

# OFFICIAL RECORD OF PROCEEDINGS

**Wednesday, 8 June 2005**

**The Council met at Eleven o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

THE HONOURABLE MRS RITA FAN HSU LAI-TAI, 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 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 CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, 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

DR THE HONOURABLE JOSEPH LEE KOK-LONG

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 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 TAM HEUNG-MAN

**MEMBERS ABSENT:**

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

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, S.B.S., J.P.

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

THE HONOURABLE LI KWOK-YING, M.H.

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

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

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

THE HONOURABLE KWONG CHI-KIN

**PUBLIC OFFICERS ATTENDING:**

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

THE FINANCIAL SECRETARY

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

THE SECRETARY FOR JUSTICE

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 SARAH LIAO SAU-TUNG, J.P.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

THE HONOURABLE FREDERICK MA SI-HANG, J.P.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

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

**CLERKS IN ATTENDANCE:**

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>No.</i>
Application for New Identity Cards (Persons Born in 1974 to 1985) Order .....	L.N. 85/2005
Clubs (Safety of Premises) (Exclusion) (Amendment) Order 2005.....	L.N. 86/2005
Declaration of Increase in Pensions Notice 2005....	L.N. 87/2005
Widows and Orphans Pension (Increase) Notice 2005.....	L.N. 88/2005
Tax Reserve Certificates (Rate of Interest) (No. 4) Notice 2005.....	L.N. 89/2005
Road Traffic (Registration and Licensing of Vehicles) (Amendment) Regulation 2005 (Commencement) Notice .....	L.N. 90/2005
Technical Memorandum for Supervision Plans 2005.....	S. S. No. 5 to Gazette No. 22/2005

**Other Papers**

Report of the Bills Committee on Revenue (Allowances for Tax) Bill 2005

Report of the Bills Committee on Trade Descriptions (Amendment) Bill 2004

**PRESIDENT** (in Cantonese): Clerk, a quorum is not present. 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. The meeting now begins.

### **ORAL ANSWERS TO QUESTIONS**

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

#### **Government Vehicles Carrying Mainland Licence Plates**

1. **MR ALBERT CHENG** (in Cantonese): *Madam President, I notice that some private cars currently used by Bureau Secretaries concurrently carry licence plates for government vehicles and licence plates issued by the mainland authorities. In this connection, will the Government inform this Council whether:*

- (a) these cars are government vehicles;*
- (b) the purpose of putting licence plates issued by mainland authorities on these cars is to facilitate the discharge of official duties in the Mainland by Bureau Secretaries; and*
- (c) Bureau Secretaries are allowed to travel in these cars to the Mainland to attend to private business; if so, whether the Government incurs any liability for compensation when these cars are involved in traffic accidents in the Mainland?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, this question consists of three parts. I shall reply to them in the order in which they were asked.

Part (a) of the question concerns whether the cars provided to Bureau Secretaries, which carry both SAR Government and mainland authority licence plates, are government vehicles. The answer is yes. These are government vehicles which belong to the SAR Government.

Part (b) of the question asks whether the purpose of these vehicles is to facilitate the discharge of official duties in the Mainland by Bureau Secretaries. The reply is again yes. These cross-boundary government cars are provided mainly to facilitate journeys by the government officials concerned to the Mainland for the purposes of attendance at meetings with mainland officials, official functions, for site visits, and so on.

Part (c) of the question enquires whether Bureau Secretaries are allowed to travel in these cars to the Mainland for private purpose and, if so, whether the Government will bear the responsibility for compensation in case these cars are involved in traffic accidents in the Mainland.

As I stated in reply to part (b) of the question, these mainland licences are provided mainly to facilitate journeys by the government officials concerned to the Mainland for official purposes. This therefore does not include private purposes. As regards liability for compensation in case of accidents, the Government has, in accordance with the rules and regulations of the mainland authority, taken out motor vehicle insurance for all cross-boundary government vehicles. Hence, in case of traffic accidents, the insurance companies concerned will handle the matters in accordance with the terms and conditions set out in the policies. The responsibility for compensation will not be affected by the purpose of the journey.

**MR ALBERT CHENG** (in Cantonese): *Madam President, may I ask the Secretary how many government vehicles used by the heads of the Government display this type of mainland licence plates? As far as I can see, there are only three such vehicles. We have three Secretaries of Department and 11 Bureau Directors. Why is it that only three Bureau Directors are entitled to this right? Furthermore, as no insurance policies have been taken out on government vehicles in Hong Kong, when these three vehicles go to the Mainland, are insurance policies taken out on each occasion or have long-term insurance policies been taken out?*



**PRESIDENT** (in Cantonese): Mr Albert CHENG, I have to remind you that when Members ask a supplementary, they can only put one question. Which question do you want the Secretary to answer?

**MR ALBERT CHENG** (in Cantonese): *The second one, since taking out insurance policies is the more important issue.*

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

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, Mr Albert CHENG was correct. In Hong Kong, no insurance policies are taken out for government vehicles and it is the Government that underwrites them. However, insurance policies have been taken out for the three vehicles on the Mainland, and they are taken out not on each occasion but on a long-term basis.

**MR JAMES TO** (in Cantonese): *Madam President, as far as I know, since our Government has implemented the political accountability system, the vehicles used by the Secretaries of Department and Bureau Directors can in theory also be used for private purposes and this can be considered one of the benefits under their conditions of service. In view of the reply given by the Secretary, does he mean that they have not abused their power? In other words, their family members can make use of the vehicles, which are for their exclusive use, when going to the market. However, according to the benefits provided by the Government at present, is it the case that they are only allowed to use these vehicles in Hong Kong and if their family members go to the Mainland to play ball games, they are not allowed to use these vehicles on the Mainland?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, under the accountability system for principal officials and according to the contracts that these officials entered into with the Government, they are allowed to use these vehicles for private purposes only in Hong Kong.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, I know that the procedure of applying for a mainland vehicle licence is extremely complicated because some Members also hold such vehicle licences. In Hong Kong, no insurance policy is taken out for government vehicles nor is it necessary to pay any licence fee. May I know if, when going through the formalities on the Mainland for these cross-boundary government vehicles, annual vehicle inspections, check-up of drivers, and so on, will be carried out as required, or if these vehicles are considered government vehicles by the mainland authorities and treated as cases of exception?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, we will go through all formalities according to the requirements on the Mainland and this includes requiring the drivers to go back to the Mainland to go through the formalities of applying for driving licences issued by the mainland authorities. In sum, we will comply fully with all requirements on the Mainland.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, can the Secretary reply as to how many vehicles of this type the Government has? Are these vehicles pool vehicles or are they for the exclusive use of a few officials?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, there are three vehicles for use by Bureau Directors but there are also another 20 vehicles carrying mainland licence plates available for use by various departments. I do not know if other Bureau Directors have ever requested the three Bureau Directors to lend them these three vehicles carrying mainland licence plates but I myself have not done so. Apart from these three vehicles, the Government also has other saloons. If the Bureau Directors want to borrow one, they can request the Government Logistics Department to make an arrangement. Therefore, it is not the case that other Bureau Directors can make use of only these three vehicles. They can also use other saloons and small vehicles.

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah, has your supplementary not been answered?

**MR LAU KONG-WAH** (in Cantonese): *The Secretary has not replied clearly. Are the three vehicles only for the exclusive use of those three Bureau Directors and other people have to use other vehicles? Besides, who are these three Bureau Directors?*

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah, you asked who the three Bureau Directors are at the end of your follow-up but it is not part of your original supplementary. Secretary, please give a reply on the part that you have not yet answered but if you have already done so, you can simply say so.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I believe I have already answered it. If the Honourable Member wants to ask the latter part of the follow-up, I can also answer it.

**PRESIDENT** (in Cantonese): That means Mr LAU Kong-wah should wait for another turn. That is not a problem.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, the main reply says that it is necessary for the vehicles used by three Bureau Secretaries to carry two types of licence plates because "These cross-boundary government cars are provided mainly to facilitate journeys by the government officials concerned to the Mainland for the purposes of attendance at meetings with mainland officials, official functions and for site visits, and so on." In that case, why is it that only three of the 11 Bureau Directors — and I wish to know which three — have such a need and have been given such special treatment to carry two types of licence plates on their vehicles? Is it the case that the other Bureau Directors do not have to go to the Mainland to attend meetings, official functions and make site visits?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, first, let me reply as to who those three Bureau Directors are. They are the Secretary for the Environment, Transport and Works, the Secretary for Home Affairs and the Secretary for Security. The vehicles of these three Bureau Directors all carry two types of licence plates. In fact, it is not just these three Bureau Directors who are entitled to such a right. If other Bureau Directors consider it necessary, they can also make applications according to the normal procedure and we will make the arrangements after considering their need. Take me as an example. I often have to get in touch with officials on the Mainland and most of them are officials in charge of financial and monetary affairs. Nearly all of them are in charge of central co-ordination and the meetings often take place in Beijing. Therefore, most of the time, I will take a flight to Beijing rather than travelling by car. If I travel by car, it will take many days before I get there. Therefore, I do not have to apply for a mainland licence plate for my car. This is as simple as that. As regards other Bureau Directors, as I have said, they will consider if they have such a need according to their circumstances. They can request the Government Logistics Department to make an arrangement at any time and doing so will not hinder them in carrying out their official duties.

**MR JAMES TO** (in Cantonese): *Madam President, what I want to follow up is whether there is any instance of abuse. May I know if the Government has ever received any complaint or report alleging that the three Bureau Directors concerned used the vehicles not for official duties but for private business? How does the Government ensure compliance by the Bureau Directors?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, according to the information provided by the three Bureau Directors, they have always used the vehicles concerned for discharge of official duties. I believe they will use these three vehicles for official duties only and will not use them for private activities.

**MR JAMES TO** (in Cantonese): *I asked whether any complaint had ever been received.*

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

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): According to the information on hand, we have not received any complaint.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, the Secretary has confirmed that when applying for vehicle licences on the Mainland, the very complicated and costly requirements on the Mainland would be fully complied with. In view of the fact that our exchanges with the Mainland are getting more and more frequent, may I ask the Government if it has ever considered using vehicles made available through hire contracts? Such vehicles can be hired for a particular occasion. In the long run, perhaps more money can be saved.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, if we think that the existing fleet cannot meet our need and it is necessary to hire vehicles from outside sources, of course we will do so. However, at present, the annual vehicle registration fee is only about \$4,000. Since we can arrange our own drivers and we have dozens of drivers who can drive on the Mainland, from the angle of saving money, perhaps more savings can be made in this way. However, in recent years, there has indeed been a drastic increase in the number of cross-boundary trips, from more than 40 trips in 2001 to 350 trips last year. Our contact with the Mainland is increasingly intense. If necessary, we will consider this suggestion, however, there is no such need at present. However, we may also do so under special circumstances.

**MR ABRAHAM SHEK** (in Cantonese): *Madam President, may I ask whether the mainland vehicle licences issued to the vehicles of the three Bureau Directors are privately owned or do they belong to the Government?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, they belong to the Government.

**MR ALBERT CHENG** (in Cantonese): *Madam President, the Secretary said in his reply that the vehicles used by the three Bureau Directors carry mainland licence plates. In addition, the Government has also another 20 government vehicles carrying mainland licence plates and they are available for use at any time by other Bureau Directors who do not have the privilege to use vehicles carrying mainland licence plates. I believe that when the Finance Committee gave its approval to obtaining mainland licence plates for these vehicles, it must have considered the fact that these vehicles would be used by Bureau Directors in the course of official duties. In view of this, can the Secretary tell us why it is necessary to apply for mainland vehicle licences and take out insurance policies specifically for these three vehicles? Why can the three Bureau Directors not use the other 20 vehicles? If the three Bureau Directors have to travel to the Mainland every day, then that can be considered an exceptional case.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): *Madam President, as I have explained, the three Bureau Directors think that they have to travel to the Mainland often, therefore, they made applications to the authorities concerned. This is their judgement and they feel that there is a genuine need. Maybe I should provide more information to enable Mr Albert CHENG to know how many trips have been made after these mainland vehicle licence plates were obtained, so as to prove that our officials have not wasted any public funds. After the three Bureau Directors obtained their mainland vehicle licences, from 2003 to the present, the Secretary for Security has made use of it 10 times and so has the Secretary for Home Affairs, whereas the Secretary for the Environment, Transport and Works has used it six times. Although I do not know about the actual circumstances, I believe it was likely that the Bureau Directors concerned used their vehicles to travel to the Mainland together with their colleagues to attend meetings, so it is not the case that these Bureau Directors always have the vehicles all to themselves. In these regard, I believe the Bureau Directors will exercise their own judgement.*

**MS EMILY LAU** (in Cantonese): *Madam President, I have prior to this asked a question on the trips made by the Chief Secretary for Administration to the Mainland, including to Shenzhen to meet the officials concerned, but the reply*

*given by the Secretary did not mention the Chief Secretary for Administration in his reply at all. I wonder if the Secretary has any information on how many times the Chief Secretary for Administration has made use of government vehicles and on which occasion he used them, or does the Chief Secretary for Administration go to Shenzhen and Guangdong Province in private vehicles?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, since Mr Albert CHENG's question did not ask about this aspect, so I do not have the information in this regard. If Ms Emily LAU is interested in knowing, I will go back and see if I can give a written reply. (Appendix I)

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

**MR LAU KONG-WAH** (in Cantonese): *Madam President, in my experience, when discharging official duties on the Mainland, it is sometimes also necessary to foster private relationships. May I know what the definition of official duty is? If two officials come to know each other in the course of official duties, then continue their discussion on official matters on the golf course, can this be considered official duty? (Laughter)*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I believe it is up to individual Bureau Directors to consider what the nature of the meetings that they attend is. Since the information provided by the three Bureau Directors said that all the trips were related to official duties, so I gave my reply accordingly. I have no knowledge of the details, however, I believe they have all used the vehicles for official duties.

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

## Documents Renewal

2. **MR CHAN KAM-LAM** (in Cantonese): *Madam President, it has been the Government's policy to encourage the public to renew their documents prior to the expiry dates to avoid crowding and inconvenience, and people who are late in renewing their documents are required to pay a surcharge as punishment. However, the renewal arrangements of certain documents have disguisedly shortened the valid periods of the renewed documents issued to those who complete the renewal procedures in advance. For example, the effective date of a renewed Closed Road Permit falls on the date of completion of the renewal procedures instead of the day following the expiry date of the old permit. On the other hand, after the implementation of the new arrangement for renewal of Closed Road Permits for cross-boundary vehicles by the Government last year, the completion of the procedure for permit renewal, which used to take four working days, has been shortened to the day of application. In this connection, will the Government inform this Council:*

- (a) *of the types of renewed permits or licences issued by the Transport Department (TD), which become effective on the dates of completion of the renewal procedures;*
- (b) *whether it has assessed if the above effective date arrangement for document renewal is reasonable; if the assessment results reveal that the arrangement is unreasonable, whether the authorities will consider reviewing the existing administrative mechanism for applications and charges for permits, so as to dispense with the arrangement; if they will, of the details; if they will not, the reasons for that; and*
- (c) *of the types of renewed permits and licences issued by the TD which are not issued on the day of application and the major reasons for that; the time currently taken to issue these permits and licences and whether the authorities will consider reviewing and simplifying the relevant procedures; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**  
(in Cantonese): *Madam President, of the 25 types of licences and permits issued*



by the TD, nine are not issued on a continual basis. Holders normally do not have a need to renew these licences and permits. As regards the remaining 16 types of licences and permits which require renewal, some of them have legislative provisions stipulating that their validity shall commence from the date on which these permits are issued. They are the Closed Road Permits, Expressway Permits, Bus Lane Permits, Prohibited Zone Permits and Restricted Zone Permits. The relevant legislative provisions require these permits to take effect from the date of issue instead of the date of expiry of the existing permit, and stipulate that the validity period should not be more than 12 months. As such, if a person applies for renewal before the expiry of the current permit, the renewed permit may expire earlier than the case where he applies for renewal after the expiry of the current permit. We agree that this is not satisfactory and will review the arrangements.

There are five types of licences and permits which the TD cannot issue on the day of application for renewal. The main reason is that the TD needs to consult other relevant departments in considering the applications, for example, the Hong Kong Police Force, the Home Affairs Department and the Highways Department and so forth. The processing time depends on the number of departments to be consulted and the issues to be considered. Most of the renewed licences and permits will be issued within two to 14 days. The TD will review from time to time the arrangements for issuing different licences and permits with a view to streamlining the procedures and shortening the processing time.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, I am glad to learn that the Secretary agrees that the situation is not satisfactory and to review the arrangements. Nevertheless, I consider that there are no more than two solutions to solve the problem. The first one is to amend the current stipulation so that the validity period of permits or licences will not exceed 12 months; the other is to deduct the charges if the holders renew their permits and licences before the expiry date. May I ask which way will the Secretary follow?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, we have to first review the current arrangements and identify which types of licences and permits need amendment to their requirements. If we find that the existing legislative provisions are

unreasonable, we will amend the provisions. I cannot answer now which approach we will adopt, but we will certainly take the two approaches suggested by Mr CHAN just now into consideration.

**MR JASPER TSANG** (in Cantonese): *Madam President, I wish to follow up the reply made by the Secretary just now. Why should the review be that complicated? The Secretary enumerated a number of licences and permits in the main reply and explained that according to existing legislative provisions, their validity should commence from the date of their issuance; that was the answer of the Secretary. The Secretary also admitted that it was not satisfactory. In view of that, why could the relevant provisions not be amended so that the commencement of the effective date of the renewed licence would follow right on the expiry of the old permit or licence? This would solve the problem. Why can such arrangement not be made with regard to these permits and licences in particular?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, the existing arrangements seem to be not so reasonable as far as the logic is concerned, and we also consider that such arrangements are unreasonable when Members raised the question to us. However, as far as time is concerned, we cannot make the decision here and now. I consider the proposal made by the Honourable Member just now a more reasonable arrangement, that is, to change the effective date of a renewed permit or licence to the expiry date of the old one. Another Member proposed that the charges for the remaining validity period could be deducted, but the proposal is more complicated because we have to devise new measures to deal with the fees and charges. I fully agree with Mr TSANG's point, that the problem is not that complicated, however, the current situation is not at all logical, we will try to make improvement.

**MISS TAM HEUNG-MAN** (in Cantonese): *Madam President, may I ask whether a performance target was set for renewal procedures in the past; if so, of the details, and whether the target was met over the past three years?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, the TD does have performance pledges. With regard to licensing matters, the first time applications or renewal of driving licences would be processed within 40 minutes during off-peak hours and 70 minutes during peak hours. The performance of the TD in 2004 was 100% achievement of the target. As to applications or renewal of other licences or permits, the TD does not have such performance pledge for the time being. Nevertheless, the renewal procedure of licences and permits will be completed within two weeks in general, with a view to minimizing the inconvenience caused to the public. The TD will review the performance pledge established by it from time to time.

**PRESIDENT** (in Cantonese): Miss TAM, has your supplementary not been answered?

**MISS TAM HEUNG-MAN** (in Cantonese): *Madam President, may I ask another supplementary?*

**PRESIDENT** (in Cantonese): You have to press the button and then wait for your turn again.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, besides improving the arrangement in the respect of the commencement and expiry date, has the Secretary considered whether the solution of renewal by post or electronic means?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, in fact, the TD launched the online licence renewal service at the end of 2000, and members of the public may use the online Government Electronic Services Delivery Scheme to renew their driving or vehicle licences via the < <http://www.esd.gov.hk> > website. The applicant pays the same charges just as he makes the application in person, and he can get his renewed licence eight days after he has made the application. According to our statistics, very few people use the online licence renewal service; we hope the number will rise after we have conducted more publicity, as it is a more efficient way.

**MISS TAM HEUNG-MAN** (in Cantonese): *Madam President, the Secretary said earlier that no performance targets were set for certain services, may I ask the Secretary whether the Government will consider setting performance targets for these services?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): *Madam President, I wish to thank Miss TAM for her proposal. The TD is reviewing the situation. I hope we can set performance targets or pledges for all licences and specify the timeframe for the completion of the renewal of all licences when certain formalities are completed.*

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, the Secretary reiterated that a review would be conducted and agreed that the problem was not that complicated. May I ask when the authorities will complete the review before submitting it to the Legislative Council and explaining to us how it would be taken forward?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): *Madam President, I do not have such a schedule for the time being, but, I will inform the Legislative Council immediately when it becomes available.*

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

### **Public Transport Fare Adjustment Mechanism**

3. **MR TAM YIU-CHUNG** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *why it has not yet put forward a proposal on the public transport fare adjustment mechanism suggested by the Secretary for the Environment, Transport and Works in 2003, which would allow fares to go up or down, the latest progress of the proposal and whether it will be aborted;*

- (b) *of the details of the discussions held with the public transport operators on the formula for calculating fares under the above mechanism and whether a consensus will be reached on the formula; and*
- (c) *in the event that the above mechanism cannot be introduced, of the measures to monitor public transport fares to ensure that they are reasonable and within the affordability of the public?*

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

(in Cantonese): Madam President, bus fares have a direct impact on the public livelihood. At the same time, the operating cost and return of bus companies, which are private companies providing public services, and their quality of service and so forth, are involved. It is not uncommon that in the past, during both the times of economic growth or downturn, the level of bus fare adjustment is often the subject of debate amongst persons with different views.

In the light of the above, in August 2003, we informed the Legislative Council Panel on Transport of the Government's plan to improve the existing adjustment mechanism of bus fares by introducing a formula factor so that prevailing economic conditions and operating costs of the bus companies could be reflected more objectively in the mechanism after we have studied the issue. The new mechanism would allow increase as well as reduction in bus fares and bring in a more transparent adjustment process.

The Government has all along been actively discussing with the franchised bus operators on this fare adjustment mechanism. But since the introduction of a new mechanism involves complex issues including public interests, affordability of the community, economic conditions and operating costs of the bus companies, we have spent some time to handle the matter carefully with a view to striking the right balance of different interests.

In fact, we have been using the concepts announced earlier as the basis of our discussion with the bus companies on how to refine the operation of the new mechanism. We have been making progress in the discussion and it is expected that the implementation details will be ready within this year.

I wish to point out that the new adjustment mechanism for bus fares will take into account public interests and the Government will give due consideration to public affordability. We will also consider the operating condition of bus operators such that they will be able to provide efficient bus services with good quality to the community.

As for railway services, adopting a more objective and transparent fare adjustment mechanism is one of the key parameters set by the Government of the merger discussion between the MTR Corporation Limited (MTRCL) and Kowloon-Canton Railway Corporation (KCRC). We are discussing the issue with railway corporations in detail with a view to reaching a consensus as soon as possible.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, the Secretary mentioned in the main reply that it was expected that the implementation details would be ready within this year. Nevertheless, a lot of public transport operators are tightening or cancelling the original fare concessions one after another recently, which includes concessions for senior citizens, are the two incidents correlated? Does the Government know this and what measures has the Government put in place?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, since 2002 (or 2000), Hong Kong economy has been in the doldrums and we have urged public transport operators to offer all sorts of concessions in various respects. The purpose of these concessions is to alleviate the pressure on the general public during the depression, and they are offered by the bus companies on a voluntary basis and according to the business environment of the bus companies. The free business environment for bus companies has not changed from the outset, and it is a commercial decision that reflects the demands of society after all.

Recently, there has been rising pressure in all components of the operating cost, such as the oil price hike and pay adjustment of employees. The Government has been urging these companies to offer concessions in various respects, on the premise of increasing their patronage without impact on their overall operating cost. This is in fact a win-win situation. We will keep on urging bus companies to consider this matter. In respect of fare concessions,

although bus companies have cancelled fare concessions which have been in force for one and a half years to two years and replaced them with return trip fare discount, they are considering launching a one-day fare concession scheme for unlimited rides (that is, a day pass). Meanwhile, they are currently studying ways to increase patronage, which will be helpful to their operating cost.

**PRESIDENT** (in Cantonese): A total of eight Members..... now it is nine Members are waiting for turns to raise supplementaries. Will Members please make your supplementaries as precise as possible in order that more Members can raise their supplementaries.

**MR MA LIK** (in Cantonese): *Madam President, since the timetable for launching the fare adjustment mechanism which will allow increase as well as reduction seems to be unavailable, members of the public therefore still have to bear the heavy burden of transport expenses. May I ask whether the authorities will introduce some relief measures, such as restoration of the half-fare concession schemes for students and the disabled?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, we have in fact offered a half-fare concession to students who have the need via the Education and Manpower Bureau. With regard to the half-fare concession for the disabled, we have been discussing with the social welfare sector for a long time about which category of disability could enjoy the concession. The number of disabled persons can be very great, because the definition of disabled persons also includes the chronically ill, therefore we have been holding many discussions with Secretary Dr York CHOW on ways to narrow the scope in order to make the concession available to people who have a genuine need. If we cannot work out the figure in this respect, then it will be difficult to reach any agreement with the public transport operators. This is where the problem lies currently.

**MR ANDREW CHENG** (in Cantonese): *Madam President, the fare adjustment mechanism which allows for increase as well as reduction makes one think of a miscarriage. May I ask the Secretary whether it is because no consensus could*

*be reached on the accumulative decrease caused by the economic doldrums in the past since the talks between the authorities and the public transport operators had been deadlocked, thus the mechanism could not be launched to date? Given that the Government's wholly-owned KCRC and substantially-owned MTRCL are making a profit of \$4.4 billion each year, will the Secretary make an undertaking that before the mechanism is launched, the MTRCL, KCRC and bus companies will be requested to reduce fares at least by 10% before the mechanism is activated?*

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, you have raised two supplementaries, do you wish the Secretary to answer the first or the second one?

**MR ANDREW CHENG** (in Cantonese): *Madam President, I think it is better for the Secretary to answer the second supplementary. (Laughter)*

**PRESIDENT** (in Cantonese): Secretary, that means you will answer the part on whether you will make an undertaking.

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, I wish to thank Mr Andrew CHENG for his supplementary, which is not at all an easy supplementary to answer. If the problem is really that simple, then it should have been solved a long time ago. The fare adjustment mechanism which allows for increase as well as reduction aims not at a one-off reduction or fare adjustment. It is a brand new concept which will affect the future operation of public transport operators; we therefore have to take every aspect into consideration. We have not only to cite the past fare trend as evidence, we also have to adopt a more scientific approach to study the potential impact to be caused by the mechanism in future. For that reason, we have to adopt a lot of means to test each component of the formula, so as to let the operators get a more concrete assurance with regard to the future situation. Since the fare may go up or down, I believe the public will welcome a fare reduction more, whilst the rate of reduction is open to negotiation. Nevertheless, the operators have also expressed concern for fare increase in the course of discussions, such as whether the fare increase will cause significant



controversy in society, thus the formula of the fare adjustment mechanism cannot be introduced as envisaged. This is one of the major concerns.

**MR ANDREW CHENG** (in Cantonese): *Madam President, the Secretary has not answered my supplementary. My supplementary is, since the KCRC and the MTRCL are respectively wholly-owned and substantially-owned by the Government and in view of the fact that the basis for a fare reduction has been formed over the last two years, will the Secretary undertake to take the step first before launching the mechanism? The Secretary has not answered this part.*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): *Madam President, the two railway corporations have their own operating pledge, in particular the MTRCL has its autonomy in operation. For that reason, we can only urge them to use the gains from the merger of the two corporations as the basis for fare reduction.*

**MR ALBERT CHAN** (in Cantonese): *Madam President, the Secretary said that the issue was rather complicated when she answered Mr Andrew CHENG's supplementary. Of course, the fare adjustment mechanism which allows increase as well as reduction can be very complicated, but it can also be very simple. It boils down to whether these public transport operators are willing to accept the mechanism which allows increase as well as reduction in fares. If these corporations, especially some unscrupulous bus companies which have cancelled the senior citizen fare concession in the economic doldrums, still resist the mechanism which allows increase as well as reduction ultimately, will the Secretary consider revoking their franchise and put out the franchise to public tender in order to allow other scrupulous bus corporations to operate such services?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): *Madam President, I believe we have to be fair. The current standard of bus service is quite high and it has been one of the key public transport service providers over the years. As the Government, we certainly hope to maintain stability. Bus service is a large-scale operation which involves investment and operating experience. For that reason, we hope to reach a*

consensus through negotiation, discussion and study. From the perspective of the Government, the fare adjustment mechanism which allows increase as well as reduction is a key component in the future franchised operation, we will take that into consideration seriously and request the operators to accept this mode of operation.

**MR WONG KWOK-HING** (in Cantonese): *Madam President, the Secretary said in the main reply that the implementation details were expected to be ready within this year and the fare would be reviewed in the merger discussion of the two railway corporations. Nevertheless, it is widely known that there is not even the smallest sign of commencement of the merger of the two railway corporations. For that reason, may I ask the Secretary, since we all know that her remaining term of office is two years, under that circumstance, how she can realize the timetable for implementation of a fare adjustment mechanism which allows increase as well as reduction?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, I believe it is not purely a matter of my remaining term of office, as any policy formulated by the Government is sustainable. We consider that in many areas, be it housing or transport, a mechanism which allows increase as well as reduction should be put in place in order to minimize controversy in society and make available a criterion for everybody to understand how we will adjust public fees and charges according to the economic condition. As to the merger of the two railway corporations, I do not consider that there is not even the smallest sign of commencement. In fact, we have made some progress. With regard to the timetable, that cannot be decided by me alone; we must have adequate time for discussion, so that the Government can strive for the optimal terms for the public before the mechanism is implemented.

**MR WONG KWOK-HING** (in Cantonese): *Madam President, the Secretary has not answered whether she could make an undertaking that some progress could be achieved during her remaining term of office. She has evaded this part of the supplementary.*

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

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, I have nothing to add. Thank you, Madam President.

**MS MIRIAM LAU** (in Cantonese): *Madam President, I support the formulation of a fair and reasonable fare adjustment mechanism which allows increase as well as reduction. The main reply mentioned that the Government planned to introduce a formula factor so that the prevailing economic conditions and operating costs of the bus companies could be reflected more objectively in the mechanism. During economic depression, the general public certainly hope that the fare could be reduced, but economic depression does not necessarily mean that the operating cost of bus companies has gone down. The Secretary enumerated a number of factors, for example, the oil prices, tunnel fees or pay adjustment of their employees would increase the operating cost. For that reason, the two factors cannot be reconciled and they may well be contradictory. May I ask the Secretary how the two contradictory or incompatible factors can be reflected in one single formula?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, precisely because we wish to strike a right balance among various contradictory factors that we have had protracted discussions on the matter. In fact, there is give and take in everything, while the price-cap model of fare pricing involves the incorporation of different factors into a formula so that a right balance can be struck to a certain extent. The operating cost of each company may vary. And since we hope to have a transparent mechanism, thus we are trying to adopt certain indicators which are accessible to the public, so that we need not ask each company to disclose the details of their operating cost, as those companies cannot disclose all the details due to certain commercial reasons. Therefore, this is also the difficulty encountered by us in the course of negotiations. I consider that not an easy task since contradictions do get in the way of negotiation.

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

**MR ALBERT HO** (in Cantonese): *Madam President, in part (c) of the main question, the Government was asked in the event that the mechanism could not be introduced, what measures could be adopted to monitor public transport fares in order to ensure that they are reasonable and within the affordability of the public. Nevertheless, in the entire main reply and the subsequent replies to supplementaries, the Secretary has not given a specific answer to that part. According to my assumption, the Secretary has no authority to regulate the fare and to ensure the fare is reasonable and affordable to the public. May I ask the Secretary, as the Government is providing a lot of concessions to the bus companies in the course of negotiation, including the extension of fuel surcharge concession, will she consider using the incentive as a condition on top of adopting other policies or disincentive to force the bus companies to take public interests and affordability into consideration in case the bus companies are unwilling to consider the affordability of the general public?*

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

(in Cantonese): Madam President, I wish to thank Mr Albert HO for this supplementary. There are different mechanisms for the Government to deal with the fare adjustment of different modes of public transport, thus mechanisms are already in place. For example, the fare increase applications of franchise bus and ferry services are determined by the Chief Executive in Council. Nevertheless, so far, they have just applied for fare increases, so if they do not apply for fare reduction, what we can do is rather limited. As to green minibus and licensed ferry ("kaito") services, the fare level is approved by the Commissioner for Transport. Generally speaking, when public transport operators apply for a fare increase, the Government can play a checking role to a certain extent. As to the question of requesting public transport operators to reduce the fares, just as I said earlier, they have introduced various concessions which have exceeded \$10 billion over the last two years. These are voluntary measures and the Government only plays a facilitating role. We hope that we can incorporate the mechanism into the future franchise and merger of the two railway corporations.

**MR ALBERT HO** (in Cantonese): *Madam President, I have mentioned the issue of fuel surcharge concession in my supplementary, will the Secretary urge public transport operators to reduce the fares, if necessary, through this policy, so as to*

*make it consistent with the affordability of the general public? It seems that the Secretary has not answered this part.*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, I can add a point here. If we do not provide the fuel surcharge concession, "whatever is given is paid for", this is in fact part of the operating cost, so we can hardly argue this with the public transport operators.

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

### **Tertiary Institutions Staff Participating in Management of Institutions**

4. **MS EMILY LAU** (in Cantonese): *Madam President, it has been reported that following an amendment to its statutes by the Council of The Hong Kong Polytechnic University (PolyU) in April this year, staff who cannot work full-time in Poly U for reason that they have taken up public offices will be regarded as part-time staff and will no longer be eligible to stand for membership of the Council. Nevertheless, staff will not be disqualified from standing for elections on grounds of taking up paid employment with private companies. In this connection, will the executive authorities inform this Council:*

- (a) *of the public-funded tertiary institutions with similar provisions in their statutes, as well as those institutions whose governing bodies plan to incorporate similar provisions into their statutes;*
- (b) *whether guidelines have been issued to advise the governing bodies of tertiary institutions that, in accordance with the principles of fairness and transparency, they should provide all staff with opportunities to participate in the management of the institutions and prevent any staff from being deprived of their right to participate for reason that they have taken up public offices; if such guidelines have been issued, whether the authorities will follow up the above decision of the Council of the HKPU; if such guidelines have not been issued, the reasons for that; and*

- (c) *whether guidelines have been issued to advise tertiary institutions that they should ask their staff to declare their paid employment with private companies, and make such information public, so as to facilitate monitoring by members of the institutions and the public; if not, of the reasons for that?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, in answering this question, I would like to first clarify that the amendment approved by the PolyU Council in April this year is in respect of the institution's policy guidelines regarding full-time staff engaging in remunerated public offices. The guideline is an internal administrative document drawn up by the institution; and the revision approved by the PolyU Council aims at clarifying the institution's established policy that only full-time employees are eligible for election or appointment to the PolyU Council. Such revision, however, does not involve any amendment to the Statutes made by the PolyU Council under The Hong Kong Polytechnic University Ordinance.

- (a) The University Grants Committee (UGC)-funded institutions and the Hong Kong Academy for Performing Arts are autonomous bodies governed by their own legislation. The compositions of the institutions' Councils are set out precisely in their respective governing ordinances. The institutions can appoint staff members to their Councils, and draw up eligibility criteria and election procedures for this purpose, in accordance with the relevant legislation.

At present, the governing legislation of all the above institutions except one stipulates that staff members should be full-time employees to be eligible for appointment to the Councils.

The institutions are aware of the important role their staff members play in public affairs, and are willing to facilitate their service in public offices. However, they also need to ensure that their employees have the time to perform their normal duties. To make it clear whether individual staff members are able to provide full-time services to the institution, the institutions would draw up definitions of "full-time" employees.

- (b) Subject to the legal requirements, post-secondary institutions can decide for themselves how to provide its staff with opportunities to participate in the management of the institutions in accordance with the principles of fairness and transparency. These are internal matters for the institutions. The Administration fully respects the institutions' autonomy, and will not seek to interfere. Nor have we issued specific guidelines for this purpose.
- (c) It is common for post-secondary institutions to have in place clear mechanisms to monitor staff taking up paid employment with private companies. They will, for instance, require staff members concerned to seek prior approval, or to declare their interest to the institutions.

As the institutions would put in place appropriate mechanisms to regulate the participation of staff in outside work in accordance with their operational needs, we do not consider it necessary for the Administration to introduce further guidelines.

**MS EMILY LAU** (in Cantonese): *Madam President, the Secretary mentioned in the main reply that PolyU had amended its policy guidelines regarding full-time staff engaging in remunerated public offices. In fact, what is the definition of full-time staff? According to my understanding, a full-time staff member needs to devote 100% of his time to the job in PolyU. Madam President, my supplementary question is as follows. I have mentioned that some staff have engaged in remunerated private offices. The amendment of the relevant policy by PolyU reflects that such policy is discriminatory because staff who have engaged in remunerated public offices are not full-time staff and thus regarded as part-time employees only. On the other hand, staff who have engaged in remunerated employment in the private sector can stand for election to the PolyU Council. Is the Secretary aware of this? Do the authorities consider such a situation acceptable?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, as far as I know, they have the power to decide who are full-time employees or who are part-time employees. Regarding the definition of part-time staff, if both the workload and salary of a staff member is 100% of

the normal level, then he is full-time. If the salary received is not 100%, then he is a part-time worker. We can define whether or not a staff member is full-time by making reference to his salary. According to my understanding, a staff member who has taken up employment with a private company and does not receive 100% of salary from the institution is not regarded as a full-time worker.

**MS EMILY LAU** (in Cantonese): *Madam President, my supplementary question is: Does the Secretary know why staff of PolyU who have taken up employment with private companies, meaning that they are not receiving 100% of the normal salary or handling 100% of the workload, can still become members of the PolyU Council according to the internal decision of PolyU? If the underlying logic is that only full-time staff are eligible because they will devote all of their time to the work in PolyU, then there should not be any difference between an employee who has taken up employment with a private company and one who has taken up public office. Why does it seem to me that there is contradiction?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, there is no contradiction at all. If a staff member is considered to be a full-time employee, he will be paid 100% of the normal salary. If he is not working full-time, he will not be paid the full amount. If he is paid 100% of the normal salary, it means that he is working full-time. Under such circumstances, he is regarded as a full-time staff member. If he wishes to take up outside work, he must seek approval from the Council of the institution and declare interest. The institution may refuse to grant approval if he is considered not devoting 100% of his time to work in the institution.

**PRESIDENT** (in Cantonese): A total of eight Members are waiting for their turns to ask supplementary questions. Please be brief and concise as far as possible.

**DR YEUNG SUM** (in Cantonese): *Madam President, regarding the decision of PolyU, may I ask the Secretary, since staff who have taken up public offices will be regarded as part-time staff, and as part-time staff, their pension or promotion prospect will be adversely affected, if this will lead to a phenomenon where the institution does not encourage its staff to go into politics, thus making it more*



*difficult for academics to do so? Will such a phenomenon have a serious impact on the civil society of Hong Kong?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I believe all institutions will encourage their staff to take up public offices. As far as I know, PolyU allows its staff to take up public offices. A staff member, having taken up a public office, is required to declare how much time he will devote to the job in the institution. If he says that he will devote 90% of his time, he will then receive 90% of the salary. If he says 50%, he will then get 50% of the pay. The decision is reached by mutual agreement between staff and the institution. The institution does encourage its staff to take up public offices because other allowances such as housing allowance are not deducted. They can get 100% of the benefits. So I think the institution does encourage its staff to hold public offices. However, in respect of working hours, if the staff devotes 50% of his time to a job outside the institution, can he still receive 100% of his salary? I believe no one can spend public money in such a manner.

**DR FERNANDO CHEUNG** (in Cantonese): *Madam President, first of all, let me declare an interest. I, as a staff member of PolyU and an elected member of the PolyU Council, am directly affected by the policy mentioned in the question. In my opinion, the crux of the matter is that we are now discussing how to nurture more talents in politics and the universities are places where a galaxy of talent can be found. So, the policy of PolyU will have certain adverse impact in the sense that the teaching staff dare not take up public offices for fear that they may lose their rights, the basic rights in the institution, rather than the salaries. May I ask the Secretary how many of the eight tertiary institutions, apart from PolyU, have adopted such a policy? In other words, when the working hours of a staff member in the institution have been reduced because of holding a public office, his status will be changed from full-time to part-time. May I ask how many institutions have adopted such a practice?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): With the exception of one institution, the others have all adopted the same practice. In other words, if a staff member has taken up a public office, he is required to

declare how much time he devotes to it and part of his salary in proportion to that will be deducted accordingly. Nevertheless, their benefits will not be reduced by the least bit.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Madam President, the situation is that the staff member himself is an elected member of the PolyU Council. Being a Member of the Legislative Council, he is excluded from the Council on the grounds that he is not a full-time staff member. What we emphasize is not interests but rights and contribution. Secretary, I would like to ask you, or through the President to ask you this question: Do you think that it is proper for the Education and Manpower Bureau, as a publicly-funded organ, to allow PolyU to amend its policy guidelines to the effect that a PolyU Council member, who is also a Member of the Legislative Council, is "kicked out" on the ground that he is not a full-time staff member of the institution?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I have made it clear that PolyU has not "kicked out" any staff from its Council due to their status as Members of the Legislative Council. It is not true at all. Such an allegation is totally incorrect. If Mr LEUNG is referring to Dr Fernando CHEUNG — I hope he does not mind my mentioning of his name — according to my understanding, Dr Fernando CHEUNG can continue to represent the staff of PolyU until an election is held in 2008. So, as far as Dr CHEUNG is concerned, he is not affected at all.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *Madam President, the truth is that .....*

**PRESIDENT** (in Cantonese): Please state which part of your supplementary question has not been answered.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Yes. The Secretary has not answered — I did not mention Dr Fernando CHEUNG. The Secretary referred to the wrong person. In future, a Member.....*

**PRESIDENT** (in Cantonese): Mr LEUNG, what is your follow-up question?

**MR LEUNG KWOK-HUNG** (in Cantonese): *Whether the Member.....*

**PRESIDENT** (in Cantonese): Your supplementary question is about.....

**MR LEUNG KWOK-HUNG** (in Cantonese): *A Member, or in general.....*

**PRESIDENT** (in Cantonese): I know. But you need only state the part of your supplementary question that has not been answered and I will invite the Secretary to answer.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I understand. The Secretary gave us a wrong answer. I did not mention Dr Fernando CHEUNG, I just said a Member. The fact is that Dr Fernando CHEUNG's situation is only an exception. In other words, he can stay in the PolyU Council, but in future any staff member who has taken up a public office will be regarded as non-full-time staff and ineligible to sit on the PolyU Council.*

**PRESIDENT** (in Cantonese): Mr LEUNG, what is your follow-up question?

**MR LEUNG KWOK-HUNG** (in Cantonese): *This PolyU.....*

**PRESIDENT** (in Cantonese): Which part of your supplementary question has not been answered by the Secretary? Please state that part of the question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I only mentioned a Member, not Dr Fernando CHEUNG. But the Secretary said that Dr Fernando CHEUNG had not been "kicked out" of the PolyU Council. I just said a Member.*

**PRESIDENT** (in Cantonese): What you just mentioned is not part of your supplementary question earlier. Please state which part of your supplementary question has not been answered by the Secretary.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I said a Member, but the Secretary mentioned Dr Fernando CHEUNG. No, it is not. Madam President, please understand the difference. You may not understand the difference between a "general" case and a "particular" case. The Secretary referred to the special case of Dr Fernando CHEUNG, but I referred to the general case of Members. It is because a Legislative Council Member cum staff member of PolyU cannot be a Legislative Council Member from 2008 onwards. As an exception or the last of its kind, Dr CHEUNG has been allowed to stay in the PolyU Council. So the Secretary has not answered my question. The Secretary has substituted "a Member" for Dr Fernando CHEUNG. But my question is not about him.*

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

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, perhaps let me reiterate again. No staff member has been excluded from the PolyU Council during this term of the Legislative Council on the ground that he is a Member of the Legislative Council. No such thing has happened at all. I hope the media can clarify this point.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, I would like to follow up Mr LEUNG Kwok-hung's supplementary question. Madam President, PolyU, on its website, says that it expects and encourages its teaching staff to give full play to their expertise so that they can make contribution to different professional sectors according to their needs. For instance, appointed PolyU Council members had also been actively engaged in public offices in the*

*past. The President, Mr POON Chung-kwong, a former Legislative Council Member, is also the Chairman of the Radiological Protection Advisory Group. Other appointed representatives of the institution are also holding public offices. However, as far as the amendment by PolyU is concerned, the crux of the issue is that it was introduced in April this year just after the election of the new term Legislative Council. Does the Government think that the amendment by PolyU is discriminatory against public office holders, in particular, Legislative Council Members, the most important public offices returned by election? Will such a discriminatory practice lead to a consequence that elected Legislative Council Members will most probably be denied the eligibility of sitting on the PolyU Council if they are also its staff?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese):

Madam President, I do not wish to distort the fact, so I would like to make it clear. In fact, each institution is now reviewing its level of management in response to the advice contained in the 2003 University Grants Committee Report. Each institution is required to review its own framework of governance. PolyU and other institutions are also doing the same. So far, four institutions have completed their reviews and the other three will have their reviews completed this year. So, it does not target at anybody or any matter. Members can take a look at the relevant legislation concerning PolyU which clearly provides that appointed or elected PolyU Council members should be qualified staff. Who are qualified staff then? Here I have to make it clear. The relevant legislation also stipulates clearly that qualified staff are the institution's full-time teaching staff, instead of those who teach in the institution on part-time basis. I have to clarify the guidelines.

**PRESIDENT** (in Cantonese): We have spent more than 17 minutes on this question. Last supplementary question.

**MR ANDREW CHENG** (in Cantonese): *Madam President, Ms Emily LAU mentioned in her supplementary question that staff of the post-secondary institutions are barred from being members of the institutions' Councils if they have taken up public offices. However, having engaged in remunerated employment or serving as remunerated directors of private companies will not deprive one's eligibility to stand for election to the institution's Council. Just*

*now, I have been listening to the Secretary's oral reply and reading his written reply carefully. But it seems that the question as to why the authorities allow a public organization such as PolyU to formulate a policy which blatantly discriminates against public office holders has not been answered. On the contrary, a PolyU staff member who serves as a remunerated director or has taken up remunerated employment with a private company may not be prevented from being a member of its Council. In part (c) of the main reply, the Secretary said that institutions had put in place mechanisms to monitor staff taking up paid employment with private companies. This is totally an evasion of the question. So, may I ask the Secretary why a policy discriminating against public office holders is allowed in a public organization?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, we do not discriminate against public office holders, nor do we give preferential treatment to staff who have taken up employment with private companies. All are treated equally without discrimination. No matter they have employment with public or private organizations, it depends on the staff's working hours in the institutions. If a staff member devotes 100% of his time to the job in the institution, he is a full-time staff. If he devotes 50% or 40% of his time, he cannot be regarded as full-time staff. Even if he has employment with a private company, he cannot be regarded as full-time staff if he devotes 40% of his time to the institution and 60% to the former. So there is no differential treatment to employment with public and private companies. The crux of the matter depends on the amount of time devoted to the work in the institution. If he spends 100% of his time in the institution, he is full-time staff. He is not full-time staff if part of his time is devoted to a private company or a public office.

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

### **Civil Service Pay**

5. **MR ABRAHAM SHEK:** *Madam President, in compliance with Article 100 of the Basic Law, the former Chief Executive has pledged that the pay, allowances and benefits of civil servants will not be less favourable than those before the reunification. On the other hand, the Basic Law also provides that*

*the Hong Kong Special Administrative Region shall strive to achieve a fiscal balance and avoid deficits. Moreover, civil service pay took up over 34% of the operating expenditure of the Government on average from 2000 to 2004, and pension payments amount to about \$13 billion in 2004. In this connection, will the Government inform this Council:*

- (a) whether it has assessed if the over one third of the Government's operating expenditure spent on civil service pay is at the expense of other public interests; if the assessment results reveal such a phenomenon, how the Administration will handle it; and*
- (b) whether the Administration plans to review the pension system and amend the relevant laws, in order to put in place a pension adjustment mechanism which allows an increase on inflation and a reduction on deflation?*

**FINANCIAL SECRETARY:** Madam President,

- (a) The Government delivers a very extensive range of essential services to meet the diverse needs of the community, including the provision of social and health services, development of infrastructure and maintenance of law and order. That the expenditure on civil service emoluments accounts for about one third of the Government's total annual operating expenditure reflects that a significant proportion of public services provided by the Government is delivered through civil servants.

Through the concerted efforts of the management and staff, we have progressively reduced our expenditure on civil service emoluments, both in absolute terms and in terms of its proportion to the Government's overall operating expenditure. In 2005-06, the estimated staff-related expenditure on Civil Service is about \$65.3 billion (or 31% of the Government's annual operating expenditure), down from \$71.3 billion (or 36% of the Government's operating expenditure) in 2001-02.

The expenditure control measures adopted include streamlining the civil service establishment, reducing the expenditure on civil service

pay and conducting a comprehensive review of civil service allowances. For example, by implementing a general freeze on civil service recruitment and two rounds of Voluntary Retirement Scheme, and by keeping vacancies under critical review, we have reduced the civil service establishment by about 17% from 198 000 in early 2000 to the present level of about 165 000. We are on target to reduce the civil service establishment further to about 160 000 by March 2007.

In overall terms, we are satisfied that the present level of civil service related expenditure, accounting for about 31% of the Government's annual operating expenditure, is necessary to implement government policies and deliver quality services to the public.

- (b) The current pension increase policy and mechanism are prescribed in the pension increase legislation, which provides that pensions and dependant pensions shall be increased with reference to the increase in the annual average monthly Consumer Price Index (A) of one financial year over that of the preceding financial year.

The Government conducted a review on the pension increase policy and mechanism in 2000. We concluded that there were strong justifications in principle and in practice to maintain and reaffirm the prevailing pension increase policy and mechanism. Such justifications include:

- (i) any attempt to alter the pension adjustment mechanism, including that which represented a fundamental change to the long-established pension increase policy and practice, would be perceived by pensioners and serving civil servants as an erosion of their statutory rights and would be met with their strong objection; and
- (ii) over 50% of pensioners received monthly pensions of less than \$5,000, which were in many cases the sole or main source of income to support the living of these pensioners.



The Administration's decision to maintain and reaffirm existing pension increase policy and mechanism was reported to the Legislative Council Public Service Panel in March 2000. We have no plan to change the current pension increase policy and mechanism or introduce any related amendments to the pension increase legislation.

**MR ABRAHAM SHEK** (in Cantonese): *Madam President, part (a) of my main question has not been answered.*

**PRESIDENT** (in Cantonese): Mr SHEK, do you mind clearly stating that part of the main question? I believe the Secretary is looking for a reply to the relevant part. Will you please repeat it once again.

**MR ABRAHAM SHEK** (in Cantonese): *In view of the expenditure on civil service emoluments accounting for as much as 31% of the Government's operating expenditure, I asked the Secretary in part (a) of the main question whether this would affect other public services provided by the Government.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the answer is negative.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, I wish to follow up Mr Abraham SHEK's question which is not at all fair to the Civil Service. The Financial Secretary stated in part (a) of the main reply that staff-related expenditure on Civil Service accounts for 31% of the Government's annual operating expenditure, which is a necessary amount of expenditure. If this is the case, it is in fact not necessary for the Government to reduce the number of civil service posts from 165 000 to 160 000. Does this mean that the Government will not further reduce the number of posts to 160 000?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the Government has pledged to reduce the number of civil service posts to 160 000 by March 2007. This policy objective remains unchanged.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, my supplementary question actually is whether the Government is contradicting itself in stating that it is necessary to spend 31% of the Government's operating expenditure on the Civil Service.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the actual number of civil servants presently is already around 160 000 and we will only reduce the establishment to 160 000. Thus, we are almost on target.

**MR WONG KWOK-HING** (in Cantonese): *Madam President, the public services provided by the Government are rendered by man, not machine, so it is perfectly justified for the civil service emoluments to take up a certain proportion of the operating expenditure. The Government has in the past years cut the number of civil servants and their emoluments, turned the employment status of civil servants into contract temporary staff and briefed out its services. Has the Government ever thought about the possibility that such practices will harm the interests of the public? If so, what are these harmful impacts, and the extent of such impacts?*

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): Madam President, the Financial Secretary already said just now that our target is to reduce the civil service establishment to 160 000 by 2007. In the meantime, as mentioned by Mr WONG Kwok-Hing just now, we have briefed out services and employed non-civil service contract staff. I have to explain it clearly once again here that any initiative of saving manpower will only be adopted on the premise that it will not affect the services provided to the public. Thus, we will adhere to this general principle when briefing out services or employing non-civil service contract staff.

I have to say one more word on non-civil service contract staff, that is, they are employed mainly to perform duties on a temporary basis or of a fixed period of time and their employment is subject to frequent review. Therefore, such practice is not in conflict with streamlining of manpower.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary said in part (a) of the main reply that the existing number of civil service posts has been reduced to 165 000, a target reached ahead of schedule. However, the Chief Executive mentioned in his policy addresses in the past two years that the Government would launch public works projects of \$600 billion in value within 15 years' time, including a railway project of \$200 billion in value. According to my understanding, the wastage of young engineers in works departments is very high. Many of them request to leave the Civil Service. If a succession gap appears in future, how will the Government ensure that its pledge of providing quality services necessary to the public can be kept?*

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): *Madam President, it is mentioned in the main reply that in the process of streamlining manpower, the Government plans to implement a general freeze on civil service recruitment. However, we have also explained lucidly on many occasions that this policy is not sweeping. Should departments find the need to recruit staff, no matter for filling existing vacancies or performing necessary duties, they can make applications to us. We can furnish Members with information proving that various departments and grades of the Government have done so. Therefore, if works departments or grades find the need to recruit staff in future, they can do so through the existing central application mechanism. We will, likewise, consider their applications.*

**DR RAYMOND HO** (in Cantonese): *Madam President, my supplementary question just now was about young engineers who are currently employed in the government structure, not those to be employed through external recruitment. Since their contracts are not renewed and they cannot convert to the pensionable establishment, they cannot help but leave the Government quickly. And my question is how the Government will prevent these outstanding young engineers who are already working for the Government from leaving quickly?*

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): *Madam President, I should perhaps say a few more words on this. Colleagues already employed under the government structure can be classified into two categories, one of which is under the civil service establishment. Should they leave, their vacancies will be filled by external recruitment at the discretion of the*

departments of whether such recruitment is necessary. Another is the non-civil service contract staff as mentioned by Dr Raymond HO. To the latter, when their contracts are due to expire, the departments will indeed need to examine whether there is a continual need of the posts before their contracts will be renewed. Should the departments find there is not such a need, they certainly can, based on the contract terms, choose not to renew the contracts. However, if there are civil service vacancies open for recruitment in future, these non-civil service contract staff can of course apply for these posts like other applicants.

**MR HOWARD YOUNG:** *Madam President, the Financial Secretary has in paragraph 2 of part (a) of the main reply mentioned 31% and 36% respectively as the estimated staff-related expenditure out of the Government's operating expenditure. I would like to ask the Financial Secretary, or perhaps the Secretary for the Civil Service, whether the Government has done any comparative studies on other metropolis economies, such as Singapore, to see if our figures are reasonable?*

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): Madam President, on the question of civil service establishment, the Government has conducted comparative studies with other places, but the results were very often not very clear. The reason lies in the fact that different places will have different practices on the types of work to be performed by civil servants. Take Britain as an example, their police force is no longer under the civil service establishment. That is why we cannot make a direct comparison with other places.

As to the question of civil service related expenditure accounting for 31% of the Government's operating expenditure, when comparing the percentage with that of other places, our expenditure is less, not more than other places, because, similar to other places' experience, many government services are basically rendered by people, so ours is not a large percentage. More importantly, the present figure of 31% has dropped from the 36% in the past, showing that the Government has been exercising stringent control over manpower as well as expenditure.

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

**Putonghua Broadcasting Service**

6. **MRS SELINA CHOW** (in Cantonese): *Madam President, as a lot of new arrivals live in Tin Shui Wai, Radio Television Hong Kong (RTHK)'s Putonghua Channel is setting up an FM transmitting station in the area to improve the broadcasting quality there. The works are scheduled for completion early this month and residents of the area will then be able to tune in to the programmes of the Putonghua Channel at FM100.9 MHz. In this connection, will the Government inform this Council, given that there are many new arrivals living in the urban areas and other areas in the New Territories apart from Tin Shui Wai, whether the authorities will extend the FM Putonghua broadcasting service to these areas to meet the needs of these new arrivals; if not, the reasons for that; and whether they will conduct studies or consult the relevant organizations and persons, including the District Councils concerned, regarding the extension of such service?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, RTHK operates seven radio channels, namely, three FM channels (Radio 1, Radio 2 and Radio 4) and four AM channels (Radio 3, Radio 5, Putonghua Channel and British Broadcasting Corporation World Service relay). All RTHK's AM and FM radio services cover the whole territory.

Due to the difference in transmission characteristics of different frequency bands and performance of different transmission technologies, the reception quality of FM broadcast is better than that of AM broadcast. Under the current status of spectrum utilization, Hong Kong does not have spare FM channels that cover the whole territory. RTHK thus cannot migrate the existing AM broadcast to territory-wide FM broadcast.

Due to the high density of high-rise buildings and hilly terrain in Hong Kong, the reception quality of RTHK's AM broadcast may not be satisfactory in some areas. To improve the reception quality of its AM broadcast in particular areas, RTHK provides "Easy Reception" service regularly every year by sending engineers to help the audience of its AM broadcast solve antenna problems.

Moreover, RTHK has been liaising with the Office of the Telecommunications Authority (OFTA) to examine the feasibility of installing

local FM transposers in areas with poor AM broadcast reception. Such FM transposers enable the relay of AM broadcast onto localized FM channels to improve reception. The prerequisite for installing FM transposers in such poor-reception areas is the availability of spare FM channels covering the local area.

So far, RTHK has built five FM transposers to improve the reception quality of its AM broadcast in the vicinity of these areas.

The works of installing an FM transposer in Tin Shui Wai currently being carried out by RTHK will improve the reception quality of its Radio 3, Radio 5 and Putonghua Channel broadcast in Yuen Long and Tuen Mun.

RTHK has also been liaising closely with the District Councils of relevant districts on the improvement of radio reception quality. At present, it does not have any plan for building additional FM transposers. If necessary, it will examine the feasibility of setting up additional FM transposers, subject to the availability of spare FM channels in the areas concerned.

**MRS SELINA CHOW** (in Cantonese): *Madam President, as mentioned by the Secretary, though AM broadcast covers the whole territory, we all know that AM broadcast services are far from satisfactory in many aspects. Some residents of Tin Shui Wai have even expressed that, despite the migration to FM broadcast, RTHK seems hesitant to publicize and conduct extensive promotion on this among the residents. May I ask the Secretary whether the authorities have any plans and support resources in place to improve the reception quality of the Putonghua Channel in FM broadcast, in particular in some New Territories districts with a large population of new arrivals as I have mentioned in the main question? Do the authorities have an overall plan in this respect and how will this be implemented?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): *Madam President, in general, the quality of AM broadcast is not that bad. However, the problem we are now facing is that the FM channels available in the territory are limited. At present, the seven available channels have all been allocated, and no spare FM channel covering the whole territory is available. However, in certain areas, transposers may be used to transpose AM*

broadcast to FM broadcast. But the feasibility of using transposers depends on the situation of the district, as the arrangement is not feasible in every area. When it is feasible and so demanded, we will do so.

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, has your supplementary question not been answered?

**MRS SELINA CHOW** (in Cantonese): *Madam President, the Secretary has not answered my follow-up question. I asked him whether an overall plan was in place.*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, we do not have any so-called overall plan, for all available channels have now been taken up. We have to act according to the requests made by different districts. Upon receipt of such request, in-depth studies and tests regarding the district concerned will be conducted to determine whether the relay of AM broadcast onto localized FM channels is feasible. This depends on the situation of individual districts. Different approaches may have to be employed even for different areas within the same district, for the coverage of transposers may vary according to the locations of transposers.

**MR JEFFREY LAM** (in Cantonese): *Madam President, during the last couple of years, the Government has been vigorously promoting biliteracy and trilingualism, and the public are well aware of the benefits of biliteracy and trilingualism. Though the Secretary said earlier that FM channels were limited, does the Commercial Radio have any policy for the longer term to broadcast its Putonghua programme through FM channels so that the entire population of the territory may tune into these programmes?*

**PRESIDENT** (in Cantonese): Mr LAM, are you referring to RTHK?

**MR JEFFREY LAM** (in Cantonese): *Yes, it should be RTHK.*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): If Mr LAM's supplementary question is about RTHK, I may tell him that according to some recent statistics, the Putonghua Channel has an audience size of about 460 000. As for the other part of Mr LAM's question which asked whether there was any plan to further extend the existing coverage of RTHK, it is something we cannot do. As there are only seven channels (Appendix 1) which have already been exhausted, we can do nothing about it in this respect. Just now, I seem to hear Mr LAM asked whether the Commercial Radio might do something in this respect, this will be a commercial decision for them.

**MR JEFFREY LAM** (in Cantonese): *I would like to clarify that I was referring to RTHK just now. However, can RTHK discuss with its counterparts with a view to extending the coverage of its Putonghua broadcast to FM channels?*

**PRESIDENT** (in Cantonese): Mr LAM, since this is not part of the supplementary question you raised earlier, you have to press the "Request-to-speak" button and wait for another turn. You may have a chance to raise another supplementary question.

**MR MA LIK** (in Cantonese): *Madam President, my supplementary question shares some similarity with Mr Jeffrey LAM's question. Since the Government has been vigorously promoting Putonghua — I intended to ask about the current audience size of AM broadcast, but the Secretary has already answered this — may I thus ask further, if the Putonghua Channel is broadcast through FM channels, what the expected increase of audience size of the Putonghua Channel will be?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, we will not be able to tell. However, the coverage is not that bad despite it is broadcast through AM channels at present. Therefore, no matter the programme is broadcast through the AM or FM channel, I believe the audience size tuning into the Putonghua Channel will not vary significantly.



**MS MIRIAM LAU** (in Cantonese): *Madam President, in the last paragraph of the main reply, the Secretary mentioned that the feasibility of setting up additional FM transposers would be examined in future if necessary. May I ask what he means by necessary? What circumstances are considered as necessary? Is failure to receive AM broadcast or poor reception a factor of consideration of necessity? And to what extent does poor reception render the situation necessary? Moreover, who will be the one deciding whether or not it is necessary?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, upon the receipt of such request by RTHK, we will examine the issue with the OFTA to see whether spare channels are available for the district concerned. If no spare channel is available, we can do nothing. Even if a spare channel is available, we have to see whether the usage of that channel will cause interruption to other communication services and whether suitable sites for the construction of transposer can be identified. Only if the above requirements are satisfied will we proceed to study further the feasibility of transposing AM broadcast onto FM broadcast.

**MS MIRIAM LAU** (in Cantonese): *Madam President, the Secretary has not answered my supplementary question as I asked about the definition of necessity. Is request equivalent to necessity? Who is the one to decide whether or not the necessity has arisen? Madam President, the Secretary has not answered this part of the question.*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): The presence of a request is certainly a starting point. We still have to conduct in-depth studies to identify the needs of the district concerned before the relevant studies can be commenced accordingly.

**MS MIRIAM LAU** (in Cantonese): *The Secretary has not yet replied who will be the one deciding whether or not there is the necessity?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): In the beginning, the decision is certainly made by RTHK.

According to the demand raised by the district concerned, RTHK will examine with the OFTA whether other conditions are in place. The determining factors mainly include two aspects, and the technical aspect is dominant. Decisions are made by the authorities according to the need of the district. This is not a simple question of transposing programmes of certain radio stations in certain districts but not in others.

**MS EMILY LAU** (in Cantonese): *Madam President, the most effective way to improve the quality of broadcasts by RTHK is to change to digital broadcast. May I ask the Secretary about the current progress of the study in this respect and whether a timetable will be drawn up?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, digital broadcast is only one of the technologies available, which is no panacea for all the problems. Digital broadcast does make the provision of more stations and additional services possible, and the services so provided are different from that provided through FM and AM channels. The merits of digital broadcast are better reception and sound quality. However, at present, the biggest problem is that digital voice broadcast must be received by digital radio, while FM and AM radios now commonly in use cannot receive digital broadcast. Even if we adopt digital broadcast, the programmes broadcast will not be received if digital radios are not popular. That will be a problem. Therefore, digital broadcast is not a solution to the problem of AM broadcast.

**MS EMILY LAU** (in Cantonese): *Madam President, my question is whether or not the Secretary has a timetable for the implementation of digital broadcast. Or, nothing of this kind has been done?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, the position of the Government is to allow this to be led by the market. As I said earlier, depending on the popularity of digital radios, we will conduct in-depth studies on the full implementation of digital broadcast.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, as the reception quality of AM broadcast is not satisfactory, and that the channels for FM broadcast are limited, will it be possible to consider a compromise by increasing time slots for Putonghua broadcast in FM channels now providing non-Putonghua broadcast?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): *Madam President, I will refer Mr YOUNG's suggestion to the Director of Broadcasting.*

**MR LEUNG KWOK-HUNG** (in Cantonese): *Secretary, radio is a very important tool. I myself find listening to the programmes on radio broadcast a helpful means for language learning, so I think Putonghua broadcast is very important. May I further ask the Secretary whether RTHK has indicated any need for more spectrum provision? Just now, when Ms Miriam LAU asked who would be responsible for deciding whether the need existed, the Secretary replied that RTHK would be the first to act, followed by the Bureau. Has the Secretary received any request from RTHK calling on the Bureau to examine ways for improving the situation?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): *Madam President, I believe RTHK knows very well the number of spectrums available in Hong Kong and that all the spectrums have been taken up. RTHK knows the situation very well.*

**MR LEUNG KWOK-HUNG** (in Cantonese): *I asked the Secretary whether he had received such request, for the Secretary may be able to squeeze out some channels. It is crucial whether RTHK has made such a request. If it has not made such a request, the Secretary certainly will not be aware of it. However, if it has made a request, has it proposed any suggestion for adoption by the authorities? Just as the Secretary said, it is first considered by RTHK and then advice will be sought from the Bureau.*

**PRESIDENT** (in Cantonese): Secretary, Mr LEUNG Kwok-hung's question is about whether you have received a request from RTHK for increasing channels.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): RTHK has not made a request to me for the provision of more spectrums for it also knows that we have only seven channels which have all been taken up.

**MR JEFFREY LAM** (in Cantonese): *Madam President, in the last paragraph of the main reply, the Secretary mentioned that RTHK had no plans to build additional FM transposers. However, we see that the demand of the public as well as various districts is enormous, and that radio broadcast has a significant bearing on the popularization of Putonghua. May I ask the Secretary whether the authorities have a timetable in place on increasing such channels and the ways to achieve this? Will the borrowing of spectrums from counterpart stations be considered?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, we have no plans to ask our counterparts, which I think Mr LAM is referring to the Commercial Radio and the Metro Broadcast, to spare some spectrums for any particular activities, as this is a commercial decision of them. However, if they see that Putonghua broadcast may bring about commercial interest, I believe they will make the appropriate commercial decision.

**MR JEFFREY LAM** (in Cantonese): *Since all spectrums of RTHK have been taken up now, I asked the Secretary earlier whether there is a timetable for increasing the spectrums for RTHK?*

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

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, the service of the Putonghua Channel covers the

entire territory. However, since the Channel uses AM broadcast, the reception quality of certain areas is not satisfactory owing to the geographical constraints or density of buildings of the areas concerned. We have identified suitable spectrums for the transposition of AM broadcast to FM broadcast in these areas, that means broadcast is transmitted through FM not AM. However, this arrangement is not applicable to all districts, as not every district has this problem. In many areas, the reception quality of AM broadcast is pretty good.

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

**MRS SELINA CHOW** (in Cantonese): *Madam President, I would like the Secretary to make a more explicit reply. Earlier, he said that only seven channels were available and no extra channels could be spared anyway, but he said that transposers which at least could improve the service quality of existing AM broadcast could be built. May I ask the Secretary whether RTHK knows which districts have made requests for the construction of transposers or considered they have such need, as the Secretary stated in the main reply that RTHK had been liaising closely with the District Councils of relevant districts? In how many districts has this request been truly fulfilled, and in which districts has the request been proved impossible? As for those districts where the arrangement is achieved, will plans to implement improvement measures be introduced as soon as possible?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, all along, RTHK has been liaising very closely with District Councils. From time to time, RTHK will receive from their audience views and suggestions for improvement. So far, as I said in the main reply, FM transposers have been built in five districts and the transposers in Tin Shui Wai will soon come into operation, increasing the total number of transposers to six. We will continue to liaise with the District Councils of the relevant districts and pay heed to the queries and complaints made by audiences. If we consider the construction of transposers necessary and feasible after we have completed the follow-up work, we will proceed with the work in this respect.

**MRS SELINA CHOW** (in Cantonese): *I think the Secretary has failed to give a specific reply to my question. If the Secretary is not able to answer this today, he may provide a written reply after the meeting, stating the districts that have made the request and the applicability of the arrangement for the districts concerned. We also want to know which districts have seen residents making such requests, and that failure to do so is due to technical problems but not deliberate delay or refusal by the Government to provide the resources.*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, as far as I understand it, all the requests and problems raised by the districts concerned have already been dealt with. There are other districts that have not made such a request. If someone does put forth such a request, we will follow it up properly.

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

## **WRITTEN ANSWERS TO QUESTIONS**

### **Electronic Wastes**

7. **MR MARTIN LEE** (in Chinese): *Madam President, in view of the recent grave public concern about the possible impact and harm caused by electronic wastes to the environment and public health, will the Government inform this Council of:*

- (a) *the definition of electronic wastes; whether it has assessed if the existing legislation regulating the import/export and disposal of electronic wastes is adequate and effective; if it has, of the assessment results; if the existing legislation is assessed to be inadequate and ineffective, whether it will consider formulating a long-term policy on the disposal of electronic wastes, amending the existing legislation to deal with its loopholes and inadequacy, and strengthening the co-ordination of the efforts of various law enforcement agencies; and*

- (b) *how obsolete computers in government departments were disposed of in the past, and whether any internal guidelines have been drawn up in this regard; if so, whether it has assessed if such guidelines comply with the principles of environmental protection; if it has, of the assessment results, and whether there is an independent body responsible for overseeing the implementation of the guidelines by government departments?*

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

- (a) There is no common definition of waste internationally. Generally speaking, electronic waste (e-waste) refers to abandoned electrical appliances for household and commercial and industrial purpose. Some e-waste contains hazardous parts (for example, cathode ray tube) or hazardous substances (for example, cadmium, mercury, and lead). Its import and export are subject to the control of Waste Disposal Ordinance (WDO). The WDO is enforced by the Environmental Protection Department (EPD). In principle, a permit is required for the import and export of waste unless for the purpose of reuse or recycling. A permit or licence is required for the import, export and handling of electronic waste.

Under the WDO, e-waste containing or contaminated by hazardous substances is regarded as hazardous. Schedule 7 of the WDO lists various common types of hazardous e-waste, including cathode ray tubes in computer monitors and television sets, abandoned components containing mercury, lead, nickel or other toxic heavy metals. The import or export of such waste requires a permit. A permit issued by the EPD is required for the import and export of e-waste. Any person who imports or exports e-waste without a permit commits an offence and is liable to a fine of \$200,000 and six months' imprisonment for the first offence and a fine of \$500,000 and two years' imprisonment for a second or subsequent offence. Illegally imported waste will be returned to their place of origin.

In 2004, the joint operations by the EPD and Customs and Excise Department against the import of hazardous e-waste resulted in a

total of 83 consignments (involving about 1 500 tonnes of hazardous e-waste) being intercepted. The EPD served 52 summonses on the importers concerned and most of the illegally imported waste has been returned to their place of origin for proper disposal in accordance with the Basel Convention.

Apart from the above control on import and export, the EPD also monitors the operation of e-waste workshops. The dust, noise, wastewater and waste generated by these workshops are regulated by the Air Pollution Ordinance, Noise Control Ordinance, Water Pollution Control Ordinance and WDO and their subsidiary legislation. Any workshop that dismantles e-waste classified as chemical waste (such as the cathode ray tubes in television sets) is required to obtain a licence. In 2004, the EPD found three operating e-waste workshops that violated the law. Seven prosecutions were made under the Waste Disposal (Chemical Waste) (General) Regulation.

The EPD began a study in March 2005 on the introduction of a Product Responsibility Scheme (PRS) for various waste electrical and electronic appliances. Under the PRS, the producers, importers, retailers and consumers should share the responsibility for the proper handling of products at the post-consumption stage, with a view to reducing waste and raising the recovery rate. Drawing on overseas experience, we are conducting a comprehensive evaluation of the cost-effectiveness of various options, the impacts on the industry and stakeholders and other factors. We will consult the public on the scheme in due course.

- (b) All government bureaux and departments are required to follow Chapter XI of the Stores and Procurement Regulations of the Government of the Hong Kong Special Administrative Region for the disposal of old computer equipment which have become surplus to their requirements. The Government encourages the reuse and/or recycle of these products by the following ways:



- (i) seek possible utilization within the Government;
- (ii) arrange donation to organizations solely or principally for educational, scientific, cultural or charitable purpose;
- (iii) arrange trade-in by contractors; and
- (iv) arrange commercial disposal by public tender or auction.

The Government Logistics Department conducts regular checkings and surveys to ensure that the disposal arrangements of old computer equipment by all government bureaux and departments are in line with the provisions of the Stores and Procurement Regulations.

### **Emergency Ambulance Service**

8. **MR ANDREW CHENG** (in Chinese): *Madam President, regarding the emergency ambulance service (EAS) of the Fire Services Department (FSD), will the Government inform this Council of:*

- (a) *the number of times in the past year ambulances were deployed to provide cross-district EAS and, among them, the number of times ambulances failed to arrive at the addresses calling for ambulances within 12 minutes (that is, target response time) of receiving emergency ambulance calls;*
- (b) *the short-term and long-term measures to relieve the shortage of ambulance crew, in addition to last year's recruitment of 28 ambulancemen to fill some of the vacancies; and*
- (c) *the measures to improve the response time of EAS?*

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

- (a) The Ambulance Command of the FSD is divided into three operational regions (the Hong Kong Region, Kowloon Region and

the New Territories Region) and seven geographical divisions, namely, the Hong Kong East Division, Hong Kong West Division, Kowloon East Division, Kowloon West Division, New Territories East Division, New Territories South Division and New Territories West Division.

These are administrative delineations and the guiding principle in mobilizing ambulance resources is that the nearest available ambulance should be dispatched in response to an emergency ambulance call in order to reach the scene of incident in the shortest possible time, regardless of which division the ambulance belongs to. The FSD does not have separate statistics on the response time performance (RTP)<sup>1</sup> of calls responded to by cross-division deployment of ambulances.

(b) and (c)

In the paper entitled "Provision of Emergency Ambulance Service" submitted for the Panel on Security's discussion on 7 June 2005, we have set out the measures taken, the measures being implemented and possible options being considered to address the growing imbalance between the demand for and provision of EAS, which have a direct bearing on the RTP. To recap, concerning ambulance manpower, despite the government-wide initiatives to control expenditure and the size of the Civil Service, we increased the strength of the ambulance stream from 2 219 in April 2000 to 2 291 in April 2005, or an increase of 3.2%. During this period, exceptional approval was granted for the FSD to hire 28 ambulancemen in 2004-05 by open recruitment. With another ambulanceman from in-service recruitment, 29 ambulancemen recruits have completed training and been posted to front-line units since February 2005. Further approval has been granted to the FSD for open recruitment of 10 ambulance officers and 54 ambulancemen in 2005-06. The recruitment exercise is now underway.

<sup>1</sup> The FSD's performance pledge is that its ambulances or ambulance-aid motorcycles arrive at the street level of the scene of incident within 12 minutes of the emergency calls for at least 92.5% of such calls.

Apart from increasing manpower, the FSD has implemented a number of other measures to cope with the rising demand and improve the RTP. These include:

(i) *Third Generation Mobilizing System (TGMS)*

The TGMS, commissioned initially in the New Territories Fire Command since 1 March 2005, was designed to enhance the FSD's capability in mobilization and handle the projected growth of emergency calls up to 2013 without the need for additional staff at the Fire Services Communication Centre (FSCC). One of the benefits of the TGMS is that it may be able to reduce the response time, for instance, by enabling the FSCC staff to identify the nearest ambulance available for dispatch to an incident, and reduce the time on voice communication. Although teething problems were encountered at the initial stages, the FSD will continue to strive to stabilize the performance of the system so that it will yield its intended efficiency and functionality. With that, the dispatch capability and utilization of ambulance resources will be improved.

(ii) *Management Measures*

The FSD has introduced a series of improvement measures, including the "staggered shift system" which targets the high demand for EAS during the period from 10 am to 10 pm; the "Urgent Care Fleet" which comprises 12 ambulances manned by two-man crews instead of the normal three-man crews and helps to release resources for emergency ambulance attendance; "strategic move-up arrangement" which aims at providing an appropriate ambulance coverage in different areas at any time, and so on.

Looking ahead, we will consider further measures to address the supply-and-demand imbalance of EAS. In general, we are now looking into the following three areas for possible ways to sustain our high RTP in the short and long term:

- continue to consider additional resources for EAS in accordance with the Government's resources allocation processes;
- study whether we can adopt some demand management measures to ensure that EAS are more targeted at persons in genuine need of such services; and
- continue to review modes of service delivery to see if EAS resources can be put to better use.

### **Hong Kong Professionals Practising on the Mainland**

9. **MR WONG TING-KWONG** (in Chinese): *Madam President, it has been reported that after the implementation of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA), with the exception of the legal professionals of Hong Kong who have obtained certain assistance in establishing associated companies with the Mainland legal firms in the Mainland, the professionals of Hong Kong, such as the 300 persons currently engaged in the professions of engineering, architectural design and real estate valuation, cannot practise their professions or establish their firms in the Mainland even after obtaining professional qualifications therein. Moreover, the higher authorities of the mainland professional bodies are State ministries or commissions whereas the professional bodies of Hong Kong are non-governmental organizations, which are not the most appropriate authorities to negotiate on the system and co-operation arrangements of mutual recognition of professional qualifications between Hong Kong and the Mainland. In this connection, will the Government inform this Council of:*

- (a) *the current situation of Hong Kong professionals practising in the Mainland;*
- (b) *the main reasons for Hong Kong professionals not being able to practise in the Mainland after obtaining mainland professional qualifications; and*
- (c) *the ways to support the professional bodies of Hong Kong in facilitating their negotiations with the Mainland on the system and*

*co-operative arrangements of mutual recognition of professional qualifications, so that the proposition for Hong Kong to provide professional services in the Mainland through CEPA can be materialized?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): Madam President, my reply to the question of the Honourable WONG Ting-kwong is set out below:

- (a) With the booming economy of the Mainland as well as the enormous potential of its professional services market, more and more Hong Kong professionals have been developing their business in the Mainland. Liberalization of trade in services is one of the key areas covered by CEPA. Under CEPA I and II which were implemented in January 2004 and January 2005 respectively, Hong Kong service suppliers are eligible for preferential treatment granted by the Mainland in 26 service areas, including professional services like accounting, legal, medical and dental, construction and real estate services, and professional qualification examinations. The preferential treatment facilitates the professional services sectors in Hong Kong to set up business and expand their operation in the Mainland. We understand that since the implementation of CEPA, the number of Hong Kong service suppliers providing professional services to the Mainland has been on the increase.

For instance, for the engineering and construction related services mentioned in the question, it is noted that some Hong Kong companies have obtained their qualification certificates and already started operation in the Mainland. One of them has even obtained the Super Grade main contractor certificate, which is the highest qualification of the kind awarded by the Mainland. However, since the export of professional services can take different forms (such as enterprises or natural persons) and modes (such as commercial presence or cross-border supply), and that Hong Kong service suppliers are not required to report to the Government of the Hong Kong Special Administrative Region (SAR) their operation in the Mainland or in other areas, the Government does not have the figures in this respect.

- (b) The bureaux and departments concerned have maintained close contact with various local sectors, including the professional services, and solicited their views during the consultation, implementation and development of CEPA.

The SAR Government is very concerned about the difficulties encountered by some sectors in setting up business in the mainland market. In the study completed and reported recently to the Legislative Council on the impact of CEPA on the Hong Kong economy, we have specifically collected the views of the trade on this particular issue. According to the responding companies, further improvement in the regulatory environment of the mainland market (for example, more transparent and consistent rules and regulations as well as rationalized licensing regimes and their implementation), and the deepening and widening of liberalization measures under CEPA (for example, lowering of capital thresholds and opening up additional services) would be welcomed. Certain professional services were concerned about the difficulties for firms of Hong Kong to meet the rules of the Mainland on setting up business there and the variations of such rules across provinces and cities. The Administration attaches great importance to these views and have been following up the mainland authorities through different channels and ways as appropriate, including adopting measures mentioned in the reply below to part (c) of the question.

- (c) In support of the local professional services to make effective use of CEPA, the SAR Government has adopted various cross-sector measures to implement and promote CEPA. The Government also actively encourages and adds impetus to the initiatives of relevant departments and professional bodies of the two places to conduct studies and consult on specific measures for mutual recognition of professionals, and to work out the details. Regarding mutual recognition of professional qualifications and professional examinations, the two sides have already concluded agreements or arrangements for professionals including lawyers, estate surveyors, qualified personnel of the securities and futures industry, architects, patent agents, structural engineers, planners and quantity surveyors. An agreement for exemption of professional examination papers in the accounting sector was also signed between the two sides. To

facilitate Hong Kong residents to take the State Judicial Examination, the Ministry of Justice has accepted the suggestion of the Department of Justice of the SAR Government and agreed that a separate examination centre would be set up in Hong Kong for the conduct of the examination starting from 2005. The relevant examination will be held in September this year.

In addition, to assist professional services of Hong Kong to develop in the mainland market, the SAR Government has launched various promotional initiatives, including seminars and field studies. Funding is also provided for projects related to CEPA and operations in the Mainland under the Professional Services Development Assistance Scheme to assist local professional services to take up business opportunities in the Mainland. As at 30 April 2005, a total of 51 mainland-related projects (47% of the total approved projects) of more than \$20 million were either approved or launched. These activities include study tours to the mainland market, seminars and roadshows. Such activities have helped the professional sectors obtain first-hand information on the mainland market, and establish connections with their professional counterparts and potential partners in the Mainland.

Nevertheless, the Government appreciates that Hong Kong businessmen may still encounter difficulties, systemic or regulatory, when setting up their business in the Mainland. It is also understandable that they look forward to further improvement in the mainland business environment as well as the deepening and widening of liberalization measures under CEPA. Views and suggestions from the businesses will be welcomed. Their proposals will be considered by the SAR Government in a serious and pragmatic manner, and will also be reflected to the relevant mainland authorities in the next phase of CEPA consultations for active follow-up actions.

### **Mainland Women Giving Birth in Local Public Hospitals**

10. **DR KWOK KA-KI** (in Chinese): *Madam President, the number of mainland women (non-Hong Kong residents) giving birth in local public*

*hospitals has surged and the amount of medical charges they have defaulted on is enormous. On the other hand, the authorities have proposed to introduce a minimum package fee of \$20,000 for obstetric services in public hospitals, in order to address the problems that the existing charges of public hospitals are substantially lower than those of private hospitals and even below the Hospital Authority (HA)'s own cost for obstetric services, and that the existing fee structure encourages non-eligible expectant mothers, including those from the Mainland, to deliberately minimize their length of stay in hospitals. In this connection, will the Government inform this Council:*

- (a) if it knows the number of mainland women (non-Hong Kong residents) who gave birth in local public hospitals over the past three years, its percentage in the total number of child-delivery in-patients, the types of identity documents held by such women (for instance, entry documentations such as Hong Kong Identity Card, One-way Permit, Permit for Travelling to and from Hong Kong and Macao (commonly known as "two-way exit permit") and that for travellers under the Individual Visit Scheme), the number of cases in which they defaulted on payment of medical charges and the amount involved, the percentage of such amount in the total amount of defaulted medical payment, as well as the number of cases in which the authorities succeeded in recovering the outstanding medical charges and the amount involved, broken down by individual hospitals;*
- (b) how the authorities calculated the cost to be recovered when determining the proposed fee of \$20,000; whether they have taken into account the costs relating to the additional health care personnel required in the hospitals for the provision of such services, the extra medical services arising from the emergency medical consultations sought by expectant mothers from the Mainland who tried to minimize their length of stay in hospitals, and the medical incidents during delivery; and*
- (c) whether it will consider strengthening the co-operation with the Central Government on deterring mainland women from coming to Hong Kong for giving birth; as well as the reasons for the Hong Kong authorities not establishing an inter-bureau working group to jointly examine various feasible measures and iron out the possible*



*legal issues involved, thereby formulating effective and lawful measures to resolve the problems caused by such women coming to Hong Kong for child birth?*

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

Madam President,

- (a) The numbers of mainland women (non-Hong Kong residents) who gave birth in a public hospital in Hong Kong over the three years, their percentage of the total numbers of child deliveries in these hospitals, and the amounts of medical fees outstanding broken down by hospital, are set out in the Annex. The vast majority of these mainland women were holders of Exit and Entry Permit when they entered Hong Kong.
- (b) The proposed Obstetric package charge of \$20,000 for Non-Eligible Persons (NEP) giving birth in a public hospital is calculated on the basis of average in-patient cost of Obstetric services, which covers the full costs of the relevant staff, operation, procedures and consumables. The late presentation of expectant mothers at public hospitals would not significantly increase the costs of medical services provided to them, although medical staff would be put under great pressure to perform the relevant tests and investigations within a short time period.
- (c) We understand that there are difficulties for mainland authorities to prevent pregnant women from coming to Hong Kong. There is no legal basis for mainland authorities to refuse exit applications from mainland women solely on the ground that they are pregnant. Furthermore, there would be practical difficulties for the authorities to ascertain whether the individual applicants are pregnant or not. According to the relevant regulations in the Mainland, the validity period for the exit endorsement on the Exit and Entry Permit to visit Hong Kong is usually three months. It would be feasible for pregnant women to file their exit application during the early stage of their pregnancy.

The Health, Welfare and Food Bureau, the Security Bureau and relevant government departments have been working closely to address the problem of the increasing use of public medical services by NEP pregnant women. We would explore all possible measures, give due consideration to the relevant legal issues, and brief Members of the Legislative Council when the results are available.

## Annex

<i>Hospital</i>	<i>2002-03</i>			
	<i>No. of Delivery</i>		<i>Mainland Visitors of IP Obs</i>	
	<i>Mainland Mother</i>	<i>% of Total</i>	<i>Outstanding as at 31 March 2005 \$M</i>	<i>% of overall HA outstanding balance</i>
Alice Ho Miu Ling Nethersole Hospital	72	17%	0.0	0%
Kwong Wah Hospital	1 470	25%	0.5	2%
Princess Margaret Hospital	1 157	29%	0.5	2%
Prince of Wales Hospital	1 359	25%	0.6	2%
Pamela Youde Nethersole Eastern Hospital	845	20%	0.1	0%
Queen Elizabeth Hospital	936	21%	0.8	3%
Queen Mary Hospital	639	18%	0.1	1%
Tuen Mun Hospital	1 297	23%	0.3	1%
United Christian Hospital	961	24%	0.4	1%
<b>Total</b>	<b>8 736</b>	<b>23%</b>	<b>3.3</b>	<b>13%</b>

<i>Hospital</i>	<i>2003-04</i>			
	<i>No. of Delivery</i>		<i>Mainland Visitors of IP Obs</i>	
	<i>Mainland Mother</i>	<i>% of Total</i>	<i>Outstanding as at 31 March 2005 \$M</i>	<i>% of overall HA outstanding balance</i>
Alice Ho Miu Ling Nethersole Hospital	77	31%	0.1	0%
Kwong Wah Hospital	1 383	25%	1.7	3%
Princess Margaret Hospital	826	32%	1.2	2%
Prince of Wales Hospital	1 301	29%	2.9	6%
Pamela Youde Nethersole Eastern Hospital	985	27%	0.4	1%

<i>Hospital</i>	<i>2003-04</i>			
	<i>No. of Delivery</i>		<i>Mainland Visitors of IP Obs</i>	
	<i>Mainland Mother</i>	<i>% of Total</i>	<i>Outstanding as at 31 March 2005 \$M</i>	<i>% of overall HA outstanding balance</i>
Queen Elizabeth Hospital	1 308	24%	2.3	5%
Queen Mary Hospital	543	16%	0.4	1%
Tuen Mun Hospital	1 312	25%	1.7	3%
United Christian Hospital	992	26%	1.3	3%
<b>Total</b>	<b>8 727</b>	<b>25%</b>	<b>11.9</b>	<b>24%</b>

<i>Hospital</i>	<i>2004-05</i>			
	<i>No. of Delivery</i>		<i>Mainland Visitors of IP Obs</i>	
	<i>Mainland Mother</i>	<i>% of Total</i>	<i>Outstanding as at 31 March 2005 \$M</i>	<i>% of overall HA outstanding balance</i>
Kwong Wah Hospital	1 572	29%	2.7	2%
Princess Margaret Hospital	1 684	38%	2.4	2%
Prince of Wales Hospital	1 923	33%	3.4	3%
Pamela Youde Nethersole Eastern Hospital	1 268	32%	0.4	0%
Queen Elizabeth Hospital	1 425	27%	1.7	1%
Queen Mary Hospital	605	17%	0.8	1%
Tuen Mun Hospital	1 893	32%	2.3	2%
United Christian Hospital	1 923	40%	2.1	2%
<b>Total</b>	<b>12 293</b>	<b>31%</b>	<b>15.8</b>	<b>13%</b>

### **Article 50 of Basic Law**

11. **MR LEE WING-TAT** (in Chinese): *Madam President, article 50 of the Basic Law stipulates that if the Chief Executive of the Hong Kong Special Administrative Region (SAR) refuses to sign a bill passed the second time by the Legislative Council, or the Legislative Council refuses to pass a budget or any other important bill introduced by the Government, and if consensus still cannot be reached after consultations, the Chief Executive may dissolve the Legislative Council. In this connection, will the Government inform this Council of:*

- (a) *the bills referred to as "any other important bill" in the above article, and how "important bill" is defined;*
- (b) *the procedure and the parties involved in the "consultations" referred to in the above article; and*
- (c) *the procedure that the Chief Executive is required to follow for dissolving the Legislative Council, and whether the Chief Executive is only required to publish a notice of such a decision in the Gazette?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Chinese): Madam President, the question raised by the Honourable LEE Wing-tat is primarily about Article 50 of the Basic Law. To understand in a more thorough manner the constitutional arrangement designed for resolving major conflicts between the executive and legislative authorities in the Basic Law, we should consider Article 50 of the Basic Law together with Articles 49 and 52 of the Basic Law.

Article 49 of the Basic Law provides that if the Chief Executive considers that a bill passed by the Legislative Council is not compatible with the overall interests of Hong Kong, he may return it to the Legislative Council within three months for reconsideration. If the Legislative Council passes the original bill again by not less than a two-thirds majority, the Chief Executive must sign and promulgate it within one month or act in accordance with the provisions of Article 50 of the Basic Law.

Article 50 of the Basic Law provides that if the Chief Executive refuses to sign a bill passed the second time by the Legislative Council, or the Legislative Council refuses to pass a budget or any other important bill introduced by the Government, and if consensus still cannot be reached after consultations, the Chief Executive may dissolve the Legislative Council. The Chief Executive must consult the Executive Council before dissolving the Legislative Council. The Chief Executive may dissolve the Legislative Council only once in each term of his or her office.

Article 52 of the Basic Law provides that the Chief Executive must resign under three circumstances. Two of the circumstances are: (1) when, after the Legislative Council is dissolved because he twice refuses to sign a bill passed by it, the new Legislative Council again passes the original bill in dispute, but he

still refuses to sign it; and (2) when, after the Legislative Council is dissolved because it refuses to pass a budget or any other important bill, the new Legislative Council still refuses to pass the original bill in dispute.

According to the above Basic Law provisions, a Chief Executive is vested with the power to dissolve the Legislative Council under certain specified circumstances, while a Chief Executive must resign under certain specified circumstances involving the Legislative Council. This reflects the principle as enshrined in the Basic Law that the executive and legislative authorities should co-operate with one another while keeping each other in check. However, the dissolution of the Legislative Council by the Chief Executive and the resignation of a Chief Executive involving the Legislative Council are governed by stringent requirements in the Basic Law. It is not easy to trigger the mechanism. When a Chief Executive decides to dissolve the Legislative Council, he will need to consider the possibility that this may result in his resignation eventually. If the Legislative Council passes again the bill returned to it by the Chief Executive for reconsideration or if it refuses to pass a budget or any other important bill introduced by the Government, the Legislative Council will also have to consider the possibility of dissolution. This arrangement of checks and balances ensures that the Chief Executive will not exercise his power to dissolve the Legislative Council lightly; likewise, the Legislative Council will not pass again the bill returned for reconsideration or refuse to pass a budget or any other important bill lightly.

Regarding the first part of the question, Article 50 of the Basic Law contains no further elaboration on what "other important bill" entails. It would, thus, not be appropriate to add further requirements or restrictions on the term "important bill" beyond the current provision of the Basic Law. In determining whether a bill is an "important bill", we expect that the Chief Executive will consider the circumstances of each case and the overall interests of Hong Kong.

Regarding the second part of the question, Article 50 of the Basic Law contains no further explanation on the procedures and people to be involved in the process of "consultations". The purpose of consultations is to provide an opportunity for the executive and legislative authorities to resolve their differences on the budget or the relevant important bill, before the Chief Executive decides whether or not the power to dissolve Legislative Council should be exercised. Depending on the actual need and circumstances pertaining, we believe that both sides will consider using all possible

communication channels between the executive and legislative authorities for the purpose. These may include the relevant bills committee which involves Legislative Council Members and officials of the SAR Government.

Regarding the third part of the question, Article 50 of the Basic Law empowers the Chief Executive to dissolve the Legislative Council under certain specified circumstances. This article provides that the Chief Executive must consult the Executive Council before dissolving the Legislative Council. There is no other procedural requirement stipulated in the Basic Law.

### **Introduction of Lump Sum Grant Subvention Arrangement**

12. **DR FERNANDO CHEUNG** (in Chinese): *Madam President, on 1 January 2001, the Social Welfare Department (SWD) launched the Lump Sum Grant Subvention Arrangement (the LSGS Arrangement) for providing financial assistance to non-governmental organizations (NGOs). It also provides tide-over grants to NGOs to enable them to continue to fulfil their contractual obligations to existing staff during the five-year transition period. The Administration also established a Lump Sum Grant Steering Committee (the Steering Committee) to handle complaints from NGO staff. Recently, I have received many complaints from social workers against the SWD's failure to properly handle complaints from staff whose remuneration has been cut. Moreover, the Steering Committee has no authority to order NGOs to send representatives to attend its hearings or rectify acts that contravene the principles of the LSGS Arrangement. In this connection, will the Government inform this Council of the following:*

- (a) *since the implementation of the LSGS Arrangement,*
  - (i) *the number of complaints the SWD has received concerning NGO staff whose remuneration has been cut, with a breakdown by contents of the complaints;*
  - (ii) *the number of complaints in which the SWD has directly intervened, and the way the SWD has handled the cases; and*
  - (iii) *the number of complaints the SWD has referred to the Steering Committee, the number of hearings the Steering*

*Committee has held for the referrals, and the number of cases in which the Steering Committee ruled that the NGOs concerned had contravened the principles of the LSGS Arrangement; and*

- (b) *the penalties the SWD may impose on NGOs which have contravened the principles of the LSGS Arrangement, and whether the SWD has assessed the deterrent effects of such penalties, and whether the SWD will step up the enforcement of the penalties?*

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

- (a) Since the implementation of the Lump Sum Grant Subventions System,
- (i) the SWD has received a total of 17 complaints concerning NGO staff whose remuneration has been cut. A breakdown by content of the complaints is as follows:

<i>Content of Complaint</i>	<i>No.</i>
1. Salary cut	9
2. Salary frozen	3
3. Other benefits cut (for example, cut in provident fund or job-related allowance)	5
Total:	17

- (ii) The SWD has directly handled and investigated all the 17 complaints. In investigating each complaint, the SWD has approached the complainant(s) to understand the issues, required the NGOs concerned to submit an incident report, and informed the complainant the investigation result.
- (iii) Among the 17 complaints, the SWD has referred six concerning the Lump Sum Grant subvention rules to the Steering Committee, for which hearing was conducted for one complaint. Upon the consideration of the Steering

Committee, three complaints were concluded as substantiated, whereas two were unsubstantiated. There is one case still under investigation. Regarding the three substantiated cases, the NGOs concerned had reinstated the provident fund and job-related allowances in question. For the remaining 11 cases, they were concluded as unsubstantiated after investigation.

Apart from the above 17 complaints, the SWD has received another 26 complaints concerning other human resource management practices, including staff dismissal and work deployments. At present, two complaints are still under investigation. After investigation and mediation, it was considered that the remaining cases had not contravened the Lump Sum Grant requirements. The corresponding complainants have already been informed of the investigation results.

- (b) There are presently standing measures in the SWD to handle NGO's violation of the Lump Sum Grant principles. In accordance with para 4.4(g) of the Lump Sum Grant Manual (2nd Edition), if a NGO fails to:
- (i) achieve a reasonable standard of performance in accordance with the Funding and Service Agreements (FSAs);
  - (ii) exercise reasonable and prudent financial management; and
  - (iii) comply with the Lump Sum Grant rules and other subventions rules or obstruct the Director in the exercise of his/her authorities as given above,

the Director of Social Welfare, having regard to the FSAs, is empowered to withhold or terminate the Lump Sum Grant and other social welfare subventions. The SWD considers that the present measures on monitoring NGOs' management and protecting service quality have sufficient deterrence effects.



It is worth pointing out that the SWD has all along exercised close monitoring on NGOs' service quality in accordance with respective service-specific FSAs and 16 service quality standards. On the other hand, every NGO is a separate legal entity, which has its own constitution and is subject to the governance of its board of directors. Subject to the compliance of the related ordinances, NGOs enjoy autonomy in recruiting, deploying and promoting their staff. In formulating the human resource policies and making staff-related decisions, NGOs should observe the related legal provisions and seek their boards' endorsement. The SWD is not empowered to intervene a staff-related decision if it is not in contravention with the Lump Sum Grant principles.

With a view to enhancing the governance and accountability of NGOs, the SWD has set out in Chapter 5 of the Lump Sum Grant Manual (2nd Edition) its advice to NGOs on good human resources management practices. In addition, the SWD has, in collaboration with the Independent Commission Against Corruption, issued two sets of guidelines, known as "Subvented Social Welfare Non-Governmental Organizations Staff Administration" and "Sample Code of Conduct for Non-Governmental Organizations", to NGOs for their reference.

### **Consumer Legal Action Fund**

13. **MR ALBERT CHAN** (in Chinese): *Madam President, the Consumer Legal Action Fund (the Fund) was set up in 1994 to give consumer access to legal remedies by providing financial support and legal assistance. However, I have recently received complaints from many members of the public, alleging that the Consumer Council (CC) has rarely used the Fund. As such, many flat owners who find themselves misled by property developers in such matters as completion dates, quality and prices of the flats, the number of flats sold, facilities available, visual quality of the environment, club-house services and availability of residents' bus services, and so on, have difficulty in applying for financial assistance under the Fund to institute legal actions against the developers*

concerned. In this connection, will the Government inform this Council whether it knows:

- (a) *the number of successful applications for financial assistance under the Fund and the total amount of assistance granted each year since its establishment; and*
- (b) *if the CC has considered using the Fund to institute legal actions against the property developers who have misled consumers; if so, of the details; if not, the reasons for that?*

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

- (a) The Fund was established in November 1994. The number of successful applications and the expenses incurred each year are shown as follows:

<i>Year</i>	<i>Number of successful applications</i>	<i>Total expenses (HK\$)</i>
1995-96	2	24,000
1996-97	5	140,000
1997-98	1	121,000
1998-99	5	321,000
1999-2000	1	235,000
2000-01	3	215,000
2001-02	2	329,000
2002-03	2	125,000
2003-04	2	284,000
2004-05	4	45,000
2005-06	0 (Up to May 2005)	548,000 (Estimated for payment of litigation expenses incurred up to May 2005 for cases approved in previous years)

Expenses incurred by the Fund each year include litigation expenses, as well as costs related to court proceedings such as obtaining company search reports and seeking legal opinion for consideration of the applications. Moreover, as litigation takes time, the total expenses incurred by a successful application may spread over a number of years.

- (b) The objective of the Fund is to, through assisting consumers to take legal action against unscrupulous traders, deter business malpractice and enhance consumers' awareness of their rights. The criteria for vetting an application include the number of consumers affected, the chance of success in litigation, and whether litigation is the most effective means, and so on.

The Board of Administrators of the Fund (the Board), which comprises the Chairman, Vice-chairman and other members of the CC, is responsible for the overall administration of the Fund. It approves or rejects an application based on the recommendation of the Consumer Legal Action Fund Management Committee (the MC). The MC, which comprises both CC and non-CC members, is responsible for advising the Board on the eligibility and merits of individual applications in accordance with the vetting criteria.

Under the existing arrangement, consumers may apply direct to the Fund for assistance, or the application may be referred by the CC. In the latter case, the CC will, upon receipt of a complaint, ascertain the facts of the case, contact the party being complained and try to resolve the dispute through mediation. If mediation is not successful and the CC is satisfied that the complaint is substantiated and meets the vetting criteria of the Fund, the CC will refer the case to the MC for consideration.

Among the 27 applications approved since the establishment of the Fund, five involved misrepresentation by property developers and all of them were referred to the MC by the CC. Details of these cases are as follow:

	<i>Year</i>	<i>Nature of misrepresentation</i>	<i>Outcome</i>
(1)	1996	The developer misled consumers, claiming that it had the right to construct a building on the land in question, and misrepresented the commencement date of construction works.	The developer agreed to settle the dispute out of Court and paid compensation to the consumers.
(2)	1998	The developer misrepresented the location of electricity meters room and refuse room in the building.	The developer agreed to settle the dispute out of Court and paid compensation to the consumers.
(3)	1999	The developer misrepresented the completion date of the development. It failed to complete the development and eventually, wound up.	With the assistance of the Fund, the consumers concerned filed a proof of debt against the developer.
(4)	2001	The developer misrepresented the use of the flat roof.	Legal proceedings ongoing.
(5)	2002	The developer misrepresented the interior measurement of the flats.	Legal proceedings ongoing.

### **Small Class Teaching Scheme**

14. **MR FREDERICK FUNG** (in Chinese): *Madam President, it has been reported that an overseas study has proved that small-class teaching is more effective for pupils of lower social and economic status. The Secretary for Education and Manpower recently stated in public that he intended to implement small-class teaching in primary schools with more poor pupils, so as to support the Government's policy of helping the poor. Moreover, he also suggested expanding the small-class teaching scheme (the Scheme). In this connection, will the Government inform this Council:*

- (a) *of the criteria for identifying the schools with more poor pupils; when such schools will be invited to participate in the Scheme and*

*the number of schools involved, and how the authorities avoid adverse labelling of poor pupils from the schools which have been invited to participate;*

- (b) of the difference between the Scheme to be implemented in schools with more poor pupils and the existing similar scheme, and how it will assess the effectiveness of the scheme in helping poor pupils to get rid of poverty;*
- (c) of the details of the findings of the above overseas study; whether the scope of the study covered the differences in learning among pupils of different social strata and how small-class teaching might help poor pupils to get rid of poverty; and*
- (d) whether the reasons for the authorities' suggestion to expand the Scheme include their endorsement of small-class teaching; if so, whether they will expeditiously implement small-class teaching across the board?*

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

- (a) The Administration intends to implement the Scheme at junior levels in primary schools with a high concentration of students with weak family support, so as to support the Government's pledge to alleviate poverty. We plan to use the percentage of junior primary students receiving Comprehensive Social Security Assistance or full grant of the School Textbook Assistance Scheme of the school as an objective eligibility criterion for selecting schools to participate in the Scheme. Eligible schools will be invited to participate in the Scheme by the end of this school year. Since the student enrolment of the next school year is not yet clear, we are not able to confirm the number of schools involved for the time being. To forestall possible labelling effect, we will not make public the names of the schools invited or eventually participating in the Scheme. We will brief the Legislative Council Panel on Education on the details of the Scheme at its meeting on 13 June 2005.

- (b) The existing Study on Small Class Teaching (the Study), with the participation of 37 schools of different backgrounds, aims to assess the benefits of small-class teaching and to identify the teaching strategies and support necessary for maximizing the benefits. The Scheme to be launched in schools with a high concentration of disadvantaged students is based on the findings of some overseas studies on small-class teaching which indicate, *inter alia*, that small-class teaching has more significant positive effects on junior primary students of lower socio-economic status and with weak family support. As a measure to support the Government's pledge to alleviate poverty, the Scheme aims at giving more individualized attention to disadvantaged students in their learning through small-class teaching. As it is a new initiative, we have to accumulate more experience. We will evaluate the effectiveness of the Scheme, following basically the evaluation framework developed for the Study. To help teachers involved adapt the pedagogical content and strategies to optimize the benefits of small-class teaching, we would provide participating schools with professional support, similar to that given to schools participating in the Study. Through assessing students' performance in both the academic and affective domains such as self-confidence, self-esteem and learning motivation, we will find out how small-class teaching can enhance the provision of equal opportunities for these disadvantaged students to develop and the extent to which education can facilitate their upward social mobility.
- (c) Among the overseas studies on small-class teaching, quite a number of them have come to the conclusion that small-class teaching at junior levels of schooling will have more significant effects on disadvantaged students. Key information on some of the studies is outlined at Annex.
- (d) Apart from the Study and the proposed Scheme to implement small-class teaching at schools with a high concentration of students with weak family support, we have no intention to further extend small-class teaching for the time being. The Education and Manpower Bureau is in principle supportive of the broad direction of small-class teaching and believes that a strategic implementation approach should be adopted to optimize the benefits of small-class

teaching. The experience and outcomes of the above two initiatives will help the Government formulate a long-term and effective policy on small-class teaching.

Annex

The Effect of Small Class Teaching on Disadvantaged Students -  
A Summary of Some Overseas Research Findings

<i>Research Study</i>	<i>Year</i>	<i>Brief Description of the Research Study</i>	<i>Relevant Key Findings</i>
Project STAR (Student-Teacher Achievement Ratio), Tennessee, the United States	1985 - 1989	<ul style="list-style-type: none"> <li>- A four-year longitudinal study</li> <li>- From Kindergarten to Grade 3</li> <li>- The Study conducted on 79 schools, 300 classrooms and over 7 000 students</li> </ul>	<ul style="list-style-type: none"> <li>- The positive effect of smaller classes on ethnic minority students was double of that on the majority in the first two years, and the effect was about the same in the following two years.</li> </ul>
Project Challenge, Tennessee, the United States	1990 - 1993	<ul style="list-style-type: none"> <li>- An extension project of Project STAR</li> <li>- Focused on the performance of those students in 19 poorest counties in Tennessee, following Project STAR</li> </ul>	<ul style="list-style-type: none"> <li>- With smaller classes, the students from these counties were moving above the state average in reading and in mathematics.</li> <li>- They also manifested relatively fewer behaviour and discipline problems.</li> </ul>
Project SAGE (Student Achievement Guarantee in Education), Wisconsin, the United States	1996 - 2001	<ul style="list-style-type: none"> <li>- Reduced class size progressively to 15 from Kindergarten to Grade 3</li> <li>- Targeted at schools with a larger intake of students from low-income families</li> </ul>	<ul style="list-style-type: none"> <li>- By the end of Grade 3, ethnic minority students, who were usually from poorer families, had closed the achievement gap between themselves and the white SAGE students.</li> </ul>

<i>Research Study</i>	<i>Year</i>	<i>Brief Description of the Research Study</i>	<i>Relevant Key Findings</i>
CSPAR (Class Size and Pupil Adult Ratio) Project by Prof P Blatchford, University of London, the United Kingdom	2000 - 2002	- Targeted at Reception Year to Year 4 - Observations conducted on 220 state schools and over 10 000 students	- Small classes appeared to work best in literacy for children who were most in need academically (for example, children with weak family support).
Study Commissioned by the Welsh Assembly Government Wales, the United Kingdom	2003	- Study conducted on Welsh primary schools	- Students who lived in areas of high social and cultural disadvantage benefited most from small classes.

### **Dumping and Recycling of Electronic and Electrical Products**

15. **MISS CHOY SO-YUK** (in Chinese): *Madam President, it has been reported that the Directives on Waste Electrical and Electronic Equipment and on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment, which will be implemented by the European Union (EU) in August this year and in July next year respectively, separately require producers importing electronic and electrical products to finance recovery of electronic waste, and banning the use of six specified hazardous substances (including lead, mercury and cadmium, and so on) in these products. In this connection, will the Government inform this Council:*

- (a) *of the amount of electronic and electrical products dumped into local landfills in each of the past three years, broken down by the product classification specified in the above directives; and*
- (b) *whether it will follow the example of EU by implementing similar directives in Hong Kong through legislation, thereby reducing the amount of disposed electronic and electrical products dumped in Hong Kong and promoting the recycling of such products, as well as ensuring that the producers concerned will use environmentally-friendly materials; if it will, of the details; if not, the reasons for that?*



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

- (a) The quantities of waste electrical and electronic equipment (WEEE) disposed of at landfills in the last three years were:

	<i>WEEE disposed of at landfills (tonnes)</i>
2004	18 433
2003	18 674
2002	23 200

There is no breakdown of WEEE disposed of at landfills by individual category.

- (b) The Waste Electrical and Electronic Equipment Directive of EU mainly requires the producers of electrical and electronic equipment imported into the Member States of the EU to be responsible for the collection, treatment, recovery and disposal of most of these products put on the market after August 2005. For products put on the market before August 2005, the producers are required to share the responsibility for the collection, treatment, recovery and disposal of such products in proportion to their respective share of the market. This requirement shares the spirit of Product Responsibility Scheme (PRS). Under the PRS, the producers, importers, retailers and consumers should share the responsibility for the proper handling of products at the post-consumption stage, with a view to reducing waste and raising the recovery rate.

The Environmental Protection Department (EPD) began a study in March 2005 on the introduction of a PRS for various waste electrical and electronic appliances. Drawing on overseas experience, we have conducted a comprehensive evaluation of the cost-effectiveness of various options, the impacts on the industry and stakeholders and other factors. We will consult the public on the scheme in due course.

The Restriction of Hazardous Substances in Electrical and Electronic Equipment Directive requires the producers of electrical and electronic equipment to ensure that the products they place on

the market from 1 July 2006 do not contain such hazardous substances as lead, mercury and cadmium unless the elimination or substitution of the substance is technically or scientifically impracticable. The EPD will continue to monitor the trend of policy development in this aspect among the international community in order to consider the need for introducing similar regulations in Hong Kong.

### **Illegal Occupation of Parking Meters by Green Minibuses**

16. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that the 14 parking meters in a public carpark near Wu Shan Road cargo pier have for a long time been illegally occupied by some green minibuses with bus stands in the vicinity. In this connection, will the Government inform this Council:*

- (a) how long the above problem has existed, and the details of the measures taken by the authorities to deal with the problem;*
- (b) of the reasons for the illegal occupation of these parking meters by the minibuses, and the total public revenue foregone in the past year due to the illegal occupation of the parking meters; and*
- (c) of the measures to be adopted to resolve the problem?*

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

(in Chinese): Madam President, since 2003, the Transport Department (TD) has received four complaints concerning illegal occupation of parking spaces and obstruction to other vehicles by drivers of green minibuses in a metered carpark at Wu Shan Road in Tuen Mun. Upon receipt of these complaints, the TD has warned the minibus operator concerned immediately. The TD and the police have also conducted five surprise inspections at the carpark but no irregularity was found.

As it is difficult to ascertain whether and how long the parking spaces are illegally occupied, we are unable to assess whether there is any public revenue foregone.

The TD has asked the management contractor of the parking meters to step up inspection to eliminate illegal occupation of parking spaces. The TD has also reminded the minibus operator concerned to refrain from illegal occupation of parking spaces and obstruction to other vehicles. The police will continue to monitor the operation of the carpark and institute prosecutions when necessary. We also encourage the public to report such offences and will take prompt actions once complaints are received.

### **Review of Labour Legislation**

17. **MR LAU KONG-WAH** (in Chinese): *Madam President, recently, a visitor from the Mainland holding an Exit-entry Permit for Travelling to and from Hong Kong and Macao was convicted of working as a taxi driver illegally, and there were cases in which compensation payments for employees' deaths and injuries sustained at work were paid out from the Employees Compensation Assistance Fund to illegal workers or their families. In this connection, will the Government inform this Council whether it will consider setting up a task group to comprehensively review all the labour legislation, with a view to plugging any loopholes and removing any grey areas, thereby combating mainland visitors' taking up illegal employment in Hong Kong; if not, of the reasons for that?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Chinese): Madam President, the Government has no intention of setting up a task group to review all labour legislation with a view to combating mainland visitors taking up illegal employment in Hong Kong. This is because under the Immigration Ordinance, visitors coming to Hong Kong are not allowed to take up employment, whether paid or unpaid, without the prior permission of the Director of Immigration. Offenders are liable to prosecution and, upon conviction, to a maximum fine of \$50,000 and imprisonment for two years. Aiders and abettors are also liable to prosecution and penalty. It is also an offence to employ people who are not lawfully employable. The maximum penalty is a fine of \$350,000 and imprisonment for three years.

As regards compensating illegal workers who sustained injuries or died at work, the Labour Department consulted the Employees Compensation Assistance Fund Board and the Labour Advisory Board in May this year on the need to amend the current labour legislation under which illegal workers may

claim employees' compensation for work injuries. The majority view of both boards is that amendments should be made to exclude illegal workers from the coverage of the Employees Compensation Assistance Ordinance to avoid encouraging illegal employment and to protect the employment opportunities of our local workforce. We are considering amendments to the relevant legislation in consultation with the Department of Justice.

The Transport Department will examine the existing arrangements and legislation on the issue of taxi driving licences to ensure that only those eligible to take up employment in Hong Kong would be able to obtain a taxi driving licence.

### **Vehicle Location Technology**

18. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, regarding the vehicle location technology (VLT) adopted for the Third Generation Communication and Mobilizing System in the Fire Services Communication Centre, will the Government inform this Council:*

- (a) whether it has studied the feasibility of adopting similar location technology for the vehicle fleets of other government departments, so as to improve the efficiency of vehicle deployment; if it has, of the details of the study, the expenditure involved in the introduction of such technology, and whether it will transfer the technology adopted by the Fire Services Department (FSD) to save development costs; if not, the reasons for that;*
- (b) whether it will open the associated infrastructure and technology of the VLT to the private sector to promote the use of the VLT in Hong Kong; if it will, of the relevant details and timetable; if not, the reasons for that; and*
- (c) of the interoperability between the said system of the FSD and the Vehicle Location System of the Third Generation Command and Control Communications System (CCIII) currently used by the Hong Kong Police Force (HKPF); whether any mechanism is in place to co-ordinate the deployment of relevant resources between the two departments for joint rescue operations?*

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

- (a) The Government has conducted a survey on a number of departments<sup>1</sup> which can potentially benefit from adopting the VLT similar to the VLT used for the Third Generation Mobilizing System (TGMS) of the FSD. Among them, the Civil Aid Service has implemented a Vehicle Tracking System (VTS) and installed VTS equipment in 17 of its vehicles to ensure the safety of its staff during operations and to enable more flexible allocation of resources. The cost of the system is about \$600,000.

As mentioned in the Honourable Member's question, the HKPF will also employ VLT for its CCIII. Under the CCIII, there are a number of sub-systems, including the Automatic Vehicle Location System and Geographic Information System (AVLS and GIS), which use Global Positioning System (GPS) to track the location of police emergency response vehicles and facilitate the dispatch of nearby patrol units to the scene of incidents. A total of 500 police vehicles will be installed with the AVLS and GIS systems. The cost of these systems is about \$37.5 million.

As to the transferability of the VLT adopted for the TGMS to other departments, this will very much depend on the specific operation/business process and interface requirements of the departments concerned. These issues will need to be considered in the context of the relevant procurement exercise. While the VLT adopted for the TGMS may not be readily transportable to other departments, the knowledge and experience gained in implementing the TGMS can be shared among departments.

- (b) We are unable to give a definitive answer to this question at this stage, as it would require further detailed study and consultations among the departments and other parties concerned.

<sup>1</sup> The departments include the Agriculture, Fisheries and Conservation Department, Civil Aid Service, Customs and Excise Department, Drainage Services Department, Environmental Protection Department, Food and Environmental Hygiene Department, Government Logistics Department, Hong Kong Post, Immigration Department, Leisure and Cultural Services Department and Water Supplies Department.

In considering the feasibility of opening the associated infrastructure and technology of the VLT to the private sector, we need to look into a number of issues carefully, including whether this will affect the security, integrity and reliability of the TGMS, which was designed primarily for mobilizing resources for fire-fighting and emergency rescue/life-saving operations, and the intellectual property rights of the system contractor. There are other technical issues that need to be considered as the TGMS, including its vehicle location system, and the supporting infrastructure were designed to cope with the future need of the FSD only and there may not be spare capacity for other users.

- (c) There is potential for interoperation between the vehicle location systems of the CCIH and the TGMS as they both adopted the same VLT standard. However, given the difference in the scope of duties and mobilization needs of the FSD and the HKPF, at present there is no apparent need for such interoperation.

As regards the co-ordination of resources deployment for joint rescue operations, there are direct telephone lines linking the Fire Services Communication Centre with the Regional Command and Control Centres of the HKPF for the swift exchange of information and messages between the two departments. If circumstances warrant, an on-site Joint Command and Control Centre will be set up to co-ordinate the rescue efforts of all units at the scene.

### **Measures to Groom Political Talents**

19. **MS EMILY LAU** (in Chinese): *Madam President, in the Second Report of the Constitutional Development Task Force, the authorities pointed out that "to resolve the problems of governance, one critical factor is the experience and calibre of political talent". In this connection, will the executive authorities inform this Council:*

- (a) *of the measures taken in the past three years to encourage the public to take part in political affairs;*

- (b) *of the measures taken in the past three years to groom political talents and enhance their governance experience and calibre, as well as the effectiveness of such measures; and*
- (c) *whether they will introduce new measures to groom political talents so as to facilitate constitutional development and the election of the Chief Executive and all Members of this Council by universal suffrage; if so, of the details of such measures and their implementation dates; if not, the reasons for that?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Chinese): Madam President, regarding the first part of the Honourable Emily LAU's question, in the past three years, the measures adopted by the Government to encourage public participation in political affairs include the increase of 10 directly elected seats to a total of 400 directly elected seats for the whole territory in the District Council (DC) elections in November 2003. Increasing the number of seats enables district services to be provided to residents in newly developed regions. It can also create more opportunities for political participation by individuals who aspire to take part in political life. Furthermore, in the Legislative Council Election held in September 2004, the number of directly elected seats was increased to 30 in accordance with the Basic Law. In this Election, we introduced the "\$10 dollar per vote" financial subsidy scheme, with the aim of encouraging more people from different backgrounds to stand for election.

Regarding the second part of the question, the Government put in place the Accountability System in July 2002, allowing talents from outside the Government, including people with a political party background, to contribute to the governance of Hong Kong through being appointed as the Principal Officials. At the same time, a number of Legislative Council Members with political party affiliation have also been appointed as Members of the Executive Council. This strengthens the linkage between the Government and the Legislative Council, and is also conducive to nurturing political talents.

At present, the some 500 advisory and statutory boards (ASBs) play a useful role in grooming political talents. The Government will continue to recruit extensively publicly spirited individuals, and appoint them to be members of these ASBs. These bodies provide a platform for people from different sectors and backgrounds to take part in public affairs, and to put forth their views

in the policy formulation process. In this regard, we have already appointed more women and young people to be members of these ASBs.

In recent years, the Government has also endeavoured to enhance the scope for public participation in district matters. These include encouraging and engaging more people from the middle class, women and individuals of different background and strata to join various area committees and organizations as members. This enables them to participate in different spheres of public affairs and district work, providing an avenue for sharpening their leadership skills and grooming more community leaders and political talents. Furthermore, the Home Affairs Bureau established the Public Affairs Forum in March this year. This provides an additional channel for the middle class to discuss issues of public concern.

Regarding the third part of the question, we will commence a review of the roles and functions of the DCs before the end of this year. Issues to be examined include how the role of the DCs in the management of district affairs could be further strengthened. Separately, the Constitutional Development Task Force is engaging the community in the review of the methods for electing the Chief Executive in 2007 and Legislative Council in 2008. The Task Force plans to publish its fifth report in the latter half of 2005, outlining a mainstream proposal. If the Hong Kong community can reach consensus on how the two electoral methods should be amended in accordance with the Basic Law and the decision of the Standing Committee of the National People's Congress, this will provide more opportunities for political participation by individuals from different backgrounds, thus creating a more favourable environment for Hong Kong in moving towards the ultimate aim of universal suffrage.

### **Complaints About Health Care Services of Public Hospitals**

20. **MR ANDREW CHENG** (in Chinese): *Madam President, regarding complaints about public hospitals' health care services, will the Government inform this Council whether it knows:*

- (a) *the number of complaints received by the relevant authorities in each of the past three years, together with a breakdown by public hospitals and the types of services involved (such as general out-patient, specialist out-patient and in-patient services, and so on);*



- (b) *if the number of complaints against public hospitals has been on the rise over the past three years; if so, of the impact of this trend on the operation of public hospitals;*
- (c) *the respective amounts of compensation paid and litigation costs borne by the Hospital Authority (HA) last year in respect of medical malpractice claims, as well as the administrative costs incurred for processing such claims; and*
- (d) *if it has assessed the implications of the HA's resources reduction in recent years on the number and nature of complaints against public hospitals?*

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

- (a) The number of complaints received by the HA in the past three years are 1 774 in 2002, 1 882 in 2003 and 2 148 in 2004 respectively. A breakdown of these complaint cases by hospital groups is set out in the table below:

<i>Hospital Group</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>
Group 1	1 203	1 401	1 645
Group 2	224	223	183
Group 3	47	36	29
Group 4	120	88	149
Group 5	150	134	142
Total	1 744	1 882	2 148

Note: Definition of Hospital Groups

- Group 1      General acute hospitals with 24 hour A&E services  
 Group 2      Hospitals with a mix of acute and non-acute services  
 Group 3      Non-acute or infirmary hospitals  
 Group 4      Psychiatric hospitals  
 Group 5      Acute hospitals of special nature

The HA does not routinely collate breakdown figures on the number of complaints made against its specialist out-patient and in-patient services. Nevertheless, the HA has been keeping a separate record

of complaints on general out-patient services since 2004, shortly after it took over the management of 59 General Out-patient Clinics from the Department of Health in mid-2003. In 2004, the HA received a total of 584 complaints against its general out-patient services.

- (b) The number of complaints received by the HA was on a slight upward trend in recent years (1 642 cases in 2000, 1 650 cases in 2001, 1 744 cases in 2002). There was a more notable increase from 1 882 cases in 2003 to 2 148 cases in 2004 (14% increase), but no particular discernable factor can be identified for the increase.

In respect of the impact on the operation of public hospitals, there has been a corresponding increase in the workload of hospital management and the HA's Public Complaints Committee in complaint handling and investigation in recent years. In addition, hospital staff would understandably be under additional pressure when the number of complaints increases. Nevertheless, the HA is also taking complaints very positively and regard them as opportunities to benefit from user feedback. There have been many cases in the past where the HA was able to identify instances of system deficiencies and areas for improvement in the care process through the investigation of complaints.

- (c) The amount of compensation paid and the amounts of legal costs incurred by the HA for medical malpractice claims in 2004 are set out in the table below:

<i>Year</i>	<i>No. of cases settled with compensation (and Settlement Amount)</i>	<i>Amount of Legal Costs Incurred</i>
2004	37 cases (Approximate \$18.4 M)	Approximate \$6.9 M

The administrative costs for processing these claims have been absorbed internally by the HA's medical staff and its Legal Services Section.

- (d) The HA does not have any evidence showing a causal relationship between the reduction of government subvention for the HA and the number and nature of complaints against public hospitals.

## **BILLS**

### **First Reading of Bills**

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

### **SUPPLEMENTARY APPROPRIATION (2004-2005) BILL**

**CLERK** (in Cantonese): Supplementary Appropriation (2004-2005) Bill.

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

### **Second Reading of Bills**

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

### **SUPPLEMENTARY APPROPRIATION (2004-2005) BILL**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I move the Second Reading of the Supplementary Appropriation (2004-2005) Bill (the Bill).

Section 9 of the Public Finance Ordinance provides that "If at the close of account for any financial year it is found that expenditure charged to any head is in excess of the sum appropriated for that head by an Appropriation Ordinance, the excess shall be included in a Supplementary Appropriation Bill which shall be introduced into the Legislative Council as soon as practicable after the close of the financial year to which the excess expenditure relates."

The expenditure accounts for the financial year 2004-05 have been finalized. Despite savings in the overall government expenditure, the expenditure charged to nine heads, out of a total of 83 heads, is in excess of the sum originally appropriated for those heads in the Appropriation Ordinance 2004. The excess expenditure reflects supplementary provision approved by the Finance Committee or under powers delegated by it.

I now table the Bill in order to seek formal legislative authority for the total supplementary appropriation of \$970 million required in respect of the nine heads of expenditure.

I urge Members to support the Bill.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Supplementary Appropriation (2004-2005) Bill be read the Second time.

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

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Revenue (Allowances for Tax) Bill 2005.

### **REVENUE (ALLOWANCES FOR TAX) BILL 2005**

#### **Resumption of debate on Second Reading which was moved on 27 April 2005**

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

**MR CHAN KAM-LAM** (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Revenue (Allowances for Tax) Bill 2005 (the Bills Committee), I would like to report on the deliberations of the Bills Committee.

The major objectives of the Revenue (Allowances for Tax) Bill 2005 (the Bill) are:

- (1) to increase the child allowance from \$30,000 to \$40,000; and
- (2) to introduce a new basic allowance and an additional allowance, both at \$15,000, for taxpayers maintaining parents/grandparents aged between 55 and 59.

The Bills Committee has no objection to the proposed increase of the child allowance, but members have divergent views on the scope of the new allowances for parents/grandparents.

A member is of the view that the scope of the new allowances is too wide, which is at variance with the original idea of Members of many political parties — that the new allowances should apply only to those parents/grandparents who were unemployed. The authorities explain that the Bill is so drafted because it is difficult to define the term "unemployed", particularly the period within which a person is unemployed and the situation where a person is unemployed and employed again. Furthermore, if the "employment situation" is considered as the application eligibility factor, then well-off parents/grandparents who are unemployed but are living on income from investments, say dividends, will become eligible for such allowances while those who are employed for a very low salary will not.

A member puts forward the idea of using "taxable income" instead of "employment situation" to determine the eligibility of parents/grandparents for the new allowances. The authorities explain that the taxable income is derived after deduction of various allowances, therefore there is practical difficulty in setting a suitable level of taxable income. An arbitrary threshold of taxable income may restrict the granting of the new allowances to those in genuine need, but it does not prevent people living on dividends which are not subject to tax from being eligible for the allowances.

Members have further studied the maximum dependent parent/grandparent allowance which a taxpayer can claim in a year of assessment. Subject to the maintenance test, a taxpayer could claim allowance for each of his/her dependent parent/grandparent and dependent parent/grandparent of his/her spouse who is so maintained.

With regard to the penalty for false claims, members note that any person wilfully with intent to make false statement in connection with a claim for any deduction or allowance shall be guilty of an offence. On conviction, the penalty includes a fine and imprisonment; an offender may also be fined treble the amount of tax which has been undercharged. The authorities also confirm that it would randomly check new claims for dependent parent/grandparent allowance upon the implementation of the new allowances.

With these remarks, Madam President, I propose to resume the Second Reading debate on the Bill.

**MR WONG KWOK-HING** (in Cantonese): Madam President, many companies have launched massive layoffs since the financial turmoil, with older employees being the first targets. After some adjustment for several years, though there has been some improvement in the local economy, many companies would still introduce some "downsizing" programmes in an attempt to maximize profits. Even the Government has required the various departments to implement the Enhanced Productivity Programme by dismissing their staff on an "across-the-board" basis and launching civil service reforms which have made employees take early retirement voluntarily — civil servants were lured into taking the so-called "Fat Chicken Meals" or "Slim Pigeon Meals". Many employees aged 50 or so were made to accept, albeit reluctantly, the early retirement arrangements. In reply to a question raised earlier on, the Government told us that most of the civil servants made to take the early retirement option are only receiving a mediocre pension of less than \$5,000 a month.

Besides, during the several years before and after the turn of the century, Hong Kong had been facing the rapid changes taken place in a knowledge-based economy, and the whole community had been moving towards a mode that

stresses on knowledge and technology. Under such circumstances, some of the employees lost their jobs because of their failure to keep themselves abreast of the progress of the knowledge-based economy. Many of these unemployed people are middle-aged persons. Having failed to secure any new employment, they are forced to stay at home waiting for provision by their children, if any of them are able to do so.

Madam President, the other day, when the Financial Secretary, Mr Henry TANG, briefed us in this Council on the latest economic conditions and statistics of Hong Kong, he also confirmed the situation. In the financial report of the first quarter of the year, the Government confesses that the unemployment rate among the grass-roots workers is still high, having risen from 7.1% to 15.4%, whereas the income of the overall labour force has declined in real terms by 0.9% over the corresponding period of last year.

Unfortunately, in the cases of wage earners who have been forced to retire or who cannot find a job, since they have yet to reach the age of 60, their children cannot enjoy the tax allowance for maintaining parents on the one hand, while they have to provide for their parents on the other. As a result, their children are subject to great financial pressure that cannot be overlooked. During the past few years, though the economic situation has improved slightly, the remuneration and benefits of employees still have not witnessed any substantial or concrete improvement. As testified by the government information just quoted by me, the overall real wage of employees has dropped 0.9%. Therefore, since 2001, the Hong Kong Federation of Trade Unions (FTU) has been proposing to the Financial Secretary the introduction of a tax allowance for unemployed parents, in a bid to ask the Government to alleviate the tax burden of those children who are maintaining unemployed parents aged 50 or above.

Although every year the FTU would persistently present the proposal and lobby the Financial Secretary for the introduction of this tax allowance during consultations on the Budget, the Government had never considered it. It is not until this year that the Government has accepted and included this proposal into the Budget. However, only part of our proposal has been accepted and incorporated into the Financial Secretary's proposal, that is, only children who need to provide for unemployed parents aged 55 or above are entitled to a tax allowance capped at \$60,000 a year. This is indeed a very insignificant favour.

Although the FTU reluctantly welcomes this proposal of the Financial Secretary, we at the same time think that it is inadequate. As such, Madam President, we strongly demand the Government to further relax the age of eligible parents for the tax allowance from 55 to 50.

As a matter of fact, the labour supply is still very abundant in the market. So grass-roots workers will begin to meet great difficulties in finding jobs once they become 50. If the Government really intends to reduce the tax burden of their children and to encourage such children to provide for their parents, it should consider relaxing the eligible age for this tax allowance to 50.

With these remarks, Madam President, I sincerely implore the Financial Secretary to consider the proposal of the FTU.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, one of the major functions of the tax system is redistribution. In fact, whatever the tax increases or tax cuts in whatever respect will impact on each and every wage earner and member of the public. The long-standing stance of the Hong Kong Confederation of Trade Unions (CTU) is that the Government should not fatten the top at the expense of the bottom. The most important thing is to formulate certain focused concessions for people who have the need instead of introducing a general tax cut. If we introduce a general tax cut, from where else can the Government collect revenue? Moreover, if it is a general tax cut, the affluent will enjoy more tax concession while the poor can only enjoy very little. For that reason, we have all along been advocating a target oriented tax cut exercise. Mr Donald TSANG has almost expressly said that the Government will hand out the candies by cutting tax. I do not know what proposal he will make next year, but we consider that the Government is duty-bound to adopt some focused measures.

The two measures proposed today are focused. With regard to the first measure of increasing the child allowance, the CTU has all along been hoping that the Secretary can propose certain reforms in his budget. Our long-term anticipation is to increase the child allowance significantly from \$30,000 to \$50,000, but the current proposal is just an increase to \$40,000. Why do we demand that the allowance be increased from \$30,000 to \$50,000? The reason is simple; let us look at the expenses of those so-called "Raptors". To the



middle-class people, the expenses on a child are a heavy burden. At present, they are sceptical about the education system, thus they either make their children attend tutorial classes or international schools, and their financial burden is therefore increased. Given such a heavy burden, I consider that it is not enough for the Government to propose that the allowance be increased merely from \$30,000 to \$40,000.

I think the Government's policy should target on those who have a family and provide them with more assistance and support. In so doing, it can complement our population policy of urging the public to give birth to more children from an overall perspective. Nevertheless, the public may not necessarily rear more children for the sake of the allowance, which is definite. We very much hope the Government can make more focused efforts, thus we propose that the child allowance be increased from \$30,000 to \$50,000. If it can be increased to \$40,000 this year, we hope that it can be increased to \$50,000 next year.

Another proposed measure is related to the dependent parent allowance. At present, the Government proposes that the eligible age be reduced from 60 to 55. We propose the introduction of a new allowance for taxpayers maintaining unemployed parents instead of focusing on the age of the parents. Of course, the Financial Services and the Treasury Bureau may ask: If a taxpayer has to maintain his unemployed parents, should they be unemployed for the full year? If they are unemployed for a while and they are not unemployed, what should we do? It is simple. We should only calculate their income for the full year and then draw up a bottomline. For example, if their annual income is only \$30,000, then we can consider parents earning less than \$30,000 a year unemployed. This focused approach may allow children who are maintaining these unemployed parents to enjoy tax concession, and may well pinpoint the current problem of adults who are over 40 years of age meeting difficulties in job seeking. We shall understand that the long-term unemployed are all low-skilled and middle-age people if we look at the unemployment rate. This approach pinpoints the need of these people and encourages their children to maintain and care for their parents. For that reason, we consider that we should not only take the age factor into consideration with regard to the introduction of this allowance.

If we only take the age factor into consideration, then the current practice will pose another danger, that is, as long as the parents are over 55, they need

not to be unemployed, even if they are rich fathers and mothers, as long as their children maintain them, and they can enjoy the allowance. This will blur the focus of the measure. We consider that simple and easy, as long as the age issue is dealt with. From the administrative perspective, this is possibly simpler, but from the target-oriented perspective, it cannot pinpoint the need of unemployed parents as the CTU proposal does. Therefore, nobody will oppose the Government now since it is enhancing the allowance. But we hope the Government will introduce more comprehensive measures by focusing on the unemployed parents, so as to let the children who maintain them enjoy the allowance.

I hope the discussion on the proposal can continue, but I really do not know when a more reasonable tax system can be materialized.

Thank you, Madam President.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, insofar as this tax reform is concerned, we consider that the direction is correct, but the strength is just a little bit inadequate.

Just now Mr LEE Cheuk-yan has raised two points, one of them being the increase of the child allowance from \$30,000 to \$40,000. But that is not good enough, and it should be increased to \$50,000 or above as soon as possible. Another is lowering the age of dependent parents from 60 to 55, which is of course a good start, but the strength is also inadequate. The Government had better implement a more focused measure, just as Mr LEE Cheuk-yan has said earlier, to pinpoint unemployed parents.

I wish to further explain why I support the two directions of development. The most important function of taxation is to reflect how social wealth is redistributed. Let us take a look at the current society, where the wealth gap is a serious problem and wealth disparity is extremely severe. I think we do not need to discuss this matter again as Members all know that well. On various debate occasions, Members have cited figures to prove that the wealth gap in Hong Kong is a serious problem. If we do not increase our strength in solving

this problem, the social conflict will be deepened. For that reason, despite the Government has made a step, I still consider that inadequate.

Madam President, as to the question of child allowance, I wish to further elaborate that. We know that there will be a major change in education reform in future, especially the proposed new "3+3+4" academic structure. Nevertheless, another trouble follows the "3+3+4" academic structure, that is, increase in tuition. Although the Government has stated that the tuition for secondary and primary schools would not be significantly increased and parents should not worry about that, while tuition for tertiary education would only be increased just a little. Anyway, a lot of parents attach great importance to the education of their next generation. In the future education system, besides tuition increase, there will be an increase in extra-curriculum activities and reference books, so to parents, the expenses on these items will pose an additional burden. For that reason, I consider that the increase in allowance will more or less help them out. Since we are discussing how we should help these parents, I think we should also look at the urgency from the education perspective and see what support we can provide.

With regard to the two directions, just as other Members have said, I hope the Government can dial up the strength, in particular, the future Chief Executive has also expressed that when the economy recovers, the Government will definitely cut the tax. I hope the Government will focus on the strength and put more emphasis on that.

Madam President, I so submit.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam President, the fact that some people have to demand for tax concession on the ground that their parents are jobless or they have to support their grandparents has actually reflected an extremely pitiable phenomenon. I have never heard anything like this in a healthy society.

People of the older generations should have made proper arrangements for their lives after retirement. They probably have joined a central provident fund

(CPF) scheme or taken out insurance for themselves. This is what they are supposed to do. Now it is said that the Government is being extremely benevolent. In response to the call from the poverty-stricken for tax concessions as they feel the pinch after paying tax, the Government has proposed that the abovementioned reasons can be used for applying for tax concessions. We can thus see that providing for grandparents can be used as a ground for such applications.

In my opinion, the root of the problem is that, in our society, some low-income earners actually do not require these concessions to enable them to save money to support their living. In all the cases with which I have come into contact, elderly applicants for Comprehensive Social Security Assistance (CSSA) have to ask their children to declare to the Social Welfare Department (SWD), which is responsible for approving the CSSA applications, that they will not, or do not have the means to, provide for their parents. What does this prove? It proves that many in the low-income group are incapable of providing for their parents.

I have stated repeatedly in this Council that the relevant families will be trapped in eternal misery because of such an application procedure, because the applicants cannot even make enough money to support their parents. Moreover, they have to declare to the SWD that they will not support their parents. If the Government means to genuinely help these low-income earners or those in the lower stratum of the middle class, such a procedure should not have been adopted in the first place.

The Government's move to widen the scope of tax concession on these grounds is tantamount to giving away alms in contempt. There is a man who lives in the same housing estate as mine. He will often carry with him some coins by, say, changing \$5 into a number of 50 cent coins. Whenever he meets a beggar on the podium, he will throw the coins he has prepared into the bowl held by the beggar to make a tinkling sound. Like a rejoicing requiem, the sound makes him feel good.

The Government's acceptance of the proposal raised by the FTU has now produced a similar tinkling effect. Like a piece of music telling us how well the Government has treated the people — Listen! Those who are prepared to provide for their grandparents will be rewarded instantly. From this, we can see that our society is suffering a nervous breakdown. When the poor in society

cannot provide for their parents, they have to behave submissively by declaring to someone never known to them that they cannot, or do not have the means to, support their parents. The Government is now encouraging the people to provide for their parents (or grandparents) by way of tax allowances. In doing so, people are encouraged to pay less tax by taking advantage of these concessions.

Nevertheless, as I said before, if the Government really wants to enable the middle class, the grassroots, and even the labour sector, to live and work happily and peacefully, it should impose minimum wages and an upper ceiling on working hours. As I mentioned repeatedly before, the Government should adopt a minimum and most humane income standard. This standard should be calculated in terms of the total income of the entire household, not in terms of individuals. If the Government really wants taxpayers to provide for their parents, the amount of money required by them to support their entire family has to be calculated before offering them help by way of subsidy.

I have repeatedly witnessed in this Council some colleagues expressing the hope that the Government, like the man living in my housing estate, can throw the small change into the beggar's bowl to make a tinkling sound. Today, I hear this sound again: ting-a-ling. I certainly cannot disapprove of this proposal which is going to make people pay less tax. If taxpayers can save more money by making use of this opportunity, why do we not give them a chance to do so? However, I want to tell the FTU and the Government that benefits offered by this motion, even if passed, would be trivial. Members may probably think that we can, as if in one of the favourable plots of Cantonese films, sing a song to celebrate. In the record of this Council, this should be seen as an insult. It must not be forgotten that the Hong Kong Government now has reserves of more than thousands of billions of dollars. It must also not be forgotten that the per capita income of Hong Kong people is US\$23,000 per annum today. And yet, we still have to discuss this issue today. I feel most sorry about this indeed. I hope the Government will impose minimum wages and an upper ceiling on working hours and raise the progressive profits tax in the future so that the enormous amount of tax revenue collected can be used to help people with genuine needs, instead of offering trivial benefits like what it is doing at present.

Whenever we make a request to the Government, we will invariably ask the Government to act generously. Actually, regarding the entire discussion on tax allowances, I have all along advocated against helping the people by offering

tax allowances because only taxpayers can receive help in this way. What other ways are there to help those who are not even qualified to pay tax? By what means can they be benefited? In other words, when one does not even have a beggar's bowl, it would be impossible for him or her to hear the tinkling sound, even once.

Therefore, in a healthy society, progressive profits tax or capital gains tax must be levied to make taxpayers pay more tax when they earn more to enable everyone to live with dignity while preventing every stratum in society from having to beg the Government. It is my hope that, for the sake of enabling every one of us in Hong Kong to live with dignity, colleagues will debate in the next Session the bold reform mentioned by me earlier in the meeting, rather than begging the Government for trivial benefits again. Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, the Revenue (Allowances for Tax) Bill 2005 (the Bill) seeks to amend the Inland Revenue Ordinance to give effect to the two proposals relating to tax allowance announced in the 2005-06 Budget. The first proposal is to increase the child allowance from \$30,000 per child to \$40,000. The second proposal is to offer basic allowance and additional allowance to taxpayers taking care of dependent parents or grandparents aged between 55 and 59.

I hereby bestow my thanks to Mr CHAN Kam-lam, Chairman of the Bills Committee, and other members of the Bills Committee. They have conducted a detailed scrutiny of the Bill within an extremely tight schedule, enabling the Second Reading of the Bill to be resumed today.

At the meetings of the Bills Committee, members suggested the Government to consider tightening the scope of the second tax allowance mentioned above so that it will apply only to taxpayers whose parents or grandparents are unemployed.

The Financial Secretary has fully considered the views of Members and different sectors, as well as the actual situation in drawing up the relevant proposal. There are technical difficulties in defining the term "unemployed", particularly the period within which a person is unemployed and the situation where a person is unemployed and employed again. As for the suggestion made by Mr LEE Cheuk-yan, we have considered all the issues involved. We feel concerned that the suggestion of tightening the scope of the new tax allowance to only taxpayers whose parents or grandparents are unemployed may give rise to some unfair situations. Let me cite an example. Taxpayers whose parents or grandparents are employed with a very low pay will be ineligible. But on the contrary, taxpayers whose parents or grandparents are unemployed but living on generous investment income (such as dividends) or rental income, or have been running business or have earned handsome salaries during their long-term employment in the past will be eligible for the tax allowance even if their parents or grandparents lead a well-off life.

By the same token, since interests or dividends and offshore income are not subject to tax in Hong Kong, it is not feasible to use taxable income to determine eligibility for this allowance. While the salary of an employee is taxable income, dividends earned by a shareholder of a company are not.

The present arrangement of not linking the eligibility for tax allowance to the employment status of the dependent is consistent with the arrangement for other existing allowances. Therefore, after considering a variety of factors, we decided to adopt the present definition.

If the Bill is passed, the relevant measures will take effect from the year of assessment of 2005-06. It is estimated that about 300 000 taxpayers will benefit from the increased child allowance, while around 100 000 taxpayers will benefit from the newly introduced allowance for parents or grandparents. The two proposals will cost the Government \$1.07 billion in tax revenue in a full year.

With these remarks, I implore Members to support the Bill.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Revenue (Allowances for Tax) Bill 2005 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Revenue (Allowances for Tax) Bill 2005.

Council went into Committee.

### **Committee Stage**

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

### **REVENUE (ALLOWANCES FOR TAX) BILL 2005**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Revenue (Allowances for Tax) Bill 2005.



**CLERK** (in Cantonese): Clause 1 to 7.

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

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

### **Third Reading of Bills**

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

### **REVENUE (ALLOWANCES FOR TAX) BILL 2005**

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

Revenue (Allowances for Tax) Bill 2005

has passed through Committee without amendment. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Revenue (Allowances for Tax) Bill 2005 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Revenue (Allowances for Tax) Bill 2005.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Trade Descriptions (Amendment) Bill 2004.

### **TRADE DESCRIPTIONS (AMENDMENT) BILL 2004**

#### **Resumption of debate on Second Reading which was moved on 10 November 2004**

**PRESIDENT** (in Cantonese): Ms Margaret NG, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report on the Bill.

**MS MARGARET NG** (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Trade Descriptions (Amendment) Bill 2004 (the Bills Committee), I submit the report to this Council and report the salient points of the deliberations of the Bills Committee.

The Trade Descriptions (Amendment) Bill 2004 (the Bill) mainly seeks to amend section 2 and section 24A of the Trade Description Ordinance (TDO), so that the origin of goods is expressed in those provisions by reference to "a place", instead of "a country", to the effect that greater flexibility in the application of the relevant provisions is provided.

The Bills Committee does not dispute the policy intent of the Bill. Members of the Bills Committee note that the quota system on textile products has been abolished since 1 January 2005. They are concerned whether the timing for the enactment of the Bill has to tie in with the new system. But the Administration points out that since the relevant legal framework is embodied in another piece of legislation, namely, the Import and Export Ordinance and its subsidiary legislation, the timing for the enactment of the Bill does not therefore affect the arrangements on the elimination of quota on textile products effective from 2005.

In respect of the legal and drafting aspects of the Bill, some members point out that the proposed amendment to section 24A put forth by the Administration may give rise to possible prosecution problems. Having considered the views of members, the Administration agreed to move a Committee stage amendment to the Bill to make the provisions on the rule of evidence regarding the imported goods with false trade description more specific. For instance, if the goods are marked "made in Shenzhen" while the relevant evidence (such as shipping documents) shows that the goods are "imported from China", since Shenzhen is located within China, though there are references to two places, under the proposed amendment, it will not give rise to *prima facie* evidence for false trade descriptions.

Therefore, the Bills Committee agrees with the various amendments put forth by the Administration and supports the resumption of the Second Reading of the Bill.

Madam President, I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Trade Descriptions (Amendment) Bill 2004 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Trade Descriptions (Amendment) Bill 2004.

Council went into Committee.

### **Committee Stage**

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

### **TRADE DESCRIPTIONS (AMENDMENT) BILL 2004**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Trade Descriptions (Amendment) Bill 2004.

**CLERK** (in Cantonese): Clauses 1, 2, 4 and 5.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 3.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:**  
Madam Chairman, I move an amendment to clause 3, the explanation has been fully covered by the Honourable Margaret NG. It basically seeks to clarify the application of section 24A. Thank you.

*Proposed amendment*

**Clause 3 (see Annex)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 3 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

<b>CLERK</b> (in Cantonese): New heading before new clause 6	Trade Descriptions (Country of Manufacture) (Piece-Knitted Garments) Order
New clause 6	Title amended
New clause 7	Place of manufacture
New heading before new clause 8	Trade Descriptions (Country of Manufacture) (Textile Made-up Articles) Order
New clause 8	Title amended
New clause 9	Place of manufacture or production.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:** Madam Chairman, I move that the new headings and new clauses read out just now be read the Second time. These new headings and new clauses introduce consequential amendments to the Trade Descriptions (Country of Manufacture) (Piece-Knitted Garments) Order and the Trade Descriptions (Country of Manufacture) (Textile Made-up Articles) Order which came into operation after the introduction of the Bill to the Legislative Council. Thank you.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the new headings and new clauses read out just now be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): New headings before new clauses 6 and 8, and new clauses 6 to 9.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:** Madam Chairman, I move that the new headings and new clauses read out just now be added to the Bill.

*Proposed additions*

**New heading before new clause 6 (see Annex)**

**New clause 6 (see Annex)**

**New clause 7 (see Annex)**

**New heading before new clause 8 (see Annex)**

**New clause 8 (see Annex)**

**New clause 9 (see Annex)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the new headings and new clauses read out just now be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Long title.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:**  
Madam Chairman, I move an amendment to the long title. The amendment is



consequential upon the new headings and new clauses which were added to the Bill just now. Thank you, Madam Chairman.

*Proposed amendment*

**Long Title (see Annex)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the amendment to the long title moved by the Secretary for Commerce, Industry and Technology, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

**Third Reading of Bills**

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

**TRADE DESCRIPTIONS (AMENDMENT) BILL 2004**

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:**  
Madam President, the

Trade Descriptions (Amendment) Bill 2004

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Trade Descriptions (Amendment) Bill 2004 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Trade Descriptions (Amendment) Bill 2004.

**MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speaking. Since Members are already very

familiar with the time limits, and I will not repeat them here. I just wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Labelling Scheme on Nutrition Information for pre-packaged food.

## **LABELLING SCHEME ON NUTRITION INFORMATION FOR PRE-PACKAGED FOOD**

**DR JOSEPH LEE** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, our discussion today on the Labelling Scheme on Nutrition Information for pre-packaged food will lay a very important foundation for a long-term health care programme and a healthy diet culture in Hong Kong. First of all, let me define the term "pre-packaged food" as cited in the motion. Pre-packaged food means processed foods that are packaged before they are sold in the market. Since they are processed, naturally food like fresh fruits, vegetables and meat, and so on, even though they may have been packaged, do not fall into this category and are not regarded as pre-packaged food. Pre-packaged infant food, food for infants, infant/follow-up formulae and food for people with special dietary needs are naturally regarded as pre-packaged food, and they are covered by today's discussion.

Let us take a look at what bearing the 10 different nutrients, or the so-called "1+9" nutrients, will have on the human body. A number of professional bodies, such as the Dietitians Association and members of the medical sector and health services sector have stated repeatedly that the 10 nutrients, namely energy, protein, total fat, saturated fat, carbohydrate, dietary fibre, cholesterol, sugar, sodium and calcium are very important in maintaining our physical health. They help prevent chronic diseases, foster metabolism, and enable the body to restore its electrolyte balance. Of these, protein, total fat, saturated fat and carbohydrate are the major nutrients generating energy and protoplasm for the body. Taking an appropriate amount of nutrients is effective in preventing obesity, overweight as well as obesity-induced illnesses such as heart diseases, cerebrovascular accident/stroke and diabetes, and so on. The

other four nutrients, namely, sugar, dietary fibre, cholesterol and calcium are good for promoting general health, strengthening the body, and each of them has specific and different curative effects, insofar as dietetic treatment is concerned.

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

According to a report released in June by the Hong Kong Association for the Study of Obesity, of the 1 500-odd persons who have received cardiovascular check-ups in The Chinese University of Hong Kong, approximately 10% of them are found to have developed diseases associated with obesity or overweight which led to metabolic syndromes. The findings of another study show that, of the 5 200-odd type 2 diabetics aged between 45 and 73, actually many of them have also developed metabolic syndromes, with a mortality rate of 4.2%. The International Diabetes Institute also pointed out that, of the 2 million-odd diabetes patients all over the world, 80% of them may die from cardiovascular diseases, and these diabetics are three times more susceptible to heart diseases or strokes than an ordinary person. Taking appropriate amounts of protein, total fat, saturated fat and carbohydrate helps the body to make functional adjustment more effectively and to reduce such risks.

Taking an appropriate amount of dietary fibre is also effective in preventing cancer, which is the number one killer in Hong Kong. Not only does dietary fibre help reduce absorption of fat, thus reducing the chances of contracting hyperlipidemia, heart diseases and obesity, but it also has a very positive effect in controlling diabetes, Hong Kong's number eight killer disease. Controlling the intake of sugar is absolutely essential as well as effective in treating patients suffering diabetes, obesity or overweight. Regulating the intake of cholesterol is also an effective means of preventing the risks of heart diseases, cerebrovascular diseases and strokes.

In a survey conducted in 2001, the Hong Kong Dietitians Association also pointed out that in every 400 000 people, 75% of the women will be directly affected by osteoporosis. Given the circumstances, they projected that by year 2031, almost 1 million people in Hong Kong would suffer from osteoporosis. As we all know, a major reason for osteoporosis is the inadequate intake of

calcium. If we know what kind of food contains an adequate amount of calcium, it will help members of the public a long way in reducing this specific risk.

Another professional body, the Hong Kong Nutrition Association, has also provided some information which clearly indicates that in addition to preventing diseases, energy plus the other nine nutrients actually have regulatory and curative effects on all kinds of diseases. Patients of diabetes and cardiovascular diseases rely heavily on information of energy plus the other nine nutrients to regulate their diet for therapeutic purposes. Such information should certainly include the contents of cholesterol, sugar and dietary fibre, as we have suggested. The Hong Kong Nutrition Association has also pointed out that different sets of nutrition labels are needed for complementing the treatment of different diseases and health problems, such as hypertension, renal diseases, liver diseases and malignancy, and so on.

Since these 10 nutrients are so important, we have come up with the "1+9" option, and I stress that this option has to be implemented all in one go. If the plan is carried out according to the schedule proposed by the Government, the labelling scheme may not be fully implemented until year 2010 or 2011, and only by then can patients and people of different needs benefit from it. As a matter of fact, we really do not know what criteria the Government has adopted in setting the priorities for implementing the labelling of the 10 nutrients.

For example, taking cholesterol and saturated fat excessively will lead to cardiovascular diseases and strokes. However, what is the reason for putting cholesterol in the second phase of the scheme instead of the first? To patients suffering from chronic diseases, is it not the sooner the better for them to know the content of cholesterol from food labels? To a patient with renal diseases, he can, according to the Government's proposal, avoid food that is rich in sodium and protein to avoid deterioration of his conditions in the first phase. However, why must patients who need to monitor their level of cholesterol wait for another two years before they can obtain the information they need only when the second phase of the scheme is implemented? This is most baffling to us.

In fact, patients should be given fair treatment. Therefore, the labelling scheme should not be implemented in phases, so that members of the public will not meet any delay in obtaining information on healthy nutrition expeditiously, and they should not be deprived of the right to improve their

quality of living and their medical conditions. As a matter of fact, the "1+9" option is a result of careful examination and consensus reached by the dietitians and the majority of medical professional bodies in Hong Kong. It is a standard set in accordance with the general health conditions of Hong Kong people.

Of course, there may be some people who think that the "1+9" option proposed by the Government is too stringent, and they believe that Hong Kong should adopt the "1+3" labelling scheme recommended by the Codex Alimentarius Commission, or that Hong Kong should enact legislation only after the "1+7" labelling scheme has been formally implemented in China. In this regard, let me clarify one point. The "1+3" labelling scheme of the Codex Alimentarius Commission is the minimum requirement set for the international community. I repeat, that is only a minimum requirement. Therefore, the "1+3" option is certainly unable to fully meet the needs of Hong Kong. In fact, in China or other countries where a labelling scheme has been implemented, the criteria adopted are very much dependent on their specific geographical conditions, climate, the physical conditions of their respective people, their dietary habits and the profile of disease incidence, and so on. Consideration is made with reference to their unique geographical conditions. Therefore, we believe that the "1+9" option represents a standard which can exactly meet the needs of Hong Kong.

Therefore, if someone wants to apply the standards of other countries to Hong Kong and question the necessity of implementing the "1+9" option, I think it is most impractical. We think people making the remarks on whether the "1+9" option is excessive or inadequate simply because they want to protect the sectoral interests, and they just stress on commercial interests from an economic perspective. These people oppose the "1+9" option and advocate a "1+5" option or other options with even lower standards, on the purport that, they would say, they are compromising due to a lack of choice. They purport that this is a compromise because a labelling scheme has to be introduced. However, being members of the medical and health care profession ourselves, we will never allow commercial interests to be applied to the discussions on public health and the long-term health care and medical system of Hong Kong.

Madam Deputy, our discussion today on enacting legislation on the Labelling Scheme on Nutrition Information for pre-packaged food aims at protecting and improving public health. Energy and the 10 nutrients can bring about evident and specific effects in enhancing the general health condition of

Hong Kong people and improving the conditions of people suffering from chronic diseases. The "1+9" labelling scheme represents a bottomline in effective protection of members of the public, and it is also a bottomline accepted by all professionals. Therefore, this ambit of regulation cannot be narrowed down at all. We call on the Government to provide a grace period of three years after the enactment of the legislation before the full implementation of the "1+9" option, which covers energy and nine core nutrients, in one go.

In the motion, we have extended the grace period to three years, due to the consideration that most pre-packaged food available in the market has a preservation period of three years. Therefore, we have enough reasons to believe that members of the industry will have sufficient time to realign their operations and adjust to the circumstances. The grace period of three years should provide enough buffer to alleviate the impact of the legislation caused to the industry.

Apart from the 10 nutrients mentioned above, I would also like to talk about the important effects of potassium, monounsaturated fatty acid, trans fatty acid and soluble fibre on our good health. We know that these four nutrients are essential to our body, whereas the discharge of potassium is particularly important to patients with hypertension and renal diseases. Given the importance of these elements, consideration should be given to including them in the food nutrition labels in the long run. Furthermore, both low density lipoproteins cholesterol (LDL-C) and high density lipoproteins cholesterol (HDL-C) also have significant effects on our body. According to a research study conducted in the United States, during the past 22 years, it has been confirmed that, with every 2% increase in the consumption of such fatty acids, the chances of contracting heart diseases double.

In fact, many pre-packaged foods available in the market carry trans fatty acid in order to enhance the texture of the food, reduce costs and prolong the preservation period. Given the circumstances, we believe that these four nutrients should be brought into the regulatory ambit of the labelling scheme in the long run in order to protect people with specific needs, and to show them how they should take these nutrients in order to regulate their physical health.

Madam Deputy, we know perfectly well that no matter which option we adopt, the labelling scheme will cause some impact on the industry. Insofar as

such impact is concerned, we should first consider the following questions. First, how many small and medium enterprises (SMEs) are engaging in food manufacture locally and marketing such food entirely in Hong Kong? What is their market share in the overall food market? Second, how many SMEs are engaging in food manufacture locally and marketing such food in both local and overseas markets, with tests already done on many of the nutrients of the food manufactured by them? And what is their market share in the overall food market? Third, how many SMEs are engaging in importing food manufactured by other countries mainly or entirely for the Hong Kong market? And what is their market share in the overall food market? Fourth, how many SMEs are engaging in importing food manufactured in other countries into Hong Kong and also exporting such food to other countries, with tests already done on many of the nutrients of such food? And what is their market share in the overall food market?

These questions will exactly enable us to see the impact of the labelling scheme on the SMEs in Hong Kong. As far as I can estimate, definitely not too many of them will be affected. Most of the Hong Kong brand names targeting at overseas markets should have already taken appropriate measures. For example, they may have already done the tests on the relevant nutrients in order to make their products exportable. Therefore, the actual impact on these SMEs may not be too great.

Another concern of the industry may arise from the worry that Hong Kong may not be able to cope in the technology aspect. For example, will there be enough laboratory facilities to test all the food? According to the information provided by the Hong Kong Nutrition Association, Hong Kong is capable, in terms of both time and equipment, to conduct tests on the nutrients of all these food. However, the Government has never addressed the issue directly. Responses are given only when questions are raised by the industry. This appears to be a rather passive attitude, and we do have doubts about whether the Government has reached any consensus with the industry in terms of the availability of technical support. We do have doubts about this.

As far as we understand the situation, the industry does worry whether food already in compliance with the labelling schemes on nutrition information of overseas countries, such as those of the Canadian or the United States labelling schemes, will be required to re-packaged when such food is imported into Hong Kong in order to comply with our labelling scheme. In this regard,



we believe pre-packaged food already in compliance with overseas' labelling schemes do not have to be re-packaged and re-labelled. This will not only save cost, but also benefit members of the public.

The major intent of the labelling legislation is to provide Hong Kong people with some understanding of the labels. Therefore, I would like to call on the Government to expeditiously formulate and promulgate concrete proposals relevant to the industry, to provide technological support and ancillary facilities to SMEs engaging in food manufacture, particularly those manufacturing or marketing food products entirely in Hong Kong. The Government may consider providing low-interest loans or even interest-free loans to these SMEs, so that they can achieve a successful transition. Furthermore, considering the different sizes and scales of food suppliers as well as their various target markets, the Government should come up with some plans that are flexible yet specific, so that it will not be excessively rigid in stipulating the labelling of food products.

Madam Deputy, when we stress that the industry may feel that there may be problems with the labelling scheme due to the rising costs, we are convinced that explicit labelling can generate a certain degree of confidence among consumers in the nutrition of food. So on a long-term basis, the sales volume of such food will definitely rise, and the profits of suppliers or retailers will not be reduced.

As a matter fact, there is one shortcoming in the Government's present proposed labelling scheme on nutrition information, namely, the educational aspect. Insofar as education is concerned, the Government has not spelt out in concrete terms how it can enhance public acceptance of the scheme. As such, we would like to call on the Government to expedite the formulation of a concrete proposal and an implementation timetable, so as to assist the promotion of public education, thereby enabling the public to accept the significance and ways of comprehending the labels on nutrition information.

I would also like to discuss the issue of the data of nutrition information. At the moment, there is no dedicated database on nutrition information in Hong Kong that can enhance public understanding of the subject and provide them with access to the relevant information. As such, I would like to call on the Government to establish a nutrition information analysis database which is applicable to Hong Kong, so as to address the difficulties encountered by both

the public and professionals in comprehending and analysing nutrition information.

In my opinion, the most important merit of the labelling scheme on nutrition information for pre-packaged food is the provision of informed choices, and the introduction of a healthy culture to Hong Kong. *(The buzzer sounded)*

**DEPUTY PRESIDENT** (in Cantonese): Dr LEE, your speaking time is up.

**DR JOSEPH LEE** (in Cantonese): Madam Deputy, I beg to move.

**Dr Joseph LEE moved the following motion: (Translation)**

"That, as the Government's proposal to legislate on the Labelling Scheme on Nutrition Information for pre-packaged food by phases fails to effectively assist the public and people with chronic diseases in properly obtaining food nutrition information, and also fails to fully consider and assess the impact on and the disruption to the industry after enactment of the legislation, this Council urges the Government to:

- (a) expedite the legislation on a mandatory labelling scheme, and allow a grace period of three years after enactment of the legislation for full implementation of the "1+ 9" option, which covers energy and nine core nutrients, in one go;
- (b) work out a long-term plan and timetable for bringing into the regulatory ambit another four nutrients which have a bearing on the level of healthiness, namely potassium, monounsaturated fatty acid, trans fatty acid and soluble fibre;
- (c) formulate concrete proposals and guidelines to provide targeted technical support and ancillary facilities to small and medium enterprises engaging in the relevant food businesses, so as to assist the industry in achieving a successful transition;

- (d) establish an ad hoc group to draw up concrete proposals and an implementation timetable to help promote and educate the public on the importance of a nutrition information labelling scheme and the ways to comprehend the labels, as well as to co-ordinate professional bodies and voluntary organizations in the provision of relevant consultation and education services to the public; and
- (e) set up a nutrition information analysis database that is applicable to Hong Kong, so as to address the difficulties encountered by the public, the industry and stakeholders in gathering, comprehending and analysing nutrition information."

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

**DEPUTY PRESIDENT** (in Cantonese): Mr Vincent FANG and Mr WONG Yung-kan 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 Vincent FANG to speak first, to be followed by Mr WONG Yung-kan; but no amendments are to be moved at this stage.

**MR VINCENT FANG** (in Cantonese): Madam Deputy, everybody wants to have a healthy body, which is why there has been such an abundance of food with health claims in the market in recent years. Being a member of the Hospital Authority Board, I am naturally very concerned about this phenomenon, as an increasing demand for public hospital services has plunged the Hospital Authority into a state of deficit. As an employer, I also hate to see any productivity loss resulting from the ill health of my employees.

For these major reasons, I am as concerned about public health as other Members, and I also hope that measures can be taken to improve public health and reduce health care expenditure. But in promoting public health, msut we

necessarily foment social instability? Must we necessarily deal blows to our enterprises, even to the extent of causing unemployment and social disharmony?

I am not being alarmist. As estimated in the Regulatory Impact Assessment report of the consultant commissioned by the Health, Welfare and Food Bureau to study the introduction of "a labelling scheme on nutrition information", if the Government fully implements the "1+9" option, that is, the labelling of energy plus nine core nutrients, it may become impossible to import certain products into Hong Kong. The resultant economic cost may be as much as \$140 million, which, when translated into business turnover, may mean the closure of as many as 191 small enterprises!

People often criticize merchants for being "profit-oriented". But being profit-oriented can explain precisely the great importance attached by merchants to their "good name". "Good name" to merchants is like reputation to ordinary people. Once the "good name" of a merchant is destroyed, it will be very difficult to rebuild it. Honestly, therefore, will the merchants in Hong Kong, all along noted for being law-abiding, ignore the lives of the people? And, should the Government simply flaunt the lofty moral excuse of health protection and ignore all those merchants who will sustain heavy impacts? If the Government is so opinionated as to insist on the enactment of legislation, how can it command the trust and confidence of the common people?

Health is admittedly important but so is people's livelihood and quality of living. The more economically advanced a society is, the greater will be the importance it attaches to health. Many people are of the view that since Hong Kong has not paid sufficient attention to public health, it must quicken its pace. However, has the Government ever computed the cost of "quickenning its pace"? I simply cannot understand why we must seek to surpass Britain and the United States on every front, so to speak, instead of aiming at gradual and orderly progress. I fail to understand why we must either do nothing at all or rush to finish everything in one go.

Many people believe that nutrition labelling can enable the public to access nutrition information and in turn help improve their health. However, dietary regulation is just one of the many factors contributing to sound health. Can a labelling scheme really solve all the problems once and for all? We may look at the case of the United States, where mandatory nutrition labelling has been in force since 1994. Under its existing legislation, the number of nutrients

required to be labelled is as great as 14 and will even increase to 15 next year. But have the health conditions of the Americans ever improved as a result of their access to sufficient nutrition information?

We must therefore be very pragmatic when trying to find out how Hong Kong should introduce a labelling scheme on nutrition information. Besides holding discussions on the number of nutrients to be labelled, we must, more importantly, explore the impacts of such a scheme on the overall economy and people's livelihood as well as the ways in which all can benefit.

After gauging the views of society extensively, the consultant commissioned by the Government to conduct the Regulatory Impact Assessment proposes that the most which can be done in Phase I should just be the implementation of the "1+ 5" option for products with nutrient-related claims. It also proposes that upon the completion of Phase I, there should be a one-year comprehensive review, and the "1+ 9" option should only be implemented two years after the review, so as to reduce the impacts on the trade.

As much as 90% of the foodstuffs consumed in Hong Kong are imported. But it is wishful thinking to require every overseas manufacturer to take the trouble of making separate nutrition labels that meet the requirements of such a tiny market like Hong Kong. That being the case, Hong Kong retail and import merchants wishing to comply with the requirements of nutrition labelling will have to incur heavy expenditure on laboratory tests. According to the estimation of the Food and Environmental Hygiene Department, a laboratory test on the amounts of all the nine core nutrients in one food product will cost as much as \$4,000 to \$8,000. Even when one wants to sell just a bag of peanuts, one will have to pay several thousand dollars for a laboratory test. This will definitely impose a heavy burden on enterprises, and some small and medium ones may thus have to close down. Small and medium enterprises are the first losers.

The second losers are consumers. A certain chain-store once estimated that the introduction of nutrition labelling might lead to an additional expenditure of roughly \$75 million, or even \$100 million in some cases. The fleece comes off the sheep's back, as the saying goes, so all this expenditure will be reflected in selling prices to a greater or lesser extent. The burden on consumers will increase as a direct result.

Understandably, given the existing business environment in Hong Kong, enterprises cannot possibly shift all additional costs to consumers, so they can only reduce their own expenditure. That being the case, can grass-roots employees avoid being affected? Well, their wages will not increase but their workload and suffering will. The third losers are employees in general.

However, having commissioned the consultancy study at huge costs, the Government has nonetheless decided to press ahead with its original plan. It is determined to adopt the "1+9" option or even the "1+13" option. Is this not an indication that the Government has never listened to public opinions, has ignored the views and difficulties of the trade, and has decided to press ahead no matter what? Eventually, 400 or even more enterprises may have to close down. More employees may become jobless. Is this the right kind of attitude for a government with any sense of responsibility?

I hope that Members can discuss nutrition labelling with patience and refrain from enacting any legislation hastily. They should also study the feasibility of the Government's proposal on first introducing the "1+5" option for products with nutrient-related claims, so as to achieve gradual implementation. If not, the interests of the general public may be impaired.

With these remarks, I propose my amendment. Thank you, Madam Deputy.

**MR WONG YUNG-KAN** (in Cantonese): Madam Deputy, Hong Kong is often described as an over-nourished society. It is flooded with junk foods and its people are noted for their dietary imbalance, busy life and lack of exercise. Hong Kong people's general condition of health has fallen below the normal standard, as can be seen from the rising number of chronic patients. As estimated by the Diabetes Hong Kong, there are as many as 700 000 diabetes patients in Hong Kong, and there are signs that the ages of these patients are dropping. As for the number of hypertension patients, it may also be as high as 600 000. And, in 2003, more than 18 000 people died of cancer, heart diseases, renal diseases or diabetes. All these figures, which alert us to people's health condition, are clear evidence that the Government must adopt measures to improve people's health.

Madam Deputy, the DAB has always maintained that a labelling scheme on nutrition information must be established in Hong Kong, so that people can be

clear about the nutrition information of various foods and make appropriate choices according to their own dietary needs. Regarding the opinion that the "1+9" option proposed by the Government is much harsher than the labelling requirements in most other places, the DAB must point out that labelling requirements in different places are formulated on the basis of local circumstances and needs, so it is actually a very common international practice for different places to formulate their unique labelling requirements. The "1+9" option proposed by the Government is appropriate to the actual situation of Hong Kong, as it can take account of Hong Kong people's general condition of health and the statistics on their disease incidence. Besides, according to the Regulatory Impact Assessment conducted by the Government, following the implementation of the proposed labelling scheme, the reduction of health care expenditure and disease-related loss of productivity and human lives may enable Hong Kong to gain a net benefit of \$8.6 billion over a span of 20 years. On the other hand, if the number of nutrients to be labelled is reduced, the net benefit may be reduced by several billion dollars. Therefore, in the overall interest, the DAB supports the "1+9" option for nutrition labelling.

Madam Deputy, we do appreciate that while there may be benefits, the food trade as a whole will sustain considerable impacts, and some SMEs may even have to close down. For this reason, instead of watching with folded arms, the Government must conduct direct communication with the trade, with a view to understanding their situation. It must also offer adequate assistance to the trade. It must, for example, work out ways to lighten the burden of the trade in respect of laboratory tests, formulate a permissible discrepancy for nutrition information, allay the trade's worry that some may unknowingly commit an offence due to slight variations in product quality and even consider the making of financial arrangements to assist small and medium food merchants in compliance.

At the same time, in order to ensure that the desired effects of nutrition labelling can be fully achieved, the Government should play a leadership role. It must conduct joint studies with professional bodies on the formulation of nutrient reference values for Hong Kong and the establishment of a nutrition information analysis database for the reference of the general public and academic institutions. More importantly, a full-scale publicity and education programme must be launched to enable members of the public to comprehend and properly utilize nutrition information labels.

In regard to the implementation timetable, the original motion proposes to implement the "1+9" option in one go three years after the enactment of legislation. The DAB is happy to accept this proposal if the food trade thinks that it is feasible. On the other hand, if the trade deems it necessary to implement the nutrition labelling scheme in phases, we are also prepared to accept this arrangement. But in any case, the timetable set down by the Government must not be delayed. The amendment of Mr Vincent FANG proposes to conduct another review following the implementation of Phase I and to re-set the timetable for the implementation of Phase II. Since we think that this will lead to delay, we cannot support the amendment.

Madam Deputy, many people overlook the fact that under the existing proposal of the Government, food for infants and pre-packaged food for people with special dietary needs are exempt from regulation. According to the Government, the nutrition labelling for these kinds of food is different from that for ordinary food, so it should be handled separately and studied at a later time. As we all know, the intake of certain nutrients will directly affect the conditions and lives of some chronic patients. For example, the intake of sugar will affect the conditions of diabetes patients, and an excessive intake of potassium and sodium will directly affect the kidney functions of people suffering from renal diseases and renal failure or may even lead to their death. In regard to food for infants, cases of substandard formula milk leading to swollen heads of infants in the Mainland have recently been exposed, aptly indicating the great importance and urgency of making regulatory arrangements, including nutrition labelling, for these special types of food. However, the Government simply ignores the worries of these people, failing to set the priorities right. Without even conducting any feasibility studies, it has decided not to bring these types of food into the regulatory ambit of nutrition labelling. This is unacceptable to us.

As a matter fact, as early as 1985, the Codex Alimentarius Commission already formulated its labelling guidelines for food with claims relating to special dietary needs. Many countries have since implemented this kind of nutrition labelling. In many of these countries, such as China, South Korea, the Philippines and Poland, nutrition labelling for this type of food was even introduced before plans were drawn up for ordinary food types. There is indeed plenty of foreign experience for the reference of the Government, so it should not be too difficult to conduct any studies on regulation. The only problem is the Government's lack of determination to accord proper treatment to these people with special needs. Therefore, I have to move the amendment on



behalf of the DAB, in the hope of ensuring that people with various needs can all get the information they want through the implementation of nutrition labelling.

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

**MR FRED LI** (in Cantonese): Madam Deputy, this is not the first time the subject of nutrition information on pre-packaged food is debated in this Council. In December 2003, I moved a motion requesting the Government to implement the nutrition information labelling system, and the motion was subsequently passed. Today, I am very pleased that Dr Joseph LEE has proposed a relevant motion again. As according to its wording, the motion seeks to urge the Government to return to the basis of the consultation document by setting the number of nutrients required to be labelled at the "1+9" level, the Democratic Party will support the original motion.

Hong Kong is currently facing a serious ageing population problem. Although the elderly population accounts for some 11% of the total population of the territory in 2005, the percentage will start rising in 2011. With the territory moving into an elderly society, our health care expenses are expected to rise further.

Our health care system relies mainly on the costly in-patient service. If we are to ease the burden on our public health care system, we must, among other things, prevent disease. Given the close relationship between disease prevention and diet, the public must have a good understanding of nutrition information and choose the right food.

In a consultation paper published in 2003, the Government proposed that a "1+9" option be adopted. This means that energy and nine other nutrients have to be labelled on pre-packaged food. However, after the completion of a study on the regulatory impact, the Government stepped backward and came up with a "1+5" option for implementation in two phases, whereas the "1+9" proposal would be launched two years after the implementation of the "1+5" option. The Democratic Party is very disappointed with this proposal. As it is considered that nutrition information labelling helps protect the health of Hong Kong people, the Government should implement it decisively, instead of focusing merely on the short-term interest of the industry and ignoring the

long-term economic benefits without fully looking after the health of Hong Kong people.

Actually, a number of developed countries have already put in place their own nutrition information labelling systems. Food manufacturers in different places will, in accordance with local legislation, produce nutrition information labels in compliance with the local requirements. Even if the "1+9" option is adopted in Hong Kong, it would not be difficult for these manufacturers to produce a labelling format suitable for Hong Kong as the nutrition information is already available. I would like to cite an example to illustrate my point to the Secretary and Mr Vincent FANG. On a box of cereal I bought from a supermarket for breakfast, I find the listing of nutrient contents required by six countries or regions: Britain, Singapore, Malaysia, Hong Kong, Japan and Arabia. As Japan has merely implemented the "1+5" option, only "1+5" have been listed. In the case of Britain where the "1+8" option is adopted, more nutrient contents are listed. This shows that regional labelling is actually not impossible. Furthermore, we have found different countries listing all the nutrition contents one by one, which Hong Kong people may be interested to know. They include fat, fibre, soluble fibre, carbohydrate, sodium (or salt), and so on. We Hong Kong people are found to be consuming too much salt. Many nutrition reports point out that we have to consider whether salt is excessive when choosing food. This is evidently an excellent example showing that these requirements have already been in place in many countries, only that they are still absent in Hong Kong.

In addition, I hope Mr Vincent FANG can note that the Consumer Council would, upon the completion of every survey, find that some foods, using claims of carrying high levels of fibre and low levels of fat and sugar as their selling point, have been proved to be neither high in fibre nor low in fat according to international standards. Why would such problems occur? Because the Government has not required these foods to list their nutrition contents and so, unsubstantiated claims can appear on advertisements or packages. Yet, it is not unlawful to do so. It is unfair to consumers that such foods can still claim themselves to be high in fibre, even though they are not in compliance with international standards, just because they are not required to list out their nutrition contents. Unless legislation is enacted, this problem is not going to be resolved. Neither can we rely on self-regulation to solve the problem. I therefore hope that Mr FANG can pay attention to this.

In our opinion, nutrition information labelling should not be treated like a dreadful monster. Can the business sector instead take a positive view that this requirement actually provides a business opportunity? In this regard, the earlier it steps forward, the better it can grasp the opportunity. It should expeditiously label our foods, as well as launching advertising and publicity campaigns. It may take the first step, even before the enactment of legislation by the Government. On public education, the business sector may teach the public how to choose appropriate foods, such as those with low salt and sugar, or with "no added sugar" stated on the labels. Moreover, nutrition contents should be listed. With such labelling, false information cannot be provided. This is what we are asking for. As consumers, we will buy those products with these labels because the contents of the products will be specified. However, it is very difficult for us to buy food nowadays for there is no such labelling on it, and there is no way we can know its nutrition contents.

For these reasons, we support both the original motion and Mr WONG Yung-kan's amendment because we consider that infant food should be examined too. On this question, we are 100% royalists. We support the Government, and so we can only speak for it. Regarding Mr Vincent FANG's earlier remark about the Government and its proposed "1+ 9" option, which might even turn into a "1+ 13" option, we must be fair. During the panel meetings and numerous discussions, the Government has never mentioned, or implied, the "1+ 13" option. Therefore, justice should be done to the Government. It was actually referring to "1+ 5", with four other nutrients to be added in two years. In other words, the "1+ 9" option is to be implemented in two phases. This is the proposal made by the Government at the moment. It has never mentioned "13". Representing other nutrients to be added later, "13" was actually proposed by the United States — Mr FANG is right about this. Therefore, Members should not insist that the "1+ 13" proposal was raised by the Government.

I so submit.

**DR KWOK KA-KI** (in Cantonese): Madam Deputy, Mr Fred LI just said that he was a "royalist". But I do not think we should do that. I feel that the Government is not really doing very well because it still proposes in the relevant Legislative Council Panel to implement the "1+ 5" option first, with a view to eventually implementing the "1+ 9" option in two phases. Under such circumstances, sorry, I cannot support the Government's original proposal.

Mr Fred LI has said just now that this is not the first discussion held in the Legislative Council on a motion related to a labelling scheme. In December two years ago, this Council also held a discussion on this subject, and the motion moved by Mr Fred LI at that time was passed by a vast majority. This proposal was not only passed in the Legislative Council, but, according to the opinions collected from all the District Councils, and the findings of an opinion poll, we find that the majority public still thinks that the proposal should be implemented. Of course, the implementation of the labelling scheme has to depend upon two parts: first, the needs of the patients, and second, the situation of the industry. Certainly, I will never agree to any proposal that completely ignores the problems faced by the industry. As a matter of fact, if we want to pass any legislation or bill, I think it will not succeed if it is not supported by the industry.

I would like to spend some time to examine, whether the Government has done anything else, or whether such work is adequate, apart from making efforts to implement the labelling scheme. Dr Joseph LEE's motion has mentioned several issues. For example, the Government should draw up a concrete implementation timetable to promote relevant public education programmes and the labelling scheme. I think this is very important. I also agree with Mr Vincent FANG's point that relying on the labelling scheme alone might not necessarily work. This is because if most people in society have not been properly educated on how to understand or interpret the labels, then even if the labels are well written, the people or the patients will still not be able to interpret the nutrition labels, rendering such labels meaningless to them.

Therefore, the Government cannot and should not think that relying on the labelling scheme alone is sufficient for protecting the health of the people. I think the Government should take the lead — I hope the industry represented by Mr Vincent FANG can also take the lead — to do one thing. If more people understand and are willing to accept the functions of nutrition information labelling, this will be beneficial to both the consumers and the industry. This is because if consumers realize the importance of the labels and know that such labels can help them, they will choose to buy products with labels. Therefore, if manufacturers can manufacture products with labels, they are actually helping both the people and the industry. And they will be benefited as well because in doing so, it will help to enhance their own strengths.

Such strengths are useful not only in Hong Kong. We can see that many places, such as North America, Australia, New Zealand as well as the European Union, are all moving ahead in the direction of adopting the labelling scheme on nutrition information, and some are even moving further to adopting a more advanced labelling scheme on nutrition information. If Hong Kong manufacturers and food exporters can take the lead in properly developing the culture of nutrition information labels for food in Hong Kong, so that the labelling scheme can be implemented and accepted, and can be generally applied to all the products, then when Hong Kong products are ready to tap the world market in future, this will definitely be a positive factor.

Therefore, in my opinion, whenever a crisis emerges, opportunities are also around the corner. I think manufacturers should take a positive view of the scheme. Of course, the Government also needs to provide some concrete support. We have just said that we are worried because we understand that when the scheme is implemented, many smaller manufacturers and importers may not be able to shoulder the high costs involved. Therefore, I think it is necessary for the Government to provide SMEs with some specific technical support, so as to enable them to find a good way of identifying some qualified but inexpensive laboratories. This is what the Government should do, and it should even do more in this regard.

Different organizations in our medical sector, including the Hong Kong Medical Association, Federation of Medical Societies of Hong Kong and Hong Kong Academy of Medicine, and so on, are unanimous in thinking that the Government should expedite the implementation of the labelling scheme on nutrition information, and that the "1+9" option should be implemented all in one go. Why? I believe the research studies conducted by the Government have already shown that, when the objectives of the "1+9" option are eventually achieved, Hong Kong will enjoy an overall economic benefit of about \$10 billion. We are now saying that, given the tight finances of the public sector, our sector, especially the Hong Kong Hospital Authority (HA) — with myself being a member of the HA — finds that nothing will make us feel happier than the possibility of enhancing the health conditions of Hong Kong people, which will in turn reduce the need of patients for medical or hospital services. As such, if the labelling scheme on nutrition information can provide assistance in this regard, I will definitely agree to it. Likewise, we also made such suggestions when the Government proposed to launch a further ban on smoking. We do not aim at acting against the industry. Instead, being doctors, we all

know that it is impossible for patients to improve their health conditions if labels on nutrition information are not available. This is especially true for some chronic patients, such as those suffering from kidney diseases, diabetes, heart diseases and many other illnesses. To them, these labels are their life-buoys.

Very often, when these patients go to supermarkets or wet markets, they really do not know how they can buy the right food. This is especially so when the studies conducted by the Consumer Council have revealed that many labelled food products claiming to be high-fibre products are actually low-fibre ones, and that those claiming to carry low salt content are in fact containing high salt content. Under such circumstances, it makes the people wonder whether they should rely on information in such labels. If this situation is not improved, how can we be accountable to the public? How can we be accountable to the patients? How can we help them to improve their health conditions?

In spite of these, I hope that the Secretary, when he gives us a response later on, apart from sending us an explicit message telling us that the Government really intends to implement the labelling scheme to promote the "1+9" option, can also give concrete responses to the issues mentioned by Dr Joseph LEE in his motion, such as how the industry can be assisted in obtaining technical support and how an ad hoc group can be established with the participation of the industry to promote public education to make each and every Hong Kong citizen conversant with the functions served by labels on nutrition information of food.

I have spoken in support of the original motion of Dr Joseph LEE. Thank you, Madam Deputy.

**MS EMILY LAU** (in Cantonese): Madam Deputy, I am a member of the Economic and Employment Council (EEC) chaired by the Financial Secretary, therefore, I attach great importance to improving Hong Kong's business environment so that various sectors, in particular, SMEs, can have more business opportunities, which will in turn create more employment opportunities. Next Monday afternoon, the EEC will convene another meeting and I believe the Financial Secretary will also review the work of various groups under the EEC. One of them is the Subgroup on Business Facilitation, and I am also its member.

Another one is the Pre-construction Task Force and yet another is the Retail Task Force, and I have joined both of them. Therefore, Madam Deputy, I hope the Administration and society at large will understand that I am very concerned about improving the business environment.

Today, I support in principle the motion moved by Dr Joseph LEE. Madam Deputy, here, I have a newly issued paper submitted by the Secretary in response to the numerous views collected in the meeting of the Panel on Food Safety and Environmental Hygiene on 10 May, the discussion of which assumed the dimension of "a rivalry between six warring states" or "a confrontation between two camps on both sides of the divide". Madam Deputy, just as I proposed to the Panel Chairperson during the meeting, we can have a discussion together later this month to see if a consensus can be reached.

Today, it is very timely for the Secretary to submit this paper. The Secretary has proposed an approach involving two phases. I have listened to the views expressed by Members and got the impression that they fully support Dr KWOK Ka-ki's point, that is, if the proposals put forward could not win the support of the industry concerned, they could not be implemented successfully. I understand that the health of the public is very important and it is time that this labelling scheme was launched. Just now, Mr Vincent FANG said that the authorities wanted to surpass Britain and catch up with the United States. I bet Mr FANG has not read this paper submitted by the Secretary. The Secretary said that, insofar as the progress on the labelling scheme is concerned, we are lagging behind over 40 countries and regions, including developed and developing countries. Therefore, we must play catching up fast. Therefore, it can be seen that we are not trying to surpass Britain and catch up with the United States.

Madam Deputy, in what aspect are we going to surpass Britain and catch up with the United States? It is in the splitting up of the post of the Chairman and Executive Director of the Securities and Futures Commission. Throughout the world, this has been done only in Britain, Sweden and Singapore. We are indeed going to surpass Britain and catch up with the United States in this aspect. We will discuss this matter on Friday and it is proposed that Mr Charles LEE Yeh-kwong should be made the Chairman. This is even more infuriating, however, let us not talk about this for the time being.

Therefore, I hope Members from the Liberal Party will understand that on the matters in this motion, we are not trying to surpass Britain and catch up with the United States. If our development in this area is already lagging behind more than 40 countries and since there are now directly-elected Members from the Liberal Party, something that we feel happy with, they should care about the health of the public.

However, after attending the meetings of the three groups under the EEC, I got a very distinct impression that the industry concerned has a lot of grumbles. They are of the view that the authorities have already imposed too many regulations and no adequate consultation was conducted before doing so. Often, and recently for that matter, that is, in a meeting convened several days ago — it was a discussion on some other issues, although they also had to do with the Secretary — the person chairing the meeting did not allow the people expressing dissent to speak. The Director of the FEHD was also present, so he could also hear that. The person chairing the meeting adopted such an attitude and showed that he did not really want to learn about the difficulties faced by the industry. As regards the paper issued, there was no mention whatsoever of the industry views, so there is little wonder that the sector genuinely believed the Government had not listened. Even if the Government was unwilling or unable to do anything, it should at least report in the paper what views it had listened to and why such and such a thing could not be done, and so on. By giving explanations in such a way, it can be said that it has at least given a full account of the matter. Therefore, I have suggested to the Financial Secretary that in future, a well-developed and independent advisory structure should be established to enable the sectors affected to be informed immediately of what has happened and to offer their views accordingly. I believe this is very important.

Insofar as this matter is concerned, is it as serious as Mr Vincent FANG has painted it? In fact, their consultant said that 191 shops may have to close, however, Mr Vincent FANG has put the number at 400 to 500 shops. I do not understand why all these figures have been floated. In a meeting of the Subgroup on Business Facilitation on 25 April, the consultant to the authorities was also present. When asked about the financial cost, he started off by saying something about 10 or 20 years and that an amount of over \$2 billion would be incurred, so on so forth. Of course, I nearly jumped up on hearing that. Who is going to foot over \$2 billion? Someone has to pay. Then, as he went on, the sum became tens of millions. I believe that members of the Subgroup on



Business Facilitation and I all found the figures very confusing. Under such circumstances, we are really at a loss. The most important thing is to say clearly how much the cost is and who is going to bear it.

In a panel meeting of this Council, officers of the Consumer Council who attended the meeting expressed their support for the Administration's course of action. On that occasion, I asked them what the financial cost was. How much information had they gathered? Moreover, who would bear the cost? Would it be shifted to consumers? Madam Deputy, can you guess what answer we got? The officers from the Consumer Council said no work had been done in this regard. Why? That was because the Government had raised this matter and they believed in the Government — so whatever the Government says is right. I think it is time the Consumer Council did some soul-searching because consumers rely on it to protect their rights. This matter concerning information labels is certainly a good thing but a price has to be paid for it, so the authorities have to take a look at this aspect. I think the Secretary should give a clear and proper account on this.

In addition, some Honourable colleagues have said that if we want to help the sector, should we not give some thoughts to the fees on food tests? For example, Mr Vincent FANG said he was not sure if a food test would cost \$4,000 or \$8,000. If that is a one-off fee, that is probably the amount, but if a shop sells various kinds of stuff, then how will the amount be calculated? If some types of food are already labelled, is it possible to allow some leeway by exempting food manufacturers from doing everything all over again? I believe there are many issues of this nature. I believe the industry is not deliberately acting against the Government. Frankly speaking, all that the industry wants is to make a living. If a good business environment can be created and more people can be drawn to buying health food, so that even the kids in the public gallery now will buy it, business will be even better, so why not do it? Therefore, I believe this can surely be a win-win proposal. The Secretary has won the high praises of many people and the DAB has even said that he could take up the post of the Chief Executive. The most important thing that the Secretary has to achieve now is to handle this matter in a satisfactory way. Madam Deputy, I found that in one of the paragraphs in this paper, the Secretary said that a bill could be tabled only next year. I think the progress is a bit slow, particularly when this matter has seen many years of discussion. I hope the Secretary can summarize the views of various parties at an early date and after

obtaining a consensus in society, submit a bill as soon as possible and I will give my full support to it. Thank you, Madam Deputy.

**MRS SELINA CHOW** (in Cantonese): Madam Deputy, first of all, I must reiterate on behalf of the Liberal Party that we support the implementation of a labelling scheme on nutrition information for food. This is because we believe that if labels on nutrition information can be placed on food, consumers will be able to know whether the food they eat is really low in calories or fat according to the information on the label. This move is also in line with the expectation of the public for a more healthy diet.

In view of this, I believe that the difference among Members today lies only in whether the details considered most essential by the medical sector in Hong Kong should be adopted as the criteria for attaining the objective speedily. If the answer is in the affirmative, what price does Hong Kong have to pay? Or should the pace be slightly adjusted or consultations be carried out, so that the industry and consumers do not have to make unnecessary sacrifices? I very much agree with the point made by Ms Emily LAU, that we have to examine carefully what factors and technical problems there are in the process of policy formulation.

I wish to point out that the "1+9" option is unique in the world. For example, the major source of food for Hong Kong, namely, the Mainland, has not yet implemented such a scheme. The labelling scheme on nutrition information for pre-packaged food being formulated by the Ministry of Health only requires labels on nutrition information to display eight nutrients, that is, energy, protein, total fat (including saturated fat and unsaturated fat), cholesterol, total carbohydrates, sugar, sodium and calcium, that is to say, a "1+7" option will be implemented.

Other major food-exporting countries, such as Japan, Taiwan, Thailand, the European Union, and so on, have different requirements and the requirements vary from country to country. The "1+4" option is implemented in Japan and Taiwan. In Thailand, it is "1+14", whereas there are two sets of requirements in the European Union, one requiring that four items be set out and the other, eight items. Besides, Mr Vincent FANG said just now that we want to overtake Britain and catch up with the United States. We are indeed

overtaking Britain because in Britain, it is necessary to list only eight items, whereas we want 10 items listed.

In the United States and Canada, where it is compulsory for as many as "1+ 13", that is, 14 items of nutrition in pre-packaged food to be listed, may not necessarily meet the requirements of the "1+ 9" option advocated by Dr Joseph LEE because the items are different. For example, the requirement to specify carbohydrates in the United States and Canada are different from that in Hong Kong which specifies the amount of available carbohydrate. Just now, some Members talked about surpassing the Britain and catching up with the United States, however, I wish to point out that at present, the requirements in Hong Kong have already surpassed those in Malaysia, Britain, China, Japan, Singapore and the Codex. The Codex is an international organization and it only requires that four items be set out. However, since Dr Joseph LEE is a royalist, he requests that "1+ 9" items be listed. This shows that in fact, if our standard has not yet caught up with that of the United States, it has at least surpassed that of Britain.

However, given our small market, if our labelling standard is different from others, other people will not try to accommodate us at all. In that event, all food without nutrition labels imported into Hong Kong has to be tested if they are to be sold in Hong Kong. Mr Vincent FANG said just now that it would cost several thousand dollars to \$10,000 to do a food test. Given the small market in Hong Kong, it is in fact not worthwhile to do so. Consequently, consumers will have less choices because those foods without labels on nutrition information cannot be sold in the market. This may affect diverse types of goods coming from various places. Insofar as the Mainland is concerned, a law is being drafted on listing eight types of nutrients only. In other words, goods without labels cannot be imported or must have a test conducted on them, however, it is possible that no test can be carried out. Will such a situation bring about the demise of the industry?

Just now, Ms Emily LAU queried if the number of shops facing closure would be over 100 or would it be 400. Was there anything wrong with Mr Vincent FANG's calculation? The industry is certainly feeling pessimistic. If they are subjected to such oppression, they may not be able to continue in business, so the calculation done by the industry tends to be higher than that in other studies, whereas the Government naturally tends to play down the figures. No matter if over 100 or 400 shops will face closure, this is something that

should not happen. It is evident that our market does not have the conditions, so why is it necessary for us to take the lead, such that over 100 or 400 shops in the industry are driven into demise?

I was really delighted and encouraged because I found that Ms Emily LAU and Dr KWOK Ka-ki were very thoughtful towards the industry. This is the attitude that we should adopt. In fact, the attitude adopted by the Government in the past was not quite right because it was not open enough. I do not know if the Government intends to use the "1+9" option as the starting point in its bargain, so it is insisting on the "1+9" option, so as to facilitate a compromise with Members later. Our position is very simple. The Liberal Party is of the view that such a scheme should be implemented, however, we must not try to appear smart. We have no intention of surpassing others and we must take account of various exporter countries to see what information they can actually provide. It is necessary for us to follow their timetable and we cannot say that the health of consumers will be seriously affected if we delay the implementation by two or three years. Our request is most reasonable.

**MS AUDREY EU** (in Cantonese): Madam Deputy, as the saying goes, diseases enter by the mouth, so food will affect the health of members of the public in a direct way, and a number of illness are caused by unbalanced diet, thus the Chinese say that medicine and food have the same origin. There are numerous food products on the market, and many of them claim to be "low fat", "high calcium" or "high fibre" health food. It would be impossible for consumers to compare and differentiate if a uniform labelling scheme on nutrition information is not established.

After the implementation of a labelling scheme on nutrition information, consumers may purchase food products according to a uniform and objective standard; people suffering from heart diseases, hypertension or obesity problems may also select pre-packaged food in an informed manner. Although the industry and consumers have to pay the extra cost, in the long run, the policy may encourage the survival of the fittest as far as product quality is concerned and the weeding out of inferior products. As a result, members of the public may save their medical expenses, the industry may have a more solid basis to promote their products by making the nutrition claims, and the consumers may have more confidence.

The Government intended to introduce a labelling scheme on nutrition information four or five years ago, and the Legislative Council also passed a motion the year before last, which urged the Government to phase in over three years the full implementation of the proposal in a consultation paper relating to the "1+9" option which covers energy and nine core nutrients.

During the consultation period, some people from the industry expressed strong opinions that since the market in Hong Kong was too small and over 90% of food products were imported, the scheme would increase the import, wholesale or even retail costs.

After the conclusion of the consultation period in January 2004, the Government invited a consultant to conduct a survey on the regulatory impact with a view to addressing the concerns of the industry. It was found that the economic cost of the "1+9" option was one fifth more than the "1+5" option, but the long-term social benefit was almost two times greater. Therefore, from the cost-effectiveness perspective, the Government should implement the "1+9" option.

Considering only the labelling schemes on nutrition information in the United States and Canada are more stringent than that in Hong Kong, some people questioned why Hong Kong has to bring itself to the forefront by surpassing Britain and catching up with the United States at a sweep by implementing the new policy? The answer is simple. First, according to the consultant's report and the point I have made earlier, the additional cost between the "1+9" option and the "1+5" option is not that significant, but the cost-effectiveness would be significantly higher than the additional cost, which is known as "marginal utility" in economics.

Second, any policy should be visionary. The global trend is to enhance food safety regulation with a view to protecting the people's health. Hong Kong has lagged behind others for many years, behind a lot of countries, and just now Ms Emily LAU quoted a document that says Hong Kong is lagging behind 40-odd countries. For that reason, we should not adopt the lowest criterion as our starting point. Since Hong Kong is a laggard, we therefore may draw reference from foreign experience and studies and then formulate a better scheme.

Many countries, including China, are improving continuously or introducing their labelling schemes on nutrition information. For example,

European Union member states are considering turning the voluntary labelling scheme into a mandatory scheme, and the Ministry of Health of China has also issued a consultation paper for solicitation of opinions about amendment of the legislation. It was proposed to introduce a mandatory food labelling system under which eight categories of nutrients should be printed on the package, and they are all within the "1+ 9" option of Hong Kong, with the only difference being the dietary fibre which is set under the voluntary category. For that reason, the proposed labelling scheme on nutrition information of Hong Kong is not implemented too hastily or hurriedly.

Taking the consultation process into consideration, the Government has taken the industry opinions into full account: including carrying out the survey on regulatory impact first, and proposing the phasing in of the labelling scheme, and in the first phase, the industry only has to meet the "1+ 5" requirement. Many of the imported food products already carry the "1+ 5" nutrition label, so the latest government proposal may lessen the trade's cost in this respect. I have no strong views on whether it should be implemented in two phases or whether it should be implemented fully as the original motion proposed. Nevertheless, I consider that the "1+ 9" option should be implemented regardless of anything else, for that reason, I cannot support Mr Vicent FANG's amendment.

Earlier, the Consumer Council proposed the regulation of labelling of food for infants and pre-packaged food for people with special dietary needs, but the Government did not accept the proposal. In fact, these two types of food will have tremendous impact on the safety of these two groups of people, thus it should take priority over other things. For that reason, I support the amendment proposed by Mr WONG Yung-kan.

Madam Deputy, I so submit.

**MR ALBERT CHAN** (in Cantonese): Madam Deputy, insofar as the labelling of nutrition information of food is concerned, I do not have any in-depth knowledge or understanding. However, after listening to the speeches delivered by many Members, I would like to share with you several points of my personal feelings.

On the significance of public health and the Government's responsibility of looking after the health of the people, it appears that, as a matter of principle,

there is not much disagreement among Members of this Council. The only discrepancy may just lie in the pace and the scope of application. If we all accept such a principle, basically we have already reached a consensus. I am not sure in future whether some promotion materials will be posted in venues not of manufacturing food, such as the pork retail stalls, to highlight how much cholesterol is contained in a piece of fat pork, and what negative impact it will have on our physical health. I still recall that, I once had a meal in a small restaurant in either the United States or Europe. In that restaurant, the amounts of cholesterol or calories contained in different items of food were explicitly stated in the menu. So when the customers tried to decide which dish to order, they could find out how many calories they would be getting after the meal. I think this is rather important for the consumers.

Madam Deputy, I have risen to speak mainly because I had a stirring of emotion after listening to the speeches of many Honourable colleagues. Of course, the labelling of nutrition information on food is important. But when we take a look at the situation in Hong Kong, we may remember that there are four significant aspects in our daily life, namely, "clothing, food, housing and transport". The labelling of nutrition information on food falls within the food aspect, but the aspect of "housing" is also very important. It is necessary for us to legislate on the labelling of nutrition information on food, but there is no legislation governing the "housing" aspect when we buy a flat. The people may use as much as over \$10 million on buying a luxury flat. However, there are a number of issues, such as whether the floor area is correct, whether the property is completed as scheduled, whether the rooftop conditions are the same as described and whether the transportation is as convenient as advertised. Regarding all these issues, there is no legislation to govern them. On the other hand, we find it necessary to enact legislation to supervise how much nutrition or calories is contained in food. Therefore, I feel that our Government must be suffering from schizophrenia. Otherwise, it must be affected by certain mental conditions.

When we buy food, it may cost us several dollars or \$10 to \$20. So for such a trivial issue as the labelling of nutrition information on food, the Government now finds it necessary to enact legislation to regulate it. However, on the contrary, regarding the sale of flats involving over \$10 million in each transaction, the Government chooses not to make any law to govern it. So if Mr Donald TSANG can really win the election to become the Chief Executive, and all the Directors of Bureaux will stay in their respective offices, then I very

much hope that the Secretary currently responsible for the labelling of nutrition information on food can be deployed in future to become the Secretary for Housing, Planning and Lands. With the attitude of a doctor, he should examine the problem of the absence of any labelling in the sale of housing flats, and he should next proceed to enact a set of labelling legislation on the sale of flats, so as to stipulate that all information provided by developers must comply with the relevant labelling law and such information must not be misleading to consumers. The significance of the enactment of labelling legislation on the sale of flats for the sake of protecting the interests of flat buyers is definitely greater than that of the enactment of legislation on the labelling of nutrition information on food. Of course, when I am saying this, I am not denying the significance of health.

Secretary Dr York CHOW is a doctor. So to him, health is most important. However, I have witnessed people being dragged into deep trouble just because they could not get accurate information when they bought their flats. Some even have to seek treatment from psychiatrists; some have gone bankrupt or even thought of committing suicide. The problem is really serious. Of course, this is not within the portfolio of the Secretary. However, if the Secretary really hopes that the people can live more healthily, and if he can make improvement to the way housing flats are sold, apart from improving food quality, he may be able to help improving the mental, psychological and physical health of many people. In order to ensure that Hong Kong people can live happily, I hope the Secretary can consider whether he may also provide assistance in other aspects, such as enacting a labelling law on the sale of housing flats. Thank you, Madam Deputy.

**MR BERNARD CHAN:** Madam Deputy, business regulation cuts companies' productivity and profits. It therefore reduces incentives to invest and damages job creation. Many people argue that over the years, we have imposed too many regulations on business activity in Hong Kong. Maybe they are right.

However, where health and safety are concerned, we need to recognize that regulation might be necessary, even if some companies make less money or even close down. It is a question of community interests against those of a single sector.

A few years ago I was in the United States, and I went into an Asian supermarket. I started looking at Hong Kong brands of instant noodles, chili



sauce and soy drink. They were exactly the same as the items we get here in Hong Kong, but there was one difference — the packaging included labels showing detailed nutritional information. I can tell you I was shocked at the number of calories — the amount of fat and sugar — in these products, and I wondered why the manufacturers did not put this information on the products in Hong Kong.

Since that time, a few years ago, this Council and the community as a whole have been discussing the idea of making nutrition information labels compulsory. There is not a consensus. In fact, this has become quite a controversial proposal.

Actually, I cannot help wondering whether both sides in this debate are actually exaggerating — at least a bit. Some people argue strongly in favour of pushing ahead with full-scale labelling as soon as possible. They claim that labelling will have a meaningful impact on long-term health care costs, as people read the labels and improve their diets. As a taxpayer and a member of the insurance industry, I would love to believe that this will happen. I hope it will happen to some extent, but common sense tells you that some people will still go on eating badly, whatever the label says.

The people who oppose labelling say that this measure might cause hundreds of companies to go out of business and hundreds of products to disappear from our stores. We are talking about testing products in a laboratory on a one-off basis, and then printing some labels. Compared with rent, electricity or staff costs, I wonder whether it is really that much of a burden.

But obviously, there will be costs involved, and smaller companies will be especially affected. The food companies have asked the Government to let them use existing systems — like the American system, the European system, or whatever — rather than start up a different Hong Kong system. I think this is a reasonable request and we should consider it.

The food companies have also asked for a reasonable grace period to introduce the new labelling system. Again, I think this is a fair request. However, this should not be an excuse for delaying tactics. I believe the Government's proposal gives them quite a generous period of time to prepare for the new system. The fact is that consumers must, surely, have the right to make an informed decision about what they are eating.

Some opponents of labelling claim that the public do not want this information. Well, I can assure you that they are wrong. This consumer standing here today definitely does want to know what he is eating and what his children are eating, and I know I am not alone in this. I have been feeling this very strongly, ever since that day in the Asian supermarket in America. I do want to know. Thank you.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam Deputy, I support the proposal to introduce labels on the nutrition information of food because what we eat affects us and our offspring.

On food labelling, I wonder if nutrition information includes whether there is any genetically modified (GM) substance. I remember that protestors of the Green Peace once staged a demonstration outside the factory of the Nestle Company. They queried why the company had to manufacture food containing GM ingredients, why the GM ingredients in food were not stated, and why consumers were denied the right to know if the food contains GM ingredients so that they could choose. Therefore, apart from labels on nutrition information of pre-packaged food, I believe the Government should also endeavour to catch up by making it a mandatory requirement for food manufacturers to inform the public of the GM ingredients in food. Otherwise, we have no way of knowing if we have eaten any genes of crocodile or rat. Therefore, I think that this area should be regulated.

A lot of people say that the implementation of a labelling scheme on nutrition information for pre-packaged food may cause many people to suffer losses. For example, the implementation of such a scheme will make business operation difficult and the businessmen or business operators concerned will become victims of the scheme, so we cannot simply disregard their interests. I think that it is right to say so. However, who should assume responsibility for that? In my opinion, there is no reason to require consumers to assume responsibility, as this should be the responsibility of food manufacturers. However, if the business of food manufacturers cannot carry on because of the scheme, the Government also has the responsibility to help them tide over their difficulties.

Here, we often hear the Government say that the business environment has to be improved. It is also mentioned in Mr Donald TSANG's policy agenda that the business environment must be improved and a lot of things, such as tax

reduction, have been mentioned. In fact, on such matters, the Government should show its meticulous care and the poorer the people, the more the protection for them should be. Of course, people in the lowest stratum need the greatest protection. The majority of the people who buy these foods are poor people. They should be protected in whatever they eat. If small-scale food manufacturers face temporary financial difficulties because of such a new concept, the Government should offer assistance, for example, by extending loans to enable them to tide over their difficulties. This is like the case with live chickens. For instance, when the Government wants to implement centralized slaughtering, it has to take into consideration the livelihood of chicken vendors. The Government cannot allow situations such as that of "sheep eating men" in the Industrial Revolution, in which people were sacrificed for the sake of wool, to occur. My view is very simple. I believe that it is certain that the labelling scheme will be implemented and its scope should be extended.

Concerning the effects of labelling, I hope that it is not just the nutrition information on food that has to be set out, but that all commodities have to do the same thing. Just now, as I entered this Chamber, Mr Albert CHAN happened to be talking about this issue. There are numerous commodities in Hong Kong, such as properties, stocks, derivatives, and so on, which do not carry any clear description. Take insurance policies as an example, I have a friend who is an insurance agent. The Chinese in the documents that he shows his clients are in very small print. I have presbyopia, so I cannot read those words. Therefore, I must have signed those documents casually. My position is very simple. All laws should protect people at the lower level of society as they do not have the ability or the time to protect their own basic rights. On this point, not only must the Government extend the scope of the information in food labels to include GM ingredients, it also has to extend the information labelling scheme to other commodities.

I hope that Honourable colleagues in this Council will not always say that this will threaten the survival of small businesses. There may be some truth in this but the question is: What is the purpose in electing a government? It is to make the Government do something. In a nutshell, it is to suppress the strong and aid the weak. In relation to certain responsibilities, every stakeholder should of course assume responsibility. However, in relation to social responsibilities, it should be the other way round. Responsibilities should be borne by those at the top of the social pyramid instead of those at the base of it. Therefore, I sincerely urge the Government not only to expand the food labelling

scheme to cover the aspect of DNA, but based on the same principle, to formulate and implement a corresponding labelling scheme for property, stock transactions, insurance and the like. Thank you, Madam Deputy.

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

**MR WONG KWOK-HING** (in Cantonese): Madam Deputy, in recent years, a lot of people have become more health conscious about their diet, because everybody knows that a lot of illnesses are closely related to diet. Some diseases, such as cancer, diabetes, hypertension and heart diseases, are closely related to our diet. Cancer and heart diseases are the number one and two killer diseases in Hong Kong, their fatality cases account for one third and one seventh of the total mortality rate respectively. The number of people suffering from such diseases is not only rising, there are signs that the age of patients is getting younger in recent years. Let us take diabetes as an example. According to a survey conducted by the Diabetes Hongkong, there are over 700 000 diabetes patients in Hong Kong, that is, every one out of 10 people is suffering from diabetes, in which one quarter are people under 35 years of age, the youngest being only 10 years old. About 30% of patients acquired the disease due to their unbalanced dietary habits, such as eating too much salty food and doing very little exercise. In Hong Kong, the weight of about 30% of the population has exceeded the norm while 7% are overweight. Furthermore, over 45% of elderly women are suffering from osteoporosis. People suffering from diabetes, overweight, hypertension and osteoporosis need a balanced diet to control their conditions.

We agree that we should introduce a labelling scheme on nutrition information for pre-packaged food. First of all, the nutrition of food is closely related to our health. The nutrition information in the label will enable consumers to understand the nutrient content, thus they may choose food that suits their needs. Appropriate selection of food will not only help the prevention of diseases, such as high calcium can prevent osteoporosis; to those who need special diet, such as diabetes patients, it can also prevent their conditions from deteriorating as a result of eating food containing inappropriate nutrient contents.

Besides helping consumers in the selection of food products, it is necessary to regulate misleading and fraudulent labelling and nutrient content claims, which is another goal of the introduction of a labelling scheme. In recent years, it is trendy to be health-conscious about diet, thus a lot of pre-packaged food on the market will make nutrient content claims in order to attract consumers to buy them. We should regulate these claims in order to ensure that members of the public are not misled. The introduction of a nutrition labelling scheme can further protect the health of members the public. In fact, a nutrition labelling scheme will not only promote public health, according to some overseas experience, it can also help to reduce government expenditure on medical care.

Madam Deputy, we understand the concerns of the trade with regard to the introduction of the scheme, as they worry about the increase in operating cost undermining their business, in particular some SMEs. We hope the Government will listen to the trade's opinions and formulate relevant complementary measures so as to help them get through this transitional period before the implementation of the measures. Moreover, to food product businesses with a small capital or cottage industries, although their products are within the proposed scope of exemption, once the scheme set the precedent, it would be difficult to ensure that they will not be affected in future. We are rather concerned about businesses with a small capital or cottage industries which have a distinct local feature, as we consider that they merit preservation. We do not wish to see them strangled by the Government's new policy. For that reason, we hope the Government will take account of the difficulties of these businesses and avoid stifling their existence even though it has decided to introduce the labelling scheme on nutrition information.

With regard to the opinions of colleagues from the business sector, that the introduction of the scheme will increase the operating cost and thereby create unemployment, I would look at the matter from a different perspective. I consider that the introduction of the labelling scheme will possibly increase the work processes, which will in turn increase employment opportunities.

On the premise of protecting public health, I support the proposition that the Government should introduce the labelling scheme on nutrition information expeditiously. Nevertheless, I still wish to reiterate that during the transitional period, the Government should listen more to the trade's opinion and help the

trade to tide over this transitional period, in particular individuals and SMEs or cottage industries. The Government should protect them in particular.

Madam Deputy, I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Dr Joseph LEE, you may now speak on the two amendments. You have up to five minutes to speak.

**DR JOSEPH LEE** (in Cantonese): Madam Deputy, I am glad that a number of Honourable colleagues have taken part in the discussion on this motion concerning a labelling scheme on nutrition information for food. Earlier on, I have heard the speeches given by over a dozen Members and they have expressed their opinions either in favour of or against the motion. However, insofar as the messages that they have conveyed are concerned, I agree that it is very important to win the support of the industry because the legislation on a labelling scheme will have very great impact on the industry.

Regarding the two amendments, the amendments proposed by Mr Vincent FANG and Mr WONG Yung-kan respectively both agree in principle that a piece of legislation on labelling should be drawn up. Mr WONG Yung-kan even said that it is necessary to regulate pre-packaged food for infants and people with dietary needs as soon as possible. On this point, in fact, when I gave some definitions at the beginning, I already talked about it. Therefore, in principle, the difference between Mr WONG Yung-kan's amendment and my motion is not great, so I will support him.

(THE PRESIDENT resumed the Chair)

As regards Mr Vincent FANG's amendment, our major difference lies in the pace. Members have discussed in length how great an impact the "1+9"

and "1+ 5" options would have on the industry. I do not have a very clear idea about this, nor has Mr Vincent FANG really talked about this. Therefore, I am of the view that my motion and Mr Vincent FANG's amendment do not differ much in their thrusts and the greatest difference lies in whether the pace should be fast or slow. If the "1+ 9" and "1+ 5" options will both cause certain impact on the industry, in that case, can we hammer out an approach based on a broader consensus together with the Government in this Chamber? For example, I have pointed out in my speech that the Government should not simply work out a proposal without taking into consideration the industry consensus. I believe one feasible approach that will also address Mr Vincent FANG's demand is, be it the "1+ 9" option or "1+ 5" option, for the Government to consider offering low-interest or interest-free loans to SMEs or to assist them in meeting the requirements of the labelling scheme without having to re-package their food. In this way, SMEs can save a great deal in cost and this measure can also assist SMEs in tiding over the crisis.

In addition, I also wish to respond to Mrs Selina CHOW's remarks on Codex. The minimum requirement prescribed by the Codex is "1+ 3". However, it does not mean that this is the international standard. Therefore, Members can find that many countries have enacted their own legislation on labelling of food nutrition information based on the minimum requirements recommended by Codex, as well as their individual circumstances, geographical conditions and food culture, so as to meet the needs of their nationals in respect of health and nutrition intake. Therefore, I think the argument presented by Mrs Selina CHOW is somewhat an over-generalization.

In addition, Mrs Selina CHOW also said that many SMEs may close due to such problems concerning food. In fact, I have asked four questions in my speech and they all have to do with how many overseas food manufacturers only export foods to Hong Kong for sale but not to other places. Conversely, how many types of food manufactured by the Mainland are only for domestic consumption and for sale to Hong Kong but not for sale in the United States? If those foods are intended for sale in the United States or Canada, will it be the case that food manufacturers have already prepared various types of labels? As Mr Bernard CHAN said, some food from Hong Kong or the Mainland that he had come across overseas all carried labels on them. However, these labels are not used here in Hong Kong.

To put it simply, although there is a difference in pace in my motion and Mr Vincent FANG's amendment, I believe we both agree in spirit that the legislation on labelling should be put in place as soon as possible. Of course, the question is whether it is more desirable to adopt the "1+9" option, or to first adopt the "1+5" option and then implement the "1+9" option. My view is that since both the "1+9" option and the "1+5" option will impact on the industry, if the Government can put in place good complementary measures and support for SMEs, I would suggest to Mr Vincent FANG that it is better not to prolong the pain, so it is better to support the "1+9" option, so that the Government can implement the proposal in three years and create new dimensions for a healthy food culture in Hong Kong. Thank you.

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I am grateful to Members for their valuable opinions about a labelling scheme on nutrition information. Members' remarks are evidence of their concern and support for public health. I understand that in 2003, there was also a debate on a labelling scheme on nutrition information, after which the last Legislative Council passed a motion, demanding the introduction of a mandatory labelling scheme on nutrition information, and urging us to draw up a work plan within three years. I now wish to offer a comprehensive reply to the views of Members and various social sectors on such a scheme.

For the protection of public health, the Government proposes to introduce a labelling scheme on nutrition information for pre-packaged food. The aims are to encourage food manufacturers to provide food beneficial to public health and in compliance with nutrition standards, and to impose regulation on misleading and untruthful nutrition labels and claims.

In Hong Kong, chronic diseases such as coronary heart disease, diabetes and certain types of cancer are very common. The causes of these diseases are many, but an imbalanced diet is invariably the principal cause. According to the statistics of the Department of Health for 2002, heart diseases and stroke were respectively the second and third major causes of death in Hong Kong. With a view to improving the situation, the World Health Organization has called upon countries in the world to draw up their own nutrition labelling schemes to improve public health.



An increasing number of countries all over the world have put in place a labelling scheme on nutrition information. As far as we are aware, in many countries where nutrition labelling is already in force, such as the United States and the European Union, the addition of more core nutrients is either under consideration or due to be introduced. In some countries with mandatory nutrition labelling for food with nutrition claims, even including several South American countries, a comprehensive mandatory labelling scheme will be implemented. All this shows that the introduction of nutrition labelling is already a world trend. As a metropolis, Hong Kong must follow this mega trend instead of allowing itself to lag behind others anymore.

According to the latest standards for nutrition labelling issued by the Codex Alimentarius Commission, if nutrition-related claims are made, the information presented on the label must at least include energy and the three core nutrients (carbohydrate, protein and fat). It is also required that if a nutrition-related claim makes any reference to other nutrients, their exact amounts must be clearly listed. The Codex Alimentarius Commission is of the view that each country or place should decide which nutrients to include in their respective labelling schemes, taking into account their own public health situations.

In 2001 and 2004, the Food and Environmental Hygiene Department conducted surveys on nutrition labelling in Hong Kong. It was discovered that there had been a marked increase in the proportion of pre-packaged food with nutrition information labels or nutrition claims (The rate of the former rose from 42% to 51%, and that of the latter also increased to 28% from 19%). It was further noticed that there was a wide variety of nutrition information labels in the market, with different contents, formats and styles, thus causing confusion to consumers and making it rather difficult for them to compare the nutrients of different products. The nutrition information presented in some labels could not satisfy the needs of consumers, and some of the information was even misleading.

Recognizing the important relationship between balanced diet and health, we therefore proposed to implement a labelling scheme on nutrition information in Hong Kong. A public consultation exercise was then conducted between November 2003 and January 2004. The labelling scheme proposed by us would be introduced in two phases as follows:

In Phase I, only pre-packaged food with nutrient-related claims will be brought under regulation, but nutrition labelling for other pre-packaged food can also be provided on a voluntary basis. In any case, once nutrition label is provided, it must meet the relevant requirements. Energy plus nine core nutrients (protein, carbohydrate, total fat, saturated fat, cholesterol, sugar, dietary fibre, sodium and calcium) must be labelled. Phase I will commence two years after the passage of the relevant legislation.

In Phase II, unless exemption has been granted, all pre-packaged food, except exempted items, must label energy plus nine core nutrients. Phase II will commence three years after the implementation of Phase I.

We received a total of 180 submissions during the public consultation period, and a series of meetings and open forums were conducted to gauge the views of stakeholders, trade representatives and members of the public. District Councils were briefed on the views collected during the consultation. The cost of a labelling scheme on nutrition information is clearly stated in the consultation document: The costs of food will inevitably increase and there may also be fewer choices. In the public forums, we clearly informed those present that the prices of foods might rise and there might be fewer choices. The feedbacks we received showed that despite their realization that they might have to pay a certain price for a labelling scheme, people were nonetheless prepared to accept, and were generally supportive of, the introduction of a labelling scheme on nutrition information in Hong Kong. Some even expressed the view that the Government should introduce such a scheme as quickly as possible. Besides, the findings of a survey we conducted in January 2004 also indicated that roughly 95% of the respondents supported the introduction of a labelling scheme on nutrition information. On the other hand, however, worries have been expressed by the trade in regard to the introduction of such a scheme.

With a view to studying the overall costs and benefits of introducing nutrition labelling to society, we commissioned a consultant to conduct a Regulatory Impact Assessment (RIA), in which various options of "energy plus core nutrients" were examined.

Put simply, the RIA was a "cost-benefit analysis" on the impacts of nutrition labelling. It took account of the scientifically proven relationship between nutrition and various diseases (such as the relationship of fat with obesity and cardiovascular diseases and that of sodium with hypertension, renal

diseases, stomach diseases and stomach cancer). It also took into account the compliance costs of the trade. Such costs include: (1) the costs to be borne by the trade in terms of nutrient testing and the introduction of additional labelling; (2) the costs to be borne by the Government in terms of testing, prosecution and complaint processing and education and publicity; and (3) the economic costs resulting from the withdrawal of certain products from Hong Kong following the introduction of nutrition labelling. The benefits of nutrition labelling, on the other hand, include: (1) reduced expenditure on public hospital in-patient services; (2) reduced expenditure on consulting private medical practitioners and medication; (3) reduced productivity loss resulting from the hospitalization or death of people aged 65 or above; and (4) reduced incidence of early deaths caused by nutrient-related diseases. The premises adopted by the RIA were sensible and its methodology was also in line with international standards. The overall approach to the assessment of benefits was more on the side of being conservative, without underestimating the impacts on the trade and overestimating the benefits for society. The statistics on benefits were gleaned from academic studies, while the information about costs was provided by the trade. The benefits in the assessment report were computed by local academics, and other academics were also invited to offer comments, so as to ensure the scientific basis of the report.

The findings of the consultant's cost-benefit analysis indicate that with the exception of "energy plus three core nutrients", all options, that is, the options of "energy plus five to nine core nutrients", will bring forth net economic benefits for Hong Kong. The regulation of more nutrients will mean the coverage of more diseases and in turn more benefits.

Having considered the health conditions of Hong Kong people, the views collected during the consultation exercise and the assessment findings, we have decided to implement a labelling scheme on nutrient information in two phases:

In Phase I, regulation will be imposed on pre-packaged food with nutrient-related claims, such as "high calcium" in the case of milk, "low sugar" in the case of fruit flavour drinks and "high fibre" in the case of instant noodles. All such pre-packaged food must label energy plus five core nutrients (protein, carbohydrates, total fat, saturated fat and sodium) and any nutrient for which a claim is made (including any specified additional requirement). There will be a two-year grace period before the implementation of Phase I. Phase I of the scheme will cover the four nutrients recommended by the Codex Alimentarius

Commission (namely, energy, protein, carbohydrate and fat) and also saturated fat and sodium. The last two nutrients are closely related to cardiovascular diseases and they are the most widely required nutrients in the labelling schemes of foreign countries next to the four basic nutrients recommended by the Codex Alimentarius Commission. As I mentioned a moment ago, cardiovascular diseases and stroke are respectively the second and third major causes of death in Hong Kong. Therefore, the labelling of saturated fat and sodium in Phase I does carry a certain degree of significance.

In Phase II, all pre-packaged food must label energy plus nine core nutrients and any other nutrients for which a claim is made. Phase II will commence two years after the implementation of Phase I.

The rationale behind our proposal to introduce a labelling scheme on nutrition information in two phases is to reduce its impacts on the trade. Some Members have also mentioned such a consideration. Our proposal to label energy plus five instead of nine core nutrients is meant precisely to reduce the scope of regulation, limiting it to pre-packaged food with nutrient-related claims. The economic costs to be borne by the trade and the impacts on product quantities under the revised Phase I proposal will be reduced by more than half when compared with the original proposal. The introduction of nutrition labelling in two phases can prevent the trade, especially, SMEs, from sustaining too heavy an impact over a short period of time. According to the RIA, there are currently 22 000 pre-packaged food products in the market. Under the revised Phase I proposal, 28% of the pre-packaged food products with nutrient-related claims will be affected. Most of these are breakfast cereals, non-alcoholic drinks and milk products, and the most common nutrient-related claims are related to total fat, sugar and calcium. If Phase II is implemented direct, roughly 99% of the pre-packaged food products in the market, mostly made by SMEs, will be affected. Since there will be a grace period of two years both before Phase I and Phase II, the trade will be able to sell their existing stock in an orderly manner.

Besides, under the labelling scheme, there will be an exemption list, whereby exemption is granted to certain types of pre-packaged food products which do have difficulties in compliance, such as fresh fruit and fresh vegetables, raw meat, poultry, fish and seafood, food of small package, pre-packaged food sold in a catering establishment, food sold at retail outlets that are wrapped only at the time of sale or upon customers' requests and pre-packaged food with

insignificant amounts of energy and nutrients (such as tea leaves and coffee beans). We will continue to hold discussions with the trade to finalize the exemption list. The Food and Environmental Hygiene Department will at the same time formulate implementation guidelines and organize workshops to assist the trade in complying with the relevant requirements. By adopting the abovementioned measures, we hope to give SMEs the time, information and technical support required for adjustment to the change.

In addition, with a view to expediting the introduction of nutrition labelling as requested, we now propose that Phase II be implemented two years after the implementation of Phase I, instead of three years as originally proposed. In spite of this, there will still be a total grace period of four years for the trade from the enactment of legislation to the implementation of Phase II. The trade will therefore have sufficient time to prepare for the Phase II changes.

Madam President, we believe that the new proposal can already strike a balance between the long-term objective of health protection and the short-term aim of assisting the trade in adjusting to the resultant changes. The full implementation of the revised labelling scheme on nutrition information is expected to achieve net benefits amounting to \$8.57 billion over a period of 20 years. The cost borne by the trade (that is, the net cost) will be \$169 million. If the trade shifts all the increased cost to consumers, there should just be an increase of less than \$1 for every \$100 spent on pre-packaged food. In the worst-case scenario, 191 SMEs (that is, less than 1 %) engaged in food import/export and retailing may be affected. And, in the worst-case scenario again, the importation of 5% to 10% of the product types currently sold in Hong Kong may cease.

We do appreciate the aspiration in society to the direct and full-scale implementation of a labelling scheme on nutrition information, and we do not object to such a proposal in principle. If there is a strong demand in society for the direct and full-scale implementation of nutrition labelling, we do not object to requiring the labelling of energy plus nine core nutrients all at one single time. But we must ensure that the timetable for implementation is both reasonable and realistic.

I now wish to respond to the remarks made by those several Members who moved the original motion and the amendments. I have already responded to

some of these views, but I would like to say a few words on those points that I have not touched upon.

Dr Joseph LEE hopes that we can work out a long-term plan and timetable for bringing potassium, monounsaturated fatty acid, trans fatty acid and soluble fibre into the regulatory ambit.

Monounsaturated fatty acid and trans fatty acid are not the proposed core nutrients, but under the guidelines issued by the Codex Alimentarius Commission, where a claim is made regarding the amount and/or the type of fatty acids or the amount of cholesterol, it is mandatory for the pre-packaged food manufacturer to label the amounts concerned.

We also know that most of the existing nutrient databases do not contain any information on trans fatty acid. In view of this, we have not proposed to make the labelling of this nutrient mandatory at this stage, but we will continue to follow the international development in this regard.

In regard to soluble fibre and potassium, as far as we know, their amounts are not specified in any overseas nutrition labelling regulations and guidelines. As there are many types of nutrients that closely affect human health, we must take account of many different factors when deciding the number of mandatory nutrients to be included in nutrition labelling: (1) the general health of the local population; (2) the impacts on the food industry because the greater the number of mandatory nutrients is, the greater will be the impacts; and (3) the local people's recognition and knowledge of nutrient information. At this stage, we do not think that it is appropriate to include these two nutrients.

Dr Joseph LEE proposes the Government to establish an ad hoc group to help promote and educate the public on the importance of a nutrition information labelling scheme and to co-ordinate professional bodies and voluntary organizations in the provision of relevant consultation and education services to the public. We will make efforts in this respect.

The Government has already launched a public education programme on the implementation of nutrition labelling, and the authorities have also provided teaching materials through various channels such as the website of the Food and Environmental Hygiene Department and the Department of Health, the Food Safety Newsletter, booklets, the educational television and the mass media. We

also plan to launch a more comprehensive public education programme following the finalization of a nutrition labelling scheme and organize workshops for the trade to assist the implementation of the scheme.

The Government has established a working group comprising representatives from various professional bodies and government departments to co-ordinate the education and promotion work on nutrition labelling and nutrients and assist professional bodies and voluntary organizations in organizing public education activities. The working group is composed of representatives from the Food and Environmental Hygiene Department, the Department of Health, the Education and Manpower Bureau, the Hospital Authority, the Hong Kong Nutrition Association Limited, the Hong Kong Dietitians Association Limited, the Hong Kong Medical Association and the Association of Hong Kong Nursing Staff.

As for Dr Joseph LEE's proposal on setting up a nutrition information analysis database, I wish to point out that nutrition analyses of food in Hong Kong are already conducted by the Food and Environmental Hygiene Department and the information so obtained will be uploaded onto the webpage of nutrition enquiries for the reference of the trade and the general public. The Department is planning to enhance its efforts in this respect.

Mr WONG Yung-kan proposes the Government to expeditiously conduct a feasibility study on the regulation of labelling of food for infants and pre-packaged food for people with special dietary needs.

Owing to the different nutrition needs of special population groups such as infants, toddlers and individuals with special dietary requirements, the Codex Alimentarius Commission has formulated separate labelling guidelines for them. So far, we have not accorded any priority to studies on this topic. The main reason is that the foods for these people are recommended by professional health care personnel, and many of these foods already carry labels. However, we will still explore the possibility of full-scale regulation of these food products.

Mr Vincent FANG is of the view that the Government should implement Phase I only and defer Phase II until an indefinite time. We do not think that this is an effective approach and hope that a labelling scheme can be introduced in two phases as proposed by the Government, with a grace period of two years for each phase.

Let me also say a few words in response to the views on genetically modified food. At present, the international community has yet to reach a consensus on the impacts of genetically modified food on nutrition. We will still need further scientific evidence to assist us in deciding the way forward.

I also wish to take this opportunity to respond to the views and suggestions of the trade. The trade proposes that Hong Kong should enact legislation on adopting or accepting the nutrition labelling standards of the countries of production, so that imported pre-packaged food does not have to follow the nutrition labelling standards as required by the laws of Hong Kong. We do not think that this is feasible. At present, in countries with nutrition labelling, the relevant laws are all drawn up having regard to the health conditions of the local people. If Hong Kong enacts any legislation on adopting or accepting the nutrition labelling standards of many different places, there will certainly be great difficulties in implementation. Law enforcement agencies in Hong Kong will thus have to interpret and enforce the laws of other jurisdictions, and the problem of proving an offence in the process of prosecution will become doubly difficult. That is why we do not think that this approach is feasible.

On the part of consumers, they will also find it difficult to comprehend the nutrition information given. In January 2004, the Food and Environment Hygiene Department conducted an opinion poll and the findings indicated that about 95% of the respondents supported the adoption of a standardized nutrition labelling format in Hong Kong. There is indeed a practical need and it is also in line with people's expectation to require all pre-packaged food, locally manufactured or imported, to comply with the nutrition labelling laws of Hong Kong. At this juncture, I wish to add one point. Currently, of all the pre-packaged food sold in the market of Hong Kong, 36% are locally manufactured and 31% come from the Mainland. Pre-packaged food from other countries constitutes a comparatively small proportion: 5% from the United States, 5% from Australia, 5% from the European Union and 5% from Thailand. For this reason, we must closely follow our sources of food before determining the timetable for introducing nutrition labelling.

Our next task will be the formulation of the required regulations. Our target is to submit the amendment regulations to the Legislative Council in 2006. In the meantime, we will continue to hold discussions with the trade and professional sectors on issues relating to the implementation of a labelling scheme, including the formulation of nutrient testing standards and the drawing



up of local nutrient reference values. We will also closely follow the progress of the Mainland in this regard and enhance the co-operation between the two places with respect to nutrition labelling. In addition, we will step up public education, so as to bring home to the public the importance of nutrients to their health. We welcome Members to continue to give their views on our latest proposal. As I mentioned at the beginning of my speech, in 2003, Members already passed a motion on the prompt implementation of a labelling scheme on nutrition information. We have since made many efforts in this direction. I sincerely hope that Members can continue to support our efforts of introducing a labelling scheme on nutrition information in order not to let the public and also the Government down. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now call upon Mr Vincent FANG to move his amendment to the motion.

**MR VINCENT FANG** (in Cantonese): Madam President, I move that Dr Joseph LEE's motion be amended, as set out on the Agenda.

**Mr Vincent FANG moved the following amendment: (Translation)**

"To delete "effectively assist the public and people with chronic diseases in properly obtaining food nutrition information, and also fails to fully consider and assess" after "phases fails to" and substitute with "take into full account"; to add "consumers and" after "the disruption to"; to delete "expedite the legislation on a mandatory labelling scheme, and allow a grace period of three years after enactment of the legislation for full implementation of the '1+ 9' option, which covers energy and nine core nutrients, in one go" after "(a)" and substitute with "in introducing the nutrition labelling scheme, set an appropriate grace period for implementation of the '1+ 5' option, i.e. energy plus five core nutrients, namely protein, carbohydrate, total fat, saturated fat and sodium"; to delete "work out" after "(b)" and substitute with "conduct a comprehensive review after completing the implementation of the first phase of the above nutrition labelling scheme, and study the formulation of"; to delete "which have a bearing on the level of healthiness, namely potassium, monounsaturated fatty acid, trans fatty acid and soluble fibre" after "another four nutrients" and substitute with ", namely cholesterol,

sugars, dietary fibre and calcium"; to delete "establish an ad hoc group" after "(d)" and substitute with "consult the public and the industry extensively"; to delete "to help promote and educate the public" after "implementation timetable" and substitute with ", and enhance publicity and promotional efforts as well as public education"; and to delete "as well as to co-ordinate professional bodies and voluntary organizations in the provision of relevant consultation and education services to the public" after "comprehend the labels," and substitute with "so as to enable consumers to make informed choices"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Vincent FANG to Dr Joseph LEE'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 Vincent FANG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Vincent FANG has claimed a division. The division bell will ring for three minutes.

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

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

**Functional Constituencies:**

Mr Howard YOUNG, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM and Mr Mr Andrew LEUNG voted for the amendment.

Dr Raymond HO, Ms Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Ms LI Fung-ying, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr Patrick LAU and Miss TAM Heung-man voted against the amendment.

Mr WONG Kwok-hing and Mr CHIM Pui-chung abstained.

**Geographical Constituencies:**

Mrs Selina CHOW voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr MA Lik, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG 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, 20 were present, six were in favour of the amendment, 12 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, one was in favour of the amendment and 22 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 "Labelling Scheme on Nutrition Information for pre-packaged food" 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 "Labelling Scheme on Nutrition Information for pre-packaged food" 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 WONG Yung-kan, you may move your amendment.

**MR WONG YUNG-KAN** (in Cantonese): Madam President, I move that Dr Joseph LEE's motion be amended, as printed on the Agenda.

**Mr WONG Yung-kan moved the following amendment: (Translation)**

"To add "(b) expeditiously conduct a feasibility study on the regulation of labelling of food for infants and pre-packaged food for people with special dietary needs;" after "in one go;"; to delete the original "(b)" and substitute with "(c)"; to delete the original "(c)" and substitute with "(d)"; to delete the original "(d)" and substitute with "(e)"; and to delete the original "(e)" and substitute with "(f)"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Yung-kan to Dr Joseph LEE'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 Tommy CHEUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Tommy CHEUNG has claimed a division. The division bell will ring for one minute, after which the division will start.

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

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

Functional Constituencies:

Dr Raymond HO, Ms Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Timothy FOK, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr Patrick LAU and Miss TAM Heung-man voted for the amendment.

Mr Howard YOUNG, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the amendment.

Mr CHIM Pui-chung abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr MA Lik, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mrs Selina CHOW 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, 21 were present, 14 were in favour of the amendment, six against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 22 were in favour of the amendment and one against it. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was carried.

**PRESIDENT** (in Cantonese): By convention, at this juncture, I should ask Dr Joseph LEE to reply. However, as Dr Joseph LEE has already used up his 15-minute speaking time, we shall now proceed to the vote direct.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Joseph LEE, as amended by Mr WONG Yung-kan, 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 as amended passed.

**PRESIDENT** (in Cantonese): Second motion: Actively improving the business environment for small and medium enterprises.

## **ACTIVELY IMPROVING THE BUSINESS ENVIRONMENT FOR SMALL AND MEDIUM ENTERPRISES**

**MR VINCENT FANG** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, recently, irrespective of the tone used by the Government, economic figures released or reports in the newspapers, they are all predominantly positive. These include, for example, news that the fiscal deficits will be eradicated sooner than expected, property prices are on the rise, an increase in stamp duty revenue and buoyancy in the job market, and so on. In the views of many people, Hong Kong has steered itself clear of the doldrums which have infested the territory for seven long years. As the economy picks up, it is expected that the pace of recovery this time could be sustained until 2008 or 2009.

Ever since the lifting of restrictions on individual travellers to Hong Kong by the Mainland, it can be seen that the market here has become active. Many international brands have leased premises in Grade A shopping malls in prime locations. For some of them, the rentals they pay even exceed those before the reunification in 1997. Thus by all appearances prospects are rosy for Hong Kong.

We all want the Hong Kong economy to fare well, but all along government policies have been after favourable figures on the balance sheets. Not many people know that behind the façade of a booming economy, lots of small and medium enterprises (SMEs) are having a bad time running their business. Their profits have dwindled, they feel the pressure to cut manpower and they are running their business like a dying patient on drip. If ever they fail to get round with their problem, the only option left for them is closure. Has our Government shown any concern and has it given any support as appropriate?

The slightest improvement in the economy is always an excuse for rental hikes in commercial properties. A recent talk of the town is a certain bakery in Central by the name of Tai Cheung which has been forced to close down when the Soho area in Central begins to boom, and as property prices grow, the rental for the premises also soars. This is a sad curtains down for a bakery which has operated and paid taxes for half a century, one which has provided a living for



three generations of people. And all these have happened before the shop is able to share the fruits of an economic recovery.

On the other hand, the consumer market for the general public is still very weak. In many shopping malls in the non-prime locations, though there are not many visitors, the rentals still rise all the same and many shops are forced out of the market because of the exorbitant rentals which they cannot afford. The owners would rather leave their premises vacant than to charge a lower rental.

We know that property prices and rentals are commercial decisions and in accordance with the positive non-intervention policy as practised by the Hong Kong Government all along, the officials will surely say that they would not intervene. I am not asking the Government to delve its hands into everything and meddle with rentals in the private sector. But as the Government is itself a big property owner and it has a lot of lands and retail properties and these government assets play a vital role in the property market in Hong Kong, should there not be a distinction between government properties and private properties? Why is it that the Government has been so conservative in granting land? Is it going to maintain a high land premium policy?

The Link Management has just taken over the management of the shopping malls and even before works to transform these shopping malls begin, the first thing it does is to cancel the parking concessions and impose a 30% to 40% rentals hike on commercial tenants whose lease has expired. It can therefore be seen that the Government is doing exactly the same thing like the owners in the private sector. Can some survival space be given to these small businessmen doing some retail trade in the domestic consumer market?

Markets managed by the Housing Department and the Food and Environmental Hygiene Department presently have a vacancy rate of about 40% to 70% and even so these markets are trying to get financial subsidies from the Government. Can something not be done to these shopping malls and markets which have been described by some top officials as handicapped by inborn deficiencies so that they can become more competitive?

For half a century in the past, it was the relaxed, liberal and non-intervention policy of the Government that gave rise to the enterprising spirit of the Hong Kong people and hence accounted for the success of the territory.

What the Government should do now is to offer a business environment equipped with excellent infrastructure and a low tax regime. This will enable all people to do business in this level playing field. Such software and hardware facilities would encourage people to start businesses and there would be more stories of people who make a fortune out of their bare hands.

Gone now are the venture and flexibility that used to characterize the Hong Kong enterprising spirit. In May, the findings of a study by The Global Entrepreneurship Monitor, an international organization in entrepreneurship, showed that of the 35 economies over the world studied, Hong Kong ranks 33rd or the third last among all the places in the study, with only 3% of the adult population has ever started a business. This result is related to the constant imposition of hurdles and restrictions in the business environment in Hong Kong by the Government.

Madam President, I am not asking the Government to intervene. It does not matter if the Government does not lend its support to business, provided that it will continue to give us an environment in which we can fight for our survival. But what the Government has been doing is not just withholding its support to business but also launching heaps after heaps of new policies to restrict the living space of SMEs.

In the foregoing debate on the labelling scheme on nutritional information for pre-packaged food, I mentioned that, according to estimates made by consultants hired by the Government, many SMEs would be forced out of business if the scheme was implemented. During the last Legislative Session, the Government required that a label on allergens be put and it is also planned that a label on genetic information be also put. Just imagine how the industry can adapt to so many new gimmicks in such a short time?

Many people think that not enough has been done on enhancing public health awareness and so work should speed up. But why is the Government always taking a sweeping approach in everything and why does it want to make overnight changes all the time? Must health and business have to become two irreconcilable extremes? Can a balance be struck between them?

On the issue of a total smoking ban, for example, countries in America and Europe give an exemption to the tobacco shops and the cigar lounges. But here in Hong Kong, things are done across the board with no exemptions. All these

shops have gained business licences after going through all the lawful procedures but now they have to shut down at an order from the Government. Will this not affect our image as the freest economy in the world?

In Hong Kong, there are 2 000 licensed newspaper vendors and currently one third of their income comes from the meagre amount of advertising they do for the tobacconists and from selling cigarettes. If they are not allowed to display any cigarette advertisements, just imagine how many newspaper stalls will go out of business? Things are even worse for the catering industry. I will leave this point to a detailed discussion by Mr Tommy CHEUNG, a fellow member of the Liberal Party.

It is not that I oppose a total smoking ban. But I oppose the sweeping approach taken by the Government. Can the Government not give some living space to the SMEs?

In a bid to segregate humans from poultry, the Government has withdrawn the licences of 814 live poultry retailers as a first step. The next step would be to outlaw some 100 poultry wholesalers and then to cut the number of allowed poultry population of the some 140 poultry farms by half. If the number of people employed in a poultry stall in the markets is taken to be five, then at least 5 000 people would be rendered jobless. The number has not yet factored in workers engaged in transporting poultry in trucks and those engaged in removing the poultry.

In a meeting with officials from the Agriculture, Fisheries and Conservation Department, some poultry farmers asked how they could make a living if they were not given a way out. It was outrageous to learn that they were told by the officials to apply for Comprehensive Social Security Assistance. Though these poultry farmers and vendors are small enterprises, they can still provide a certain amount of employment opportunities, why would the Government rather give them *ex gratia* payments at a time when it is financially stringent than doing something to save these SMEs which may make our society more prosperous and turn these workers to live on the dole?

Yesterday I went with some fishermen for a meeting with Dr York CHOW, Secretary for Health, Welfare and Food. Those fishermen who engaged in offshore fishing said that diesel these days would cost \$650 a barrel and each fishing expedition would cost them over \$10,000 in fuel expenses alone. But the low-interest loan advanced by the Government to fishermen affected by the

fishing moratorium in the South China Sea can only be used for repairing fishing vessels but not for repaying fuel expenses. As a result, many fishermen have run into debts of some hundred thousand dollars or even up to a million dollars in fuel costs and many of them have to sell their boats to pay off their debts.

On top of this, the Government now wants to introduce a tax on plastic bags and \$1 will be charged for each plastic bag. The tax cannot be transferred onto the consumers and it will be borne by the industries themselves. The wholesale and retail industries have already been affected by cautious and weak consumption in recent years, and this initiative would add to their woes.

As estimated by the plastic bag manufacturing sector, the introduction of this tax on plastic bags could wipe out the entire plastic bag manufacturing industry in Hong Kong and 2 000 workers employed in the industry will lose their jobs.

The boom or bust of the domestic sales and consumption markets may in fact trigger off a big vicious cycle. When companies are run poorly, that will lead to their closure and hence driving up the jobless rate. As people's income dwindles, so will their consumption power. When the retail and service industries are doing a poor trade, the economy as a whole will suffer. Faced with this predicament, the Government is not entirely powerless to do anything. The Government has not been sitting back and doing nothing on everything, for support is given, but only to export industries which will generate foreign exchange earnings. That is why the Hong Kong Export Credit Insurance Corporation, the Trade Development Council and the Export Marketing Fund are set up to boost export business.

Even when taxis are not doing good business, the Transport Department would take some contingency measures such as lifting the restrictions on certain prohibited zones and make it easier for passengers to board and alight from taxis. In recent years, some businessmen have converted vacant old factory buildings into offices, shops and outlets for designer labels. The idea is ingenious, killing three birds with one stone. This is also a good use of resources as the old industrial areas will undergo a transformation and take on a new life. The economy of these areas is revitalized and commercial premises are leased to people to start up businesses, charging them low rentals. However, it is disappointing to see that the procedures involved in the applications made to the

Government to change the uses of these factory buildings are both lengthy and cumbersome.

While the Government is always saying that the business environment should be made better and more opportunities for business growth will be given to SMEs, but do these not contradict what it claims to be doing?

I hope that the Government, when it seeks to introduce any new laws and regulations, should also assist the enterprises affected apart from hearing and accepting what the public and the industries have to say. That is why I am moving this motion on actively improving the business environment for SMEs. I implore Honourable colleagues to pay more attention to the neglect of SMEs and the domestic consumption market by various links in the economy. I hope we can put forward a common demand to the Government to maintain a relaxed business environment so that the SMEs can be given ample room for survival and those who want to start up businesses can be given an opportunity. These will serve to imbue our economy with vigour and vitality.

I so submit. Thank you, Madam President.

**Mr Vincent FANG moved the following motion: (Translation)**

"That, although the Government has all along followed the policy of positive non-intervention in economic development, the laws, policies and measures implemented by the Government in recent years have however created hurdles and restrictions in the business environment which adversely affect the small and medium enterprises particularly and pose serious threats to the reviving employment market; in this connection, this Council urges the Government to immediately review all the laws and regulations as well as administrative measures that are detrimental to the business environment and, in the light of the outcomes of the relevant reviews, adopt policies and measures that are conducive to socio-economic development, with a view to achieving the objective of benefiting the people, facilitating businesses, and creating wealth together."

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

**PRESIDENT** (in Cantonese): Mr Fred LI will move an amendment to the motion. Mr CHAN Kam-lam will move an amendment to Mr Fred LI's amendment. The two amendments have been printed on the Agenda. The motion and the amendments will now be debated together in a joint debate.

**PRESIDENT** (in Cantonese): I will first call upon Mr Fred LI to speak and move his amendment to the motion. Then, I will call upon Mr CHAN Kam-lam to speak and move his amendment to Mr Fred LI's amendment. Members may then debate the motion and the amendments. After Members have spoken, I will first put Mr CHAN Kam-lam's amendment to Mr Fred LI's amendment to vote. Then, depending on the result of the vote, I will put Mr Fred LI's amendment, either in its original form, or in the amended form, to vote.

I now call upon Mr Fred LI to speak and move his amendment.

**MR FRED LI** (in Cantonese): Madam President, I move that Mr Vincent FANG's motion be amended, as printed on the Agenda.

Madam President, last week, when Mr Donald TSANG responded to enquiries on drawing up a comprehensive fair competition law for Hong Kong, he said that the lack or otherwise of a fair competition law did not have any bearing on Hong Kong's competitiveness. I wonder if he deliberately replaced one concept with another or he is not at all versed in fair competition laws. But if he is now preparing to become the Chief Executive and will become the head of all bureau secretaries, yet he does not have a good understanding of fair competition laws, then there is little wonder that after the reunification, problems concerning the Cyberport and the single-tender approach for West Kowloon have cropped up when he was serving as the Chief Secretary for Administration.

The Government often says that it will only enact provisions on anti-competition behaviour for industries in need of them but will not make any fair competition law applicable to all industries. However, in the incident involving the Banyan Garden last year, the Office of the Telecommunications Authority said after investigation that since the management company is not a telecommunications licensee, even though the inclusion of fixed-line telephone service in the management fee may place other competitors in a very

disadvantageous position, the provisions on anti-competition behaviour in the Telecommunications Ordinance were still not applicable to this case.

What does this case tell us? First, loopholes are prone to exist in fair competition provisions drawn up for individual industries and these provisions cannot serve to promote fair competition in various industries in Hong Kong. Second, apart from consumers, small and medium enterprises (SMEs) and even medium and large enterprises are also victims of such unfair competition. Even though some telecommunications companies may be listed companies and are by no means small or medium, if these telecommunications companies do not have any major developer as their subsidiary or holding company, they may find themselves in an unfavourable position in securing patronage and even in signal reception.

It is not just in the telecommunications industry that such bundled services are found. Apart from fixed-line telephone service charges, the management fee charged by the Banyan Garden also includes a monthly fee charged by the clinic in the housing estate. If the Government does not take action, there is no telling if housing estates will offer one-stop services which include, to put it not so nicely, taking care of the living and undertaking for the dead.

Supermarket is another example that I want to talk about. A report prepared by the Consumer Council pointed out that in the two years from 2002 and 2003, the two major supermarket chains bucked the trend in the market by increasing their prices. Even in times of deflation, the prices of basic foodstuffs such as oil in supermarkets bucked the trend by increasing 2.8%. In 1997, supermarkets already captured 70% of the market share and the situation is even worse nowadays. The room for survival for small shops is diminishing increasingly. A newspaper even reported that supermarkets are charging suppliers various types of fees, such as shelving fee, display fee and advertising fee, and prices are increased every year. Even if the suppliers do not increase the prices, supermarkets still increase them. When supermarkets reduce prices, they request their suppliers to bear part of the forgone profit. They even request some small suppliers to provide a longer credit period and force some suppliers to stop supplying goods to their competitors. Such tactics not only make it impossible for some small retail shops to compete with the two large supermarket chains, but also make some small-scale or medium-scale suppliers lose their bargaining power. In addition, supermarkets are gradually

introducing cooked food and fresh food into their range of goods and are competing directly with markets, such that even stalls in markets are affected.

Take Stanley Market as an example. The Food and Environmental Hygiene Department (FEHD) originally planned to establish a new market in Stanley according to an outstanding plan of the former Urban Council. However, the Government said that because a Superstore had been established near Ma Hang, the construction of the new market had been cancelled. This decision made it necessary for residents to patronize the supermarket, hence curtailing the vitality of markets or vendors.

Besides supermarkets, there is also a lack of competition in the energy supply market. The Towngas has monopolized the market and other fuel gas suppliers are placed in a disadvantaged position in competition. In fact, many SMEs are engaged in the business of supplying liquefied petroleum gas in cylinders to housing estates, but with the Towngas capturing a larger share of the market, the room for survival of these SMEs is also shrinking. Of course, another aspect is electricity supply. Since a review will be conducted of the Schemes of Control Agreement in 2008, we hope that competition can be introduced gradually.

Madam President, the monopolization in these industries has affected the survival of the SMEs in them. Precisely for this reason, the electricity tariff on Hong Kong Island is high and the fuel cost of shops, companies and the catering industry on Hong Kong Island is also quite high. For the transport industry, fuel cost also accounts for a large proportion of its operating costs and it is a heavy burden for the industry.

The Democratic Party agrees that it is necessary to review the exceedingly complicated legislation and policies, remove barriers and lift restrictions because these policies will hinder the development of SMEs.

There is also a subcommittee under the Panel on Food Safety and Environmental Hygiene of the Legislative Council to study matters relating to licensing of food businesses and expediting and streamlining matters as far as possible, so that more people will be able to join this sector. However, without appropriate legislation and any protection for fair competition, SMEs will not get the room for development that they should enjoy. Without a level playing field, no law however simple or voluntary codes of discipline will ever achieve any effect, I am afraid. At present, through COMPAG, the Government issues



voluntary codes of conduct to various major companies and explains issues concerning fair competition. However, self-discipline is just what it is. Will the issues be resolved because of such moves? Of course, we do support the elimination of certain outdated requirements, the streamlining of complicated procedures and making improvements to the business environment for SMEs.

Concerning Mr CHAN Kam-lam's amendment, he has actually deleted the part in my amendment in which I asserted that it is necessary to introduce a comprehensive fair competition law. However, he also acknowledges that unfair competition does occur in some industries and proposes that Hong Kong's free economy be safeguarded, as well as considering — I stress considering — the feasibility of enacting legislation on fair competition. If we settle for the second best and if a study can be carried out on this matter, that is, if Members support his amendment and his amendment is passed, I will still be contented. In view of this, I propose that the Democratic Party and other brothers and sisters support Mr CHAN Kam-lam's amendment. Since I have learned that the Liberal Party also supports his amendment but opposes mine, so I have no other choice. If it proposes that a study be conducted on this and Members agree to it, I can only grudgingly accept such an outcome.

For this reason, I will support Mr CHAN Kam-lam's amendment. I so submit.

**Mr Fred LI moved the following amendment: (Translation)**

"To delete "which adversely affect the" after "restriction in business environment" and substitute with "and, so far, the Government has not introduced a comprehensive fair competition law, resulting in unfair competition in the market, such as the monopolies in energy supplies and operations in the form of bundled services, adversely affecting the development of"; to delete "pose" after "particularly and" and substitute with "posing"; to add "and to consider introducing a comprehensive fair competition law" after "socio-economic development,"; and to add "safeguarding the principle of fair competition on which Hong Kong's previous successes relied, and" after "with a view to"."

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

**PRESIDENT** (in Cantonese): I now call upon Mr CHAN Kam-lam to speak and move his amendment to Mr Fred LI's amendment.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, I move that Mr Fred LI's amendment be amended, as printed on the Agenda.

Madam President, as early as 1999, when the Legislative Council debated on the motions on small and medium enterprises (SMEs) and the business environment, some Members already pointed out that the vetting and approval procedures for business licences were much too complicated and time-consuming. But to date, this problem is still there. The incidents in Langham Place last year show that the time taken for restaurants and cinemas to get their licences is too long and that is why the problem of unlicensed operation is rampant.

As a matter of fact, as early as 2001, the Government already announced that it would remove the hurdles and restrictions for the business sector. However, there has been very little progress in policy enforcement. The DAB wishes to stress that as the tourist industry is an important linchpin in our economy, the Government must pay special attention to enhance measures applicable to the retail sector and the catering industry to facilitate business. We expect the Government to complete the review presently being undertaken during the latter half of this year, especially with reference to the feasibility study on comprehensive licences, such that improvement measures can be launched.

Moreover, often due to public safety and health considerations, the Government will impose additional licensing conditions through various administrative measures. A good example is the point deduction system for pig farms which was put into force some time ago without undergoing any consultation. When it comes to control on various licensing regimes, the Government enjoys supreme powers. There is no bargaining power on the part of the trades concerned. Therefore, there is a total lack of institutional checks and balances. The DAB hopes that the Government will consult and engage in more dialogue with the trades before any change is made to this kind of administrative measures so that the negative impact caused on the trades can be reduced to a minimum.

In addition to this, also in 2001, the Chief Executive pointed out in the policy address that before any new policies were formulated and any new laws drafted, the impact on the business environment would be assessed. However, new policies and laws devised in recent years have often added uncertainties to the business sector, putting many people off from investment. These new policies include a total ban on smoking indoors and regional slaughtering of poultry.

The Smoking (Public Health) (Amendment) Bill 2005 seeks to expand the scope of the smoking ban to include restaurant premises, bars, bathhouses, mahjong parlours and indoor workplaces, and so on. In a meeting on the Bill's proposals, Dr York CHOW, Secretary for Health, Welfare and Food, displayed a very hard-line stance and it seemed that there was little room for manoeuvre. However, if this Bill is passed, it will greatly impact on the business environment of premises like bars and mahjong parlours.

In the interest of protecting public health, the DAB is in complete agreement with the idea to impose a total indoor smoking ban, but owing to some unique features of certain industries, there will surely be considerable difficulties to impose a total smoking ban on certain premises. Therefore, we would suggest that the Government should grant a temporary grace period to four kinds of commercial premises, namely, bars, mahjong parlours, sauna houses and nightclubs.

As for the regional slaughtering of poultry, the DAB has criticized the Government on many occasions in the past that it has totally disregarded the right of the sector to survival when it comes to policy on dealing with the sale of live poultry. It is feared that the poultry retailers and wholesalers as well as the transport operators concerned will all be forced out of business eventually. This will obviously affect the living of businessmen and workers of the poultry farms. In addition, as the costs of operating slaughter houses in Hong Kong are higher than that on the Mainland, the prices of chilled local poultry would be higher than chilled poultry from the Mainland, in the end the poultry trade in Hong Kong would all be eliminated. So regional slaughtering is in fact a policy used to exterminate the poultry trade, rather than a measure to avert the outbreak

of avian flu. The DAB therefore hopes that the Government will reconsider this issue.

Madam President, Mr Fred LI in his amendment to Mr Vincent FANG's original motion points out that as the Government's failure to introduce a comprehensive fair competition law has resulted in unfair competition in the market as seen in the monopolization of energy supplies and bundled services, and so on. The DAB is not in complete agreement with the point raised.

Every industry has its unique scale of investment and market features. For some industries which require massive investment and which carry high risks, few investors would be willing to enter the markets and so it would seem on the surface that these markets lack liberalization or that there is monopolization. But all these are merely appearances and if people think that the introduction of a comprehensive fair competition law would solve all the problems found in the markets, we think that it is simply a failure to understand the features unique to various industries and a blind belief in the powers of a fair competition law. The fact that oil prices in Hong Kong are high is also closely related to the high land premium for filling stations and the fuel duty which is on the high side. On an international level, the exploitation and supply of petroleum are operated by a handful of multinational concerns presents an inborn monopolization of petroleum products and this problem cannot be solved through regulation in a local market. It is like the electricity market in Hong Kong. At present, there are only two power companies in Hong Kong and despite the fact that our electricity market is free, it is outright impossible for a third power company to grab a market share. Therefore, the solution to problems in the electricity market in Hong Kong is not to be sought from the enactment of a fair competition law but from the introduction of more stringent regulatory mechanisms and the expansion of market participation.

In the view of the DAB, the Government should study into competition laws for various industries, taking into account the features of the local market with a view to maintaining our free economy and enhancing our overall competitiveness.

Madam President, I so submit.

**Mr CHAN Kam-lam moved the following amendment to Mr Fred LI's amendment: (Translation)**

"To delete "and, so far, the Government has not introduced a comprehensive fair competition law, resulting in unfair competition in the market" after "restrictions in the business environment" and substitute with ", and unfair competition even exists in some industries"; to delete "introducing a comprehensive" after "and to consider" and substitute with "the feasibility of enacting legislation on"; to delete "law" after "fair competition" and substitute with "on the premise of safeguarding Hong Kong's free economy system and enhancing its market competitiveness,"; and to delete "safeguarding the principle of fair competition on which Hong Kong's previous successes relied, and" after "with a view to"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHAN Kam-lam to Mr Fred LI's amendment, be passed.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, so far, small and medium enterprises (SMEs) have been playing a key role in Hong Kong economy. However, according to our observation, SMEs, just like the employees, are facing more and more difficulties and their problems are similar. This is because SMEs are being bullied and denied development opportunities.

It can be seen that very often it is not that SMEs are unable to develop. They are also working very hard in order to excel themselves in their industry. Unfortunately, however, when the landlords demand a rental hike, they are unable to continue their business anymore. Mr Vincent FANG has earlier mentioned a bakery. In fact there are many other examples. For instance, some bookshops which have set up their business at the second floor of some buildings in Mong Kok are originally doing a good business. But unfortunately, owing to the heavy pedestrian flows at these locations, the landlords consider it possible to demand a rental hike. As a result, these bookshops have to close down. In Hong Kong, there are lots of local community economies which are full of distinctive features, yet they cannot flourish. It is most lamentable indeed. Our Government, on the other hand, had been reiterating that our economy was facing major difficulties. The

development of these local community economies may be one of the ways out for Hong Kong economy. In fact, this was the true fact during the SARS outbreak.

However, when we mention the need of developing local community economies or small enterprise economies, why does the Government refuse to provide support? Has any support been provided? There was none in the past. Just now a Member said that the most important thing was to prevent monopolization and obstacles. But unfortunately, there are numerous instances of monopolization and oppression in our economy as a whole. The example I have just mentioned demonstrates how small enterprises are subject to the pressure of rental hikes. Apart from that, there are also other forms of monopolization.

As we have said, the Individual Visit Scheme could imbue the retail trade with vigour and it did during the initial stage. But some time later, visitors who came to Hong Kong for shopping began to realize that the goods they bought were famous brand name products which could be bought elsewhere. They would then find it meaningless to visit Hong Kong. So, if we want to develop our retail trade or other small enterprises, they must have their own distinctive features. As far as I know, many young people are keen on starting their own businesses. But how much capital do they have? After paying the deposit for renting a shop, they do not have enough money to stock up. As a result, their development is seriously hindered. Regarding these problems, we have basically failed to provide them with any room for development and it has led to such a consequence.

Many problems are not as simple as depicted by Mr CHAN Kam-lam, that they can be resolved by one single piece of anti-trust legislation, as if it is a panacea. Unfortunately, in the absence of anti-trust legislation, we are subject to many constraints and SMEs have found it impossible to develop under the law of the capitalist world.

It can be seen that many retail shops have complained about their shrinking market share due to the monopolization by large supermarkets. This is a fact that we cannot turn a blind eye to. But unfortunately, the Government insists that ours is a free economy and a positive non-intervention policy has been adopted. However, do we really have a free economy and positive non-intervention policy? It seems not. No matter it is the property, real estate or financial market, the Government did effect direct intervention in the past.

When it wanted to intervene, it would do so. When it did not have the desire to do so, it would put up the pretext that it had adopted a positive non-intervention policy. I think such a practice is neither proper nor in the best interest of the overall economic development of Hong Kong.

Just now, Mr CHAN Kam-lam said that a lots of details concerning an anti-trust law must be studied carefully because according to many overseas examples, the protection offered by an anti-trust law is not comprehensive. However, many countries, after formulating an anti-trust law, have achieved very favourable development and as far as other enterprises are concerned, they do not face any obstacles. As Mr Fred LI has just said, if the Government is willing to conduct a study on it, we will also accept it. Unfortunately, the Government has totally ruled out the view that there is monopolization and emphasized free competition and positive non-intervention. In my opinion, this will stifle the development of SMEs and the young people's aspiration to creative development. Also, it will damage the economies supported by SMEs.

I hope, at this stage, the Government will really reconsider how monopolization can be prevented and how greater room can be created for the development of SMEs. In fact, Mr Vincent FANG has also cited lots of examples to illustrate that the development of SMEs has a bearing on many employees. Our unemployment rate will worsen if they cannot find employment. So, I hope the Government can reconsider the issue and will not keep saying in an apathetic or inappropriate manner that monopolization should not be restricted. On the contrary, we should discuss how to restrict monopolization in order to give SMEs more room of development. Madam President, these are my remarks.

**MR WONG KWOK-HING** (in Cantonese): Madam President, I have to tell Members a piece of sad news in my speech on this motion. The Sunbeam Theatre, which has operated for 30 years, and being the only theatre equipped with an orchestra pit for the performance of Cantonese opera, will close down after the last performance of a Cantonese opera on 21 August. It is because the landlord has refused to sign a long-term tenancy agreement. In addition, some harsh conditions have been imposed. The rent of the theatre has increased by one fold from \$200,000 a month to \$400,000 a month. The operator of the theatre has originally accepted the new rental. But the landlord only agreed to grant a one-year tenancy which can be terminated by giving three months'

notice. How can the theatre continue to run its business under such harsh conditions? Eventually it had to announce that it would close down after 21 August. This is indeed a tragic portrayal of the situation of SMEs in Hong Kong. The closing down of the theatre makes the fans of Cantonese opera moan and the general public sigh. It is also an accusation of the distorted business environment of Hong Kong.

Madam President, on the other hand, we can also refer to the findings of some surveys. The Productivity Council conducts a survey on the Business Operating Environment Index for SMEs on a quarterly basis. The report for April 2005 has been published. From the report, we can gain a lot of information concerning SMEs, in particular, the problems they face. Among these problems, the operation cost index has dropped 19.63% compared with the last quarter, indicating that more and more SMEs expect an increase in the operating costs.

Madam President, the closure of the Sunbeam Theatre and the surveys of the Productivity Council reflect the difficulties faced by SMEs. As our economy is booming, most Hong Kong people are eager to share the fruit of prosperity. But SMEs, as one of the pillars of our economy, are denied such opportunity because the operating cost is one of the major factors that affect them.

After the introduction of the Individual Visit Scheme, more and more visitors have come to Hong Kong for spending and shopping and the retail trade has benefited. However, when the retail trade is doing a good business, rentals which account for the largest part of the operating costs of SMEs will also rise. The ups and downs of rents are in fact commercial behaviour and should be decided by the market. However, let us take a look at the reality. The Government, the biggest landlord in Hong Kong, possesses the shopping malls and car parks managed by The Link REIT which will soon be listed. The Government also owns the shopping malls managed by the Housing Department and the markets managed by the Food and Environmental Hygiene Department (FEHD). All these are government properties which are closely related to the operating costs of SMEs. However, after these properties have been handed over to The Link REIT, concession in car parking has been cancelled in addition to a 30% to 40% increase in rental despite the fact that the improvement project for the shopping malls has yet to begin. What is the difference between the practice of The Link REIT and that of the commercial sector? As a result,



SMEs, in particular those small operators who provide services to nearby residents, have to face more difficulties as the rental hike has only added to their plight and denied them the opportunity to share the fruit of economic prosperity. On seeing this, the Government has not given them a helping hand. Worse still, policies unfavourable to them are implemented. How can SMEs expect to have a better business environment?

If the Government is sincere in helping SMEs, in particular those which aim at serving the local market, there are in fact lots of things to be done. For instance, as eateries are required to apply for licences before operation, the Government can consider simplifying the procedures for granting licences to these establishments. It may arrange for officials of various departments such as the Buildings Department, Fire Services Department, FEHD, Hong Kong Police Force, Environmental Protection Department and Home Affairs Department responsible for the issue of licences to work under one roof so that a one-stop service can be offered and application time shortened. Nevertheless, the Government is reluctant to do so. Although such a minor improvement can help the SMEs, the Government is not willing to accede to it. How can it help those who want to start up businesses? So, I have to ask the Government: Why does it refuse to make improvement?

Madam President, the Government should consider improving the shopping malls managed by the Housing Department. The Government has to subsidize the operation of some shopping malls which have a vacancy rate of 40%. As the Government has already provided subsidy, why does it not use the money to improve the business environment of these shopping malls by providing rental concessions? In doing so, those who want to start up a business can find a suitable shop and the vacancy rate can be reduced, thus resulting in a higher patronage. Can the Government's resources be utilized in a more effective way so that the business environment of SMEs can be improved?

Finally, I hope the Government can understand one point. The principle "big market, small government" often reiterated by the Government is in fact old wine in a new bottle, in that sense that it is derived from the so-called positive non-intervention policy. However, given that our social environment has changed, SMEs need support by more positive policies. But the Government has failed to do so. So, I hope the Government can reconsider it and formulate

more policies that can offer support to SMEs so that they can help boost our economy. Thank you, Madam President.

**MR RONNY TONG** (in Cantonese): Madam President, according to the figures in December 2004, there were 284 000 SMEs in Hong Kong, representing 98% of the total number of companies in the territory; the number of employees employed by SMEs was around 1.34 million, representing 40% of the entire workforce. It is evident that the development of SMEs has a direct bearing on the sustainability of the enterprising spirit which has been the cornerstone for Hong Kong's success in the past. More so, it will affect the livelihood and welfare of some 1.3 million employees. Therefore, I greatly welcome Mr Vincent FANG to propose this motion today.

We agree to the proposal made by Mr Vincent FANG, considering that the Government should continue to endeavour in implementing measures in removing hurdles and barriers for enterprises. I believe most of our colleagues will raise no objection to this.

However, is it adequate to rely only on these measures? It is, of course, important to weed out obsolete, excessive, repetitive or undue regulation, but for SMEs, the provision of an environment where they can have fair and healthy competition with competitors of various scales is equally important.

SMEs have to compete with large consortiums whose financial resources and bargaining power are several times stronger than themselves. These competitors, flaunting the banner of "free market" and with the tacit approval or even protection given by the Government in the disguise of the "positive non-intervention" policy, will take advantage of their dominant or monopolization status in the market to force these helpless and powerless SMEs, who have but no choice, to accept unfair and harsh trading terms. Given that, how can those measures aiming to remove the hurdles and barriers alone render genuine assistance to SMEs?

Since there is no legislation in Hong Kong prohibiting operators from abusing their dominant position, conventional stores or grocer's shops are gradually eliminated by chain-supermarkets operated by large consortiums. After these supermarkets have secured a dominant status, they may force wholesalers of small and medium scale to accept some unfair and harsh terms.

For instance, wholesalers may be forced to prepay a certain sum as "carrying fee" or to undertake enormous advertising cost, or else, their products will not be put on sale in those supermarkets. These in no way come as news. As early as 1994, the Consumer Council already released a study report stating the existence of such problems in the supermarket sector. Besides, similar examples of the violation of fair competition rules are not uncommon in other industries.

The crux of the problem lies in the lack of a mechanism that can effectively ensure a level playing field in Hong Kong, allowing SMEs to compete fairly with large consortiums on an equal footing.

The underprivileged in society want no alms or pity. All they want from society is a discrimination-free environment so that they may bring into play their strengths and count on their own efforts. By the same token, what SMEs really need is not all kinds of loans or allowances provided by the Government on various pretexts. All they need is a level playing field.

As a result, it really puzzles me why Members representing the business sector who have all along been urging the Government to assist SMEs actively on the one hand will on the other raise strong opposition to the formulation of a fair competition law and seeing it as a scourge. Mr CHAN Kam-lam said earlier that those supporting the implementation of a comprehensive fair competition law did not seem to know well the characteristics of individual markets. However, there is one thing that I do not understand. No matter what the characteristics of the market are, if the act concerned is not in violation of the principle of fair competition, why should there be anything to be afraid of? Why do they tend to oppose legislation on this? Indeed, without a fair competition law in place, the hardest-hit victims, apart from consumers, are the SMEs.

I believe every Member in the Chamber, be he/she the representative of the business sector or grassroots, recognizes the necessity of ensuring a level playing field in Hong Kong. I think we are not divided in this respect. Many colleagues from the business sector only worry that the provisions of the legislation may be too stringent, thus causing excessive hindrance to daily business operation. I consider worries in this respect reasonable. However, at the same time, we have to understand that business conduct not in violation of the principle of fair competition will not be hindered by the legislation or liable to

punishment. I also find legislation similar to the anti-trust law of the United States too extreme and is thus not suitable for Hong Kong. But I strongly believe that only if the need for the setting up of a comprehensive mechanism for fair competition is recognized by all sectors, through extensive consultation and social discussion, we will certainly be able to strike a right balance on the specific content of the legislation, and thus be able to achieve the objective of benefiting the people, facilitating businesses, and creating wealth together eventually.

Madam President, I so submit.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam President, Donald TSANG said that the allegation of collusion between business and the Government was wrong, but that it was right to create a favourable business environment for the businessmen to run a profitable business. But he did not say what type of businessmen. Are they big businessmen or super businessmen?

The motion today fully reflects that the middle class and the petty bourgeoisie are actually impoverished by the Government. They are not, as many rich people said, lazy, reluctant to work and thus resort to CSSA payments. It is the Government that has caused hardships to the grassroots, including the petty bourgeoisie and the lower stratum of the middle class.

The Government has been controlled by a small number of super businessmen. Just look at the recent Chief Executive Election by 800 people, and we will just realize that all those who support Donald TSANG are either rich or powerful. Those who are not rich enough are excluded. I have the opportunity to give Mr TSANG some shoe cream so that he can do self-examination because people give me a vote — I do not have banknotes but a vote. Otherwise, I will not have any opportunity to express my views.

According to my memory, the first motion debate after I had been elected Member of the Legislative Council was about legislating on minimum wage and maximum working hours. At that time, a Member of the Liberal Party, by the surname of LEUNG, commented that our proposal would lead to a disastrous result to employees. I then advised him to look up the books to see whether expenditure on rentals or expenditure on wages was greater. Soon after I had

said so, the economy began to recover and it could be seen that the rental level at that time (last October) was higher than the wage level by one fold. In some districts, the rental level even exceeded the wage level by two folds. Under some circumstances, some business operators could not rent a shop because the landlords preferred to change their shops into a theme mall rather than receive rentals from individual shop operators. In some other cases, the landlords resumed their properties from small operators so as to rent them out to one single user. Small operators, as a result, are unable to run their business and some operators find it hard to make a profit due to soaring operating costs even though they are gaining business.

In the earnest hope that a saviour would appear, many SMEs have voted for someone whom they consider might save them. Who will save them? Those who will save them, unlike the parrot which put out the fire as mentioned by Ms Margaret NG or Mu Lian in the Buddhist legend who rescued his mother, pay lip-service only. When they really sought help from these people, these people ran away just like YE Gong who claimed to love Chinese dragons but ran away when he saw a real one. As our economy has just recovered, should we not give people an opportunity to gain some breath? But landlords who have rented out their shops refuse on the ground that they have to adhere to the commercial principle. Moreover, since the tenants can survive — I have really heard some unkind remarks by some landlords: "You are really marvellous, for you can survive the SARS, so you must be very competitive. So you should manage to pay a higher rent." Some landlords have the heart to say such words!

Honourable Members, the fall of the Roman Empire was partly due to its militant policy and partly due to the speculative activities on property in the capital city by the Romans who were much too rich. This is gleaned from the *History of the Decline and Fall of the Roman Empire* written by Edward GIBBON. The Roman Empire declined even though it had been so strong and so powerful. Hong Kong people are also engaged in speculative activities on property. By taking a look at Landmark, government officials should be able to realize that speculative activities on property are going on. This is a well-known fact. But the Government has not formulated any specific measures to deal with the problem in order to suppress rent-seeking activities. Let me tell you: this is like a doctor telling a patient that he has a cancer but will gradually recover without receiving radiotherapy treatment or medication. This is totally inconceivable.

Another major problem faced by SMEs is high operating costs. All public utilities and public facilities have led to their high operating costs. Costs of electricity, transportation and oil are all exorbitant. How can they run their business? Has the Government considered all of these problems?

SMEs have to deal with an even more serious problem. What is it? It is monopolistic practices. All room for running a business has been exploited. The most typical example is that Mr LI Ka-shing is also engaged in the newspapers selling business although a newspaper can only contribute a profit of \$0.5 or \$1. Despite that, he still swallows it. Such a practice, as a Chinese saying goes, allows no one to survive. Is it not absurd? There is no justice in the absence of a fair competition law. In other words, although they are also bourgeois, the petty bourgeoisie can only find themselves being beaten up by their opponents at the corner of the ring. This is the consequence of positive non-intervention. In fact, the Government can be described as apathetic as a looker-on who has turned a blind eye to others' plight.

Both the business sector and SMEs hate me and feel resentful whenever my name is mentioned for they hold that "Long Hair" wants to stir up troubles. Here I would like to tell you: The Government does whatever it likes, and whatever it does, it is not for your interests but for the interests of the four major property developers, including LI Ka-shing. I hope the Liberal Party can have the courage to tell the truth. Otherwise, no one knows what you are talking about if you talk in such an implicit way. To put it simply, in order to introduce a fair competition law, the Government has to suppress rental levels and monopolistic practices. This is simple logic. This is the first and foremost thing that the Government should do. Otherwise, all will ..... (*the buzzer sounded*) That is all.

**MR TOMMY CHEUNG** (in Cantonese): Madam President, most of the 12 000 or so food premises in Hong Kong are small and medium enterprises (SMEs). The laws, policies and measures introduced by the Government in recent years have however created business restraints, and the catering industry has borne the brunt of impact. Sometimes, they even have to suffer in silence. The stir created by the incident in which more than a dozen food premises in Langham Place were prosecuted by the Food and Environmental Hygiene Department (FEHD) late last year for operating without a licence has exposed precisely the helpless position of the SMEs.

No one wants to be a bald if only there is hair. The application procedures for food premises licences are extremely complicated, and hurdles are numerous. The applicants will very easily get into trouble as the statutory requirements of numerous government departments are involved. Should an application be rejected by one or two departments, the relevant shop will have to be refurbished again, and the application will be abruptly delayed for a couple of months. But then, the owner of the food premises will still have to pay exorbitant rents and wages in the interim. Owing to limited funds, and for the sake of reducing loss, SMEs will often jump the gun.

Even the information provided by the FEHD has shown that it takes an average of up to 164 working days to process an ordinary licence application, and an average of 44 working days for a provisional licence application. On the contrary, in Japan and Singapore, where environmental hygiene is similarly taken very seriously, only a couple of days are required for the issuance of a licence for food premises. Even a number of mainland cities have adopted one-stop licensing services. In other words, the entire application procedure can be completed under one roof. Hong Kong's licensing work is obviously lagging behind and rigid.

According to today's newspapers, the FEHD has turned down an application by the 80-year-old Man Yuen noodle shop, a *dai pai dong* (cooked food stall) in Central, by disallowing its licence from being transferred to another person other than the spouse of the licensee. This example, demonstrating the rigidity of the Government's policy, does reflect that the authorities concerned are yet to be able to break away from the old rut, policy-wise. The hygiene problem of *dai pai dong*, an issue of constant concern to the Government, should actually be able to be resolved by application of present-day advanced technology. What matters instead is that *dai pai dong*, a symbol of Hong Kong's unique culinary culture, is facing a crisis of obliteration. Man Yuen is unique for it has become an important landmark of our culinary culture and a tourist spot. The authorities concerned should therefore grasp this opportunity and exercise discretion in handling the case to enable this landmark with such a long history to be retained to demonstrate, once again, how culture can be inherited and transferred.

Posing as yet another headache to the industry, the bureaucracy and lack of co-ordination among government departments are not only reflected in the licence application procedures, but also evident in the supervision of food premises. I have heard the industry making such complaints on several

occasions: "On the one hand, the floor has to be washed and cleaned for the maintenance of hygiene; and on the other, the staff from the Labour Department would institute prosecution on the ground that the slippery floor of our workplace endangers the safety of the employees." Such examples are simply too many to enumerate.

Of course, food premises should not defy the law. However, the relevant legislation and systems, if found to be outdated or overlapping each other, must be reviewed and streamlined expeditiously. Only in doing so can justice be done to the industry.

The biggest challenge before the industry at the moment must be the bill promoted in earnest by the Government for a total ban on smoking. First of all, I have to clarify that the industry does not blindly oppose the ban without the support of any data, as accused by some public commentaries. I would not repeat overseas data. As early as 2001, the local catering industry alone commissioned the KPMG to examine the impact of a total smoking ban on food premises. The findings revealed that the overall receipts of such food establishments as restaurants, bars, fast-food shops and hotels would be reduced by 11%. Yet, this figure has not even taken into account places of entertainment where there are a larger number of smokers, such as nightclubs, bathhouses, mahjong parlours, and so on.

For this reason, I have to emphasize once again that the catering industry agrees that persistent smoking is hazardous to health. The industry is also willing to match the Government's anti-smoking policy, only that it is already being suffocated by the rising rents and costs in recent years, making it difficult for the industry to bear greater challenges. As such, it is hoped that the authorities can, instead of achieving everything in one step, adopt a progressive approach in enforcing the smoke ban, by giving the industry a grace period of two to three years. Furthermore, the Government should allow more exemption periods and exempt food premises or places of entertainment whose patrons are mainly smokers from compliance so as to give the industry room to pant and "manoeuvre".

Let us look at overseas examples. In California or New York, for instance, smoke bans have been implemented in phases in consideration of their impact on the industry. Even in Sweden, where the policy of prohibiting smoking was not implemented until recently, separate ventilation systems and



smoking rooms are built in food premises and bars. Why have the authorities in Hong Kong acted in such a tough manner and insisted on "one-step accomplishment" and a sweeping smoke ban without taking account of the interests of tens of thousands of operators and practitioners in the industry?

Another example demonstrating the Government's indifference to the survival of the industry is that the Government has, defying opposition, insisted on launching the regional slaughtering and the scheme of reducing the number of locally bred live chicken. In doing so, thousands of practitioners in the poultry retailing industry and tens of thousands of people engaging in such industries as farms, retailing, transport, and so on, will join the unemployment ranks at any time. With no live chicken available on the market, Hong Kong's reputation as the "Gourmets' Paradise" will be affected too. The Government should not "follow the book blindly" for there are numerous flexible ways to achieve the goal of "segregating humans and chicken". Such a ruthless method is not necessarily required.

There are also other possible business restrictions on the catering industry. They include the labelling scheme on nutrition information, which is the subject of the previous motion passed earlier, the mandatory implementation with effect from last month of the Hygiene Manager and Hygiene Supervisor employment scheme, the recently proposed introduction of plastic bag duty, sewage treatment measures, and so on. All these measures are going to raise the operating costs of the industry. Farther into the past was an ordinance on regulating karaoke establishments. Members may recall that there were hundreds of karaoke establishments in Hong Kong before the case of arson in a karaoke in 1997. After the passage of an ordinance on karaoke establishments in the year before last, only dozens of karaoke establishments, or less than 100, have survived.

Hong Kong is heading in an evitable direction for a modern society of paying more and more attention to health and environmental hygiene. However, we must not go to extremes in dealing with everything, and the interests of all sides have to be balanced. Excessive hurdles and restrictions will only make it difficult for SMEs to survive, thereby adversely affecting the healthy development of the market. I therefore support Mr Vincent FANG's motion in urging the Government to expeditiously "remove barriers and lift restrictions" for the SMEs, so as to achieve the objective of benefiting the people, facilitating businesses, and creating wealth together. Here I have to

thank Secretary John TSANG for fighting for CEPA II last year to enable the catering industry, particularly the food industry, to enjoy zero tariff in entering China. This is what we hope the Government can do more.

As I still have some time left, I would like to answer a question raised by Mr LEUNG Kwok-hung as to whether staff salary expenses or rent expenses are higher. Actually, I have talked about this repeatedly in this Chamber. Perhaps Mr LEUNG was not in this Chamber while I spoke. Now he is sitting here. I reiterate that, insofar as the catering industry is concerned, rent expenses and salary expenses account for some 10% to 15% and 30% to 40% respectively, of the turnover. Therefore, I can assure Mr LEUNG that salary expenses are far higher than rent expenses. Thank you, Madam President.

**MISS TAM HEUNG-MAN** (in Cantonese): Madam President, over the past few decades Hong Kong grew from a trading port to an industrial city, then underwent a drastic change into an international metropolis which is underpinned by commerce and service industries. In this process of transformation, small and medium enterprises (SMEs) have played a vital role. Even today, SMEs still take up an important part of the Hong Kong economy as tens of thousands SMEs take in a total of more than 1 million employees. We can thus say that the business environment of the SMEs bears such a close relationship with the economic development and life of the people that they are inalienable.

Some people say that in Hong Kong the persons who can become rich most easily are those businessmen. In Hong Kong, businessmen are definitely much better off than wage earners. Of course, issues like aiding the poor, employment, minimum wage, and so on will all have to be solved, but we should also further improve the business environment in Hong Kong, especially that for the SMEs. It is only by improving the business environment that more jobs can be created and hence solve poverty and unemployment at root. Efforts put to improve the business environment will enable all capable persons to become self-reliant and this is the best means to eradicate poverty. Therefore, improving the business environment of the SMEs is a task that we cannot afford to put back.

Perhaps other people may say, "Has the economy of Hong Kong not fully recovered? Why is it that today in this Chamber we still have to spend time discussing the topic of improving the business environment? Has the business

environment not got better with the full recovery of the economy of Hong Kong?" Before we answer these questions, let me ask another question and that is: It is true that the Hong Kong economy has fully recovered, but has the life of all the people, including the grassroots got any better? I believe friends from the labour sector and colleagues from the social welfare sector would all shake their heads in disagreement. Right? The situation of SMEs in the business world is no different from that of the grassroots. The Gini Coefficient in Hong Kong is as high as 0.525. This shows that the disparity between the rich and the poor here is quite striking. In this commercial society, the poor will only get poorer while the rich will get richer. The influences of big businesses and giant consortia inflate and eat into every fabric of society and mega-billionaires are commonplace. But in stark contrast there are lots of SMEs which operate in miserable conditions for mere survival. This is incredible.

The greatest problems faced by SMEs are the cumbersome laws and regulations, plus the policies and measures from the Government. For example, if a SME restaurant wants to apply for a licence, it may need the clearance from three to five government departments and it may take half a year to one year before everything is done. In such a process, many different sets of papers have to be submitted to the departments and a large amount of correspondence is involved. This is time-consuming. All these exert a heavy burden on the SMEs. I would suggest to the authorities that when a review is to be conducted of the regulations and measures related to the business environment, it may approach the problems from the perspective of simplifying the procedures.

Another example is the question of business registration fee. Some people may think that the annual payment of \$2,600 is not a large sum of money and so they do not see why it should be a problem. For the large companies, \$2,600 a year is only a tiny sum, but for those SMEs which only make some \$100,000 to \$200,000 a year in profit, this would indeed be a significant sum of money. In addition, of the sum payable as business registration fee, \$600 is allocated to the Protection of Wages on Insolvency Fund. Would it be reasonable for a small shop with one or two employees to pay the same amount of money as a big company which employs tens of thousand employees? If some suitable adjustments can be made, can the SMEs be charged a lower rate? Should the Government not do this as the first step to show its determination to help the SMEs?

Apart from red tape, Hong Kong is also in lack of a level playing field. This is a factor which severely undermines the business environment. It is already a fact that there is a great disparity between powerful and weak companies in Hong Kong. If the market is left to develop on its own, the big businesses and the giant consortia will only drive the SMEs out of business. An example is that nowadays the supermarkets have almost monopolized the food and provisions market. Just how many of us here do not buy food and provisions from the three major supermarket chains? Given this, then how can we expect the groceries, food and provisions stores and stalls in the market compete with the supermarkets? There is unfairness even among the big conglomerates. Why do the prices of petroleum products in Hong Kong always go up quickly but very slow in coming down? Such oil prices are dealing a direct blow to SMEs in the logistics industry for policies are lacking to ensure fair competition in the market. A review in this area is indispensable if the business environment is to be made any better.

Madam President, the major directions for a review of the business environment should lie in the removal of hurdles and restrictions and the promotion of fair competition. We must do our best to address the problem of the disparity between the weak and the powerful in the business world and try to avert monopolization. It is only by doing all these that the business environment can truly be improved, that the people will benefit and that a harmonious society will be created. Thank you, Madam President.

**MR ANDREW LEUNG** (in Cantonese): Madam President, now in this fast-growing global economy, a split-second decision in the race against time will mean either success or failure in business. For small and medium enterprises (SMEs) with limited resources, in particular, any unnecessary delay may mean losses beyond their capacity to handle. Figures from the Trade and Industry Department shows that as at December 2004, there are some 284 000 SMEs in Hong Kong, taking up 98% of the number of companies here and employing 1.34 million people. The number of these employees in SMEs is more than 60% of the number of civil servants in Hong Kong. From these we can see how important SMEs are to the Hong Kong economy. That is why the SAR Government should actively improve the business environment of SMEs and that is a task which the Government cannot evade.

Despite their limited capital and manpower resources, SMEs do have an advantage in their flexibility. This accounts for their ability to make the fastest responses in the constantly changing market conditions. The kind of assistance and support which SMEs would expect to get from the Government is not that which would help them scramble for public resources. What the SMEs would want most of all are sound matching facilities, that is, the fostering of favourable business conditions, the formulation of policies and measures which promote economic activities and the removal of hurdles and restrictions which impede their development.

Despite the emphasis stressed by the former Chief Executive and the Financial Secretary respectively in this year's policy address and Budget, that the Subgroup on Business Facilitation would be set up to review the existing regulatory regimes and remove outdated or unnecessary regulations, work in this area is still lacking in strength, momentum and coverage. This is why an Honourable colleague has moved a motion on this subject again today to urge the Government once again to remove the hurdles and restrictions that stand in the way of Hong Kong businesses at the soonest.

With respect to the motion topic, I wish to highlight two points in particular. First, as Hong Kong and the Pearl River Delta (PRD) maintain a very close regional economic relationship, there is a need for the SAR Government to provide support to Hong Kong SMEs operating in the PRD Region. In fact, an overwhelming majority of SMEs in Hong Kong, especially those small manufacturers, have already made the PRD the base of their operations while their head offices and other functional departments like sales and customer services still remain in Hong Kong. The most important thing is that the services required by these SMEs in the course of their business, such as those in logistics, transport, financing, insurance, accounting, law, communications, exhibitions, and so on, are all provided by Hong Kong service providers. In other words, these companies are the greatest clients of the service industries.

As these Hong Kong SMEs operating in the PRD are doing good business and as their business grows, there will be more business for the service industries in Hong Kong and the Hong Kong economy will stand to benefit more.

I therefore hope that the SAR Government can have the breadth of mind and farsightedness and it must break away from the insular view that Hong Kong

is a standalone city. The Government must embrace the greater PRD and work closely with the Guangdong Provincial Government to devise some incentives and implement sound policies to enhance the business environment of the entire region. By then the Hong Kong SMEs will surely benefit.

Second, the SAR Government should provide more concrete and effective support to SMEs through the many existing business support organizations like the Hong Kong Trade Development Council, the Hong Kong Productivity Council, and so on, as well as the existing business infrastructure in the form of the chambers of commerce and academic research institutes, and so on. To be fair, though the existing business infrastructure in Hong Kong is sound and it is providing support and services to SMEs at different levels, I think that if the SAR Government can engage in more co-ordination work, such as fostering better communication between the Policy Bureaux and various departments and enhance communication and links with different organizations concerned, there would be greater success as a result of co-operation with various organizations.

The Government may also gauge the actual needs of SMEs through these business support organizations and know what the SMEs think of new policies and measures. For example, environmental protection is a great issue in modern society, and so the Government should seek to implement the right kind of policies to protect our increasingly fragile environment. But care must be taken not to stifle the vitality of SMEs. A right policy in this area will serve not only to protect our environment but also create business opportunities, hence resulting in a win-win situation. I am aware of the fact that currently many chambers of commerce and trade organizations are working in the environmental protection field. If the Government can engage in more dialogues with them and listen more to their views, it would speed up our progress in environmental protection. In sum, policies should not just be forced from top to the bottom, an across-the-board approach must be avoided, there must be adequate consideration of the situation of the policy recipients and more communication is required. Granting all these, things will certainly go smoothly.

All along the SMEs in Hong Kong do have great resilience and they can survive in the most adverse conditions. They are used to being self-reliant and they do not quite rely on government help. However, as governments all over the world are providing support to their enterprises, if Hong Kong SMEs are to

survive in a level playing field, the SAR Government must change its mindset and review the existing regulations with a creative and multi-faceted perspective to see if they are outdated and to remove the hurdles and restrictions impeding the development of SMEs. We must remind ourselves all the time that we need to keep abreast of the times. A business environment which can do so will mean prosperity and progress for Hong Kong. Thank you, Madam President.

**MR PATRICK LAU** (in Cantonese): Madam President, I support in principle the motion on actively improving the business environment for small and medium enterprises (SMEs). However, I think there may be some problems with the suggestion of introducing a fair competition law. Unless substantial survey findings can show that members of the public, people from different trades and industries and the public generally support it; and in addition, in the process of formulating the legislation, research studies and extensive consultations have been carried out, and the opinions of members of the commercial sectors and various professional sectors have been carefully considered, lest I have reservations about introducing a fair competition law.

From an economic point of view, a fair competition law may be good for consumers. Having said that, is it absolutely appropriate to introduce a fair competition law for each and every trade and industry? I think this is a subject that should be open to further discussions. For some secondary markets or ancillary markets in particular, is it possible to find sufficient room for the development of an environment where there will be comprehensive fair competition? If the answer is in the affirmative, then I will have no objection to the introduction of a fair competition law. However, if the answer is in the negative, that is, if we cannot bring into the market of all the professions, especially the market of professional services, an environment where there will be 100% perfect and fair competition, then the Government should, I believe, consider other ways of protecting consumers in a bid to avoid the negative consequences brought about by unfair competition.

I agree with the motion in saying that the laws, policies and measures implemented by the Government in recent years have created hurdles and restrictions in the business environment and that they have adversely affected the development of SMEs. Take the construction and surveying sectors as examples. Affected by the very complicated and rigid systems of the

Government, many SMEs in these two sectors are now operating under very difficult circumstances. As I have said before, and Madam President, you must have heard about it too, whenever an engineering project has to proceed, even if that is just about planting a tree on a pavement, it cannot commence without first getting approvals from more than 10 government departments. When an application is lodged to an individual department, each and every single detail of the project has to be recounted repeatedly. In order to cope with these complicated and rigid vetting procedures and regulations, operators of the sectors have to undertake a great deal of administrative work and incur substantial operating expenses, which together constitutes a heavy financial burden to the SMEs. Furthermore, since professional services in government projects are awarded by way of tender like those applicable to contractors, service charges have plummeted, and the service charges cannot reflect the quality of services delivered.

Although it is stated in the policy address of this year that the Government will strive to improve the business environment and to do away with some unnecessary regulatory measures for the property development and construction sectors, it has been all smoke but no fire so far. I have yet seen any substantive assistance or results. I hope the authorities can expedite their efforts in this regard, so as to help the industries remove such restrictions. Do not provide the assistance too late, otherwise, the SMEs may have to wind up their businesses one after the other when they cannot hold on any longer.

It is proposed in the Budget that \$500 million will be allocated to the SME Export Marketing Fund and the SME Development Fund, which are earmarked for enhancing the competitiveness of SMEs. I am not very clear about how these two funds can contribute to helping SMEs in the construction and surveying sectors or what they have actually accomplished. I wonder if the authorities could take a more proactive approach to publicize these efforts through promotion campaigns and communication, so that the SMEs of different sectors can gain a better understanding of the assistance available to them and benefit from such initiatives.

Madam President, regardless of the situation of any industries, the existence of too many restrictions on their business operation will not be beneficial to the economy as a whole. Without a favourable business environment, business operations will face great difficulties, and the operators may have to fold their businesses one after the other. This kind of chain



reaction is particularly evident among SMEs. Consequently, the unemployment rate will soar, the incomes of the people will dwindle and their spending power will diminish. Eventually, the domestic consumption will become weak, even to the point of pulling the hind leg of overall economic performance. For this reason, the SMEs are an important driving force for an overall robust economy, so the Government should from time to time review the restrictions that may bring trouble to the business operations of an industry, actively improve the business environment, provide a creative arena to attract talents with innovative ideas, and to liven up the market, thereby achieving the objective of creating wealth together. Thank you, Madam President.

**MR JEFFREY LAM** (in Cantonese): Madam President, there are more than 280 000 SMEs in Hong Kong. Faced with the hurdles and restrictions created by certain legislation, they have lots of grievances. Actually, the Government's goal of encouraging Hong Kong people to start up businesses has been extremely clear. It is nonetheless a pity that some of the policies launched by the Government have not only failed to help improve the business environment for local SMEs, but conversely stifled the vitality of business starters. The Government has often ended up doing a disservice out of good intentions.

Over the past couple of years, the Government seemed, at one time or another, to harbour the mentality of blindly following others in enacting some of its new laws or beating others to be the first in implementing such laws without taking into full account Hong Kong's unique conditions. For instance, its earlier proposal of implementing a mandatory registration and labelling scheme for volatile organic compound products is going to raise operating costs substantially as SMEs playing different roles, such as manufacturers, wholesalers and retailers, have to cope with the relevant testing and label-production procedures. As a result, the prices of goods will rise sharply. Some suppliers might even give up marketing their products in Hong Kong to avoid such a large amount of troublesome work.

The nutrition information labelling scheme, the question of the motion debated earlier today, will similarly make SMEs bear a huge cost in testing fees and producing labels. While the Government estimates that 191 SMEs will wind up as a result of the new scheme, the figure projected by the industry is even higher. How can SMEs with ordinary sales brands afford such an exorbitant expense? Is it the Government's intention to, like the television

programme "Minutes To Fame" (殘酷一叮), eliminate them or force them into closure? Is it necessary to sacrifice the 191 SMEs, thus rendering hundreds or thousands of ordinary people out of job, just because the Government wishes to enact a new piece of legislation?

I really hope the Government can refer to international circumstances in formulating new policies and, more importantly, take into account Hong Kong's economic conditions.

Frequent meetings have been held by the committee responsible for scrutinizing the estate duty bill recently because of the urgency of the legislation. It is also the wish of Hong Kong people for an expeditious passage so as to foster a more satisfactory business environment in Hong Kong. The business sector has actually been campaigning for the abolition of estate duty for years. A couple of days ago, a number of foreign-funded banks indicated clearly in the meeting of the committee that abolishing estate duty can lure inward investments. Furthermore, both Mr David ELDON, Chairman of the Hong Kong General Chamber of Commerce, and Mr LEE Yeh-kwong, Chairman of the Hong Kong Exchanges and Clearing Limited, emphasized that abolishing estate duty can consolidate Hong Kong's status as an asset management centre, thereby bringing the territory extra capital worth of hundreds of billions dollars. The influx of more inward investment will help not only the SMEs, but also create employment and wealth. All of us will stand to benefit.

The majority of the 258 estate duty cases in 2003-04 involve estates valued at not more than \$20 million. All these estates have come from those of the middle class and small operators of SMEs who were required to pay a lot of tax during their lifetime. The abolition of estate duty is evidently a policy of "returning wealth to the people", definitely not "robbing the rich to help the poor" — sorry, I should say "robbing the poor to help the rich". Being conducive to Hong Kong's development, the abolition of estate duty is what Hong Kong precisely needs.

As regards the request of the people for the Government to formulate measures to implement "minimum wage" and "maximum working hours", I earnestly hope the Government can think twice and refrain from putting the proposals into practice hastily. Once maximum working hours are imposed, not only will the significance of our free economy be jeopardized, the right of employers and employees to freely enter into employment agreements will also be undermined. It is indeed too naive to think that shortening working hours

would enable employers to recruit more manpower to accomplish their work. I wish to reiterate here that if SMEs find it necessary to relocate elsewhere or wind up their business because of high costs, consumers and wage earners will ultimately suffer.

Madam President, I hope the Government can speed up its pace in extending the scope of the review of the business environment for SMEs, instead of confining itself to examining the existing regulatory measures. Its review should also encompass legislation, policies and initiatives in the making. Otherwise, while an "old wall" is being torn down on one side, a new one will be built on the other. In doing so, the Government will never be able to remove all barriers and lift all restrictions for the SMEs.

Madam President, I so submit.

**MR ALAN LEONG** (in Cantonese): Madam President, at a time when we are trying so hard to work out ways of helping the poor, the Government must realize that if we are to really enable those with working ability to shake off poverty all by themselves, we must at the same time rationalize our economic structure in the hope of creating more jobs. Of all the enterprises in Hong Kong, 98% are small and medium enterprises (SMEs), and SME employers and employees together constitute 60% of our workforce.

In Hong Kong, there are quite a number of powerful and wealthy business tycoons who enjoy a position of dominance in their respective trades and industries. However, if we look into their rise to wealth, we will discover that despite all their splendour today, many of them were in fact self-made men who started their business by operating just a small company or a tiny factory. They had to struggle forward step by step, with their enterprises developing and growing little by little along the way, before they managed to build up the mammoth business empires we see today. Their success stories are living examples, or the full expression, of Hong Kong people's enterprising spirit.

Wealthy property magnates have never been the protagonists of the economic miracles in Hong Kong. The protagonists are instead those SME entrepreneurs who have all the time worked so hard without any complaints and grudges. Unfortunately, however, the number of business starters has been on the decline in recent years, and the sincerity and determination of the

Government in encouraging the development of SMEs have thus come under doubts.

Madam President, several decades ago, since Hong Kong was full of opportunities, everyone with the ability and determination to start a business of his own could develop and expand his business by industry. In contrast, because of rising rentals, the monopolization of consortia and people's dwindling consumption desire, the SME owners today all find it very difficult to struggle for basic survival, not to mention any success in creating wealth.

They Government often talks about using \$500 million to offer enhanced assistance to SMEs. But it has never disclosed that one of the funding schemes for SMEs, that is, the SME Training Fund, has already been scrapped due to "poor responses". The funding for the SME Export Marketing Fund and the SME Development Fund in fact comes from the \$200 million transferred from the SME Loan Guarantee Fund. Nowadays, lifelong learning and continuing education are so popular, but the responses to the SME Training Fund are still so very poor. Has the Government ever considered whether its publicity efforts are strong enough and whether the training fund is able to meet the needs of SMEs?

Madam President, all this reminds me of the government API on the funding schemes for SMEs. The baker in the API certainly will not export his sandwich bread to other countries, nor will he want to take part in any sales exhibitions to promote his pineapple buns. He only needs to obtain funding from the SME Loan Guarantee Fund to purchase flour. This can already solve his business problems.

The baker is a typical example of many SMEs. The Government has been allocating funding for export and promotion, but in the case of stationery shops in the shopping centres of housing estates or the fashion shops in Mong Kok, what they need most is not any assistance in export but funding for purchasing materials and manpower training. However, the Government has nonetheless reduced the resources for these two purposes. This shows that the Government has just been working behind closed doors, totally ignoring the real needs of SMEs.

Madam President, there is another example that can illustrate the inconsistency and lack of co-ordination of government policies, as shown by the

requests for assistance I have received from some factory proprietors. These factory proprietors have been required to surrender their rented premises in government factory buildings on the ground of demolition. However, despite their great efforts, they have not succeeded in renting other suitable factory buildings with the compensation given by the Government. They are thus extremely helpless, for they may have to close down their factories. The Government has repeatedly avowed its intention of encouraging Hong Kong people to start their own business and of assisting the development of creative industries. But then, even though the lots concerned are not yet designated for any immediate use, the Government still refuses to defer the removal deadlines, nor has it offered any assistance to these factory proprietors by designing and constructing new factory buildings suitable for them. It has simply ignored the real needs of factory proprietors who want to continue their operation in Hong Kong. This is another example of how the Government's thinking is detached from its actual policies.

Madam President, speaking of old factory buildings, I know that shops or outlets selling low-price fashion have sprung up in many old factory buildings in Kwun Tong, turning these buildings into something like shopping centres. Admittedly, it may be illegal to set up such shops in these buildings, but the operators are often forced to do so by the high rents elsewhere. Instead of leaving factory buildings to remain vacant due to the decline of industries, why does the Government not grasp this opportunity, simplify the formalities and procedure of altering the uses of these buildings and allow SMEs to operate in low-rent government factory buildings, so that they can be given some breathing space and more business opportunities in the course of economic restructuring?

Apart from focusing on foreign trade, the Government must also pay attention to the industrial and commercial organizations based in Hong Kong. Operators of small shops relying on local patronage will also need more assistance, more information, on market development, legal or accounting services, purchase of raw materials or retail networks. The Government should invest more resources in its Small and Medium Enterprises Information Centre, so that information on local trade and commerce can be provided to assist SMEs targeting on the local market.

Madam President, in order to reduce the operating costs of SMEs and enhance their competitiveness, the Government also needs to review its policy on

fair competition, so as to prevent large consortia from monopolizing the market and give SMEs greater room for survival.

Madam President, the best assistance for SMEs must be the building up of a free and level playing field to revive the enterprising spirit so vibrant on the foothill of the Lion Rock in the 1960s and 1970s. That way, apart from the financial and IT industries and speculation, all kinds of trades and industries will be able to flourish in Hong Kong. The economy of Hong Kong can then scale new heights.

Madam President, I so submit.

**MRS SELINA CHOW** (in Cantonese): Madam President, the small and medium enterprises (SMEs) have always been an important link in the economy of Hong Kong. It is unfortunate that ever since the reunification, the support given by the SAR Government to SMEs has not gone very much far than mere lip-service. As a matter of fact, the business environment in Hong Kong is becoming increasingly unfavourable to the SMEs.

Figures in end 2002 showed that the number of SMEs in Hong Kong was 305 400, but after the havoc brought about by the SARS epidemic, and despite the DIY tours and CEPA in 2003 which served to steer the sagging economy gradually out of the doldrums, the number of SMEs in end 2004 was only 284 300. So in just a matter of one year or so, there has been a drastic drop of some 20 000, or a rate of 7%. These figures show that SMEs are finding survival increasingly difficult. What worries me is the business environment as it is may put more and more people off from starting up a business.

We often say that SMEs come from a very diverse background and they consist of many different trades and so it is not easy to find a suitable way to regulate all of them. Any assistance to them would be possible only when the Government has done a careful analysis of the impact on the business environment when policies are devised. The pulse of different trades should be felt to discern their needs and the policies should be fine-tuned accordingly. This is a far cry from the present practice of forcing through a policy in a sweeping manner simply for the sake of administrative convenience. Such kind of practice would only reduce the opportunities available and create a lot of unnecessary hurdles.

Now I wish to cite a real-life example. In recent years with the boom in the property market, there has been an upturn in the business of the decoration companies. It is unfortunate that most decoration companies in Hong Kong are SMEs and apart from complying with the general statutory requirements, they also have to pay heavy premiums to insurance companies. This is because the law requires them to take out insurance when they undertake any project as there is no statutory cap on the compensation for injuries sustained in accidents. Hence it is difficult to estimate the amount of compensation ordered by the Court in such cases. So premiums will just go up. I have a personal experience on this. There is a screen in my home which is used to shield off the winds and that needs regular maintenance every one or two years. Every time scaffoldings have to be erected. Though the maintenance costs are just a matter of \$2,000 to \$3,000 the premium payable for the insurance taken out because of the scaffolding works is as much as \$4,000 to \$5,000. Therefore, the decoration company will just procrastinate. I think examples like this abound. I also believe that is one of the reasons why many SMEs in the decoration and construction business have closed down.

Another thing is that in the past many people would run street-side stalls. Then when business picked up, they would look for a shop and do business. Then they might get rich eventually. But now the Government has stopped issuing hawker licences and the *dai pai dong* or open-air food stall licences. Honestly, in the past, it would not be so difficult to start a business with a very small capital and if only you worked hard, you might end up doing a good business. But now if young people want to start a business, they can only bid for a stall in the Lunar New Year fair or lease a temporary space in the shopping malls, and so on. Opportunities are very limited but restrictions are numerous.

One thing is that with the relocation of the manufacturing industries to the Mainland in recent years, there are lots of vacant premises in the factory buildings. A while ago, Mr Alan LEONG seemed to share the same feeling with me on this point and in view of this the Government should make some policy adjustments. I remember that when Secretary John TSANG used to be in charge of land administration, he had once demonstrated his creativity on this issue when he raised the idea that the use of factory buildings could be changed. He was even mooting something like lofts in New York in his mind. This sounded fascinating to us. He did put this idea into action. In places like Kwun Tong and Cheung Sha Wan, many small landlords have refurnished their premises in the factory buildings and parcelled them up into small units and

leased them to people who open shops or outlets for designer labels. This idea can have otherwise provided business opportunities to people with little start-up funds, but unfortunately many tenants of these factory buildings have received warnings from the authorities recently saying that their operation is unlawful. Some people in the trade told me that they did not want to contravene the regulations and many of them wanted to apply to change the uses of these factory buildings, but their applications had to be cleared by numerous government departments. As the requirements are very strict and the procedures time-consuming, often nine out of 10 applications are rejected.

In terms of vetting and approval, the authorities also display a rigid mindset and not enough flexibility is given to cater for the special needs of SMEs. An example is the Fire Services Ordinance which stipulates that uses of building can be changed provided that there is a certain floor area size. But the result is that the application from a commercial tenant may be approved while the application from another may not be approved because at the time when the latter's application is tendered, the floor area may have been changed and so it cannot meet the requirements. An outsider may not know the reason why an application is rejected and thus feel that the Government is not fair. The root of the problem is, however, that there is a lack of co-ordination between the Policy Bureaux and the departments. If the executive departments do not take any action to tally with the policies they are to put into practice, then anything done would be in vain even if the policies may look superb from the outset.

One more example is that the Government often invites tender for the food premises in its properties. As far as I know, there are lots of restrictions, such as those on the prices of goods sold. A pack of soy milk is required to be sold at a certain price. Under such stringent restrictions and when creativity is not valued, this will of course bar people from starting up a SME business. Having said all these, there are some outstanding examples like the Thai restaurant in Hong Kong Park and the restaurants on Deep Water Bay Beach. Some people may also ask why are those restaurants in some museums run so badly while some restaurants in other museums are run so well. I think a review should be conducted by the Government in this regard.

Actually, I would just want the Government to see the point that when there are too many restrictions on business operation but too few measures to promote business, it would only serve to reduce the living space of SMEs



operating on limited funds. Another point is that often when laws are to be enacted, the same set of requirements are imposed on the giant consortia and the SMEs alike, but this would be detrimental to the development of the SMEs.

Thank you, Madam President.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, Hong Kong economy has shown signs of improvement recently. However, the robustness of the property and stock markets does not mean that small and medium enterprises (SMEs) can share the economic benefits. On the contrary, the situation is quite critical as the SMEs, faced with raging globalization, are directly challenged by enterprises from other countries. How can the SMEs, under the general environment of strong winds and turbulent waves, maintain their own competitive edge without being eliminated? The Government must lose no time to understand the situation and lend a helping hand in order to improve the SMEs' chances of survival.

I pointed out in an earlier motion debate that the two directives issued by the European Union on imported electronic products, namely the WEEE and ROHS, would take effect in August this year and July next year. The Directives mainly seek to impose restrictions on enterprises importing electronic products by mandating them to establish a recycling mechanism for electronic waste and requiring cleaner raw materials to be used and cleaner procedures be adopted for the production of the relevant products.

Though some consider such "green barriers" unfair for their real purpose is none other than practising trade protectionism, it is undeniable that the international community is taking environmental protection more and more seriously and its requirement for corporate responsibility has become increasingly stringent. Therefore, the Special Administrative Region (SAR) Government should not try every possible means to evade this international trend; instead, it should actively assist the manufacturers in embracing changes.

Regrettably, the Government has still failed to reverse its mentality in this respect, not to mention proposing concrete ways to help local manufacturers produce commodities in compliance with the requirements. Under such circumstances, the ability of our SMEs to compete in the international arena will definitely be weakened.

In addition to the Government's lack of vision, its extremely poor support for SMEs overseas has imposed an enormous constraint on them in stepping out of Hong Kong and exploring overseas markets. We have repeatedly reiterated that it is imperative for the SAR Government to set up an effective mechanism to help Hong Kong businessmen when they encounter difficulties outside Hong Kong, particularly on the Mainland and in Taiwan. Specifically, it is imperative for the Government to set up more offices in Taiwan and various provinces and cities, particularly the cities that have the closest economic and trade ties with Hong Kong, that is, the "Nine plus Two" Pan-Pearl River Delta Region, for the purpose of assisting the SMEs in a more effective manner. More importantly, the functions of these offices must be expanded. Not only should they be responsible for exploring business opportunities, as what they are doing at the moment, they have to offer assistance when other Hong Kong businessmen encounter difficulties as well. For instance, the Government must send its representatives to negotiate before such problems as the failure of some departments to abide by the law, unlawful detention of Hong Kong businessmen, disturbance or harassment suffered by Hong Kong businessmen as a result of poor law and order, constant changes in local laws and regulations and complex taxation issues, can be resolved properly. As such, the Government must change its passive and bureaucratic attitude and, hopefully, set up in these places some mechanisms that can help Hong Kong businessmen effectively.

Actually, the Government must start by changing its attitude before it can really help the SMEs to resolve their problems. Assistance to the SMEs very often does not involve the injection of money or provision of loans. The Government is merely required to move in the right direction in its policies and procedures and improving its current practices. I very much agree with the views raised by many Honourable colleagues earlier. Let me cite the recycling industry as an example. Hong Kong must vigorously develop the recovery and recycling industries because, in addition to environmental protection considerations, these industries can create massive employment opportunities for low-skilled workers and accommodate low-skilled labour. This is actually one of the important contributions made by SMEs to Hong Kong. Moreover, it is imperative for the SMEs to develop in this direction. It is a pity that the Government's current policy is running in the opposite direction, for it has wasted a lot of money and resources in planning to build some super incinerators. Refuse recovery and recycling are insufficient, as the goal of waste reduction is currently set at a mere 1% per annum. This amount of refuse is far from being able to sustain any recycling factory in Hong Kong, not to

mention enabling local recycling factories to survive, or even thrive. Under such circumstances, the factories even have to import refuse from overseas as raw materials. This is really ridiculous for not only will the SMEs be forced to raise their operating costs, they will find it even harder to survive as well. It is even more unacceptable that cross-boundary transport of refuse will thus be indirectly encouraged. This is hardly justifiable from the angle of international moral too.

In this connection, we have repeatedly reiterated that, in order to properly carry out environmental protection in Hong Kong, it is actually most imperative for the Government to come up with a set of policies geared in the right direction, to change its mentality and way of thinking, and to be sincere in helping the SMEs to develop, instead of looking at the amount of resources to be injected.

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

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

**MR ABRAHAM SHEK:** Madam President, small and medium enterprises (SMEs) account for a very significant part of our economy, as they constitute about 98% of the businesses in Hong Kong and employ more than half of our working population. Thus, providing a favourable business environment for the SMEs to thrive is conducive to sustaining Hong Kong's economic prosperity and social stability. But with intensified market competition, the SMEs are encountering greater difficulties and challenges in their struggle to survive, not to speak of growth.

A recent survey revealed that Hong Kong people have the lowest propensity to start their own business when compared with other inhabitants in the global village. In this respect, we rank behind our compatriots on the Mainland. This reveals that starting a new enterprise in Hong Kong is not an easy task. Apart from capital requirement and intense competition, entrepreneurs have to cope with regulations which are becoming more and more cumbersome and stringent. Let me give you an example. The City Golf in West Kowloon invested multi-million dollars in setting up a driving range, the Lands Department and other government departments favoured them with much

attention, treating them like common illegal hawkers. This is something which pushed them away from being an entrepreneur and investing money in Hong Kong.

I agree that a sound regulatory regime will create a level playing field which helps to develop the market and foster competition in an orderly manner. However, as the global business environment changes, nations tailor operating conditions to the needs of their enterprising citizens. Hong Kong should not hesitate to appraise its own business environment and adopt appropriate strategies accordingly.

I am not saying that the Government has never tried to improve Hong Kong's business environment. In as early as 1996, it launched the Helping Business Programme under which a few hundred measures were implemented to improve the business environment. Then in June 2001, four SME funding schemes were launched, offering much needed assistance to small businesses. Tens of thousands of SMEs and their employees benefited from these schemes. However, there is an outcry for business environment to proceed at a faster pace. Offering small favours and trimming a few red tape here and there will not produce a prominent effect. When our competitors are taking giant leaps forward revising their policies to facilitate business, we cannot afford just to sit tight and keep our fingers crossed. We must identify our own shortcomings and conduct a comprehensive review on legislation to facilitate new businesses, or else, we shall be left behind.

Madam President, I am not sure how you feel, but it seems to me that there has been a sharp increase in legislation and amendments regulating business operators. Some of these regulations are so stringent that business operators find that their hands are tied. The Government should conduct a comprehensive review to streamline these harsh rules, reduce bureaucracy and repeal them if warranted. The Government should also pay more attention to, and seriously consider, the views of the business sector before making or amending laws relating to business operation. In particular, it must stop bulldozing bills through the Legislative Council by manipulating the pro-government majority of the lawmakers, ignoring the adverse impact which such legislation has on our free market economy.

In addition to reviewing legislation related to business operation, our Government's policies should be market-oriented and should cater for the needs

of the SMEs. A few years back, I raised a motion in this Council requesting the Administration to review its policy of "lowest-bid selection" in government tenders. In my view, no satisfactory improvement has been made in this aspect. In fact, many SMEs, and even larger ones, find it difficult to operate in the face of the "lowest-bid selection." Take the SME-filled construction industry as an example. Many construction projects call for multi-layer subcontracting. If the bidding price is set too low, the second- or third-tier subcontractors, who are usually the SMEs, will not be able to have a share in government projects. Since the Government is the major source of construction contracts, the "lowest-bid selection" philosophy in public tender is bound to influence contracts arising from the private sector as well. As a result, the SMEs will find it difficult to survive.

To improve business environment for the SMEs, the Government should conduct a comprehensive review on related legislation, and remove unnecessary restrictions and cumbersome procedures. Yet, there are certain issues to which I support the Government's strong stance. For example, many in the community have argued for legislation on minimum wage and maximum working hours. But if this ever becomes law, the SMEs will be the group most adversely affected. Across the border, there is an unlimited supply of human resources and cheap labour. While Hong Kong has undergone economic restructuring in recent years, some industries are still struggling hard to survive. The strong pressure felt by our SMEs is mainly caused by the thriving mainland economy. In the circumstances, legislating minimum wage and maximum working hours will definitely deal a deadly blow to the SMEs. In a worst case scenario, it could cause a wave of shutdowns. For this reason, I do not want to see too much legislation intervening the free market. I feel that as our economy continues to recover, the problem will be gradually alleviated as unemployment recedes and the wage disparity between Hong Kong and the Mainland narrows.

In addition, I want to moot on the Government's lack of support to the SMEs in their development of overseas market. Hong Kong people are renowned for their diligence and flexibility in grasping business opportunities. Enterprises owned by Hong Kong people are found in every corner of the world. Originally, the signing of CEPA between the Mainland and Hong Kong was designed to bring about greater business opportunities to the SMEs. However, the CEPA effect has not been fully realized at present. There are many reasons for this. One of the most obvious reason is insufficient communication between the SAR and the regional governments in China. The Central Government has

given Hong Kong a wonderful gift in the form of CEPA. But due to the protectionist policies adopted by some local authorities, the measures prescribed in CEPA cannot be achieved. Thank you.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, this question has indeed been debated in the Legislative Council of the last term. I reckon one of the reasons for Mr Vincent FANG to propose this motion today is that he is a new comer to this Council.

In retrospect, starting from 1995, and then 1998 and 2000, we could actually find Members propose similar questions in every term. Sometimes, the delivery of speeches by Members on these questions seemed like the playing of old records to me. However, this did reflect that some problems remained unresolved. During the discussions on these issues, I often heard a lot of Members complain of inadequate assistance provided by the Government to small and medium enterprises (SMEs). Actually, we have to ponder over this remark from time to time. The public always feel that the assistance provided by the Government is inadequate. But how much government assistance should be provided to SMEs? I do have reservations about this issue.

Actually, the Government's emphasis should not be put on assisting the SMEs. Of course, we do agree that the Government should play the leading role in certain areas. Funds were launched for SMEs after 1998 because Hong Kong was hard hit by the financial turmoil. A sum of \$2 billion was allocated as a result of the credit crunch. After numerous changes afterwards, the \$2 billion provision continued to be used in a roundabout manner. Today, I believe no more fund will be injected by the Government; however, the fund already allocated will not be taken back. As a result, the current approach continues to be used.

Insofar as this area is concerned, the Government has done a pretty good job in acting as the guarantor for obtaining credit, thus resulting in a leverage effect, so to speak. Not only can banks participate, the risk borne by them would be reduced, thus enabling SMEs to secure loans. Furthermore, some work can continue. I support, for instance, market development. In order to develop overseas markets, government acts are sometimes necessary. The staff of the United States Consulate would mention open sky to Members of this Council each time we met. The United States Government also engages in

these acts. Of course, opening the sky has nothing to do with the acts of SMEs. However, it does reflect that trade negotiations must be conducted at the governmental level.

The motion proposed by Mr Vincent FANG today is interesting — actually it is not interesting — for it can be summed up in one statement: "removing barriers and lifting restrictions". It is a fact that, as law-makers, we rarely see repeal of laws. While more and more laws are enacted every year, laws are rarely repealed. After the enactment, very few people would propose to repeal a law even if it is found to be useless. Therefore, the number of laws will only increase. However, no one knows when they will be put to use.

Of course, the proposal of this motion by Mr FANG is not necessarily induced by certain legislation. However, this can be part of the reason. Concerning the government structure, which departments should be responsible for repealing certain legislation or formalities? It is difficult to decide indeed. Today, the Secretary is sitting here, for he is responsible for dealing with SMEs. When I heard the problems raised by colleagues earlier, such as the Kwun Tong case cited by Mr Alan LEONG, I recalled that on one occasion I had taken my children to those upper floor shops to buy sports shoes. I thought on the way that numerous controls would definitely be imposed should a fire break out. Those places were actually factories. The fire protection installations there may not be adequate when there is a heavy flow of people. Therefore, I find it justifiable for the Government to impose control on them.

Therefore, should there be a mechanism — under the leadership of the Secretary, I certainly do not support the granting of more money to SMEs or the setting up of more funds for them — to help every government department or its responsible official to reduce some of the work procedures involving the public in business operation or some of the laws? The Secretary might not be able to achieve this. For instance, Mr WONG Kwok-hing proposed that one-stop services be provided to licence applications. Of course, some of his suggestions are infeasible and impractical. However, are some of them feasible?

Certainly, it is not within the terms of reference of the Secretary to do so. He is responsible for managing four funds only. However, he did respond to the complaints lodged by colleagues today (it is not within his terms of reference too). Who should be responsible for such work? I believe the Secretary should come up with other solutions to refer these problems to other government

departments for consideration. However, today I very much agree with the point raised by Miss CHOY So-yuk, that the Government has offered no assistance at all when a number of businessmen, particularly those in overseas places, involve in disputes or get into trouble in operating business. Many colleagues may also find that they can do nothing on seeing the arrest of a lot of businessmen for disputes with others on the Mainland. As these are no ordinary disputes, the Government may be required to provide assistance. Although it may not be possible for the Government to provide them with direct assistance, both the Office of the Government of the Hong Kong Special Administrative Region (SAR) in Beijing and the Economic and Trade Office (ETO) of the SAR Government in Guangdong have completely turned a blind eye to these cases. This is problematic. On the contrary, it occurs to me that issues in this area are within the terms of reference of the Secretary. He should at least request the ETO of the SAR Government in Guangdong to participate in resolving the problems. I would feel that the Government has not properly done the work it is required to do should it ignore the complaints lodged by overseas businessmen caught in hardships.

Concerning the views put forward by many Honourable colleagues today, we have actually allocated a substantial part of funds to assisting the SMEs. The Trade Development Council, Hong Kong Productivity Council, Science Park and Hong Kong Science and Technology Parks Corporation are all facilities designed to assist the SMEs. It is evident that the resources that have been injected are indeed plentiful. However, I wish to tell the Secretary that it is actually impossible for the Government to satisfy all people's needs. Hence, it cannot be said that this is entirely the Government's fault. I so submit.

**MS EMILY LAU** (in Cantonese): Madam President, Mr SIN Chung-kai just said that motion debates on improving the business environment for small and medium enterprises (SMEs) were like old music records played on the turntable. However, Madam President, I am a new record because in the past I seldom took part in such debates.

As I said in my earlier speech on the motion debate moved by Dr Joseph LEE on the labelling scheme on nutrition information for food, I am a member of the Economic and Employment Council (EEC) chaired by the Financial Secretary. The EEC will hold another meeting next Monday. I believe when we attend the meeting — in fact six or seven Honourable colleagues of this



Council are members of the EEC — we shall possibly see that the EEC still has not completed many of its businesses. Last Monday, right before the Financial Secretary left the meeting of the Panel on Financial Affairs, he mentioned that, 160 000 or God knows how many posts had been created during the past few years. However, we who have served in that Council or the three advisory committees under it have been working in a rather tough manner. The Secretary of the EEC is also in this Chamber now, and I am sure she fully knows what I am referring to. Therefore, I support the proposal put forward by Mr Vincent FANG today. I felt even happier just now as I heard him mention the case of the Tai Cheung Bakery, in exactly the same way as I did to the Financial Secretary in the meeting of the Panel on Financial Affairs on Monday. At that time, the Financial Secretary questioned if my quoting of the case of one egg tart shop could stand for the entirety of the whole issue. The Liberal Party (the Financial Secretary was once a member of the Liberal Party) put forward the case of the Tai Cheung Bakery, as said by Mr Vincent FANG, to illustrate that, although the economy is reviving, some people still cannot share the fruits of such recovery.

As also said by Mr Vincent FANG, "Uncle Yun" of the Tai Cheung Bakery might be able to stage a comeback. But not every case receives so much public attention as he does, and also not the protagonist of every case can make a comeback. At that meeting, I asked, in view of the circumstances, whether there was an imbalance between supply and demand. This is because the supply of shops is closely related to economic development and the business environment. However, the answer we got then was in the negative, and it was pointed out that though the rentals in certain districts had risen substantially, the trend was just limited to certain districts.

The Government Economist also told me that, as the ownerships of shops were very scattered, so the money would not just go to the wallets of several major property developers, and that many landlords would be benefited as well. This is of course a natural phenomenon. But we would like to ask, when the rental increase of shops are so staggering — the Liberal Party said that the Government had always practised the positive non-intervention policy, so they did not mean to ask the Government to intervene, nor do I intend to ask the Government to do so — and if the Government knows that the rentals of certain districts are particularly high (everybody knows how high the rentals have become), then should it not find out whether there are any problems with the supply of shops in such districts visited by a lot of tourists?

I noticed just now that Mr Vincent FANG had mentioned issues like the granting of land and the auction of land. Those proposals can be implemented. If he has no suggestions in stock, of course he cannot do anything. But he does have some ideas. Since there are a lot of vacant shops in some markets owned by the Government, he wonders whether the Government can make use of such vacant shops to do something, so as to make some adjustments to the business environment. If so, the businessmen may not have to live on the drip, and shops may not have to close down. What is wrong with creating more employment opportunities?

Madam President, I had not planned to speak on this motion. But I must do so now because the EEC will hold a meeting again this Monday. By then, we shall have to face some very basic core issues. For example, will there be people who can rent some places at reasonable rentals to conduct their business? This is very important.

In the '70s when I was working as a reporter, a Member of the former Legislative Council had already told me that Hong Kong people had to work so hard just for serving a handful of property developers. With the lapse of the '70s, 80' and even the turn of the century, the truth of this observation has not changed at all. Even though the Government Economist told me that this was not the case, and that many landlords had also benefited, should we not review the situation? I think the Government does need to think about the demand and supply issue. If the situation of shop rentals has really deteriorated so much, for example, to such a state one has to pay \$200 000, \$300,000 or even \$400,000 to rent a shop, should the Government not provide some assistance by then? Besides, I also agree with Mr Vincent FANG that we should all do something about the situation, in view of the fact that the Government has always been criticized by the Audit Commission for leaving too many shops and malls vacant. In the past, I had frequently seen that problem being discussed in the Public Accounts Committee.

Just now, Mr Abraham SHEK requested the Government not to often resort to legislation. According to him, in doing so, the Government seems to be bulldozing bills through the Legislative Council by "manipulating" (I do not know how to translate this word — is it "操控"?) pro-government Members and force them to pass the motions. I have always called on Members of the Alliance and other political parties not to succumb to manipulation. So, I feel that this can be considered a farce when this issue was raised publicly.

Mr SIN Chung-kai said that the Government frequently enacts laws, but some of such laws should be subject to criticism. I strongly agree to this comment because some of such laws are already outdated, or there are too many such laws and that the restrictions are too stringent as well. Otherwise, why did we have to call on the Government to remove barriers and lift restrictions? We have been sitting in this Chamber for several years, always wanting to remove barriers and lift restrictions. But we cannot see many incidents of repeal. What are the reasons for this? I have discussed the issue with the Financial Secretary. Maybe the committees and panels have not been provided with adequate support, that is, there has been insufficient legal support to aid our discussion. Otherwise, we should have made much quicker progress. We have now received several reports for discussion next Monday. But what will happen after the discussion? Will the issues be returned to the respective departments for studies anew, and then they will not be implemented after two or three years? So, how can we improve the situation? How can we remove the barriers and lift restrictions?

Finally, I would like to discuss the fair competition law. In fact, many Honourable colleagues are very concerned about this issue. For many years, the Democratic Party has moved motion debates on this subject and they have even released a report on it. We in The Frontier have joined hands with the Hong Kong Democratic Foundation in publishing a report on the issue as well, and Mr Ronny TONG has released a report too. What is the result? The Government has now indicated that it will proceed to set up a committee to study the issue. Whom will they appoint to the committee? Of course, they will not appoint those who are concerned about the issue. How on earth will they do this? Of course, they will appoint people like Mr Andrew LEUNG or Mr CHAN Kam-lam, and so on. Among Members of the Democratic Party, Mr Fred LI is the one who is most concerned about the issue, but why should they appoint him? Of course, they will appoint Mr SIN Chung-kai. The choice of candidates by the Government can almost determine a major part of the eventual findings of the committee. Therefore, Mr Fred LI will nearly be in tears when he casts his vote to support the amendment moved by Mr CHAN. I feel that all Hong Kong people would like to see the enactment of a fair competition law. Therefore, I hope the authorities will — pardon the colloquial expression, not "play tricks" anymore. Please respond to the request properly and please appoint people who are genuinely concerned about the issue to study it. I so submit.

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

**MR ALBERT CHAN** (in Cantonese): Madam President, given the prevailing circumstances in Hong Kong, the moving of a motion with such contents and demands today is very much an irony indeed. For many years in a row, Hong Kong has been rated by many financial institutions or famous media organizations as the freest and most competitive economy. If Mr Vincent FANG is still not satisfied with Hong Kong being rated as the most competitive and freest economy, what else can satisfy the demands of the Liberal Party? Is it really true that there is still not enough freedom in Hong Kong despite its being rated as the freest economy in the world?

I personally think that the points contained in the latter part of the motion are perfectly sensible. But its introductory premises are about the wrong remedies. I would not gainsay the view that the problems faced by small and medium enterprises (SMEs) in Hong Kong are related to the policies and legislation of the Government. But I must add that this is not fatal. What is fatal is the monopolization by consortia, because the Government looks after their interests only and simply turns a blind eye to their attempts to wipe out SMEs. The Government must not aid and abet the evil-doer but must examine the root causes of problems. Why are the SMEs of Hong Kong in such a miserable state? Actually, it cannot be denied that the Government is in a way guilty of aiding the evil-doer. However, the real reason for the total helplessness of SMEs is the monopolization and manipulation by large consortia. Maybe, even the Liberal Party is also being manipulated, for in this motion about SMEs, it stops short of pinpointing the ruthlessness of large consortia.

When I work in the districts, whenever SMEs come into the picture, people will first lash out at Park'n Shop, and then they will complain that rental increases for shops in the malls owned by consortia have caused immense suffering to SMEs. Recently, the Government has been talking much about the economic recovery and the benefits brought about by the Individual Visit Scheme, saying that the Consumer Price Index has been rising for the past one year. This is indeed true, but shoppers visiting Hong Kong have benefited shops selling brand name goods or perfumes only. Pharmacies, maybe, have also benefited because mainland residents do not trust the pharmacies back home and frequently come to Hong Kong to buy drugs. They may also buy gold ornaments here. However, the business turnover of other shops, especially those situated in such remote areas as Tin Shui Wai, Yuen Long and Tsuen Wan

has actually declined. In the case of some fruit stores in Mong Kok, the rent is as much as \$70,000 to \$80,000 a month, but their business turnover has dropped by 30% when compared with that of last year. Shop rent in some districts has risen by 30% to 40% but the actual business turnover has actually declined.

In the case of those shopping centres taken over by The Link Management, there have also been rent increases. Chung Fu Shopping Centre in Tin Shui Wai is an example. In our recent meetings with The Link Management, some shop tenants already said that they could no longer cope and wanted to surrender their shops to the Housing Department because The Link Management had increased the rent of their shops. As mentioned by some Members, The Link Management, no sooner had it taken over the management than it hastened to abolish all parking concessions. This is one reason for the shrinking flows of people in shopping centres. Therefore, I think that the decline of SMEs actually signifies the degeneration of the Hong Kong economy. We must tackle this problem very carefully.

It is frequently said that SMEs played an indispensable role in making possible the prosperous development of Hong Kong, especially the economic take-off in the 1960s and 1970s. Many consortia are making enormous profits now, but the development of these consortia is also dependent on the success of SMEs. I really think that without any SMEs operating in shopping centres and spending their profits on buying properties, the large consortia will never become so overbearing.

Madam President, if a fair competition law is not enacted as soon as possible, we will witness the fall of Hong Kong — I am not talking about something like the Japanese occupation in the past — because the large consortia are even more ruthless than the Eight-Power Allied Forces and will cause immense misery to our economy. The monopolization of consortia has strangled the Hong Kong economy. This is something that will certainly happen.

I would say that the monopolization in Hong Kong is vertical and horizontal apart from being geographical. Consortia are well-versed in cutting the pie. When a certain consortium operates shopping centres in an area, its shops will monopolize all the business in that particular area. In brief, Hong Kong is treated as a pie by six to seven consortia, and this pie is cut up into several pieces in all directions — east, south, west and north. This is a kind of geographical monopolization. The other type is related to the monopolization

of a whole series of trades and industries. A consortium may operate many services all at the same time — telecommunications, estate management, property development and even transport. This can be described as total domination. As a result of such monopolization, the bus routes provided for the housing estates developed by the consortium may be much better than others. What is more, the housing estates constructed by the consortium will be managed by its own management companies. And, the telecommunications company owned by the consortium will be allowed ready access to these housing estates. This type of vertical and horizontal monopolization has made it impossible for SMEs to survive. When consortia also start to sell newspapers, can small news-stands still survive? In the future, these consortia may even set up their own cleaning companies to collect rubbish. I believe that if the Government says one day that all rubbish has to be collected for recycling, these consortia will certainly set up many subsidiaries to do the job. In the future, when old people increase in number and more and more people die, these consortia will surely establish funeral parlours.

This type of vertical and horizontal monopolization will discourage people from starting their own business. Madam President, if the Government does not formulate a fair competition law as soon as possible, we may even be unable to choose on our dying-beds a funeral parlour that is not owned by any consortia. I therefore think that the situation now is very terrible. There are just a handful of telecommunications companies, so we do not have too many choices. Likewise, when it comes to property developers, we do not have too many choices either. Estate management companies are also owned by these consortia, and there are just a couple of supermarket chains. If this situation continues, Secretary, I am afraid that the fall of Hong Kong may well come long before we die. I definitely do not wish to see such a situation.

I oppose the original motion and support the amendments. Thank you, Madam President.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, the Hong Kong Federation of Trade Unions (FTU) supports the original motion and the amendments. I have just returned from Taiwan. There I attended a conference on globalization and how it impacted various places. Actually, this brings up some new problems and there is a need for us to ponder over them.

Why do Members from the FTU all support this motion moved by Mr Vincent FANG? This is because Mr FANG has pinpointed some facts. Though it is said that the Government has been practising the policy of a so-called high degree of non-intervention, it has meddled with many of our affairs. One example is the government factory buildings which I have repeatedly mentioned recently. These factory buildings were first designed to provide premises to small and medium enterprises (SMEs) to develop some industries. These affairs belong to Secretary John TSANG's portfolio.

In the 1950s and the 1960s, as Hong Kong economy began to grow, the Government made the move to build some factory buildings in the resettlement areas for those SMEs in the manufacturing sector to do business. Now at this time when our economy has not fared much better, these factory buildings will be pulled down by the Government. No reasons are given. It is even said that no decision is made on what these factory buildings can be used if they are not demolished. The order is to pull them down one by one. We cannot help but ask, "Why can people not be allowed to run their business there?"

It is a hard fact that SMEs face rises in rents all the time. This is a new problem that they have to face. If the Government can make use of its policies in a flexible manner, the situation can be effectively dealt with and SMEs will find survival possible. It is originally scheduled that the tenancy agreements for the premises on the factory buildings in San Po Kong would expire by the end of this May. But now some 20% to 30% of the tenants have not yet moved out. Of course, there are many reasons for their not moving out. And many of these tenants are those running some SMEs in the manufacturing sector. Nothing has been done to change the fossilized policies from the Government by taking into account the actual situation and so the problems just stay on and will not go.

Today on the aeroplane I learned about the story of a noodles stall in Central. This is something which the Government does not want to mention. The stall can now continue to operate as the Government is not going to take any action for the moment. I think this case is related to some municipal services legislation. My long-time partner Mr WONG Kwok-hing is about to speak. He served in the former Urban Council for a long time. At that time, the Government was about to axe the Urban Council and the Urban Council was to axe the contractors. The reason was only the economic conditions at that time. Everyone in Hong Kong is only thinking about property development and

nothing else, all the money will eventually make its way into the pockets of the developers and no thoughts are given to preserve some *dai pai dong* or open-air food stalls with strong local colours.

Recently, a friend of mine returned from Singapore and told me that the Chinatown (Niu Che Shui) there was no longer what it used to be a few years ago. It was fast developing and teeming with activities of SMEs in the entire area. Some traditional goods are being hawked and displayed there and it could be said to be remarkably attractive. What about other places? I have just come back from Taipei. There are lots of such like SMEs in Taipei. It is true that Taipei's development model is different from ours, but the Taipei Government — incidentally we are asking it for advice in some trade union matters — gives room for the development of these SMEs and it will need to devise some related policies as well.

I do not agree to the view put forward by Mr Vincent FANG, that policies devised by the Hong Kong Government are no good. There are some areas which the Government will need to formulate some new policies to enable businessmen to do more business as society develops. For those SMEs operating in the factory buildings in the old resettlement areas which I have just mentioned, they are running some economic activities which are quite distinctive. Has the Government ever enacted any laws to protect them? No. If it is said that only the developers can save Hong Kong and enable everyone here to get a job, then it would not be necessary for people like us to talk about indigenous culture, economic innovation, economic activities and what not and make such like economic suggestions. We are no experts in economics but we have learned from the experience of other cities and countries. We know that in any highly developed city, there must be some living space for everyone. But we do not have such living space. Not only do we have no such thing, our Government is passing many new laws to bind us hard and fast. A classic example is Langham Place. Countless people have told us that things were better back in the days of the Urban Council, but since our laws were so fossilized that these people have been given little room for development and survival whatsoever.

In view of the above, I can only agree with Mr Vincent FANG on some of the contents in his motion, that is, the part which is related to the people I faced in Hong Kong over the past few years and there are as many as 1.3 million of them. These people find it impossible to get into the mainstream economy but



many of these people really want to find a job through their own efforts, thereby affirming their existence in this society. But the Government has been deaf to their cries and it has never thought of a way out for them.

Originally, as the economy picks up, these people may have a chance to get jobs again. As CHENG Yiu-tong, Chairman of the FTU has suggested, work can be offered in the place of handing out dole. For this we have made in-depth studies and we find that if we are to offer work instead of dole, it would be futile if there are no suitable types of work in the labour market or policies in support. How can there be any jobs and how can there be any relief? The Government must think hard on this, and that applies especially to Chief Secretary Donald TSANG and Secretary John TSANG. I hope that when they deal with this issue, they can be open-minded. I hope they can really think about these questions: Why does Hong Kong not share the same features as New York? Why can Hong Kong not imitate the features in the Japanese economy? Why is there no small capital economy in Hong Kong like that on the Mainland? Why does Hong Kong have no policies on SMEs? These are indeed questions which the Government must think over.

Apart from that, Madam President, I would also like to raise a question and that is: Why do we agree to Mr Fred LI's amendment? This is because his amendment also tells another story. This story shows that currently many government policies favour monopolization by the giant consortia. One example is about the food kiosk in the public housing estate where I am living. It has a distinctive style and it is shaped like a mushroom. In my constituency there are many such mushroom-shaped food kiosks. I love the food they sell. They are simply delicious. They make Hong Kong-style milk tea which is also known as "silk stocking milk tea" and that is superb. Madam President, if you are so interested, I can find some time to take you there and try it. It is really very tasty. Unfortunately, it is very hot now and because of the government policy to stamp out these food kiosks, these food kiosks do not have any air-conditioning even to date. Despite all these, the food they sell is great.

These are some economic activities which carry a strong local flavour despite their small scale of operation. Foreign visitors to the Wong Tai Sin temple, after worshipping the gods there, would also like to go to the Lower Wong Tai Sin Estate and enjoy a cup of "silk stocking milk tea". I have gone there with quite a number of Directors of Bureaux and inspected the place. But what is the Government going to do with all these mushroom-shaped food kiosks? The same question was once raised to the Housing Department and the

reply given then was the same as the reply given now: These kiosks are things of the past and they should not be allowed to do business anymore. The time back then was 1995 and it was a time when the economy was still very good and it was vastly different from the situation now. Now is the time the Government thought up a solution. Often we will say that we are dying to get a bite of a French toast — the genuine kind of French toast, not the kind produced by fast food outlets these days. The genuine kind of French toast is great in taste and as you take a bite, your mouth will be filled with creamy butter — smells great and tastes great. Do we still have this kind of French toast these days? No. But I can tell Members that once in a while Selina would buy some and give us a treat.

I really want to say to the Government that if we want to generate some economic activities, then we will need to maintain a level playing field and we must never say that since the Government does not manage something well, then this can be left to the market at large. Honestly, I do not enjoy window-shopping in the shopping malls. Every shopping mall these days is dominated invariably by the same handful of chain stores. The least attractive shopping mall is the one in Tseung Kwan O and it is disgustingly ugly. Ms Margaret NG, I think you would agree with me, right? People like us who like to collect things will never like shopping malls. I love to go instead to places like Hollywood Road — places with very distinctive economic activities that thrive on a small capital. This time when we went to Taipei to take part in a conference, we found some time apart especially to look at those small businesses run on a small capital.

Madam President, owing to the above reasons, we would support the original motion and the amendments. I hope very much that the Government will understand that laws are like a two-edged sword — with one side working to the advantage of the SMEs while the other side working against their advantage. The choice is left to the person who wields it. The most important point is whether or not the Government, that is, the new Government that is about to come on stage, will care about it. Does it really care to solve the acute unemployment problem in Hong Kong? I hope the Government can think about this.

Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Vincent FANG, you may now speak on the two amendments. You have five minutes.

**MR VINCENT FANG** (in Cantonese): Madam President, I notice numerous views were expressed by Members just now and I know a lot has been done by the Government. However, I am not sure of how much has been achieved.

Very often the policies pushed ahead by the Government will bring about disadvantages before advantages have had time to emerge. Let me use the manufacture of garments as a metaphor to explain the Government's way of implementing policies. As garment manufacturers, we will not wait until the garments are made to market them. Rather we will first market them and make them afterwards. Moreover, after the garments are made, we have to check whether they meet good standards. However, the government policy now is to put on the garment first after it is made, no matter it fits or not.

Therefore, the concerted effort of various departments is indispensable to the smooth operation of the Government. I know that Mr Donald TSANG said in his question and answer session on his political platform that if he were successfully elected as Chief Executive, he would arrange for the Chief Secretary for Administration and the Financial Secretary to take up more co-ordination work. I earnestly look forward to seeing the work of the Government being better co-ordinated in the future, so that the economy and society of Hong Kong as well as the general public can benefit from it. Thank you, Madam President.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, first of all, I have to thank Mr Vincent FANG for proposing today's motion debate to give us an opportunity to, in the context of improving Hong Kong's business environment, listen to the views of Members on the original motion as well as the amendments proposed by Mr Fred LI and

Mr CHAN Kam-lam. On behalf of the Administration and the relevant departments, I would like to respond as follows.

As pointed out by the Financial Secretary in this year's Budget, Hong Kong has a proven market mechanism and a favourable business environment, underpinned by such favourable conditions as a sound legal system, a low and simple tax regime, free flows of capital, and a clean and efficient government. However, we still have to strive to excel ourselves, upgrade our competitive edge, and promote economic development. In order to improve Hong Kong's business environment, one of the major initiatives is to carry out regulatory review and examine feasible ways to "remove barriers and lift restrictions", with a view to facilitating businesses.

In January last year, the Financial Secretary set up the Economic and Employment Council (EEC) in which people from different sectors are invited to participate so as to enable the political sector, business and labour groups, and the academic sector to discuss major issues relating to the economy and employment so that collective wisdom can be pooled to promote economic activities and encourage investment.

The Subgroup on Business Facilitation, set up under the EEC, comprises non-official members. It is mainly tasked with systematically reviewing the Government's regulatory mechanism with a view to abolishing outdated or unnecessary regulation so as to achieve the objective of facilitating businesses and creating employment.

In addition to striving to develop Hong Kong's external trade, the Government has always paid great attention to our internal demand and, under the free economy system, strived to maintain an environment conducive to the operation of all trades and industries. Taking account of Hong Kong's major trades and industries and the regulatory impact, the EEC has identified the construction, property development, retail and entertainment industries for priority regulatory review. Moreover, two ad hoc working groups, comprising representatives of the industries and professionals, were set up under the Subgroup on Business Facilitation, to be separately responsible for reviewing the property development and retail sectors. The two working groups, having commenced working in end 2004, are expected to propose some concrete improvement initiatives by the end of this year.

At present, the major scope of review of the Retail Task Force encompasses the licensing systems for food retail business (including supermarkets) and such sectors as beauty products, cosmetics, drugs, and so on. Moreover, the Task Force is watching closely the impact of the schemes on regulating volatile organic compounds and nutrition labelling on the retail sector (particularly the small and medium enterprises (SMEs)).

With respect to the work of streamlining food business licences, the Retail Task Force has held a number of ad hoc meetings with the industry, examine overseas experience, and work in collaboration with the relevant departments and Policy Bureaux in identifying improvement proposals, such as issuing integrated licences, introducing flexible charging mechanisms, streamlining the approval procedure and examining ways to enhance public consultation. The Task force has also briefed the Subcommittee to Study the Streamlining of Food Business Licensing set up under this Council on the progress of reviewing the food licensing system with the exception of food premises.

The regulatory review relating to the construction and property development sectors involves mainly two major areas, namely regulation of the advance works and construction stage of property development. The review is being undertaken separately by the two ad hoc groups.

Insofar as the entertainment industry is concerned, the authorities are currently reviewing the licensing system for cinemas and have consulted the industry and relevant departments on some short- and long-term improvement proposals. As the operation of theme parks and family entertainment centres requires a great variety of licences, the Government also started reviewing the Places of Public Entertainment Ordinance in relation to those businesses in March this year.

In addition to the abovementioned work, the authorities will also conduct regulatory impact assessments on some of the regulatory proposals with a view to evaluating the cost-effectiveness of the regulatory measures and the impact on the business sector or the public in order to draw up the best proposal to achieve the policy objective while minimizing as far as possible the cost burden of the business sector and the public in complying with the relevant regulatory measures. The assessments recently conducted in this area include the regulatory review on the "labelling scheme on nutrition information" and the "responsibility schemes for waste tyres and rechargeable batteries".

The EEC, chaired by the Financial Secretary, and the Subgroup on Business Facilitation, set up under the EEC, will continue to, from the angle of facilitating business, review and propose measures to improve the existing regulatory structure and streamline procedures. Various Policy Bureaux and government departments will work in close collaboration to examine the feasibility of various proposals and implement those ultimately adopted.

As regards the amendments proposed by Mr Fred LI and Mr CHAN Kam-lam, the Government has always supported fair competition and hoped to, through enhancing competition, upgrade cost-effectiveness and encourage free trade, so that consumers can ultimately be benefited.

Although the community is divided on the enactment of a fair competition law, I would like to reiterate that it is the Government's principle to enact legislation for individual trades and industries when the need arises.

In the light of the unique situation and needs of individual industries, we will adopt targeted measures to encourage competition and deal with anti-competitive conduct found in relevant industries. These measures may encompass administrative measures, such as licensing conditions, contractual requirements, code of practice; or legislation targeting individual industries, such as the provisions of the Telecommunications Ordinance and the Broadcasting Ordinance on the prohibition of anti-competitive conduct. Compared with enacting a comprehensive competition law, this approach is better able to cope with changes in circumstances and meet the needs of different industries flexibly.

The Competition Policy Advisory Group (COMPAG), established in December 1997 and chaired by the Financial Secretary, is specifically tasked with formulating Hong Kong's competition policies, reviewing anti-competition matters and relevant policies, as well as proposing measures to promote competition in Hong Kong. In order to ensure that Hong Kong can continue to maintain its competitive edge, the COMPAG has commissioned the Competition Policy Review Committee (the Committee) to review the existing competition policy of the Government and the composition, terms of reference and operation of the COMPAG. The committee comprises members drawn from different sectors of the community, as well as representatives from government departments who are well-versed in competition-related matters. The Committee will convene its first meeting in six months and complete its review within 12 months.

Meanwhile, owing to the community's concern about competition in the territory's vehicle fuel market, the COMPAG has decided to carry out an independent and comprehensive consultancy study on competition in this specific market. The study will review the competition situation in the vehicle fuel market and whether the local oil companies are involved in any anti-competitive conduct. The scope of the study covers the structure of the local vehicle fuel market, operating costs, pricing arrangements, and so on. With reference to the competition laws adopted in such places as the United States, the European Union and Australia against anti-competitive conduct and their relevant measures and experience, we will recommend if it is necessary for Hong Kong to adopt measures, including enacting legislation, to ensure fair competition in the fuel market.

Madam President, like Honourable Members, the Government is very much concerned about the development of SMEs and will strive to maintain a liberal, flexible business platform and provide a convenient business environment to enable enterprises to operate in a fair and liberal environment. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr CHAN Kam-lam to Mr Fred LI's amendment, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No 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): I now put the question to you and that is: That Mr Fred LI's amendment, as amended by Mr CHAN Kam-lam, to Mr Vincent FANG's motion, 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 amendment passed.

**PRESIDENT** (in Cantonese): Mr Vincent FANG, you may now reply and you have one minute 24 seconds.

**MR VINCENT FANG** (in Cantonese): Madam President, just as many Members have pointed out in their speeches today, many conditions affecting the development and business of small and medium enterprises (SMEs) are, in fact, outside the brief of the Commerce, Industry and Technology Bureau. As regards the questions mentioned by Members just now, such as the change of use of factory buildings, the licensing policy, and reasonable rents for the shopping malls and markets managed by the Housing Department, I hope that Secretary John TSANG can reflect the details and proposals discussed today to various government departments, and that, just as the Secretary said, the Government will, by effecting interdepartmental co-operation, explore a set of policies conducive to the continuous development of SMEs, so as to encourage Hong Kong people to continue to start their own businesses.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Vincent FANG, as amended by Mr Fred LI and Mr CHAN Kam-lam, 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 11.00 am on Wednesday, 15 June 2005.

*Adjourned accordingly at eighteen minutes past Six o'clock.*

## TRADE DESCRIPTIONS (AMENDMENT) BILL 2004

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Commerce,  
Industry and Technology

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	By adding before the full stop “, the Trade Descriptions (Country of Manufacture) (Piece-Knitted Garments) Order and the Trade Descriptions (Country of Manufacture) (Textile Made-up Articles) Order”.
3	By deleting the clause and substituting - “3. Rule of evidence regarding imported goods Section 24A is amended - (a) by renumbering it as section 24A(1); (b) in subsection (1), by repealing “or country” wherever it appears; (c) by adding - “(2) Notwithstanding subsection (1), in any prosecution for an offence referred to in that subsection, a trade description which indicates that the goods were

manufactured, produced,  
processed or reconditioned in  
a place shall not be regarded  
as false only because of the  
evidence that the goods were  
imported from another place,  
if -

- (a) that other  
place is  
located within  
the first-  
mentioned  
place; or
- (b) the first-  
mentioned  
place is  
located within  
that other  
place."."

New By adding -

"Trade Descriptions (Country of  
Manufacture) (Piece-Knitted  
Garments) Order

6. Title amended

The title to the Trade Descriptions (Country  
of Manufacture) (Piece-Knitted Garments) Order

(Cap. 362 sub. leg. H) is amended by repealing "COUNTRY" and substituting "PLACE".

7. Place of manufacture

Section 2 is amended by repealing "country" where it twice appears and substituting "place".

Trade Descriptions (Country of  
Manufacture) (Textile Made-up  
Articles) Order

8. Title amended

The title to the Trade Descriptions (Country of Manufacture) (Textile Made-up Articles) Order (L.N. 186 of 2004) is amended by repealing "COUNTRY" and substituting "PLACE".

9. Place of manufacture or production

Section 4 is amended by repealing "country" where it twice appears and substituting "place".

**Appendix 1****REQUEST FOR POST-MEETING AMENDMENTS**

**The Secretary for Commerce, Industry and Technology requested the following post-meeting amendment in respect of a supplementary question to Question 6**

**Line 3, third paragraph, page 39 of the Confirmed version**

To amend "..... to further extend the existing coverage of RTHK, it is something we cannot do. As there are only seven channels ....." as "..... to further extend the existing coverage of the relay of AM broadcast onto FM broadcast of RTHK, it is something we cannot do. As there are only seven FM channels with coverage of the entire territory, ....." (Translation)

(Please refer to line 5, first paragraph, page 8206 of this Translated version)

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Ms Emily LAU's supplementary question to Question 1**

As regards whether the former Chief Secretary for Administration's visits to the Mainland were made on government vehicles, the then Chief Secretary for Administration responded in his reply to a written question asked by a Member at the Legislative Council meeting on 20 April 2005 on the number of times he had met with officials of the Central People's Government on the Mainland that he had met with officials of the Central People's Government on the Mainland on five occasions since 2003. On these occasions, he did not use government vehicles carrying mainland licence plates.