or a couple of hundred dollars on each tyre, it is true that government revenue will increase, but to members of the public, when a tyre is broken, they cannot drive on three tyres to avoid a high fee imposed by the Government and so, they have no choice but to replace the tyre. But if they cannot recover a little bit of the cost when they take the broken tyres to the recycler, there is simply no incentive for them to take the tyres to the recycler. Hence, the recycler will have less tyres for recycling and in that case, the waste tyres will only be dumped at landfills eventually — this will serve only to increase government revenue, as the mechanism will fail to reduce waste. For instance, if the Government levies a \$200 surcharge and \$150 of which will be returned to the user or polluter, the remaining \$50 can be used to cover the administrative cost of the Government and there will be an incentive for the people to take the waste tyres to the recycler. Even the old ladies who live on scavenging will take the tyres collected by them to the recycler. In that case, we can truly ease the burden of the landfills.

When it comes to waste recycling, we must talk about incinerators. Madam President, many people think that I oppose the use of incinerators. In fact, I have an open mind on whether incinerators should be used in Hong Kong. What I oppose is the use of incinerators as a major measure to solve the waste problem. From what I can see now, it seems that the Government is going to use incinerators to deal with 60% or even 80% of waste in tandem with other waste reduction measures, such as the three-coloured collection bins and voluntary waste sorting at source in some housing estates. After the sorting of waste, the 60% to 70% of waste that cannot be sorted will be disposed of by way of incinerators. I strongly object to this. I suggest that waste should be reduced across the board. An explicit mechanism has to be put in place for waste to be reduced, recycled and reused on the principle of "polluter pays". Incinerators or other options should be considered only for waste that cannot be disposed of. Or is it already a solution if we just transport the waste that cannot be incinerated to the landfills? In Pudong, for instance, the amount of waste has been reduced to 5% or 6% and it is unnecessary to use incinerators. The Government should not promote the use of incinerators. But now, the Government is vigorously promoting the use of incinerators, inviting Members of this Council to visit incineration facilities overseas. But what the

Government should promote instead is how to reduce waste and how the waste can be recycled and how the "polluter pays" principle can be implemented, rather than this costly and primitive way of waste disposal.

Madam President, due to the time constraint, I think it is impossible for me to talk about renewable energy and other issues. Thank you.

**MR FREDERICK FUNG** (in Cantonese): Madam President, as I only have some four minutes to speak, I would like to talk about the maintenance and management of private buildings concisely. I think it is worthwhile to rebuild and maintain old buildings. The policy address mentioned that dozens more redevelopment projects will be carried out for old buildings in the next five years and that the URA will introduce a \$3 billion scheme to assist building maintenance, and this is good. Maintenance and redevelopment can provide the residents with a safer and hygienic living environment. But I hope that the Government will not stall or shelve the necessary redevelopment projects because of this maintenance scheme. I hope that the Government can speed up its work, particularly as the URA has entered the harvest stage, for the money paid by it a few years ago for property acquisition has generated proceeds following the completion and sale of the new residential premises. So, it should be able to do more.

Second, the management of private buildings. Some two years ago the Government submitted a paper on private building management and yet, a decision has not been reached so far. In the meantime, the Government has consistently proposed to enact legislation to make it mandatory for private buildings to set up owners' corporations (OCs), to conduct inspections on their buildings and to take out insurance. It appears that the Government is trying to tackle the problems of private building management or problems that have remained unsolved by imposing mandatory requirements and enacting legislation. I think this is the wishful thinking of the Government. In fact, there are many situations that warrant the attention of the Government.

Some private buildings can obviously do a good job even without government assistance, for they have an OC that operates very well and they also have their management company. Some buildings do not have an OC, but as they have an owners' committee and a good management company, they can still

meet the requirements of the law and so, the Government can set its mind at rest. What are the buildings that have problems now? First, buildings that cannot set up an OC. In Tai Kok Tsui, Sham Shui Po, Wan Chai, the Western District and Tsuen Wan, there are those three-storey buildings with two flats on each storey, which means that there are only six households altogether. How can they set up an OC? Some buildings in Sham Shui Po are even more amazing. There are two flats on each storey, but two OCs have to be set up, one for flats on the left side of the staircase and one for those on the right side of the staircase. As there are only 12 households in the entire building, which means six households on each side of the staircase, an OC again cannot be set up.

Another situation is that even though an OC is set up, as the members of the OC are old or know nothing about building management, they do not know how to manage their building. Besides, there are buildings of which the owners can never be located and so, a quorum can never be formed when a meeting is convened. What should we do? I think the authorities must address the situations that I have just mentioned. Disregarding whether or not these buildings have formed OCs, if they fail to manage their buildings properly, the general direction should not be making the establishment of an OC mandatory, because the results of management are most important. In this connection, building management must be made professional and specialized.

How to make building management professional and specialized? Legislation, if considered necessary, should be enacted in this direction. Even though there is an OC, it is still useless if it fails to manage a building properly. But even if there is no OC, it is necessary to ensure proper building management, and it is still necessary to hire a management company which can meet the most basic standards. Even if there is no OC, the owners must still pool money to hire a management company in order to make the management work professional and specialized. However, we must ensure that the management company can truly meet the most basic standards and that it is trustworthy and will not embezzle the money entrusted to its care or run away with the money.

I hope that the Government will pay attention to this. In fact, the Hong Kong Association for Democracy and People's Livelihood has made a proposal to the Government. Under our proposal, the Government can appoint a manager for buildings genuinely in need of assistance and through this manager, a management company or even social workers can be engaged to assist owners to set up their OC gradually.

Finally, I think there is a major structural problem with building management, particularly on the part of the Government. It is because matters relating to maintenance and management are within the purview of the planning bureau, whereas those relating to OCs fall into the ambit of the Home Affairs Bureau. However, building management and OCs are actually inseparable, but they are now separated by the Government. When problems emerge, some have to be dealt with by "Master SUEN" but some by "Master HO", and this is undesirable. Can one Bureau Director be made responsible for handling these matters? Only in this way can the OCs know which department or bureau they should turn to when they encounter problems. Only in this way can work be carried out smoothly and efficiently, thus preventing the bureaux concerned from shirking their responsibilities. I hope that "Master SUEN" can truly work for the provision of "one-stop services" in respect of the management of old buildings. Thank you.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, you only have 51 seconds out of the 25 minutes of your speaking time.

**MR WONG KWOK-HING** (in Cantonese): Madam President, the existing Transport Advisory Committee (TAC) does not include the voice of professional drivers. As a result, the impact on professional drivers has not been assessed by the Government when it implements many a transport policy. The mandatory implementation of the proposal to deduct eight points for drivers jumping the red light by the Government unilaterally is indicative of its neglect of the difficulties and work pressure of professional drivers.

Moreover, when there are social problems involving the transport sector, the TAC cannot in the least perform the function of reflecting views and establishing communication. For instance, while it is very common for taxi passengers bargaining with taxi drivers for lower fares, which is detrimental to the operation of the taxi trade, this has not been discussed in the TAC.

I, therefore, strongly urge the Government to appoint representatives of professional drivers' unions to the TAC. In response to my request, Secretary Dr Sarah LIAO said earlier in her briefing on the policy agenda that she would

consider my proposal, and I do welcome this. I hope that after consideration, Secretary Dr LIAO will arrive at a good outcome early.

Thank you, Madam President.

**MISS TAM HEUNG-MAN:** Madam President, property development is one of the economic driving engines of our economy, generating a multiplier economic effect on many sectors. Representing the accountancy sector, I must say that a healthy and robust property market brings substantial employment opportunities. We have witnessed the holding back of many potential sites for development due to disagreement between the Government and the developers over premium assessments. Disparities in valuations between the developers and the Government often unnecessarily lengthen the negotiation process for land use conversion and redevelopment applications. And even at times, developers do abort their development schemes. These are not conducive to economic growth and the generation of employment opportunities for professionals and workers. I urge the Government to set up an arbitration mechanism to overcome this problem of premium negotiations. Also, in the development industry, the regulatory regimes and licensing procedures should be further streamlined. Speedy approval of planning applications and building projects will enhance employment.

Madam President, our transport policy is also in need of a thorough review after 20-odd years of rapid expansion. Hong Kong now has a comprehensive railway network and established bus services. The Government should review whether there is a need to insist on a transport policy which places so much emphasis on rail, by giving priority and protection to rail operators over bus companies. What Hong Kong needs is a transport policy to serve the public by opening up competition for bus routes along the rail alignment. This competition will enhance services to the public. Thank you.

**MR VINCENT FANG** (in Cantonese): Madam President, as a member of the Hong Kong public I would of course long to get a breath of clean air, see the clouds drifting in the azure sky, listening to the birds sing and smell the fragrance of the flowers. Therefore, on behalf of the wholesale and retail constituency, I would say to Dr LIAO, Secretary for the Environment, Transport and Works from the outset that we absolutely support the government policies on

environmental protection, especially in the recovery and recycling of waste. This is because garbage collected may be recycled into valuable things. Garbage cannot be dumped out of the Earth. The recycling of waste will not only reduce wastefulness, ease the pressure on the landfills and save government expenditure, it can also create lots of jobs and business opportunities. It may even be conducive to further recovery of the economy. It is because the size of the global environmental protection market is as much as \$650 billion.

Figures from the Environmental Protection Department show that 18 000 tonnes of waste are dumped into the landfills in Hong Kong every day. If the manufacturing and operation costs are taken to be \$125 for every tonne of waste, annual expenditure incurred by the Government from this would be \$1.5 billion. But if more incentives are offered to make waste recovery viable, then the waste recovery business can become value-added and grow. Recycled products may generate economic benefits three to four times of their original value. Then it would mean an industry with a value of more than \$10 billion.

Madam President, why have I cited so many figures? This is because I would like to tell Members that speaking from the perspectives of the business sector, job-seekers and those concerned about economic development, if the Government has a set of sound and comprehensive plans, there would be no conflicts between the business sector and environmental protection.

Dr LIAO has recently proposed some measures and they are basically about imposing a levy on waste producers. Charges are collected on construction waste and plastic bags. Such measures strike home the message that the days of draconian laws and heavy penalties are back. The Government does not mind people producing refuse, only that those who do so will be punished. This is not an attempt to cultivate a voluntary sense of environmental protection in the public. This is not addressing the problems at root.

With economic development some kinds of waste are inevitable, but should consumers pay more because of that? Conversely, can the Government not look into ways of turning these wastes into money? Glasses, for example, as some people in the environmental protection industry tell me, can be recycled into useful materials such as glass grains. No one in Hong Kong is presently engaged in the glass recovery business because the transportation fees are high. If the transportation fees can be lowered, this would definitely be a profitable business.

The Hong Kong Government sees refuse as a great burden. But in many countries, refuse is gold. In Korea, for example, as some people in the industry have told me, various types of factories are set up right in front of the landfills. They are like doing some treasure-hunting among the heaps of rubbish there. In this way, not only is the burden of the landfills eased but that jobs and business opportunities are created. In some cases, such as in Germany, even developments in science and technology have been fostered, for environmental protection and recycling have become hi-tech trades.

I would like to stress once again that the business sector is not at loggerheads with environmental protection. But we hope that the Government, in launching its environmental protection initiatives, can accord the right priority to the right measures. Dr LIAO says that there are four major sources of smog and air pollution in Hong Kong. They are carbon dioxide, nitrogen oxides, suspended particulates and volatile organic compounds (VOCs). Measures will be launched to reduce the emission of these four pollutants and a target is set to reduce the emission of these four pollutants by 20% to 55% by 2010.

Last December when a debate was held in this Council, I mentioned that something was wrong in the way with which the Hong Kong Government had handled air pollution, that it was putting the cart before the horse. It chose to start with VOCs which would bring the least results but would cause most inconvenience to the people. I know the Secretary will certainly argue that the Government is working on other sources of pollution concurrently. But would it not be unfair to treat the kind of pollution caused when people clean the toilets, wash their clothes, use shampoo, spray perfume and aftershave in the same way as pollution caused by the emissions from power plants, chimneys and minibuses?

I so submit. Thank you, Madam President.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, in the past year, issues relating to housing, planning and lands all seemed so thorny. Even if Secretary Michael SUEN did not really offend the Taisui (God of the Year), we would still advise him to ask someone to "beat up the villain" for him.

I sincerely hope that in the year which has just begun, things will all run smoothly. To be fair, the overall performance of the housing policy in recent years should be duly recognized. Following years of adjustments, property

prices have finally stabilized, and people's confidence in purchasing properties have also increased gradually. In the past one year, property prices showed marked increases, thus leading to a substantial decline in the number of negative equity assets. People have started to feel the effects of "SUEN's Nine Strokes". However, we should still be concerned about the situation, as property prices have risen by more than 20% over a very short period of time and signs of overheating have started to emerge. We are afraid that a speculative climate like that before 1997 may be gradually taking shape, and we do not wish to see this, as another small-scale property bubble may thus emerge and deal a heavy blow to our economy.

When it comes to public rental housing, it can be said that the target of a three-year waiting period laid down by Secretary Michael SUEN has already been over achieved. Basically, the average waiting time now is just around two years.

The only pity is that despite long years of discussions in society, we are still unable to launch a review of public housing rentals due to the ongoing lawsuit. But what must be recognized is that because of all the changes in the housing policy, the role of the Government in the provision of housing has also changed accordingly. By suspending the construction and sale of HOS flats, the Government may of course disengage itself from the property market, but then, this will also cut off the main source of finance for subsidized housing. The Government's involvement in housing provision has been both extensive and deep, so it simply cannot extricate itself from the market so suddenly. After all, the first step has been taken. The problem now is how to proceed in a stable manner.

Regarding The Link REIT lawsuit, the Government seemed very hesitant and altogether helpless. We thus cannot help wondering what has happened to the rule of law in our society. Is not the judicial system designed to safeguard the overall interests of society? Why are some individuals with ulterior motives allowed to do whatever they like? To all those who love Hong Kong, this incident is really very saddening. But those who wish to see chaos in Hong Kong are all laughing secretly, all the time thinking about how they can prevent the Government from governing according to the law.

The Link REIT incident has enabled us to see the situation very clearly. But we are utterly wrong if we think that Madam LO is capable of stopping the

listing of The Link REIT all by herself. And, members of the public are also convinced that she must be supported by some people with very good knowledge of the law and the judicial process. The Government must pay more attention to this problem and conduct in-depth studies for the purpose of identifying solutions. But we must still draw lessons from The Link REIT incident.

The main problem is that whenever the Government wants to introduce a policy, particularly a policy affecting large numbers of public housing tenants, it is most imperative to strengthen communication. The Government did make lots of preparation before the listing of The Link REIT, briefing the Legislative Council on the matter and holding discussions with many in society, including various chambers of commerce, but all this was not thorough enough. In particular, no information whatsoever was made public during the preparation for the listing of The Link REIT. Consequently, there emerged in society a strong feeling of uncertainty and suspicion. And, because of this, although some people would very much like to support the Government when a lawsuit was instigated in the end, they were somehow unable to do so.

Actually, the listing of The Link REIT could have provided an excellent opportunity to solve the revenue problem faced by the Housing Authority (HA). But the abortive listing exercise has led to losses for all — the HA, investors and public housing tenants have all been victimized by the lawsuit. And, of course, the incident has also caused huge negative impacts on society as a whole, our financial system, our status as a financial centre and our reputation in the world.

I think the Government must think deeply about the problems of finance and uncertain prospects faced by the HA after the abortive listing of The Link REIT. What we have today is an excellent opportunity. At this very difficult time, the Government should review its role in the development of housing.

The DAB has repeatedly advised the Government to consider the possibility of selling some of the existing, better-equipped public housing estates. The rationale behind this is not so much to dislodge the responsibility of providing subsidized housing. Rather, by selling those public housing units with market value to sitting tenants, the Government will be able to recover some resources to construct new public housing units for those in need.

In addition, the Government should consider the idea of phasing in appropriate changes to the housing policy. The existing housing policy has

undergone 50 years of development and succeeded in providing timely and appropriate housing to more than half of our population. But this housing burden has become increasingly heavy. The Government's revenue in fact comes from taxpayers, so in a way, if we fail to get any resources from the sale of HOS flats, the burden will eventually fall on taxpayers. For this reason, taxpayers have become very vocal on demanding the Government to reconsider the resources for subsidized housing.

The management of shopping arcades in public housing estates should merit in-depth studies by the Government. The Government intends to shift its core business to subsidized housing, and the management of shopping arcades is actually a main component of commercial operation. If the Government can make good use of this, it will be able to speed up the development of these shopping arcades and enhance their values. This is also an important point.

I very much hope that in the coming year, the Housing, Planning and Lands Bureau can adopt an open mind-set and introduce commercial principles to the Housing Department.

Regarding the rental policy, I hope that after the completion of the lawsuit, the Government can carry out a full-scale consultation exercise on the recommendations made by the working group on reviewing the rental policy. If this is not done, a review of this significant policy that affects one third of our population may be delayed indefinitely. Thank you, Madam President.

**MS MIRIAM LAU** (in Cantonese): Madam President, I was on a business trip to Guangzhou early this month. It was a warm and sunny day. It should be a beautiful day with a clear sky. But on the Guangzhou-Shenzhen Superhighway, all I could see was a misty sky. As the air pollution problem of the Pearl River Delta (PRD) Region becomes increasingly serious, so I think the Secretary for Environment, Transport and Works might have been over-optimistic in saying that good progress could be made by 2007 in improving the air quality of the Region.

According to the consensus reached between the Government of the Hong Kong Special Administrative Region (SAR) and the Guangdong Provincial Government in April 2002, the emission of sulphur dioxide, nitrogen oxides,

respirable suspended particulates and volatile organic compounds should be reduced by 40%, 20%, 55% and 55% respectively by the year 2010 or before, with reference to the benchmark figures in 1997. It should be noted that the emission reduction targets were set with reference to the benchmark figures in 1997. However, with the rapid economic and industrial development in Guangdong Province in recent years, the air pollution problems in the PRD Region will inevitably worsen, and the emission of pollutants will definitely increase substantially over the 1997 situation. Solving a high pollution situation by a low standard, the effect may not be marked. Therefore, I suggest that the SAR Government and the Guangdong Provincial Government should review and make adjustments to the emission targets in the light of the changes in air quality of the PRD Region during the recent years.

Of course, if we want to raise the emission reduction targets, it will be necessary to increase the intensity of the emission reduction measures. Although the SAR Government and the Guangdong Provincial Government are jointly implementing the Pearl River Delta Regional Air Quality Management Plan, including conducting studies on establishing an emissions trading pilot scheme for the power plants of both Hong Kong and Guangdong, the authorities only said that it is still conducting negotiations with the Guangdong Provincial Government on details of the emissions trading pilot scheme, and no further details have been revealed. This issue has been discussed for a certain period of time. Although the authorities have said that negotiations with the Mainland will continue, so far no concrete result has been achieved. Therefore, the Liberal Party requests the Government to expedite its negotiations with the mainland authorities, so as to implement this pilot scheme as soon as possible.

Apart from the co-operation between Hong Kong and Guangdong in launching the emissions trading pilot scheme, Hong Kong's success experience may help Guangdong Province to improve its air quality. For example, in improving the emission of exhausts by diesel vehicles, Hong Kong has achieved remarkable success during the past few years. This was because we had adopted a series of measures, including being the first place in Asia to introduce ultra-low sulphur diesel, tightening the emission standards of vehicles, stepping up the examination of vehicles, promoting proper vehicle maintenance, retrofitting existing old-style diesel vehicles with emission reduction devices, introducing liquefied petroleum gas (LPG) taxis and public light buses to Hong Kong, and so on. I believe Hong Kong may share its experience with the Guangdong authorities in this regard and provide them with the relevant

technologies. Only in this way can the original emission reduction targets be achieved ahead of schedule and it may become possible for us to see the clear blue sky again.

However, there is still room for improvement in Hong Kong to improve its air quality. For example, the Government may actively study the possibility of adopting the use of more environmentally-friendly fuels (such as natural gas) for medium to heavy vehicles. The Government may consider conducting certain studies, or it may act boldly in introducing LPG light goods vehicles and vans. In fact, this is technically possible, only that the Government does not want to do so policy-wise. Besides, franchised bus operators should import more environmentally-friendly buses, so as to eventually make all the buses running on busy roads in the urban areas green buses. Meanwhile, consideration may be given to cancelling certain bus routes which may have low patronage. Instead, feeder public light buses may be operated, so as to reduce the number of empty buses running on the roads. Not only do such buses fail to fulfil their functions of carrying large numbers of passengers, but they will also keep emitting exhausts.

In improving the emission of diesel vehicles, Hong Kong can demonstrate a good example for the Mainland in many ways. However, in the work of promoting and advocating the development of the recycling industry, there is a lot more Hong Kong can learn from the experience of overseas countries. The Government intends to implement a product responsibility scheme (PRS) for waste tyres and collect a waste tyre levy, and the revenue so generated will be used on disposal of waste tyres by the recovery or recycling industries and supporting them, so as to reduce the amount of waste tyres to be dumped in the landfills. Besides, the Government plans to build a Recovery Park in Tuen Mun, so as to assist the recycling industries. Similar schemes such as the PRS, the recovery of waste tyres and the Recovery Park have already been implemented in overseas countries for many years. Prior to the implementation of such schemes, they had already conducted a lot of studies, and subsequently made detailed proposals on waste tyres such as their supply, demand, research development, marketing and the forms of financing, and so on. Our Government may find all these useful reference because whether the recovery industry can succeed does not simply depend on whether we have established a Recovery Park, or whether we have a good financing scheme, or whether we have levied a green tax. Even if we have done all of the above, it may not

necessarily be possible to reduce the amount of waste tyres or other pollutants. What is needed is a complete package of plans. This package of plans should include all the good proposals, and the relevant proposals should be cost-effective. Only when such a complete package of plans is in place can we have any hope of solving the relevant problems. I very much hope that the Government can seriously learn from the experience of overseas countries and fine-tune the relevant policies and measures in the light of the circumstances in Hong Kong, so as to formulate a complete package of development proposals for the recovery and recycling industries.

In fact, if the Government does not have a complete package of proposals in place, I firmly believe that, insofar as the waste tyres are concerned, it may not be possible to see a reduction in the amount of waste tyres disposed of in the landfills even if a tyre levy is imposed. As far as I understand it, in the past, the Government had once made use of public fund to implement a waste tyres recovery pilot scheme. However, pardon my frankness, the result was extremely unsatisfactory. On the contrary, as I surfed on the Internet, I noted that a private company in Hong Kong has been doing very well without any government subsidies. Each year, it handles more than 10 000 tonnes of waste tyres, and has successfully manufactured many recycled products by making use of waste tyres. This company has injected a lot of resources in research and development. In addition, the Kowloon Motor Bus (1933) Company Limited (KMB) has retreaded a total of over 500 000 tonnes of tyres during the past 30 years, and operates the largest tyre retreading factory in Hong Kong. From this, we can see that there are very good prospects for environmental industries in Hong Kong. But imposing an environmental levy is by no means a sure way of promoting environmental industries. Regarding the Recovery Park, as high value-added environmental industries usually involve enormous investment capital, the Liberal Party does not oppose the provision of land and tax concessions to operators of environmental industries. However, the Government must set the criteria for access to the Park, so as to ensure that the Recovery Park is a genuine high value-added environmental industrial zone, which can really provide a venue for operating high value-added environmental recovery and recycling industries, instead of only having some ordinary recovery workshops operating there.

Madam President, now I would like to change to another topic — transportation and planning. In the debate session on the economic aspect, I

pointed out that the Government must balance the development of various aspects at the same time when it makes efforts to re-launch the economy. While the population growth is lower than the original forecast, if the Government does not look after the livelihood of the ordinary people, and if it still refuses to make adjustment to its original plan of developing the transportation system which uses the railway system as its backbone, more drivers will become unemployed. All along, I have strongly supported the development of railways, so I shall not oppose the development of the railway system. However, with the prevalent population growth being lower than the original forecast, the Government must act carefully in planning the railway development in Hong Kong.

Let us take the South Hong Kong Island Line and the West Hong Kong Island Line as examples. Since the population in the catchment area of the Southern District of Hong Kong Island is not sufficient and there is no major development in the district, should the Government give the "go ahead" to these projects now, it is not just sacrificing the interests of the existing transport operators but also doing a disservice to the railway system. Ultimately, it will not please either side, and it could end up in an all-lose situation. The West Rail is a good example. As the town planning has failed to dovetail with the railway development, the patronage of the West Rail is on the low side. On the contrary, for the Tseung Kwan O Extension of the Mass Transit Railway, as the town planning fits in well with the railway development in terms of timing, a low patronage problem has not emerged in this Extension. Therefore, when the Government makes its decision on constructing the South Hong Kong Island Line and the West Hong Kong Island Line, it should at the same time draw up detailed planning for the future development of both the Southern and Western Districts.

I mentioned in the first debate session that if land could be utilized properly with good planning, the Southern District, for example, could be further developed into a residential or business area, or even a tourist area. This will have a major impact on the transportation demand in the district. By then the new railway or other modes of transport can all serve the district. This will bring about tremendous benefit to the district, and the transport operators may also run the business efficiently. I am very lucky today as both Secretaries are present in the Chamber. I hope both of you can join the discussion on this issue. It is because, all along, I have firmly believed that transport planning and land planning should go hand in hand. If so, you will be able to do even better, be it territorial development or transport development.

As a matter of fact, the Government proposed more than four years ago the development project of a Fishermen's Wharf in the bay of Aberdeen, which shall include a fish market at the wharf, a water market, a waterfront promenade and a heritage trail, and so on. All these could add glamour to Aberdeen as a fishing port. However, for some unknown reasons, the project has not made any further progress. On the other hand, for hotel development projects that have been given planning permits by the Planning Department, Wong Chuk Hang seems to account for a large share of such projects. As far as I know, there will be at least nine to 10 hotels. As there are no matching tourist facilities, many property developers dare not commence the construction of hotels there. In fact, all the different parties have already made their proper preparations, but no one knows who will make the first move. I hope the Government can do some work in terms of planning and transport, and on the other hand, developments in property and tourism should complement with each other, thereby providing a good overall planning for the Southern District and satisfying the transport demand there. This will be an "all-win" proposal for the people, the railway and other public transport organizations.

I would also like to talk briefly on other transport issues as some Honourable colleagues have pointed out that we do have many transport problems. In the past, the Transport Panel was the committee that had held the largest number of meetings. However, many of the items that had been discussed could not come to any conclusion because the Government had to study such issues again and again. No concrete proposals on many of such issues have been delivered. Just now some Honourable colleagues have tried to settle some scores with the Secretary, and I am not going to repeat all such issues now.

Yet, there are two issues which I cannot refrain from mentioning because both of them are very important. The first issue is the problem of cross-boundary transportation. At the moment, the situations at the border have already improved a lot. Recently, one more new bridge has been built at Lok Ma Chau and Sha Tau Kok, so as to ease the traffic congestion problem at the border. But while the bridge has been built, and the time required for passing through the bridge is just one to two minutes, it takes at least 45 minutes for one to line up from Sha Tau Kok to the border. This is exactly the problem encountered by the people in crossing the border. In spite of the many different methods adopted to improve the situation, and the congestion has really been alleviated substantially, yet there are still some problems with the roads leading

to the border which call for some urgent solutions. I believe that after the opening of the Shenzhen-Hong Kong Western Corridor, similar problems may also emerge. When all the vehicles are heading towards Tuen Mun Road, but the authorities have no effective corresponding measures in place to channel or divert the traffic, the resulting traffic jam could become very serious. As such, the Government must face this problem squarely.

Another traffic congestion problem was caused by the under-utilization of roads. The most obvious example or the most serious problem is seen at the Cross Harbour Tunnel. Due to the discrepancies that exist in the tolls of various tunnels, traffic congestion frequently occurs at the Hung Hom Cross Harbour Tunnel, and such congestion continues until midnight. The congestion has even led to traffic jams in the main waterfront road in Wan Chai, and consequently even the entire Wan Chai and Causeway Bay areas are affected. Besides, the traffic jam has also frequently congested roads leading to Aberdeen, thus obliging the Aberdeen Tunnel to implement intermittent closures. This problem has been discussed for many years, but the Government still cannot come to any conclusion. I just wish to point out that Route 3 also has a similar problem — we also worry that all vehicles will head for Tuen Mun Road. While the Western Harbour Crossing is a private investment project, so is Route 3. But I would like to point out that solving the traffic congestion problem is an unshirkable responsibility of the Government. In this connection, I hope the Government can really understand this problem, and it should try its best to identify a solution, and bring this issue to the Transport Panel for discussion. We hope that solutions to this issue, and to all other issues mentioned by other Honourable colleagues, as well as the cross-boundary transportation issue raised by me, can be identified within this year, and such solutions can all be tabled before the relevant panel for discussion.

Thank you, Madam President.

**DR YEUNG SUM** (in Cantonese): Madam President, as I have only three minutes 45 seconds left, I can only speak on several simple but significant subjects. The first one is environmental protection. Secretary Dr Sarah LIAO mentioned that the Pearl River Delta (PRD) Region will see some progress in emission reduction, with the target date being set for 2010. But by then we are

not sure whether the Secretary will still be in office. The Secretary is few and far between — an official who has a genuine understanding of and commitment to environmental protection. So I hope the Secretary can do something more for the air pollution problem of Hong Kong because the present air pollution situation is really terrible. Every time when I go to the Peak, I would think that even if the West Kowloon landmark is built, it is doubtful whether it can be visible. The air pollution has seriously affected investments and tourism in Hong Kong and the health of the people is also affected. With a growing environmental awareness among the people, we really feel upset to see the air pollution problem is so serious. With regard to whether the different political parties can team up with the Secretary in requesting the responsible PRD officials to give a detailed account of their targets of emission reduction as well as enhanced targets and earlier attainment of the targets, it is an issue of enormous import to both Hong Kong and the PRD Region. We cannot pay such a great social cost anymore. If the Secretary wants us, the Democratic Party, to make some effort in this regard, we shall do our best to help. Although it is most unlikely for us to be able to go to Beijing, we believe many of our members can still go to Shenzhen. We hope the Secretary can propose more work for us, and we shall do our best to help, so as to make better and earlier progress in the work of combating the air pollution problem in Hong Kong.

The second point is the Recovery Park mentioned by the Secretary this time. We strongly support this proposal. This is because the Democratic Party had proposed to launch the recycling industry in the past, which on the one hand can improve the environment and create more job opportunities on the other. Now, the Government says that soon we should have a surplus of 230 000 low-skilled workers. If we can establish some recovering industries or recycling industries, I believe it will be a good outlet for Hong Kong workers.

Besides, in respect of railways, my view is slightly different from that of Ms Miriam LAU. I hope the construction of the MTR extensions to the Western District and the Southern District can commence because the Western District has already been fighting for this cause for more than two decades. As for the Southern District, as a matter of fact, the Ocean Park, and also the Disneyland, and with the addition of the possible development of the Fishermen's Wharf in Aberdeen, the demand for MTR service in the Southern District is really very urgent. Just now, Ms Miriam LAU said that many

developers have been hesitant in making investments simply because there are no matching transport facilities.

Finally, about the West Kowloon Cultural District (WKCD) development, we would still like to stress that the Democratic Party supports the WKCD project but opposes the measures adopted by the Government in implementing it. We propose the establishment of a statutory organization to co-ordinate, plan, supervise and promote the involvement of the people in the project, so as to facilitate the development of West Kowloon into a convergence hub of Chinese and Western cultures. On the one hand, it can promote the culture of the Hong Kong community, and on the other, it can pool the different social forces of Hong Kong. Apart from establishing a statutory organization, we also hope the Government can really change its die-hard stance to adopt an open attitude (very much as what Mr TUNG had said), abandon the single-tender approach, give up making the canopy as a mandatory requirement of the project, and allow greater participation of non-government professional organizations. We hope that, through the establishment of a statutory organization, a good foundation can be laid for the cultural industries in Hong Kong in the long term, thus enabling Hong Kong to scale newer heights. Indeed, it is most regrettable to see the WKCD project to have developed to such a state of affairs. Can the Government reconsider the whole issue, so as to turn the crisis into opportunities? If so many people are concerned about the issue, should the authorities not grasp the opportunity to make the project a success from the perspective of unifying the different factions in society, intensifying cultural development and promoting the progress of Hong Kong to a civil society, instead of purely from the perspective of generating revenue for the coffers or land grants? Thank you, Madam President.

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, just now several Honourable colleagues have spoken on the traffic congestion and road problems as well as the air pollution problem. I would also like to discuss issues in these two aspects. These issues are particularly relevant to me as I am representing the New Territories West. Many residents of the area do worry about these problems. At present, the planning and construction work of major trunk roads are going full steam ahead. However, regarding the hidden crisis of the emergence of serious traffic congestion in future, it appears that the Government

has not attached adequate significance to it. With the opening of the Western Corridor and the Deep Bay Link next year, the traffic volume in New Territories West will inevitably increase substantially. But so far, the Government still does not have a package of effective measures for diverting the increased traffic flow. Regarding many of the proposals put forward by us, the Government still has not made any decision even though three years have lapsed.

At present, the Government keeps stressing that the extension and improvement works of Tuen Mun Road has commenced. But these works can only be completed in 2009 and 2010 at the earliest in phases. During the next few years, due to the works requirements, many sections of the road may have to be closed temporarily. In other words, not only will the above works be unable to tie in with the opening of the Western Corridor and the Deep Bay Link, they will even further aggravate the traffic congestion there.

Earlier on, the Government had accepted our suggestion to consider the construction of the Easterly Link Road so as to provide a direct road (Mr LAU Kong-wah has mentioned this in his speech) to divert the vehicles from the Deep Bay Link to Route 3. Although this proposal has been discussed for three years, no decision has been made. The proposal of making use Route 3 to divert the traffic flow is the most effective measure, but so far no further development about it has been heard.

Here I would like to take this opportunity to urge the Government to reduce the tolls of Route 3, so as to divert the newly increased traffic flow that will arise next year, and to prevent the occurrence of a major congestion at Tuen Mun Road in future. Besides, the authorities should advance the timetable for the planning and construction of the Tuen Mun West Bypass, so as to provide a cross-channel link to facilitate direct vehicular traffic from Tuen Mun West to the airport.

Although I have raised the request for a toll reduction of Route 3, and I have also mentioned the various problems associated with the opening of the Western Corridor and the Deep Bay Link, I still wish to commend the Secretary — since Mr LAU Kong-wah said that he did not have sufficient time to do it — for what she did for the Elderly's Day last year. With the promotion and assistance of the Secretary, the various public transport operators agreed to

give the elderly free rides on that day on different modes of public transport. This had undoubtedly expressed our respect for the elderly. It was really commendable. And this shows that we are not just good at levelling criticisms.

Another problem faced by residents of New Territories West is the health hazards posed by air pollution. Of course, everyone in Hong Kong is threatened by these. But in New Territories West, especially in Tung Chung, the impact of this pollution is very serious. In explaining the policy agenda, the Secretary stressed that she would try her best to urge Guangdong Province to implement the various emission reduction measures, such as the installation of desulphurization systems for diesel-powered generation units, speeding up the construction of natural gas power generation units, and so on. However, in handling the emission reduction issue of Hong Kong power plants, she seems to have been lenient with local plants but stringent with their mainland counterparts.

Why should I say so? Now, all the power generation units in the Pearl River Delta (PRD) Region have already been equipped with desulphurization installations, and the PRD Region has already prohibited the construction of power plants using diesel or coal as fuels. Our Government is relatively more well-off financially, but our regulatory control cannot catch up with that in the PRD Region. At present, the CLP Power Hong Kong Limited has established eight power generation units in Castle Peak, all of which are not equipped with any desulphurization installation, whereas among the eight power generation units owned by the Hongkong Electric Company Limited, five of them have not been equipped with any desulphurization installation. Moreover, the two power companies are producing a large proportion of the pollutants in Hong Kong: 92% of the sulphur dioxide, 50% of the nitrogen oxides and nearly 40% of the suspended particulates. The two power companies are the major air polluters in Hong Kong. Before the complete shift to using natural gas as fuel for power generation, the Government should strongly demand them to install desulphurization systems to their existing power generation units. This requirement should be made part and parcel of their respective Profit Control Schemes, and it should be explicitly stipulated, thereby reducing the local air pollution and protecting the health of the people.

Same as air pollution, the environmental hygiene problem of open nullahs is another problem that besets many residents in New Territories West. On the

list of 10-year phased decking works to be implemented on 16 sections of nullahs, the stinking nullah along Castle Peak Road – Yuen Long, which affects the largest number of residents and runs through the town centre of Yuen Long, is not included. This nullah is situated in the busiest part of Yuen Long, directly affecting more than 40 000 people. People have complained that weed has grown around the nullah, that a great quantity of garbage has gathered there, breeding a lot of mosquitoes and producing offensive smell all over the area. For this reason, the Government should allocate resources for the decking works over this nullah, so as to improve the living environment of the people.

After discussing the air pollution problem, I would like to talk about the housing problems, as I still have two to three minutes. With regard to the housing problems, I mainly wish to point out the fact that the population of Hong Kong is gradually ageing. This is an indisputable fact. Nearly half of the local population is living in public housing estates some of which have a history of two or three decades or even longer. In these public housing estates, many of their facilities no longer meet the requirements of the present ageing population. Although the Housing Department has already made some improvement, I hope it can do more in certain aspects, such as..... (*The buzzer sounded*)

For certain housing estates, I hope the authorities can provide additional seating facilities in them. This is because there are now more retired persons in these housing estates, and instead of staying at home, they prefer sitting and hanging around in the outdoor areas of these estates. So, the authorities should provide more seating facilities in these estates. This would save them the trouble of bringing their own folding chairs outdoors or sitting on the edges of the flowerbeds. Besides, I hope the authorities can build some canopies over such seatings, so that they do not have to be affected by the elements.

There is another situation. The Housing Department has paved some pebble paths for the elderly to do stretching exercises. I hope they can pave more such paths. For example, there are no such pebble paths in the Lai Yiu Estate. On the other hand, I would like to raise an issue related to the Kwai Shing East Estate. Actually I have raised this issue with the Secretary before. As that estate is built on the slope of the hill, residents of certain blocks have to walk up many long flights of stairs on their way home. As we all know that, walking up staircases is no easy task for the elderly people. What is more, they often have to do some shopping in the market before going home. So as they

walk up the stairs, they also have to carry with them the food they have just bought. As a result, they have to take several short rests on their way home. However, when we took up the issue with the Housing Department or the Secretary, they would come up with all sorts of reasons. Sometimes, they said it was technically not feasible, sometimes they said they could not do it because of financial constraints. I hope the environments of these estates can be improved as soon as possible, and that elevators can be installed very soon. Since the authorities have arranged for the elderly to live there, it should provide them with such facilities as elevators.

Besides, in some older housing estates with seven-storeyed buildings, elevators are still lacking. It is really a tough task for the elderly to walk up flights of stairs for seven floors. As they become older and weaker, walking up several floors without the assistance of an elevator is very taxing to them. I hope the Secretary can, in the light of the needs of the ageing population, consider making improvements as far as possible in newly designed estates or existing estates.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Honourable colleagues, I would like to explain to you the operation of this buzzer. Take the speaking time of Mr TAM Yiu-chung as an example. Mr TAM Yiu-chung should have eight minutes 57 seconds left. But as this buzzer sounds by the minute, so it sounded on the seventh minute when Mr TAM actually still had one minute 57 seconds left. Therefore, if you are aware of your remaining speaking time, you can make your own adjustments accordingly.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam President, "As I mourn, I hear the ghosts howling; As I cry, the wolves are laughing." Tomorrow, the people will be officially paying their last tribute to the remains of Mr ZHAO. This verse is taken from a famous poem for mourning ZHOU Enlai on 5 April 1976. It is surprising that the poem can still apply after several decades, nearly 30 years. On that day, many people, out of their fear of the Gang of Four, had been smearing Premier ZHOU Enlai as much as they could — even though I do not have at all a good impression of ZHOU Enlai.

This incident ..... Madam President, I guess you do not know what I am going to say? And I am telling you now.

"As I mourn, I hear the ghosts howling; As I cry, the wolves are laughing." The verse has some realistic implications for Hong Kong. The Link REIT seems to have died. I am also very unhappy about it. "As I mourn, I hear the ghosts howling; As I cry, the wolves are laughing." I heard many Members advocate for a thorough investigation into The Link REIT incident. I strongly support this suggestion. On 1 January, I had collected signatures from several thousands people who supported me to invoke the Legislative Council (Powers and Privileges) Ordinance to conduct a thorough investigation into The Link REIT incident, that is, to find out if Michael SUEN, LEUNG Chin-man or other people had done anything wrong. This issue was raised in a meeting of the Housing Authority (HA), but the Chairman of the HA said there were other businesses to be dealt with, and put it off until the next meeting. So it has been delayed for a very long time. So who is afraid of dealing with this issue? I feel that all those people who accused Granny LO, me and "Tai Pan" of "causing trouble" should apologize, and this includes TUNG Chee-hwa and Henry TANG, the two persons who do not know any manners, who speak nonsensical words and who teach the Court how to conduct hearings, and this also includes those who think that someone had made use of legal proceedings to stop The Link REIT from being listed on the stock exchange, who know nothing about democracy and the rule of law. If they think that it is necessary to govern the country according by the laws, instead of governing the country according to the laws, I would like to ask them to go to the Mainland to do their jobs as Deputies to the National People's Congress (NPC), and do not stay in Hong Kong anymore. Some people say that the rule of law is meant for the interests of the majority, so the rights of the minority have no place under the rule of law. I would like to ask these people to go to the Mainland to do their jobs as NPC Deputies.

**PRESIDENT** (in Cantonese): Mr LEUNG, please come back to the subject matter of this debate session. If you want to speak on the rule of law, you should have done so yesterday.

**MR LEUNG KWOK-HUNG** (in Cantonese): I am speaking on The Link REIT incident. I hope each of the 60 Members can agree to invoking the Legislative Council (Powers and Privileges) Ordinance to conduct a thorough investigation into The Link REIT incident. Otherwise, I hope you will not speak any more nonsense about The Link REIT incident in this Chamber.

I am very angry because many people say that we are promoting "populism". What actually is "populism"? "Populism" is practised by someone who claims to speak for public opinions without securing such mandate by way of votes, and then he proceeds to attack others and impose his views on others. Nazism and Fascism are examples of such. The comments of Mr CHAN Kam-lam and Mr LAU Kong-wah made me think of this point.

Finally, because I am running out of time, I wish to raise a question about one incident. Secretary Michael SUEN, on that day, I asked you to go out to see the residents of the Albert House, did you go out? He said no. Now I would like to ask him to go out to see them because he said he did not. Or is he pulling my leg?

Today, there are two more groups of people "speaking" in the Legislative Council. The first group of people consists of the small owners who suffer difficulties and hardships under the Housing Ordinance (as the Ordinance is related to the Secretary). They have to stay outside, trembling in the cold. Another group of people have lost their right of abode in Hong Kong just because the Government had lied about the arrival of 1.67 million people to Hong Kong from the Mainland. They are all outside. This is exactly "populism". All those people who think that they do not have to go through direct elections, popular and equal elections in order to be able to speak for public opinions, and then they can impose such public opinions on the people, and think that they can govern the country by the law through oppressing the minority, they are practitioners of "populism". They are Hitler, Mussolini. Beware of such persons.

I would like to reiterate that — I really intend to repeat the message here — it is necessary to conduct a thorough investigation into The Link REIT incident. I had been arrested in the Public Gallery, and sentenced to jail. I was prosecuted and convicted according to the provisions of the Legislative Council

(Powers and Privileges) Ordinance. The Legislative Council (Powers and Privileges) Ordinance should not be used to suppress the ordinary people. Instead, it should be used to monitor the Government. I would like to solemnly state here that, all those Legislative Council Members who do not agree to conducting a thorough investigation into The Link REIT incident, who do not agree to invoking the Legislative Council (Powers and Privileges) Ordinance, do not deserve to be Legislative Council Members anymore. Then they should not say anything about The Link REIT, nor should they say that some people have been causing trouble. Please simply shut up.

**PRESIDENT** (in Cantonese): Your speaking time is up. Please sit down.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, in fact, the transport problems are not just limited to the congestion and pollution problems. The most significant issue is how to enable the public to make more extensive use of the different modes of transport. Unfortunately, though the Secretary has assumed office for three years, and during each of these years, I have kept telling the Secretary that a group of people badly need her assistance, she has so far failed to render any assistance to them. They are people with disabilities.

Madam President, if you can recall, every year I would raise the issues on transport fare concessions for the disabled as well as the improvement to some supplementary facilities. During each of these three years, I have kept talking to the Secretary on such issues. Yet, unfortunately, to date, the situation is very much like the Basic Law — everything remains unchanged. So far no progress has been made. This time, the Secretary will hear me say this for the fourth time — that they very much hope that the Secretary can give them some assistance to get fare concessions. It will save them from staying at home facing the walls, and will provide them with a greater chance to integrate into society and have communication with more people. This is very important. At the same time, I also hope that improvement can be made to the relevant supplementary facilities, so as to make them suffer less when they travel on public transport.

Madam President, I so submit.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, Secretary Dr Sarah LIAO's portfolio covers many areas, such as environmental protection, transport and works, and so on. I do not know how much weight the Secretary attaches to public works in her mind or among her policies?

As we all know, the sector hardest hit by unemployment in Hong Kong is the construction industry. However, in the policy address, it is only mentioned that the Government will spend an average of \$29 billion per annum, and will provide 40 000 jobs. However, we should not forget, in the past, we also had \$29 billion a year as well as 40 000 jobs. So after 40 000 jobs have vanished, we now bring in an additional 40 000 jobs. So at the end of the day, there has been no increase in the number of public works projects, and eventually the problem of unemployment in the construction industry cannot be solved as well. As for the 25 capital works projects left by the two former Municipal Councils, let us not forget the fact that the number of such capital works projects were actually reduced from the original 169 to the present 25. We do not know when those over 100 remaining projects can be revived. Is it true that many government departments absolutely do not want to commence those projects under their jurisdiction? There should be many such projects under the Leisure and Cultural Services Department (LCSD) and the Hospital Authority because there are strong demands for many specialist clinics or leisure, cultural and sports facilities. The people also want to have such facilities. However, the LCSD may not want to proceed with such projects now because the Government wishes to cut its overall expenditure. Is it because of such pressure that these departments have decided to abandon all such planned projects, to such an extent that nothing is left? I hope the Secretary can exercise her creativity and put in more effort in this regard, so as to include more public works projects in the coming year, so as to revive a larger proportion of the 169 projects? Thank you, Madam President.

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

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, one of the subject matters I would like to raise is the issue of land revenue. In the past, the Government did make use of land revenue to finance certain projects, such as the earlier transport projects, *inter alia*, the Mass Transit Railway (MTR). By adopting such an approach, it helped to reduce the operating costs of the MTR.

Such a practice may have become outdated now, and the Government may have to review it. Right now we have two Secretaries in the Chamber: One is responsible for land, while the other one is responsible for transport. They should study this issue.

The second project is the Cyberport. The Government injected the land revenue into the so-called technology project, that is, the Government made use of the revenue generated from the sale of the land for the Residence Bel-Air project to finance the construction of the Cyberport. And now the third project will be the West Kowloon development. The Government is committing the same mistake in trying to inject the revenue generated from the sale of the land of West Kowloon into the cultural project.

The provision of this kind of hidden financial support really warrants a review. In the past, the Democratic Party did not oppose such a practice of transferring land revenue to transport revenue mainly because mass transportation involved the so-called public interest, including the support for environmental protection or solving traffic congestion problems, and so on. However, after the relevant company has become a listed company, the issue becomes more complicated. In the past, the Government played the dual roles of both the giver and the taker of the revenue, and the only difference was just a matter of different accounts. It made little difference. But actually the provision of financial support by the Government by way of a premium-free land grant is essentially different from the provision of direct financial support by drawing money from the public coffers.

Personally I think that the Government should be more explicit in considering such public policies in future. If it is its intention to finance a certain project, perhaps it should finance it by directly drawing revenue from the public coffers. In this way, the approach would be more precise and specific. With regard to certain projects, we may not necessarily oppose them. Of course, under our major principles, we hope that they can be consistent with the principles of market economy. However, when it comes to the Recovery Park, it is basically very difficult for the project to succeed without any government intervention. The Government may be involved through provision of land and creation of the market, and so on. We have previously mentioned that those environmental products are more expensive than the non-environmental ones. Therefore, such environmental products do not have any competitiveness at all,

unless the Government imposes certain levies or taxes on its non-environmental counterparts so as to push up the prices of the latter. This will make the prices of the two categories of products comparable. Only in this way can the environmental products pose some competition. This kind of policies will have our support. For example, for certain measures or policies that promote the cause of environmental protection, some intervention is necessary. If this kind of intervention is supported by a consensus in society, or at least by the mainstream opinion in the Legislative Council, then the Government may act boldly in proceeding with such intervention. Such an approach will have the support of the Democratic Party.

This time around, we would like to take the opportunity to state our stance clearly: The approach adopted by the Government in handling the Cyberport was actually injecting a so-called property project into a so-called technology project. However, the supposed beneficiary, such as those working in the technology sector, do not have any feeling about the Government's injection of \$2 billion or several billion dollars. They could not feel that the Government had spent so much money on helping them. In the cultural aspect, maybe the Government does have the intention of injecting the revenue of several tens of billion dollars generated from the sale of the land at West Kowloon into financing cultural activities. But the cultural sector may not think that the Government has ever offered any assistance. They may think that, all that the Government has done is just having constructed several museums and two theatres, but it has not helped the cultural sector specifically. In this regard, the Government must act carefully.

On this issue, as I have said in the last debate, the Government had better sell the land by auction and allocate the revenue from the public coffers to support certain sectors directly. The provision of land for the cause of environmental protection involves a public policy — there may be a public or social necessity for it, so it is an exceptional or unique situation. Otherwise, for other projects, the Government should avoid taking such actions as far as possible. Regarding the Government's action in injecting the land revenue involved into a transportation project, I personally have some reservations about it. However, the Government should seriously review its practice of injecting land revenue into a certain project, because it simply makes us feel that the Government is bypassing the Legislative Council in taking certain actions. As such, I think the Government, including the two Secretaries involved, should

conduct a comprehensive review to examine under what circumstances should it adopt the practice of injecting land revenue into a certain project.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now suspend the meeting for 10 minutes. When the meeting resumes, the government officials will speak.

4.00 pm

Meeting suspended.

4.10 pm

Council then resumed.

**PRESIDENT** (in Cantonese): Will the Clerk please ring the bell to summon Members to return to the Chamber.

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

**PRESIDENT** (in Cantonese): A quorum is now just present. Council now resumes to continue with the fifth debate session. Two public officers will speak in this session. They have up to 45 minutes in total for their speeches, but the first officer to speak may not speak for more than 30 minutes.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, the policy agenda 2005 just issued lists three new and 17 ongoing initiatives of the Housing, Planning and Lands Bureau (the Bureau). I

wish to highlight the Bureau's major policy initiatives and objectives for the coming two and a half years.

On new initiatives, in line with our market-oriented land and housing policies and to enhance the transparency of market information, we will release relevant statistics on private housing supply on a regular basis, so that the public can have a clear picture of flat supply based on actual data. With effect starting from 21 January 2005, we will release statistics on private housing supply in the primary market on a quarterly basis. I hope that the data can help the property sector grasp the latest market situation to enable them to decide on the quantum of private housing production having regard to market demand. The Government will ensure that there will be adequate land supply to meet the demand of different sectors in society. We are drawing up the Application List for the coming financial year and are examining ways to improve the existing Application List System.

The second measure is to give impetus to building design. Proper regulation of buildings is vital in improving the living environment for the public. To be in line with international trends, the Buildings Department has commissioned a number of consultancy firms to examine the regulations under the Buildings Ordinance. The scope covers drainage system, lighting and ventilation as well as building construction. The purpose is to devise an efficiency-based regulatory system to promote modern and innovative building design. We are now consulting the industry. We expect to introduce into the Legislative Council proposed amendments to the relevant regulations in stages from 2006 onwards.

The third initiative is to make preparations to put in place a comprehensive strategy for implementing proper building management and maintenance. Last year, we conducted a public consultation with a view to obtaining a broad community consensus for mapping out practicable measures that are acceptable to the public to tackle the building neglect problem. The consultation report was released on 21 January. It has also been submitted to the relevant Legislative Council panel for perusal.

The consultation results indicate that the community generally agrees that:

- (a) owners should bear the ultimate responsibility for proper building upkeep;

- (b) mandatory building inspection should be introduced to ensure that owners will discharge their responsibility to properly manage and maintain their buildings; and
- (c) assistance to owners who are in genuine need, for example, elderly owners of old buildings, should be enhanced.

In the light of the outcome of the consultation, we have devised a comprehensive and systematic strategy to tackle the long-standing and complex building neglect problem through various short- and medium-to-long-term measures.

On short-term measures, we have, in the light of public views received, enhanced assistance to owners and owners' corporations in genuine need. We are glad to have solicited the support of the Hong Kong Housing Society (HS) to launch a \$3 billion Building Management and Maintenance Scheme to provide "one-stop" technical support, incentives and interest-free loans to owners of old buildings to improve their overall living environment. Comprehensive financial and technical support is made available to owners in genuine need through various assistance and loans provided by the HS, the Urban Renewal Authority and the Buildings Department. We will review the results and consolidate the experience in this regard with a view to expanding and enhancing the assistance in a few years' time. The Buildings Department will step up efforts against unauthorized building works and ensure building safety. The Home Affairs Department will also continue its work at district level to assist owners in building management.

Apart from short-term measures to provide immediate support to owners, we will forge ahead with the following medium- to long-term measures to attack the building neglect problem at root.

- (a) Introduction of mandatory measures. As I said earlier, the public generally support the introduction of mandatory measures to ensure proper building upkeep by owners. Proposed mandatory measures include mandatory formation of owners' corporations, mandatory engagement of property management companies and mandatory building inspection. Of the various mandatory measures, mandatory building inspection is widely regarded as a more practicable and effective solution to the building neglect problem.

Guided by the public preference on the way forward, we are working towards a second stage public consultation on the implementation details of mandatory building inspection and the support measures.

- (b) Regulation of service providers. We have to consider regulation of service providers in tandem with the examination of the mandatory building inspection. We will carefully consider different regulatory proposals, implementation framework as well as resource implications. This issue will be explored in the second stage public consultation.
- (c) Establishment of an independent arbitration and mediation mechanism to resolve disputes. Disputes over building management and maintenance issues often involve huge legal fees and are very time-consuming. This is frustrating to a lot of owners and owners' corporations. We are exploring with the Hong Kong Institute of Surveyors the feasibility of setting up a Building Affairs Tribunal to provide a simple and inexpensive mechanism to resolve these disputes. As this proposal involves complex policy and legal issues, we will further study them in detail with the Institute.
- (d) Integration of building management and maintenance. We consider the integration of building maintenance and daily management a sustainable and long-term solution to ensure proper upkeep of buildings. However, in view of the long-standing building neglect problem and the weak building care culture, owners may not be ready for such integration. With one-stop assistance provided to owners by the HS, it is believed that owners will gradually come around. The introduction of mandatory building inspection would further help owners understand the need for good building management, ultimately achieving the policy direction of integration of building management and maintenance.

The Government will also endeavour to improve the legal framework for more effective law enforcement and regulation. Passed by the Legislative Council in July 2004, the amendments to the Buildings Ordinance came into force at the end of last year. We will further simplify the relevant regulatory framework over minor works. Such works include construction of interior

staircase, canopies above windows and advertising signs. We plan to introduce the amendment bill into the Legislative Council in the 2005-06 legislative year.

Given the extensive and far-reaching implications of mandatory building inspection, we must further consult the public on the implementation details and the support measures in order to fully grasp the views of the public and the industry so that the legislative process will proceed smoothly. Implementation details include selection criteria for buildings to be inspected, the inspection cycle, items of inspection, and relevant penalties. Support measures would include the feasibility of setting up a Building Affairs Tribunal, further assistance to owners in need, regulation of service providers and the introduction of a voluntary building classification system.

We plan to launch the second stage public consultation in the third quarter of this year and complete the analysis of views received by the end of this year. Relevant Legislative Council panel will be briefed on the findings early next year. If there is a general community consensus on major issues, we will submit the relevant legislative proposals to Legislative Council in 2006.

I shall now turn to land planning. Regarding our ongoing initiatives, I would like to focus on three aspects, namely land planning, the enhancement of planning procedures and public participation, and public housing development. In the urban area, effective and sustained building management and maintenance will help to address the problem of ageing of buildings. In the New Territories, our first priority is to address the issue of small houses. We have set up a working group to study and review our policy on small houses. We will consult the Heung Yee Kuk first on this issue.

On the overall planning of Hong Kong, the Planning Department is conducting a new round of strategic review, namely Stage Four of the Hong Kong 2030 Study. The review includes a further assessment of the demand for land, consideration of the latest economic and development conditions as well as a study on different planning scenarios. It is expected that the public will be extensively consulted again in the second half of this year. We believe that the data and findings of the Study will help the community build up a consensus in the search of a balanced proposal for our future development and land planning.

In formulating and enhancing our policies on planning and lands, the Government will adhere to the principle of free market and create a just, fair and

open environment for competition and ensure a high degree of flexibility for our system of operation so that the industry can adapt better to new market trends and needs. On town planning procedures, the Government has long been promoting public participation. In July 2004, the Legislative Council passed the Town Planning (Amendment) Ordinance so as to further enhance the transparency of the planning system, to simplify town planning procedures, and to provide more opportunities for the public to take part in the plan making process. We are examining the industry's views on the guidelines. It is expected that the legislation can be enacted in the first quarter of 2005. On the planning and formulation of harbour-front land uses, we have set up the Harbour-front Enhancement Committee (HEC) and we will seek advice from its members. We are working with the HEC to review the planning of Kai Tak and Wan Chai North through balanced and effective public participation. We have already commenced extensive public consultation on the planning of Kai Tak, whereas consultation on the planning of Wan Chai North has just commenced at the beginning of this week. The purpose of the consultation exercises is to engage the community in the envisioning stage of the planning process to solicit their "visions" on the types of harbour-front they aspire with a view to arriving at a consensus. This is a new attempt which we hope will facilitate future planning work.

Let me now turn to the subject of housing. Since the announcement of the Government's repositioned housing policy in November 2002, the property market has picked up steadily, suggesting that the repositioned housing policy is taking effect. The Government will continue to maintain a fair and stable environment to facilitate the sustained and healthy development of the property market.

"Helping the poor and needy" is one of the major policy objectives enshrined in this year's policy address. The public housing programme provides affordable and adequate accommodation to about 630 000 low-income families, enabling them to thrive in a stable living environment. Hence, the public housing programme has played an important part in enhancing the quality of living and promoting social mobility. Despite the financial stringency faced by the Government and the Housing Authority (HA) in recent years, our commitment to the provision of public housing remains firm. We will endeavour to keep the average waiting time for public rental housing at around three years so as to bring expeditious improvements to the living environment of needy families.

At present, the HA has a stock of over 600 000 public rental flats. The expectations for better services are constantly increasing, entailing a large scale of management and input of substantial resources. In the light of financial constraints, the HA should focus its resources, manpower and experience on the planning, construction and management of public housing in order to maintain the provision of efficient and people-oriented services as well as to meet the development needs of society.

The decision to divest the commercial properties in public housing estates through the listing of The Link Real Estate Investment Trust (REIT) is aimed to allowing the HA to focus on the provision of public rental housing. The divestment exercise was however challenged by a judicial review initiated by a public housing tenant just one day before closure of the public offering of The Link REIT. In the interest of prudence, the HA eventually decided not to proceed with the listing as scheduled. The HA is now actively preparing for the relaunch of the initial public offering and contingency plans will be mapped out to deal with different circumstances. The proceeds generated from the listing of The Link REIT will help to alleviate the HA's cashflow and will help to ensure smooth implementation of public housing construction programme.

On the other hand, the HA is facing a judicial review on its decision to defer the review of domestic rents of public rental housing. The final outcome of the judicial review will have far-reaching implications on the sustainability of the public housing programme. The judicial review underpins the importance of formulating a rational, clear and more flexible rent adjustment mechanism which reflects better tenants' affordability and allows both upward and downward rental adjustments. Subject to legal advice and progress of the judicial review, the HA will consult the public on the formulation of a new mechanism for setting and adjusting public housing rents.

It is in the long-term interest of the community to ensure that the public housing programme is sustainable. To achieve this, rational allocation of limited resources to address the needs of different sectors is of paramount importance. To meet the growing demand for public housing and to manage a large public housing stock, it may be opportune for us to consider, in the light of changing circumstances, whether we should review the current allocation arrangements, and whether we should adopt more effective and focused measures to ensure the most effective use of resources in assisting families in

genuine need. These are complex issues and will take time to resolve and drive towards a consensus. In the coming years, we will gauge the views of different sectors on these subjects with a view to strengthening our long-term housing strategy and maintaining the sustainability of the public housing programme.

In the past year, the Bureau has dealt with various controversial subjects. In the process, we have all along been adopting a positive attitude in putting emphasis on enhancing communication with Members and explaining to the public the Government's position and considerations. To conclude, the Bureau will have three key tasks in the coming two and a half years:

- (a) to promote building maintenance works so as to rejuvenate old districts;
- (b) for the overall planning of land use, we will strive to achieve a consensus on future land development from a macro perspective;
- (c) to examine the development strategy of public housing, enhance the sustainability of public housing and ensure optimum utilization of resources.

I sincerely hope that with the support of Legislative Council Members, we can actively pursue the above in the coming 30 months and work hard together to build a better Hong Kong on the basis of mutual trust, co-operation and reliance. Thank you, Madam President.

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

(in Cantonese): Madam President, the three areas for which the Environment, Transport and Works bureau is responsible — the environment, transport and works — are closely related and involve the implementation of the concept of sustainable development. Today, I am very pleased to hear Mr CHEUNG Man-kwong explain clearly the meaning of sustainable development at the beginning of the debate and express his support for this. A number of Members have also put forward very constructive views subsequently. I will consider every piece of their advice in detail. I would like to make a combined response to the three areas under my jurisdiction and explain to Members our considerations in formulating policies.

To start with, the first level concerns how to balance the three areas, namely economic development and effectiveness; social demand and development; and environmental improvement. Detailed analysis has to be conducted in advance. The second level concerns the role played by the HKSAR Government in the region and its positioning, that is, how work should proceed on the premise of building a closer, mutually beneficial relationship with the Mainland (particularly the Pearl River Delta (PRD)) on the environmental and transport fronts. The third level concerns how to balance demands from various sides through policies in recognition of the varying interests and considerations of different enterprises and individuals locally and regionally. We believe efforts have to be made in all areas for the purpose of promoting sustainable development. First of all, public recognition is required. In this connection, the Environment, Transport and Works Bureau has launched an extensive campaign to inculcate an awareness of sustainable development and environmental protection in members of the public through publicity and education. Moreover, we have undertaken outreach work jointly with professional bodies and non-government organizations, and promoted relevant educational projects through different bureaux, such as the Education and Manpower Bureau.

Economic incentives and effectiveness are also vitally important. For this reason, we have striven to strategically promote our policies in an economically feasible manner. Furthermore, the concerns or worries expressed by a number of Members today involve relatively complicated scientific arguments. For instance, Members have noted the falling visibility in Hong Kong. How could visibility have deteriorated by seven times over the past seven years? Is the poor visibility influenced by smog caused by pollution or changes in Hong Kong's climate? I have recently examined this issue with the Director of the Hong Kong Observatory. Today's visibility, for instance, is influenced by very usual weather. The weather is surprisingly foggy and humid at this time of deep winter. We cannot take this matter lightly, because the changes in global climate will produce an enormous impact on us. As regards the air quality objective (AQO), we have explained on numerous occasions that the strategy of my Bureau is to handle it with scientific analysis.

Here I would like to respond to issues pertaining to air pollution. I very much agree with several Members that regional co-operation is extremely important. However, we must make every effort to properly perform our task locally. On the transport front, since the introduction of low sulphur fuel and

the implementation of the scheme for taxis to switch to liquefied petroleum gas (LPG) in 2000, and with the imminent completion of the scheme for public light buses (PLBs) to switch to LPG, we have indeed witnessed an effective improvement in air pollution. Although Members might doubt whether we can really see the improvement for it might not be reflected in the AQO, we have indeed seen falling levels of nitrogen oxide and suspended particulates, particularly at roadsides. As such, in implementing various initiatives, it is imperative for us to examine whether they are really effective in solving the problems instead of wasting resources on doing ineffective work.

On environmentally-friendly vehicles, we have actively requested franchised bus operators to carry out improvement by speeding up replacement of environmentally-friendly vehicles. We have also requested the bus companies to explore the feasibility of switching to LPG buses. Our inability to put LPG fuel into extensive use is at present associated with LPG stations. Hong Kong is small but densely populated. As the LPG stations involve safety problems, a certain distance must be kept between LPG stations and residential areas. We are actively seizing every opportunity in the hope of setting up more filling stations so that we can further promote our objective of encouraging vehicles to switch to clean fuels.

Our transport policies go beyond fuel. We do have a comprehensive set of transport policies. Within our region, the PRD can become an excellent model. Exchanges in respect of policy intentions have a vitally important part to play in the air pollution improvement scheme jointly conducted with the Mainland. For these reasons, I have often said that co-operation should go beyond hardware. In software, ideas can very often be exchanged through a platform, that is, the Hong Kong-Guangdong Joint Working Group on Sustainable Development & Environmental Protection. At present, it is most important for major cities on the Mainland to improve the environment through public transport policies. While there are only 500 000-odd vehicles in Hong Kong, the number of vehicles in Guangzhou alone has reached 1.5 million. It is not a sustainable solution to allow the number of vehicles to grow indefinitely. As such, public transport strategies are vitally important. As for public vehicles in Hong Kong, I actually feel that their number in Hong Kong is excessive. In my opinion, the number of vehicles running on busy commercial districts should be reduced. In the past two years, we have actively reduced the number of vehicles by approximately 15% to 17%. We will continue to improve our overall transport.

As regards local power plants, we agree that natural gas is a right direction. I disagree with a Member who pointed out earlier that we were slower than Guangdong Province in adopting the initiatives. This is because we already formulated a policy in 1997 to disallow the construction of fuel-fired or coal-fired power stations. Instead, only power plants employing the full use of natural gas can be built. Insofar as desulphurization initiatives are concerned, it is not until now that the Mainland has started to formulate policies requiring old coal-fired power stations to retrofit desulphurization facilities. We have already requested power plants to adopt desulphurization in controlling total emissions.

As regards pollution in Hong Kong, it has been noted that pollution was particularly worse in September and October in the past two years, particularly in 2004. We are studying the relevant issues in the hope of understanding the crucial factors to enable us to prescribe the right remedy to the problem. The situation in Tung Chung is unique, with the figures recorded there being exceedingly high compared to other districts. Our air pollution index (API) uses the highest component as the standard. For instance, ozone would be used as the standard should there be an excessive high level of ozone. Actually, the level of other pollutants might not be as high. The formation of ozone, a product of photochemical reactions, is very complicated, involving even more complicated secondary reactions — I see that Mr LEE Cheuk-yan is nodding his head. Although we do not know which element has the most crucial part to play in this complicated reaction process, its level must be reduced before the situation can be improved.

This point leads me to volatile organic compound (VOC). I do understand that this is a matter of great concern to Mr FANG. It also manifests the relationship between industries, individuals and regions, as I pointed out earlier. Industries definitely dislike the Government targeting them in the control of VOC products. However, it has been shown by numerous studies that VOC could play a significant role in the production of photochemical smog, a matter of the utmost concern to Members at present. We will give detailed consideration to the responses received in the course of consultation and consider the capacity involved before determining our next move. We will not impose unreasonable control on certain people or industries specifically.

As for cross-boundary co-operation in controlling air pollution, Ms Audrey EU has repeatedly called for greater intensity. I can tell Members that the framework of the Close Environmental Partnership Arrangement was already established in 1999, and top leaders of the two places were responsible for chairing the meetings. Various meetings or work meetings have begun their research work since 2000. In 2002, some of our colleagues spent almost half of their time in Guangdong Province working with their mainland counterparts. There has been close co-operation between both sides, in research and understanding facilities alike. I believe the government of the two places have never, under the concept of "one country, two systems", co-operated as closely in any other area before.

We have also succeeded in setting up 16 monitoring stations in the PRD. Members might not understand very much our network of monitoring stations and why they are essential. We have set up these stations in the light of different industrial and commercial activities of different districts. Let me cite the first monitoring station as an example. I went yesterday to check the recorded monitoring results and found them very useful. This is because we would then be able to know in what weather and under what circumstances pollutants would affect Hong Kong, as well as finding out the wind direction, and then determine the angle we should look into the problem. When these monitoring stations come into full and smooth operation, we hope the Guangdong Provincial Government would agree publishing these results at an earlier date and uploading it onto the website to enable Hong Kong people to understand the entire air pollution problem. Every one of us must make an effort in tackling regional or local problems.

Why have I said the situation will worsen in two years before it can turn for the better? I am not making promises or predicting improvements indiscriminately. This is because I might no longer be in this post by 2007. Actually, there is a timetable for the entire project, and we know the number of power plants scheduled to complete their desulphurization works in 2007 and the fact that power plants fired by natural gas will begin operation starting from 2007 and 2008. Only in doing so can there be hope. I am not saying that our problems can be resolved by then. It is just that those very old and highly polluting power plants will be replaced by new ones. Only in doing so will there be a chance for air to be improved and can the rising demand for energy in Guangdong Province due to its constant economic growth be met.

Waste disposal is another issue mentioned by many Members. I am very pleased to note that so many people support the construction of a Recovery Park. Many have even questioned why the Park is built until so late. Actually, the Park is just an integral element of the green industry of waste recovery. I have often pointed out that there must be a comprehensive recycling chain of production before the recovery industry or recycling economy can sustain. This is because if we could only recover refuse whereas there is no such need in the market, the refuse would only end up being returned to landfills. Alternatively, if there is a shortage of supply of waste when we start up certain industries, we would be unable to develop a work process with commercial value. Therefore, we must ensure that every link of the recycling chain is perfect and effective before the green industry can further develop. At present, we have resolved one of the problems with land. Many value-added industries have repeatedly indicated to me their interest through the Federation of Hong Kong Industries. Moreover, many people from abroad have made frequent visits to Hong Kong and the Environment, Transport and Lands Bureau to introduce their green industries. There is a kind of industry which is highly automated and technologically advanced. One such example is the recovery of electronic waste, that is, the recovery of circuit boards. But why can Hong Kong not engage in this industry? First, the amount of investment, to the tune of \$200 million, is enormous. Moreover, the amount needs to be recovered is more than the total amount of waste recovered in Hong Kong. After analysis, we find that Hong Kong does not have the conditions presently to develop industries of this kind, unless we co-operate with Guangdong Province. We will carefully study every proposal. Let me cite the glass bottles mentioned earlier as an example. As there are no complementary production industries available in Hong Kong, glass bottles, even if ground into glass powder, would still need to go through a number of processes, such as transportation, and this is not cost-effective price-wise. On the contrary, since the announcement of the plan to build the Recovery Park, some work processes would be able to make use of this waste glass locally for the production of building bricks. I believe a business opportunity will arise if finished products can be manufactured here.

Meanwhile, we will undertake source separation and separation of dry and wet refuse in two years with a view to examining whether the rate of waste recovery can be enhanced so as to expand the sources of waste. There are 400-odd recyclable waste collectors in Hong Kong at present. The amount of recyclable waste is therefore limited. If our green industry can be developed, there will be a growing demand for waste, and the price of waste will naturally

rise. At the same time, more people will engage in recovery operations. Transport and storage returns can also be yielded in the course of production, thereby avoiding the situation in which transport charges might get even higher than the value of the materials.

The idea of product responsibility schemes is under active study now. The tyre recovery scheme we have launched has not been entirely satisfactory. I admit that there is a lack of market insofar as this scheme is concerned. This scheme, a product of collaboration between waste collectors and a university professor, is hugely successful in terms of work process research. This is because the process of separating the rubber and the metal carcass of tyres is enormously difficult. After the completion of the separation process, however, nobody wants the waste tyre. As a result, there is a huge accumulation of tyres. Ms LAU has also raised the point that there are some other industries in Hong Kong which have successfully made use of waste tyre to produce playground products. At the same time, the Government has assisted these industries in renting several places by way of short term tenancy to enable them to further expand their recovery business. Of course, upon the completion of the Recovery Park, manufacturers can make extensive use of various kinds of recyclable materials for the production of products. Moreover, they can operate with assurance that they will not need to relocate their plants frequently.

But why is it essential for us to undertake so much recovery work? As I have mentioned repeatedly, if we are to collect domestic waste charges from the public, we must provide them with conditions for recovery. In other words, under the "polluter pays" principle, the public must be given a chance to reduce their waste and thereby pay less in refuse charge. This is why we are making every effort to perfect our system. At the same time, we have seen from overseas experience that, even if recovery is properly carried out, there is still a need for landfills. Moreover, we have to continue exploring the feasibility of incinerators. In the long term, the use of landfills is not a sustainable solution because landfills will exert enormous pressure on land and lead to deserted land in the long run. In the short run, however, we still need to dispose of our refuse, amounting to hundreds of tons daily and 20 000 tons annually, at landfills. With the application of modern scientific methods, and after prolonged use of incinerators by many advanced countries, it has been proved that the emissions of incinerators will not produce toxic or harmful substances. At the same time, incinerators can directly turn waste into energy. It is a way of turning waste into energy. I agree with Miss CHOY So-yuk that we must do

our best in recovery and reuse. Waste reduction is also one of our targets. However, we still need to dispose of some remaining waste at landfills or using incinerators.

Total water management is also a matter of concern to Members. The three issues, namely fresh water, sewage and reclaimed waters, have been raised in the policy address. The problem with fresh water will always arise subsequent to population growth in a community. The occurrence of a drought in Guangdong Province this year has all the more highlighted this problem. For this reason, long-term planning and policies are absolutely essential for the purpose of determining how to use less water as far as possible, how to treat sewage, and how we can have a chance to use reclaimed waters. Another scientific exploration and analysis is about the desalination of sea water. This scheme has proceeded very smoothly. It has also come to our attention that costs have fallen substantially. On sewage treatment, the "polluter pays" principle must be implemented by levying sewage charges. We have begun planning a fair method of charging. We will review both sewage charges and surcharge to enable us to, apart from disposing millions of tons of sewage, formulate a fair policy under which users will have to pay. The Government will also constantly improve its sewage treatment methods to include reclaimed waters in our water resources.

Conservation is also a very important area. We have discussed matters pertaining to this area through different channels and with Members of rural background. We do understand that this issue is related to the interest of the entire community.

On transport, I heard that Members agreeing and disagreeing with our railway policy were almost equally split. As such, our policy concerns mainly how to rationalize various modes of transport. It is acceptable to all that railway should form the backbone of our transport system. Cross-boundary projects are even more complicated. It was very strange that Mr LAU Kong-wah should propose a double-Y proposal, because this project is extremely controversial in our cross-boundary discussions. It has already been stated clearly by the Ministry of Communications that it is a single-Y proposal as the project is going to have significant implications to the entire region.

As for public works, we will maintain the expenditure on public works at \$29 billion annually, but not for the sake of ameliorating unemployment. We

have to consider the need for various projects. We have employed many workers in other maintenance and repairs works. In the end, we must consider the feasibility of the projects. As regards open nullahs, we have made it very clear on this occasion that open nullahs would only be constructed when it is considered feasible from the engineering angle and when it is permissible in terms of flood control. Therefore, we will not proceed without detailed consideration.

I have elaborated several policy areas very quickly. I hope Members can give us more opinions in the future so that we can work together in promoting government policies.

**PRESIDENT** (in Cantonese): We have concluded the five debate sessions.

**PRESIDENT** (in Cantonese): Ms Miriam LAU, you may now speak on the amendment. You have up to five minutes to speak.

**MS MIRIAM LAU** (in Cantonese): Madam President, according to the established practice, the Motion of Thanks was proposed by me in my capacity as Chairman of the House Committee with the consent of all Members of the House Committee. In accordance with the Rules of Procedure, Members may propose an amendment to a motion of thanks. The amendment by Mr LEE Wing-tat was proposed by him in his personal capacity. Neither has the amendment been discussed by the House Committee, nor does it represent a consensus of Members. As I am now speaking in my capacity as Chairman of the House Committee, according to the established practice, I will not, and it is not advisable, nor is it appropriate, for me to, express my personal views on the amendment. Neither will I urge Members to support, or not to support, Mr LEE Wing-tat's amendment, and I should leave it to Members to decide on their own how they will vote.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): I now call upon Mr LEE Wing-tat to move his amendment to the motion.

**MR LEE WING-TAT** (in Cantonese): Madam President, I move that Ms Miriam LAU's motion be amended, as set out on the Agenda.

**Mr LEE Wing-tat moved the following amendment: (Translation)**

"To add ", but as the policy address has failed to fully identify the inadequacies and put in place a democratic political system, this Council expresses deep regret and urges the Chief Executive to expeditiously propose the election of the Chief Executive and all Members of the Legislative Council by universal suffrage in 2007 and 2008 respectively, to enhance the Government's accountability and the standard of its governance, so that the Government can follow public opinion more closely and improve its governance" after "That this Council thanks the Chief Executive for his address"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEE Wing-tat to Ms Miriam LAU's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, 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 amendment.

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 Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, seven were in favour of the amendment and 20

against it; while among the Members returned by geographical constituencies through direct elections, 26 were present, 15 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Ms Miriam LAU, you may now reply and you still have nine minutes 23 seconds.

**MS MIRIAM LAU** (in Cantonese): Madam President, I believe I will not exhaust all my speaking time because I will only make several points of simple responses, so as to bring this debate to an end as soon as possible. I hope today we can complete all the remaining items on the Agenda.

As shown in the three-day debate, the arrangement of holding debate sessions according to the different policy areas has proved to be generally satisfactory. As in the past, the motion of thanks debate is held two weeks after the release of the policy address, so that Members can be given more time to make proper preparations for the debate, thus ensuring that the debate can be conducted both extensively and in greater depth. During the five debate sessions, as promised by the Chief Secretary for Administration, the accountable officials have participated in the debates as arranged. This has made the debates more focused, thereby enhancing the efficiency of discussions. I note that, having listened to the points or the questions raised by Members, many of the accountable officials responded to such points or questions in a more focused manner. Of course, their responses may not necessarily be agreed by Members. But they did give their responses and this should be considered as a kind of progress. I hope in the days ahead, the officials can do even better in giving responses in this regard.

I believe that, after learning from the experience gained in the debates during the past four years, we shall be able to keep on improving the arrangements for future debates on policy addresses, and they will become even better. However, as I said in the past, a good arrangement for conducting the debate on the policy address is not sufficient; the key to really enhancing the efficiency of discussions in the Legislative Council lies in the relationship between the executive and the legislature.

On improving the relationship between the two parties, I have earlier on pointed out that, I hope the Chief Executive can take the lead in actively considering increasing the frequency and duration of the Chief Executive Question and Answer Session. Meanwhile, accountable officials should attend meetings of Legislative Council panels as far as possible, so as to strengthen the communication between the Government and the Legislative Council, thereby giving full play to the functions of the Accountability System for Principal Officials. I also note that the Chief Secretary said in response that accountable officials would attend our panel meetings and other meetings as far as possible. However, the question is: What is the yardstick of "as far as possible"? I very much hope that the accountable officials can consider attending such meetings as their duties, and that their absence from such meetings as only exceptional occurrences. Should the officials adopt such a mentality, then they should attend the vast majority of such meetings.

As a matter of fact, the Chief Executive has mentioned his intention of improving governance in the policy address. He mentioned various ways of improving governance. But he has indeed overlooked the importance of strengthening the relationship between the executive and the legislature. According to our experience, we know that if the Government is really sincere in establishing a partnership relationship with the Legislative Council, its work of formulating policies will surely have a much higher efficiency and stands a greater chance of getting the endorsement of the Legislative Council as well as securing the support of the various sectors of the community, thereby resulting in smoother administration on the part of the Government. I hope both the Government and the Legislative Council can work in this direction.

Madam President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Miriam LAU, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms Miriam LAU rose to claim a division.

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

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

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

Functional Constituencies:

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, 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, Mr Patrick LAU and Mr KWONG Chi-kin voted for the motion.

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 against the motion.

Geographical Constituencies:

Mr James TIEN, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted for the motion.

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 against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 28 were present, 21 were in favour of the motion and seven against it; while among the Members returned by geographical constituencies through direct elections, 28 were present, 10 were in favour of the motion and 17 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.

**(Motions originally scheduled to be moved at the last Council meeting)**

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

First motion: Introducing a fair competition law for the oil industries.

**INTRODUCING A FAIR COMPETITION LAW FOR THE OIL INDUSTRIES**

**MRS SELINA CHOW** (in Cantonese): Madam President, last year, Hong Kong economy finally rid itself of deflation, thanks to the recovery of the property market and the retail industry. However, spiralling oil prices have brought great hardships to the affected industries. According to some members of the transport industry, owing to high oil prices, their monthly oil expenses have gone up by \$2,000 to \$3,000. Even the fishery industry saw the prices of sea fish

rise by 30% late last year due to rising fuel expenses. Spiralling oil prices have also driven the costs of plastic material upward, thus greatly raising the costs of local manufacturers. Even laundry shops, relying on a great variety of oil by-products to operate, were once poised to raise charges by 10% collectively. The impact of oil prices on the local economy can be felt everywhere, so to speak. There should be no cause for complaint if the public must bear with high oil prices purely because of rocketing international oil prices. However, is the actual situation really so simple? Or is it because the local oil industries are influenced by other human factors, such as oligopoly or collusive price fixing, and, as a result, local oil companies have often acted quickly in raising but slow in lowering oil prices, or even synchronized the adjustments? Have oil companies reaped exorbitant profits, thereby injuring the interest of consumers? Recent signs have indicated that the industries seem to be confronted with six major problems, and this situation must be addressed. This is also the main reason for me to propose this motion today.

First, oil companies have been quick in increasing but slow in lowering oil prices. Let me cite a few examples: According to the monthly statistics provided by the Census and Statistics Department, from January to November last year, imported unleaded petrol (ULP) saw its average unit import price increased six times in total. At the same time, the monthly pump price of ULP almost followed in going up on every occasion. However, during the same period, the monthly average import price was reduced four times, whereas the monthly pump price was reduced only three times in Hong Kong. There was even a strange phenomenon that, despite a fall in import price, pump price had risen instead.

Second, synchronized adjustments in prices. Last year, five local oil companies almost simultaneously adjusted their prices of ULP and ultra low sulphur diesel (ULSD) 12 and 11 times respectively. So long as one oil company took the lead, other oil companies would follow immediately in less than a day at a surprisingly synchronized pace.

Third, many consumers feel that the oil companies are reaping exorbitant profits, accusing them of "profiting excessively". For instance, the post-duty price of ULP in Hong Kong is nearly 94% higher than that in the United States, 90% and 92% higher than that in the United Kingdom and Canada respectively. Even when compared with its most expensive counterpart in Japan, it is still 40% higher.

Fourth, the local oil companies have indirectly forced the public to use expensive oil by supplying only ULP with an octane value of 98, but not petrols with an octane value of 97 or 95. In contrast, petrols with an octane value of 98, 97 and 93 are supplied in Shenzhen for the choice of motorists. There is a difference of \$0.97 per litre in the pump price of Octane 98 petrol and that of Octane 97 petrol. If Hong Kong oil traders can, like those in Shenzhen, provide petrol of different grades to motorists so that they can choose the more expensive or cheaper one as they like, the public can definitely save some money.

Fifth, the oil companies have often complained of expensive import costs of fuel and there is no room at all for profits to be made. However, according to the information provided by the Census and Statistics Department (let me cite the figures of October 2004 as an example), the local post-duty pump price of ULP was 103% higher than its weighted average import price, and even 115% higher than that of green diesel. In other words, the pump price is more than double the average import price. The profits thus reaped should be substantial.

Finally, the pump prices of petrol supplied in oil stations throughout the territory are more or less the same. By logic, there should be a difference in the operating costs and rents of different districts and filling stations. However, the pump prices of petrol sold in these stations are always the same. Why? The oil companies have always defended themselves by saying that the pump prices have included various concessions. However, the oil companies have always acted like talking to themselves. Their discounts are never transparent. How many consumers, motorists do make their choices based on different prices?

Here I wish to quote the findings of a public opinion poll recently conducted by the Liberal Party. Nearly 80% of the respondents agreed that oil companies had been quick in raising but slow in lowering prices. 60% felt that the adjustments in prices were excessively synchronized. 65% were of the view that there was monopolization in the oil industries. Nearly 80% agreed that a focused fair competition law should be introduced. Actually, the Liberal Party's proposal of enacting legislation is extremely mild. As usual, we disapprove of the enactment of a sweeping fair competition law. Neither do we support the Government controlling oil by way of legislation for this will impede free market operation. We seek to:

First, to enact legislation to criminalize possible horizontal price fixing in the oil industries and vertical price fixing between oil suppliers and retail filling stations with a view to ensuring price competition.

Second, to empower the Secretary for Economic Development and Labour by way of legislation to investigate and obtain financial information of oil companies so that he can analyse in an in-depth manner as to whether there is collusive price fixing among oil companies. As such information is mostly sensitive in nature, it must not be made public indiscriminately in order not to undermine the privacy protection to which the operators are entitled in a level playing field. The Liberal Party therefore considers it most appropriate for the Secretary to exercise this power to investigate and obtain the information.

Third, legislation should ensure the transparency of the pricing mechanism of the oil industries and safeguard the right of the consumers to make their choices freely in the light of price competition. In other words, we are forced to enact legislation in the hope of providing the public with minimum consumer protection with the least vigour.

The Liberal Party is convinced that merely relying on legislation is not enough to convince the public that there is competition in the oil industries. While legislation can eliminate oligopoly, other complementary reform initiatives are needed for the purpose of promoting a healthy competitive environment. These initiatives should include, among other things, considering introducing more competitors and preventing oil companies and retailers from forming themselves into a cluster in the same district for they can then manipulate the prices in a certain district.

Furthermore, our neighbour, Singapore, has managed to keep its oil prices persistently at a low level because it has its own oil refineries. Hong Kong should therefore seriously consider the feasibility of constructing refineries to achieve the purpose of controlling quality and quantity, as well as lowering prices. Of course, we will not underestimate the feasibility of this proposal or acceptance by the community. However, in-depth consideration is warranted.

All these are just preliminary proposals. It would be best for the matter to be handed to the Competition Policy Advisory Group (COMPAG) to conduct in-depth studies and present a feasibility report expeditiously. The COMPAG itself should enhance its representativeness and professional standard. In doing

so, it can more effectively assist the Government in identifying an ideal package for the purpose of realizing fair competition in the oil industries and rebuilding public confidence.

Nevertheless, I wish to give a fair comment in the end. When we are heading in this direction, and while legislation is being considered, we should give operators of oil companies ample opportunities to express their views to ensure absolute fairness and openness.

In the course of drafting this motion, I had met with representatives of oil companies to listen to their requests and views. Some oil companies stated that they were actually very pleased to provide information to the Government and had indeed done it. Unfortunately, not every company was willing to do the same. Therefore, this approach seemed a bit unfair instead. Statutory regulation can ensure that this phenomenon will not occur. At the same time, the Government will have to assume the responsibility of ensuring fairness. This will prevent the Government from "making verbal coercion" just because the public is vocal and doing nothing if the public keeps quiet. Instead, it should really justify its actions with reasons.

The market in Hong Kong is small. Over the past couple of years, the Government has changed the rules of the game in granting land for the construction of liquefied petroleum gas filling stations and filling stations with a view to introducing more competition. However, this seems a bit unfair to companies which are prepared to make enormous investments in building oil depots. In any case, it will benefit both the oil companies and consumers if a fair set of rules of the game can be formulated in the sector by way of legislation for compliance by all competitors. In the course of enacting legislation, all parties must be given opportunities to make representations. At the same time, the authorities should seriously grasp the matter and make an in-depth judgement, thereby making a decision that is most beneficial to the entire community.

Madam President, I so submit.

**Mrs Selina CHOW moved the following motion: (Translation)**

"That, as the adjustments of local oil product prices are always quick in going up but slow in coming down and the pace of price adjustments by

various oil companies tends to be synchronized, while oil product pump prices often fail to truly reflect import costs, this Council urges the Government to actively consider introducing a fair competition law and other effective measures for the oil industries, including requesting the Competition Policy Advisory Group to take heed of any unfair mode of competition that may emerge in the local oil market, and entrusting the Group to monitor and study the situation, with a view to increasing competition in the oil industries and enhancing the transparency of product prices, thereby avoiding oligopoly, promoting fair competition and safeguarding commercial clients and the public against high oil prices."

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

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing and Mr Fred LI will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the two amendments will now be debated together in a joint debate.

I will call upon Mr WONG Kwok-hing to speak first, to be followed by Mr Fred LI; but no amendments are to be moved at this stage.

**MR WONG KWOK-HING** (in Cantonese): Madam President, I move that Mrs Selina CHOW's motion be amended, as printed on the Agenda.

The motion debate today involves two issues: the prices of local oil products and promoting fair competition in the Hong Kong market. Within the short span of three months since the beginning of this Session, these two topics have already been raised on separate occasions. It can be seen that these issues do have urgency and everybody is concerned about them.

In fact, the prices of fuel in Hong Kong have always been the subject of criticisms. If Members look up the records, they will find that Honourable colleagues of this Council are very concerned about this issue. In every term of

the Legislative Council, different Honourable colleagues moved motions to debate this subject. I still remember that in November last year, a motion to debate issues relating to the duty on local ULSD was moved in this Council. At that time, someone pointed out that even if the duty was further lowered, it would definitely not be local professional drivers, but rather, local major oil companies that would stand to gain. The same comments and viewpoints were raised in this very same Chamber on 15 November 2000. Unfortunately, the Government did not respond to us or the demands of the public by adopting any measure in response but left professional drivers to the oppression of oil companies and allowed major oil companies to manipulate fuel prices. Had the Government taken our demands seriously and embarked on reforms back then, how would this problem have dragged on year after year?

Although each year, representatives of oil companies would be invited to the meetings of the Legislative Council Panel on Economic Services to discuss the topic of retail prices of oil products, unfortunately, the information that oil companies provided to us was meager. I understand that oil companies can refuse to disclose information on how prices are determined on the grounds that it is commercial secret, however, I can in no way agree with the use of "commercial secret" by oil companies as a licence for refusing supervision by the Government and cleanly forgetting the collective interests of society. Such an action is simply a slap in the face for the economy and rule of law in Hong Kong! Take the spike in crude oil prices in 2004 as an example, when oil companies kept raising prices on the grounds that the price of crude oil in the United States had soared from over US\$20 per barrel to over US\$50 per barrel. However, today, although the price of crude oil has fallen to some US\$40 per barrel, by how much has the prices of various oil products been reduced?

Oil companies may reply that they have offered rebates to consumers by various means, such as discounts and concessions. Please note that the word they use is "concession". As far as this word is concerned, it means that this is not something to which consumers are justly entitled. To put it more harshly, this is the dole handed out by oil companies. Although there is more than one oil company in the Hong Kong market, given that they set their prices in a uniform manner, do the Hong Kong public really have any choice?

Since Mr TUNG has talked about identifying inadequacies in his policy address this year, I hope our SAR Government can really put this theme into

thorough practice. Monopolization in the oil industries is a widely recognized fact. What I find even more pathetic is that such a situation has also occurred in other industries in Hong Kong, for example, in supermarket chains and power supply in Hong Kong. From these examples, we can see that without competition and effective monitoring, one can say that the Hong Kong public are preyed upon at will. Just think about this. The two major supermarket chains in Hong Kong have complete control over the prices of the daily necessities of the public. A very obvious example is that earlier on, when the Hong Kong economy was still in deflation, the prices of daily necessities and food in the two major supermarket chains bucked the trend by not falling but rising. Furthermore, if the suppliers of certain goods supply their goods to other shops, they will be boycotted by these two major supermarket chains and no goods will be ordered from these suppliers, so that they will lose out on a huge market. Such a business practice of doing harm unto other people to benefit oneself and of strangling other small supermarkets or stores is downright despicable. It is also possible to see the scourge of oligopoly in the tariff increases made by the two power companies. The two power suppliers claimed that the profits made were not satisfactory and they had not earned enough. Despite the opposition from the public and from the Panel on Economic Services of this Council, they still insisted on the tariff increases and on going their own way. However, if we look at the performance of the two power companies, we will see that each of them made a profit of \$5 billion last year. What has our Government done to help the public counter the exploitation by these consortia?

Madam President, the reason that such situations have emerged is that the Government has always believed blindly in free economy, saying that we should have "big market and small government". Is a completely unregulated market a free economy? Is an uncontrolled market equivalent to a free economy? The answer is of course in the negative. Since the Government has to identify its inadequacies, I call on all government departments to right their misguided concept of free economy, so as to change the present monopolistic business environment. I hope the Government will seize the opportunity offered by this motion debate in the Legislative Council on this occasion to understand the discontents of the public with the oligopoly formed by consortia and large companies, so that it can be compelled to enact legislation to monitor monopolistic situations involving the supply of basic necessities to the public. Otherwise, how can this Government, which robs the poor to benefit the rich, convince us that it will really be people-oriented? In what way does this Government think what the public think and address people's pressing needs?

Finally, I hope the Government can enact legislation to change the situation of market manipulation by oil companies. However, this is by no means the end of the matter. The most important thing is that the Government should begin by monitoring oil companies and then go one step further by formulating a comprehensive set of fair competition laws and other effective measures to enable the public to truly experience the benefits of free economy, rather than being subjected to the ravages and exploitation of consortia.

Madam President, I so submit.

**MR FRED LI** (in Cantonese): Madam President, Mrs Selina CHOW, mover of the motion, said that she had contacted some oil companies. Some oil companies have also contacted us. In our discussions with them, the oil companies, at least Esso Mobil, clearly stated that they would support my amendment to introduce a comprehensive fair competition law and they appreciated that my amendment does not target on them alone. I do not know if other Honourable colleagues have also got this message. The oil companies ask why a trade should be made the target for, as they say, in the United States, there is no anti-trust law against a particular trade. Such a law would make all trades and industries its target. I do not know if Mrs Selina CHOW has got such a message.

As we all know, and I think the Secretary knows it as well, the Democratic Party supports the introduction of a fair competition law. We oppose the introduction of a fair competition law for some particular trades selectively, because so doing will not be tackling the problem at root. My amendment proposes that a fair competition law be introduced and that the existing COMPAG be reformed because the latter is a toothless tiger and so it should be vested with statutory powers of investigation before fair competition principles can really be realized.

I think the people of Hong Kong have formed a deep impression that the adjustments made to local oil product prices are always quick in rising but slow in dropping. Such an impression cannot be changed easily. From the paper submitted to this Council by the Economic Development and Labour Bureau in December, it can be seen as further proof that such a situation does exist. In addition, as seen from the adjustment to prices on many occasions, there is

synchronized action from the oil companies. Such a team spirit among the oil companies in Hong Kong is rarely seen elsewhere in the world.

In the morning of 7 December, the District Council members of the Democratic Party and I saw international oil prices fall from the peak of US\$55 per barrel to US\$43 per barrel, but such a dramatic fall was not reflected in the local oil prices. Therefore, we went to Caltex and Esso Mobil to stage a protest. On the same day, the Secretary said on a public occasion that there was room for the oil prices to be reduced. What a coincidence. We took action and the Secretary spoke out. Then the oil companies announced in the evening of that same day that oil prices would be reduced. It was the first time I saw the executive authorities and the legislature joining hands to reduce oil prices successfully. That is really a pleasant surprise.

Having said that and as the freest economy in the world, Hong Kong should not let its oil prices to be subject to any paternalistic meddling by officials, but more importantly, we should not see synchronized action from the oil companies in adjusting prices. Let me cite an example. The Fair Trade Commission of Taiwan made a ruling in October 2004 on the simultaneous same-rate price increases made by Chinese Petroleum Corporation and Formosa Petrochemical Corporation on more than 20 occasions. The Commission ruled that the companies had violated the Fair Trade Law provisions against concerted action. A fine of NT\$6.5 million was imposed on each company on the power of evidence collected which signified "any other form of mutual understanding" that could lead to uniform actions due to a "meeting of minds". From this case it can be seen that synchronized actions of the oil companies can be resolved by legal means. However, everyone must be equal before the law. As I have said just now, I have approached the oil companies and they only object to their trade being singled out as the target of a fair competition law.

In addition, there are indeed technical problems if a fair competition law is introduced for an individual trade. It will also be hard to eliminate monopolization straddling different trades. Examples abound in such cross-sector monopolies in Hong Kong. We see the tentacles of the giant developers stretching to various trades, including transport, retail, and even insurance and health care. These developers will impose unfair and unequal terms and conditions in the sale and purchase agreements of their flats. Residents are compelled to use other services from the group. A well-known case is Banyan Garden. There the developer compels the residents to use the telecommunication and out-patient medical services provided by companies of

the same group. In the shopping malls of a certain developer, we can only find supermarkets of that group and no other supermarkets. So consumers are left with no choice and they are forced to patronize these supermarkets if they want to shop on the way home.

Madam President, apart from urging for the introduction of a comprehensive fair competition law, we also urge that the COMPAG be reformed. This is because under the existing mechanisms, the COMPAG cannot handle matters in connection with fair competition. The COMPAG has been set up for seven years and the main purpose for its establishment was to respond to pressure from the Consumer Council back then. The Government did not want to legislate on fair competition, nor did it want to set up a fair competition commission. That was why this toothless tiger came into existence. All the COMPAG does is to issue an annual report every year, and that is all. In terms of functions, the COMPAG only has a very low transparency, and it does not have a secretariat of its own and insufficient resources to conduct investigations. Over the years the COMPAG has received only 85 complaints. It handles one complaint case on average monthly. Rarely does it make any efforts to publicize an awareness of fair competition. There are no education initiatives at all. The COMPAG is passive when it comes to investigations, it will only follow up complaints and it will never make a pre-emptive strike. The Consumer Council has investigated into many cases of alleged violations of fair competition. But the COMPAG is not vested with any statutory powers to conduct investigations or demand any rectification be made. Even if some problems are identified, the COMPAG does not follow up as it is powerless.

In view of all this, the Democratic Party urges the Government to review the functions of the COMPAG and the policy to promote fair competition. We suggest that the word "advisory" be struck off from the name of COMPAG so that it would become the Competition Policy Group. Hence, its advisory function will cease to exist. Moreover, the Government should also vest the COMPAG with investigative powers so that it can demand information from institutions and companies under investigation. Besides, the COMPAG should take the initiative to investigate into practices which impede fair competition and it should not sit on the problems until they get out of hand.

On the members of the COMPAG, we think its membership should be extended to include scholars and legal professionals conversant with fair competition laws, as well as members of the public, professional bodies, the

business sector, and even Members of this Council. This will make the COMPAG more representative. But the most important thing is that a fair competition law should be made the basis of its enforcement action. The COMPAG should also be given sufficient powers to demand or supervise companies and institutions to rectify any anti-competitive practices.

The introduction of a comprehensive fair competition law is to be seen as an end and reforming the COMPAG is the means. Fair competition is possible only when these two interact. It is only then that the rights of consumers can be protected and that Hong Kong can be made more competitive.

I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, Secretary John TSANG said at the beginning of this month in response to Hutchison Telecom's retrenchment to the effect that one should not do any business if he is afraid of competition. This is a resounding argument lashed at those who oppose to enacting a fair competition law.

As a matter of fact, Hong Kong has all along been advocating a level playing field and we in Hong Kong believe if only we have the abilities, someday we can be successful. This is part of the core values of Hong Kong. Unfortunately, when we say that we want to enact a fair competition law, we are met with opposition from companies claiming to be competitive.

We cannot help but ask: If these companies are so competitive, then why are they afraid of a fair competition law? A fair competition law will not be used to confiscate their properties. It is only used to ensure that we will have a fair and reasonable environment for competition. It is like what the Government says when it wants to raise the fines, that is, there will not be any need to be afraid of an increase in the fines if we do not break the law. It therefore follows that if these companies do not engage in any anti-competitive practice, there will not be any need for them to be afraid of a fair competition law.

It is precisely because of the existence of unfair competition in many trades and some consortia or some institutions reap a lot of benefits from unfair trade practices that we urge that legislation be enacted.

This topic has been discussed in this Council and in the former Legislative Council before the reunification no less than six times. Madam President, on every one of these six occasions, it is because of the existence of some situations in certain trades which are unacceptable that a debate is held.

In 2001, for example, I proposed a discussion on this topic because some container truck drivers thought that there was monopolization by the river trade terminal and they had a hard time making a living. Last time, that is, in October 2004, the topic of a fair competition law was raised for discussion because a housing estate in Cheung Sha Wan factored the Internet access fees into the management fees and the residents were forced to buy the services of a telecommunications company run by the same boss of the management company of that housing estate. The reason we have to discuss this topic again is the oil companies have all along been quick in raising the prices and slow in reducing them. This is especially noticeable recently and so we have been forced to bring the topic up again for discussion.

Regardless of the number of times we discuss this topic, we can still see monopolization in these trades and there are more and more variations of the same theme. That is why in our opinion, laws cannot be legislated in one single way, that is, on one trade.

In the past, some supermarkets formed a horizontal alliance with the distributors to repel competition. In public transport there is a franchise system to bar other competitors from entering the market. We also notice that there are some very special acts of monopolization and these results in other institutions being denied room for survival. Therefore, we think that this kind of unfair and unreasonable competition should not be allowed to continue.

We can see strange phenomenon in the supply of oil products, and the situation is far worse. Compared with countries like Japan and Singapore, where the land prices and wages are more or less on par with those of Hong Kong, their fuel costs are not as high as ours. Seen from many aspects, I think there are unfair and unreasonable conditions and these must be rectified by enacting a law.

The original motion and the two amendments today all recognize the need to enact a fair competition law. The difference is that the original motion says that such law should only be enforced in individual trades. Madam President, incidentally, the policy address this time mentions the issue of fair competition,

but it is strange to note that the contents agree to the idea of enforcing such a law in individual trades. I do not know if this is a case of transfer of interest in disguise to some political parties. But this is not the topic we have to discuss today. Our topic is fair competition.

We must point out actually that the problem of unfair competition is widespread and it exists in many trades such as in the supermarkets, fuels and transport trades which I have mentioned. The most important point is that we do not know where such anti-competitive practices will appear in which trades. That is why I think a comprehensive fair competition law should be enacted.

Unfortunately, some Members still think that the law should be introduced in individual trades. This is a piecemeal approach to the problem. If we think that the law should be trade-specific, then when problems arise in other trades, we will not be able to do anything in advance. Come to think about this. Today we want to target the oil companies and legislate and we do not do anything about the other trades, but does it mean that we will legislate when problems crop up? The question is, if we legislate when problems arise, then there would already have been victims. How are we to compensate these victims? So we cannot do it like this.

In addition, a trade-specific approach to legislation will lead to the problem of a narrow vision. Intricate relationships exist among various trades. As I have said, a management company may have a parent company which has business in telecommunications, newspaper delivery, or even health care services. If these companies use the excuse of offering one-stop services and compel residents to pay for such services in the management fees, and if we just have one law to deal with management problems, that will not serve to stop such acts and tackle problems arising in other aspects.

Madam President, more than 80 countries and places in the world have introduced a fair competition law. Even in places economically less advanced than us, there are laws to prohibit collusive pricing, manipulation of prices and abuses of market dominance. Therefore, we think that we must enact legislation to prevent all these. However, some people may think that even though other people may have enacted legislation, there is no need for us to follow suit. Madam President, I would like to put the question the other way round: What is wrong if we follow suit? If doing what others have done is good for Hong Kong, then why not?

Those people who oppose enacting such a law would usually retort by citing the example of the liberalization of the power market in the United States. They argue that the anti-trust law has led to the emergence of a great number of power companies, hence vicious competition and unstable power supply. But, Madam President, I would like to point out that the promotion of fair competition is meant to reduce monopolization and foster greater market accessibility. However, that does not mean that competitors will not be subject to any regulation. As in the case of some public utilities, the Government must impose some regulation on the financial strength and commitment of the investors.

**DR RAYMOND HO:** Madam President, recently Hong Kong is again ranked as the freest economy in the world. It has already enjoyed this reputation for 11 years. To accelerate economic revival, it is necessary for us to maintain this status. Under these circumstances, I cast doubt on whether we should introduce a fair competition law in Hong Kong.

In the 1980s, Hong Kong's economy grew very rapidly. One of the reasons accounting for it was the absence of government intervention. As a result, enterprises enjoyed free competition and multinational firms were happy to set up their regional offices or even headquarters in Hong Kong. For example, Yaohan, a Japanese department store, relocated its headquarters from Japan to Hong Kong. The relocation was mainly attributed to the enterprise's confidence in Hong Kong.

The 1980s and the first half of 1990s were Hong Kong's heyday. Since the 1997 financial crisis, Hong Kong's economy has regressed drastically. During these years, with the fast development of mainland China and its accession to the World Trade Organization, Hong Kong is faced with a number of questions — will it be surpassed by Shanghai and other fast developing coastal cities and will its role to foreign investors be sustainable? Undeniably, with the opening of the Chinese market, multinational firms have an easier access to the market than before. Under these circumstances, Hong Kong has to keep its competitive advantages in order to make it attractive to investors and among which is the Government's *laissez-faire* policy. Having the background and implications of introducing a fair competition law, we should now discuss whether law of this type should be introduced for the oil industries.

Oil products are used not only by drivers but also other industries such as transport and manufacturing. On the other hand, oil products are complementary products of the automobile industry and consequently oil prices have an impact on it. If a fair competition law is to be introduced for the oil industries, why not introduce for these and other industries as well? My point is that action should not just be taken on one particular industry, otherwise it will be against the principle of fairness.

Hong Kong's economy is reviving. To speed up the revival, the Government should create a good business environment instead of disrupting it. In the 2005 policy address recently announced by the Chief Executive, Mr TUNG Chee-hwa, emphasis has been given to the need for a good business environment. I do support this principle.

Madam President, I so submit. Thank you.

**MISS TAM HEUNG-MAN** (in Cantonese): Madam President, places all over the world like the United States, Canada, Japan, South Korea, and so on, have a fair competition law in place. This applies to our Motherland as well. Hong Kong is an economically advanced place and an international financial centre, rated as the freest economy in the world by the Heritage Foundation of the United States for 11 years in a row. But we do not have any fair competition law. This will undoubtedly undermine our business environment and make us less competitive.

All along I have supported enacting a fair competition law as it can prevent market monopolization by the giant consortia. With such a law, the small and medium enterprises are given more room for development. As progress will only be possible with competition, the introduction of such a law will raise product and service quality and protect consumer interests.

Take the example of supermarkets. Now the two major supermarket chains are dominating the market and there is no way for consumers to compare prices and make a choice. So unless new competitors have a huge amount of capital, they will find it very hard to enter the market. In the end, it is the public at large who is to suffer.

In contrast, the telecommunication market is an example of the successful introduction of competition. Before the liberalization of the telecommunication market, the people had to bear with expensive telephone tariffs. Since the market was liberalized, many companies have entered the market and competition begun. As a result, telephone tariffs become cheaper and service quality has been enhanced.

A focus of our debate today is the oil industries. This is precisely because no competition law has been introduced and the oil companies in Hong Kong act uniformly in matters related to price adjustments. As competition in terms of prices is lacking, these companies manage to reap huge profits. An oligopoly is thus formed. That is why the prices of oil products in Hong Kong go up quickly but come down slowly. Consumers can do nothing about this unreasonable situation and they are totally at the mercy of these oil companies.

According to a research report compiled by the Consumer Council in 1999 on competition in the automobile, diesel and LPG markets, the oil products market is highly concentrated and there is substantial obstruction to market entry. The report also points out that the after-duty retail prices of oil products in Hong Kong are still higher than that in many other countries.

The Consumer Council in its report made 11 recommendations to the Government to promote competition and enhance consumer protection. What the Government has done since is that new arrangements for tendering of filling station sites were introduced since June 2003. In the past, tender is invited for each site; but under the new arrangements, a lease is granted for five sites at one time. But this measure alone cannot help keep monopolization in the oil products industry at bay.

The crux of the problem is that the Government must introduce a comprehensive fair competition law and adopt other effective measures to promote competition.

The Government must set up a fair competition commission tasked with the enactment of a fair competition law. The commission should be vested with investigation and prosecution powers. Some people may worry that the introduction of a fair competition law will mean a meddling with market operations and hence the incentive to invest is undermined. I do not think the introduction of such a law will disrupt the operation of a free market economy.

On the contrary, it will ensure that competition is carried out under fair and reasonable conditions.

Take the example of fair competition laws enacted in the United States and European Union. In these places an law enforcement authority with extensive investigative powers is set up to watch out for monopolization. It can also initiate proceedings to prosecute acts in violation of fair competition and the laws. As facts speak for themselves, investors have not run away from the United States or the European Union because a fair competition law has been enacted there. The United States remains the engine of growth for the world economy.

Madam President, the COMPAG in Hong Kong as it is remains only an advisory body and no more. It does not have any statutory powers of investigation. It is just a toothless tiger. No wonder since the establishment of COMPAG in 1997, no specific recommendations or policies have been put forward by it to promote competition. In view of these, the COMPAG must be reformed and given statutory powers of investigation.

Though it is important to enact legislation on fair competition, considerable time may be needed. To check monopolization in the oil industries, the most pressing task is for the Government to take some resolute action such as, per the recommendation of the Consumer Council, imposing terms in the lease agreement of filling stations to prohibit collusive market manipulation and mandating installation of boards displaying prices of oil products in all filling stations, and so on.

In addition, the Government should encourage and make arrangements for facilitating the development of common LPG pipelines in large housing estates and draw up uniform standards for converters in LPG cylinders. All these will facilitate competition and consumer choice.

Madam President, I urge the Government to introduce a fair competition law to promote competition and protect consumer interest. I so submit in support of the motion. Thank you, Madam President.

**MS MIRIAM LAU** (in Cantonese): Madam President, for an overwhelming majority of people in the world, fuels are a daily necessity. The rise and fall of

oil prices are hence closely related to their lives. Unfortunately, not only do the Hong Kong people have to face oil products with the highest retail prices in the world, but they also have to bear with myriads of problems brought about by the oil companies such as a low degree of transparency, quick price hikes and slow price cuts and the absence of competition, and so on.

The Consumer Council released a research report in 2000 and pointed out that though there was no unequivocal evidence showing that there was undisguised conspiracy among the oil companies in Hong Kong to manipulate prices, there were features of an oligopoly in the oil products market in Hong Kong. Classic features of an oligarchy are uniform pricing and price levels higher than those found in a competitive market.

Uniform pricing is the most obvious feature. This is because not only is the pace taken by oil companies in adjusting the prices of oil products almost the same but that their pricing is almost the same as well. As for the feature that prices of oil products are higher than the prices had there been competition, since the oil companies refuse to supply the information on account of it being commercial secret, there is no transparency in terms of pricing. There is no way the public can tell whether or not the prices as determined by the oil companies are too high or whether or not they are reaping excessive profits. Therefore, we can only use the information available to make a comparison between retail prices of oil products and their import prices to determine whether prices are fixed too highly or the situation is consistent with the oil companies' claim, that they just have a very small profit margin.

Figures of the trend movements in oil prices as released by the Government show that the retail prices (post-duty) of oil products are far higher than the weighted average import prices by a margin of over 100%. The oil companies have pointed out many times that the reason for high local prices for oil products is high duty. However, a comparison of local prices of oil products with prices of oil products in many other advanced countries will show that the average retail prices (post-duty) of unleaded petrol in Hong Kong are the highest in the world. These prices are even higher than those in eight countries, including Japan, Britain, France, Germany, the United States, and so on, by as much as about 73% per litre; and 74% per litre in the case of auto-diesel. The fact that retail prices of oil products in Hong Kong are even higher than those in places like Japan, Britain and the United States with the highest cost of living and land premiums in the world obliges the people to suspect that oil companies in

Hong Kong are reaping excessive profits, not a small profit margin as they have claimed.

Oil companies explain that the differential of about \$3 per litre between retail prices and import prices is attributed to dealers' margin, imported product costs, transport costs, promotional costs and land premium for filling stations at \$1 per litre of oil products, and so on. Oil companies like to put up this land premium at \$1 per litre of oil products as the reason to state that their profit margin is very small. But as far as I know, some of the land premium of certain filling stations is very low and it is only about \$0.13 to \$0.2 per litre. This is the land premium worked out in the filling station in Ha Chuen. But I was very surprised to learn that regardless of a filling station in Ha Chuen or one in Central, their prices are uniform.

The oil companies explain further that they have a small profit margin because they have to give discounts and rebates to clients. Now the oil companies have launched all kinds of filling cards and credit cards and given clients all sorts of discounts and concessions, for example, discount for cash payment, fixed discounts, discounts given on amounts consumed, stored value rebates for fillings, and so on. The discounts may vary from \$0.3 to \$1.2 per litre. There is no way an outsider can know how many clients are given discounts and other concessions, what kinds of clients enjoy such discounts and concessions and the amounts of discounts and concessions given, and so on. Moreover, concessions are given by oil companies under all sorts of names; sometimes these concessions are available while sometimes not. Consumers will be at a loss to tell the difference and even if they can, they cannot make any choice. This is because they are hamstrung by the filling cards issued by the oil companies and they can only get the concessions at the filling stations of a particular company. The oil companies also create price discrimination as they will give a greater discount to members of a certain business association or graduates of a certain university, and so on. So ordinary drivers cannot enjoy such discounts. The Liberal Party urges the oil companies not to confuse and deceive under different names. They should reduce prices direct.

Madam President, for the consumers, their right to choose is very important. But the drivers in Hong Kong are often deprived of their right to choose. This is because the statutory octane level of unleaded petrol is 95, but the local filling stations only supply Octane 98 unleaded petrol. However, most vehicles do not have to use petrol with a high octane value and so drivers are

forced to use expensive petrol. I once asked the oil companies to work out the retail prices for unleaded petrol of a lower octane level, such as Octane 95 or 92. The answer I got is that only eight cents less will be charged per litre and so that is not worthwhile at all.

Filling stations in Shenzhen supply unleaded petrol at octane levels of 93, 97 and 98 and the prices in Renminbi are 3.7 yuan, 4.07 yuan and 5.04 yuan respectively. The price difference between Octane 97 and Octane 98 petrol supplied by mainland oil companies is some 90 cents, that is, almost 1 yuan. Mrs Selina CHOW mentioned earlier that there is a difference of some 90 cents per litre. I do not know why the difference between Octane 95 and Octane 98 petrol in Hong Kong is less than 10 cents per litre. So the oil companies owe us an answer. In addition, I suggest that when the Government resumes the filling station sites or introduce new market entrants, the oil companies concerned must be required to provide petrol at various octane levels so that consumers can have more choices.

In sum, to prevent the emergence of oligopoly with the result that the public will have to pay high prices for oil products, the Liberal Party opines that the only way out is to introduce a fair competition law and that the COMPAG should be more concerned about the problem, engage in closer monitoring and conduct more investigations so that the oil products market can become more competitive and that pricing of oil products will be more transparent. It is only by doing so that the public can benefit.

Madam President, I so submit.

**MS EMILY LAU** (in Cantonese): Madam President, I am glad that Mrs Selina CHOW has proposed this motion, airing the grievances of many Hong Kong people. As the motion says, the public should be safeguarded against high oil prices. So we hope that something can be done quickly. But I am a little disappointed, for Mrs Selina CHOW only wants to introduce a fair competition law to a certain industry. As Mr Fred LI has said earlier, I have also received information from Shell and Esso Mobil and they have made an appointment with us next week.

The oil companies are anxious certainly and they want to know how the Legislative Council will handle this issue. But as Mr Fred LI has said, actually

the oil companies agree that a comprehensive fair competition law should be introduced. Madam President, the situation is like that when discussions were made earlier on regulating the telecommunication industry. People in the oil industries ask why theirs is singled out for no justifiable reason. If there is a fair competition law, then all trades and industries should come under its ambit. So I am a little disappointed, but I understand the position of the Liberal Party and for this time, they have already made a move. Mrs Selina CHOW said just now that this move is a light-handed one. But in any case, this is a kind of regulation.

As a matter of fact, in November last year I asked an oral question on the same topic. The Secretary gave a reply at that time. My question was why prices were increased so quickly in the oil industry but came down so slowly. At that time the Secretary mentioned something and that has been pointed out by many Members earlier, that new tendering arrangements for petrol filling station sites were introduced in June 2003 and that two new players, Sinopec (Hong Kong) Limited and Chinaoil (Hong Kong) Corporation Limited, had entered the market and they had submitted tenders for five sites at one time. Two filling stations by Sinopec began operation last July. Despite all these, we still have this motion debate today and so clearly this shows that these arrangements do not work.

Madam President, an Honourable colleague referred again to a market research report compiled by the Consumer Council in January 2001 on the petrol, diesel and LPG markets. Some of the findings of that report have been cited by some Members already, but I wish to say these again. The report says that the oil products market in Hong Kong is highly concentrated with the three big oil companies taking up 70% of the piped and cylinder LPG market, 90% of the petrol market and 80% of the diesel market. So this report by the Consumer Council says that a special feature of the oil products market is that the overall demand is relatively small and growth is limited. New entrants would face some hurdles, especially in land for storage and retail. They will need to face high land premiums.

In such circumstances, the report says that markets for Category III oil products display characteristics of an oligopoly. Such a market structure may lead to conspiracy or tacit co-operation. This is because there are only a few players and they know that they must depend on each other. So they will not reduce prices to marginal cost levels because of mutual benefit considerations.

In any case, a feature of conspiracy or tacit co-operation is uniform pricing and this is kept at a level beyond and above that found in a competitive market.

Madam President, all along we are aware of this situation. The report by the Consumer Council then points out that in view of the limited abilities of the Consumer Council in collecting data and information, so although it has not found any clear and direct evidence of conspiracy, it is not at a position to comment whether the key players can reap any abnormal profits and the extent of such profits. Moreover, the Consumer Council is also not in a position to comment whether the parties concerned have gained or suffered losses. Having said that, the Consumer Council expressed its grave concern about the absence of real competition in prices, the barriers to market entry and the lack of regulation over market competition.

The report was released in 2000. Four years before 2000, that is, in 1996, the Consumer Council suggested that a comprehensive fair competition law should be enacted, that a fair competition commission and an appeal mechanism be set up. But the recommendations were rejected in November 1997 and the authorities said that policies on regulation would be formulated for specific trades and industries.

At that time the Consumer Council pointed out that this arrangement would be very costly and inefficient. Why? This is because matters of competition will not come under the supervision of one institution and different departments are tasked of it. An overlapping of work and resources will occur. If a comprehensive piece of legislation and a fair competition commission are in place, there will be consistency in the enforcement of competition policies and the relevant laws and regulations. This will be fairer to the industries.

Therefore, Madam President, many of the points raised have in fact been raised before. Mr WONG Kwok-hing has raised many points and I agree with him. But I do not know why he wants to start with the oil industries. This issue was first raised in 1996 and almost 10 years have lapsed. The problem is getting more acute. Many people from various sectors think that if a fair competition law is to be formulated, it should be applicable to all industries, especially the big companies. This is because a fair competition policy is found all over the world. It is only in Hong Kong that they can make so much more money. So if we do not enact a comprehensive fair competition law, the

remark by the Chief Executive on "collusion between the Government and business, and the transfer of benefit" would come true. Some people say that he was digging his own grave when he made those remarks. It does not matter what he digs, I hope he will never dig into our pockets. I so submit.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, in a motion debate held in October last year on fair competition legislation, the DAB voted in favour of the motion because we support maintaining a business environment which is competitive and highly transparent. We will consider any measure which may promote fair competition and enhance consumer protection. This includes a feasibility study on enacting a fair competition law.

If a fair competition law is to cover all trades and industries, usually the law will impose regulation on three general aspects, namely, market share or concentration, performance and commercial behaviour. Performance means above-normal profits earned by proprietary companies. Commercial behaviour includes monopolization, vertical and horizontal restrictions, mergers, and so on. As each trade and industry has a different scale of investment and market characteristics, it would be difficult for a generalized competitive law to be applicable to all trades and industries. We therefore suggest that the Government should look into workable measures in accordance with the special characteristics of each trade and industry to ensure that a level playing field exists in Hong Kong. A comprehensive review should be conducted of laws on the protection of consumer rights and interests in order that consumers can be better protected.

All along there are no mechanisms or agreements from the Government to monitor the pricing of oil products by oil companies. In recent years, there are often complaints in the market that the oil companies are quick in raising the prices and slow in reducing them. It was also pointed out that some problems existed in the fuel market mechanisms. New arrangements for the tendering of petrol filling stations have been introduced which resulted in two new players, the Sinopec (Hong Kong) Limited and Chinaoil (Hong Kong) Corporation Limited, have entered the market. In theory, this would facilitate market competition. But seen from the import mode of these two companies, their retail strategies, prices and initial market positions, there have not been any marked changes in the market as a result of these new entrants.

Next I would like to discuss whether or not problems exist in the oil products market in Hong Kong from three angles. First, in the past the three big oil companies took up 90% of the market share of petrol in Hong Kong and their market shares in the diesel and LPG markets were 80% and 70% respectively. A study conducted by the Consumer Council points out that an oligopoly exists in the oil products supplies in Hong Kong. The market is characterized by a high concentration and in most cases there is horizontal integration, that is, the same company will take up the import, wholesale and retail businesses.

The second is the problem of oil prices. The prices of oil products in Hong Kong rank among the highest in the world. Last year, in a letter from the Government in reply to questions on oil prices raised by Mr LAU Kong-wah of the DAB, it was pointed out that retail prices (post-duty) of oil products like unleaded petrol and auto-diesel, were higher than those in other advanced economies like Japan, Germany, Britain, France, and so on. The prices of unleaded petrol in Hong Kong are almost double of the prices in France and almost 40% higher than those in Japan.

Third, the problem of quick hikes in prices and slow reductions. The oil companies have repeatedly denied that such a problem exists in the prices of oil products. They point out that local pump prices of unleaded petrol and ULSD have remained broadly in line with and tailed behind movements of the Singapore FOB prices. However, according to information collected by the DAB, during the period from 2002 to August 2004, there were 12 occasions when international oil prices increased and on 10 occasions local pump prices were revised upward within the same month. But when international prices fell on six occasions, local pump prices only followed suit within the same month on one occasion and no downward adjustment was made on the other five occasions. It can be seen from the trend movements in local oil prices that they are very sensitive to increases in international oil prices. The pace of reduction in local prices is obviously slower than they are on the rise. As an oligopoly truly exists in Hong Kong, prices are on the high side, they go up quickly but come down slowly, plus a lack of transparency in the market, all these are damaging consumer interests and the overall business environment of Hong Kong. That is why the DAB supports the idea that the SAR Government should consider whether or not there is a need to introduce an effective market regulation system for the oil industries.

The fact that prices of oil products are high in Hong Kong has a lot to do with government policies such as high land premiums for filling station sites and high fuel duties. Fuel duty takes up as much as 60% of the pump prices for every litre of unleaded petrol. The land premium factor accounts for about 8% of the prices. Previously, especially in the 1990s, premiums in Hong Kong stood high, so when oil companies built filling stations, they would have to invest over \$100 million on the site alone. So high land premiums are definitely one of the reasons leading to high prices of oil products in Hong Kong.

All these permit very little room for oil companies to reduce prices to promote sales. Mr Stephen IP, Secretary for Economic Development and Labour, pointed out last year that high prices of oil products in Hong Kong were related to high operation costs of filling stations and environmental protection considerations. We therefore suggest again that the Government should give serious thoughts to lowering the fuel duties, including slashing the duty for unleaded petrol by half for the benefit of the consumers. It is also important to step up efforts to combat the sale of illicit fuels as this will make it possible for oil companies to reduce prices.

Today, many Honourable colleagues have cited the example of competition in the telecommunications market. What we think the most important thing is that there must be a free and competitive business environment. It may be a good thing to impose regulation through a fair competition law, but this may not benefit all trades and industries. For the oil industries, the introduction of a fair competition law may be tantamount to the introduction of a law to carve up the market among the players so that everyone will have a share of the cake. Therefore, serious thoughts must be given to the abovementioned issues and we think the Government should undertake some studies on these as well.

Thank you, Madam President.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, first of all, I would like to comment on some points raised by Mr CHAN Kam-lam earlier, that is, on imposing regulation in individual industries to ensure fair competition. This is undoubtedly the approach taken by the Hong Kong Government. But we should look at countries around the world and see if there are more countries which

impose regulation in individual industries like what Hong Kong wants to do or adopt a series of laws or one law to achieve the same purpose. As far as I know, and according to information available, the mainstream practice is to regulate all trades and industries with one single piece of legislation. As for the existing mode of regulation in Hong Kong, though I cannot say that no other place in the world practises regulation in this way, at least I think that few places have adopted such an approach. On this sector-specific approach of regulation, why should Hong Kong use such an approach when other places in the world do not use it? Of course, some people will argue that every place has its own unique conditions.

On oil prices, now the price for one litre of petrol is \$11 or \$12, depending on the time in question. The price includes some \$6 of government duty and about \$1 which is the land premium. Mr CHAN Kam-lam has said that the price of a filling station site is some \$100 million. The price of a site in foreign places will certainly be lower than that in Hong Kong. With the fleece coming off the sheep's back, costs will certainly be transferred to the consumers.

The crux of the question today remains the same, but the trend of regulation to ensure fair competition has taken a new turn. Previously, in many a discussion on fair competition, it would be urged that no regulation be imposed. But now it is said that there should not be full-scale regulation. In the past, it was said that the telecommunications industry, the broadcasting industry should be regulated, now it is the oil industries. Will there be a fourth one in the near future? I would love to know what in the mind of Mr WONG Kwok-hing should be the next target for regulation. There will be no universal suffrage in 2007 and 2008. Some Members say there is not even a timetable for it. But in the case of regulation, in 1999 and 2000, the telecommunications industry was fixed, and then in 2001-02 the broadcasting industry was fixed. If the Government is beginning now to introduce a fair competition law, then what will be the next target industry? The experience with the telecommunications industry speaks out loud and clear enough, when I stood for the Legislative Council Election I was asked by colleagues in my sector why I did not urge for the introduction of a fair competition law.

Actually, I very much support fair competition. However, they think that the fair competition nowadays means unfair treatment for the telecommunications industry itself and this may come from outside the telecommunications industry. This is the situation. In the past when we talked

about regulation for fair competition, some telecommunications companies came to express their views. They said that the installation of relay devices in the tunnels would be charged. What can be done about such unfair competition practices? The Telecommunications Authority said in reply that it could only regulate telecommunication prices and unfair competition practices. But when a telecommunications company faces unfair treatment and unfair competition from a non-telecommunications company, what can be done? Who is there to play the regulatory role? Secretary, what can be done about it? The Secretary may say that this is none of my business and that is the concern of the Telecommunications Authority. Please do not speak like an official. Please do some concrete work to study how this problem can be solved.

This is a problem of the policy itself. But I am not surprised. I recall once when Permanent Secretary Sandra LEE came to this Council, she said that unfair competition would only happen in a socialist country. I was flabbergasted. The OECD has a website. Most countries in the OECD are advanced countries, though there are some welfare states and some very socialist countries, these Western countries are capitalist countries and most capitalist countries do have a fair competition law.

I think the problem in Hong Kong is — next week Ms Emily LAU will move a motion debate on the problem of collusion between the Government and business again — that as long as the Government refuses to face up to this problem, people will have an impression that the Government is doing nothing to maintain a level playing field. This will give people an impression that the Government is colluding with business. The fact that unfair competition exists is because the Government is doing nothing to maintain fair competition or that it is not doing anything to maintain fair competition. This gives people an impression that the Government is favouring the giant consortia. Even if a fair competition law is enacted, that does not mean that all the problems will have been solved. I would not be so naive as to think that a fair competition law will solve all problems. In the United States and some European countries, things are getting more and more difficult. But some results can be seen in some countries still.

Next Monday we will have a discussion on privatization in the aviation industry. When the issue of privatization is raised, mention will be made of a regulatory mechanism, that is, a regulatory mechanism on charges. On this mechanism, some people are unhappy about the existing regulatory mechanism.

It is thought that the mechanism as found in Britain is more acceptable. This is about who is to determine charges collected by airlines at airports. Who is the most influential on this? It is the Competition Authority of Britain. This body is in fact a useful means to make people see competition in various trades and industries and that a balance is struck for the sake of common interest. Therefore, when the Government examines this issue, it should not think that nothing should be done because there is no need for it. Seen from another perspective, the matter can be used to solve many problems. A fair competition law is one task the Government must attend to.

Ever since I was returned to this Council in 1995, there were at least two or three debates on this topic during each term of the Council. The Government must think about how it should respond to public aspirations and it just cannot pretend that it does not hear. I do not want to debate this topic for two more times in the next term starting from 2008. In fact, the first thing every new Member would do is to discuss fair competition.....*(the buzzer sounded)*

Sorry, Madam President.

**PRESIDENT** (in Cantonese): Mr SIN, time is up.

**MR VINCENT FANG** (in Cantonese): Madam President, at the beginning of this Legislative Session, the Legislative Council held a motion debate on fair competition. The difference today is we now urge that legislation be enacted on the unique oil industries in the hope that there will not be unfair competition as evidenced by the emergence of an oligopoly.

The Liberal Party has always supported the creation of a business-friendly environment in Hong Kong to boost economic development and employment. This is of course inseparable from the preservation of a free market and promotion of fair competition. However, we think that legislation is the last resort after all. A sweeping fair competition law in particular would really lead to many problems.

Last October the Liberal Party said in this Council that introduction of a fair competition law full scale had more disadvantages than advantages. I would not repeat our arguments here but I would just like to point out that

legislation will lead to endless lawsuits and the litigants would spend huge resources and efforts on protracted legal battles. For example, in the United States, under the Sherman Anti-trust Law, it is true that Microsoft which dominates the software market has been penalized, but what effect does the ruling have on promoting competition in the software market? I think we all know the answer. I do not think people should grab market shares by anti-competitive practices. I just want to make clear that laws alone will not foster fair competition.

Moreover, should we not first make sure that there are really anti-competitive practices in many trades and industries in Hong Kong and that there is no better alternative to legislation? An all-embracing mode of regulation by enacting laws or the application of a common mechanism and standard on various trades and industries would only disregard the uniqueness of individual trades and industries and would make business more difficult for some.

For example, when we want to get a formula milk, we can go to a supermarket and choose one from the stacks among dozens of products from the United States, Britain, Australia, and so on. Prices are clearly shown on the tags. If we think that the prices are too high in one supermarket, we can go to another one or yet another one. Shrewd housewives may even go to a drug store, for they know that products of this kind are often sold more cheaply at a neighbourhood drug store. These are choices consumers may make.

But should we penalize certain supermarkets for the substantial market share they hold? Or should these supermarkets be barred from doing business? Should we punish big businesses and reward the small ones and should we oppose everything the big businesses do? I think the people are fair on this and they hope that regardless of the size of these companies, they should be given a level playing field.

With respect to oil products, we all know Hong Kong tops the world with its high prices of oil products. Three big oil companies take up almost all of the market shares. The range of products offered is small and it is getting homogeneous. The oil industries in Hong Kong carry a strong cartel tone in operation. Market forces cannot come into full play and so the authorities should step in and enact laws.

Moreover, enacting legislation for a particular industry is nothing new. The existing Telecommunications Ordinance and the Broadcasting Ordinance have stipulated provisions against monopolization. However, I should like to point out that legislation should not be enacted for the purpose of regulating retail prices, for this will turn Hong Kong into a planned economy. It will also go against the mode of operation of a free market economy which we always uphold. It is also out of tune with the global trend.

With these remarks, Madam President, I support the motion moved by Mrs Selina CHOW.

**MR LI KWOK-YING** (in Cantonese): Madam President, some time ago the Legislative Council discussed a motion on the introduction of a fair competition law. An important message was struck home and, that is, different industries have their respective problems and uniqueness. So a fair competition law may not be able to tackle competition problems faced by all industries. But if practicable measures are devised to suit the special conditions of different industries and foster a competitive environment, that would be more appropriate and practical. This also explains why this Council discusses today the topic of whether or not a fair competition law should be introduced to the oil industries.

In any free market economy, if the government meddles with market operation wilfully, it will surely come under fire. But I do not think anyone will oppose the creation of a level playing field by the government. When the market fails, it would be appropriate for the government to step in.

Local oil companies are suspected of reaping excessive profits. They raise prices quickly and reduce prices slowly. These allegations are nothing new. As early as in 2000, the Consumer Council conducted a study on the oil products market in Hong Kong and made some recommendations to enhance competition. There are a few points in the study that deserve our special attention.

The study points out that the oil products market does have features of an oligopoly. The most obvious feature is that the oil products market is highly concentrated in three big oil companies. These three companies take up 70% of the piped and cylinder LPG market; 90% of the petrol market and 80% of the

diesel market. On the surface, there are no barriers to access to the oil market in Hong Kong for any new entrant. But huge investment input such as in the basic facilities would give these three oil companies a natural ability and edge to dominate the market. It would not be easy even if the Government wants to introduce new competitors.

Various recommendations made by the Consumer Council are gradually put into practice, such as requiring operators to set up price information boards in the filling stations. However, some oil companies have not been enthusiastic in following the recommendations made by the Consumer Council.

With respect to adjustments in fuel prices, the oil companies adopt an almost uniform pace in adjusting the prices. Last month the oil companies first said that there was no room for a downward adjustment in prices, but when the Government spoke out and insisted that there was room for prices to come down, the three big oil companies then took a swift turn and announced in midnight on the same day that prices would be lowered. Though the oil companies stressed that it was due to a drop in import prices, the common explanation offered and timing of the price reduction would make people suspect that allegations of price manipulation by the oil companies are not unfounded.

The Government may have sensed the uniform action and extent of the price adjustments. So at the end of last month the Government decided to hire an independent company to conduct a full-scale review of the retail market of oil products in Hong Kong to examine if there is any monopolization. These initial steps taken by the Government against the anti-competitive practices of the oil companies may pave the way for a future legislative attempt to regulate the fuels market.

To give the matter its fair deal, to a very large extent the current problem is attributed to the lack of any mechanism or co-ordination from the Government to monitor the pricing of oil products by the oil companies. Therefore, every time when the oil companies announce adjustments to prices, they need not tell the public the grounds for making such adjustments. The companies will never take the initiative to increase the transparency in pricing. As oil companies are not subject to any control in the market, in order that fair competition can be fostered and that consumer interests be protected, the Government must address the problem from an institutional perspective and introduce fair competition

measures in the oil industries to boost competition and prevent the emergence of an oligopoly.

The Government should keep a close watch of market changes and operation, undertake periodic reviews of the powers and performance of the COMPAG so that it can monitor and look into unfair competition in the market. This will help the creation of a level playing field in Hong Kong.

Madam President, I so submit.

**DR KWOK KA-KI** (in Cantonese): Madam President, many Honourable colleagues have talked about why oil companies in Hong Kong are making such insatiable demands and how prices are quickly raised but reduced so slowly. I will not repeat these arguments.

I would like to come back to the motion topic. When I saw the motion proposed by Mrs Selina CHOW initially, I was very happy. It was because apart from opposing the introduction of a fair competition law, she also thinks that regulation should be imposed on some industries which have gone overboard, such as the oil industries. A fair competition law should also be enacted with such industries in mind. The Liberal Party pointed out in some of its views on the issue expressed in the past that unfair competition was found not only in the oil industries but in the supermarkets, power companies, and so on.

Mrs Selina CHOW represents the business sector, perhaps the Liberal Party may also represent some small businesses. Many such operators have told us how difficult it is for them to do business. It is because the giant consortia, such as the supermarket chains, are using all sorts of ways and means to pressurize the suppliers so as to make the survival of other trades such as the small drug stores in the neighbourhood difficult. Such unfair competition appears not in the oil industries alone. That is why it would be very difficult for me to accept the suggestion that legislation should be enacted to regulate the oil industries only and that there is no need to regulate other trades and industries.

Mr SIN Chung-kai has talked about some of the hardships of the telecommunications industry and things which he agrees with. We can see that

after some fair competition measures are taken in the telecommunications industry, it is the consumers who will benefit in the end. As this is what is acceptable to us and as such grave problems are found in the oil industries, and as at the same time we can see unfair competition in many other trades and industries such as the power companies, the gas company, the supermarkets and even some large-scale health care groups, why can we not sit down and think hard on what an effective fair competition law should be?

Mr Vincent FANG has said that we cannot impose regulation with a socialist approach, but we do not understand why at the same time double standards are applied to regulate the oil industries. Some Honourable colleagues have said that the oil companies have sent them a letter stating that they do not mind if the Legislative Council wants to regulate but the Legislative Council is not justified in only regulating the oil industries. I agree to this view, for we cannot just think of an industry all of a sudden and then say we want to regulate it, leaving all others aside. Are the power companies always right or is there nothing wrong with the gas company? We cannot legislate in this way and we cannot be so narrow-minded and pinpoint a certain industry. This is because people will laugh at us and they will ask why things have become this way and what is wrong with the Legislative Council because it can only see problems in one industry but for other industries, it says it is none of its business because it cannot see any problems.

I would not mind if the motion today is passed, for in the end at least the Government can regulate the oil industries. I do not mind this at all. The oil companies have really gone overboard and many other industries are directly or indirectly affected as they have to accept the unfair trade practices of the oil companies. This means prices are increased quickly but come down slowly. But we cannot accept a motion which only looks at the oil industries. Some people say that these laws are only found in a socialist country. I agree completely that this is a biased view. We know that in the United States and Europe, there are anti-trust laws. But it is precisely in the United States and Europe that we find most giant enterprises and these giant enterprises have established a strong foothold all over the world. Why? I think in any industry, if the companies in it can only survive under circumstances when there is no fair competition, they will never be able to do any business outside their native place. These companies should have some ways to allow fair

competition in their native place and they must withstand such competition before they can prove that they have the abilities, the foresight and their own powers and that even if they are outside their native place they can make the best use of their abilities.

Fair competition can in fact make Hong Kong companies, be they large or medium in size, more capable to establish a strong foothold in our peripheral regions, including China, Asia and even the world. Fair competition will not make the companies monopolies in their native places. We know that some animals are called protected species. If we do not legislate and if some protected species in business continue to be bred, that will be of no use. What we are doing is to tolerate their making of excessive profits. If they are spoon-fed in this way, they will not be able to hunt for food once they are out there in the wild. They are deprived of the ability to hunt for food. Are we going to foster or cultivate such companies? If so, then it would never be a blessing to us. If someday a large chain store or supermarket has some excellent ways of doing business and that they can rise to the test of competition, that they can survive through fair competition, I think they can survive in many other places as well. We cannot accept short-sighted views.

The business practices of the oil industries are impacting on other industries, and these industries are also impacting on many small operators. Hawkers and small vendors in the markets, for example, are so hard-pressed and cornered by the supermarkets that they have come to a dead end. They are no match for the supermarkets because the supermarkets can negotiate prices for the purchase of goods worth more than \$100,000 at a time. These may be chickens or ducks, in any case, the value of the goods is some \$100,000 to \$200,000. Who can compete with the supermarkets? The supermarkets have ways to drive hawkers and shopkeepers out of business by pricing and other means.

I really hope that all the Honourable colleagues, including Members from the Liberal Party, and Mrs Selina CHOW who is the mover of the original motion in particular, can broaden their view of issues. Apart from agreeing to the idea that there should be fair competition practices or a fair competition law in the oil industries, they should give serious thoughts to the introduction of a fair competition law which is sound and highly transparent, for the sake of our future, the business sector, the small shop owners and the small and medium enterprises.

I support the amendments proposed by Mr WONG Kwok-hing and Mr Fred LI respectively.

**MR ABRAHAM SHEK:** Madam President, just three months ago, the Liberal Party addressed this Council saying that they opposed a fair competition law. Ironically, today, the Party's Vice Chairman is calling for a similar law to be imposed on the oil industry. Surely, this is a very drastic philosophical change in such a short time. It is not my business to speculate on what their motive is, nor am I interested to know why. To a layman, the answer possibly lies with the fact that the Liberal Party must have liberated ideas which blow with the wind and flow with the tides.

My stand though remains unchanged: I oppose the enactment of any anti-competition law, be it applying generally to the overall market or sector-specific.

The reason for my opposition is that such a law cannot deliver what it promises. It will only become a form of unnecessary government interference, achieving nothing except disrupting our free market-oriented economy. Not only will it hamper normal business activities, but it may also result in the loss of jobs. I, therefore, am against the original motion and all its amendments.

Moreover, the sector-specific approach itself is questionable. It will inevitably raise concerns about the fairness of government policies, particularly why it singles out one particular industry for regulation while exempting the others. Indeed, mobile phone operators have voiced similar concerns when this Council examined the Telecommunications (Amendment) Bill in 2002.

Hong Kong has no anti-competition law. It is worth noting that the Government has fostered competition in industries, such as the broadcasting and telecommunications sector, through amending existing sector-specific ordinances. It has not burdened them with a fair competition law. Introducing such a legislation just for the oil industry is simply not consistent with the Government's competition policy.

Madam President, the Honourable Mrs Selina CHOW's criticisms that the oil industry lacks effective competition are unfounded. Yes, it is true that the

oil sector is assuming an oligopolistic status, but it does not mean that it is a clandestine and ruthless monopoly, without either monitoring or control.

The truth is, the oil companies are closely regulated by both the Government and the public. They have to pass various stringent tests for market entry and sign government agreements regarding profit margins and the price to be charged.

The retail prices of oil products are also closely monitored by the Consumer Council, and they must be set in accordance with a set of competitive environmental guidelines published by the Competition Policy Advisory Group (COMPAG).

Even during the recent surge in global oil prices, petrol supply and gas prices in Hong Kong were maintained at a stable and acceptable level. There is simply no concrete evidence — at least not any that the Consumer Council or the COMPAG can provide — which can substantiate the criticisms in this original motion. However, there is proof that the existing regulatory regime is sound and beneficial to the community.

If the Government wants to further improve this well-served regulatory regime, it should regularly review the existing guidelines, licensing conditions, contractual provisions and administrative measures of the agency. The Chief Executive in his policy address this year reaffirmed his commitment to this non-interventionist approach. I therefore urge the Government to honour its pledge.

Recently, the Financial Secretary instructed the COMPAG to study the oil market's operation. I welcome this decision. I also hope that it will help to dispel any misunderstandings surrounding the sector's business practices.

In its present capacity, I do think that the COMPAG has been effective in carrying out its watchdog duties. It should remain as it is now: an advisory body under the leadership of the Financial Secretary, enjoying the power to review competition-related complaint cases.

Thank you, Madam President.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam President, there is a street in Hong Kong called Tsat Tsz Mui Road which literally means the seven sisters' road and it has a beautiful story of seven sisters. But the seven sisters in the international community have their hands stained with blood. They shed the blood of the innocent because of their quest for black gold. This is the BUSH Administration — henchman of the seven sisters of oil exporters which dominate the international market. I have no good feelings towards oil companies in Hong Kong and overseas. Every time when a war breaks out and when I see their signboards, it is like blood is dripping down from these signboards. At first I thought it was some paint dripping down, but I knew it was because of extreme grief that I was seeing hallucinations, that blood was dripping down from the Shell signboard.

However, I cannot agree to the suggestion made all of a sudden that fair competition measures should be introduced in the oil industries now. Why? This is because I can see damages instead of benefits right in my constituency in Tseung Kwan O. In Tseung Kwan O as my voters told me, the Administration — Mr Stephen IP, Secretary for Economic Development and Labour, was there and I had a meeting with him — had said because of the economic downturn, economic competition would be fostered. Then petrol and LPG industries were chosen. Why? This is because another sister was to join the seven sisters. I have no idea whether this sister shares the same parents of the rest. I only know that they share the profits. This is Sinopec and Chinaoil. They can do whatever they like. And so the wishes of my voters were ignored. Dr Sarah LIAO, Secretary for the Environment, Transport and Works, who has left now, has said that she would not do it. But now Secretary Stephen IP has ordered that this be done and now in the same district there are three storages for dangerous goods.

One sees the world in a grain of sand and sense the change of seasons in a fallen leaf. In front of the weak and powerless, they are so arrogant and they ask the officials to work for them. They fight with the seven sisters and engage in a dogfight. I cannot agree to this sudden idea from the Liberal Party that a fair competition law be enacted. I know because the China Resources Enterprise, Ltd. got a land lease at a cheap price, so its LPG is sold at low prices and they are doing a roaring trade. This shows that the seven sisters have formed an unholy alliance and they are taking concerted actions to manipulate the market.

The Government must address this problem. The problem will not go simply by adding another company all of a sudden and give it concessions. What are those people? They are those people who after the reunification say something and the Government does not dare to say no. Honestly, I will never believe these people could do this before the reunification, for the seven sisters were holding the reins of power then. And we all know that BUSH and BLAIR are close friends.

On the other hand, all the people in my constituency whom I meet say that the monopolization by the giant syndicates is forcing them out of business. Now instead of shops selling things like pork and joss sticks, the public housing estates are infested with superstores. This is because the lease agreements specify that the premises will not be leased to supermarkets. That is why they come to be called superstores. In this way the supermarket chains of Wellcome and Park'n Shop enter the public housing estates. This applies especially to Park'n Shop owned by the LI family. They are driving people out to clear the way for themselves. They dig into the loopholes of law and hold no respect for law. The newspaper hawkers are also having a bad time. Every shop owner in Hong Kong is desperately asking for help while the evil tentacles of these giant consortia are reaching out everywhere. Is this fair?

Power tariff charged by Hongkong Electric is higher than that by CLP. But does anyone care to regulate? This company belongs to LI Ka-shing. The Kowloon-Canton Railway, the Mass Transit Railway and the Light Rail all have made money, but they are not paying back their patrons. This is another case of monopolization. The Link REIT produces a super consortium and it enables a selected few to raise money in the market for free. Assets are bought at dirt-cheap prices and a monopoly is created while the Hong Kong people can buy nothing. Singaporeans are appointed strategic investment consultants and Hong Kong people are all kept in the dark. Then there are the five tunnels and one bridge, the airport, the two railways, the Hospital Authority and the Housing Authority. Our Government turns everything from public to private. Many ten brothers are produced, not seven sisters this time, for the LI family must take the lead. So if we want fair competition, there must be a comprehensive fair competition law.

Now I wish to correct a mistake I made. Yesterday I said that the container terminals belong to Mr LI. It happens that he has also bought 60% of

the shares of the container terminals in Rotterdam. So Mr LI really has an empire that stretches the seven seas. But why does he want to do this in Hong Kong and what good will this do to the people of Hong Kong? I think the Liberal Party should totally oppose monopolization. They should support the introduction of a fair competition law and oppose cartels and trusts and their tyrannizing and terrorizing the people of Hong Kong. The LIs, the FUNGs, the TUNGS and what not, they must not be allowed to exploit the people. They must not bring in the ten brothers on the pretext of opposing the seven sisters, especially those from the north who want to extend their evil tentacles out to Hong Kong. Is there any evidence for this? The young JIANG has bought into the telephone company of the young LI. What the young LI got by fraud and deceit is bought by the young JIANG. That is why I think a comprehensive fair competition law must be enacted in Hong Kong. Thank you.

**MR RONNY TONG** (in Cantonese): Madam President, Secretary, Honourable colleagues, today I had lunch with an official from the World Trade Organization (WTO). When we talked about the motion topic tonight, he looked at me in astonishment and said, "Do you people in Hong Kong not have any mechanism for fair competition? Of the more than 100 members of the WTO, only the poorest and most backward members do not have such a law." I was unhappy for the rest of the meal. I felt very ashamed too. But I do not want to talk about this event anymore today. Many Honourable colleagues have put forward many views on how a fair competition law should be introduced. I would like to focus on five points and explain why I think a sector-specific competition policy is problematic by nature and in practice.

First, a fundamental problem with a sector-specific competition policy is its narrow vision and the lack of a macro outlook.

If the scope of regulation of a regulatory body is confined to just one industry, it will be unable to combat cross-sector anti-competitive practices effectively. Just now I have not been in the Chamber all the time, but I am sure many Honourable colleagues must have mentioned the Banyan Garden saga and so I would not repeat it. Another example is the refusal by developers to lease their commercial premises to supermarkets or chain stores which are operated by another group. This is an example of cross-sector anti-competitive practices. Such practices will never be eradicated if there is only a sector-specific law.

The market in Hong Kong is small. The giant consortia like to do business in various trades through their subsidiaries and associated companies. Under these special circumstances, cross-sector anti-competitive practices are actually daily occurrences.

Second, in the absence of overall investigative powers endowed by the law, the Government has no way to know which industry is fraught with anti-competitive practices. Before a decision is made to set up a fair competition mechanism in any industry, there must be proof that anti-competitive practices are found in that particular industry. This is a chicken-and-egg question. It is thus hard for the Government to decide which specific industry should have such a mechanism in place and those industries affected will find it unfair. It is because they will think that the Government wants to set up such a mechanism in the absence of any proof that anti-competitive practices exist among them. They will question the government intention and they may think that it is being selective. Inevitably, people will think that the Government is favouring some industries and not others, and its decisions are giving people too much of an impression that they are affected by business interests of the industries concerned or those of other industries. There may also be an impression that the Government is colluding with the business. Actually, this happens in the oil companies. Representatives of more than two oil companies have said to me personally that they support setting up a comprehensive fair competition mechanism. Why? They have said that they do not want their own industry come under investigation alone which is very unfair. The position of the oil industries is that they absolutely support this. That means the oil companies are in full support of this cross-sector approach. But they oppose this mechanism being applied to their industry alone.

Up to now, though we think that the oil companies are engaging in anti-competitive practices, they are only suspected of this offence and there is no proof of it. It would also be very unfair if they are considered guilty. This is against the rule of law. So with this in mind we have to think about this. In comparison, it is obvious that in the Banyan Garden incident, the management company has clearly engaged in anti-competitive behaviour. This has been substantiated, but nothing can be done to regulate them and so they cannot be brought to justice. It is because the company concerned is a cross-sector company. Now for the oil companies who are alleged of anti-competitive practices, it is now suggested that an investigation mechanism be set up to deter them from engaging in anti-competitive practices. Is this justified? In other

words, those who have actually offended are not subject to investigation, but for those who are alleged of an offence, they will be investigated.

Third, to set up similar sector-specific competition mechanisms for the industries is not a good use of resources. It will only lead to overlapping of framework. In the oil industries, for example, the fact that prices are easily manipulated is a structural problem in the market. I think the Secretary would agree to this idea as well. We have talked about this many times and the Secretary also says that once this structural problem in the market is addressed, there may not be any anti-competitive practices in future, or even if such practices occur again, that would be a very long time from now. Then if this mechanism is set up in the first place, there may be a scenario that some people are paid for doing nothing. But if this is a cross-sector body, then even if it does not probe into the oil companies, it can probe into the supermarkets; and even if it does nothing about the supermarkets, it can do something about the estate management companies under the developers. In this way the body will keep itself busy and there will not be any waste. *(The buzzer sounded).....* (Have six minutes passed so quickly?)

Fourth, confusing the public. (I will be brief.) Fourth, confusing the public. It is because if there are overlapping laws and they are enforced by other bodies, these bodies may have different interpretations and ways of promoting public awareness. When there are different interpretations and ways of promoting public awareness in various industries, the people of Hong Kong will be confused as to what anti-competitive practices are.

Fifth, actually as I have spoken before and it is also pointed out by the WTO, companies would prefer entering into industries with a more clearly-defined competition mechanism. This will prevent new market entrants from being unfairly treated by existing players. A sector-specific policy on competition is bound to distort the allocation of resources in society, producing mismatch and waste. This is a conclusion reached by the international community after drawing reference from many experiences.

Thank you, Madam President.

**DR FERNANDO CHEUNG** (in Cantonese): Madam President, the Council in its current term has been in operation for such a short span of time as four

months, but three debates have already been held on prices of oil products and a fair competition law. The last two occasions were respectively on 20 October 2004 and 3 November 2004. The former was a motion moved by Mr Fred LI, urging the Government to consider introducing a fair competition law and in the amendment moved by Mr LEUNG Yiu-chung, it was pointed out that there was monopolization in the oil market. The latter was a motion moved by Ms Miriam LAU, urging the Government to reduce the duty for ultra low sulphur diesel (ULSD). At that time, many Members attacked the oil companies for controlling the prices, showing that there was widespread discontent in society against the oil companies.

The economy of Hong Kong is service-oriented and it does not rely too heavily on oils. Fuel costs only take up less than 5% of the total operation costs exclusive of wages. But high oil prices will definitely add to the burden of the people. Drivers by profession will be the first ones to bear the brunt, and the people will have to pay high transport fees. The community in general will suffer.

Information shows that based on prices in August 2004, the prices of oil products in Hong Kong are higher than those in seven countries, including Japan, Germany, the United States, and so on. At that time the price of unleaded petrol was \$5.95 per litre, or 40% higher than that in Japan.

Like Hong Kong, Japan is totally reliant on imported oil. Both places share high land premiums and wages. In Japan, duty on oil is more than 50% of the price. But oil prices in Hong Kong are still higher than those in Japan.

The oil companies often say that they do not make too much money in Hong Kong. But that is incredible indeed.

The oil companies are quick in raising the prices but slow in reducing them. Papers submitted to this Council by the Government show that during the period from March 2003 to November 2004, the accumulated increases in the pump price of unleaded petrol in Hong Kong were \$0.8, which was higher than the accumulated increases in the price of Brent Crude oil during the same period by \$0.18 and the average Singapore FOB price by two cents. During the same period of time, there were eight hikes in prices for unleaded petrol and ULSD, but prices came down only five times and three times respectively for these two oil products.

The Government says that the COMPAG will look into competition in the fuel market and examine if action should be taken to address anti-competitive practices by the oil companies. It also says that reference will be drawn from the Telecommunications Ordinance on the regulation of anti-competitive practices.

The oil industries operate in a very complicated manner and transparency is low. That is why a fair competition law should be introduced and that the COMPAG should be vested with statutory powers of investigation. For if not, the oil companies will conceal more information from the public.

The Australian Competition and Consumer Commission which is tasked with anti-trust functions searched in May 2004 the offices of the three oil companies Caltex, Shell and Esso Mobil and seized proof of their concerted actions in manipulating prices. If found guilty, the oil companies are liable to a maximum fine of AU\$10 million or about HK\$42.12 million for each count. The action taken in Australia shows that the country is determined to enforce equal or fair competition.

The free market is very fragile and it is highly vulnerable to destruction by capitalists driven by a desire for profit maximization by way of monopolization.

Now monopolization does not appear in the oil industries alone, but it also appears in the retail markets for food and daily necessities. The Consumer Council conducted studies a long time ago and pointed out that the market shares of the two supermarket chains were rising all the time while those of the small supermarkets were constantly on the decline. We may recall that operators of small businesses once complained to the media that they had been cornered by the two supermarket chains and they could only resort to increasing the prices. In the end, it is the consumers and the interest of the community in general that will suffer.

In view of all this, I am in favour of introducing a fair competition law. But apart from putting the oil industries under regulation, the law should also address all problems related to fair competition.

I so submit. Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, you may now speak on the two amendments. You have five minutes.

**MRS SELINA CHOW** (in Cantonese): Madam President, after listening to the speeches of Mr WONG Kwok-hing and Mr Fred LI, I can say that their only advocacy is the immediate launch of work to enact a comprehensive fair competition law to bring all industries under regulation.

According to Mr WONG Kwok-hing, monopolization seems to be present everywhere in Hong Kong, and that serious problems are found in all industries. But he seems to have completely ignored the fact that Hong Kong has been rated the freest economy in the world by the Heritage Foundation over the past 11 years. And, I am sure that many businessmen operating in Hong Kong will probably disagree with him. Admittedly, we do see some inequitable situations in certain industries, but can he thus claim that there is widespread monopolization? I think we really have to make a comparison with the outside world before drawing any conclusions. In general, this does not seem to be the case. Market principles are still at work in most cases, with the exception of just a handful of industries. Therefore, we do not think that we should bring all industries under regulation one by one.

According to Mr Fred LI, regulation should not be selective. We can catch his point, because the Democratic Party has been advocating the formulation of a comprehensive fair competition law. And, we also heard Members such as Mr Ronny TONG and Ms Emily LAU raise this point a moment ago. However, Mr Fred LI also referred to a very strange and interesting incident. He talked about the Democratic Party's protest against oil prices last time, saying that oil prices were reduced immediately after the Secretary had made some verbal coercion. It seems that he was trying to claim credit for the Democratic Party. But this does not matter, and if what he said was a fact, we would still congratulate him. However, he went on to argue that the whole thing was not so desirable because oil prices were reduced only

because of the insistence of government officials. He might be just a bit too humble here, because the insistence of government officials might not have been so pivotal. The reduction might have been due to political pressure, the protest of the Democratic Party, not the verbal coercion of the Secretary. But that again, is it desirable to apply political pressure, to stage a protest, to force oil companies to reduce prices? Not necessarily. We must be fair. Is it better to formulate a transparent mechanism, so that everybody can see what is going on? Is it better that way?

Having listened to the speeches of quite a number of Members, I get the impression that they all admit the existence of some unfair practices in the oil industries, but when it comes to the enactment or otherwise of a sweeping fair competition law, they cannot come to any consensus. As a matter of fact, the business sector is very apprehensive about our focus on the oil industries — the speech of Mr Abraham SHEK can testify to that. Why are they so apprehensive? They are afraid that this may end up in the emergence of a huge and powerful monster that stands in the way of market economy. The Liberal Party's position regarding a sweeping fair competition law has been very clear — it is absolutely prepared to eradicate any unfair practices in case of necessity. But it also thinks that there are many ways to achieve this end. We are of the view that it is necessary to enact legislation in the case of the oil industries. But the approach must be mild, guided by the principle that in protecting the people of Hong Kong against high oil prices, we must not do anything to damage the valuable status of Hong Kong as a free market. Therefore, we will oppose the respective amendments of Mr WONG Kwok-hing and Mr Fred LI.

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): First of all, Madam President, I wish to thank Members for the invaluable views they have just delivered. Like all the Members, the Government is very much concerned about the competition in the fuel market as well as the trend of pump prices in the local market.

I wish to thank Mrs Selina CHOW for what she said just now, that is, we are not suppressing the oil prices out of a paternalistic will. If such a will works, then it would be unnecessary for us to debate this issue here today as things will be fine as long as the oil companies are prepared to listen to whatever we say.

Hong Kong is an open and free economy. Pump prices of oils are, just like other commodities, determined by the market. Under the existing mechanism, the Government has no statutory or administrative power to regulate the operation of oil companies and we cannot audit their business accounts, but since oil prices have an impact on various sectors, we have been closely monitoring the trends of the Brent Crude oil price and the Singapore FOB prices of unleaded petrol and ULSD and the rising and falling trends of local motor fuel pump prices.

The Chief Executive pointed out in this year's policy address that the Government had been monitoring the situation in the local fuel supply market and would take suitable measures according to actual circumstances. Since petrol filling station (PFS) sites are indispensable infrastructure to operators who wish to enter the market, we have taken a series of initiatives to facilitate new comers to bid for PFS sites in order to enhance competition in the fuel market, for example:

- (a) As from July 2003, the Government had decided to put up existing PFS sites for tender upon lease expiry instead of automatically renewing the tenancy; and
- (b) As from June 2003, existing PFS sites had been put up for tender in batches, tenderers are allowed to bid with a uniform tender price or they may submit separate tender for individual PFS site. The arrangement enables interested parties to enter the oil market in a more cost-effective way by way of securing substantial a number of PFS sites in a single tender exercise which aims at introducing more competition into the retail oil market. Two new players have won the tenders under the new tender arrangement and entered the market. We will closely monitor if the tender arrangement is cost-effective and then we will determine whether other measures should be taken to further enhance competition in the market.

A Member questioned earlier whether we should import more different types of fuels into Hong Kong for consumers to choose. We definitely agree that consumers should be given more choices. I have also discussed with oil companies the possibility of supplying Octane 95 unleaded petrol in Hong Kong. The oil companies told me that when unleaded petrol was introduced to Hong

Kong in 1991, both Octane 95 and Octane 98 were available, and the price of the latter was \$0.3/litre higher than the former. Nevertheless, since Octane 98 was more popular among motorists and as most filling stations in Hong Kong had limited space, there were definitely some limitations in terms of the supply of fuel types, thus the oil companies ceased to supply Octane 95 in 1992. The oil companies opined that depending on the actual market situation, they would consider whether there is a need to introduce the product to the market once again. Like other Members, I hope the oil companies will consider introducing different types of oil products in order to give consumers more choices.

In her motion, Mrs Selina CHOW urged the Competition Policy Advisory Group (COMPAG) to monitor and study the situation of competition in the local oil market, to actively consider introducing a fair competition law and other effective measures for the oil industries, and to increase competition in the oil industries and enhance the transparency of product pricing. The proposals of Mrs Selina CHOW are actually initiatives we are working on. The COMPAG headed by the Financial Secretary has decided to launch an independent and comprehensive study on competition in the local oil market.

Madam President, I wish to point out that we took the initiative to carry out the study. We have not evaded the issue, and we absolutely support the fair competition. It is not correct for Members to criticize that we have turned a deaf ear to the appeal, because we have actually taken the initiative to take this step. We have invited around 100 local and overseas consultancies earlier this month in order to find out whether they were interested in conducting the study. If they are interested, we will request them to submit proposals and then we would carry out the selection exercise. Of course, we would follow the due procedures, the relevant study would commence in the first half of this year and would be completed within this year. After the study is completed, we will come back to this Council and brief Members of the findings.

The relevant study will examine whether local oil companies have engaged in any anti-competitive conduct, we will make reference to measures and experience of other places in respect of dealing with anti-competitive conduct of oil companies, and we will study whether there is a need to draw up trade-specific legislation or to adopt other measures to enhance competition in the local oil market. As Mr Ronny TONG said just now, no conviction can be made without evidence. For that reason, I hope Members will agree that this approach is reasonable and objective. If the study shows that local oil

companies have committed anti-competitive acts, while the introduction of trade-specific legislation could effectively deal with the issues in the oil market, we will actively consider to ensure fair competition in Hong Kong's oil market by way of legislation.

As Members suggested earlier, we must certainly give oil companies opportunities to express their views, and we should listen to their voices and arguments.

As to the amendments proposed by Mr Fred LI and Mr WONG Kwok-hing which urged the Government to introduce a comprehensively fair competition law, I have explained the pros and cons of a sweeping and comprehensive fair competition law in response to the motion moved by Mr Fred LI on the formulation of a comprehensive fair competition law in October last year. I wish to emphasize that the Government has no objection to the drawing up of legislation, but we consider that adopting trade-specific measures would be a more appropriate and effective approach, which includes legislation, to promote fair competition and deal with anti-competitive conduct in the relevant trade according to different situations and needs in different trades. The provisions against anti-competitive conduct in the Telecommunications Ordinance and Broadcasting Ordinance are good examples. Besides legal provisions, trade-specific measures include administrative measures, such as licensing conditions, contractual requirements and code of conduct within business can suit the market changes in a better and more flexible way and look after the needs of different trades.

I also wish to reiterate that currently there is no universally agreed standard with regard to many of the major concepts and scope of regulation relating to a comprehensive competition law. Different competition laws in different places could be very different. For example, some places would consider their competition laws from the perspectives of public interests or public policies, thus they will offer exemptions to individual trades or businesses. Moreover, there is no single standard for competition laws and law enforcement agencies in different places to define many of the essential concepts, such as "relevant markets", "reduce competition significantly" and "the position of market dominance".

Let us take Singapore's fair competition law as an example. Many public utilities including electricity supply, natural gas supply, public transport,

telecommunications, postal services, the media and container terminals are exempted from the purview of its fair competition law.

The most important thing is that, just as some Members have mentioned earlier, the situation and needs in different trades are quite different. The result of regulating the competition-related conduct in all trades by adopting a so-called comprehensive but generalized competition law without taking the specific situation and needs of different trades into consideration will probably bring about uncertainties and cause controversies, and it will also increase the operating costs. It will not promote competition at all, and it may conversely undermine the interests of consumers.

In his amendment, Mr Fred LI urged the Government to actively consider reforming the COMPAG and endowing it with statutory power of investigation, so that it can regulate possible anti-competitive conduct in the local fuel market. The COMPAG is a high-level organization led by the Financial Secretary which organizes and co-ordinates the handling and follow-up of matters related to competition policies. The actual investigation and follow-up action will be taken by relevant Policy Bureaux and departments. The arrangement ensures that the competition matters and complaints of individual trades are handled and followed-up by the relevant Policy Bureaux and departments which are familiar with the trade, so that they could take appropriate measures to deal with the issues according to the actual situation and needs of the trade.

Earlier in the debate, Mr Fred LI criticized that the COMPAG seemed to have done very little, for instance, in educating the public about fair competition; I wish to say that the criticism is rather unfair. In fact, the COMPAG has consulted various business associations and organizations in the past and issued guidelines on maintaining a competitive environment and defining and dealing with anti-competitive conduct which have won positive response from the business sector. For instance, the Hong Kong Retail Management Association has formulated a code of practice applicable to supermarkets according to the COMPAG guidelines. On the other hand, the COMPAG has also made an effort in enhancing the understanding of students and youths of the Government's competition policies through interactive games and curriculum.

Although we do not have a competition law behind us, the COMPAG encountered no difficulty in conducting investigation and following up matters

relating to competition in the past. In view of the fact that various sectors in society are concerned about the terms of reference and work of the COMPAG — I remember Mr Ronny TONG has discussed with me a lot on this issue and we did discuss the issue in last debate — we adopt an open attitude and the Financial Secretary has set up a working group to look into the matter. The working group will be chaired by a non-official person and will study ways to enhance the terms of reference, the membership and representativeness, power of investigation, allocation of resources and mode of operation of the COMPAG.

Madam President, the Government holds a positive attitude towards the motion debate moved by Mrs Selina CHOW. The COMPAG is currently looking for a consultant to conduct a comprehensive and independent study on the competition situation in Hong Kong's oil market and to examine whether oil companies are involved in any anti-competitive conduct. I hope Members will agree that we are facing this issue actively and we have taken not only one step forward, but two, since we are looking into the situation in the oil market as well as the terms of reference of the COMPAG simultaneously. Certainly, I believe the debate has clearly reflected that the views of Members on the issue are quite different: Some are totally against the enactment of any legislation to ensure fair competition; some are of the opinion that an across-the-board approach should be adopted; and many are of the view that we could start to work on the oil industries according to the needs of the trade first. It can be said that opinions about the handling of the issue are quite different. We have taken the views of Members into consideration and we consider that it is a more balanced and appropriate approach to take the two steps forward. After we have completed the abovementioned review and study, we would present our proposal to the Legislative Council.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now call upon Mr WONG Kwok-hing to move his amendment to the motion.

**MR WONG KWOK-HING** (in Cantonese): Madam President, I move that Mrs Selina CHOW's motion be amended, as printed on the Agenda.

**Mr WONG Kwok-hing moved the following amendment: (Translation)**

"To delete "actively consider introducing" after "this Council urges the Government to" and substitute with "comprehensively introduce"; and to delete "for" after "other effective measures" and substitute with "starting from"."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr WONG Kwok-hing rose to claim a division.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing has claimed a division. The division bell will ring for three minutes, after which we will proceed to the division.

**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, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHIM Pui-chung and Mr Patrick LAU voted against the amendment.

**Geographical Constituencies:**

Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEUNG Kwok-hung and Mr Ronny TONG voted for the amendment.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr MA Lik and Mr Albert CHENG voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, six were in favour of the amendment and 18 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, seven were in favour of the amendment and 17 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**MS MIRIAM LAU** (in Cantonese): Madam President, I move that in the event of further divisions being claimed in respect of the motion on "Introducing a fair competition law for the oil industries" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Introducing a fair competition law for the oil industries" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr Fred LI, you may move your amendment now.

**MR FRED LI** (in Cantonese): Madam President, I move that Mrs Selina CHOW's motion be amended, as printed on the Agenda.

**Mr Fred LI moved the following amendment: (Translation)**

"To add "comprehensive" after "consider introducing a"; to delete "for the oil industries" after "other effective measures"; to delete "requesting" after "including" and substitute with "reforming"; to delete "to take heed of" after "the Competition Policy Advisory Group" and substitute with "and providing it with statutory power of investigation, so as to enable it to regulate"; and to delete "and entrusting the Group to monitor and study the situation," after "local oil market, "."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr Fred LI rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for one minute.

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

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

**Functional Constituencies:**

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHIM Pui-chung and Mr Patrick LAU voted against the amendment.

**Geographical Constituencies:**

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, 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 LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr MA Lik voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, nine were in favour of the amendment and 15 against it; while among the Members returned by geographical constituencies

through direct elections, 25 were present, 16 were in favour of the amendment 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 amendment was negatived.

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, you may now speak in reply. You have four minutes 20 seconds.

**MRS SELINA CHOW** (in Cantonese): Madam President, first of all, I would like to clarify the position of the Liberal Party because many Members, especially Mr Abraham SHEK, have said that it seems that our position now is different from our past position. Mr SIN Chung-kai also wondered if we have changed.

In fact, our position has been consistent. All along we oppose a sweeping fair competition law. However, we think that if legislation can rectify some problems in a focused manner and benefit the public, then legislation can rightly be regarded as a means. But the legislative attempt must not be too heavy-handed and it should be avoided as much as possible. Some Members have mentioned the Telecommunications Ordinance and the Broadcasting Ordinance. These two Ordinances have in fact set the first examples. I am not the first one to propose the use of legislation as a means as these two Ordinances have in fact set the first examples. These laws were passed by this Council and obviously the consumers have been benefited. So Members please stop thinking that this is like pinpointing a certain industry, that this is not fair and applying double standards. This is simply not the case. Hong Kong has always been a free economy and it is famous for having a free market. Even if it is said that the public can benefit, we must not intervene in such a heavy-handed manner in commercial operation.

The oil companies have been a cause of criticism. All through the years or for more than 20 years, and surely at the time when I was the Chairman of the Consumer Council, the Consumer Council pointed out repeatedly that there were problems with the oil prices. The Consumer Council had been talking to the Government all the time that there were problems. But when the Government wanted to obtain information from the oil companies, it failed. These things do

not happen for the first time today. They started to happen 20 or 30 years ago. Why do such things happen? This is because of the symptoms of an oligopoly. I cannot assert that such a disease exists, but it seems that the symptoms are already there. That is why consumers would very much hope that the Legislative Council or the Government can do more than before. They must not think that the situation can be rectified if protests are made or verbal coercion is applied. They must look into the situation thoroughly. Therefore, this has nothing to do with the double standards argument, and so on. Of course, if it is said that there must be a fair competition law to cover all industries, that a mammoth commission should be set up to investigate into this and that, demand the submission of books for inspection, and so on, all these will work, but we must bear in mind that the problems are dealt with differently in different communities.

We in the Liberal Party do not agree very much to this, but we also respect this view of Honourable colleagues. We also respect some Honourable colleagues from the business sector. They say that such things should not begin, not even enacting laws of the smallest punch. We respect these views too. But please do not get mistaken that this is what the Liberal Party thinks. I must make this point clear here.

I hope we can reach some kind of common ground. Our common understanding is that there are problems with the oil industries. I hope Members will not oppose my motion because they insist that an across-the-board legislative attempt should be made or not to be made. It is because if Members oppose my motion, the oil companies will be the first ones to clap their hands. It is because if only there is one reason to oppose this motion, the oil companies will be able to get away from this predicament. I hope Members can lend their support to my motion. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mrs Selina CHOW, as set out on the Agenda, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

**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): Second motion: Enacting legislation on freedom of information.

### **ENACTING LEGISLATION ON FREEDOM OF INFORMATION**

**MR JAMES TO** (in Cantonese): Madam President, the Secretary said we had just had a motion debate on legislation, and here comes another one on legislation again. In a social system that is both democratic and open, the people should have the right to elect the leaders and the government of their choice through popular elections. Apart from that, the public's right to know should be recognized and protected by legislation. Access to government information allows the public to monitor the government more effectively and to make informed comments and recommendations on government policies with a view to improving governance. The system of democracy and open government supplement each other and elevate the level of representation, legitimacy, accountability and transparency of the Government, to the effect that the public can play a more active role in the governance of society, safeguarding individual rights and public interests, and consolidating the core values of Hong Kong.

Viewing the situation in a global perspective, we can see that legislation on freedom of information has been enacted in more than 60 countries. Sweden enacted such legislation as early as 1776 and the legislation in force today was last revised in 1976. That is quite distressing as opposed to our case. The United Kingdom has always taken a very conservative attitude in opening up access to government information, yet even the United Kingdom has fully implemented a law on freedom of information since 1 January 2005. Of the top 20 countries/territories having the highest per capita Gross Domestic Product

(GDP), most of them have enacted legislation on freedom of information, except the three tiny countries located in the Pacific islands. Countries where such legislation has been enacted include Norway, the United States, Sweden and Denmark. Hong Kong ranks 15th in the per capita GDP, but regrettably has not enacted any freedom of information legislation. The Parliament of Germany began the First Reading of the relevant bill on 17 December last year. Other countries where freedom of information legislation has been enacted include democratic and open countries such as Britain, Canada, Australia, and New Zealand.

Back to Asia, even India and Japan have enacted such a law. Even our Motherland is following the international trend and working step by step towards enacting legislation on freedom of information. Following the footsteps of Guangzhou, Shanghai enacted a regulation on freedom of information for the municipality on 20 January 2004. According to the regulation, with effect from 1 May 2004, citizens and organizations of Shanghai as well as foreigners enjoy the right to access government information. On that same day, Shanghai launched a "Government Transparency Scheme". The Shanghai Information Committee will release its first annual report on access to government information by the end of March this year. Since the SARS outbreak in 2003, many observers have anticipated that the Central Government will speed up the process of formulating a national law on freedom of information, the draft copy of which has been included on the legislative agenda of the National People's Congress.

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

Shanghai has all along been working towards the goal of becoming an international centre of finance, trade and shipping. It keeps perfecting itself with the aim of becoming a world-class metropolis. Shanghai fully understands that public access to information is helpful to stimulating economic activities, preventing corruption and promoting more effective governance. In order to honour the pledge China has made upon its accession to the World Trade Organization, Shanghai decided to build up a legal framework within which efforts on opening up the government are institutionalized.

So what is the situation in Hong Kong? As I looked up past records, I found that in May 1987, former Legislative Council Member, Mr Conrad LAM

Kui-shing, first proposed the enactment of legislation to protect the public's right to have access to information. Subsequently in 1991, the British Government applied the United Kingdom's Official Secrets Act of 1989 to Hong Kong by way of legislation. After that, the former Legislative Council conducted motion debates on "Protecting the Freedom of the Press" and "The XI Yang Incident" in 1992 and 1994 respectively, during which many Members urged the Government to enact legislation on freedom of information and to relax the restrictions imposed by the Official Secrets Act. Former Legislative Council Member, Ms Christine LOH, was even planning to move a Member's Bill on this, but the Government finally acceded and formulated a Code on Access to Information (the Code) instead. In March 1995, the Government fully implemented the Code by authorizing and requiring civil servants to provide access to information kept by the Government on request, unless there are special reasons.

Almost 18 years have passed since it was fully implemented in 1987. But the Government still has not formulated any legislation to recognize the public's right to have access to government information. It has never taken any further legislative work on this, which I think is regrettable.

After the Code had been put into force for three years, the Hong Kong Journalists Association (HKJA) conducted two surveys in 1998 which found that the effect of the Code was less than satisfactory. With members of the HKJA (that is, they are all journalists) as targets of the surveys, over two thirds of the respondents opined that the Hong Kong Government had become more closed after the reunification, whereas 72% of those interviewed demanded that legislation be enacted in place of the Code. In a test in which requests were lodged with 40 government departments requesting 81 pieces of information, in 25% of the cases, the requests for information were completely declined, and in 32% of the cases, the information requested could not be released due to insufficient documentation. The documents the Government declined to provide at all include a research report on hotel/hostel licensing, and a research report on the demand for residential services for the elderly.

While the HKJA surveys were being undertaken, officials from the Home Affairs Bureau responsible for the implementation of the Code issued an internal circular stating that upon receipt of enquiries, government departments should try their best to satisfy journalists' requests in a timely fashion in a bid to

"eliminate" the reports or minimize the impact caused by the surveys by employing the "defensive measure" of having "no news is good news".

Obviously, if we are to eradicate once and for all government officials' practice of responding perfunctorily to the public in respect of the Code, it would be necessary to enact legislation on freedom of information to establish the public's right to information, and to require government departments, public organizations and government advisory bodies to allow public access to the information in their possession. Enactment of legislation is conducive to altering the way of thinking of government officials, so that they would adopt the view that the files and information held by the government organizations are actually being held and stored by the Government on behalf of the public, whereas the information itself actually belongs to the public. Formulating regulations with legal effect helps the Government to gradually build up a culture of openness and accountability which will foster the development of democracy.

Once the legislation is enacted, it will provide a legal framework which both the Government and the public can use as a yardstick. The Government can enforce the law according to the legislative intent in no uncertain terms and require all government departments, including public organizations and advisory bodies, to comply with the law, whereas the public may appeal through the designated statutory channel. The legislation shall provide that the final decision should rest with a commissioner of information or a court of law, who may, under the principle of consistency with public interest, rule that the relevant bodies have to provide public access to all government files and information, including those for which exemption has been given.

The United Kingdom is a country where the Code existed before the enactment of legislation. The Code was criticized mainly because its provisions require the government to allow public access to government information not in the same way as most enacted legislation on freedom of information, which explicitly stipulate that the government must allow public access to government papers or documentation. In the absence of such regulatory provisions, the Government could collate (or even tamper with) the information contained in the documents for which request for public access has been made before it is really released to the public. In the course of collating the information, it is absolutely possible that discretion is exercised to the effect that only information advantageous to the Government is given public access; or else, the Government

may adopt the confusion tactic through the provision of a daunting amount of information to the public. With the enactment of legislation, the Government will have to file government papers orderly and systematically to facilitate public access to government papers in their "original-flavour". These papers include minutes of meeting, memorandum, and so on, instead of only the collated information.

The Code currently in place in Hong Kong specifies 16 categories of information for which request for information may be refused, such as defence and security, external affairs, damage to the environment, nationality, immigration and consular matters, public employment and public appointments, premature requests and research, statistics and analyses, and so on. Comparing this to the legislation on freedom of information enacted in other countries, it can be noted that Australia, New Zealand, France and Canada have not listed nationality, immigration and consular matters, and public employment and public appointments as items for which request for information may be refused, whereas premature requests has not been listed an item for which request for information may be refused in Ireland, the Netherlands, United States and France. With regard to research, statistics and analyses, they are not items for which the provision is exempted in New Zealand, the Netherlands and France. In this regard, when Hong Kong enacts its own legislation on freedom of information, we should follow the global trend, reduce the number of such unnecessary exemption categories, and allow public access to more government information.

In overseas countries where legislation on freedom of information has been enacted, once such legislation has been enacted, not only can the public request access to and amending their individual personal information, they can also request the following information: such as, the information of private organizations subject to control, by which the public could evaluate if sufficient government supervision of those organizations is effected; internal codes of practice of government departments or public bodies, such as those in place for the purposes of applying for subsidies, allocation of school places, tender awards and tax and loan assessments, and so on. The public can monitor whether the contracts the Government entered into or the returns are reasonable. Another example is, some years ago, the *Washington Post* exercised the right specified in the legislation on freedom of information to obtain a large amount of documentation, with which it revealed a case in which government officials were

unable to provide any documentation on a multi-million dollar service and maintenance contract the Education Department of Washington had executed with a service provider. As a result, the responsible government official was dismissed, and the police initiated an investigation into the contract.

Recently there was an interesting news story. In the United States, an organization called "Sunshine Project", which specializes in biochemical weapons investigation, once obtained papers by invoking the legislation on freedom of information and revealed that the United States Air Force had allocated HK\$50 million in 1994 to conduct several research studies on chemical weapons, but none of which had been conducted eventually. According to the classified documents which were declassified subsequently, it turned out that the Defence Department was considering making certain non-lethal chemical weapons, including a gay-bomb which would be able to release some aphrodisiac chemical compounds. This is a funny story, but it shows that it is necessary for the Government to be accountable to the public.

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) stipulates that "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds .....subject to certain restrictions, but these shall only be such as are provided by law and are necessary". Therefore, enacting legislation on freedom of information is the most effective way to manifest the requirements of the ICCPR.

Enacting legislation on freedom of information can manifest human rights protection as well as protection of freedom of information and freedom of the press on the one hand, and helps monitor the Government and make it get closer to public opinions on the other. If information relating to government's policy decisions could be made more readily accessible in a timely fashion, more public opinions could be solicited, including those professional opinions available in non-government sectors. If certain policy shortcomings of the Government could be identified earlier, it will be more likely for it to secure public support for smoother administration as a result of revised policy directions and measures. Public access to information will also encourage responsible government officials to act more prudently in their policy decisions, knowing that any mistakes will be made public. It could also deter improper conduct such as abuse of power, corruption, and so on.

The business sector should welcome such legislation, because policy decisions will then be made more transparent, more unbiased, and it can, as the Chief Executive put it, help eradicate collusion between business and the Government.

To conclude, enacting legislation on freedom of information helps consolidate the protection of freedom of information and freedom of the press, prevent abuse of power by the Government, maintain the integrity of a corruption-free society, encourage public participation and enhance the public's identification with our core values. For these reasons, the Democratic Party hopes that the Government can listen to the opinion of the Legislative Council and enact legislation on freedom of information as soon as possible.

With these remarks, I beg to move.

**Mr James TO moved the following motion: (Translation)**

"That this Council urges the HKSAR Government to enact legislation on freedom of information so as to safeguard Hong Kong's freedom of the press and information, and to enhance the transparency and accountability of the HKSAR Government with a view to consolidating the core values of Hong Kong."

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

**DEPUTY PRESIDENT** (in Cantonese): Mr Albert CHENG, Mr Jasper TSANG and Ms Margaret NG will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the three amendments will now be debated together in a joint debate.

I will call upon Mr Albert CHENG to speak first, to be followed by Mr Jasper TSANG and Ms Margaret NG; but no amendments are to be moved at this stage.

**MR ALBERT CHENG** (in Cantonese): Madam Deputy, in recent years, Hong Kong people have become very concerned about situations involving collusion between business and Government and transfer of benefits. Mr TUNG has also incorporated these words, that is, "collusion between business and the Government" and "transfer of benefits", into his recent policy address. We can thus see that the public is demanding strongly for an effective mechanism that prevents collusion between business and the Government and the transfer of benefits from the people to the large consortia. We cannot prevent collusion between business and Government by relying solely on the Independent Commission Against Corruption because the Government is already biased in favour of the consortia in decision-making. Or as in the case of the Hunghom Peninsula incident, though the officials concerned had not violated the Prevention of Bribery Ordinance, they had obviously acted in breach of public interest in the process of decision-making.

Although we have the Code on Access to Information (the Code) in place, it is not legally binding, nor can it make public key relevant documents in the incident. The premise of the Code is to protect the Government. Section 2.9(b) of the Code stipulates that information cannot be disclosed if it is related to the financial position or the property interests of the Government. Section 2.10(a) even states that the papers of the Executive Council cannot be disclosed, and section 2.10(b) also says that information cannot be disclosed if its disclosure would inhibit the frankness and candour of discussion within the Government. I do not know when the officials will not be able to hold frank and candid debates. As a result, the Code will only make the real causes of major blunders in governance a mystery forever.

As the Code is not a binding piece of legislation, so the Government does not have any legal responsibility to provide information before any deadlines. In major incidents, the Government just keeps delaying. This will have the effect of making the people gradually forget the truth of the incidents. Let me cite one example. We are now still pursuing the truth behind the Hunghom Peninsula incident. The Government has agreed to comply with our requests as far as possible and provide us with the documents. However, having pursued the case for several months, I still cannot obtain some of the key documents. If we do not have any freedom of information legislation to require the Government, for the sake of public interest, to disclose information including

papers of the Executive Council within a specified period of time, the accountability system cannot be fully implemented. In other democratic countries of the world, they also safeguard the rights of the people and the media to have access to government document through a set of explicit legislation. Only when the media or the people have access to government papers can we ensure that every citizen and reporter is able to monitor policies formulated by the officials. To fully realize political accountability among the officials and to prevent black-box operations, which may give rise to collusion between business and the Government, actually it is essential to have freedom of information.

Even from the perspective of the people's livelihood, the freedom of information legislation is also very important. The people may not be interested in the Hunghom Peninsula incident, but they will be interested in livelihood issues which do have a very close relation with them. Let me cite an example. The public would like to know how the health inspectors of the Food and Environmental Hygiene Department discharge their duties in individual areas, and the real causes for the delay of the Drainage Services Department in implementing the maintenance works of certain roads. But if freedom of information legislation is not in place, how can the people establish their right to find out the causes and effects of these livelihood issues. Besides, the Government has recently placed emphasis on the so-called rational discussions. But any rational discussions must be conducted on the basis of adequate and free flow of information. Yet at the moment, the Government is unwilling to release some essential papers from their archive for the discussion on certain livelihood policies. As we do not have adequate information, that means we can only speak without the support of any solid facts. As such, how can this be conducive to rational discussions?

The business sector also attaches great significance to safeguarding the business environment. But one of the elements of the business environment is the free flow of information. The higher degree of free flow of information, the easier it will be for businessmen to make their business decisions. However, as now there is no freedom of information legislation, it will be very difficult for major corporations, be they local or overseas ones, to have access to government information to enable them to make investment decisions, unless they have good connections in the Government. This exactly explains why retired senior government officials have become hot recruitment targets in the business sector

in recent years. This is because these retired officials have access to information and connections, which are highly valuable. Considering the issue from this perspective, and in order to prevent collusion between business and the Government and the transfer of benefits, we must enact legislation on freedom of information expeditiously.

In recent years, Hong Kong people have attached great significance to the reputation of Hong Kong in both the international community and China. Many major Western countries have already enacted freedom of information legislation. Even Britain and Japan, which have lagged behind the trend of the world in this regard, have already started to implement freedom of information legislation in recent years. This is because the more transparent the operation of a government is, the greater confidence the investors will have in the place. As the world city in Asia and an international financial centre, Hong Kong does not have any reason to lag behind other major developed countries in this regard. After the SARS outbreak, even Shanghai, a city of our Motherland, had started to enact its freedom of information legislation. The national freedom of information legislation will be included on the legislative agenda of the National People's Congress before 2007. If Hong Kong still does not start enacting legislation on freedom of information now, it will be very likely to become the only city in the entire China that does not have any freedom of information legislation in place, and will become even more backward than the Mainland. Should that happen, how disgraceful Hong Kong people will become?

However, freedom of information legislation alone is not sufficient for protecting the public's and the media's right to know because we still have the long-standing Official Secrets Ordinance and the Prevention of Bribery Ordinance intended to make Hong Kong a clean cosmopolitan city. The Official Secrets Ordinance, imported from Britain, as well as the Prevention of Bribery Ordinance for combating corruption, are punctuated by traps. Journalists and even the ordinary people can easily fall into the traps and inadvertently violate certain provisions. Therefore, I would like to call upon the Government to, in the meantime of enacting freedom of information legislation, plug the loopholes left by the Official Secrets Ordinance and the Prevention of Bribery Ordinance, so as to achieve a reasonable balance amidst its efforts of fighting against corruption, safeguarding national security and freedom of speech, thus guarding against the setting of legal traps to make the ordinary people fall into them unawares.

In view of the needs arising from various aspects such as freedom of information on the people's livelihood, freedom of the press, Hong Kong's international image as well as the realization of political accountability, the Government of the Hong Kong Special Administrative Region (SAR) should expeditiously enact legislation on freedom of information and rectify certain traps in law that may have existed for the people or the media. I would hereby call on all Honourable colleagues to support the original motion of Mr James TO as well as the amendment of Ms Margaret NG.

I so submit, thank you.

**MR JASPER TSANG** (in Cantonese): Madam Deputy, when we discuss the enactment of legislation on freedom of information, I think we should first of all make a relatively fair and objective assessment of the present situation of freedom of information and freedom of the press in Hong Kong.

We should be able to see that even some international organizations which are concerned about this issue, in their more objective assessment, think that Hong Kong is by means backward in terms of freedom of information and freedom of the press. For example, international market research organizations have an information society index. This index does command some credibility in the international community. It gives evaluation ratings to 53 countries and territories in terms of public access to information, public absorption of information and the level of information technology. In the evaluation report of this index released last year, Hong Kong ranked 11th, just behind Korea, but had a higher ranking than such countries as Australia, New Zealand and Japan, which have already enacted legislation on freedom of information.

Besides, in the world press freedom ranking published by an international organization, Reporters Without Borders, Hong Kong ranked 34th out of 176 countries and as the place enjoying the best freedom of the press in Asia. From this perspective, though we have not enacted any freedom of information legislation, we cannot say Hong Kong is very backward in terms of freedom of information and freedom of the press.

However, in spite of this, the Democratic Alliance for Betterment of Hong Kong (DAB) is not saying that nothing needs to be done in the protection of

freedom of information and freedom of the press. We agree that we should really safeguard freedom of information, and allow people to have access to government records and information, because this is a fundamental requirement of a modern society. This right will also help to prevent the Government from abusing its powers, committing blunders in governance and becoming corrupt. Of course, we did come across some examples in this regard, and Mr James TO has also mentioned a couple of such examples. The DAB believes that the protection of freedom of information will help the Government to make its policy decisions in an open and transparent manner, thus facilitating the development of people's trust in the Government. This is helpful to maintaining a civil and democratic society.

Of course, we also know that more than 50 countries in the world have already enacted legislation on freedom of information and more than 30 others are also making preparations for enacting such legislation. Insofar as Asia is concerned, 12 countries have already enacted or are preparing to enact legislation on freedom of information. As such, regarding the motion proposed by Mr James TO, the DAB looks at it with a positive and open attitude.

As the two Members said just now, though we already have the Code on Access to Information, this is not good enough for satisfying the demand of Hong Kong people. However, on the other hand, we can also see that most of those countries which have already enacted legislation on freedom of information, passed such legislation only in the past 10 years or even shorter. So we may say that such legislation has not been enforced in those places for a very long time.

We may also note that, no matter which countries we are referring to, as long as there is legislation on freedom of information, there must be some saving provisions. Of course, as Mr James TO said just now, the details of the exemptions may differ from place to place, that is, some will have wider scope of exemption, while others may be narrower. For example, for the most fundamental ones, information related to national security may generally be exempted. Or if the information is related to crimes or law enforcement, it could also be within the scope of exemption. In short, there are more exemptions in certain places, while there may be less in others.

We may also note that, regarding all those details of exemption, in other words, if the Government wishes to be exempted from disclosing certain

information, it may have to prove that its disclosure will cause damage. What should we do in order to cope with the present circumstances in Hong Kong in the best possible way? In our opinion, as seen from the legislative and application experience of other places, it is obvious that none of these places have taken freedom of the press and freedom of information as absolute freedom; in other words, freedom of the press and freedom of information cannot override everything.

Mr Albert CHENG has just said a lot in his speech to the effect that, in his opinion, if information is not open enough and when freedom of the press is subject to limitation, certain bad consequences will be caused to society. However, similarly, looking at the other side of the coin, we can also see that, if freedom of the press and even freedom of information are not subject to certain restrictions, or are even abused, it will also cause damage. Last month, the Law Reform Commission released a report on intrusion of privacy by the media, which bears some relevance to freedom of information. Of course, it was about personal privacy, but it has given us sufficient warning signals — that if freedom of the press is not subject to suitable restraints, it will also cause damage to society and the ordinary citizens. With regard to government information, there must also be a suitable balance in the process of releasing such information. Therefore, Madam Deputy, insofar as the DAB's amendment is concerned, actually three elements have been added to the original motion.

First, we advocate that extensive consultation should first be conducted in different sectors of society. Two Members have spoken just now on their dissatisfaction about the present situation. However, when we have to enact laws to protect freedom of information in Hong Kong, we are granting a new right to one of the parties. But we are also actually giving a new responsibility to the other party. For this reason, we think extensive consultation must be conducted.

Second, we have added two points, namely, "having regard for the public's right to know and their social responsibilities" into the original motion. We think that it is necessary for the public to have the right to know. We have mentioned this point just now. However, while stressing the right to know, we also emphasize social responsibility in order to prevent the emergence of any deviation, as said by us earlier. In addition, in future when we enact such legislation, we can have a standard and a consensus as we proceed to determine the scope of exemption and requests for exemption.

Third, apart from consolidating the core values of Hong Kong, we have also added "safeguard the public interests of the Hong Kong community" as this is also a relevant element, and I believe Members will not oppose it. Madam Deputy, we propose the addition of this point because we think this approach is more impartial and safer.

We are not opposing the enactment of legislation on this. Our voting stance is, if this amendment of ours is passed, we shall support the ensuing amendment of Ms Margaret NG as well as the motion of Mr James TO, because our proposed balances have already been included. However, if our amendment is not passed, we shall have some reservations, and then we shall abstain from voting on the motion and the amendment proposed by the two Members. Thank you, Madam Deputy.

**MS MARGARET NG:** Madam Deputy, I am grateful to Mr James TO for his motion and support it wholeheartedly. My amendment aims to give more concrete details to the proposed legislation, and to put emphasis on access to information held by public authorities. Freedom and access are complementary, just as freedom of the press and open government are complementary. It is not enough that the government does not interfere with the free flow of information by censorship and prosecution. It is necessary for the government to positively make information available by recognizing the public's right to know, and making that right legally enforceable. This is part and parcel of open government. The public can properly assess the government's policies and performance only if the relevant information is made available to them. Access to information facilitates better public debate and better decision-making. It would help political parties to make better alternative policy proposals which are based on solid evidence.

The four of us who are members of the Article 45 Concern Group, and also members of the Article 23 Concern Group, have a special interest in the matter. In our pamphlet "Article 23 Legislation: The Proper Way Forward", published after the Government shelved the National Security (Legislative Provisions) Bill in August 2003, we said:

"..... amendment of the Official Secrets Ordinance is needed to strike an appropriate balance between the need for open government and the protection of what are truly state secrets. This should be done .....

together with the introduction of an Access to Information Bill. Since 1995, Hong Kong already has a Code on Access to Information, that could be adapted to become law."

So we have stated it in 2003. Today's debate is a step towards that direction.

This is not a radical or even a move of any novelty. England has trodden the same path. Hong Kong has followed the United Kingdom in our enactment of the Official Secrets Ordinance in 1997. The United Kingdom had formerly resisted a Freedom of Information Act, raised as long ago as 20 years, and instead adopted an Access to Information Code. In 1995, the Hong Kong Government did the same thing in the face of the demand of the Hong Kong press and the threat of former Legislation Council Member Miss Christine LOH to introduce a private Member's bill on freedom of information.

In 2000, the Labour Government in the United Kingdom finally enacted the Freedom of Information Act in fulfillment of its pledge for open government. On 1 January this year, the Act finally came into force. Is 2005 too soon for the Hong Kong Special Administrative Region to embark on a similar legislative exercise? No doubt there should be thorough public consultation with a White Bill. We are enthusiastic about that, but we should proceed to do so without delay. If the Government fails to do so, the Article 45 Concern Group will do it without hesitation. We will certainly write it into our White Paper on Article 23 legislation.

I should now address the questions of why legislate, and the contents of the legislation. Madam Deputy, a Code on Access to Information is not good enough. It does not give recognition to the public's right to know as a legal, enforceable right which public authorities have to honour; and it does not provide the means of enforcing such a right. The scope of the information covered by the Code is, moreover, severely limited. The exemptions from disclosure are numerous, and subjectively and loosely defined.

Government information shows that the information available is largely about government departments, for example, details of organization, performance pledge, service offered; or publicity material. In the 10 years since the establishment of the Code, only about 16 500 requests have been

made — fewer than 140 per month, or three per day. This does not tend to show that the public has found it very useful.

Anyone who is interested can look up the Code on the Internet, but the constant difficulty in extracting real information from the Government experienced by the press as well as by this Council is clear proof of the inadequacy of the Code. If the Government is serious about freedom of information and open government, it should go for legislation.

We do not have to re-invent the wheel. We can learn from overseas experience. Based on the Freedom of Information Act, the Hong Kong legislation should make provisions under three broad headings:

First, provisions giving the public a statutory right of access to information held in public authorities: under the United Kingdom Act, any person can write to a public authority and asks for information. He had the right to be told within 20 days whether or not the authority has the information, and if it has to have the information communicated to him, subject to any of the exemptions defined in the Act.

Second, provisions for exemption from disclosure: everyone agrees that some information should not be disclosed to the public, but the law should make clear that the presumption is for disclosure, and any exemption should be clearly defined and justified; under the United Kingdom Act, there are a few categories of "absolute exemptions", while the remaining exemptions are subject to a "public interest" test, that is, the information must be disclosed if it is in the public interest. There is a great deal of criticism of this part of the Act in the United Kingdom unsurprisingly, and Hong Kong can take a lesson from that.

Third, provisions for enforcement and appeal: under the United Kingdom Act, an Information Commissioner is appointed with the power to receive complaints from the public where information is denied, to decide on whether the complaint is founded, and if so, to order the public authority concerned to release the information.

We fully anticipate that a government long used to secrecy, particularly one with serious deficits in democracy and accountability will resist legislation, or at least initially. But I would like to urge the Government to give it careful consideration. Open government protected by law benefits not only the public

but also officials. It inspires trust and prestige and confidence. Open government with freedom of information legislation is now the norm of the modern world. With the accession to the World Trade Organization, China is itself exploring some kind of freedom of information law. There is no reason for Hong Kong to lag behind and every reason for us to move forward.

I urge Members to support the motion and my amendment. I also support the amendments of Mr Albert CHENG and Mr Jasper TSANG. Thank you, Madam Deputy.

**MR HOWARD YOUNG** (in Cantonese): Madam Deputy, freedom of the press and freedom of information have become the most fundamental indices of a free society. In this modern era of information, getting hold of information is tantamount to getting hold of the key to success. Be it on a political level or an economic level, the free flow and mobility of information are the indispensable elements of a society.

It is exactly for this reason that many different countries in the world have attached increasing significance to freedom of information. More than 50 countries have already enacted legislation to protect the people's right of access to information. Thirty-one countries and regions are conducting studies on ways of implementing such legislation. From these, we can see that allowing access to government information has become a trend in the world.

Even in the Mainland, legislation on access to government information has already been implemented in such municipalities as Shanghai, Guangzhou and Chengdou. On a nationwide level, the State Council has completed the drafting of the Access to Government Information Ordinance, and a set of laws entitled "The Act of Opening up Political Information" has already been included into the Five Year Legislative Planning of the Standing Committee of the 10th National People's Congress.

Although Hong Kong does not have legislation on freedom of information, we do have the Code on Access to Information (the Code). Ever since the Code came into force in March 1995, the Government has altogether, as at September last year, received more than 16 000 applications for access to information held by the Government. Nearly 90% of such applications have been granted with

access to all or part of the requested information. The Government has denied access to the requested information in only 2% of the applications. Besides, the Office of The Ombudsman has so far received only 40 complaints against certain government departments declining to provide access of information, of which only three were substantiated after investigations. On the surface, it seems that the Government has been adopting a relatively open attitude in providing access to information.

However, we also note the press dissatisfaction towards the Code because sometimes government departments may turn down their requests even if the required information is by no means sensitive. Therefore, we hope that, through legislation, we can further protect freedom of the press and freedom of information, thereby making the public's right to know a statutory right.

We believe that there is still room for improvement in the present mechanism for providing access to information. For example, will the bureaucracy of officials limit the access to information which is not sensitive at all in an unnecessary manner? Has the Government conducted periodic reviews to ensure that confidential information is classified properly? Has the scope of confidentiality been defined too wide? These questions should really be raised.

We agree that it is imperative for the Government to study the feasibility of enacting legislation. But in this process, different sectors of society must be adequately consulted, especially in striking a proper balance between public interest and the public's right to know. From the experience of other countries, we know this is a law that has far-reaching consequences in society. For example, the United Kingdom just enacted the Freedom of Information Act in January this year. The Act has been discussed in the country for over 20 years before it is finally enacted. From this, we can see the complex and controversial nature of the issue. The Liberal Party has all along held the view that it may not be necessary for us to enact legislation to solve all kinds of problems. Therefore, I think we should consider very carefully the issue of whether we should enact laws on this. We should handle this issue with careful deliberation, instead of proceeding to enact laws in great haste.

In addition, when we enact laws, we have to tackle many concrete details. For example, what is the appeal mechanism? Will it bring about a very heavy burden to the workload of the Judiciary? Will the additional manpower

required for enforcement make the government establishment become bloated? Or as the Government said, since civil servants do not wish to see that their opinions are made public in future, so will they stop providing input in the decision-making process, thereby affecting the quality of decision making of the Government? All these issues deserve our consideration. Actually how should we classify the degree of confidentiality of information so as to ensure that confidential information will not be leaked and affect the overall interests of society as a result? How should this be done? I believe even the Member moving the motion, namely, Mr James TO, will agree that these issues call for our more detailed examination.

There is a relatively heartening piece of news to us. According to the findings of a recent opinion poll survey conducted by the University of Hong Kong, the two indices of freedom of speech and freedom of the press have shown the greatest upward surge. I am not saying that the SAR Government can thus afford any complacency and thinks that it has already done very well. I just wish to point out that, all along, freedom of speech and freedom of the press have always been the bedrock of Hong Kong, upon which we have built our success. It is worthwhile for us to make our best effort to uphold such freedoms. Therefore, it is imperative that the Government continues making every effort to enhance the transparency and accountability of the operation of the Government, thereby protecting Hong Kong's freedom of the press and freedom of information.

Madam Deputy, I so submit.

**MR SIN CHUNG-KAI** (in Cantonese): Madam Deputy, in order to manifest the spirit of freedom of information completely, the enactment of a single piece of legislation on freedom of information is insufficient. In fact, as a norm, many countries had their respective Public Record Acts enacted first, and the enactment of freedom of information legislation has just begun only recently. A sound Public Record Act can ensure what kind of information has to be stored in the archives, which kind of information has to be kept for its special value and which kind of information and at what time it can be accessed or disclosed to the public. For example, it appeared that the investigation report of the Kennedy case, with which we are all very familiar, was disclosed after a lapse of 35 years. If the incident took place some 40 years ago, the investigation report would naturally be kept confidential or as classified information at that time.

In order to manifest freedom of information legislation, we must at the same time enact a public record law, or we must incorporate the public record legislation into the freedom of information legislation, so as to specify which kind of information will be preserved and kept in the archives, and under what circumstances this is done.

Of course, there is already a Public Records Office in Hong Kong, which can help us to keep some old records. Keeping old records sometimes enables us to take a retrospective look at certain historical incidents or records. However, this is insufficient. More importantly, if we have the public record legislation, then after a lapse of 20 or 25 years, the decision-making processes of certain significant government policies can be disclosed in public interest. I believe this will help us to improve the efficiency of our governance.

In the Legislative Council, we often meet a lot of difficulties. For example, the Public Accounts Committee has been discussing the Discovery Bay incident lately. The relevant land grant took place some 20 years ago. We could retrieve the records of that time only after we have got hold of the officials then. If we have freedom of information legislation or public record legislation in place, actually there can be public access to all the information of such incidents. If the public can access such information, it means that the public can have the opportunity to inspect such information, and it will substantially enhance the transparency of the Government and also substantially improve the efficient governance of the Government. This may provide great assistance to the Government in monitoring the various departments. Of course, if the Government wishes to monitor its departments, sometimes it may have to rely on some external sources to achieve the purpose.

Apart from freedom of information legislation and public record legislation, the next issue which is even more significant is: For information that the public may access, if high costs are involved, it will discourage the people from accessing such information. Therefore, it is even more important for us to study how we can disclose the information to the public through the use of modern technologies.

Let me quote an example. Now the Government has made great strides in conducting consultations. Some two or three years ago, after the Government had conducted a consultation, it might have received several hundred thousands submissions which would be incorporated into several printed volumes. The printing of such large volumes in great quantity entails the felling of many trees. Nowadays, many government departments will summarize the submissions they have received after conducting a consultation. Some government organizations, such as the Commission of Innovation and Technology and the Office of the Telecommunications Authority, will upload all their consultation records onto their websites. If I would like to find out the viewpoints of any individuals (such as Mr James TO or the Article 45 Concern Group) on a certain bill or on a certain consultation document, I can check that out very easily as all of them have already been uploaded to the relevant websites. This is one of the simple examples.

Besides, there are no objective or statistical standards under the present system. We just rely on the interpretation of the principal government officials. This is a shortcoming on the part of an organization which is really willing to be accountable to the people and subject itself to public monitoring.

Simply put, we will not only experience practical difficulties in enforcing the relevant legislation but may also find its implementation very costly. Therefore, we need to make extensive use of information technology or as commonly referred to as "knowledge management system" in the information technology industry. In fact, many countries are implementing or manifesting freedom of information legislation by way of e-government. One of the objectives is to make use of information technology to provide customer-oriented services, thereby establishing a more open, more responsible and more efficient government.

For example, the Ministry of Constitutional Affairs of the British Government published a research report on 10 March 2003, which was on the use of an electronic system to handle public requests for government information. Many different organizations such as the Ministries of National Defense of Mexico and Canada, the New York State of the United States and the Federal Reserve Bureau, and so on, have already adopted similar practices. They have engaged the services of information technology companies to design tailor-made systems for them, or purchased systems from them. But on the

whole, they have all made use of electronic systems to handle public enquiries or requests for government information. For example, there are requests for tracing the progress of cases, electronic management of documents, the provision of online reading services, service fees management system for the provision of information, and so on. This has greatly reduced the costs incurred by the persons who request such services, thereby enhancing the transparency of the Government and really enforcing the freedom of information legislation. Even if we have freedom of information legislation in place, we also need to have some regulatory provisions requiring the keeping of records, as well as provisions governing when information can be disclosed. After enacting these regulatory provisions, we can then proceed to establish a good information technology system to enable people requiring certain information to have very easy access to such information electronically.

Only after these three steps have been taken can we really fully manifest the spirit of freedom of information legislation. I hope the Government can really live up to the spirit of freedom of information and, by way of legislation, regulatory provisions and technology, give full play to such freedom. I so submit.

**MR LI KWOK-YING** (in Cantonese): Madam Deputy, the DAB supports enacting legislation on freedom of information.

Freedom of information is not only the right of the public at large, but also an effective tool to enhance the transparency and accountability of the Government and prevent abuse of power and maladministration. The DAB also believes that enacting legislation on freedom of information can help realize the goals set by the Chief Executive in the policy address, namely "improving governance", "visions for governance" and "maintaining social harmony".

I notice some of the observations of academics, that some countries would not have enacted legislation on freedom of information if not for international pressure; some have chosen not to implement it even though it does exist; and some have raised the threshold to make acquisition of information difficult.

I also notice a survey on freedom index posted on the opinion poll website of the University of Hong Kong on 18 January 2005. In the survey, the rating

on press freedom rose slightly from 7.15 points in 1997 to 7.39 in 2005. Moreover, the overall index of freedom has not shown a falling tendency. Instead, it has slightly risen.

What is more, I notice that the Code on Access to Information, currently available in Hong Kong, has served as a mechanism enabling the public to acquire information.

However, all these are not reasons for opposing enactment of legislation on freedom of information.

The freedom of information law supported by the DAB must be legally enforceable, and is able to confer on Hong Kong people the statutory right to obtain the relevant information, help the public understand government policies and discuss social issues, help promote the public's trust in the Government, and maintain a people-oriented open government which is able to get close to public sentiment.

For these reasons, in enacting legislation on freedom of information, the Government must conduct extensive consultations and take into account the views of various sectors of the community.

In the opinion of the DAB, "public interest" must be used as a criterion to test any enactment of legislation on freedom of information. Information requested, even if some harm might be caused, should be provided if such harm appears to be small in consideration of public interest. On the contrary, the information requested should not be provided if it is in conflict with social responsibilities and harmful to public interest.

I have also noticed Article 19(2) of the International Covenant on Civil and Political Rights with regard to the freedom to transmit information of all kinds. However, paragraph 3 also provides that the exercise of the rights provided for in paragraph 2 must be subject to such restrictions as "respect of the rights or reputations of others" and "the protection of national security or of public order, or of public health or morals".

The DAB is of the view that the restrictions provided for in paragraph 3 concern public interest and social responsibilities. The DAB will not render its

support if all legislation in conflict with freedom of information is amended without regard for international covenants, public interest or social responsibilities, if the disclosure of internal information by a committee of inquiry set up by this Council before a conclusion is drawn can be legitimized, and if the right to know can surpass privacy.

Therefore, the HKSAR Government must enact legislation on freedom of information on the premise of fully consulting various sectors of the community and having regard for the public's right to know and their social responsibilities in order to safeguard Hong Kong's freedom of the press and information, to enhance the transparency and accountability of the HKSAR Government, to protect the public interests of the Hong Kong community, and to consolidate the core values of Hong Kong.

With these remarks, Madam Deputy, I support Mr Jasper TSANG's amendment.

**MR ALAN LEONG** (in Cantonese): Madam Deputy, during the discussions on how legislation should be enacted under Article 23 of the Basic Law to prohibit theft of state secrets, several Members of this Council, who are also members of the Article 45 Concern Group, already advocated for the enactment of legislation on freedom of information to rectify the shortcoming of the existing Official Secrets Ordinance in ensuring an open government while protecting genuine state secrets.

A freedom of information law seeks to affirm the public's right in acquiring official information. As pointed out by many colleagues in this Council earlier, compared to 50 countries in which legislation has been enacted to protect freedom of information, Hong Kong has done far from enough in protecting the public's right to know, despite its worldwide reputation for being a free economy.

Furthermore, media surveillance is considered the fourth power, in addition to the three powers, namely the legislature, the executive and the Judiciary. By enacting legislation on freedom of information to implement the arrangements for disclosure of official information, the legislation will facilitate the media in fully performing its role of monitoring the Government.

Madam Deputy, in the policy agenda and report for the first 100 days published by me early this month, I have made it clear that excellent governance, which the public at large has in mind, must include an open and transparent government, full participation by the community in decision-making, and serious and sincere consultation. Each of these is inseparable from any vigorous effort to protect the public's right to know.

To achieve excellent governance in modern society, there must be healthy interaction among the three parties, namely the government, the civil society, and the market. With a democratic government as the basis, the public can pool their collective wisdom to enhance democracy, accountability and the credibility of the government.

An open and transparent Government is the prerequisite for the general community, including this Council as a representative of public opinions, to fully participate in decision-making. The public and this Council must be given adequate and comprehensive information before they can reasonably assess the effectiveness and merits of policies and, through a democratic mechanism, choose the most appropriate options and then join hands in promoting the policies and, subsequently, enjoy the results or bear the consequences.

Of course, upon the enforcement of legislation on freedom of information, the executive will have to spend time organizing information and handling enquiries, as well as making some efforts to design relevant procedures. Given that it is impossible to evade public surveillance, the relevant legislation must definitely ensure that the Administration will remain vigilant at all times and oblige it to act prudently at every step, think thoroughly and gather sufficient supporting arguments before putting plans into implementation. Only in this way can the public monitor and spur on the people in power and raise the level of governance.

It is already worthwhile if the Government can thus be made more open and transparent and a bit of public confidence be restored. This is because social prosperity and stability, as well as the constant quest for progress and development, hinge on having trust in and a sense of belonging to the administration. Though intangible, they are priceless.

Let me cite the development of the West Kowloon Cultural District (the WKCD development), on which the Government has refused to make the

smallest concession, as an example. Acting positively in the hope of promoting the WKCD development in a constructive manner, we all agree that an appropriate portion of the property development proceeds be used to meet the enormous cost of developing arts and culture. The public has indeed examined the entire project from the fundamentals in a responsible and reasonable manner. For this very reason, it is all the more necessary for the Government to present figures and data to convince the public and put their minds at ease. Regrettably, the Administration has never seriously responded to these aspirations.

It is my earnest hope that the freedom of information law could have taken effect so that the public had already had the statutory right to obtain the Government's reports and discussion records on its evaluation of the usage, attendance, and so on, of the existing arts and cultural facilities in Hong Kong, the basis and data of predicting the required facilities in future, expenditure on operating the relevant facilities, projected revenue, and so on. This is definitely more positive than making such remarks as "expressing regret for not being able to comply with your wishes" or "scrapping the project if consent is not given". Most importantly, had the Government acted in an open and transparent manner, the public would not have come to the lopsided view that all arrangements were made purely for the purpose of facilitating collusion between business and the Government and transfer of benefits.

Madam Deputy, I have just proposed setting up a working group under the House Committee to specifically deal with the task of following up the WKCD development, a long-term project covering several areas, including arts and culture, planning and land, and public finance, in order to buy time to follow up the matter to prevent the development from being aborted. I wish to appeal to the public not to let their doubts about the Administration intensify, because it is a negative attitude. The Government must first establish an open and transparent system, for it will be too late to regret when the gap has widened to such an extent to cause a collapse.

In delivering his policy address two weeks ago, the Chief Executive said that he would take heed of public criticisms of his governance and responded positively to the aspirations of the people. Furthermore, the Government will continue with its efforts to uphold the vision of "people-based" governance, gauge the mood of the people more accurately and listen more closely to their

opinions. Given this clear target, the Government should start by respecting the public's right to know by expeditiously examining the enactment of legislation on freedom of information as the first step towards "people-based" governance.

Madam Deputy, I so submit.

**MR RONNY TONG** (in Cantonese): Madam Deputy, Secretaries and Honourable colleagues, we all realize the importance of information flow in this era of information technology. The recent Hunghom Peninsula incident is a case in point. However, even in this case, the public would still be unable to obtain the documents from the Government if not for Members' intervention. This is because the Government is at present not legally obliged to make any document public. The Cyberport is yet another example. Now that the Government is saying that the Cyberport is making great profits. However, we can still not catch the point even though we have gone through the relevant information and figures repeatedly. There is no way for us to ascertain who is telling the truth and who is lying, unless we have the statutory right to request the Government to surrender all information. The list can go on and on if similar examples are cited.

Why is the Government often accused of colluding with business? It is precisely because the operation of the Government is lack of transparency. The failure to fully implement the public's right to know should really be blamed for the public's impression that the Government is transferring benefits.

Constitutionally, the Government is obliged to respect and implement the right to know provided for in the Basic Law. Article 19(2) of the International Covenant on Civil and Political Rights (ICCPR) clearly provides: "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds." This is a constitutional obligation. The introduction of Article 19(2) into Hong Kong was made possible by Article 39 of the Basic Law. An equivalent provision can also be found in our Hong Kong Bill of Rights Ordinance. In other words, the constitutional obligation provided for in Article 19(2) of the ICCPR has been incorporated into Hong Kong law by way of legislation. This also implies that the Government is violating the law and the Basic Law every day.

How can the right to and freedom of information be implemented? What about legislation is already in place? Although the Code on Access to Information (the Code) is already in place, as indicated by the Government, can it really work? I do not think I need to raise this matter again for a number of colleagues have already stated their views. However, more than 50 countries in the world, including Guangzhou, just a few hours' drive from Hong Kong, and Shanghai, have already enacted their freedom of information laws. There are roughly five things in common between these laws: First, ordinary citizens, regardless of their background, are legally entitled to seeking information from the Government without giving any reasons. Such information includes records, documents, and information. Second, the scope of all freedom of information legislation should cover all government and public organizations, including publicly-funded non-government organizations, to assist the public in fully monitoring the conduct of public affairs. Third, every piece of freedom of information law should have an appeal mechanism in place. Should the public's request for information be rejected, these appeal organs can act as an investigator and an arbitrator. Earlier Mr Howard YOUNG — he has already left — questioned whether every matter has to be taken to the Court and what would happen should there be no appeal mechanism. The answer is indeed very simple. Hong Kong has already established the Office of The Ombudsman (the OFOMB), which is perfectly suitable for promoting legislation on freedom of information, and even lodging appeals and acting as an arbitrator. This is because the OFOMB is at present basically responsible for seeking information from the Government in order to handle complaints lodged by ordinary citizens. Should we feel that the OFOMB's duties should not cover this task, we may create a separate commissioner to deal with information matters. These organs may make binding decisions on the findings of investigation, thus compelling other government organs to comply with the relevant decisions. If various parties are still not satisfied with this appeal or investigation mechanism, the Court may still arbitrate ultimately. Therefore, an appeal mechanism should not become one of the reasons for impeding the enactment of legislation on freedom of information. Fourth, as I pointed out earlier, government organizations are basically obliged to take the initiative to disseminate to the outside world information relating to their primary functions, internal operation, decisions, structure, senior staff members, and so on. And then the fifth point. What these five points have in common is that certain information will be exempted in the event that public interest might or will be jeopardized if such information is made public. I believe no colleague will raise objection to this. Examples are national defence, diplomacy, personal privacy, and so on.

If these five points are employed to test the Code currently adopted in Hong Kong, we will find that the Code is far from meeting the requirements of these five key points. Given that some public and statutory bodies are not required to comply with the Code, and coupled with the fact the Government has continued to outsource its work and devolve its authority to statutory bodies, the public will encounter a certain measure of difficulty in monitoring these organs. Furthermore, the Government has now come up with a new trick by bypassing this Council through land exchange. Examples are the Cyberport and the development of the West Kowloon Cultural District. Hence, there is even a greater need for legislation to be enacted to safeguard our right to know.

Similar legislation was implemented in the United Kingdom in 2000. Since its full implementation on 1 January this year, a number of cases involving suspected collusion between business and the British Government have been disclosed. If the SAR Government dreads enacting legislation on freedom of information, I wonder if it is because the Government fears that evidence of collusion between business and the Government will really be found. I hope this is not the case. Should the Government have no fears, it may even state with ease and confidence that it will make every possible effort to fulfil the constitutional responsibilities set out in the Basic Law and international covenants and enact legislation on freedom of information expeditiously. Thank you, Madam Deputy.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam Deputy, it was only after I had heard the speech delivered by Mr Ronny TONG that I realized our Motherland had already enacted legislation on freedom of information. However, I have mixed feelings about this because a few names immediately spring to my mind. The first one is lawyer ZHENG Enchong, whose profession is the same as that of the four colleagues sitting in front of me. While engaging in a lawsuit, he gathered some information about ZHOU Zhengyi's seizure of civilian properties by force. After submitting the information to Court, he was ultimately charged with the offence of leaking state secrets. This incident reminds me of HUANG Qi, a student of the Beijing University — no, his name should be LI Hai. He was charged with leaking state secrets because of his intention to rescue the victims of the 4 June incident. HUANG Qi, a dissident active on the Internet, was also charged with leaking state secrets for disseminating the true stories of the victims of the 4 June incident.

The combined sentence term of these three persons is 19 years plus three years, or 22 years of imprisonment. I strayed off the subject just because I wished to illustrate that the party can defy the laws because it enjoys more power than the state. However, this does not mean that such a serious incident has not occurred in Hong Kong, though at least we have not heard that Mr Ronny TONG has been arrested for leaking state secrets. However, the problem is, (I will refrain from talking about Article 23 of the Basic Law (Article 23) for the time being, though I am still haunted by it) despite our efforts in the community for so many years, we have yet been able to put things into implementation according to law. We have merely kept saying that we have to create an information society and a world city. Yet, what are the unique characteristics of our city? Other than its skyscrapers, it is unique in the sense that both the flow of information and the Government are monitored.

Most governments would want to avoid being monitored. If I were the government, I would not want to be monitored either. However, how can the people be enabled to monitor a government? Aristotle was right in saying that "Give me a fulcrum on which to rest and I will move the earth!" Like a fulcrum, freedom of speech cannot be moved. If people are allowed to speak out as is in the case of Hong Kong — those who do not pursue democracy, freedom and freedom of speech will definitely be condemned. This is the merit of freedom of speech, as well as the cornerstone of Athenian democracy.

With the scope of views becoming more and more extensive, there will be news everywhere, not only in Athen, to inform people of what is happening in Athen and other places. The freedom to know will then act as the fulcrum of a fulcrum. Without freedom of information, it is needless to talk about monitoring. The situation is like putting a person in a dark room and asking him what he sees and thinks of. I can tell Members that, in a matter of 24 hours, he will say that there is nothing, but darkness, darkness, darkness. He will lose his sense of direction completely. The importance of enacting legislation on freedom of information precisely lies here.

I see that there was such a threat when the Government proposed enacting legislation under on 23. Although freedom of information was discussed at that time, it was out of political consideration. Today, we make this request from an opposite direction — the Government had better first open up freedom of information. Why is there opposition to opening up freedom of information?

Because this is directly in conflict with Article 23 politics-wise. Should we manage to establish a legal process and a principle, we will extend it further, even to the constitutional status. As pointed out by Mr Ronny TONG, the International Covenant on Civil and Political Rights, introduced by Article 39 of the Basic Law, has a fundamental implication. We were actually acting in conflict with the attempt to prohibit freedom of information consequential upon the enactment of legislation on Article 23 every time we discussed this matter in the legislature and with the executive.

Today, we attempt to pass legislation on freedom of information for commercial reasons, for the sake of monitoring the Government. This law, if passed, will become a firewall against Article 23. This is the crux of the problem. This can be seen very clearly from both the political and economic points of view. The reason is actually very simple. I have been sitting in this Chamber and kept asking "Secretary SUEN", "Permanent Secretary LEUNG", or "Secretaries so and so" why we are not given what we ask for. They will turn down my requests by citing commercial reasons. I will not argue with them. However, I will bring the case to Court. Should there be a freedom of information law, please produce it during the proceedings to determine if the Government has acted unconstitutionally. Given that a judgement can then be made by the Court, we will no longer need to invoke the Legislative Council (Powers and Privileges) Ordinance every time. Neither will it be necessary to accuse me of "playing havoc" again. Actually, I was not bothered by the mention of this Ordinance on every occasion. I have only been penalized three times by someone through invoking the Ordinance.

Had there been this law why would it be necessary to get us involved, given there is the Court of Final Appeal? Let us have our rights first. Let the accounts be squared when you try to take my rights away. Of course, the Government must "return what it takes". One cannot eat a BBQ pork bun and walk out without paying for it. The bill must be footed even in a teahouse. It has now become a prevailing trend of human civilization for a government to confer rights on its citizens and then take them back. Now we have to, on the contrary, beg the Government for freedom. What disgrace is this?

Therefore, from my point of view, a handful of people who thrive on insider information will definitely oppose this law. Let me tell Members that a secret will no longer be a secret when more people know about it — no one will

then be able to make use of it to make a fortune or gloss over their blemishes. I dare say Members might not know very much about the 4 June incident. When everything is exposed under the sun, no one can create inside stories. This is the crux of the entire problem. The executive authorities may take action through the Court should it wish to take back this right, and here lies the problem. I therefore agree enacting legislation on freedom of information.

We must establish our rights to prevent us from being deprived of such rights. Court is the only channel through which such rights can be taken away. This is the very essence of the problem. Enacting legislation on freedom of information is thus essential. Thank you, Honourable Members.

**DR KWOK KA-KI** (in Cantonese): Madam Deputy, our topic of discussion today is whether we should enjoy freedom of access to information. This is actually the most fundamental political right of the people. It is not only the cornerstone of press freedom, but also the prerequisite and the only condition for all citizens, including the people of Hong Kong, to exercise their right to know and make use of the same to lodge complaints, improve governance and monitor their governments.

Actually, the Government has its powers conferred by us, the citizens. Therefore, every member of the public is entitled to requiring the executive organs of the Government to explain to them everything about its work and every bit of information. Members of this Council were also conferred this right through the Legislative Council Election, to exercise their right to know.

In many common law countries, the right to information has actually been established in their law. Most of the democracies in Europe, including countries as remote as Finland, Denmark and Norway in the Scandinavia; France, Austria on the European Continent; and English-speaking countries like Canada, Australia, New Zealand, and so on, have accumulated more than two decades of experience in enforcing legislation on freedom of information. Our neighbours, Japan and Korea, also completed their enactment of legislation on freedom of government information and all legislative procedures in mid-'90s of the last century.

(THE PRESIDENT resumed the Chair)

Hong Kong actually lags far behind international standards for its discussion on enacting legislation on freedom of information is still underway today. A number of colleagues earlier expressed their views on the importance of legislation on freedom of information to society as a whole. Here is my observation in other aspects. Certain recent incidents in Asia have indeed proved the importance of freedom of information. As Members are aware, South Asia was struck by a tsunami earlier. A proper tsunami notification system should have already been put in place in the region. However, such information was very often not provided expeditiously due to the operation of certain bureaucratic regimes. Members should be aware of what happened in Thailand. The Thai Government, actually informed of the news about a tsunami a long time ago, should have notified its nationals, including the people living in Phuket. However, it so happened that the people were denied access to such an important piece of information, while the Thai Government was in full control of the right to monopolize this piece of information. It is a pity that such information has affected the lives of many people in the world.

The second example I wish to quote took place in Chile. As Members are aware, several young men thought that a tsunami was on its way on seeing receding waves. Consequently, 12 000 people ran away from their homes, and an elderly woman was scared to death. Information can be enormously powerful. Providing an important and accurate piece of information can influence and help many; on the contrary, providing an incorrect piece of information can kill many too.

I wonder whether Members will still remember that, during our discussion on The Link REIT incident not long ago, we were told by the officials in attendance that the listing of The Link REIT must go ahead because the Housing Authority would otherwise run out of money and the construction of public rental housing could cease at any time. Soon after, however, when The Link REIT listing had to be suspended because legal action was involved, the official in charge of the matter tried to evade the matter. What we were told was untrue and simply did not exist — without The Link REIT, public housing could still be built. It is thus evident that the words previously spoken by the officials were in violation of public interest, and the officials have obviously deceived the public and Members of this Council. Such an act is indeed intolerable.

I believe, had proper legislation on freedom of information been in place, and when every member of the public and this Council could exercise such rights to unanimously request the Government to provide accurate information, these officials would not, and would have not any chances to, lie before the public or this Council.

As a medical practitioner, I still clearly remember the situation two years ago when Hong Kong dealt with SARS. Members should be aware of how information at that time was intercepted by senior government officials, thereby leading to enormous sacrifices — losing nearly 300 human lives, having more than 1 000 people infected and losing tens of billions of dollars in economic proceeds. I believe every citizen in Hong Kong also found this wound very hard to heal. Members should also know that information on the outbreak of SARS in the Mainland or Hong Kong this time was not disseminated in an accurate, unbiased and fair manner to overseas countries and members of the public in Hong Kong. It should be remembered that it was only until a friend of mine cum a colleague of mine, Dr Sydney CHUNG, appeared on the television screen in tears that the Government realized the severity of the state of affairs and that it could no longer hide the news from the public.

Besides Hong Kong, a lot of places have often safeguarded some of their so-called state secrets in the name of protecting the country's overall interest. This is like placing a sword above the neck of every citizen to prevent the public from knowing the blunders with an excellent excuse. We are perfectly entitled to requiring the Government to enact legislation on freedom of information and prevent the recurrence of many of the disasters. Some incidents are merely temporary, easy to understand, or merely involve some trivial matters or minor mistakes. For instance, the worst scenario for The Link REIT is that it cannot be listed. However, should we fail to make good preparations in this respect, enormous losses will be incurred, including the loss of many human lives, in case of matters of enormous significance.

With these remarks, Madam President, I support the original motion and the amendments proposed by several colleagues. Thank you.

**DR FERNANDO CHEUNG** (in Cantonese): Madam President, a week ago, the Chief Executive, Mr TUNG Chee-hwa, delivered his policy address here in this

Council. By devoting considerable length to self-criticism, not only has he admitted that he and his own governance team lack a sense of crisis and political sensitivity, he has even vowed that he is resolutely against collusion between business and the Government. Many of the media have described him as "putting the blame on himself". However, when Mr Albert CHAN asked him in a Question and Answer Session to set up a commission of inquiry to gather evidence on collusion between business and the Government, the Chief Executive replied categorically, "I will not answer this question!"

To address the doubt among members of the community that the Government is transferring benefits to major consortia in the development of the West Kowloon Cultural District (the WKCD development), Members of this Council have requested the Chief Secretary for Administration, Mr Donald TSANG, to make the relevant financial information known to the public. Nevertheless, Chief Secretary Donald TSANG has not yet responded to our request to date. The Government has recently tried to defend itself by saying that the Cyberport has not involved collusion between business and the Government. However, soon after the visit to Israel by Chief Executive and PCCW Chairman Richard LI in 1998, the plan was announced, and no open tender was conducted throughout the process. Will the Government be willing to make public all its correspondences with PCCW at that time if such a request is made? I believe not.

Internet financial critic, David WEBB, has made repeated attempts to obtain the Cyberport accounts but to no avail. It was only until late last year that the Government submitted a report on the Cyberport project to this Council. Yet, the report has still failed to clearly account for the non-residential rental proceeds. According to David WEBB, this piece of information is vitally important for we have to find out if the return rate of the assets possessed by Hong Kong people is reasonable.

Let us now turn our focus to the United States, a country known for placing democracy and human rights above all else. However, the United States Government is found to have engaged in a lot of dirty deals in violation of human rights. Last year, the American troops stationing in Iraq were found to have abused Iraqi prisoners. A report published a couple of days ago also revealed that the United States Government, while accusing other countries of developing chemical weapons, had once planned to develop an alternative

chemical weapon called a "gay bomb". It was reported that this weapon would make enemy combatants sexually irresistible to each other and lose self-control, thus provoking homosexual behaviour.

It is noteworthy that these so-called dirty deals and these atrocities of the United States Government would not have been exposed in front of the people around the world had civil society and organizations not exercised the rights conferred upon them to request the relevant information and dossiers from the United States Government. The United States' freedom of information legislation provides that, except for statutory exceptional circumstances, it is compulsory for the information of the executive authorities to be made known to the public for their inspection.

My purpose of quoting so many examples from Hong Kong and the United States is to point out that governments in possession of power tend to abuse it, and so do democratic countries. However, the difference with democratic countries is that they will ensure that government power is monitored by the people institutionally and legally. This is also the crux of the democratic system. Therefore, despite Mr TUNG's vow that he will not tolerate collusion between business and the Government, we can still not believe him because there is no freedom of information legislation here in Hong Kong. The public simply do not have the power to compel the Government to make the information known to them for the purpose of exposing such incidents as the Cyberport, the WKCD development, and even many more black-box secrets. The extent of public knowledge depends entirely on the subjective will of government officials. As stated by the Chief Executive, since he did not like the question put by Mr Albert CHAN, he could refuse to answer because he did not feel like it. There is nothing we can do.

Hong Kong people need no rule of man. They need not only the personal moral commitment of the Chief Executive, but also an objective and reliable system, as well as the rule of law, to ensure that the Government is accountable to the public. Although the Government has formulated the Code on Access to Information (the Code), it is not legally binding. Even if government departments do not comply with it and reject the applications of the public for government information, government officials are not required to face any substantial consequences. They will at most be given a few words of criticism by The Ombudsman, but then they can act in their same old selves afterwards.

As early as the '80s, voices of appeal were already heard in the community for enacting legislation on freedom of information. On the other hand, the Government again refused to amend the Official Secrets Ordinance (the Ordinance). At present, information covered by the Ordinance includes security, intelligence, national defence, crimes, special investigation, classified official correspondence among governments and among international organizations, and so on. There is a possibility for journalists to be prosecuted for publishing official information falling within this scope without permission. The Government has yet to respond to the public's request for introducing public interest as a defence in this Ordinance. This means that even if journalists have evidence proving that public interest has been jeopardized by the Government, they can still not report the information should it be protected by the Ordinance. Hence, the Ordinance can act not only as a tool to restrain freedom of the press, but also as a charm protecting the Government from public surveillance.

The Chief Executive has expressed his hope for Hong Kong society to be accommodating. Yet, he should understand that the many grievances of the people are actually caused by the lack of transparency in the operation of the Government. In the opinion of the public, the black-box operation of the Government has prevented them from knowing that their views have not been reflected in the Government's entire policy-formulation process. To achieve genuine harmony in the community, do not merely ask the people to put aside their established views, or make less noise. If the Chief Executive is determined to improve governance and respond to the public aspirations, he should urge the Government to enact legislation on freedom of information expeditiously and amend legislation that is in conflict with freedom of the press.

I speak in support of Honourable colleagues who support enacting legislation on freedom of information.

Madam President, I so submit.

**DR YEUNG SUM** (in Cantonese): Madam President, the Government has been enforcing a British enactment of the Official Secrets Act since 1991. After years of dispute, the British political circle and media ultimately succeeded in forcing the government to amend this law in 1989, and pass freedom of

information legislation in 2000. Upon the formal implementation of the legislation in 2005, the Government would be obliged to enable its citizens to enjoy more freedom in accessing information.

As Hong Kong society has undergone years of political development, the Government should, particularly after the passage of the Bill of Rights, go with the tide to enact legislation on freedom of information to meet the needs of social development and demonstrate its determination in enforcing the Bill of Rights. Given that there is no freedom of information legislation in Hong Kong, what problems have thus occurred? I wish to raise three points.

First, from the angle of business and economic development, opening up government information will definitely produce a positive effect in facilitating free market operation. Should government information be grasped merely by a handful of elites with power, they will only end up hoarding excessive political and economic powers. Moreover, market operation will be controlled or distorted if government information is not made public. Actually, there is a correlation between free market operation and freedom of information.

Given the present confidentiality of government information, only the Chief Executive and members of the Executive Council are entitled to access all information. Under the collective responsibility system, these people, already enjoying political and economic benefits in their own right, obviously possess more power and greater edges than other people in Hong Kong, and this is unfair to the latter. However, a more serious problem is that these people are simply not required to be accountable to the public or publicly explain to them. Under the Official Secrets Act, there is evidently unfairness in Hong Kong, whether from the economic or political point of view.

Second, the dissemination of information by the Hong Kong Government is entirely in the hands of government officials. On the one hand, the officials can decide, as they wish, the dissemination of information, and on the other, there is no way for members of the public to grasp the information and operation of the Government. This is basically unacceptable, now that the Bill of Rights has been passed. Under Article 16 of the Hong Kong Bill of Rights Ordinance, the public shall have the right to freedom to receive and impart information. As such, it is now time for the Government to conduct a review of the dissemination of information, as the existing practice obviously violates the relevant legislation.

Third, the news media. This point is extremely important, Madam President. The news media plays a key role in monitoring the Government. However, under the Official Secrets Act, the news media can hardly monitor the Government effectively, whereas the latter can, knowingly or unknowingly, disseminate information in a selective manner, or even influence the operation of the news media.

Thanks to pressure from all sides, the Government eventually implemented the Code on Access to Information in March 1995, authorizing and requiring civil servants to, unless with special reasons, provide information kept by the Government according to usual practices or upon request. Two surveys were conducted by the Hong Kong Journalists Association (HKJA) in 1998, three years after the Code was implemented. As the findings of the relevant surveys were elaborated by Mr James TO, I am not going to repeat them here. It was generally felt by the HKJA that the implementation of the Code was entirely unsatisfactory because the Government had very often disseminated information in a selective manner. Even journalists, not to mention ordinary citizens, could hardly acquire much sensitive information.

Madam President, as Members of this Council, we have also found it increasingly difficult in obtaining government information. For instance, when we requested information about The Link REIT incident recently, the Government very often declined our request for the reason that commercial secrets were involved. The Government acted in the same manner when we enquired about the financial information on the consortia bidding for the West Kowloon project. We were told that the Government could not supply the information because commercial secrets were involved. As regards the question of whether the agreement reached between the Government and the relevant property developer on the Hunghom Peninsula had involved transfer of benefits, we were again given a similar response by the Government.

Therefore, even elected Members sought information from the Government by virtue of their status as Members of this Council, Directors of Bureau would still reject our requests by citing a variety of reasons. An even greater difficulty came our way when commercial and market reasons were frequently cited to make it difficult for Members to acquire information about the Government's recent bid to privatize its services and list its properties. Of course, we can invoke the Legislative Council (Powers and Privileges) Ordinance. However, as Members are aware, it is very difficult to secure

endorsement in this Council to invoke such power in the political reality. Should elected Members encounter difficulty in acquiring information, this would mean that we could not fully discharge our duty of monitoring the Government. While it is our vocation to monitor the Government, the latter has, knowingly or unknowingly, refused to hand us the required information for a variety of reasons. Such being the case, how can we fulfil our vocation and properly carry out our mission of monitoring the Government?

Certainly, it is all the more for ordinary members of the public to seek information from the Government. Actually, the Government should seriously consider conducting a critical review and enact legislation on freedom of information in order to go with the tide and answer the aspirations of the public. I shall outline two more points, that is, the enactment of legislation on freedom of information carries two important meanings.

Firstly, Madam President, it is to enable the news media or Members of this Council to monitor the Government more effectively. Moreover, this is meant to be a respect for the public's right to know. Giving the public the right to seek information can actually make governance more open, transparent, and closer to public sentiment, thereby making governance more respected and accepted by the public. Such being the case, the enactment of legislation on freedom of information is inevitable, whether from the angles of governance, human rights and freedom, and freedom of the news media.

Thank you, Madam President.

**MISS TAM HEUNG-MAN** (in Cantonese): Madam President, freedom of information legislation can not only safeguard freedom of the press and information but also enhance the transparency of governance. Many economically advanced countries around the world have already enacted legislation on freedom of information. Only Hong Kong has chosen to stand still and refused to make progress. Despite much delay, the Government is still reluctant to enact legislation on freedom of information, thus unable to converge with other places in safeguarding such freedom.

Freedom of information legislation is an underpinning of freedom of the press, which is in turn an indispensable element of civil society for it can achieve the effect of monitoring and checking the Government.

Little could be said about governance in recent years. In the final analysis, the Government has not only failed to fully consult the public in implementing its new policies, but also acted indifferently to public sentiment. Furthermore, government information is far from transparent. For instance, the Cyberport was awarded to a developer without tender. Public suspicions are inevitable under such circumstances.

Should legislation on freedom of information be enacted, the public can request the Government to disclose documents in connection with public interest. In doing so, not only can the transparency of governance and the accountability of the Government be enhanced, unnecessary misgivings can be removed too. This will, on the contrary, help lift public confidence in the Government.

Actually, freedom of information legislation seeks mainly to ensure the transparency of government information while obliging the Government to disclose documents in public interest. It is not at all a scourge. Neither does it seek to require the Government to make every document known to the public. The Government can clearly define categories of information not to be disclosed, such as classified documents of military, diplomatic or commercial nature. Provided that the Government explains to the public its authority to refuse disclosing those documents, national security will definitely not be jeopardized.

At present, Hong Kong people can request the Government only through the Code on Access to Information (the Code) to make information known to them. Nevertheless, the Government is not legally liable for turning down such requests. Freedom of the press and the public's right to know are not effectively safeguarded at all.

Article 27 of the Basic Law stipulates that Hong Kong residents shall have freedom of the press. The enactment of legislation on freedom of information precisely manifests the rights conferred upon Hong Kong people by the Basic Law. I therefore call on the Government to expeditiously enact legislation on freedom of information for the protection of civic rights.

Let me cite the supply and demand of housing as an example. The introduction by the Chief Executive of his so-called "85 000" policy in 1997 was followed immediately by the Asian financial turmoil. To keep the property

market from falling apart, land sale by application was suspended. All of a sudden, the "85 000" policy disappeared quietly as well. What exactly are the Government's land and housing policies? The public is simply at a loss as to what to do. Should legislation on freedom of information have been enacted in Hong Kong, the public could request Secretary for Housing, Planning and Lands Michael SUEN to provide more information to enable them to better grasp the housing policy and find the right place where they could live and work happily.

Furthermore, in this era of rapidly-changing information, Hong Kong must maintain the flow of information before its competitive edge can be raised. The Government is in possession of the most comprehensive information system. The public may, on the premise of acting in public interest, request the Government to disclose relevant documents to enhance the flow of information and enable information to be shared under the principle of fairness. This will help boost the confidence of investors and attract foreign investments.

Madam President, democracy, freedom, human rights, rule of law, integrity, and transparency are all core values of Hong Kong. Freedom of information legislation is precisely one of the crucial elements for promoting democracy and freedom. It is also the due right of citizens and the only way to enhance the transparency of governance. I hope the Government can cherish the achievements made by Hong Kong, which have not come easily at all, and make joint efforts with the people of Hong Kong to safeguard these core values that hold the key to Hong Kong's success.

Freedom of information legislation is an integral element of democratization. As the saying goes, advice from others may help one overcome one's shortcomings. The Government may refer to the experience of other places and enact legislation on freedom of information expeditiously.

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

**MS AUDREY EU** (in Cantonese): Madam President, the Chief Executive, Mr TUNG Chee-hwa, vowed to improve governance in the policy address. As one of the basic elements for improving governance is to "enhance transparency and establish an open government", I support Mr James TO's motion and the amendments proposed by three other Members.

It is thought that the media and pressure groups, and probably Members of this Council, will benefit most from an enactment of legislation on freedom of information. Many colleagues earlier expressed the same view that this would give them more opportunities to expose the Government's malpractices. However, if we look at the practical experience of Western countries, such as the United States, we will find that business organizations are the major users of freedom of information legislation. By virtue of the legislation, the business organizations can obtain information about their rivals in order to "know about themselves as well as their enemies for the purpose of winning every battle". It is thus evident that enacting legislation on freedom of information will, to a certain extent, help promote competition and improve the business environment.

Four of us, members of the Article 45 Concern Group, have agreed to discuss the importance of freedom of information legislation in the context of areas of particular concern to us. Therefore, I am going to talk about education.

In a meeting of the Panel on Education the other day, representatives of universities and the education sector pointed out that the University Grants Committee (UGC) was actually manipulated by the Education and Manpower Bureau in allocating funds in a black-box manner. When confronted with our enquiries, the Bureau explained that as university education had to match the manpower market, and the Government had to estimate the future manpower demand, the Bureau would therefore give instructions to the UGC on the arrangement of places. However, we are quite doubtful about the accuracy of the manpower or market estimates made by the Bureau. It will surely help if freedom of information legislation were in place, and if these estimates or recommendations could be presented for discussion among Members or experts. The Government allocates as much as \$10 billion in recurrent expenditure to universities annually. Its determination of priorities is certainly disputable. If transparency can be enhanced, the UGC will certainly allocate resources in a stricter and fairer manner to pre-empt criticisms. With more information, universities, the education sector and even members of the public will be able to provide more objective views to facilitate public discussion. Actually, these views, equally applicable to the provision of information in all other policy areas, can help Members determine policy priorities.

Mr Ronny TONG mentioned Hunghom Peninsula in his speech earlier. He said that intervention by Members was often required for the purpose of

acquiring information. The point he raised reminds me of my first concern, namely small-class teaching, raised at the beginning of this Legislative Session. I wrote to Mrs Fanny LAW and asked her whether small-class teaching was really costly and how the Government had come up with the figures. According to the answer in the first letter I received, \$3.6 billion would be required. As I noted that the relevant data was collected up to 2002, so I wrote her another letter enquiring about the data of 2004. She replied and corrected the amount from \$3.6 billion to \$3.1 billion. How did the Government arrive at that figure? Based on the population projection, more than 300 additional classes will be required if small-class teaching is implemented. After calculation, \$3.08 billion will be needed if \$800,000 is required for each class.

By the same token, how did the Government come up with its population projection? Or how did the Government arrive at the amount of \$800,000? How could other people know had Members not made the written enquiries? Most importantly, with the decline in the population and the number of students, where will the Government spend the money thus saved? Should the public be informed? This is very important indeed. Such information is vitally important to us in monitoring the Government, discussing policy priorities and determining the utilization of our extremely precious resources.

Regarding environmental protection, air pollution is a matter of grave concern to us. The Government has often emphasized that it will work closely with the relevant authorities of Guangdong Province. Today, Secretary Dr Sarah LIAO told us that the Government would strive to reach the pollutant emission reduction target by 2010. However, it is impossible for the public, having only limited knowledge of the details of discussion between the two places, to judge whether the Government can achieve the target as scheduled. If the Government provides us with more information, or if freedom of information legislation is in place to make it compulsory for the Government to provide such information, it will help academics studying the relevant issues and interest groups to provide their expert input and pool their collective wisdom for the purpose of ameliorating the air pollution problem at an early date.

Furthermore, I wish to say a few words on privacy protection. I raised this issue soon after I became a Member in the previous term because many bureaux often looked up the data of the public. However, there is no way for the public to know whether such act complies with certain exemptions stipulated in the privacy legislation or the privacy legislation has often been contravened.

When I enquired with the Government, I was told that I could lodge a complaint. However, how can I do so when I know nothing at all and neither do I know whether the Government has looked up my information? Therefore, this issue particularly warrants our attention because, now that we have smart identity cards and passports bearing information on DNA too, it is very easy for the Government to consult our data. However, members of the public are not able to acquire the relevant information, even with the help of Members. Freedom of information legislation is therefore essential, so that ordinary people can enjoy the right in law to request the Government to provide them with the relevant records. So that they can also find out whether the Government has often contravened the anti-privacy legislation in looking up their information or all safeguards provided for in the privacy legislation have been complied with. Therefore, Madam President, if Mr TUNG really meant it when he vowed to improve governance, I hope the Government can take the first step today. I also hope Secretary Dr Patrick HO can support this freedom of information legislation proposed by us in his response later. Thank you, Madam President.

**MR ALBERT CHAN** (in Cantonese): Madam President, it is indeed pitiful, lamentable and shameful for us to have debate in this Chamber whether freedom of information legislation should be enacted when the year 2005 has seen such a high-speed development in telecommunications.

I find it pitiful because Hong Kong society is lagging behind many civilized and advanced countries and cities around the world. I find it lamentable because Hong Kong people are open to exploitation because of a lack of information. I find it shameful because our Government is seeking personal gains and manipulating the people by closing the doors on information-seekers.

The scope involved in freedom of information legislation is actually not complicated at all. It concerns mainly giving the public access to information concerning themselves through a mechanism, a system or a channel. We are often proud of Hong Kong for being the freest society in the world. Yet, why do we not feel lamentable and shameful for having no freedom of information? Actually, this is very interesting. Why is Hong Kong ranked the freest economy, and yet freedom of information is so limited here? Could it be the case that a lack of freedom of information had made collusion between consortia and the Government possible, thus enabling them to enjoy the most freedom in economic activities? Such a correlation is indeed intriguing. I can go on

citing numerous examples to indicate why a lack of freedom of information can enable consortia to do whatever they like and persistently inflate their interests to such an extent that they cannot even pull up their socks.

We have seen numerous cases — I believe a number of Members have, on past occasions, dealt with similar social incidents and received complaints from the public — with many of which involving the Government. One of the simplest examples is the Government's resumption of land. Compensation is required for the resumption of land. Under the relevant ordinance, the Government has the power to request the affected owners, particularly shop operators, to provide information, such as the amount of compensation claimed, and submit a report to the Government. In this connection, the owners will be required to commission an expert to compile an expert report for submission to the Government. However, even if the report is rejected, the staff of the Lands Department will not answer, when asked, which part of the report is unacceptable, why the report is rejected, or why the loss incurred by an owner is estimated to be \$500,000 instead of \$1 million. However, had freedom of information legislation been in place in Hong Kong, government departments would be compelled to give explanations. This is so ridiculous.

The Government has previously dealt with many such cases. In particular, the Wah Kai Industrial Centre, alongside hundreds of other cases, has precisely shown how government officials would exercise their supreme power by citing government policies as an excuse to justify their refusal to offer explanations. Like Mr TUNG, they would not answer if they said so. Madam President, Mr TUNG is actually obliged to answer my questions. Article 64 of the Basic Law provides that the HKSAR Government must abide by the law and answer questions raised by Members of the Council. Mr TUNG has actually contravened Article 64 for refusing to answer my questions. I hope the President can later make another ruling on whether Mr TUNG has violated the provision and clarify whether the President was right on the last occasion in saying that he could refuse to answer? Nevertheless, this issue is beyond the scope of our discussion today.

We have seen lots of problems in the past, particularly with town planning. Recently, I have been dealing with some complaints concerning the Rambler Crest. According to the procedures of development, the developer was required to submit a proposal to the Town Planning Board (TPB). The

proposal was eventually approved by the TPB, and the developer was allowed to develop a residential zone within a business district and sell the residential properties. Yet, it is very strange that the relevant ownership is still classified as commercial land. This has aroused doubts among the owners: Why could the TPB have approved the project? Why could the environmental assessment report have turned out to be like this? Why are no noise barriers built even though the roads running by are so noisy? Though the owners have expressed the hope to acquire the relevant information, the Government has merely responded that it is the commercial information of the developer. Although all the relevant information has been submitted to the TPB, and the Government also possesses all the information, it can still not disclose the information without the consent of the developer. Will the door be shut upon me, being an owner of the property and the relevant lot, even if I merely wish to obtain the information previously vetted and approved by the TPB which is directly related to my interest? Is the developer allowed to do whatever it likes? What the property developer is doing may be entirely wrong. If we can obtain the information previously submitted by them, we may find that the developer has violated the rules or failed entirely to act according to the information previously submitted to the TPB. Should the Government refuse to provide the information, there is nothing the thousands of small owners can do, except instituting legal proceedings. However, there is no guarantee that they will win. It is precisely because the unscrupulous businessmen have refused to make the information open to the public and the Government has connived at and supported their acts that small owners are open to exploitation.

Actually, why do the people of Hong Kong have no confidence in the Government at all? Very often, it is because they have no right to know. A number of Members have mentioned such incidents as the Cyberport, the development of the West Kowloon Cultural District, and so on. Why do the people of Hong Kong believe there is collusion between the Government (particularly senior government officials) and major consortia? This is because a lot of decisions were made by the Government behind closed doors. By means of closed-door meetings, the Government has managed to conceal lots of specific and important information, thus leaving members of the public completely in the dark. We have also witnessed that the profits made by some major consortia have kept rising year after year. Although a possible reason is that they have merely been terribly smart, not necessarily because there is collusion between business and the Government or it is the result achieved by

exercising privileges, it is still very difficult to convince the public. Will the public continue to believe under the circumstances that they do not have the right to know, whereas the Government is hiding the information in the interest of these major consortia? With government scandals coming into light one after another, and with David AKERS-JONES's sudden revelation of the problems plaguing the Discovery Bay development project, how can the public believe the Government, given their lack of information? Therefore, it is essential for freedom of information legislation to be enacted if the Government is to build up public confidence.

I wish to cite one more example to illustrate that concealing information would brew disasters. The Link REIT incident is one prominent example. As the Government was reluctant to make its method of evaluating prices known to the public, it was not until 24 November when public announcement was made that the Government disclosed how it had come up with the evaluation of \$30 billion and how much those shopping arcades were worth. It was precisely because the Government had refused to disclose the information until the very last moment that people were forced to take the matter to the Court at such a late stage. Had the Government provided the information three or six months earlier so that proper discussion could be held, such an international joke that had so disgraced Hong Kong would not have occurred. Therefore, a civilized society should have freedom of information. Only an uncivilized government would refuse to disclose such information.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr James TO, you may now speak on the three amendments. You have up to five minutes to speak.

**MR JAMES TO** (in Cantonese): Madam President, first, I wish to thank over a dozen Members who have spoken and who cited many interesting, lively, apt and persuasive examples to convince the Government and the public of the necessity to enact legislation on freedom of information.

In fact, the legislation on the freedom of information will redefine or affirm the relationship between the public and the Government. The information in the Government's possession is in fact prepared for use by members of the public. Apart from exceptions on specific and clearly definable situations involving special grounds of public interest, the public should have the right to access information which is originally kept by the Government on behalf of the public and prepared on behalf of the public.

I wish to respond to the amendment proposed by Mr Albert CHENG. He proposed that the Official Secrets Ordinance and other legislation which are in conflict with the freedom of the press, the freedom of information and the public's right to know should also be amended at the same time. Of course, this will reignite the entire debate. For example, Article 23 of the Basic Law (Article 23) mentions the theft of state secrets. As mentioned by an Honourable colleague earlier, several points are of paramount importance. When amendments were made to the legislation on Article 23, the so-called final concession made by the Government was just to provide for a defense on grounds of public interest. I hope the Government will not continue to implement the Official Secrets Ordinance just because the social crisis caused by the legislation on Article 23 is over. In fact, in the original legislation on Article 23, in the category of secrets, there were only provisions referring to the Central Authorities and Hong Kong. Therefore, since the Government was willing to include the defence of public interest at that time, it should also introduce this provision into the existing legislation because this should be the point of balance for the five or six applicable situations in the existing legislation. Therefore, the Government must not say that since there is no need to enact legislation on Article 23, there is no more need to amend the Official Secrets Ordinance either. I believe this is inappropriate.

In addition, on other legislation on the freedom of the press, detailed discussions are of course called for. However, since there is insufficient time, it is impossible to do so now. The Panel on Security has recently established a subcommittee to review the scope of the existing statutory provisions on the search and seizure of journalistic material by the relevant law enforcement agencies and whether the present balance is appropriate. We also have a subcommittee to follow up this matter in detail. However, I hope that Secretary Dr Patrick HO will also liaise with the relevant departments. I remember that Secretary Dr HO is the official in charge of promoting human rights. In the past, the work done by some former Secretaries and Policy Bureaux to promote

the policy on women was inadequate. The work on promoting the freedom of information and human rights involves many Policy Bureaux and the responsibilities of Secretary Dr HO are onerous and have far-reaching implications. It is necessary to examine if other Policy Bureaux will make revisions in this regard. His role is that of a gate-keeper and he is responsible for the policies or he will be held accountable.

Some Members said that it could be seen from the other amendments that without a corresponding archives law, it is in fact impossible for the legislation on freedom of information to be implemented. Why? Firstly, without an archives law, it is possible no information whatsoever is available under the original system. As a result, it will be impossible to realize the rights conferred by the legislation on the freedom of information; secondly, after a period of time, some files will have to be declassified for public access and inspection, in particular, historians have to obtain information on Hong Kong so that they can conduct studies and elaborate on its cultural and historical values; and thirdly, just like the legislation on the freedom of information, this archives law can help a responsible government establish a system.

Many Honourable colleagues have also said in the debate that it is in fact necessary to study in detail the many exemption provisions in such a piece of legislation on the freedom of information. In particular, Mr Jasper TSANG said that in many places, this type of legislation has been enacted in the past two decades and it can be seen from actual experience in the two decades after enacting such legislation that not only reporters but members of the public and people in various sectors have also benefited from it.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, first of all, I am grateful to Mr James TO for moving the motion today, and I am also grateful to Members for their amendments and valuable comments so that we can discuss the policy of protecting freedom of information and the core values of Hong Kong.

Freedom of information, freedom of the press and people's right to know are some of the numerous core values of Hong Kong. Not long ago, some members of the community signed a declaration, calling on Hong Kong people to protect our core values. In their opinion, these core values include freedom, democracy, human rights, rule of law, equality, justice, peace, love, integrity,

transparency, pluralism, tolerance, respect for the individual and professionalism. Among these core values, respect for the individual may be, in some aspects, in conflict with press freedom. Sense of value is highly subjective and there have been various discussions on the issue. Up to now, it seems that we have yet to reach a consensus acceptable to the general public as to what core values should be protected and handed down to our future generations.

Hong Kong is a free, open and tolerant society. The SAR Government is committed to maintaining our social characteristics. Mr James TO mentioned freedom of the press and freedom of information, and Mr Albert CHENG also mentioned the public's right to know in his amendment. These core values are all protected by the law in Hong Kong. The Government has spared no efforts in safeguarding freedom of information, freedom of the press and the public's right to know.

In terms of law, freedom of the press, freedom of information and the public's right to know enjoyed by Hong Kong residents are sufficiently protected by the Basic Law.

In respect of freedom of the press, it is provided under Article 27 of Chapter III of the Basic Law that all Hong Kong residents shall have freedom of the press. It also stipulates that freedom of the press is the basic right of Hong Kong residents. The Government's policy has been aimed at maintaining a favourable environment, enabling a free and active press to operate under minimum regulation. Such regulation will not hinder press freedom or editorial autonomy.

As far as freedom of information is concerned, Article 39 of the Basic Law stipulates that the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong shall remain in force. Under Article 16 of the Hong Kong Bill of Rights Ordinance, everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print.

However, are the freedom of information, freedom of the press and public's right to know the only core values in society? Should they be given overriding priority? The community has proposed a number of core values. Which of them should be given the widest identification and which of them

should be given priority? Should these questions be decided by the community? Personal privacy, which is a fundamental human right, is also a very important core value. The Law Reform Commission has just issued two reports, namely the Regulation of Media Intrusion and the Civil Liability for Invasion of Privacy, which mentioned the protection of privacy from undue intrusion and interference. The two reports have highlighted the question of how a balance can be struck between privacy and press freedom. We believe no human right is absolute. The key lies in those who exercise human rights also accepting the obligation that comes with it in order that a balance can be struck. We believe that only by doing so can members of the public more effectively exercise their right, and only by doing so can we develop a civilized society and promote harmony and stability in Hong Kong.

Information flows speedily and easily in recent years and the public have an increasingly high demand for transparency on the part of the Government and public organizations. The Government has all along attached great significance to freedom of information. We have implemented a number of policies over the past few years to facilitate the public in obtaining information from various government departments, including the inspection of their own personal data and most of the historical archives which have been sealed for more than 30 years. In 1995, we implemented the Code on Access to Information (the Code). This has greatly enhanced the Government's transparency.

We strongly believe that allowing members of the public access to information held by the Government will help them gain a better understanding of the Government and its services. They can be more informed of the process of policy formulation and implementation. In March 1995, we implemented a set of administrative regulations in relation to access to information on a trial basis at the initial stage. The Code has extended to all government departments since December 1996.

The Code clearly sets out the scope of information that can be provided and the procedures for providing such information according to precedents and in response to requests. The Code clearly stipulates that the Government must provide the relevant information within 10 days upon receipt of a written request. If circumstances not permitting, the department should provide a preliminary response within 10 days and provide relevant information within 21 days upon receipt of a request.

Part II of the Code clearly defines the categories of information of which disclosure can be refused by government departments. These exemptions were set out after reference to overseas legislation on freedom of information and consultation with the then Legislative Council and the Hong Kong Journalists Association (HKJA). The Code also sets out clearly that disclosure of information is in public interest. The government department can refuse to disclose the information only if such disclosure may cause damage or the damage to be done in a disclosure far exceeds that of the relevant public interest.

According to our statistics and experience, the Code provides a practicable structure for the public to seek information from the Government. The number of cases on information disclosure by the Government in response to public request is the best evidence. From 1 March 1995 when the Code was implemented up to 30 September 2004, the Government received a total of 16 454 applications for information and over 90% or 14 778 of the cases were fully or partly acceded to. Only 313 cases or less than 2% of the applications were refused. As for the remaining 1 363 cases, some had been referred to other organizations, some had been withdrawn by the applicants and some are being processed.

The Code has also provided for a comprehensive and independent appeal mechanism. Anyone who is denied provision of information by a government department can apply for a review by the relevant department and complain to the Office of The Ombudsman.

As at 30 September 2004, the Office of The Ombudsman has dealt with 38 complaint cases relating to the Code in which only three cases were found by The Ombudsman to be without justification and the relevant departments had later disclosed the information requested by the public. It is obvious that the Code has provided an effective channel which is independent from the executive for aggrieved applicants to lodge appeals.

The Internet has become part of many people's daily life. The Internet allows speedy transmission of information and its coverage is wide. So we encourage various departments to make use of the Internet for dissemination of information. All government departments have set up their own homepages with detailed information for inspection by the public. These include the department's vision, scope of work, structure of the organization, performance

pledges, publications and press release, the latest information, related links and ways to contact the department. In making and updating such homepages, the departments must follow our "Guidelines on Dissemination of Information through Government Homepages" in order to improve their accessibility, provide the latest information to the public and enhance the public's understanding of the departments. In 2000, the annual page view rate of such homepages of all departments reached 30 million times. The figure continued to rise to 1.95 billion times in 2004. It goes to show that it is a common trend for members of the public to gain access to government information through government homepages and the content of these homepages really meet the public's need.

Mr James TO also mentioned that the HKJA, which was highly concerned about information freedom, conducted a survey by the end of 1997 in order to test the effectiveness of the Code. The findings of the survey were announced in early 1998 with the HKJA's conclusion that the Code was not as effective as desired and urged the Government to enact legislation on freedom of information. The HKJA claimed that they had requested 81 documents from departments, only 35% of its requests were fully entertained, 25% of its requests were refused and 32% of its requests got a reply that the information was not available due to various factors.

At that time, we checked the statistical records of all departments and found that there were discrepancies with the records disclosed by the HKJA. Based on the number of requests for documents, our statistical records showed that the personnel of the HKJA responsible for the survey made a total of 43 requests, among which 40% got all the information required, 14% got part of the information required and 9% were rejected. As for the remaining 37%, the documents requested were still under preparation or the documents concerned were not held by the relevant department.

In order to compare with the figures of HKJA, we compiled the relevant statistical information again by using the number of documents requested as the basis of calculation. The findings we got were that the HKJA requested a total of 171 documents, and was provided 115 documents, representing 67% of the total number of documents requested, if those under preparation or not in possession by the relevant departments were not included.

We continued to try to find out why there were discrepancies between the calculation of the HKJA and the Government's, but were unsuccessful. Under general circumstances, however, we believe the nature of the documents requested by the HKJA may not necessarily represent the nature of documents requested by the general public.

Mr Alan LEONG and Dr Fernando CHEUNG illustrated the merit of enacting legislation on freedom of information by citing the example that the public could not get the financial information on the West Kowloon Cultural District development project. I would like to point out that we have undertaken to disclose all relevant financial information including the construction costs and the operational expenses of all cultural facilities before a temporary agreement is signed with the successful bidder and after we have obtained the consent of the proponents. The information to be disclosed will also include the original financial proposals submitted by the three proponents in June last year, their subsequent amendments and the final proposals of the successful bidder. However, at the present stage, the Government has not completed its assessment work. Neither has it started negotiations on the proposals with the proponents. If financial information is disclosed prematurely, it will not only affect the assessment work which must be kept confidential and conducted in a fair and equitable manner, but also undermine the Government's future bargaining power in such a way that the Government cannot get a proposal which will accord with public interest. As a responsible Government, this is not acceptable. I believe even if the SAR Government has enacted legislation on freedom of information, the objective of protecting public interest is still an important legislative consideration.

From another perspective, is it really true that overseas legislation on freedom of information is superior to our Code? In my opinion, this is not necessarily the case. Some documents which are exempted under overseas legislation are not exempted under our Code. Take the Freedom of Information Act of the United Kingdom as an example. The United Kingdom Government can deny provision of information on the ground that the applicants can get the information requested through other channels. Under the Code, however, the SAR Government does not enjoy similar exemption. Another example is that the United Kingdom Government can deny access to information of the Audit Department by the applicants, but the Code in Hong Kong is applicable to all government departments including the Audit Commission.

We have made reference to the policies of some local governments in the Mainland concerning the disclosure of government information. Take Guangzhou as an example. The Guangzhou Municipal Government implemented the Regulation on Disclosure of Government Information in 2003. It is the first set of regulations formulated by a local government in the Mainland at that time which governs the disclosure of government information in a comprehensive and systematic way. In our attempt to compare this Regulation with the Code in Hong Kong, we found that the objectives of formulating these regulations by the two Governments were very similar. It was to allow the public access to government information so as to monitor the operation of various departments and enhance the transparency of the Governments. During the deliberation process of enacting legislation on freedom of information, we will certainly draw reference from the experience of these mainland cities.

It can be seen that freedom of information can enhance the Government's transparency which will then strengthen its accountability. We also believe that through a sound and independent appeal mechanism, the existing Code can provide sufficient protection to freedom of information and freedom of the press.

According to the latest worldwide press freedom ranking table released by the Reporters Sans Frontieres, Hong Kong ranked 34 among all countries in the world, being the highest in Asia. These figures proved that press freedom in Hong Kong is fully protected and not inferior to any neighbouring countries. This really makes each and every Hong Kong citizen proud of themselves. Furthermore, the latest findings of a survey on various freedom indicators announced by the Hong Kong University Pop Site last week showed that, among the 10 indicators, the three indicators in respect of freedom of speech, freedom of the press and freedom of publication saw the largest increase compared with a survey conducted three months ago. With a maximum score of 10, the scores of these three indicators are over 7.3. However, we have no room for complacency and will do our utmost to protect Hong Kong people's freedom of information, freedom of the press and right to know. We will continue to provide the best services to the public and meet their demand for information.

We agree that the Government's transparency can be enhanced by providing more information to the public. But we do not have any plan to enact legislation on freedom of information for the time being. We have considered the following three factors:

First, even in countries which have enacted legislation on freedom of information, certain categories of documents are not accessible by the public. The Code in Hong Kong has set out those exempted documents which are more or less the same as those stipulated by those countries. For instance, countries which have enacted legislation on freedom of information also provide exemption to documents relating to diplomatic affairs. In Hong Kong, the Government is exempted from providing documents relating to diplomatic affairs. We cannot assume that it would be easier for the public to seek such information once such legislation is enacted.

Second, some Members are of the view that it will be preferable to have such legislation than to rely on an administrative code. It is because if such legislation is in place, members of the public can seek judicial review of the department's decision if their request for information is refused. Under the present mechanism, in fact, should there be any complaints concerning the provision of information by the government departments under the Code, The Ombudsman can conduct investigation. Since the implementation of the Code, no department has refused to comply with the decision of The Ombudsman. This mechanism is more convenient and speedy than filing a complaint to Court.

Third, the legislation on freedom of information enacted by some countries will also protect the public's rights to inspect and amend personal data kept by the Government. In Hong Kong, this right is protected by the Personal Data (Privacy) Ordinance under which citizens are entitled to inspecting and amending personal information held by public and private organizations.

Based on the three considerations mentioned, we do not think that it is the most appropriate moment to enact legislation on freedom of information now. Neither do we consider that enacting legislation on freedom of information will necessarily be the most effective means of protecting the freedom of the press or the freedom of information. However, we hold an open attitude as to whether the public should be given a statutory right to know through legislation. We will regularly review the existing Code, take reference from overseas experience and consider enacting legislation on freedom of information in due course. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now call upon Mr Albert CHENG to move his amendment to the motion.

**MR ALBERT CHENG** (in Cantonese): Madam President, I move that Mr James TO's motion be amended, as printed on the Agenda.

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

"To add ", as the current Code on Access to Information is inadequate for safeguarding freedom of the press, freedom of information and the public's right to know," after "That"; to add "and amend the existing Official Secrets Ordinance and other legislation that may be in conflict with freedom of the press, freedom of information and the public's right to know," after "freedom of information"; and to add "as well as the public's right to know" after "freedom of the press and information"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert CHENG to Mr James TO's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHENG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert CHENG has claimed a division. The division will begin after the division bell has been rung for three minutes.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vicent FANG, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the amendment.

Mr WONG Yung-kan abstained.

Geographical Constituencies:

Mr James TO, Dr YEUNG Sum, Ms Emily LAU, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr Alan LEONG, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr LI Kwok-ying abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, nine were in favour of the amendment, 10 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 15 were present, nine were in favour of the amendment and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

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

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(Members raised their hands)

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

I order that in the event of further divisions being claimed in respect of the motion on "Enacting legislation on freedom of information" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr Jasper TSANG, you may now move your amendment.

**MR JASPER TSANG** (in Cantonese): Madam President, I move that Mr James TO's motion be amended, as printed on the Agenda.

**Mr Jasper TSANG moved the following amendment: (Translation)**

"To add ", on the premise of fully consulting various sectors of the community and having regard for the public's right to know and their social responsibilities," after "freedom of information"; to delete "and to" after "press and information,"; and to delete "with a view to consolidating" after "accountability of the HKSAR Government" and substitute with ", safeguard the public interests of the Hong Kong community, and consolidate"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Jasper TSANG to Mr James TO's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Ms Margaret NG, as the amendment moved by Mr Jasper TSANG has been passed, I have given leave for you to revise the

terms of your amendment, as set out in the paper which has been circularized to Members on 17 January. You have up to three minutes to explain the revised terms in your amendment. You may then move your revised amendment.

**MS MARGARET NG** (in Cantonese): Madam President, I move that Mr James TO's motion as amended by Mr Jasper TSANG, be further amended by my revised amendment.

Madam President, my revised amendment has simply incorporated Mr Jasper TSANG's amendment into Mr James TO's motion, as revised by me. Mr Jasper TSANG's amendment says that it must be ensured the legislation on freedom of information would be enacted only after extensive consultation. I totally agree with this point. Mr Jasper TSANG pointed out very clearly in his speech that it was not about whether such legislation should be enacted that consultation should be conducted, but rather, about the details of such legislation. For example, where should the balance lie? What are the details? Where should the line be drawn? I totally agree that extensive consultation should be conducted on all these matters. Therefore, I believe that it is perfectly acceptable to include Mr Jasper TSANG's amendment. I urge Members to support this revised amendment.

Thank you, Madam President.

**Ms Margaret NG moved the following revised amendment to Mr Jasper TSANG's amendment: (Translation)**

"To add "as well as facilitate public participation in assessing and proposing public policies; and the relevant legislation should provide for: (a) the public's right of access to information held by public authorities; (b) clearly defined categories of information the disclosure of which may be refused; and (c) the mechanisms for enforcing the right and for appeal" after "core values of Hong Kong". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Ms Margaret NG's amendment to Mr James TO's motion as amended by Mr Jasper TSANG, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr James TO, you may now reply and you still have two minutes 22 seconds left.

**MR JAMES TO** (in Cantonese): Madam President, I am indeed disappointed by the Secretary's reply. I am disappointed for two reasons. First, the Secretary is not even clear what core values upheld by Hong Kong people are. Mr TUNG has talked about this matter in a number of Question and Answer Sessions and even in his policy addresses. If the Government says that in fact it does not know what they are, then that means that Mr TUNG is also muddled and has no idea about them. If Mr TUNG knows about them, then the Secretary should also know about them. The Secretary should know about them because Members have already reflected the views of the majority public, including striking a balance between the right to know and public interest. In fact, the laws on the freedom of information in overseas countries have already struck a balance between the public's right to know and public interest. Therefore, since the Secretary said that he was not very clear about this, this is indeed mystifying. Little wonder then that the governance by the Government under TUNG Chee-hwa has been like this in the past several years.

Secondly, the Secretary often draws comparisons with the most undesirable aspects of some countries or regions, saying that we are already

better off than those countries or regions. For example, the relevant legislation in the United Kingdom is the most conservative, so he said that we had exemptions that the United Kingdom does not have. He also cited the example of Guangzhou, where the relevant legislation has been put in place for only two years, saying that reference would be made to it, whereas in some regions, the relevant legislation has been put in place for over 20 years, yet the Secretary said that we have to make reference to Guangzhou, where the relevant legislation has been put in place for only two years. I thought that if the "one country, two systems" was implemented in such a way, how could Hong Kong's unique cores values be preserved? We applaud Guangzhou for willing to take the lead, however, Guangzhou has only put in place the relevant legislation for two years, yet the Secretary stressed in his speech that other countries could not compare favourably with us and our Code was better than their laws, that the law and actual experience of Guangzhou was worthy reference for us.

In sum, such is the way that the Secretary will help us exercise our rights and he even bade other Policy Bureaux to co-ordinate their policies. Frankly speaking, I have more confidence in Mr TUNG Chee-hwa delivering on his policy address than in the Secretary enforcing our rights in this area.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr James TO, as amended by Mr Jasper TSANG and Ms Margaret NG, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

through direct elections, who are present. I declare the motion as amended passed.

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 2 February 2005.

*Adjourned accordingly at six minutes past Ten o'clock.*