

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 15 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 JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

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

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

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H.

DR THE HONOURABLE JOSEPH LEE KOK-LONG

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

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

THE HONOURABLE MA LIK, J.P.

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

MEMBERS ABSENT:

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

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

PUBLIC OFFICERS ATTENDING:

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

THE SECRETARY FOR JUSTICE

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.

SECRETARY FOR HOUSING, PLANNING AND LANDS

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

DR THE HONOURABLE SARAH LIAO SAU-TUNG, J.P.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Prisons (Amendment) Order 2005	92/2005
Tate's Cairn Tunnel Ordinance (Replacement of Schedule) Notice 2005	93/2005

PRESIDENT (in Cantonese): Clerk, a quorum is not present now. Please ring the bell to summon Members 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 starts.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Air Pollutants

1. **DR LUI MING-WAH** (in Cantonese): *Madam President, the visibility in Hong Kong during winter has often been low in recent years. An academic has pointed out that it is attributable to the emissions of pollutants from local power plants. Moreover, a local power company has also admitted that it has increased the usage of common coal in the generation of electricity in recent years. However, the Environmental Protection Department (EPD) has pointed out that more than 80% of the pollutants come from the Pearl River Delta (PRD) Region. In this connection, will the Government inform this Council:*

- (a) *of the respective percentages of common coal, eco-coal and other fuels consumed by local power plants in the total fuel consumption in each of the past three years;*
- (b) *regarding the pollutants causing the low visibility in Hong Kong during winter, of the respective quantities of various kinds of pollutants generated from the PRD Region and in Hong Kong, as well as their relative ratios; and*
- (c) *whether daily satellite images of air pollutants in the PRD Region will be uploaded onto the government websites to inform the public of the sources and distribution of air pollutants; if not, of the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS:

Madam President, the sulphur content of coal supplied in the international market may be as high as 4% or above, depending on the sources. Coal with sulphur content below 1% is considered as low-sulphur coal and has less environmental impact. Low-sulphur coal is used in local electricity generation since the licences issued to power plants by the Environmental Protection Department (EPD) under the Air Pollution Control Ordinance stipulate that the coal used for power generation may not exceed 1% in terms of sulphur content.

Since the sulphur content of coal varies according to sources and batches, the annual average sulphur content of coal used for power generation in Hong Kong would also vary, normally within the range of 0.4% to 0.7%. Although the sulphur content of coal used by one power company last year was relatively higher than that in the previous year, the annual average sulphur content did not exceed 0.5%, indicating that the coal used was still of reasonably high quality.

Apart from the quality of coal, the emission levels of power plants are affected by many other factors, such as total coal consumption and the installation of emission reduction devices. To better control pollution caused by power plants, the Government will specify the total emission cap in the licences of power plants upon their renewal. In order to meet the specified emission caps, the power plants may implement practicable measures in accordance with their own situations, such as increasing the share of natural gas in power

generation, purchasing coal of even higher quality and retrofitting their coal-fired generation units with desulphurization and nitrogen oxides (NO_x) removal systems. The Government is now processing the application for the renewal of the Castle Peak Power Station licence. Upon renewal, the total emission cap will take effect. Similarly, when the licence of another coal-fired power plant (Lamma Power Station) expires in September next year, the Government will specify the total emission cap in the new licence.

In the past three years, the percentages of electricity generated by local power plants using low-sulphur coal and natural gas were 69% and 31% respectively in 2005, 81% and 19% in 2003, and 74% and 26% in 2004. Oil was also used, but it accounted for less than 1% of the power generated.

Visibility is affected by fine particulates in the air, which absorb and scatter visible light. Besides respirable suspended particulates (RSP), other pollutants, such as sulphur dioxide (SO₂), NO_x and volatile organic compounds (VOCs) may also affect visibility by forming particulates through photochemical reactions. According to the Hong Kong-Guangdong Joint Study on Air Quality in the Pearl River Delta (PRD) Region completed in 2002 which analyses the quantities and percentages of different visibility-reducing pollutants emitted from the PRD and Hong Kong, the total emissions of RSP, SO₂, NO_x and VOCs from the PRD and Hong Kong amounted to 257 kilotonnes (kT), 596 kT, 565 kT and 465 kT respectively in the base year of 1997. Of these four major pollutants, Hong Kong contributed to 5%, 13%, 20% and 12% respectively of the total emissions, with the PRD making up the rest, which is 95%, 87%, 80% and 88% respectively.

At present, the EPD and Guangdong authorities are working in collaboration on the 2003 PRD Regional Emissions Inventory, which will identify changes in air pollutant emitted from the two places since 1997. The Inventory is expected to be completed by the end of 2005 and the latest data on the PRD regional emissions will be available by then.

Starting from 6 January 2005, the Hong Kong Observatory has been releasing daily Aerosol Optical Depth images on its website. These satellite images which show the distribution of particulates with visibility impact over the PRD and Hong Kong are useful for monitoring changes in the pattern of regional air pollution.

DR LUI MING-WAH (in Cantonese): *Madam President, it seems that the first and second paragraphs of the main reply are in discrepancy with the fact because a power company has already admitted that it has, because of the coal price, increased the use of common coal in recent years, but the Government said in the main reply that common coal is not used by this company and that at the worst, only quality low-sulphur coal with a sulphur content of 0.5% has been used. Is this consistent with the fact? We would like an explanation from the Government.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, according to my information, although the sulphur content of coal used by one power company last year had increased quite substantially from 0.38% to 0.46%, representing an increase of 21%, the sulphur content still complied with the requirement that the annual average content should not exceed 0.5%. Therefore, the low-sulphur coal used by the company is still considered of reasonably high quality.*

DR LUI MING-WAH (in Cantonese): *Madam President, the Government did not answer my supplementary question. Just now I asked whether the Government's reply is consistent with what the power company had said. The power company has admitted that the sulphur content of the common coal that it has been using is higher than 1%, but the Government said that the sulphur content of coal used by the company is below 1%.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, let me say this once again. According to the information that I have now, the sulphur content of coal used by this power company last year was within the range of 0.38% to 0.46%. We are interested in examining Dr LUI Ming-wah's information.*

MR BERNARD CHAN (in Cantonese): *Madam President, the Secretary pointed out in the main reply that over the past three years, the percentages of low-sulphur coal and natural gas in power generation were 69% and 31% respectively. There are now two power companies in Hong Kong. May I ask*

the Secretary whether she knows the respective percentages of low-sulphur coal and natural gas used by each power company? I heard a power company say that it would reduce the use of natural gas unless it could purchase natural gas from overseas countries. As such, will the use of more low-sulphur coal become a trend in the future?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, let me answer the second part of the supplementary question first. Regarding the use of natural gas, we certainly hope that the CLP Power Hong Kong Limited (CLP) can maintain the present arrangement of having about one third of its power generated by natural gas or even increase its proportion. In fact, the CLP has been telling us that as the availability of natural gas is lower than that expected, and coupled with the absence of spot trade for natural gas, which means that natural gas is not available for immediate purchase, because each purchase covers the amount of consumption for 10 years or 20 years, the CLP has to actively explore new sources of natural gas. In the meantime, that is, between 2003 and 2004, we saw an increased use of coal by the CLP in power generation. So, from the perspective of air pollution, we must set the total emission cap. Although it is impossible for us to control the amount of natural gas and clean coal to be purchased by the CLP, a cap must be imposed on the total emission in general. After some calculations, we consider that the total emission cannot exceed the basic standard of having one third of the power generated by natural gas. As for how the CLP will meet this emission target, the decision rests with the CLP.

At present, of the electricity generated by the CLP, one third is generated by nuclear energy, one third by natural gas and the other one third by coal. As to how a balance can be struck among these three types of fuel in order to ultimately achieve the controlled volume of air pollution, it has to be decided by the CLP on its own, and we cannot make rules or stipulations on this. As regards the differences between the two power companies in this respect, we do not have the statistics for the time being. Perhaps we can provide the information to Members after the meeting. (Appendix I)

MR MARTIN LEE (in Cantonese): *So?*

PRESIDENT (in Cantonese): Secretary, do you understand this supplementary question? If you do not understand it, I will ask Mr LEE to further explain it; and if you do understand it, you may answer it.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Would he please explain it?

PRESIDENT (in Cantonese): Mr LEE, please further elucidate your question.

MR MARTIN LEE (in Cantonese): *I thought the Secretary would understand it, because the questions are all here. In just three words: What is next?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I think Mr Martin LEE's question is that since there are now many problems with the air quality, what solutions there are to solve the problems. I hope this is what he meant.

When it comes to air pollution, many places and cities do actually face great challenges. Whether in Hong Kong or in the context of our collaboration with the PRD, we are exploring ways to tackle the problem, with a view to gradually bringing down the total emission.

Recently, we have signed a Memorandum of Co-operation with the Pollution Control Department of the State Environmental Protection Agency. The objective is to make concerted efforts to address air pollution on a regional or national level through emission reduction and control. After the signing of this Memorandum with the Pollution Control Department of the State Environmental Protection Agency, the first thing that we wish to do is to improve the measures on regional air pollution and emission reduction as well as proposals on the improvement of the overall air quality. To this end, we cannot rely on the efforts of Hong Kong alone. Rather, we need the support of the entire country. We should start from the policies with the support of enhanced pollution control measures, technology and management methodologies.

MR TOMMY CHEUNG (in Cantonese): *Madam President, does the Secretary know the percentages of coal and natural gas used by power plants in Guangdong Province? Besides, does Guangdong Province have a licensing system similar to ours under which power plants are required to use low-sulphur coal? If not, will we make an effort to urge Guangdong Province to adopt this measure?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, under their legislation on environmental protection, each power plant in Guangdong Province is subject to emission restrictions, and an emission charge is also imposed by the relevant authorities. Once the emission has exceeded the permitted limit, a charge will be levied as a form of compensation. This is the system in the Mainland.

As to whether we know the level of emission by power plants in the Mainland, as I mentioned in the main reply earlier, we are currently working in collaboration with the Mainland on an Emissions Inventory, and once this Inventory is completed, we can have a better idea of the amount of pollutants emitted by each air polluting unit. The pollutants under discussion now mainly include sulphur dioxide, nitrogen oxides and suspended particulates. We are now working on this Emission Inventory.

As regards imposing restrictions on the sulphur content of coal, this is, of course, one of the options, but it sometimes could be affected by supply. It is particularly so in the last two years when the economic growth in the PRD was high and the demand for electricity had been increasing continuously, resulting in serious competition among power companies in fuel purchase. In view of these developments, power companies are compelled to use whatever coal available to them irrespective of the sulphur content. In the meantime, during our work with the manufacturers' association, we can see a phenomenon in all power plants, whether it be national power plants, local power plants or power plants operating with investment from Hong Kong people, and that is, given a shortage of power, and as a popular saying goes: "opens four, closes three", electricity is supplied on four days whereas for the remaining three days, they have to use their own small-scale generation facilities to maintain power supply. The sulphur content and the amount of suspended particulates of coal used by these generation

facilities are higher. So, the crux of the question is that the overall arrangements of the power plants must be improved. We have gradually seen two measures adopted by the power plants: First, they have started to retrofit desulphurization facilities; second, some power plants have already converted to natural gas. In the near future, we will conduct inspections to find out how many power plants have converted to natural gas. Besides, a new power plant is under construction, and by 2006, a natural gas depot will be completed and by then, the pollution problem caused by the use of coal in power generation can be ameliorated. We cannot simply impose stipulations on the sulphur content, because if a power plant fails in compliance, should we require the power plant to cease supply electricity? I think this will not be done anywhere.

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

MR ALBERT CHAN (in Cantonese): *Madam President, the Secretary's replies to the supplementary questions fully reveal the gravity of the problem of air pollution, but the Government is still considering building a super incinerator in Hong Kong. Will it further aggravate the air pollution problem? Is there any conflict and contradiction between this policy and the policies on improvement of air quality suggested by the Secretary?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, incinerators are certainly a facility that involves a combustion process. But this facility is very different from a power plant. As a diversity of things may be put into and incinerated in the incinerator, the temperature of an incinerator will be much higher, and more will need to be done to remove the pollutants. In other words, the gas to be emitted ultimately must go through several tiers of filtration, chemical reactions and absorption. At present, the quality of emissions from incinerators in Japan, Germany and other European countries is entirely the same as that of ordinary air.

PRESIDENT (in Cantonese): Second question.

Recreational and Sitting-out Facilities in Public Housing Estates

2. **MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, some local bodies have reflected to me that the construction of the recreational and sitting-out facilities in quite a number of public housing estates has not commenced even though the residents have moved in for many years. In this connection, will the Government inform this Council:*

- (a) *of the recreational and sitting-out facilities planned for those public housing estates completed in the past 10 years but the construction of which has not yet commenced, the criteria adopted for deciding on the commencement dates of the works, and the anticipated progress of such works in the coming three years;*
- (b) *whether it has consulted the residents concerned on the completion dates of the recreational and sitting-out facilities in their housing estates; if so, of the details of the consultation; if not, the reasons for that; and*
- (c) *as the sites for planned recreational and sitting-out facilities but the construction of which has not commenced are used as temporary car parks, whether it has any plan to permanently allocate such sites for use as car parks; if it has, of the affected housing estates and the reasons for doing so?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, when planning new public housing estates, the Housing Authority (HA) will incorporate the necessary ancillary facilities including recreational facilities and open space. They will be developed in tandem with the domestic blocks to meet the daily needs of residents as they move in.

In redeveloping old public housing estates, however, the Government and the HA will take into account the overall planning of the nearby old areas, and after consultation with the departments and District Councils (DCs) concerned, reserve parts of the redevelopment site for the Government to provide district recreational facilities and open space to address the district shortfall. Due to the need to work out suitable rehousing arrangements for the affected tenants, large-scale redevelopment projects are normally implemented in phases,

resulting in sequential development of domestic blocks and large-scale recreational facilities in separate phases. On the other hand, implementation of the district recreational facilities and open space depends on their priority and the availability of government resources. Hence, in some cases, major recreational facilities are not yet developed after completion of the public housing estates.

My reply to the three-part question is as follows:

- (a) Among the public housing estates completed over the past decade, including those redeveloped in phases, six sites within public housing estates which have been reserved for recreational and open space uses are yet to be developed. Details of these sites are at the Annex. These projects fall into two main categories. The first category covers facilities which form part of the phased redevelopment project but are not developed in tandem with the domestic blocks in other phases. The other category concerns district recreational facilities and open space projects. The development programme for these projects are to be worked out by the Government having regard to the supply and utilization rates of similar recreational facilities in the district, residents' aspirations as well as the availability of resources, and so on. Depending on circumstances, the HA may provide temporary facilities on some of the reserved sites to optimize the use of land.
- (b) In planning for a new public housing development, the Government and the HA will consult the DC on the project and the provision of district recreational facilities and open space. Relevant government departments will also review from time to time the needs and priorities of various district recreational facilities and open space, including those in reserved sites within public housing estates, and update the DCs on details of the projects, implementation programme and progress of the projects.
- (c) In individual cases, for better utilization of land resources and in the light of local needs, the HA will use the sites reserved for provision of district leisure and recreational facilities for temporary uses such as provisional car parks or other beneficial purposes. Of the above six sites pending development, the district open space site reserved in Kwai Chung Estate Phase 2 is being used temporarily as a car

park and market to meet the parking and shopping needs of local residents during construction of the permanent shopping centre and market in Phases 3 and 4. With the recent completion of the permanent facilities as well as gradual commencement of commercial operations, the HA will clear the structures later this year and return the site to the Government for developing into district open space as originally planned.

Annex

**Recreational facilities and open space pending development
in public housing estates completed or redeveloped in phases in the past decade**

(A) District recreational facilities or open space to be developed by the Government

<i>Name of estate</i>	<i>Year of completion</i>	<i>Facility</i>	<i>Work progress</i>
Sau Mau Ping Estate	From 2001 for full completion by 2009	District Open Space (Sau Mau Ping Estate Phase 12)	Due to resource constraint, the Government is unable to accord priority to the development of this site. The Government will review the implementation programme for the site. No specific details at this stage. The Housing Department (HD) is considering the provision of a soccer pitch on part of the site in Phase 12 for use by local residents. Details are under consideration.
Lam Tin Redevelopment Programme (Kai Tin Estate, Ping Tin Estate and On Tin Estate)	From 1997 for full completion by 2009	Family Leisure Centre (Lam Tin Estate Phase 9)	Due to resource constraint, the Government is unable to accord priority to the implementation of this project. The Government will review the planned provision of a Family Leisure Centre. No specific details on the implementation programme at this stage.

<i>Name of estate</i>	<i>Year of completion</i>	<i>Facility</i>	<i>Work progress</i>
			The HD is planning to put the site into temporary recreational use by providing facilities such as basketball court and landscaped area. Construction works are scheduled to commence in end 2005 for completion in 2006.
Kwai Chung Estate	From 1998 for full completion by 2005	District Open Space (Kwai Chung Estate Phase 2)	The Government is reviewing the use and programme for the development of the district open space. No specific details at this state. Meanwhile, the HA is using the site as a temporary car park and market. After relocation of the temporary facilities by end 2005, the district open space site will be returned to the Government.

(B) Recreational facilities or open space to be developed by the HA

<i>Name of estate</i>	<i>Year of completion</i>	<i>Facility</i>	<i>Work progress</i>
Sau Mau Ping Estate	From 2001 for full completion by 2009	Local Open Space (Sau Mau Ping Estate Phase 16)	The HD will provide various recreational facilities on the local open space site, including ball courts, children playground, activity areas for the elderly and parent-child corners. Construction works will commence in end 2005 for completion in 2009.
Lam Tin Redevelopment Programme (Kai Tin Estate, Ping Tin Estate and On Tin Estate)	From 1997 for full completion by 2009	Local Open Space (Lam Tin Estate Phase 10)	The HD plans to provide recreational facilities such as gateball courts and pebble walking trails on the local open space site. Construction works will commence in end 2005 for completion in 2006.
Ma Hang Estate	2000	Pot-plant and Bonsai Garden	The HD is discussing with the parties concerned on the development of the site. No specific details at this stage.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, I wish to ask the Secretary through you as I really do not understand. In reply to the main question, the Secretary said in the very beginning that the ancillary facilities of the housing estates have to be developed in tandem with the domestic blocks to meet the needs of the residents. However, in the latter part of his reply, I really do not know what it is about. The Annex provided by the Secretary puts me in great doubts. The redevelopment project in Sau Mau Ping Estate was completed in 2001, but the construction of the planned facilities such as the elderly centre, children playground, ball courts and parent-child corners will not commence until 2005 and will be completed in 2009. In view of the fact that the residents have already moved in since 2001 and that the construction of these facilities is solely the responsibility of the HD and does not involve other departments, why is the construction be planned for 2005? When the construction starts, it will inevitably cause nuisances to the residents. Madam President, you also know that Kwun Tong has a serious mosquito problem. Under normal circumstances, residents should move in after the construction is completed, but now there will still be construction works in the neighbouring areas. Moreover, the residents cannot, like what the Secretary said, use the facilities when they move in. Is the Government, by adopting such a practice, treating the public housing estate residents as second-class residents, or taking advantage of them? I really do not understand why the timeline is so "out of line". Madam President, I do not know why.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I believe Members should have noticed that I stated in the main reply that due to the very large scale of the redevelopment, it has to be implemented in phases. As Miss CHAN mentioned Sau Mau Ping Estate, I will perhaps take this redevelopment project as an example. The Sau Mau Ping redevelopment project is divided into 16 phases for completion within 10 years.

Just as I said in the main reply just now, due to the need to work out suitable rehousing arrangements for the affected tenants, a lot of work needs to be handled and co-ordination is required in many aspects, thus the project is implemented in 16 phases. Insofar as this redevelopment project is concerned, nine out of the 16 phases have completed, which is why Miss CHAN said just now that residents have already moved in, but they are only moving into the completed portion of the project. Of course, these works were not all completed this year, for some of which were finished earlier.

Of these 16 phases of works, five have yet to commence. We have already completed 17 000 housing estate flats and projects not yet completed include the domestic blocks in Phases 13 and 14, the community hall site in Phase 10, the primary school site in Phase 11, the district open space site in Phase 12, which is one of the focuses of this question, as well as the local open space site in Phase 16. Insofar as the domestic blocks in Phases 13 and 14 are concerned, the piling works only started this year because the scope of development is relatively large and the rehousing order depends on whether we have flats to rehouse the tenants, and only after which can we vacate the land for redevelopment. Therefore, in this respect, we do have some practical problems.

As regards the reserved sites, like I said just now, it is stated in the Annex that 2 hectares of land has been reserved as district open space sites. As far as I understand it, the Kwun Tong DC has been discussing with the Leisure and Cultural Services Department (LCSD) on the finalization of this project. With regard to the local open space site in Phase 16 under the charge of the HD, we will provide various recreational facilities including ball courts, children playground, activity area for the elderly and parent-child corners. Construction works will commence in end 2005 for completion in 2009 as scheduled. Since it is a large-scale project, to a certain extent, it will inevitably cause inconveniences and nuisances to the residents, but this is unavoidable.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President.....*

PRESIDENT (in Cantonese): Miss CHAN, has your supplementary question not been answered?

MISS CHAN YUEN-HAN (in Cantonese): *The Secretary has not answered my supplementary question which is about the timeline. The Secretary said just now that the ancillary facilities of the housing estates have to be developed in tandem with the domestic blocks, but the redevelopment of the housing estate was completed in 2001 and the construction of the facilities only started in 2005 and will not be completed until 2009. My question is whether the public housing residents are being discriminated by such a timeline. The Secretary did not*

answer this part of the question, for he only stated the progress of Phase 1 or Phase 2. Members here may not belong to this district and thus may not be familiar with it. I, on the contrary, am very familiar with the district. I thus think the Secretary should not be so out of line and should at least align the works with the year 2001.....

PRESIDENT (in Cantonese): Miss CHAN, what you are saying now is not part of your supplementary question just now.

MISS CHAN YUEN-HAN (in Cantonese): *The Secretary did not answer my supplementary question.*

PRESIDENT (in Cantonese): You need only state the part not yet answered by the Secretary and I will see if the Secretary has anything to add.

Secretary, do you have anything to add?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I believe Miss CHAN is mainly targeting on the phrase "in tandem with". To us, it means how to co-ordinate these 10-odd phases of works in a way that will minimize nuisances caused to the residents. For such a large-scale project, it is simply impossible to have all these phases of works completed at the same time. If we demolish all these flats in one go and only let the residents move in after all construction works have been completed, we will be confronted with a scenario where flats are left vacant without anyone moving in, and that only when all the facilities have been built, which could mean a few years' time, can residents move into the flats. I believe Members will understand why a scenario like this can cause problems in Hong Kong.

PRESIDENT (in Cantonese): We have spent 11 minutes on the putting and replying of this question. There are now nine Members waiting for their turns to ask supplementaries. Will Members please be as concise as possible.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the HD originally planned to take up the construction of leisure and recreational facilities for certain housing estates themselves, however, due to certain reasons, for example, for reasons mentioned by the Secretary in part (c) of the main reply, some of these reserved sites after being changed to other temporary uses have been returned to the Government for the construction of leisure and recreational facilities by the LCSD. However, due to resource constraints, the LCSD has to apply for funding for the construction, rendering delay in time. Such phenomenon happens not only to Kwai Chung Estate, but also to the housing estates in Tsing Yi. Why does the HD, instead of taking up the construction themselves as originally planned, have to pass the construction to other departments, resulting in the construction being dragged on and on due to other departments' resource constraints?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I stated in the main reply that when planning new housing estates, the HD will be responsible to develop the ancillary facilities because these facilities are within the housing estates. However, in redeveloping old housing estates, we will take into account the overall planning of the nearby old areas. We also know that the chances of vacating sites in redevelopment of old areas are rare, therefore we will seize the opportunity of redevelopment to reserve some of these sites through replanning to meet the needs of the overall planning of the nearby old areas.

In the planning process, our main consideration is not the needs of the housing estates but that of the whole area. Because of the finance of the HA is independent of that of the Government, we have an agreement with the Government such that these facilities will be parcelled out to the Government in the planning process. I thus mentioned in both the Annex and the main reply that based on the reasons above, there are two categories of works, one of which is undertaken by the Government while the other is undertaken by us.

With regard to the works to be undertaken by us, they are being carried out according to our implementation programme, as Members will know by referring to the Annex. In the example of Sau Mau Ping Estate cited by me just now, we will carry out the works according to the programme in a prescribed order. As regards the part to be undertaken by the Government, because of the resource constraints besetting the Government in the past few years, resources

allocated for different departments had also been reduced. Thus, the latter had to prioritize their works and could not allocate and use resources as they wished.

We have discussed the situation with various departments and tried to find a way to co-ordinate the situation, so as to avoid vacated sites presenting an eyesore. If the departments concerned really cannot obtain enough resources from the Government, the HA will use the sites for temporary uses, as mentioned by Mr LEUNG, such as for the provision of leisure and recreational facilities. In view of the present situation, this practice may after all be acceptable as a solution.

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

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary did not answer my supplementary question which is about new housing estates, Kwai Chung Estate, in particular. A new housing estate is not the same as a redeveloped housing estate. The site in question was formed together with the new housing estate, on which recreational facilities would be developed by the HD. However, due to a sudden shortfall of markets within the housing estate, the site was developed into a temporary market. As the estate no longer needs a temporary market, the site has been returned to the Government. Procedure-wise, it has been unclear.....*

PRESIDENT (in Cantonese): Mr LEUNG, I have caught your point. Will you please repeat the name of the housing estate you mentioned just now.

MR LEUNG YIU-CHUNG (in Cantonese): *It is Kwai Chung Estate.*

PRESIDENT (in Cantonese): Thank you. Secretary, please reply.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I have in fact mentioned Kwai Chung Estate in part (c) of the

main reply, and its status is also mentioned in the Annex. Just as I stated in the main reply, since the works have to be implemented in phases, there are no market or car park facilities within the estate. To meet the needs of the residents already moved in, we thus used the district open space site in Phase 2 to provide some temporary facilities. With the gradual completion of a car park and market in the estate, we plan to restore the site by the end of the year and develop it as originally planned, so that we can provide these facilities to the residents as soon as possible.

MR JASPER TSANG (in Cantonese): *Madam President, the Secretary said that when planning new housing estates, the Government will consult the DCs on the recreational facilities and open space and will also review the situation from time to time. Does the Government have a set of standards with respect to the basic leisure and recreational facilities that should be provided in new housing estates, so that the tenants will know what sorts of facilities they can enjoy? Is there such a set of standards?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, yes, there is. The Planning Department has established different standards with respect to facilities all over Hong Kong. Of course, these standards are only applicable to areas within the housing estates. We will, during our consultation with DCs and relevant bodies, give detailed explanations according to the part on housing estates of the Hong Kong Planning Standards and Guidelines.

MR ALBERT CHENG (in Cantonese): *Madam President, the Secretary said in his reply that when planning new public housing estates, the HA will incorporate the necessary ancillary facilities including recreational facilities and open space. However, according to the Housing Ordinance, shopping centres and car parks are also categorized as ancillary facilities. The HA now plans to privatize shopping centres and car parks, which is, of course, being challenged now. My supplementary question is: Does the Government plan to privatize recreational facilities and open space as they are also ancillary facilities.*

PRESIDENT (in Cantonese): Mr CHENG, what we are discussing now is whether these facilities will be developed in tandem with the domestic blocks, but your supplementary question has strayed from this point.....

MR ALBERT CHENG (in Cantonese): *They are related, I can explain further.*

PRESIDENT (in Cantonese): To save time, please sit down first. I will see if the Secretary has this information at hand. Secretary, please reply.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, the short answer is "no".

MRS SELINA CHOW (in Cantonese): *Madam President, the Secretary spent a lot of time explaining why certain matters are not his business. The Kwai Chung Estate, which, as I heard from Members just now, is a new housing estate scheduled for full completion in 2005. However, the Secretary said the open space of the estate is not his business, for reasons not related to the Government's resource constraints, but for unknown reasons. Anyhow, he said it is not his business. As a result, the site has not been developed so far and is now returned to the Government for further evaluation. May I ask the Secretary, as the HA is responsible for the construction works within the housing estate, how they could put up with the fact that the completed housing estates have no open space for the residents when they move in? Can the Secretary tell us when these facilities will be available?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, in fact, the responsibility of developing these open space sites, such as the one at Kwai Chung Estate Phase 2, is divided between the Government and us; and this one is to be developed by the Government. Due to the Government's resource constraints, this site was not accorded a high priority. With respect to Mrs CHOW's question on the reasons why we do not take up the construction, I do not have the information with me now, and I will perhaps provide a written reply to Mrs CHOW. (Appendix II)

MRS SELINA CHOW (in Cantonese): *Madam President, in the document provided to us by the Secretary, this is the only facility that he did not say there is resource constraint. Thus, according to our information, resources do not*

constitute a reason for the delay. Despite this, I hope the Secretary can tell us, or even by providing supplementary written answer, what undertaking has been made by the Government. When will the Government provide the residents with these facilities?

PRESIDENT (in Cantonese): Secretary, will you please provide a written reply?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I will certainly do so. However, not mentioning the problem of resource constraint does not mean that there is not such a problem. There might have been oversight by us for not putting this in the document.

PRESIDENT (in Cantonese): We have spent more than 21 minutes on this question. The last supplementary question now.

MR FRED LI (in Cantonese): *Madam President, my question is related to part (A) of the Annex. As far as I understand it, the first two projects — in fact all three projects — are undertaken by the LCSD, the construction of which will not commence in the foreseeable future. The facilities provided in these sites within these redeveloped housing estates now are only temporary. In fact, the planning of these sites was made long ago, such as the development of Family Leisure Centres or open space. The detailed description of the facilities is available, and the only problem is that the LCSD did not kick-start the projects. May I ask the Secretary if he will discuss this problem with the Secretary for Home Affairs? As these sites are within the housing estates which are under his scope of responsibility, how could he let these sites idle for so many years and fail to provide services to the residents in the estates? Instead of satisfying the long-term needs by providing temporary open space, how should different government departments work together to solve this problem?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, thank you, Mr LI, for I totally agree with his point. The Government itself has to be well co-ordinated internally before it can perfect its

jobs. However, this does not mean that we did not communicate with the Home Affairs Bureau. We also frequently try to solve these problems with them. However, like I said just now, the biggest problem confronting them is financial constraint, compelling them to allocate less resource in this respect. That is why prioritization of projects is necessary. In this respect, we will continue to make an effort. In view of the improved economic situation, I hope the Government can allocate more resources in this area, so that we can present better homework or perform better next year.

PRESIDENT (in Cantonese): Third question.

Sale of Home Ownership Scheme Flats

3. **MR SIN CHUNG-KAI** (in Cantonese): *Madam President, the sale of Home Ownership Scheme (HOS) flats has ceased since 2003, and the authorities have stated that these flats would not be put up for sale as subsidized housing before the end of 2006. The Housing Authority (HA) has more than 16 500 unoccupied HOS flats at present, and in preparing its recent financial forecasts, the HA has assumed the sale of 2 000 HOS flats each year from 2007-08 onwards. In this regard, will the Government inform this Council:*

- (a) *of the estimated respective maintenance fees, management charges, rates/government rent and depreciation costs incurred by the suspension of sale of HOS flats since the commencement of the suspension until all the HOS flats have been sold out;*
- (b) *given the delayed inflow of sale proceeds due to the suspension of the sale of HOS flats, of the HA's loss in investment return as a result of the decision on suspension, calculated on the basis of the HA's average rate of investment return over the past five financial years; and*
- (c) *whether it will consider advancing the sale of the unoccupied HOS flats and setting a higher annual sales figure; if it will, of the timing for the resumption of sale and the number of flats to be sold each year; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, the authorities concerned decided to cease the production and sale of subsidized public housing in late 2002 to minimize intervention in the property market and to facilitate its free and healthy development. To maintain public confidence in the property market, our housing policy must be clear and consistent so that intending home-buyers are able to make informed decisions on the basis of known facts and actual situation. The property market is developing steadily and there is no special reason to adjust the policy of not offering the surplus HOS flats for sale before the end of 2006. In fact, the community's views on whether the sale of surplus HOS flats should be advanced are rather diverse. Some quarters are concerned that early sale of HOS flats may impact on the stability of the market and create confusion.

In the past months, I have informed the Legislative Council and the Panel on Housing on several occasions that the arrangements and timetable for the sale of surplus HOS flats will be drawn up in the latter part of 2006 in the light of latest market situations. It is premature to go into details at this stage.

Mr SIN's question made reference to the assumption that 2 000 HOS flats will be offered for sale each year from 2007-08 onwards. It should be noted that this is a sheer assumption used by the HA for its financial forecasts and for assessing its overall financial position in future. The HA has not made any decision on the number of flats to be sold or the sale arrangements.

As to the three-part question, my reply is as follows:

- (a) The HA has not made any decision on the timetable and the detailed arrangements for the sale of surplus HOS flats. Therefore, it is not possible to calculate meaningfully the total expenditure incurred by the surplus HOS flats before their sale.

In the past, we have been keeping the Legislative Council informed of the expenditure involved in managing the surplus HOS flats. In replying to the question raised by Mr Albert HO at the Legislative Council in March last year, I provided a detailed breakdown of the

expenditure involved in managing the surplus HOS flats. At the meeting of the Panel on Housing in April this year, we updated Members on the latest expenditure on management fees and government rents. As at the end of March 2005, the maintenance and management costs and government rents incurred by the surplus HOS flats was about \$216 million. Another \$170 million is expected to be incurred from April 2005 to the end of 2006. In addition, it is necessary to carry out simple touching-up works before offering the flats for sale. The estimated costs involved will be around \$9.1 million. The latest estimated expenditure is at Annex. In comparison with the information previously provided to the Legislative Council, the latest figures have taken into account the decrease in the number of surplus flats available for alternative means of disposal from some 10 000 last year to about 3 000 at present, and the management fees incurred by the Kingsford Terrace Private Sector Participation Scheme flats which the HA purchased from the developer last August.

As to whether the unsold flats will depreciate or diminish in value, it depends on the selling prices of the flats in future. Since property prices fluctuate from time to time, it is impossible to make any estimates.

- (b) Given that many factors and assumptions are involved in estimating investment returns, for example, selling prices of the flats, the numbers of flats offered for sale, investment strategy, prevailing market situation at the time of sale, and so on, it is inappropriate to make unfounded estimates about potential loss of investment return due to cessation of sale of HOS flats.
- (c) As stated above, in order to maintain the clarity and consistency of our housing policy, surplus HOS flats will not be put up for sale before the end of 2006. The number of flats to be sold each year after sale resumption will be decided by the HA in the latter part of 2006 after thorough deliberation in light of prevailing market situations.

Annex

Estimated Expenditure for Managing Surplus HOS Flats

Type of Flats	No. of Flats	Disposal Arrangement	Cost Incurred (in \$ Million) ⁽¹⁾		Expected Costs (in \$ Million)		
			From date of completion/buy-back to end of March 2005		From April 2005 to December 2006		
			Management Fee	Government Rent	Management Fee	Government Rent	Touching-up Costs ⁽³⁾
Returned flats ⁽²⁾	5 392	For sale to Green Form applicants after the end of 2006	46.9	18.7	50.9	20.3	N/A
Unsold flats in sold/partially sold HOS courts	6 082		80.9	32.4	54.9	21.9	5.0
Kingsford Terrace	2 010	For sale as HOS flats in 2007	1.8	2.3	5.5	7.0	1.6
Flats in unsold HOS developments	3 040	To be decided	31.1	2.2	8.6	1.3	2.5
Total No. of Surplus Flats	16 524	Total Expenditure	160.7	55.6	119.9	50.5	9.1
			216.3		179.5		

⁽¹⁾ The cost figures are calculated on the basis of the average expenditure for various types of flats according to their time of completion or buy-back.

⁽²⁾ As at 28 February 2005.

⁽³⁾ New flats in sold or partially sold HOS courts and Kingsford Terrace, which the HA bought back in August last year, will require simple touching-up works such as surface and occasional minor repairs before their sale in future. As to the 3 040 flats in unsold HOS developments, if there is no other appropriate alternative way of disposal and the flats are to be sold as HOS flats after the end of 2006, touching-up works will also be necessary. On the other hand, the 5 000-odd returned flats would require more substantial refurbishment due to previous occupation. Given that this cost item is necessary irrespective of timing of sale, it is not included above as a withholding cost.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, in the main reply, the Secretary pointed out that the assumption that 2 000 HOS flats would be offered for sale each year did not reflect the HA had already decided on the number of flats to be sold or the relevant arrangement. If the assumption on offering 2 000*

flats for sale as set out in the Budget is incorrect, may I ask the Secretary if, in his mind, the actual number of flats to be put on sale at the time will exceed 2 000? If so, will the number of flats to be put on sale at the time be so great as to affect the private market? If not, does it mean that all surplus HOS flats can be disposed off in a period longer than eight years? May I ask the Secretary, if the assumption of putting 2 000 flats on sale is incorrect and unable to reflect the actual situation, then how the actual situation can be reflected?

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

Madam President, I have indeed mentioned this twice or thrice in the main reply. We have to take into account the prevailing circumstances or market situation at the time, housing supply and a host of factors before a decision can be made. Mr SIN also asked earlier about the impact the number of HOS flats to be put on sale may have on the property market. If too many flats are put on sale, will it deal a blow to the property market? And if only a small number of flats are put on sale, will the property market also be affected? Of course, these are factors we have to consider at the time, and we will deliberate this issue with the HA at that time.

MR ALBERT HO (in Cantonese): *Madam President, on the one hand, the HA, for lack of financial resources, has abandoned a number of recreational and leisure facilities projects in public housing estates, affecting people's livelihood; but on the other, in suspending the sale of HOS flats, the authorities are foregoing billions of dollars in public revenue. This is most ridiculous. Madam President, my supplementary question is: Given that the property market is now developing steadily, as the Secretary said, and intense speculation seems to have arisen recently, is it not the right time to review an obsolete or inappropriate policy? Should the Government not conduct a review and then decide whether some completed flats stocked up should be put on sale in the market in an orderly manner? May I ask the Secretary, upon the successful election of the new Chief Executive, if these obsolete, inappropriate, or even ridiculous policies will be reviewed?*

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

Madam President, I think it may be going too far to describe the prevailing

situation as "ridiculous". But Members certainly do have their own views. I have made it very clear in the main reply that our housing policy should give people an impression of consistency, and any changes or revision must be justified by good reasons. As I said, over the years, and on different occasions, I had repeatedly raised this issue with Members of the Legislative Council and persons concerned outside this Chamber. Every time, careful consideration was given to the issue and to date, as I said earlier, we still see no reason to reverse the decision. In this connection, I will bear in mind the views expressed by Members just now. In case of drastic changes, which possibility cannot be ruled out, we will review this. However, I do not see such a need for the time being.

MR ALBERT HO (in Cantonese): *Madam President, I asked the Secretary, after the new Chief Executive was elected, whether these policies which might already be obsolete, or which I considered as obsolete, would be reviewed.*

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

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, the new Chief Executive will certainly has his own views. If I am still a member of his cabinet then, I will reflect the situation to him, but this of course has to depend on the personal view of the Chief Executive. As the saying goes, despite variations in the method used, the ultimate aim remains unchanged. But having said that, all these questions are guided by principles, and personal preference should not be applied in dealing with them. According to the logic I have mentioned earlier, I do not think the chances of introducing changes are great.

MR LEE WING-TAT (in Cantonese): *Madam President, according to an index, during the first five months of this year, the general property price index has increased by about 15% to 20%, and greater in the prices of luxury flats. In Secretary Michael SUEN's reply to the question, it was pointed out that a decision could only be made when there were material changes in the information available. May I ask the Secretary, apart from fluctuation in property prices,*

what factors will make the Secretary think that this decision which I considered obsolete warrants a review? The Secretary mentioned consensus earlier. Actually, when the decision of suspending the sale of HOS flat was made by the Government a couple of years ago, no consensus of society had been sought but the arrangement had still been pressed ahead all the same. In that case, what factors may render the Secretary make the decision to conduct a review? What are the factors that the Secretary still needs to consider?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, property prices have gone up by 15%, and this is a fact. But we have to see carefully what the basis of comparison is. The 15% increase is certainly a comparison drawn on the property price level at the lowest point during the SARS pandemic. Relatively speaking, if current property prices of units priced at the middle to lower end are compared with pre-1997 property prices, the disparity is still significant. As for luxury flats, owing to specific reasons, the increase in prices of luxury flats is much greater, but luxury flats only account for a very small percentage. In this respect, we will mainly consider the demand and supply of flats and also their prices. Members may have heard all this many times and are quite familiar with it. We will deal with the issue with great caution.

MR CHAN KAM-LAM (in Cantonese): *Madam President, in terms of policy, maintaining stability of the property market is certainly a very important consideration. I would like to know, as the Secretary plans to review the present policy in the latter part of 2006, what the Secretary will consider doing if the situation in the latter part of 2006 is even better than the present situation. Will the policy be relaxed in some measure to allow such work to be carried out in 2006? The Secretary said that the sale of HOS flat was suspended in the past, but this is not the actual case, for the HA has bought back a lot of surrendered flats. If the situation in 2006 is better, will the Secretary consider putting those bought-back flats on sale at that time?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, actually, I do not have much information to add. The main point is where the focus is placed. I can only add that the situations mentioned

earlier are well within our expectation. We are not likely to change our policy because of these situations. In fact, it is only about a year away from the middle of 2006. The end of 2006 will soon approach. After 2006, and from 2007 onwards, we will be subject to no restriction as to how we should deal with those HOS flats under certain market situations.

MISS TAM HEUNG-MAN (in Cantonese): *Madam President, in respect of the Secretary's reply given earlier, I am concerned about the vacant flats. At present, there are about 16 000 vacant flats. If only 2 000 flats are expected to be sold each year, the large number of vacant flats can hardly be digested within a short time. May I ask the authorities whether they have considered letting these vacant flats at higher rents to applicants on the public housing flats waiting list, so that these vacant flats can be put to short-term uses?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, Members should know that it is set out clearly in the covenant of HOS flats that HOS flats cannot be used for other purposes. Though we do want to adopt Miss TAM's suggestion to reduce the vacancy rate of HOS flats or to allow us to earn rental income, we are not allowed to do so under the covenant of HOS flats.

MR FREDERICK FUNG (in Cantonese): *Madam President, in part (b) of the main reply, the Secretary pointed out that potential loss on HOS flats could hardly be estimated as many assumptions and investment strategies were involved. However, we can see from several points that the present practice of the Government has caused the HA to incur losses. Firstly, bought-back flats will not be put on sale, so adding the originally unsold flats, the number of vacant flats will continue to accumulate. Secondly, vacant flats will also incur loss to the HA, for instance, the HA will have to pay the management and maintenance fees of such flats. If those flats are left vacant for four to five years, they may require substantial refurbishment before they can be put on sale again.....*

PRESIDENT (in Cantonese): Mr FUNG, please state your question as soon as possible.

MR FREDERICK FUNG (in Cantonese): *Then, thirdly, the cost of depreciation. All these costs mean losses. Will the Government try to compensate the HA for the losses?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, the answer is that the Government will not compensate the HA for the losses.

Regarding the several points raised by Mr FUNG just now, I think I have to respond to them in brief. Mr FUNG mentioned that the HA would suffer loss because HOS flat are no longer put on sale. He seemed to imply that surplus HOS flats will not be put on sale in future and will cause losses. As I have said many times, these flats are the assets of the HA and will eventually be put on sale. The selling prices of these HOS flats have yet to be determined, but they may be sold at better prices in future. Many people have mentioned the loss caused by the depreciation of these flats. Actually, we all understand that these flats are fixed assets of ours. If these old assets are put on sale again in future, it is expected that a sum has to be spent on refurbishment. The most important point is that these assets are ours; we will not lose them and the future selling prices of these assets will not be reduced because of depreciation. This will not be the case. We have to manage these flats and refurbish them before they are put on sale is mainly because we have to maintain the value of our assets. In this respect, I do not think that the assumed cost of depreciation of these flats should be included. As for the question of depreciation, if it is calculated according to the straight-line method, some people have estimated that the cost of depreciation may reach \$3.5 billion in 40 years, which is an enormous amount. But the cost of depreciation should not be included indeed.

PRESIDENT (in Cantonese): Mr FUNG, I know you are eager to speak. *(Laughter)* But I hope you will only put a relevant question.

MR FREDERICK FUNG (in Cantonese): *Madam President, I would like the Secretary to elucidate, as he said in the main reply that depreciation of flats could be excluded and ignored, but we note from the HA that depreciation is actually always.....*

PRESIDENT (in Cantonese): Mr FUNG, please do not engage in a debate in the Chamber, will you? Please state the part of your supplementary question that has not been answered.

MR FREDERICK FUNG (in Cantonese): *I want the Secretary to elucidate part of his remarks. That is why, from the point of view of the Government, depreciation should not be included.*

PRESIDENT (in Cantonese): Mr FUNG, I am sorry, please be seated first. I can appreciate your point. But, regrettably, during question time, elucidation of this kind is not allowed. I may anyway see whether the Secretary has anything to add. Secretary, do you have anything to add?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, my answer is just the same. These flats are assets of ours which will eventually be put on sale. As for the selling prices of these flats, as I said earlier, they may not necessarily be lower. Therefore, I think the depreciation of flats should not be a point for discussion.

MR HOWARD YOUNG (in Cantonese): *Madam President, after the financial turmoil, members of the middle class have been dogged by the problem of negative equity assets and were in dire straits. A couple of years ago, when the Liberal Party staged the first march for "protecting the people's assets and reviving the economy", it also advocated that the sale of HOS flat be suspended. We hope that the Government will not waver in its policy. However, I am also concerned about the capability of the market in absorbing these HOS flats. Many people have suggested that those HOS flats be used as hostels. Has this plan been banned completely and no further discussion can be held?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, the Government has done a lot in this respect, but no progress has been made so far. We consider that the plan has already died in the womb, and no one has ever mentioned it again. The plan does not seem to be feasible. As to whether HOS flats will be put up for sale in an orderly manner in future, I also want to explain this. We have two ways to promote the sales of HOS flats.

One way is to sell them to holders of green forms, who are the existing residents of public housing estates, the main sales target. And the other is to sell them in the open market. Therefore, the customer bases are different. In fact, on second thought, if the Government sells the flats to sitting tenants of public housing estates, it will facilitate these residents to improve their living standard and expedite their pace of moving up the ladder.

PRESIDENT (in Cantonese): We have spent more than 21 minutes on this question. Last supplementary question.

DR KWOK KA-KI (in Cantonese): *Madam President, I very much appreciate that the Secretary has to undertake a lot of responsibilities, including the upholding of high land premiums and property prices. However, according to the Secretary's reply to a supplementary question raised earlier, will the Government consider expanding the sale of HOS flats to more than 2 000 flats a year only when the price level of flats at the middle-to-lower end has reached the crazy levels in 1997? May I ask the Secretary to clarify whether we have to wait until property prices have risen to the 1997 level?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I have to thank Dr KWOK for raising this question. I absolutely did not mean that when I gave that answer. I would like to take this opportunity to clarify that I have not said so. As Mr LEE Wing-tat mentioned the increase in property price was 15%, I said at that time that it was the fact, but the figure only represented the increase since the SARS pandemic.

DR KWOK KA-KI (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. Does the Secretary mean that it is not necessary to wait until property prices have risen to the crazy level before 1997 that more HOS flats can be put on sale?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I have made myself very clear just now. I do not mean that and the answer is in the negative.

PRESIDENT (in Cantonese): Fourth question. This oral question is raised by Mr LEUNG Kwok-hung originally, but before the meeting commenced, Mr LEUNG informed me in writing that he had other commitment and could not return on time to attend the meeting, so he had asked Dr Fernando CHEUNG to ask this oral question in his place. Dr Fernando CHEUNG.

DR FERNANDO CHEUNG (in Cantonese): *Madam President, since Mr LEUNG Kwok-hung is now staging a protest against the coterie election to be held for the Chief Executive post, I ask in his place*

PRESIDENT (in Cantonese): Dr Fernando CHEUNG, please state your oral question.

Contractors of Outsourced Cleansing Services

4. **DR FERNANDO CHEUNG** (in Cantonese): *Madam President, it has been reported that some contractors of the Government's outsourced cleansing services (the contractors) submitted false leave certificates of their employees and documents with forged signatures to obtain their service fees by fraud. Moreover, the Cleaning Workers' Union and the Cleaning Service Industry Workers Union had each lodged complaints with the Housing Department (HD) against four contractors who did not pay their employees according to the committed wages stipulated in the service contracts, and these complaints were already substantiated. On the other hand, while the contracts of the Government's outsourced cleansing services expressly provide that the contractors shall not breach the Employment Ordinance, there are still cases concerning the above wage problem and employees of certain contractors being forced to work without taking leave on rest days over a long period of five to six years. However, the government departments with the regulatory responsibility in this regard knew nothing about these irregularities and only dealt with such cases after receiving complaints from the workers' unions. In this connection, will the Government inform this Council:*

- (a) *whether, as victims of the above fraudulent acts, the government departments concerned will take the initiative to report to the police for investigation into the criminal liability of the contractors*

suspected of committing the above fraudulent acts, and how the HD will punish the four contractors who have been found not paying their employees according to the wage scales stipulated in the contracts;

- (b) whether the government officials responsible for regulating the contractors concerned will be held accountable for the occurrence of such cases; if so, of the officials involved and how they will be punished; and*
- (c) as contractors frequently breach the labour laws and deceive their employees after the commencement of the Government's outsourcing of its cleansing services, whether the authorities have considered ceasing to outsource the cleansing services, or directly employing cleaning workers by other means, instead of providing manpower and resources to regulate the contractors?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the Government is always concerned about the issue of service contractors complying with the terms of contract and employment-related legislation. Since May 2001, the Government has implemented a number of targeted procurement arrangements with a view to protecting the wages and benefits of non-skilled workers of government service contracts (excluding construction service contracts) that rely heavily on the deployment of non-skilled workers.

To tie in with the implementation of the above measures, the procuring departments have put in place a monitoring mechanism, which includes spot checking of wage and attendance records, random and surprise inspections and interviews with workers to ascertain their wages received, the number of hours worked, and so on. The Labour Department (LD) has also stepped up inspection to safeguard the rights of non-skilled workers under the Employment Ordinance. If a contractor is found to have breached the provisions under the Employment Ordinance and there is sufficient evidence, including the workers concerned are willing to come forward as prosecution witnesses, the LD will take the necessary prosecution action against the concerned contractor. Moreover, the LD and individual procuring departments have also organized seminars for contractors and front-line supervisory staff on good personnel management practices and the relevant employment legislation.

Our reply to the question raised by Mr LEUNG Kwok-hung (asked by the Dr Fernando CHEUNG in Mr LEUNG Kwok-hung's place) is as follows:

- (a) It is stipulated in the existing tender documents that the Government will pay the prescribed monthly service fees only after the contractor has submitted verified information to substantiate that the wages paid to their staff are not less than the amount stated in the employment contract and contributions have been made by the contractor in accordance with the Mandatory Provident Fund Schemes Ordinance or the Occupational Retirement Schemes Ordinance. The Government would not pay the service fees until it has received such information. If, through the existing monitoring mechanism and the investigation of the LD, it has been revealed that a contractor is suspected of obtaining service fees by fraudulent acts, the procuring department will immediately report the case to the relevant enforcement departments, for instance, the police for follow-up action. The procuring department will, in accordance with the contract terms, also recover the service fees paid as a result of false submissions and, where necessary, terminate the contract for breach of the contract terms. As for the cases mentioned, the HD has sought clarifications from the employees and the contractors concerned and referred the cases to the relevant enforcement agencies including the LD, the Mandatory Provident Fund Authority and the police for their action. If it is proved that the contractors have breached the requirements, the HD will take punitive actions against the contractors in accordance with the existing mechanism, including terminating the contracts and recovering from them the service fees in arrears, prohibiting them from participating in tender for a period of time or even not considering their tenders permanently.
- (b) As mentioned above, the procuring departments have put in place a monitoring mechanism and the law enforcement agencies have stepped up inspection at workplaces to ensure that contractors comply with the contract terms so as to safeguard the rights of non-skilled workers employed under the relevant government service contracts. As procuring departments will, in accordance

with the contract terms, take punitive actions against those contractors who are in breach of the contractual obligations, the question of government officials being held accountable for contractors' non-compliance with contract terms does not exist. Through the existing monitoring mechanism (including the display of information on wages and working hours committed by contractors at workplaces or reporting places) and the use of standard employment contracts, non-skilled workers should be well aware of the employment terms on the wages payable, the working hours per day, leave, and so on. If the workers are unable to receive the wages and benefits as specified in their contracts, they are advised to lodge complaints with or report the case to the LD and the procuring/enforcement departments so as to safeguard their own rights. They are also encouraged to come forward as prosecution witnesses to bring those contractors who are in breach of the contract terms to justice.

- (c) The primary objective of government outsourcing is to achieve value for money, and to make use of private sector experience and skills to provide services to the public.

In deciding whether services should be outsourced and what types of services are suitable for outsourcing, departments will take into consideration a number of factors and observe the primary principle of delivering public services to the community in the most cost-effective and efficient manner. One of the major considerations is whether the activity is a "core" service, that is, one that is essential for civil servants to perform. Cleansing services do not fall into the category of "core" service.

The Government will handle any cases that are in breach of the Employment Ordinance and incidents of obtaining service fees by fraudulent acts in accordance with the law and related contractual provisions. Outsourcing has brought about many benefits. Apart from enabling the Government to achieve a number of economic and fiscal policy objectives and stimulating the creation of jobs and business opportunities in the private sector, departments can provide otherwise unavailable services to the public, focus on their "core"

services, gain access to new skills and technologies, reduce costs and improve service quality. Therefore the effectiveness of outsourcing should not be completely denied because of the problem of individual law-breaking contractors.

DR FERNANDO CHEUNG (in Cantonese): *Madam President, in the main reply, it is said that the Government would step up inspection and encourage the workers concerned to come forward as prosecution witnesses. In addition, some measures such as the display of information on wages and working hours committed by contractors have been adopted. However, I have personally participated in some research and found that more than 60% of the contractors have not complied with such requirements, and that is, display of information on wages and working hours committed by contractors. I have this question for the Government. Basically, the crux of the problem now is that the rights of employees have been exploited, but they do not have the courage to come forward as prosecution witnesses for fear of losing their "rice bowls". What measures will the Government adopt in order to provide further protection to the workers so that they do not have to worry about losing their "rice bowls" after coming forward as prosecution witnesses? Or at least some compensation can be provided after they have lost their jobs, for instance, the implementation of a cash award or cash compensation scheme so that workers who have come forward as prosecution witnesses can get some basic protection of livelihood.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, here I would like to provide some information concerning Dr Fernando CHEUNG's question that the employees may worry about the lack of protection after reporting the illegal acts of their employers. According to section 72B of the Employment Ordinance, it is an offence if an employer dismisses or threatens to dismiss his employee for giving evidence or consent to give evidence in any proceedings in relation to the enforcement of the Ordinance or for reason that the employee has reported the illegal acts of the employer. The employer is liable to a fine of \$100,000 upon conviction. So, we encouraged the employees by assuring them that they need not worry about losing their "rice bowls" and they should come forward as witnesses because they are protected by law. Regarding Dr CHEUNG's question concerning the feasibility of introducing a cash award or cash compensation scheme, the

employees should understand their own rights. From May 2004 onwards, the Government has amended the relevant legislation and many requirements have been set out in the newly awarded outsourcing contracts. For instance, the working hours of employees should be determined according to the criteria of the Census and Statistics Department. Members should also know that we have recently formulated a standard employment contract. An employee should be fully aware of his own rights. So, let me reiterate: If an employer threatens an employee by saying that he will be dismissed if he reports his illegal acts, the employer has contravened section 72B of the Employment Ordinance. Secondly, our procuring department can refer the employee to other contractors. However, other contractors can, of course, decide whether they will employ the employee or not. I am sure that under the existing legislation or mechanism, there is proper protection for the employees.

PRESIDENT (in Cantonese): Dr CHEUNG, has your supplementary question not been answered by the Secretary?

DR FERNANDO CHEUNG (in Cantonese): *Madam President, the Secretary told us to fear not, believe only.*

PRESIDENT (in Cantonese): I asked whether the Secretary had not answered your supplementary question. You only have to state which part of your question has not been answered by the Secretary.

DR FERNANDO CHEUNG (in Cantonese): *Madam President, we are worried that even though the employer has breached the law, the employee may still have to face the problem of losing his job. The Secretary has not answered how the employee's "rice bowl" can be protected?*

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I have nothing to add.

PRESIDENT (in Cantonese): A total of nine Members are waiting for their turns to ask supplementary questions. Members who have the opportunity to ask questions please try to be as concise as possible.

MR KWONG CHI-KIN (in Cantonese): *Madam President, in the last part of part (a) of the main reply, the Secretary said that if it was proved that the contractors had breached the requirements, the Government would take punitive actions against the contractors, including terminating the contracts and recovering from them the service fees in arrears, prohibiting them from participating in tender for a period of time or even not considering their tenders permanently. But in many cases, we do not see what punitive measures have been imposed on these non-compliant contractors and unscrupulous employers. May I ask the Government whether it can cite any actual examples or statistics concerning punishment of these contractors? Is it because the Government has not taken punitive actions or because no publicity programme has been launched? If the Government has not taken any punitive actions, how can such irregularities be prevented? If the Government has taken punitive actions without publicity, there will be no deterrent effect on other unscrupulous employers.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, perhaps let me provide some statistics to Mr KWONG Chi-kin or other Members as reference. In recent years, the number of inspections and prosecutions conducted by the LD concerning service contracts has greatly increased. This proves that our colleagues in the LD have been working very hard in pursuing these cases. Regarding the number of inspections, there were 604 cases in 2002 and there were 298 cases from January to May in 2005. From January to May 2005, the number of contractors involved is 59. In 2004, 1 961 employees were interviewed. But during the period from January to May 2005, the number of employees interviewed is 1 121. In other words, we have direct dialogue with the workers in order to understand whether they have been exploited and whether the employers have acted in accordance with the employment contract. Regarding the number of prosecutions, 31 summons involving five contractors were issued from January 2005 to 8 June 2005. Compared with the whole year of 2004 in which only three summons involving two contractors were issued, we have stepped up our enforcement effort.

Mr KWONG asked whether I had any example. Perhaps let me cite a recent case. A contractor has violated the Employment Ordinance. In that case, the contractor received a total of 15 summons and was eventually convicted. As a result, the contractor is prohibited from participating in tendering for government contracts for 12 months starting from the date of conviction. So, such requirement has deterrent effect on the contractors and the Government has made an effort to improve the situation.

MR KWONG CHI-KIN (in Cantonese): *Madam President, the Secretary had not answered my supplementary question when I raised my hand. But he did so after I had raised my hand. However, I have only heard about one successful prosecution case. He has only mentioned one single case in such a long elaboration. Does the Secretary have anything to add?*

PRESIDENT (in Cantonese): That is only your comment.

MS LI FUNG-YING (in Cantonese): *Madam President, may I ask the Secretary, concerning some cases that have been reported to the authorities and substantiated, whether the LD will initiate prosecutions without requiring the employees to give evidence?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *Madam President, if an employee has provided evidence, the case can be substantiated. Under such circumstances, I am sure the LD will conduct investigations. I do not know if Ms LI Fung-ying meant she hoped the employees should not be required to testify against the employers. As far as this point is concerned, I am not sure.*

MS LI FUNG-YING (in Cantonese): *Madam President, I would like to supplement. The employees may wish to report the employers' illegal acts on telephone or through other channels because they do not want to come forward as witnesses. So, can the authorities amend the law so that the LD can initiate prosecutions?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I would like to thank Ms LI Fung-ying for her proposal. Perhaps let me refer her suggestion to colleagues in the LD for consideration.

MR RONNY TONG (in Cantonese): *Madam President, I would like to follow up Mr KWONG Chi-kin's supplementary question. The Secretary said that cases would be referred to the relevant enforcement agencies for prosecution. But in part (a) of the main reply, the Secretary mentioned that the Government has set up a punitive mechanism. May I ask the Secretary how many times this mechanism has been used to punish the contractors direct during the past year, including prohibiting them from participating in tender for a period of time? Has this mechanism been invoked?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, first of all, let me inform Members that the mechanism was launched last year. Such an arrangement is applicable to our new contracts. It is stipulated in the contract that a point-deduction system has been adopted under which the contractor will be prohibited from bidding for government contracts once the contractor has been deducted points for six times or received three summons as I have just said. However, I have to point out that some contracts were approved and awarded before the introduction of this new system. We have to respect the spirit of contract. In those contracts, the punitive terms are not as strict as the new mechanism. But they will expire gradually. After the old contracts have expired, the new system will be introduced into the contracts under which all contractors are required to comply with the requirements of the new system. Members can see that there is a greater number of cases concerning contractors who have violated the law and been penalized by the authorities under the old contract system. I do not have information in relation to Mr Ronny TONG's supplementary question. But I will provide a written reply to Mr TONG later. (Appendix III)

Since the mechanism has been introduced for a short time, there may not be a great number of prosecutions. But as more old contracts are renewed, more and more contractors will be subject to the regulation of the new system. I believe if some contractors should continue to violate the Employment Ordinance, the number of contractors subject to punitive actions will increase.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, according to the Secretary's main reply, it seems that the Government attaches great importance to the problem and is very smart for it ensures that the regulatory authority will provide protection to the employees. But by referring to the actual situation and the information provided by trade unions, we can see from a number of complaint cases that the HD has no knowledge of the violation of the regulations by the contractors and has not taken any actions over the past six years. If the mechanism cited by Secretary is so sound, why is the HD totally unaware of what has happened over the past six years? Does the Secretary consider that the regulatory authority has not properly discharged its duty and is incapable? Furthermore, the Secretary has just mentioned that the employees can report their cases under section 72B of the Employment Ordinance. Has the Government initiated prosecution by invoking this section? I have received a complaint that the LD has not initiated prosecution against an employer. Does this mean that the LD has not discharged its duties properly and is incapable? How can the Secretary ensure that there is no dereliction of duty on the part of these agencies and the LD will take the initiative to conduct investigations despite the workers' failure to report their cases, rather than remaining totally unaware of the situation for six years?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *Madam President, I of course have no idea of which case Mr LEE Cheuk-yan is referring to. It is totally unacceptable if the department head takes no heed of a complaint which has been lodged by an employee for six years. Mr LEE has just mentioned a case handled in accordance with section 72B of the Employment Ordinance. I am not in a position to comment because I do not know the details. But I am sure our colleagues know that workers' interests must be protected. As Mr LEE Cheuk-yan said, if they have failed to conduct investigations despite their knowledge of these cases, I believe neither the Government nor the public will consider it acceptable.*

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. The Secretary just said that it was unacceptable if no follow-up action had been taken for a complaint case that had been lodged for six years. But now, we are not talking about whether or not the workers have reported their cases. Rather, we are talking about the fact that*

some workers have suffered for six years and have been exploited for six years but the regulatory authority has done nothing or even knows nothing. Does the regulatory authority itself not have a problem?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I would like to express my views too. I think communication should be two-way. If an employee hired by a contractor considers his interests have been exploited, he can complain to the procuring department. Hong Kong is a very good place where anyone can make complaints and seek redress. I do not wish to comment on individual cases. I think this is interactive. The worker should also understand his interests and raise the issue if there is a problem. The procuring department — a new mechanism I have just mentioned — should interview the workers employed by the contractors from time to time in order to understand their problem. From the figures I have just provided, Members will know that the LD has interviewed more than 1 000 workers in a short span of several months in order to understand whether their interests have been exploited.

MR ANDREW CHENG (in Cantonese): *Madam President, the Hong Kong Police Force has the Witness Protection Unit. Has the Bureau considered setting up a witness protection unit in order to protect workers who come forward as witnesses against unscrupulous employers? This is because after they have testified against their employers, other contractors may not hire them. Regarding Dr Fernando CHEUNG's follow-up question, will the Government provide incentives, such as giving concessions to the contractors or implementing a merits system, in order to encourage the contractors to employ workers who have reported the crimes of other contractors so that the workers will have the courage to come forward as witnesses?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, if a worker who has testified against his employer has good performance in his job, I believe other employers will offer him a job in view of his good performance because not all employers are unscrupulous. So, I think this problem should better be resolved by the worker and the employer. However, regarding Mr Andrew CHENG's proposal, I believe the Government is willing to heed. If Mr CHENG has other ideas, I am also willing to relay

them to other relevant departments, including the LD for consideration. They will then consider whether the ideas are helpful and whether they can be included in the procuring regulations. Our attitude to this issue is open. However, if the Government effects too much intervention, it is also problematic because these matters are not simply black or white. Instead there are many grey areas. I believe we have to deal with them in a prudent manner. Nevertheless, I thank Mr CHENG very much for his advice and we are glad to listen.

PRESIDENT (in Cantonese): We have spent more than 24 minutes on this question. Last supplementary question.

MR WONG KWOK-HING (in Cantonese): *Madam President, in the main reply, the Secretary said that the procuring department will exercise monitoring. Yesterday I handled a case concerning the Museum of History, the procuring department of which is the Leisure and Cultural Services Department. In that case, the contractor concerned wants to dismiss his employee and deduct seven days' wages, uniform fees and costs for purchasing headsets. I would like to ask the Government: Why did the procuring department not take immediate follow-up actions and punish such an unscrupulous employer?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I have just heard about this case mentioned by Mr WONG Kwok-hing. He said that the procuring department had not followed it up. I will take up the responsibility of following up the case after the meeting. (Appendix IV)

PRESIDENT (in Cantonese): Fifth question.

Intellectual Property Protection

5. **MR WONG TING-KWONG** (in Cantonese): *Madam President, it has been reported that the results of a survey on intellectual property conducted by the Intellectual Property Department (IPD) in mid-February this year revealed that almost 50% of the respondent business establishments mistakenly believed*

that they could automatically obtain intellectual property protection in Hong Kong upon successfully registering the trademarks, patents and designs of their goods in the Mainland. However, the IPD stressed that under the principle of "one country, two systems", trademarks, patents and designs of goods have to be registered in Hong Kong and in the Mainland separately before they can enjoy protection of the relevant laws in both places. In this connection, will the Government inform this Council of:

- (a) the number of types of goods which have their trademarks, patents and designs currently registered in Hong Kong but not in the Mainland;*
- (b) the number of complaints over the past three years concerning goods which had not been registered concurrently in Hong Kong and in the Mainland, and therefore could not enjoy protection of the relevant laws in the event of infringement of rights of these goods in the place where they had not been registered; and*
- (c) the measures to enhance the business establishments' knowledge about the registration system for the trademarks, patents and designs of goods?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, my reply to the three parts of the question raised by Mr WONG Ting-kwong is as follows:

- (a) Hong Kong and the Mainland operate two separate and independent systems for registering intellectual property rights (IPRs). We do not have the relevant information about the number of trademarks, patents and registered designs that are currently registered in Hong Kong but not in the Mainland.
- (b) For cases in which Hong Kong companies have not registered the trademarks, patents or registered designs of their products concurrently in Hong Kong and the Mainland, we do not have the relevant information about the complaints that they have lodged against infringement activities in the place where such IPRs have not been registered.

- (c) The IPD has all along been working to increase the business community's awareness of IPR protection and to enhance their understanding of the IPR registration systems of Hong Kong and the Mainland through various publicity and public education activities as well as different channels of disseminating IPR information. The IPD also encourages enterprises to apply for registration of their trademarks, patents and registered designs concurrently in Hong Kong and the Mainland in order to secure more comprehensive protection of their IPRs.

Between 2004 and the first half of 2005, the IPD organized a total of five seminars and exhibitions on IPR protection for the Hong Kong business sector. Through collaborating with the Intellectual Property Office of Guangdong Province, it has reached out to Hong Kong companies in the Pearl River Delta (PRD) to promote messages and services relating to IPR protection. Over the same period, it also organized in five mainland cities seminars and exhibitions on IPR protection for Hong Kong small and medium enterprises as well as mainland enterprises. Back in 2003, the IPD already worked with the Intellectual Property Offices in Macau and Guangdong to establish the Intellectual Property Database for Guangdong, Hong Kong and Macao. The Database provides the business sector and the public with online information about the intellectual property protection regimes in the three places.

The IPD will continue its work in these areas. For example, it will participate in and co-organize the Pan-PRD Intellectual Property Co-operation Forum to be hosted by Sichuan in July this year. It will also continue to co-operate with the relevant authorities to enrich the contents of the Intellectual Property Database for Guangdong, Hong Kong and Macao.

MR WONG TING-KWONG (in Cantonese): *Madam President, I have learnt that since the systems for registering IPRs in Hong Kong and in the Mainland are independent from each other, thus it is indeed difficult for Hong Kong to obtain the relevant statistics. Nevertheless, may I ask the Secretary what the difference between the systems and requirements for applying the registration of trademarks, patents and designs in the two places is and how long the registration process will take in the two places?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, under "one country, two systems", Hong Kong and the Mainland operate two separate and independent systems for registering IPRs, and the two systems are fundamentally different. Besides the difference in the system of application procedures, there are differences between both sides in terms of the description of IPRs. It is rather difficult to make a comparison between the two. As to the time needed to process applications, an application for a trademark registration will generally take five months to process and the cost will be around \$1,300. An application for a standard patent registration will take two to three months, while an application for the registration of a short-term patent and design will be very much similar.

MISS TAM HEUNG-MAN (in Cantonese): *Madam President, in view of the fact that they are two different systems, thus registrations should be made in the two places concurrently. May I ask whether the authorities will allow trademarks, patents and designs of goods which are registered and manufactured in the Mainland or Hong Kong to obtain registration in the other place through CEPA, so as to reduce the application formalities?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, just now I have explained that both places operate two separate and independent systems; they are different in terms of laws and systems. Under the two separate and independent systems, we do not have the knowledge of whether each applicant of trademarks, patents and registered designs has made an application in the other place; they are not required to inform us of such. For that reason, it will be rather difficult for us to put that into practice.

PRESIDENT (in Cantonese): Last oral question.

Implementation of Statutory Minimum Wage System

6. **MR KWONG CHI-KIN** (in Cantonese): *Madam President, regarding whether a statutory minimum wage system should be implemented in Hong Kong, will the Government inform this Council:*

- (a) *of the number of meetings held so far by the Labour Advisory Board (LAB) to discuss this issue, and whether any preliminary conclusions have been reached;*
- (b) *of the progress of the research on this issue conducted by the Administration, and which countries' experience in implementing a minimum wage system it has referred to, in particular the impact of such a minimum wage system on the economic development and social stability of these countries; and*
- (c) *whether the Administration has drawn up any timetable for formulating and implementing a minimum wage system; if it has, of the details; if not, the reasons for that?*

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

- (a) The LAB first discussed the issue of minimum wage at the end of last year and has held three meetings so far. During this period, the LAB has analysed and discussed the pros and cons of introducing a minimum wage system, the employment earnings of local employees and the experience of other places in implementing a minimum wage system. The discussion is still underway and the LAB has yet to reach a preliminary conclusion on the issue.
- (b) In studying the issue, the LAB has made reference to the employment earnings of local employees and evaluated the possible impact of the minimum wage system on Hong Kong's overall economy as well as on employers and employees. In the course of its deliberation, the LAB has considered the situations in a number of economies, including the Mainland, Japan, South Korea, Singapore, India, Australia, the United States, Canada, the United Kingdom, France, Germany, Finland and Ireland, and so on.

Generally speaking, many Western economies with statutory minimum wage systems are moving towards greater flexibility in the labour market to increase their competitiveness. In some places which have adopted the minimum wage system, the governments

concerned grant exemptions or make special arrangements, for example, setting a lower statutory wage level in order to promote employment for, and protect, certain categories of people such as apprentices, trainees, young employees and disabled workers.

- (c) Given the complexity of the issue of minimum wage and its far-reaching impact on Hong Kong's socio-economic development and the divergence of views within the community, we consider it inappropriate to set a timetable for discussion and implementation of this important issue. We should allow sufficient time for the LAB to explore and discuss the issue in depth and try to reach consensus. Before the implementation of any proposal concerning the minimum wage system, we must secure the consensus among employees, employers and the Government, as well as the support of the Legislative Council.

MR KWONG CHI-KIN (in Cantonese): *Madam President, on Sunday, when Mr Donald TSANG was conducting his election campaign for the office of the Chief Executive, he promised that if he was elected, he would consider referring the issue of minimum wage to the Commission on Strategic Development for consideration. May I ask the Government if, apart from referring the issue to the LAB for consideration, it will also consider carrying out more preliminary work and studies before tasking the Commission on Strategic Development with examining this issue, for example, by consulting the business sector and the labour sector, organizing large-scale seminars, conducting opinion surveys, and so on, so as to lay a better foundation for future discussions in the Commission on Strategic Development?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, as Mr KWONG Chi-kin has said, on this issue, the most important thing is to listen to the views of both employees and employers. Mr KWONG Chi-kin said just now that the future Chief Executive may decide to refer this issue to the Commission on Strategic Development for discussion. Actually, we have all along been working on this matter and I believe Members are aware that members of the LAB are fairly representative. Among them, there are representatives of employers or employees and they will consult the sectors that they represent, such as individual trade associations.

We will be happy to continue to do more in this regard and consult the business sector, trade associations, and so on, as Mr KWONG Chi-kin has suggested.

PRESIDENT (in Cantonese): Members, a total of 12 Members are waiting to put supplementaries.

MR JAMES TIEN (in Cantonese): *Madam President, the Secretary said in part (c) of the main reply that the LAB should be allowed sufficient time to explore the issue and try to reach a consensus. The Liberal Party believes that the issue concerning minimum wage should not be referred only to the LAB as a matter of labour relationship, in particular, in view of the link between the Hong Kong dollar and US dollar, minimum wage is a very important issue for the economy. May I ask the Government whether, apart from tasking the LAB with considering whether a minimum wage system should be established in Hong Kong, this issue will be referred to other higher-level groups such as the Economic and Employment Council for discussion?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I wish to thank Mr James TIEN for his supplementary. I believe Mr James TIEN will also remember that the Chairman of the Economic and Employment Council, that is, the Financial Secretary, once made an undertaking on minimum wage, saying that apart from referring the issue to the LAB, he would also be happy to refer this matter to the Economic and Employment Council for discussion. Just as Mr KWONG Chi-kin said, if the Chief Executive considers it appropriate, he will also refer this matter to the Commission on Strategic Development for consideration.

MS EMILY LAU (in Cantonese): *Madam President, concerning this issue, of course, we agree that it is necessary to consult the public. However, if the buck is passed on and on and if it is necessary to refer this matter not just to the LAB for discussion but also to the Economic and Employment Council, the Commission on Strategic Development and the Legislative Council for discussion, should the authorities not first of all iron out the entire process? Even if the authorities are unwilling to set a timetable and specify when the discussions will conclude, it is still necessary to examine how it should proceed, otherwise, it is*

really not quite alright to go on discussing in this way. I hope the Secretary will explain clearly how the authorities will conduct the consultation and who will be consulted. In addition, it is also necessary for the public to know how this matter will proceed and how the process for the whole matter will be ironed out, so as to get results as soon as possible.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I believe Ms Emily LAU knows our direction clearly. In fact, I have talked about it many times here and this issue has also been debated in the Legislative Council many times. Madam President, I wish to take this opportunity to say that we look into this matter very thoroughly and positively and have taken a big step forward. Although all the motions on this issue matter were not passed after the debates in the Legislative Council, we have still referred this matter to the LAB for consideration. Why is it necessary to refer it to the LAB for consideration? As I have said, the main reason is that the LAB comprises representatives from three sides, that is, employers, employees and the Government and all of them can sit together to discuss this issue of labour affairs. Although on the face of it, this is not an easy issue to deal with, the LAB has reached consensus on many similar issues in the past. In 1993 and 1994, I served as the Chairman of the LAB. On such matters as making improvements to long service payment and to the arrangements on severance payment, agreements were eventually reached in the LAB, even though it had taken some time.

What I wish to say is that the LAB is a suitable channel for carrying out the analysis, studies and the like mentioned just now and the representatives of employers and employees can then discuss them. Of course, I have already pointed out that apart from referring this matter to the LAB for discussion, it can also be referred to bodies at a higher level for discussion. For example, as Mr James TIEN has suggested, if we want to look at the impact on the economy as a whole, we can also refer this issue to the Economic and Employment Council for discussion. There is no conflict at all in doing so.

Therefore, we believe that it is not absolutely necessary to set a timetable because the more haste, the less speed. I believe that to impose an inflexible requirement, such as a requirement that the discussion be concluded in several months' time, is not an appropriate course of action. I believe that the most

important thing at present is to let the LAB gather all the relevant information because no matter if we refer this matter to the Economic and Employment Council or the Commission on Strategic Development for examination, at the end of the day, it is necessary that the information is available.

MR JEFFREY LAM (in Cantonese): *Madam President, the Secretary said in reply just now that reference would be made to factors such as the employment situation in Hong Kong, however, not much has been said about consulting employers. On the issue of minimum wage, it is necessary for all parties to reach a consensus before something can be done. May I ask the Government what it has done to consult employers, trade associations and small and medium enterprises?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, in fact, I have already said that the representatives of employers in the LAB come from various major trade and employer associations and of course, they already represent the positions of these employer and trade associations. I have also said that we will be happy to consult employers or trade unions more on this matter. We will also take the initiative to contact various major trade associations and employer associations. In addition to the LAB, they can also express their views on this issue to us.

MS LI FUNG-YING (in Cantonese): *Madam President, the Secretary said in the main reply that the LAB has already held three meetings but there is not any preliminary conclusion as yet. On the other hand, the Secretary said that it is necessary for the three sides to reach a consensus. I wish to ask the Secretary a very simple question: Has the Government made more headway in reaching a consensus with employees or has it made more headway in reaching a consensus with employers?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I wish to thank Ms LI for her supplementary. If we have reached a consensus, we will simply say that we have done so.

Members must all fully understand that a consensus needs a process and also time to reach. I wish to reiterate that we are studying this controversial issue very thoroughly and positively. I also wish to reiterate that the Government has already taken a very important first step. Members will perhaps remember that last year, the Government imposed the requirement that all contractors undertaking government outsourced work must pay wages to employees according to the average wage published by the Census and Statistics Department. This is a very important first step and I believe everyone can see that the Government has taken the lead with this first step. Although this issue is being discussed at the level of the LAB, I hope that a further step can be taken. I know that Dr Fernando CHEUNG will ask an oral question next week in this connection. Maybe I will wait until then to say more. *(Laughter)*

MR TOMMY CHEUNG (in Cantonese): *Madam President, the Secretary said in the main reply that it is necessary to secure the consensus of employees, employers and the Government and this is of course a desirable course of action. However, since the catering industry does not believe that the LAB fully understands its problems, therefore, I hope the Secretary can take a major stride and really hold discussions with the catering industry when conducting the consultation and study. Since there are 200 000 employees in the catering industry and the issue of minimum wage is very complicated, I hope the Secretary will not confine the discussion on the problems encountered by employers in the catering industry to the LAB, rather, he has to make extra efforts. Will the Secretary take the initiative to hold discussions with the industry?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, Mr Tommy CHEUNG has pointed out that the situation of the catering industry is very complicated. Certainly, we will be happy to listen to their views. I believe Mr Tommy CHEUNG will remember that recently, he has led the representatives of his industry in meeting me and we have discussed this issue in great detail. What I want to say is that we will continue to maintain this kind of dialogue. Should other industries have such a need, we will also be happy to hold discussions with them.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Government has once again talked about the need to secure the consensus of the three sides. Each time, the situation is the same. I feel very disappointed because it seems that just now, the Secretary was again playing the game of "keep ball away" with Members, saying that this issue had to be referred to all sorts of committees for consideration. However, what is the Government's position? I hope the Secretary can say more clearly if the Government is in favour of or against establishing a minimum wage system. Can the Secretary learn from Secretary Dr York CHOW? When Secretary Dr York CHOW proposed a ban on smoking, he did not say that it is necessary to secure a consensus in the industry. It is totally impossible to secure a consensus in the industry.....*

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, I have to interrupt you. Since there are a number of Members waiting for their turns to put supplementaries, please do not speak for too long.

MR LEE CHEUK-YAN (in Cantonese): *My supplementary is a very short one. I only want the Secretary to learn from Secretary Dr York CHOW instead of waiting for a consensus. The Government has to take matters forward actively. What actually is the Government's position?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I believe there is no need for me to learn anything because I do not smoke, nor do I play soccer, so I am not playing "keep ball away". I just want to point out that everybody wants to discuss this controversial issue positively and thoroughly, with a view to reaching a consensus, so this is my goal. I have said that I really hope everybody can sit down together for discussions. I still believe that doing so will enable us to reach some conclusions. I have said many times that the attitude of the Government is very clear and I do not wish to repeat it. Last year, the Government took a major step forward by requiring all contractors undertaking outsourced government work to pay the average wage as calculated by the Census and Statistics Department and it is hoped that public organizations, subvented organizations, and so on, can follow this practice. Moreover, I have said that I will give a reply in this regard again next week.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary has only replied to part of my supplementary and he did not say anything about the Government's position on introducing a comprehensive minimum wage system.*

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

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have said many times that it is necessary for the three sides to hold discussions before a minimum wage system can be implemented on a full scale. I believe all of us have heard the supplementaries put by many other Members.

DR FERNANDO CHEUNG (in Cantonese): *Madam President, the Secretary said that it is necessary to continue to seek a consensus, however, we have discussed this matter for more than 20 years and a consensus is still being sought. In the course of such discussion, a lot of people have passed away. Recently, there was a case in which the person concerned had to work 15 hours daily to earn a monthly wage of \$7,500 to support a family of six. This person concerned has jumped off a building and died. Hong Kong people are toiling away, they are willing to work hard and they refuse to receive CSSA payments, however, the reward that they get cannot even keep their stomachs full. May I ask if the Secretary finds this acceptable according to his value judgement? According to the Secretary's moral judgement, does he find it acceptable that members of the public should toil away, work very hard and decline any CSSA payment, and yet not getting a reward that is enough for supporting their families?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, in fact, the Government has established the CSSA system to take care of people in difficulty. I wish to clarify that it is not true that we have been discussing this issue for 20 years. Why did I reiterate that the Government has taken a major step forward? Because for many years, as Members could see, the position of the Government had been that it was not in favour of introducing a minimum wage system. However, in the past year or so, there has been a major change insofar as the Government is concerned and it has adopted a very open attitude in examining this issue. Moreover, it has taken the lead in setting a wage level in respect of outsourced work and required all

contractors concerned to adhere to it. In addition, I have also pointed out that I will be happy to take the initiative to contact public and subvented organizations, in the hope that they will also follow the Government's move. I believe this already states the Government's positive attitude. Moreover, last year, we referred this issue to the LAB for discussion and this obviously represents a change in attitude. It is not true that this matter has been discussed for more than 20 years, as Dr Fernando CHEUNG has claimed. It was in October last year that the LAB discussed this issue for the first time and it is still under discussion.

DR FERNANDO CHEUNG (in Cantonese): *I am not asking about the Secretary's attitude but whether according to his moral judgement, he finds the situation described by me acceptable.*

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

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): No.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Secretary said that when he was the Chairman of the LAB, an agreement was reached on improving the conditions relating to long service, so he believes that the Government did make some effort. However, I wish to correct the Secretary. What we are discussing now is the establishment of a minimum wage system, which does not exist now. Therefore, I hope the Secretary can make things clear when he speaks.*

Madam President, next, I am going to ask my supplementary. The Chief Executive candidate, Mr Donald TSANG, has made several pledges and the first is to introduce a minimum wage system in public organizations as soon as possible. Since the Mr TSANG has said "as soon as possible", I wish to ask the Secretary about the timetable for introducing a minimum wage system in public organizations. Second, Mr TSANG also made the pledge that a minimum wage system would be introduced for certain types of jobs in certain trades in the private sector. May I ask how the Secretary will implement the work in this regard if Mr TSANG is elected the Chief Executive?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have a poor memory. Of course, I did not mean to draw a comparison between the two issues, that is, between long service payment and minimum wage that Miss CHAN Yuen-han has mentioned. I only wanted to cite an example to illustrate that the LAB is a mechanism through which the three sides can negotiate and discuss labour issues.

Concerning the introduction of a minimum wage system in public organizations, each time I meet the representatives of public organizations, I always take the initiative to discuss it with them. On this issue, I think I will do my work more systematically. As I have said, Dr Fernando CHEUNG will ask an oral question next week and I will have to answer it. We have set targets for organizations such as public organizations, subvented organizations and universities and we will contact them. I will work on this task together with my colleagues and, concerning the timetable, of course, the faster, the better it would be. I know that Miss CHAN Yuen-han is very concerned about this matter. I will try my best to do this task well and will inform her of the progress, as well as giving an account to Members.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Secretary has not answered my supplementary fully.*

PRESIDENT (in Cantonese): Please state which part of your supplementary has not been answered by the Secretary.

MISS CHAN YUEN-HAN (in Cantonese): *My supplementary is about the details of implementation if the Government wants to introduce a minimum wage system for certain types of jobs in the private sector and in certain trades. The Secretary has only talked about what will be done with regard to the public sector, however, he did not talk about the private sector.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I am sorry. I have forgotten this part. That is why I said I had a poor memory. Concerning the private sector, I believe the discussions in the LAB have found a direction. I have been saying just now that it depends on the

level of income. We have completed some analysis and it is mainly on what types of trades and jobs people with low income are engaged in. We found that many of these people are employed in non-skilled types of work such as social service, cleaning, security, and so on. We also calculated in the analysis how many people among them would benefit from the outsourcing of work by the Government. According to the information of the Census and Statistics Department, the monthly salary of cleaning workers in general is \$5,002, so we calculated how many people would be benefited accordingly. If we extend this measure to the public and subvented organizations mentioned just now, how many people will be benefited? How many people are there in the group that will not be benefited? What approaches can be adopted to extend this measure to other sectors? This is the direction in which we want to take this issue forward. I understand that if we want to be more pragmatic, we have to study the types of jobs mentioned just now and consider what the solutions are.

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

MR ANDREW CHENG (in Cantonese): *Madam President, some Honourable colleagues have pointed out that Mr Donald TSANG mentioned in his platform that hopefully, public and subvented organizations will implement the minimum wage system in future. Therefore, even though this issue has been discussed in such and such a committee, it may be possible that the new Chief Executive will have the final say. In connection with the reply given by the Secretary to Miss CHAN Yuen-han's follow-up just now, may I ask the Secretary whether he hopes that in addition to public and subvented organizations, the median income will also be adopted as the standard for wages in certain types of jobs in the private sector? If the income of employees in some trades, such as cleaning and security, fall below the median income, will the Government implement a minimum wage system in these trades first of all?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I believe you also understand that I cannot decide policies for the new Chief Executive. If the Chief Executive makes certain decisions in this regard in the future, we will certainly do our best to implement them.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Trials of Firework Display at Hong Kong Disneyland

7. **DR DAVID LI:** *Madam President, from 29 April to 7 May this year, the Hong Kong Disneyland held in-situ trials of the nightly firework display planned for the theme park once it opens. During the trials, it was observed that the fireworks rose to a lower maximum height than that at the initial test held in January this year. As such, the resultant smoke tended to hover at a low level and, due to the prevailing wind conditions, drifted inward towards the former Penny's Bay. In this connection, will the Government inform this Council of:*

- (a) the average wind speed and direction measured at the Hong Kong Disneyland site on each night during the trial period;*
- (b) the locations and types of all instruments used by the contractors of the Hong Kong Disneyland and by the authorities to measure the impact of the noise, particles and chemical substances of the fireworks on each night during the trial period;*
- (c) the specific chemical substances measured by the above instruments, the rationale for the choice of chemicals to be recorded by the contractors and the Government for reporting purposes, and the sensitivities of these instruments in respect of each of these chemicals; and*
- (d) the maximum instantaneous reading for each of the specified measurements recorded by each of the above instruments on each night during the trial period, broken down by location?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS:

Madam President, the firework display trial is a requirement stipulated in the Environmental Permit issued to the Hongkong International Theme Parks

Limited (HKITP) under the Environmental Impact Assessment Ordinance (EIAO), for the construction and operation of the Hong Kong Disneyland at Penny's Bay, Lantau. According to the Environmental Permit issued under the EIAO, the details of which have been made public on the Environmental Protection Department (EPD)'s website < <http://www.epd.gov.hk/eia/register/permit/latest/fep0292000.htm> > since 2000. The HKITP is required to carry out trial firework displays and associated air quality and noise monitoring. The details of the trial and monitoring programme should be submitted to the Director of Environmental Protection (the Director) for agreement at least one month prior to the trial firework displays. The results of the trial firework displays should be submitted to the Director for agreement prior to the operation of the project. Also, the results of the trial tests and associated air quality data should be provided to the Advisory Council on the Environment (ACE) for consultation, as directed by the Director, and made available to the public through the project's website and the website of the EIAO.

- (a) According to the trial and monitoring programme submitted by the HKITP in April 2005, the HKITP would record the weather data during the trial tests, including wind speed and direction. We have maintained close liaison with the HKITP on their initial test results. We are awaiting the final submission around the end of June from the HKITP of their trial test results.
- (b) According to the Environmental Permit issued under the EIAO, the HKITP would carry out air quality and noise monitoring during the trial. According to the proposal of the HKITP, air quality monitoring would be conducted using high volume and polyurethane foam samplers, tapered element oscillating microbalance ambient particulate monitor, canister and absorbent tube samplers.

The instruments used for noise monitoring are sound level meters specified under the Technical Memorandum of the Noise Control Ordinance.

Air quality monitoring was conducted at the following locations:

- (i) the rooftop of Peng Lai Court on Peng Chau;

- (ii) the rooftop of Management Office of Crestmont Villa at Discovery Bay;
- (iii) Hollywood Hotel within the theme park;
- (iv) building #304 (Buzz Lightyear) within the theme park; and
- (v) building #609 (Central Maintenance Facility) within the theme park.

Regarding noise monitoring, according to the HKITP's proposal, noise levels would be recorded at the following locations:

- (i) Tai Lei on Peng Chau; and
- (ii) the rooftop of Cherish Court at Discovery Bay.

The EPD, as the statutory authority under the EIAO, has closely observed the trial tests and monitoring process conducted by the HKITP, and would carefully vet the final submission of the trial test results. The initial monitoring results from the HKITP show that the environmental requirements can be met.

- (c) According to the HKITP's proposal, the following chemicals/metals would be measured:
 - (i) Total Volatile Organic Compound;
 - (ii) Volatile Organic Compound (speciated);
 - (iii) Respirable Suspended Particulates;
 - (iv) Metals (Aluminium, Antimony, Arsenic, Barium, Chromium, Copper, Iron, Lead, Magnesium, Manganese, particulate Mercury, Molybdenum, Nickel, Potassium, Strontium, Titanium and Zinc);
 - (v) Sulphate;

- (vi) Dioxins; and
- (vii) Hydrogen Sulphide.

The choice of chemicals monitored was based on the parameters used in the theme park environmental impact assessment (EIA) report having regard to their potential air quality implications.

According to the trial firework display proposal put forward by the HKITP, sampling instruments and procedures would follow the standards of the United States Environmental Protection Agency.

- (d) In accordance with the internationally recognized practice, the firework noise criterion adopted in the theme park EIA report, which was presented to the public from March to April 2000 and endorsed by the ACE in April 2000, is based on 15-minute Equivalent Continuous Noise Level (that is, Leq (15 min)) instead of instantaneous maximum noise level. The initial monitoring results from the HKITP show that the noise criterion can be met. The monitoring data recorded by the other instruments mentioned in part (b) above are generally within the prescribed limits and the details will be available in the final submission. We are maintaining close liaison with the HKITP and awaiting their final submission around the end of June.

Term Contracts Awarded by Highways Department for Road Maintenance and Administration

8. **MR WONG KWOK-HING** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the particulars of the term contracts awarded by the Highways Department (HyD) for road maintenance and administration in the*

- current financial year and those awarded last time, including geographical coverage, the names of contractors as well as the values and periods of the contracts;*
- (b) *of the criteria for determining the periods and geographical coverage of the above contracts;*
- (c) *whether such contracts have provided that the HyD may terminate a contract when the contractor's performance is unsatisfactory; if so, whether the HyD has invoked the relevant provisions;*
- (d) *whether the HyD has monitored if the progress of outsourced road maintenance works meet the contract requirements; if it has, of the respective numbers of road maintenance works which proceeded on schedule and which experienced delays in the past five years, as well as the maximum and average numbers of days of delay; and*
- (e) *of the number of complaints about traffic congestion arising from the delays of such works lodged by District Council members, motorists and the public in the past five years, together with the number of occasions on which the HyD issued warnings to or imposed fines on contractors for the postponement of the dates of completion of works?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President,

- (a) The HyD has not awarded any contracts for road maintenance and management so far in the current fiscal year (2005-06), but awarded a total of 23 such contracts in the past six fiscal years (1999-2000 to 2004-05). The geographical coverage, the names of contractors, the values and contract periods of these contracts are listed at Annex.

- (b) There are basically two types of road maintenance contracts, namely area contract and high speed road (HSR) contract. The service areas of area contract and HSR contract are delineated by the District Council boundaries and HSR boundaries respectively. The coverage of each contract varies according to the size of the districts covered and the resources required for maintenance. The contract period is usually three to four years to facilitate the contractor to get familiar with the works and invest in equipment. Too short a contract period will increase the average fixed costs and disrupt the continuity of maintenance works. The recently awarded Contract No. 20/HY/2004 however covers a period of eight years. This is because the contract has adopted a Public Private Partnership approach. The intention is to provide a longer contract period so as to encourage the contractor to make heavier investment in equipment and management resources, resulting in higher efficiency and quality.
- (c) The contracts listed at Annex expressly provided that the HyD has the right to terminate a contract when the performance of the contractor is unsatisfactory. So far, no contract has been terminated for this reason.
- (d) The HyD has been closely monitoring the progress of road maintenance works under these contracts to ensure that the contract requirements are met. In the past five years, 48 692 road maintenance works items under these contracts were proceeded on schedule, while 782 items were reported delays. The longest delay recorded was 97 days and the average delay was 17 days.
- (e) In the past five years, six complaints were lodged by District Council members, motorists and members of the public about traffic congestion caused by the delays mentioned above. There were 782 cases in which the HyD has issued warnings to or imposed fines on the contractors under the contracts for delayed completion of works.

Annex

**List of Road Maintenance/Management Term Contracts
Awarded by the HyD from April 1999 to Present**

Year 2004-05

<i>Contract No.</i>	<i>Contract Title/ Maintenance Districts</i>	<i>Name of Contractor</i>	<i>Estimated Contract Sum (\$M)</i>	<i>Contract Period</i>
18/HY/2004	HyD Term Contract (Kowloon East 2005 to 2009)	Sun Fook Kong (Civil) Limited	290	2005 to 2009
19/HY/2004	HyD Term Contract (New Territories West 2005 to 2009)	China Harbour Engineering Company (Group)	500	2005 to 2009
20/HY/2004	HyD Term Management Contract (Maintenance of HSRs in New Territories East and Hong Kong Island 2005 to 2013)	Gammon Construction Limited	480	2005 to 2013

Year 2003-04

<i>Contract No.</i>	<i>Contract Title/ Maintenance Districts</i>	<i>Name of Contractor</i>	<i>Estimated Contract Sum (\$M)</i>	<i>Contract Period</i>
13/HY/2003	HyD Term Contract (Northern and Western Districts of Hong Kong Island 2004 to 2007)	Shun Yuen Construction Company Limited	280	2004 to 2007
14/HY/2003	HyD Term Contract (Kowloon City District 2004 to 2007)	Chiu Hing Construction and Transportation Company Limited	120	2004 to 2007
15/HY/2003	HyD Term Contract (Tai Po and North Districts 2004 to 2007)	Chiu Hing Construction and Transportation Company Limited	210	2004 to 2007
16/HY/2003	HyD Term Management Contract (Maintenance of HSRs in New Territories West and Kowloon 2004 to 2008)	Chiu Hing Construction and Transportation Company Limited	290	2004 to 2008

Year 2002-03

<i>Contract No.</i>	<i>Contract Title/ Maintenance Districts</i>	<i>Name of Contractor</i>	<i>Estimated Contract Sum (\$M)</i>	<i>Contract Period</i>
15/HY/2002	HyD Term Contract (Eastern and Southern Districts of Hong Kong Island 2003 to 2006)	China Road and Bridge Corporation	270	2003 to 2006
16/HY/2002	HyD Term Contract (Kowloon West 2003 to 2006)	Paul Y-ITC General Contractors Limited	200	2003 to 2006
17/HY/2002	HyD Term Contract (Tsuen Wan and Kwai Tsing Districts 2003 to 2006)	China Road and Bridge Corporation	180	2003 to 2006
18/HY/2002	HyD Term Contract (Sha Tin, Sai Kung and Islands Districts 2003 to 2006)	China Road and Bridge Corporation	230	2003 to 2006

Year 2001-02

<i>Contract No.</i>	<i>Contract Title/ Maintenance Districts</i>	<i>Name of Contractor</i>	<i>Estimated Contract Sum (\$M)</i>	<i>Contract Period</i>
05/HY/2001	HyD Term Contract (Maintenance of HSRs in New Territories East and Hong Kong Island 2002 to 2005)	China Road and Bridge Corporation	240	2002 to 2005
06/HY/2001	HyD Term Contract (Maintenance of Highway Structures in Hong Kong Island, Kowloon and New Territories 2002 to 2005)	Chiu Hing Construction and Transportation Company Limited	285	2002 to 2005
07/HY/2001	HyD Term Contract (Wong Tai Sin and Kwun Tong Districts 2002 to 2005)	Gammon Skanska Limited	240	2002 to 2005
08/HY/2001	HyD Term Contract (Tuen Mun and Yuen Long Districts 2002 to 2005)	Chiu Hing Construction and Transportation Company Limited	240	2002 to 2005

Year 2000-01

<i>Contract No.</i>	<i>Contract Title/ Maintenance Districts</i>	<i>Name of Contractor</i>	<i>Estimated Contract Sum (\$M)</i>	<i>Contract Period</i>
07/HY/2000	HyD Term Contract (Northern and Western Districts of Hong Kong Island 2001 to 2004)	Sun Fook Kong (Civil) Limited	210	2001 to 2004
08/HY/2000	HyD Term Contract (Kowloon City District 2001 to 2004)	Hung Mau Realty & Construction Limited	135	2001 to 2004
09/HY/2000	HyD Term Contract (Tsuen Wan and Kwai Tsing Districts 2001 to 2003)	Sun Fook Kong (Civil) Limited	120	2001 to 2003
10/HY/2000	HyD Term Contract (Tai Po and North Districts 2001 to 2004)	Chiu Hing Construction and Transportation Company Limited	180	2001 to 2004
11/HY/2000	HyD Term Contract (Maintenance of HSRs in New Territories West and Kowloon 2001 to 2004)	Shun Yuen Construction Company Limited	210	2001 to 2004

Year 1999-2000

<i>Contract No.</i>	<i>Contract Title/ Maintenance Districts</i>	<i>Name of Contractor</i>	<i>Estimated Contract Sum (\$M)</i>	<i>Contract Period</i>
10/HY/99	HyD Term Contract (Eastern and Southern Districts of Hong Kong Island 2000 to 2003)	Hung Mau Realty & Construction Limited	270	2000 to 2003
11/HY/99	HyD Term Contract (Kowloon West 2000 to 2003)	Paul Y-ITC General Contractors Limited	110	2000 to 2003
12/HY/99	HyD Term Contract (Sha Tin, Sai Kung and Islands Districts 2000 to 2003)	Hung Mau Realty & Construction Limited	215	2000 to 2003

Unauthorized Operation of Passenger Transport Service by Public Light Buses

9. **MR ANDREW CHENG** (in Chinese): *Madam President, I have recently received complaints that some operators of public light buses (PLBs) are running, without the passenger service licences (PSLs) issued by the Transport Department (TD), unauthorized passenger transport service between the urban areas and Yuen Long/Tuen Mun. In this connection, will the Government inform this Council:*

- (a) *whether it has received in the past two years complaints about unauthorized operation of passenger transport service by PLBs; if it has, of the number of complaints received each year;*
- (b) *whether it has looked into the operating mode of such service and the routes in operation;*
- (c) *of the measures to crack down on such unauthorized service; and*
- (d) *whether publicity efforts have been made to advise people against riding on these PLBs; if so, of the details of such efforts; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, the TD has not received any complaint about unauthorized operation of PLBs in the past two years. However, the TD has received complaints on unauthorized operation of non-franchised buses (NFBs) with seating capacity of about 20, which is more or less the same comparing with that of PLBs. Some of these unauthorized NFB services collect payment on board and have fixed routeings. But the TD does not keep separate record on complaint figures relating to unauthorized operation by NFBs of different sizes. The overall number of complaints on fare-charging unauthorized NFB services received by the TD in 2003 and 2004 are 109 and 192 respectively.

On receipt of any complaints, the TD will investigate and take appropriate enforcement measures, including:

- (i) issuing warnings to the concerned operators to request them to stop such unauthorized operation;

- (ii) issuing fixed penalty tickets;
- (iii) initiating prosecution in Court for contravening licensing conditions under section 52(9) of the Road Traffic Ordinance (Cap. 374) (RTO) or for operating public bus service without a franchise, save and except for those approved under the PSL, under section 4(2) of the Public Bus Services Ordinance (Cap. 230). The former offence is liable to a fine of \$5,000 and to three-month imprisonment in a first conviction, and a fine of \$10,000 and six-month imprisonment in subsequent convictions. The latter offence is liable to a fine of \$100,000; and
- (iv) conducting inquiry in accordance with section 30 of the RTO against PSL holders (that is, NFB operators) operating unauthorized services. It may lead to suspension, cancellation or variation of the PSL.

In 2004, 1 052 warnings were issued and 51 inquiries were conducted on unauthorized NFB services. The inquiries resulted in the suspension or cancellation of PSLs of 72 NFBs. In addition, 7 574 fixed penalty tickets were issued and 1 017 summonses were initiated for offences related to various NFB activities.

The TD has all along advised the public not to use unauthorized NFB services. Publicity efforts include issuing pamphlets and posting messages on the TD's website. In late 2003, the Transport Advisory Committee conducted a review on the regulation of NFB operation and the Government has presented the measures to improve the regulatory framework and licensing system of NFB operation to the Legislative Council Panel on Transport in March 2005. The TD is now liaising with the NFB trade on the implementation details of the measures. Upon finalization of the details, the TD will consider launching further publicity programme to advise the public not to use unauthorized NFBs.

Arrangements by Women's Commission Relating to "Beijing + 10"

10. **MR ALBERT HO** (in Chinese): *Madam President, regarding the arrangements made by the Women's Commission in respect of the activities related to "Beijing+ 10" (that is, the 10th anniversary of the Fourth World Conference on Women held in Beijing), will the Government inform this Council:*

- (a) *before sending representatives to attend the "Beijing+ 10" World Conference on Women organized by the United Nations Commission on the Status of Women in February this year, whether the authorities have done the following for the purpose of reviewing the implementation of the Beijing Platform for Action in Hong Kong:*
- (i) *submitting a report to the Commission and returning the completed questionnaire distributed by the United Nations to various governments for completion; and*
 - (ii) *liaising with and consulting community concern groups on women's rights;*
- if so, of the details; if not, the reasons for that; and why the authorities did not report the implementation progress and submit related documents to this Council; and*
- (b) *of the purposes of the Hong Kong and mainland authorities organizing the "Mainland and Hong Kong Joint Events in Celebration of 'Beijing+ 10'" in Beijing in April this year, the names of the women organizations invited to the events and the quota of representatives from each of these organizations, the names of the women organizations which had not been invited to the events and the reasons for not inviting them, as well as the criteria adopted by the Hong Kong authorities for determining the organizations to be invited to the events?*

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

- (a) The 49th Session of the Commission on the Status of Women (CSW) of the United Nations was held in February 2005 to review the implementation of the Beijing Platform for Action and the outcome documents of the 23rd Special Session of the General Assembly. To prepare for that meeting, the Secretariat to the CSW indicated that it would draw on a variety of sources of information and statistics for the purpose of appraisal. These included action plans submitted by Member States to the United Nations on

implementation of the Beijing Platform for Action, reports submitted by State Parties under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) since 1995, and so on. To complement the above information, the Secretariat also prepared a questionnaire to facilitate compilation of information from the Governments on their major achievements and obstacles in implementing the Beijing Platform for Action and the outcome of the 23rd Special Session of the General Assembly.

The Government of the Hong Kong Special Administrative Region (SAR) is committed to adhering to the principles of the Beijing Platform for Action and the CEDAW in protecting the due rights of women. We have also put in place policies and measures to protect women's interests. In accordance with the requirement of the CEDAW, the SAR Government has submitted its second report on the progress made in implementing the CEDAW in the SAR Government and in promoting women's interests, the content of which has already been made public. The report has been incorporated into the periodic report submitted by the People's Republic of China to the United Nations in early 2004. As the report has already reflected the latest developments of Hong Kong in promoting women's interests in all major aspects and most of key areas in promoting women's status as required in the Beijing Platform for Action have been covered, we have not separately responded to the questionnaire mentioned in the above paragraph.

The 49th Session of the CSW of the United Nations was open to government representatives, and representatives of non-government organizations had also been invited to participate. As far as we understand, a few women groups in Hong Kong had also sent representatives to participate in the meetings and expressed their views on the implementation of the Beijing Platform for Action in Hong Kong.

- (b) In September 1995, the Fourth World Conference on Women of the United Nations was held in Beijing, at which the Beijing Declaration and the Beijing Platform for Action were adopted. The Conference had contributed significantly to the advancement of the status of women worldwide. This year marks the 10th anniversary

of the Conference. To commemorate this special occasion, the Women's Commission and the Health, Welfare and Food Bureau therefore collaborated with the All-China Women's Federation to co-organize the "Mainland and Hong Kong Joint Events in Celebration of 'Beijing+ 10'" on 24 to 27 April 2005 in Beijing. The Joint Events included a seminar at which participants had an overview of the implementation of the Beijing Platform for Action at the international level, and also discussed on issues of concern to both places. These events helped facilitate the mutual understanding and exchange between women in the Mainland and Hong Kong.

In early March, the Women's Commission wrote to women groups, NGOs and individuals who have interests in women issues to invite them to indicate interest of participating in the events. The Commission wrote to the above parties on 1 April to formally invite registration for participation. We had also solicited donation from a private company and each organization in need would be provided with two half-sponsorship spaces to cover their travelling and accommodation cost.

The Events received overwhelming support from women groups and women from different sectors. However, due to the limited space available and having regard to the number of mainland participants, limitation of the venue and other logistical constraints, we were unable to accommodate all applications. In order to accommodate as many groups and representatives of different sectors and of different opinions as possible, we had, after careful consideration, decided to accommodate only one representative from each group and some applications could not be accommodated. We had explained the above circumstances to all groups and representatives affected by phone and in writing.

The SAR delegation comprised of 107 delegates in total. These included 12 members from the Women's Commission (some being convener of the organizing committee, moderators and speakers), seven officials and working staffs from the Health, Welfare and Food Bureau, 13 moderators and speakers from different sectors and women organizations, two sponsors, five performers and

helpers at the dinner reception and four representatives from government departments and statutory bodies, making up a total of 43 persons. The remaining delegates included 48 representatives from women groups and 16 participants from the business sector without sponsorship. All groups were allocated one space, except that two spaces had been allocated to one group whose members were mainly ethnic minority, so that the delegation could comprise representatives of different opinions and sectors as far as practicable.

Matching Grant Scheme

11. **DR KWOK KA-KI** (in Chinese): *Madam President, it has been reported that the Secretary for Education and Manpower has indicated earlier that consideration is being given to the introduction of the third phase of the Matching Grant Scheme this year to encourage the University Grants Committee (UGC)-funded institutions to raise funds by themselves. In this connection, will the Government inform this Council:*

- (a) *of the various donation campaigns for which the above institutions have been awarded matching grants, the respective amounts of private donations and matching grants involved and the total amount of funds raised;*
- (b) *if it knows whether any mechanisms or rules have been drawn up by these institutions regarding matters such as regulating the use of private donations secured under donation campaigns that have been matched by matching grants and reciprocating the donors; if so, whether any established criteria on donation amount have been laid down for reference on the naming of the institutions, faculties/departments, campus buildings or research centres after the relevant benefactors, and whether donation campaigns which attained designated private donations have been included in the scope of the Matching Grant Scheme and meet the conditions of the grants; and*
- (c) *whether it will review and improve the Matching Grant Scheme, including considering increasing the aggregate amount of matching*

grants and raising the ceiling on the amount of grants received by each institution, so as to allow the UGC-funded institutions to solicit donations from the community and their alumni through various campaigns and means, hence encouraging different social sectors to make donations and promoting proactively a philanthropic culture, and whether the matching ratio between grants and private donations, which determines the amount of matching grants, will be adjusted by the authorities to allow institutions with smaller fund-raising capabilities to be awarded more grants?

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

- (a) The eight UGC-funded institutions secured a total of over \$2.3 billion under the Matching Grant Scheme introduced in 2003. Details are as follows:

<i>Name of institution</i>	<i>Donations eligible for matching (\$ Million)</i>	<i>Matching grants allocated (\$ Million)</i>
City University of Hong Kong	57	45
Hong Kong Baptist University	186	79
Lingnan University	48	45
The Chinese University of Hong Kong	273	228
The Hong Kong Institute of Education	21	21
The Hong Kong Polytechnic University	214	201
The Hong Kong University of Science and Technology	140	131
University of Hong Kong	381	250
Total	1,320	1,000

Institutions' fundraising programmes included staff and student fund-raising campaigns, activities targeted at alumni as well as appeals to external donors.

- (b) All UGC-funded institutions have established their own internal guidelines for handling donations. Before accepting donations, institutions will consider carefully the donor's wish and the purpose of the donation, to ensure that they are in line with the role and mission of the institutions concerned. They have not drawn up criteria in terms of the amount of donation required for naming campus facilities or faculties after benefactors. In general, institutions will consider a number of factors, such as the impact of such naming arrangements on the institution or faculty concerned; the donor's contribution to the institution, the education sector as a whole or the community at large, and so on, in considering whether or not to name facilities or faculties after the benefactor.

According to the broad principles of the above Matching Grant Scheme, both the matching grants and the corresponding private donations must be used for activities within the ambit of UGC recurrent grants. In addition, private donations for scholarship could also be matched. Subject to these broad principles, designated private donations could be matched under the Scheme.

- (c) The UGC has completed the review of the Matching Grant Scheme in consultation with the institutions. In view of the very encouraging response to that Scheme, the Administration intends to allocate another \$1 billion for introducing a Second Matching Grant Scheme, to further enhance the fundraising capabilities of the institutions and to encourage community investment in education. As the First Matching Grant Scheme proceeded very well, we intend to adopt essentially the same basic terms and conditions, with certain relaxations and adjustments to the matching ratio to support the development of the higher education sector. Our detailed proposal on the Second Matching Grant Scheme has been submitted to the Panel on Education of the Legislative Council, and we will consult Members at the Panel's meeting on 20 June 2005.

Article 50 of Basic Law

12. **MR LEE WING-TAT** (in Chinese): *Madam President, Article 50 of the Basic Law (Article 50) stipulates that the Chief Executive may dissolve the Legislative Council only once in each term of his or her office. In this connection, will the Government inform this Council whether:*

- (a) *"each term of his or her office" referred to in the article means the term of office of the Chief Executive stipulated in Article 46 of the Basic Law, that is, five years, or the term of office of any person each time he is elected as the Chief Executive in a Chief Executive election, or has other interpretations; and*
- (b) *the Chief Executive elected to fill a vacancy in the office of the Chief Executive which has arisen before the expiry of a five-year term has the power to dissolve the Legislative Council once under the article; if so, whether such power is affected by whether or not his/her predecessor(s) in the same term of office has (have) dissolved the Legislative Council?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Chinese): Madam President, Article 50 prescribes the circumstances under which the Chief Executive may dissolve the Legislative Council. The provision further stipulates that the Chief Executive may dissolve the Legislative Council only once in each term of his or her office. The Standing Committee of the National People's Congress has given an interpretation on Article 53 para 2 of the Basic Law that the term of office of the Chief Executive to be returned through the by-election is the remainder of the term of the preceding Chief Executive. There is a need to examine further how other Basic Law provisions which touch upon the term of office of the Chief Executive should be understood. Apart from Article 50 that deals with the dissolution of Legislative Council, other Basic Law provisions that may be involved include Article 46 which stipulates the maximum terms of office a Chief Executive may serve.

We will address these issues in the context of the review for the method for electing the Chief Executive in 2007, and report to the Legislative Council about the Administration's position as appropriate.

Green Roofs

13. **MISS CHOY SO-YUK** (in Chinese): *Madam President, a study on urban heat island effect is reported to have revealed that a 1°C rise in local temperature will result in an increase of around \$1.7 billion in expenditure on electricity. The incidence rates of some infectious diseases will also rise. Measures encouraging the construction of more green roofs on buildings have been adopted in many countries in order to mitigate urban heat island effect. In this connection, will the Government inform this Council whether:*

- (a) building managers of government offices buildings, subvented schools, public hospitals and other government buildings will be required to implement green roof projects on their buildings; if so, of the details of the requirements; if not, the reasons for that; and*
- (b) measures will be formulated to encourage building managers of private buildings to implement green roof projects on their buildings; if so, of the details of the measures; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, the heat island effect is a terminology commonly used to describe the cumulative impact arising from urbanization with tall buildings and concrete structures, large fleet of vehicles, extensive use of air conditioning and insufficient natural ventilation caused by congested cityscape. The reduction of its effect often requires a hybrid of measures such as provision of urban breezeway; stepping building heights; better planning of the orientation and disposition of building blocks to enhance air flow; improving insulation of buildings and incorporating other design features that reduce heat load, as well as provision of more urban greenery to provide shading and cooling for pedestrians.

Despite a lack of conclusive evidence to demonstrate that roof-top planting could indeed help attenuate the heat island effect, the Government is actively promoting urban greenery as a positive means to enhance our living environment in Hong Kong. To this end, the Architectural Services Department has incorporated since 2001 the design of landscaped roof/terrace into new government building projects where practicable. As a further step, we are currently examining through the Steering Committee on Greening the feasibility of additional measures to encourage roof-top planting in private developments.

South East Kowloon Development

14. **MR CHEUNG HOK-MING** (in Chinese): *Madam President, since the relocation of the former Kai Tak Airport in 1998, the Government has not yet made a decision on the South East Kowloon Development (SEKD). In this connection, will the Government inform this Council:*

- (a) how it will develop the sites covered by the SEKD and the details of the development plan, including its progress and timetable;*
- (b) of the resources to be put into the development of South East Kowloon; and*
- (c) whether it will put up the above sites for public auction?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):
Madam President, the following is my reply to the three parts of the question:

- (a) The Comprehensive Feasibility Study for the Revised Scheme of South East Kowloon Development was completed in late 2001. The development scheme was widely supported by the community. The Kai Tak (North) and Kai Tak (South) Outline Zoning Plans (OZPs) covering the SEKD were approved by the Chief Executive in Council in June 2002. These two OZPs incorporate reclamation proposals of about 133 hectares covering about 30% of the total development area of SEKD.

On 9 January 2004, the Court of Final Appeal (CFA) handed down its judgement on the Town Planning Board's appeal with regard to the draft Wan Chai North OZP. The CFA judgement states that the presumption against reclamation as set out in the Protection of the Harbour Ordinance (PHO) can only be rebutted when a reclamation scheme passes the test of "overriding public need".

In the light of the CFA's judgement, the Government decided to carry out a comprehensive review of the Kai Tak development plan to ensure full compliance with the PHO and the CFA's requirements. The review is divided into two major parts, that is, the Planning

Review and the Engineering Review. The Planning Department (PlanD) has commissioned the Kai Tak Planning Review in July 2004. The Planning Review adopts a public engagement approach with "no reclamation" as the basis for formulating a preliminary outline development plan for the future of Kai Tak.

The public engagement programme will be carried out in three stages along with the progress of the Planning Review, each with its own objective as follows:

- Stage 1: Discussion on the community's vision for Kai Tak setting against the background of its development opportunities/constraints and proposed key development components.
- Stage 2: Gauge public views on the various Outline Concept Plan options.
- Stage 3: Engage the public on the formulation of the preliminary outline development plan.

Taking the advice of the Harbour-front Enhancement Committee, a Kai Tak Forum was convened in March 2005 to discuss further with the community on the public comments and proposals received and the Consultants' analysis. The options for the Outline Concept Plan are under preparation in consultation with the collaborators of Kai Tak Planning Review. It is anticipated that these Outline Concept Plans will be promulgated for discussion with the community under the Stage 2 Public Engagement by September 2005.

According to the current programme, the Planning Review is expected to be completed by mid-2006, after which details of the land use will be outlined in the recommended development plan. The statutory process to revise the approved OZP will commence as soon as the recommended development plan has been confirmed to be feasible from the engineering and environmental angles under the Engineering Review. The revision to the OZP is expected to be completed by mid-2008. The concerned departments are now

considering ways to advance the engineering investigations in order to expedite this process.

- (b) The Kai Tak Development is currently under Planning Review undertaken by the PlanD. As the land use proposals and associated infrastructure provisions have yet to be finalized, it is not possible to provide details of the resources required for development.
- (c) Upon finalization of the Planning Review and compliance with the necessary procedures as required under the Town Planning Ordinance including amendments of the OZP, where necessary, the Lands Department will be responsible for the disposal of the government land under the prevailing land policy and established mechanism.

Under the existing land policy, land for private uses such as commercial, residential or industrial uses will be disposed of by way of public auction or public tender as appropriate. Land for public use such as public housing, hospital, schools, and so on, will normally be disposed of by way of direct grant.

Supply and Demand of Nurses

15. **DR JOSEPH LEE** (in Chinese): *Madam President, regarding the supply and demand of nurses, will the Government inform this Council:*

- (a) *whether it knows, in respect of the situation over the past five years and projection for the coming three years:*
 - (i) *the respective numbers of enrolled nurses (ENs) and registered nurses (RNs) graduating from relevant nursing courses each year; and*
 - (ii) *the respective numbers of vacancies for ENs and RNs in each public hospital cluster, the Department of Health, private hospitals, private elderly homes and other types of non-governmental organizations (NGOs) each year, and the number of such vacancies not filled after completion of the relevant recruitment exercises; and*

- (b) *of the public services affected by the shortage of nurses during the past five years and the details of the impact?*

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

- (a) (i) The respective numbers of RNs and ENs who graduated from the relevant nursing courses over the past five years, and the projected numbers for the coming three years, are set out in the table below:

	<i>No. of nurses graduated</i>					<i>Projected no. of nursing graduates</i>		
	<i>2000-01</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>2005-06</i>	<i>2006-07</i>	<i>2007-08</i>
RNs	1 257	1 268	416	358	336	516	567	597
ENs	313	123	-	-	-	-	-	-
Total	1 570	1 391	416	358	336	516	567	597

The substantial decrease in the number of nursing graduates in 2002-03 was due to the cessation of student intake to the nursing programmes run by the Hospital Authority (HA) since July 1999. The decision to cease student intake was made having regard to the trend of reduction in wastage rate of nurses and changes in the skill mix and the mode of delivery of health care services. The decision was also in line with the Government's policy of upgrading basic nursing education to degree level for enhancing the quality of health care services. This was reflected in the steady increase in the number of places in degree level nursing programmes over the past few years. In the academic year 2004-05, 450 first-year-first-degree (FYFD) places (in full-time-equivalent terms) and 138 first-year-sub-degree places (in full-time-equivalent terms) in nursing education are provided by the University Grants Committee (UGC)-funded institutions. The number of FYFD places in nursing by the UGC-funded institutions will further increase to 518 in the 2005-06 to 2007-08 triennium. In addition, The Open

University of Hong Kong will start two new four-year nursing degree programmes this September offering a total of 100 places.

- (ii) The number of vacancies for RNs and ENs, and the number of such vacancies not filled after completion of the relevant recruitment exercises, at the HA over the past five years are as follows:

	2000-01	2001-02	2002-03	2003-04	2004-05
Vacancies/expected intake	964	1 240	400	500	400
Actual appointments	891	1 230	518	489	323
Vacancies not filled	73	10	nil	11	77

The Department of Health did not experience any difficulty in filling its nursing vacancies over the same time period. However, the Administration does not have exact information on the number of nursing vacancies in private hospitals and NGOs, although some of them have indicated difficulties in recruiting ENs.

Looking ahead, the long-term requirement for additional nurses, including the requirement of the public medical sector, the private medical sector and the welfare sector, is estimated to be about 600 a year. Since the estimated overall supply of new nursing graduates is expected to increase from 516 in 2005-06 to 567 in 2006-07 and around 600 in subsequent years as indicated in part (i) above, there may still be an undersupply of nursing graduates for a couple more years, but the situation should improve by 2007-08.

- (b) Having regard to the reduction in the number of in-patient beds in and enhancement of community medical services by public hospitals, the HA has cut down the size of its expected intake of nursing graduates in recent years. In addition, the HA has implemented a number of measures to ensure that public medical services would not be adversely affected by the tight supply of

nursing graduates. To alleviate the workload of front-line nursing staff, the HA has deployed more supporting staff to assist front-line nurses in carrying out simple patient care duties, which do not require professional nursing knowledge. Examples of such duties include bed baths, oral health care, giving out bedpans and urinals, and feeding patients. In addition, the HA will continue to retain undergraduate nursing students on temporary employment to provide workload relief for nursing staff, as and when necessary. Furthermore, the HA has recently formed a Nurse Working Group in its Head Office to involve front-line nurses in the development of more innovative ways for addressing the issue of nursing manpower shortage.

In the welfare sector, all residential care homes for the elderly are licensed under the Residential Care Homes (Elderly Persons) Ordinance and required to maintain a certain minimum ratio of care staff to residents. Performance and service quality of subvented elderly homes is also monitored by the Social Welfare Department. Operators are given flexibilities to deploy a mix of staff to maintain the required care level for elders. We are however aware that the shortage of nursing manpower may pose operational difficulties to operators and are looking into ways to deal with the situation.

Broadband Internet Access Service

16. **MR JASPER TSANG** (in Chinese): *Madam President, in recent months, some Internet access service providers have launched broadband Internet access services (IAS) with claimed data transmission speed of up to 100 Mbps or even 1 000 Mbps. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the development trend of the bandwidths of IAS; if it has, of the assessment results; if not, whether assessment will be made;*
- (b) *whether it has assessed if the facilities of the Hong Kong Internet Exchange (HKIX), which provides local data exchange services, can cope with the growth of information flow on the Internet, and whether they will become the bottleneck in data transmission; and*

- (c) *of how it monitors the quality and stability of broadband IAS, and whether it has educated consumers to appreciate the factors affecting the actual bandwidths of IAS?*

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

- (a) The Office of the Telecommunications Authority (OFTA) has been monitoring the development trend of the bandwidths of IAS. With widespread use of the Internet, users have increasing demands for high data transmission speed. In response, local Internet service providers (ISPs) have been increasing the upload/download transmission speeds of their networks. Mainstream broadband network technologies currently employed in Hong Kong fall into the following three broad categories:
- (i) traditional copper-based telephone network and Asymmetric Digital Subscriber Line (ADSL) technology to provide a maximum download speed of 1.5/3/6 Mbps and a maximum upload speed of 640 Kbps;
 - (ii) Fiber-To-The-Building (or Fiber-To-The-Home) and Ethernet technology to provide a maximum upload/download speed of 10/100/1 000 Mbps; and
 - (iii) cable television Hybrid Fiber Coaxial cable network and cable modem technology to provide a maximum download speed of 10 Mbps and a maximum upload speed of 1.5 Mbps on a shared basis.

The bandwidths of Hong Kong's IAS have developed rapidly and are at world-class levels in terms of technology and data transmission speed.

- (b) The Chinese University of Hong Kong established the HKIX in April 1995 and extended the operation on a second site HKIX2 in late 2004, both on a non-profit-making basis. The HKIX provides data exchange services for the local community and is currently the

prime Internet exchange point in Hong Kong. However, there are other Internet exchanges operating on a commercial basis. Some ISPs also established peer-to-peer arrangement with their counterparts to improve the speed of data transmission between their customers and other local Internet users. As such, information flow on the Internet in Hong Kong is not solely determined by the capacity of the HKIX. ISPs could, having regard to their own requirements, make appropriate re-routing arrangements for their Internet traffic should certain transmission channel become a bottleneck.

- (c) The OFTA will regularly collect, report and publish data on the Quality of Service (QoS) of the major service providers in the market, including technical performance indicators, service performance indicators and service information (such as helpline, billing and service termination). From late August this year, the OFTA will post on its website QoS information of ISPs providing residential broadband service. This measure will increase the transparency of QoS in the broadband Internet service market and enable consumers to obtain information on residential broadband service other than price.

Relaxing Requirement for Entry Visas

17. **MR HOWARD YOUNG** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the number of applications for visas to Hong Kong by persons from various countries/regions (excluding residents in the Mainland and Taiwan) over the past three years, and the number of cases in which visas were issued;*
- (b) *given that a number of tourist projects will be completed in Hong Kong and the number of inbound tourists (especially those from Russia) has been increasing, whether the authorities will consider relaxing the existing requirement that inbound tourists should hold valid entry visas, including granting visa-free access to inbound tourists from various countries/regions such as Russia, the Middle*

East, East Europe and Vietnam, so as to attract more overseas tourists to Hong Kong, thereby promoting tourism; if not, the rationale for it; and

- (c) *whether it has assessed the impact of granting visa-free access to inbound tourists from the countries/regions mentioned in part (b) on the local economy and tourism; if it has, of the assessment results?*

SECRETARY FOR SECURITY (in Chinese): Madam President, the number of applications for visit visas to Hong Kong over the past three years, and the number of approval cases are as follows:

<i>Year</i>	<i>Number of Applications</i>	<i>Number of Applications Approved</i>
2002	17 432	15 878
2003	17 920	15 778
2004	20 658	17 466
2005 (January to May)	13 973	11 720

*Note: Excluding visa applications from stateless persons

The Government of the Hong Kong Special Administrative Region (SAR) regularly reviews its visa policy to ensure that while maintaining effective immigration control, maximum travel convenience is accorded to *bona fide* visitors and businessmen so as to attract more people from outside Hong Kong to come for visits, thereby promoting inbound tourism and economic development. Suitable adjustment to the policy will be made in the light of changes in circumstances. In addition to considerations relating to immigration control and security, we will also take into account various factors including bilateral economic and trade relations, reciprocity and the circumstances of individual country or territory.

The SAR Government will relax its visa policy on Bulgaria, an East European country, later in the year. In April 2005, the SAR Government and the Bulgarian Government signed a Visa Abolition Agreement (VAA) in Hong Kong which allows nationals of Bulgaria to visit Hong Kong visa free for up to 90 days. Similarly, holders of SAR passport may visit Bulgaria visa free for the same period. The VAA will come into force after completion of internal procedures required for its entering into effect.

The Immigration Department (ImmD) will expeditiously process all visa applications. The ImmD's performance pledge is that all applications will be processed within four weeks upon receipt of all necessary documents. The ImmD will also expedite the processing of urgent cases.

We believe that the existing visa policy has struck an appropriate balance between providing travel convenience and promoting economic and trade activities on the one hand, and maintaining effective immigration control and safeguarding Hong Kong's security on the other. We will continue to make necessary change to our visa policy in the light of changes in circumstances.

Regularizing Operation of Claims Companies

18. **MR LI KWOK-YING** (in Chinese): *Madam President, in her speech during the debate on the 2005 policy address at the Legislative Council meeting on 27 January this year, the Secretary for Justice pointed out that The Law Society of Hong Kong (Law Society) and the Consumer Council had studied the operation of claims companies, but there was insufficient evidence to prove that these companies had caused harm to the community, or that control by way of legislation was necessary. However, it has been reported that Law Society has earlier said that financing accident victims in instituting legal proceedings by claims recovery agents constitutes an act of maintenance or champerty, which should be prosecuted by the Department of Justice. In this connection, will the Government inform this Council:*

- (a) *whether it has studied if Law Society has changed its position on whether these claims companies have caused harm to the community; if the study reveals such a change, whether the authorities have asked Law Society about the reasons for the change as well as the specific harm to the community; if the study reveals otherwise, the rationale for that;*
- (b) *whether it has assessed if claims companies have been involved in champerty and illegal promotional practice and whether the problem of excessive fee-charging is serious; if the assessment results reveal that such acts are illegal and the problem is serious, of the details and how the authorities will follow up; if the assessment results revealed otherwise, the details of that; and*

- (c) *as claims companies solicit business by claiming that they will charge on a "no win, no fee" basis, and the Law Reform Commission of Hong Kong is studying this form of fee-charging, whether the authorities know the latest progress of the study, and whether such matters as how to regularize the operation of claims companies will be covered by the study; if they will not be covered, the reasons for that?*

SECRETARY FOR JUSTICE (in Chinese): Madam President, this question relates to organizations that assist victims of personal injuries to claim compensation on the basis that they will only charge a fee if the victim succeeds in his claim. These organizations are referred to in the question as "claims companies". However, I will adopt the description used by Law Society and the Hong Kong Bar Association, namely "recovery agents".

There are three parts to this question and I will answer them in the same order.

- (a) In July 2002, Law Society established a working party to investigate the activities of unqualified persons. This included what was then a relatively unknown category of recovery agents involved particularly in the field of personal injuries. A circular was issued to members of Law Society advising them of the reservations held by Law Society if solicitors were to accept instructions from recovery agents. These included the impairment of the solicitor's independence and the client's freedom of choice of solicitor under such arrangements as were believed to be made by recovery agents, and concern that victims of accidents were not receiving the full level of compensation because of the contractual obligation to pay over a percentage frequently as high as 25% to the recovery agents.

In November 2004, Law Society established a second working party specifically to look at the activities of recovery agents in relation to personal injury claims. This was done because of an awareness of growth in the activities of recovery agents in personal injury claims and concerns at the social implications arising. Advice was obtained from leading counsel on the legality of a number of recovery agents' contracts with accident victims and a circular

issued to Law Society members. The circular emphasized the likelihood of misconduct if solicitors were to act for victims of accidents in claims financed by recovery agents.

I understand that this latest circular does reflect a more robust approach towards the policing of solicitors' actions in respect of recovery agents than in the past. According to Law Society this is because there is a growing awareness of the activities of recovery agents, concern at their lack of professional indemnity cover against their negligence, allegations of misconduct on the part of those working for them, and concern that there were instances of conflict of interest in the prosecution of claims resolved in favour of the recovery agents to the detriment of the accident victims. There have been allegations as yet unproven that claims had been settled for amounts less than was appropriate and that accident victims who were entitled to legal aid were diverted from such assistance so as to better serve the commercial interests of the recovery agents who would receive up to 25% of the compensation on recovery.

- (b) The Department of Justice has studied the activities of recovery agents. It has also received information on them from Law Society, the Hong Kong Bar Association and the Consumer Council. With regard to the possibility that some recovery agents have been involved in champerty or illegal promotional practices, I will deal with this in a moment when I discuss possible prosecutions.

So far as publicity methods are concerned, we understand that recovery agents canvass for business at various places to which accident victims go to seek assistance. They also distribute leaflets and advertise through the Internet, newspapers and television. Recovery agents may also employ "claims consultants" to canvass for business.

With regard to the fees payable to recovery agents if the claim is successful, we understand that these generally range from 20% to 25% of the compensation recovered.

The follow-up action in relation to these activities falls into three categories.

- (i) The first is public education of the possible risks involved in using the services of recovery agents, and of the availability of legal aid. The Consumer Council published an article on the former in *Choice* magazine and has encouraged the Legal Aid Department (LAD) to promote its services as an alternative to those of recovery agents.

As part of its annual programme of activities, the LAD through its professional staff has been paying regular visits, and delivering talks, to non-governmental organizations promoting the availability of legal aid. It has also published an article in the *LAD News*, the target readers of which are the general public, explaining the advantages of undertaking litigation with the assistance of legal aid while drawing the public's attention to the possible pitfalls of seeking help from recovering agents to pursue a claim in Court.

The Social Welfare Department continues to advise all applicants for Traffic Accident Victims Assistance of their right to claim compensation against any party at fault, through a solicitor or the LAD.

- (ii) The second possible action is to bring a prosecution against a recovery agent if there is sufficient evidence that it has committed any offence. The Department of Justice does not investigate possible offences and only considers bringing a prosecution if evidence is referred to it by law enforcement agencies or others. My Department has advised Law Society, the Hong Kong Bar Association and the Consumer Council that, if they discover any evidence of criminal conduct by recovery agents, this can be referred to the police. So far, there has been no case in which sufficient evidence of an offence by a recovery agent has been produced to my Department to warrant a prosecution. I understand that the Consumer Council is in the process of referring one recent complaint to the police. It remains to be seen whether there is sufficient evidence to bring a prosecution in that case.

- (iii) The third type of action has been to consider whether legislation should be introduced to regulate recovery agents. The Department of Justice was informed by the Consumer Council in February of this year that it had not received any complaints from members of the public about the activities of recovery agents. We have now been informed that there has been one recent complaint. However, I do not consider that there is sufficient justification for legislating at the present time. My Department will nonetheless continue to monitor the situation.

With regard to the position of Law Society, as the regulatory body for practising solicitors, it is entirely appropriate for it to issue advice to its members on their professional duties in relation to victims represented by recovery agents.

- (c) The Law Reform Commission study of conditional fees (or "no win, no fee arrangements") is progressing well. It is expected that a consultation paper on the subject will be published within the next few months. At this stage, I am not able to say whether or not the paper will discuss the possible regulation of claims companies.

Insufficient Motorcycle Parking Spaces

19. **MR ALBERT CHAN** (in Chinese): *Madam President, I have received complaints from members of the public that motorcycle parking spaces in many areas are insufficient, especially in Tsuen Wan, Tsing Yi and Tin Shui Wai. In this connection, will the Government inform this Council:*

- (a) *of the demand and supply situation of day-time and night-time motorcycle parking spaces in various administrative districts and the districts in which motorcycle parking spaces are seriously in short supply; and*
- (b) *whether it plans to provide additional motorcycle parking spaces in the next 12 months; if so, of the proposed locations and the number of such parking spaces?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, we carry out annual review of the parking demand and supply for motorcycles over the territory. At present, there are about 31 000 licensed motorcycles and 23 000 designated parking spaces for motorcycles (including those provided at roadside and in carparks). The number of designated parking spaces is adequate to meet over 70% of the night-time parking demand. Since motorcycles are small in size, drivers may park the motorcycles at non-designated spaces, for example, open area in front of village houses. We note that the shortfall is relatively higher in Tsuen Wan, Tuen Mun, Yuen Long, Sha Tin, Kwai Tsing and North Lantau.

During day-time, we estimate that about 9 100 parking spaces for motorcycles are needed, and 8 600 parking spaces are available. The number of designated parking spaces is adequate to meet over 90% of the day-time parking demand. We note that the shortfall is relatively higher in North Lantau, Sham Shui Po, Wan Chai and Tsuen Wan.

We will take the following actions to increase the supply of motorcycle parking spaces:

- (i) requiring new developments to provide adequate motorcycle parking spaces according to the Hong Kong Planning Standards and Guidelines;
- (ii) requesting carpark operators to provide more parking spaces for motorcycles when granting short-term tenancies (STT) ; and
- (iii) providing more roadside parking spaces for motorcycles (including those under flyovers and footbridges) without affecting traffic flow and road safety.

In the coming three years, we project that 6 000 additional parking spaces for motorcycles may be provided at roadside, government carparks, STT carparks and new developments. The exact timing, however, will depend on the completion date of these developments as well as the STT carparks. We will also need to consult the local community before implementing plans for providing parking spaces for motorcycles at roadside.

Lifeguards Employed by Leisure and Cultural Services Department

20. **MR FREDERICK FUNG** (in Chinese): *Madam President, regarding the lifeguards employed by the Leisure and Cultural Services Department (LCSD), will the Government inform this Council of:*

- (a) *the respective numbers of drowning swimmers at public swimming pools and beaches since last year and, among them, the number of those drowned, as well as the number of cases in which other forms of assistance were sought from lifeguards in the past five years;*
- (b) *the respective average years of service among the lifeguards who are employed on pensionable terms and those who are employed on various contract terms, and whether it has assessed if lifeguards' years of service, work experience and familiarity with the environment are relevant to their performance in rescuing drowning swimmers;*
- (c) *the measures in place to ensure that there is an adequate number of experienced lifeguards on duty at public swimming pools and beaches during the swimming season; and*
- (d) *the respective average numbers of swimmers at various public beaches in early mornings before lifeguards were on duty in the past year; whether it will consider advancing the lifeguard service hours at public beaches with relatively more swimmers in early mornings, so as to better safeguard the safety of swimmers?*

SECRETARY FOR THE CIVIL SERVICE (in the absence of Secretary for Home Affairs) (in Chinese): Madam President,

- (a) The number of rescue and fatal cases happened at public swimming pools and bathing beaches between 1 January 2004 and 31 May 2005 during service hours are 324 and three respectively. The respective numbers of rescue, fatal, and give-a-hand cases where no rescue operation is required (for example, helping exhausted swimmers to leave water) happened at public swimming pools and bathing beaches during service hours in the past five years are set out below:

Bathing beaches

<i>Year</i>	<i>Rescue</i>	<i>Fatal</i>	<i>Give-a-hand (no rescue operation is required)</i>
2001	151	1	589
2002	162	0	732
2003	190	5	751
2004	148	2	1 054
2005 (up to May)	25	0	141

Public Swimming Pools

<i>Year</i>	<i>Rescue</i>	<i>Fatal</i>	<i>Give-a-hand (no rescue operation is required)</i>
2001	161	2	1 508
2002	172	0	1 700
2003	96	3	1 535
2004	128	0	1 812
2005 (up to May)	23	1	417

(b) and (c)

As at 1 June 2005, all LCSD lifeguards under permanent establishment have served the Department for six or more years. More than half of them have over 11 years of experience. The majority of the full year contract lifeguards have served the Department for three or more years. About half of them have six years of experience or more. For the seasonal contract lifeguards recruited in this swimming season, around 75% have worked with the LCSD for more than one swimming season.

All the lifeguards working with the LCSD, irrespective of whether they are under permanent establishment or on contract terms, possess valid Beach Lifeguard Awards or Pool Lifeguard Awards issued by the Hong Kong Life Saving Society. Moreover, all LCSD lifeguards are required to go through an induction training course after recruitment and carry out mobilization practice on rescue operation at the aquatic venues regularly. Therefore, all lifeguards are well qualified to carry out their work. In addition, the LCSD will deploy suitable number of experienced lifeguards at

each aquatic venue. As most lifeguards are deployed to work in designated aquatic venues throughout the swimming season, they can familiarize themselves with the environment of the venue in a short period of time.

- (d) We do not have statistics on the number of early swimmers at bathing beaches before the lifeguard service was available last year. However, the LCSD has carried out surveys on the number of early swimmers at selected bathing beaches with more early swimmers this year. The result shows that most morning swimmers arrive at the beaches at about 4 am to 5 am and most of them will leave the beaches by 7 am. As a whole, the majority of beach swimmers arrive after 9 am. Hence, the LCSD provides lifeguard service between 9 am and 6 pm when the number of swimmers is comparatively higher. Nevertheless, the LCSD also extends the lifeguard service hours for bathing beaches by two hours, that is, from 8 am to 7 pm on Saturdays, Sundays and public holidays between June and August to strengthen lifeguard service during the peak swimming season.

If swimmers choose to swim at the bathing beaches outside the service hours, they should swim in company with other swimmers, pay attention to the weather condition and be aware of their own health condition.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bill: First Reading.

CERTIFICATION FOR EMPLOYEE BENEFITS (CHINESE MEDICINE) (MISCELLANEOUS AMENDMENTS) BILL 2005

CLERK (in Cantonese): Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Bill 2005.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bill: Second Reading.

**CERTIFICATION FOR EMPLOYEE BENEFITS (CHINESE MEDICINE)
(MISCELLANEOUS AMENDMENTS) BILL 2005**

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I move that the Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Bill 2005 (the Bill) be read the Second time.

The amendments to the Employment Ordinance, the Employees' Compensation Ordinance and the Pneumoconiosis (Compensation) Ordinance proposed by the Bill aim at recognizing the medical treatment, examination and certification given by registered Chinese medicine practitioners for the purpose of entitlement to employee benefits under these ordinances.

Chinese medicine has a long history. There is wide community acceptance of Chinese medicine practitioners for treatment of illness and injury. Many workers injured on duty and pneumoconiotics have also turned to Chinese medicine practitioners for treatment. In the Thematic Household Survey conducted by the Census and Statistics Department in 2002, 19.6% of the medical consultations made by Hong Kong people during the 30 days before enumeration were attributed to Chinese medicine practitioners. In 2003, the Labour Department also surveyed 2 769 employees injured on duty and found that about 32.1% of the respondents had sought treatment by Chinese medicine practitioners for work-related injuries.

The Chinese Medicine Ordinance passed in 1999 has made provision for matters with respect to the registration of Chinese medicine practitioners and licensing for the trading of Chinese medicines, and so on. It has also provided a comprehensive regulatory framework to ensure that only persons with the required standard of knowledge and practical experience are allowed to practise Chinese medicine in Hong Kong. The Chinese Medicine Council established under the Chinese Medicine Ordinance issued a Code of Practice for registered Chinese medicine practitioners in 2002 to uphold their professional ethics. The Code of Practice specifies that registered Chinese medicine practitioners should

not issue false certificates and lays down requirements on keeping medical records and issuing prescriptions. The Chinese Medicine Council has also drawn up guidelines on common Chinese medicine diagnosis and sick leave duration for reference by registered Chinese medicine practitioners. The guidelines have been distributed since February 2004 to registered Chinese medicine practitioners, major employers' associations and insurers underwriting medical and employees' compensation insurance.

At present, medical practitioners registered under the Medical Registration Ordinance are empowered to perform specified medical functions and to issue medical certificates to support a claim for employee benefits under the aforesaid three labour ordinances. In view of the wide and growing community acceptance of Chinese medicine, the fact that the regulatory ordinance and framework are already in place, and the registered Chinese medicine practitioners are capable of performing certain medical functions stipulated under the three labour ordinances, the Government considers that it is now the appropriate time to recognize the medical treatment, examination and certification given by registered Chinese medicine practitioners and make amendments where appropriate to the relevant ordinances.

The proposed amendments to the Employment Ordinance relate mainly to the recognition of certificates issued by registered Chinese medicine practitioners for certifying an employee's unfitness for work due to sickness for entitlement to sickness allowance under the Employment Ordinance. The Bill also proposes to recognize the certification issued by a registered Chinese medicine practitioner relating to an employee being permanently unfit for his current work, the taking of maternity leave and the unfitness of a pregnant employee for certain heavy, hazardous or harmful work.

The proposed amendments to the Employees' Compensation Ordinance relate mainly to the recognition of certification by registered Chinese medicine practitioners in respect of a period of absence from duty being necessary for employees injured on duty. The proposed amendments also allow injured employees to claim reimbursement of medical expenses incurred for the direct treatment of the work injury by registered Chinese medicine practitioners. The current Employees' Compensation Ordinance provides that an employer may require his injured employee to be medically examined. New provisions are made under the Bill for a report on the examination to be sent to the employer by the medical practitioner, registered Chinese medicine practitioner or registered

dentist who conducts the medical examination, and for the employee's right to make a written request for the employer to send a copy of the report to him.

As for amendments to the Pneumoconiosis (Compensation) Ordinance, they relate mainly to allowing a person suffering from pneumoconiosis to claim reimbursement of medical expenses incurred from receiving medical treatment which is reasonably necessary in connection with pneumoconiosis from a registered Chinese medicine practitioner. New provisions are also made under the Bill to empower the Pneumoconiosis Compensation Fund Board to require a person claiming medical expenses to submit to them a medical report and to appear before the Pneumoconiosis Medical Board, a medical practitioner or a registered Chinese medicine practitioner for the purposes of answering queries.

We further propose that the fees of a registered Chinese medicine practitioner and the cost of medicines prescribed in relation to the medical treatment given by him to be included as medical expenses under the Employees' Compensation Ordinance and the Pneumoconiosis (Compensation) Ordinance. However, the cost of medicines will not be payable if it includes the cost of any tonic that is prescribed for the maintenance of general health only. The cost will also not be payable if it relates to medicines that are not registered as required under the relevant legislation or medicines in respect of which the claimant fails, without reasonable excuse, to produce on request the relevant prescription and receipt that contain the prescribed particulars. Further, the cost of Chinese herbal medicines is not payable if the medicines are sold otherwise than by a licensed retailer in Chinese herbal medicines or a registered Chinese medicine practitioner for administering to his patient.

At present, mechanisms are in place under the aforesaid three labour ordinances under which the Commissioner for Labour determines claims or resolves disputes between employers and employees arising from certificates issued by medical practitioners. We propose to extend the mechanisms to cover the certificates issued by registered Chinese medicine practitioners.

In line with the proposed recognition of registered Chinese medicine practitioners under the three labour ordinances, the Bill also contains related amendments to the Mandatory Provident Fund Schemes (General) Regulation and the Mandatory Provident Fund Schemes (Exemption) Regulation for the recognition of certificates issued by registered Chinese medicine practitioners.

Given that the Bill will not confer any new benefit item to employees, and that the upper limit of 120 days of paid sickness days in aggregate as well as the eligibility criteria for other benefits under the Employment Ordinance will remain unchanged, the proposed amendments should have little impact on employers' overall liabilities.

We have consulted the Labour Advisory Board, Chinese Medicine Practitioners Board under the Chinese Medicine Council, Hong Kong Dental Council, Pneumoconiosis Compensation Fund Board, Pneumoconiosis Medical Board of the Pneumoconiosis Compensation Fund Board, Hospital Authority and Department of Health on the proposed functions to be performed by registered Chinese medicine practitioners. They agreed to the proposal. We have also duly considered the views of the Medical Council of Hong Kong and the Hong Kong Medical Association.

Madam President, to keep abreast of developments of Chinese medicine and society in Hong Kong, and to accord employees who are ill or injured on duty and pneumoconiotics the right to seek treatment in either Chinese or Western medicine as the circumstances of their illness or injury may require, I hope that the Bill could be passed early into law by the Legislative Council.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Bill 2005 be read the Second time.

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee on the time limits for each Member. Here, I only wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Nature conservation policy.

NATURE CONSERVATION POLICY

MR CHEUNG HOK-MING (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, during my long years of service in the New Territories, I have come to deeply realize how rapid urbanization has transformed many country greens in Hong Kong into densely populated new towns. Because of this, members of the public have come to treasure more and more lands that are still of high ecological value in Hong Kong. They are also concerned about how the conservation policy of the Government can strike a balance between metropolitan development and the effectiveness and sustainability of nature conservation. I believe that the Members here — it is a pity that not many Members are in the Chamber now — will probably agree and will not deny that since valuable ecological sites are for the enjoyment of all Hong Kong people, conservation should be our common responsibility and the Government is obligated to undertake the main task and responsibility of conservation.

When it comes to the new policy on nature conservation, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and the Heung Yee Kuk New Territories are both of the view that the Government has simply failed to play a proactive role and make any financial commitment. The authorities' total reliance on the co-operation between outside organizations and landowners is not a satisfactory approach to conservation. This, together with other limitations, will prevent the new policy from achieving the sustainable protection and management of ecological sites of high value in Hong Kong.

Madam President, I would sum up the so-called nature conservation policy of the Government in these words: "divided authority and fragmentary policies marked by lukewarm efforts and shirking of responsibility". Currently, there are five Ordinances, namely, the Country Parks Ordinance, Marine Parks Ordinance, Waterworks Ordinance, Wild Animals Protection Ordinance and Town Planning Ordinance, under which conservation areas or nature reserves are designated. There are in total eight types of designated areas, namely, Country Parks, Special Areas, Marine Parks, Marine Reserves, Water Gathering Grounds, Wildlife Habitats, Conservation Zones and Sites of Special Scientific Interest. The designation of conservation areas under these Ordinances is based on differing criteria and they are managed differently. Put it simply, if we look at a map or browse through a booklet, we will not be able to distinguish Country Parks from Conservation Zones, nor will we understand why some areas are designated as Conservation Zones and how they are being conserved.

Madam President, fragmentary laws are understandably hard to follow, but the greatest shortcoming of the entire conservation policy is the Government's inadequate investment and denial of responsibility. The Government emphasizes that lands of ecological value are the common assets of society, but the only thing it has done is to designate some conservation areas under the law. However, the purpose of such designation is just to restrict the development of the lands concerned, and instead of actively investing resources in conservation, it has left the ecological environments of the lands to perish or flourish on their own. Besides, in an attempt to evade its responsibility for conservation, the Government has often shifted the focus of public opinions to the owners of private land in conservation zones, accusing them of failing to shoulder any responsibility for conservation and labelling them as profit-oriented people having no regard for social justice. But in fact, these landowners are just scapegoats, or innocent victims. Given the Government's conservation policy and tactic of land use restriction, their suffering is unspeakable. And, there is something else that makes these landowners even more dissatisfied. In many cases, the emergence of a favourable habitat for different wild animals and birds, or the gradual formation of a site with ecological value, is largely due to the desertion or restoration of a piece of arable land. One noted example is the Long Valley area, where the formation of a habit for birds is basically the result of agricultural activities. But then, when the landowners concerned wanted to cease farming the lands, the Government immediately criticized them for being unwilling to shoulder the responsibility of conservation. Actually, the Government is the owner of more than one third of the lands in the Long Valley area, but instead of telling us how it will conserve and manage the lands there, it has simply accused the owners of private land of "spoiling" the whole cause. Such "lukewarm efforts and shirking of responsibility" have intensified the conflicts and mistrust between the Government and landowners over the work of conservation.

Besides, we frequently point our fingers at property developers who own huge quantities of land, thinking that they oppose the conservation policy simply because they have interests at stake. But the greatest victims under the inflexible conservation policy are always those small landowners who each own 1 000 sq ft of land or so. In most cases, these landowners used to make a living by farming, but now, in their old age, they can no longer do so for health reasons. The land they own, instead of providing them with any security in their old age, has turned out to be their burden, because the Social Welfare Department simply

refuses to grant them any Comprehensive Social Security Assistance due to their ownership of lands that no one is interested in. Having worked hard for the whole life, these poor elderly people are just left with pieces of deserted land, miserable and totally helpless. The sufferings of these forgotten senior citizens are an indictment of the Government's unsatisfactory conservation policy.

Madam President, the Government proposed the new conservation policy last year and identified 12 priority sites for enhanced conservation, for which management agreements and public-private partnership are to be implemented for the purpose of rectifying the inadequacy of the existing policy. The DAB and the Heung Yee Kuk are both of the view that the new management scheme is no ultimate solution. I shall explain the three major inadequacies here.

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

To begin with, the Government agrees to allocate \$5 million for meeting the operational expenses of management agreements, but this sum of money is to be used in the first two years of operation only. And, in regard to public-private partnership, developers are just required to provide conservation funding for a period of 10 years. As for the source of funding after the 10-year period, the Government has not drawn up or announced any further plans.

Second, according to statistics, there have been 10 applications under these two new management schemes, involving a total of eight sites. Even if we disregard the number of approvals in the end, we will still see that while there is already a management scheme for Mai Po, no one has ever indicated any interest in three of these 12 sites, namely Luk Keng Marsh, Cheung Sheung and Sham Chung. The Government has yet to inform the public what forms of conservation management it will adopt for these selected sites of high ecological value in Hong Kong.

Third, the land ownership of these sites in the New Territories is highly fragmented. Even the developers applying for public-private partnership and the non-governmental organizations interested in management agreements do not own all the private lands in these sites. However, the new policy as a whole completely ignores the problem of balancing ecological conservation and the protection of private land ownership. This is not fair. The failure to resolve

the conservation problems in private lands will ultimately hinder the work of comprehensive conservation in a conservation zone, thus defeating the objective and affecting the effectiveness of sustainable conservation.

Madam Deputy, the DAB and the Heung Yee Kuk are of the view that if we really want to conserve the valuable habitats in Hong Kong, we must draw up some objective criteria for the assessment of ecological value. At the same time, the Government must also be totally devoted to the management of these habitats. For this reason, the DAB maintains that the Government should consolidate all the fragmented conservation laws and seek to draw up a ranking list of lands in terms of ecological value according to the recently completed baseline ecological survey. And, lands should then be managed differently according to their respective rankings under the charge of one single department, so as to eliminate the defect of divided authority under the existing policy. This will rationalize the criteria on designating conservation zones for the avoidance of any doubts in society. More importantly, we will thus be able to avoid an absurd situation in which some sites not originally designated as conservations zones, such as Long Valley, a good part of Tai Ho, Cheung Sheung, Yung Shue O and Sham Chung, are rated as the most valuable habitats in Hong Kong.

In addition, if the Government is to reverse its negative and irresponsible image, it should not just sit there with folded arms, confining its role to that of an approval or monitoring authority. Instead, it must be proactive. In the United Kingdom, the self-financing National Trust has been in operation for over a hundred years. It manages a total of 250 000 hectares of valuable habitats, 600 miles of coastline and some 200 buildings and manor farms in England, Wales and Northern Ireland. Through the recruitment of voluntary workers and members, it also seeks to train up the management personnel required for various habitats and promote the message of nature conservation.

Madam Deputy, the economy of Hong Kong has basically recovered, so it is the right time for actions. The DAB and the Heung Yee Kuk strongly request the Government to establish a conservation fund in Hong Kong. The proceeds from land use changes under the existing public-private partnership schemes (that is, regrant premiums and development profits) should be injected into such a fund. And, the Government should then make an equity injection according to a reasonable ratio. That way, there will be sufficient funding to kick-start the conservation fund in the initial period of its operation. In the future, the Government should carry out reviews at various stages of the fund's operation

and make injections as reasonably required by the actual situation. Besides rectifying the inadequacy of public-private partnership, the proposed conservation fund will also provide longer-term funding support for management agreements. Once the proposed conservation fund becomes firmly-established, it may take over the conservation of the 12 priority sites for enhanced conservation. And, it may even adopt the operating mode of leasing the private lands in conservation zones or purchasing them over time. That way, the deadlock under the existing conservation policy can be removed in the benefit of all stakeholders.

Actually, we have already conducted a consultation exercise on the broad principles of using the revenue from conservation zones to finance conservation and the establishment of a nature conservation fund. These principles are supported by a number of local environmental protection organizations, including World Wild Fund Hong Kong, the Conservancy Association, the Green Power, the Tai Po Environmental Association and the EarthCare. We therefore hope that the Government and the Secretary can give careful thoughts to these principles.

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

Mr CHEUNG Hok-ming moved the following motion: (Translation)

"That, as the two measures, namely management agreements and public-private partnership, introduced by the Government under the new nature conservation policy implemented last year have failed to truly achieve the objective of conserving ecologically important sites under private ownership in a sustainable manner, and have even given rise to landowners' dissatisfaction about the infringement of their rights and interests as well as the public's doubt about the effectiveness of such measures, this Council urges the Government to review the policy, including:

- (a) establishing policy objectives and strategies which genuinely accord priority to conservation;
- (b) reviewing the existing fragmented legislation relating to nature conservation, and considering the enactment of legislation which specifically deals with the conservation of nature and ecology;

- (c) the Government assuming a more proactive role by undertaking conservation and management work on the 12 priority sites for enhanced conservation (priority sites);
- (d) exploring afresh practicable and reasonable options to make reasonable compensation or arrangements for owners of private land in the priority sites, so as to ensure that there is more effective conservation and management of the lands concerned;
- (e) enhancing the training for the personnel responsible for managing and supervising conservation work so as to upgrade their professionalism, and promoting public awareness of nature conservation; and
- (f) the relevant government departments taking the lead in co-ordinating exchanges on conservation matters among the Administration, green groups, the private sector, rural organizations, universities, research institutions, etc, and in uniting the efforts of the various parties in promoting the conservation of the ecology."

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

DR KWOK KA-KI (in Cantonese): Madam Deputy, there is a presence in all things big and small. Like human beings, mountains and rivers, birds and animals, insects and fish are all beings in Mother Nature infused with life. According to government information, at present, the wild animals and plants breeding in Hong Kong include more than 3 100 species of vascular plants, 50 species of mammals, 450 species of birds, 80 species of reptiles, over 20 species of amphibians. In addition, there are also 140 species of fresh water fishes, 230 species of butterflies and 100 species of dragonflies. That there are so many species of living things in Hong Kong is beyond anybody's imagination. However, a very unfortunate piece of news is that the number of these animals or that of some rare wild animals is on the decrease in Hong Kong and more and more such animals and plants are teetering on the brink of extinction.

As society continues to develop but the Government lacks any definite conservation policy, it is our natural environment and precious natural resources that will suffer, including the wild animals and plants that each and every member of the public wishes dearly to preserve.

The approach taken in nature conservation in Hong Kong is indeed rather inadequate. On the one hand, of course, we welcome the nature conservation policy proposed by the Government last year and its designation of 12 conservation sites as the areas in which development is permitted in the first phase of its conservation policy. However, this is obviously inadequate and the Government lacks the policy strategies and objectives that a comprehensive conservation policy calls for. The resources committed by the Government are a joke because it has only earmarked \$5 million in the Environment and Conservation Fund to implement this management agreement pilot scheme. This \$5 million is a drop in the ocean when compared with over \$200 billion in public expenditure. This is also an indication of the importance attached by the Government to this nature conservation policy. Neither the public nor the Legislative Council will be fooled by such an act of paying lip-service. Of course, I am grateful to Mr CHEUNG Hok-ming for moving this motion, so that we can debate this issue in the Chamber. We also hope that the Government can give us a positive response.

This new nature conservation policy in Hong Kong indeed pales before other international conservation programmes and it also reveals the stinginess of the Government. The 12 priority sites for enhanced conservation designated by the Government are mainly wetlands, swamps and abandoned farmland. If the conservation of these sites is not strengthened, the chances of these places becoming a natural heritage and remaining a natural habitat are extremely slim and the originally diverse and rare animals and plants will also be pushed towards the brink of extinction.

At present, the work on nature conservation involves many realms of the Government, including the Agriculture, Fisheries and Conservation Department, the Environmental Protection Department, the Planning Department, the Water Supplies Department, the Drainage Services Department, the Leisure and Cultural Services Department, and so on. However, there is inadequate co-ordination among these departments and with all of them acting on their own, the management and conservation measures cannot be properly implemented due to a lack of oversight. If such measures are implemented by means of

management agreement or public-private partnership, the lifting of the ban on the 960 hectares of land in conservation areas will turn much of the land which has been abandoned or formerly barred from being developed for environmental reasons from land that nobody care for into much sought-after land as a result of the introduction of such a policy. Many landowners will consider the Government to have forcibly wrestled private land from them, or such land will be used by major property developers to carry out development and developers will compete with one another in seizing and occupying these public resources. In fact, I am gravely concerned about whether such an approach will ultimately contribute towards the goal of conserving our natural heritage.

The United States was the first place in which intervention with its natural heritage was made at the national level and various types of legislation to protect its natural resources were enacted. The system of national parks in the United States is well-established and the parks are diverse in range. The mountains, valleys, forests and lakes, and so on, are well protected by clear and definite provisions. Moreover, these areas are under the management of non-profit-making organizations to ensure that the areas under their custody and the land titles over them can be passed down forever, so that the work of conserving these areas can continue. These areas are also placed under the intensive care of experts so that the natural resources and the rare animals and plants can be protected for generations. Land encroachment, excessive capture and killing are strictly prohibited.

With scarce land, a large population and limited resources, very few places are designated as conservation areas in Hong Kong. We can hardly expect the Government to be willing to commit billions of dollars to purchasing the areas concerned and doing so may not be compatible with the Government's fiscal principles. It may be necessary for us to channel outside capital to this cause. However, I do not wish to see such a move eventually giving rise to projects carried out by property developers or developments in the form of public-private partnership, and still less do I wish to see any conflict of interest or any management agreement that is not enforceable, such that under the pretext of nature conservation, the real aim of developers or owners is to extract more gains from the land. Therefore, the Government must establish a reliable trust fund and an environmental protection fund with adequate funding, as well as fostering the public awareness that conservation areas are a natural heritage. These measures are all very important. Furthermore, the Government has the ultimate responsibility in promoting environmental protection through publicity

and education, as well as in encouraging the public and society to make donations. Without donations to support green groups, I can foretell that the 12 conservation sites will eventually become sites coveted by private property developers or private consortia and the so-called nature conservation and respect for ecological balance at these sites will merely be ornamental or even a pretext to carry out artificial projects that will turn these sites into developments to attract property investments or into commercialized scenic spots.

Land development, reclamations, environmental pollution and ecological destruction have made many precious animals in Hong Kong such as the Romer's tree frog, Chinese white dolphins and black-faced spoonbill diminish in numbers. If the new policy cannot adhere to the conservation principles of being people-oriented and sustainable development, it will probably focus only on the economic benefits of urban planning. In the end, there will be less and less species and the ecological balance will be further upset, so that we will go against Nature, wreak havoc to it and leave a wasteland and a despoiled earth behind. Not only will such a situation bring misery upon ourselves, this will also be a bane on our posterity. This is the last thing we would wish to see.

I support Mr CHEUNG Hok-ming's motion and urge the Government to formulate a set of long-term and feasible policies. Thank you, Madam Deputy.

MR LI KWOK-YING (in Cantonese): Madam Deputy, the success of the nature conservation policy will depend on whether or not it can balance the needs of conservation, economic development and education. In regard to these three key factors, some maintain that nature conservation and the economic development of society are by nature mutually exclusive, so it is very difficult to strike a balance between them. But in fact, it all depends on the willingness or otherwise of the Government to make any commitment, to invest the resources required and to respect the wishes and interests of landowners.

To the Government, its conservation policy is just a means of educating the public on nature conservation. One of the objectives mentioned in the new nature conservation policy announced by the Government last year is precisely to provide the public with more opportunities to appreciate the beauty of nature. It is good for the Government to regard its conservation policy as a task of education. But it must understand that there is no such thing as free lunch on

earth. Like conventional education, the promotion of education on conservation will also require the investment of huge resources. However, it is a pity that the Government has failed to invest sufficient resources in this type of education efforts. Before the implementation of the new conservation policy, the focus of the Government's conservation policy was just the designation of some specific zones where land uses were restricted and certain destructive activities prohibited. However, with the exception of Mai Po, the Government had never provided any resources for upgrading the ecological value of any other conservation sites. This negative attitude was unable to effectively upgrade the habitats in conservation sites, and due to the total lack of control, this attitude even adversely affected the ecological value of the lands concerned.

According to statistics, as many as six, or half, of the 12 priority sites for enhanced conservation were private lands. The conservation of private lands has always been the most difficult issue in any conservation policy. Since private land owners are under no obligation to undertake any positive management and maintain or even upgrade the ecological value of their lands, the ecological value of many private lands has thus declined as a result of the lack of management. In the Long Valley, for example, due to railway construction, some lands were no longer used for farming at the time of land resumption. In Mai Po, some fish ponds are deserted, so its ecological attraction to migratory birds has declined drastically.

The Government must not rely solely on lip-service or the very meagre strength of non-government organizations as a means of promoting conservation. It should honour its pledges, shoulder the heavy responsibility of conservation and make determined efforts to invest more resources in the cause. In the course of conservation, the Government must respect the rights and interests of landowners. It must realize that the sites with ecological value, or conservation sites, designated under its new conservation policy all used to be the agricultural or fishery grounds of the local residents.

Sha Lo Tung, where I was brought up, can be cited as an example. Conservationists now generally think that this is a place with very high ecological value. On the record, there are 72 species of dragonflies, representing 65% of all the species of dragonflies in Hong Kong. But the fact is that this place was just an ordinary agricultural village, and it was only after the desertion of this village that all the dragonflies treasured so much by people

started to emerge. Like Sha Lo Tung, other sites such as Sham Chung and Yung Shue O have become conservation sites only after the arable lands there were deserted by local residents moving elsewhere to earn a living.

Some maintain that since all these sites of high ecological value are already deserted, it is only natural to designate them as conservation zones. I believe that no one will possibly object to protecting the environment. But it must be borne in mind that many of the lands of high ecological value are in fact private lands. If we want to designate other's lands for conservation and education purposes, we must first respect the wishes and interests of the landowners.

Respect for land ownership can be likened to respect for intellectual property rights — both are equally reasonable and legitimate. The SAR Government is making very positive efforts to combat copyright piracy, and it is now well ahead of many advanced countries in this respect, convinced that downloading activities such as BT may be in violation of the Copyright Ordinance. The SAR Government's respect for copyright is indeed praiseworthy. But when it comes to conservation, it simply ignores the rights of landowners. In other words, it knows only copyright but not property right. Should such double-standards be eliminated from a place that attaches so much importance to the rule of law and private ownership?

As I mentioned a moment ago, no one will possibly object to protecting the environment. I believe that the residents of the New Territories are no exception. However, if we want to fully convince landowners that they should participate in conservation, we must make them feel that their wishes and interests are duly respected. The Government is now processing applications for public-private partnership; this gives it a very good opportunity indeed. But the conservation policy of the Government still leaves much to be desired. As mentioned by Mr CHEUNG Hok-ming in moving his motion, there have been only 10 applications since the implementation of the two new management schemes. And, there is also the problem of inadequate funding. Such are the problems, and I do not intend to dwell on them anymore.

Another problem is that the Government has failed to consider the fact that there is a shortage of personnel to manage the habitats in Hong Kong. The species and ecologies that have to be conserved will vary from one conservation site to another. The conservation personnel must therefore be well-versed in

professional knowledge. At present, experts with such knowledge and experience can only be found in the Kadoorie Farm and the World Wild Fund. Such experts, however, may not necessarily be available in the case of other green groups and property developers participating in the management of conservation sites. Therefore, the massive outsourcing of the management of sites of high ecological value to outside organizations may only further accentuate the shortage of management personnel. Besides, there are also the risks that poor management may lead to the damage of ecological sites.

The DAB maintains that if we are to strike a balance between the promotion of habitat conservation and the interests of landowners, the only sustainable and win-win solution will be the establishment of a nature conservation fund. The Government should shoulder its responsibility by taking the lead in the provision of funding. I hope that the Government can actively consider this idea, so that we can continue the work of conservation and break new grounds.

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

MR MARTIN LEE (in Cantonese): Madam Deputy, the Government announced its new nature conservation policy in November last year. The main proposals are: the designation of the first 12 priority sites for enhanced conservation and the introduction of administrative measures such as management agreements and public-private partnership as a means of conservation.

However, the introduction of this new policy is not matched by adequate commitment from the Government, especially in terms of finance. To begin with, the Government proposes to set aside \$5 million from the existing Environment and Conservation Fund to cater for the applications from green groups or non-governmental organizations (NGOs) intending to enter into management agreements. This \$5 million is in any case already earmarked for environmental protection, so what the Government now proposes is certainly not any fresh commitment but just a redeployment of existing resources. These 12 priority sites may measure more than 100 acres, so how much conservation work can we expect this several million dollars to achieve in all these sites? Even if

green groups or NGOs intend to enter into management agreements, even though they are prepared to provide free professional expertise and knowledge for the conservation of the valuable habitats in these sites, they will never have sufficient resources to sustain their efforts. Actually, the Government does not want to spend even a dime, and it only hopes that it can implement its new policy and achieve a win-win situation simply by taking advantage of the co-operation between green groups or NGOs on the one hand and landowners on the other. This complete lack of any commitment to the new policy cannot possibly convince others that the Government is wholly devoted to the cause of improving ecological conservation.

(THE PRESIDENT resumed the Chair)

Actually, the only ultimate solution to the shortage of resources should always be the setting up of a nature conservation fund with an independent, transparent and open mode of operation, one which is also monitored by an autonomous nature conservation authority. The Government may provide the seeding fund and then channel the regrant premiums from the development of the priority sites into the conservation fund. Henceforth, NGOs can be provided with direct funding for conservation of all the sites with ecological value.

In regard to public-private partnership, the existing arrangements are unable to convince people that the new policy can really achieve the objective of nature conservation. The Democratic Party maintains that apart from merely participating in public-private partnership projects on ecological conservation, green groups or NGOs should also play a long-term monitoring role and report regularly to the public on the progress of conservation. They should also see to it that developers honour their commitment to ecological conservation. At the same time, the Government should put in place a punitive mechanism whereby conditions are set down beforehand on the punishment of any developers or other organizations which fail to honour their commitment to conservation. For instance, a defaulting developer may be required to pay a fine which will be used for the long-term conservation of the site in question. The Government should also formulate a contingency plan to ensure that in case the pilot scheme fails, the 12 priority conservation sites can still receive the protection they deserve.

The Democratic Party thinks that the Government has been extremely passive and conservative in respect of ecological conservation, and that it has failed to realize the principle of sustainable development. As it is, the new policy aims only to conserve private lands with ecological value; there is no plan to conserve or restore those ecological sites that have been damaged or are facing the threat of destruction. Therefore, I must urge the Government to assume a more positive and active role in nature conservation. Instead of doing mere lip-service and window-dressing, it must formulate a long-term strategy to enable the relevant work to achieve genuine results.

Madam President, finally, I wish to state the position of the Democratic Party on the motion. In principle, we support the majority of the proposals made in the motion, particularly the one on requesting the Government to assume a more proactive role in nature conservation, but we must still express reservations about the fourth proposal, which asks for studies on various options to make reasonable compensation or arrangements for owners of private land in the priority sites. We are of the view that the two conservation measures concerned will only call for voluntary participation and thus will not involve any mandatory resumption of private lands by the Government. In other words, the rights and interests of landowners will not be affected. For this reason, the new measures are not in breach of the Basic Law, meaning that there seems to be no legal justification for asking the Government to pay compensation to the landowners concerned. As for the proposal on asking the Government to buy back lands for conservation, it is simply impracticable, as already pointed out by some green groups. There are not just 12 sites in need of conservation in Hong Kong. In the future, many more sites will be designated as priority sites. According to rough computations, if the Government is to buy back all the private lands in these sites, as much as \$10 billion to \$20 billion will have to be spent. This will not only involve the spending of huge public money but also increase the financial burden of the Government very drastically. This is simply not sustainable in the long run. We must reiterate that the establishment of an autonomous conservation authority and a nature conservation fund should be the most flexible and effective way to promote nature conservation.

For all these reasons, the Democratic Party will abstain from voting on the motion.

Thank you, Madam President.

MR DANIEL LAM (in Cantonese): Madam President, the Government announced its new nature conservation policy in November last year, designating 12 priority sites for enhanced conservation in the New territories. It is hoped that the new policy can achieve a win-win situation for both development and conservation. It is already past the deadline for applications, but the responses have been very poor, as the Government has so far received just six applications for public-private partnership. Why? The reason is that the entire conservation policy is wrong in direction, ambiguous in objectives and deficient in matching support. Everybody knows only too well what the responses to the pilot scheme and the long-term effectiveness will be.

Nature conservation and sustainable development are the trends of the world today. But what we are talking about are the traditional lifestyle of indigenous New Territories inhabitants — it is precisely because of their "fung shui" woods, fish ponds and wetlands that we now have so many blessed lands with conservation value. According to the information of World Wild Fund Hong Kong, in the "fung shui" woods of Wu Kau Tang alone, there are already 164 species of trees, 10 of which are rare species. Besides, these "fung shui" woods are also home to more than 30 species of dragonflies and over 50 species of butterflies. But has it ever occurred to us that the sustainable development and conservation of all this valuable heritage of nature has only been possible due to the hard work of generations of indigenous inhabitants? Has it ever occurred to us that the Government is just trying to enjoy the fruit of others' toil and sweat?

Madam President, conservation and development are both aimed at catering for people's needs and in turn upgrading their quality of living. None of them should be considered more desirable, or less desirable, than the other. As long as we can adopt a responsible attitude in the interest of our children, as long as we can deploy public resources in a reasonable manner, conservation and development can actually complement each other and achieve a win-win situation. There is simply no need for any pilot conservation schemes.

Under the scheme of conservation zones implemented since the 1980s, the development of lands with conservation value is prohibited. Agricultural villages and farms have been forced to remain in their traditional state and "living men are turned into specimens", so to speak. But it is extremely unreasonable to do so. Owners of lands in the urban areas can do the best they can to develop their properties and upgrade their value. They can ask for one "peak price" after another, but the public still adore them as examples of success.

In contrast, rural lands are forced to remain forever as havens of birds and insects for no reason but the conservation efforts of their owners. These landowners are never able to share the fruit of social progress and prosperity. Is this fair? Conservation to these landowners is nothing but an "original sin". If the conservation policy of the Government is turned into an "original sin" borne by landowners, and if urban residents are allowed to derive "pleasure" from the "original sin" of others, we must wonder whether there is any social justice at all.

According to the authorities, the leases applicable to sites with significant ecological value are often agricultural leases, and under these leases, landowners may not necessarily enjoy the right of erecting any buildings or superstructures on the lands concerned. But is this restriction of development right present in all agricultural leases of Hong Kong? Why is it that while the development of agricultural lands in other places can be allowed, the owners of lands with ecological value have to be deprived of their legitimate rights? Why must they be forced to live with butterflies and dragonflies and barred from becoming rich? Should they be made to remain in their agricultural lands forever, putting up with lifelong poverty, just because of their ancestors' and their own concern for nature and conservation, while other landowners not so concerned about these issues are free to sell their lands to make themselves rich? Is this supposed to be the original intent of the conservation policy?

Madam President, we must point out that both sincerity and money are indispensable to the success of any conservation policy. The absence of either of them will only leave behind barren lands with nothing but weeds. A conservation policy can be considered complete only when there are definite objectives and a practicable agenda for implementation which covers special laws on nature conservation, advocacy of education on conservation, formulation of measures on protecting and managing sites with significant ecological value, conduct of surveys, tests and researches, management of wild animals and plants, installation of information systems on conservation, as well as the training of conservation personnel. Denuded of all rhetoric, the so-called conservation policy before us is nothing but a scheme meant to restrict land development on the pretext of conservation. It is far from being a genuine conservation policy.

Madam President, in the case of urban areas, if the Government sees any need for land resumption due to the construction of public facilities, it will offer market prices and the landowners concerned can bargain with the Government on the terms and conditions of resumption. Nature conservation is actually

another form of public facility construction. For this reason, the Government must not sacrifice the rights and interests of owners of lands in the New Territories while allowing urban landowners to enjoy all their rights. If landowners are prevented from developing their lands, or if they are restricted in such development, the Government should offer them compensation for the related losses or allow land exchanges. This is the only fair and reasonable practice. The relaxation this time around is nothing but "a pause in the course of hanging". It is essentially hypocritical in nature.

The first tasks of the Government now should be the formulation of a satisfactory set of criteria for assessing the conservation value of the various sites and an integrated package of measures on conservation management. Besides, all the fragmented requirements currently found in different ordinances, must be consolidated into one single piece of sensible conservation legislation, and the public must be consulted on and made to understand this law in an open and transparent manner. In addition, the Government must abandon its current conservation approach of replacing management by prohibition. An active management approach should be adopted to assist landowners in implementing nature conservation. More importantly, a nature conservation fund should be set up to assist landowners in meeting their needs.

Madam President, I so submit.

MS MIRIAM LAU (in Cantonese): Madam President, in the new nature conservation policy announced in November last year, the Government outlined 10 major policy objectives and, with priority accorded to conservation, identified 12 priority sites for enhanced conservation (priority sites), seeking to achieve these objectives through two modes, namely management agreements and public-private partnership.

In the opinion of the Liberal Party, although certain parts of the new proposal might still not be satisfactory, such as the failure to take into full account owners' concern and practical difficulties, ambiguous development criteria, and so on, it is undeniable that marked improvement has been made on the policy level. By this I mean the Government has abandoned its old thinking of equating conservation to freezing land use and the rigid regulatory approach of "conserving without developing". Instead, the element of development is now included. In other words, landowners can introduce certain forms of

development to support conservation on land requiring conservation in a sustainable manner.

The fact that some people have expressed willingness to look after nine of the 12 priority sites shows that the new policy is, to a certain extent, attractive. Notwithstanding this, the final approval result has yet to be known. In addition, no one is interested in three priority sites, namely Luk Keng Marsh, Cheung Sheung and Sham Chung. We are concerned about what action the Government will take to enable conservation to be undertaken on these three sites.

As for the compensation arrangements mentioned in the motion, the Liberal Party understands that the Government does not consider restricting conservation development a violation of the principle of the Basic Law in protecting private property, as the Government has not infringed upon or resumed private land. However, the owners are of the view that the use of their lands will be frozen once they are designated by the Government as nature conservation zones, and financial losses will thus be incurred. As a result, they have requested compensation.

In the opinion of the Liberal Party, it is still imperative for the Government to examine setting up a fair, flexible and liberal mechanism to allow the owners to, under the new conservation policy and by virtue of the concept of introducing development, join in the discussions on ways to achieve the objective of attaching equal importance to development and conservation instead of putting emphasis merely on conservation, thereby denying the owners an opportunity to develop their lands. As such, we propose that the Environment, Transport and Works Bureau should strengthen co-operation with other departments, such as the Housing, Planning and Lands Bureau, in examining ways to enable conservation and development to achieve a "win-win" situation.

Actually, resources are required to sustain conservation. Once financial resources are cut off, it will be even harder for conservation to be carried out. Let us refer to overseas conservation experience. Green tourism will often be developed in overseas conservation zones and the money thus earned will be injected into their nature conservation work, making it possible for the conservation and development of land to co-exist, not exclude one another.

Furthermore, the proper conservation of land, nature and ecology requires professional management personnel to undertake management and monitor

changes in the lands concerned. At present, our conservation work is undertaken by the Government and some green groups, such as the experts of the World Wide Fund for Nature (Hong Kong). However, there are, after all, few experts. In addition to handling their own work, it is simply impossible for them to take care of other nature conservation sites throughout the territory. It is therefore imperative to enhance training of management and supervisory personnel.

The Liberal Party is even more convinced that, owing to the mammoth scale of nature conservation work, not only some government departments are involved, various green groups, private organizations interested in taking part in nature conservation measures, rural residents with land ownership and even each and every citizen of Hong Kong are involved too. For this reason, we believe the Government is obliged to assume an even more proactive role in taking the lead in uniting the efforts of the various parties in promoting the conservation of ecology before the objective of sustainable development can be achieved.

As regards the proposal raised in the motion by the DAB of reviewing the existing fragmented legislation relating to nature conservation, and enacting legislation which specifically deals with the conservation of nature and ecology, the Liberal Party will render support if consolidating the fragmented legislation can enable landowners to raise the efficiency in conserving or developing their lands.

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

MR LAU WONG-FAT (in Cantonese): Madam President, as I have pointed out time and again, any nature conservation policy without reasonable protection for the landowners' rights will not be successful no matter how it is packaged or promoted. An unfair policy like this will definitely provoke widespread discontent among the aggrieved and arouse continuous resistance. Under this circumstance, the relevant policy will lack a basis for harmonious co-operation from the outset.

More so, it is a matter of grave doubt whether such a policy can hold in terms of the principle of law. Articles 6 and 105 of the Basic Law of the Hong Kong Special Administrative Region stipulate unequivocally the protection of private property right and the landowners' right to compensation for deprivation

of their property. The wordings of these two provisions are crystal clear and their intent obvious. Therefore, as a responsible SAR Government which upholds and implements the Basic Law, it definitely should not turn a blind eye to these protection provisions or attempt to muddle it through. If the authorities bend on having their own way, the property owners being bullied will certainly take their grievances to Court and seek justice.

Indisputably, nature conservation and environmental protection are really good causes which the entire society, the Government and the public should jointly promote. However, by all accounts, the principle of protecting private property must be respected. Indeed, there is no reason that a balance cannot be struck between the two.

In the current case, once a site is zoned by the Government as a conservation zone, the land use of that site will be frozen indefinitely, but the landowner of that site will receive no compensation. I think such a practice is no different from the snatching of people's property by officials and governments in the ancient times. The zoning of a certain site as a conservation zone is indeed equivalent to the acquisition of land for promoting public interest. If land zoned for nature conservation is not for the promotion of public interest, what else can it be? If the acquisition of private land without compensation is not regarded as swindle and robbery, what is it?

The Liberal Party very much agrees that premised on the principle of respecting the right to private property, the freezing of the landowner's right to land development without compensation is unfair to the landowner. By reason of this, the Liberal Party suggests the Government to examine the establishment of a fair, flexible and open mechanism to address the compensation issue, so as to look after both the need for conservation and land development.

Everyone is duty-bound to promote nature conservation and environmental protection. The Government cannot evade but assume the responsibility to play a leading role. The enormous cost incurred in compensation should not be used as an excuse for depriving the landowner's lawful, legitimate and reasonable right to private property and compensation. If such an act is allowed, will people committing robbery because of financial difficulty be regarded as being compelled to do so and is thus excusable?

Madam President, regarding the Government's actions on the conservation issue, let me borrow a jargon in horse racing to describe it as failing to "ride out for first place". Not long ago, the Government introduced the so-called new conservation policy. However, not only comprehensive consideration and deployment have not been made beforehand, the resources invested are also seriously inadequate. By making the so-called management agreement and public-private partnership arrangements, the Government is only throwing the ball into the court of NGOs, landowners and developers, dodging the core issue that landowners must be granted reasonable compensation. If new policies like these could bring about satisfactory results, I will be really astonished.

The Heung Yee Kuk New Territories and the DAB jointly advocate and urge the Government to set up a nature conservation fund as a more effective solution to address the conservation issue in the long term. According to the proposal, the authorities will allocate proceeds from the development of conservation zones, such as the amount involved in the change of land use and regrant premium, to the nature conservation fund. The usage of the fund will include the provision of training to upgrade conservation personnel, and the acquisition, exchange and renting of land for conservation purpose. This is best described as "whatever gains from conservation will be spent on conservation". How good it is to have a specific sum designated for a specific purpose!

Madam President, how can a horse win the championship if it fails to "ride out for the first place"? How can one make great achievement if one has been evasive? The motion proposed by Mr CHEUNG Hok-ming includes many proactive and aggressive conservation proposals which merit modest consideration and implementation by the authorities. It should put more efforts and resources in this respect, working closely together with different sectors of society to open a new chapter in conservation.

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

MS AUDREY EU (in Cantonese): Madam President, since the '90s up to now, the issue of ecological nature conservation over private lands still has not been satisfactorily resolved. Most of these lands are agricultural lands with little economic value. In addition, the landowners of such lands do not have the development rights, that is, they cannot erect any buildings on such lands.

However, the legislative control cannot stop certain human activities from causing damage to the ecological environment. The media have reported the occurrences of activities that caused destruction to the ecological environment, and such activities include the dumping, reclamation of fish ponds or even the staging of war games.

In other words, though the landowners do not have the "development rights", they have the "liberty to wreak destruction". This type of mutually destructive activities will not only cause immeasurable destruction to our natural ecology but also aggravate the already tense relationship between landowners and the law enforcement departments. Consequently, these some 1 000 hectares of private lands will not be adequately conserved.

As early as the '90s, many local green groups already urged the Government to formulate a nature conservation policy, so as to step up the ecological conservation of all the lands (including private lands) as well as the seas in the territory. In addition, the Government should implement the Convention on Bio Diversity, in order to actively prevent and alleviate all kinds of threats to biodiversity.

After publishing the consultation paper in July 2003, the Government implemented the new nature conservation policy last November, proposing to assess the ecological value of lands by adopting a scoring system. In addition, it also encourages NGOs to enter into management agreements and public-private partnerships with landowners, so as to enable some limited development on the lands.

Unfortunately, the Government has not spelt out specific conservation objectives for these private lands, nor has it specifically defined the roles to be played by the Government. The consultation paper leaves the public with the impression that the Government has already imposed limits on the resources, and then all it is doing is just to pass the conservation initiatives into the hands of landowners and green groups.

The new conservation policy has made the two proposals of management agreements and public-private partnership, which are sufficient for shedding a ray of hope to the landowners. As a result, the Government has received four management agreements and six public-private partnership proposals, which are

all for lands situated in the 12 priority sites. These proposals do not require the use of substantial public funds, and conservation plans can be tailor-made to cater for the specific conditions of the individual sites, and above all, financial incentives can be provided to the landowners. However, this is just a good starting point. With regard to the vetting and approval procedures of such public-private partnership projects, they should be kept as transparent as possible, so that views expressed by green groups and the public can be taken into consideration. In the meantime, efforts should be made to enhance the training of personnel responsible for managing and supervising conservation work so as to upgrade their professionalism.

Let us examine the Government's consultation paper again. In it, the options of resumption of land and exchange of land are mentioned. But both options are not feasible. The resumption of land entails \$20 billion of public fund, which is far too substantial — I do not know how the figure was arrived at. Have the development rights been excluded, whereas the conservation value is added into it? The Government also said that the negotiations over exchange of land may take a very long time, and the Government also does not have sufficient land reserve for exchange.

Actually, I have listened very carefully to the speech of Mr Martin LEE. He said, the Government just requested the conservation of lands, not the resumption of lands, so the new measure was not in breach of the Basic Law. However, Madam President, it will not be possible for the Government to proceed with the resumption of land or the exchange of land within a specified period of time. I feel that it is not a fair practice for the Government to freeze the development rights over lands in the long term. I also feel that, as mentioned by many Honourable colleagues in their speeches, conservation is a matter that involves public interest. If the landowners are required to take up the responsibility of conservation just because their own lands possess conservation value, and also for this reason, their development rights are frozen in the long term, it is also unfair. Therefore, I agree with the underlying spirit of the motion, that is, the Government should assume a more proactive role in exploring and studying a win-win solution, so that it can proceed with conservation of the lands on the one hand, and that individual landowners will not be subject to unfair treatment on the other.

I have listened to the speeches of Members of the Democratic Party, who said that they would abstain from voting because of point (d). However, I have

also studied the wording of point (d) in great detail. It just requests the Government to explore afresh practical and reasonable options. It has neither proposed any specific timetable, nor has it requested the Government to assume a certain responsibility in making compensation and arrangements within any specified period of time. Therefore, basing on this reason, I agree with and support the underlying spirit of the motion, and hope that the Government can take a more proactive approach in making fair arrangements for attaining the conservation objectives, so that the development rights of these landowners will not be frozen in the long term. Thank you, Madam President.

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

(No Member indicated a wish to speak)

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I am very grateful to Honourable Members for expressing their views on the nature conservation policy earlier in the meeting.

Hong Kong has a diversity of natural landscapes despite its small area. We have adopted a "habitat approach" by protecting important habitats through designation various conservation zones. We have so far designated 23 country parks and 16 special sites with a total area of about 41 600 hectares. Moreover, we have designated another 6 600 hectares of land as Sites of Special Scientific Interest, Conservation Areas and Coastal Protection Areas. So far, about 48 200 hectares, or 43% of Hong Kong's land area, are put under different arrangements for conservation purposes. In this respect, Hong Kong compares favourably with other cities with a similar level of economic development. In the international community, Hong Kong's Conservation Areas are widely known as excellent places for sightseeing. One of our country parks, appearing on the cover of the November edition of *The Times* last year, was hailed as one of Asia's best tourist spots.

Despite its rapid development over the years, Hong Kong is still characterized by rich biodiversity which is not, as remarked by Dr KWOK Ka-ki earlier, in the process of being eaten up. Moreover, new species are found every year. For instance, we have more than 3 100 species of vascular plants,

50 species of mammals and 450 species of birds. Furthermore, we can find in the annual bird-watching races continued growth in the number of species and an expanding population of birds making Hong Kong their destination. In addition, we have 80 species of reptiles, 20 species of amphibians, 140 species of fresh-water fish, more than 230 species of butterflies and 100 species of dragonflies. Evidently, we have achieved satisfactory results in protecting important habitats and species, in terms of both the share of areas protected for nature conservation purpose and the level of biodiversity.

However, our past conservation measures were not without limitations. For instance, there were from time to time major disputes on whether a site should be conserved. There were also criticisms that our conservation measures were unable to fully conserve sites of ecological value under private ownership. As pointed out by Ms Audrey EU earlier, the practice of freezing sites with conservation value on a long-term basis is not ideal. In 2003, the Government reviewed the then nature conservation policy and measures and consulted the public on the proposed improvement measures during a three-month consultation exercise. After taking into account the views collected, we published the new nature conservation policy in November last year.

The new nature conservation policy seeks to regulate, protect and manage natural resources that are important for the conservation of biodiversity of Hong Kong in a sustainable manner, taking into account social and economic considerations, for the benefit and enjoyment of the present and future generations of the community. In publishing the new policy in November last year, we also set out 10 policy objectives, as were mentioned by a number of Members earlier.

We have also simultaneously announced strategies to achieve the abovementioned objectives, including the adoption of an objective and systematic scoring system to first identify 12 priority sites for enhanced conservation (priority sites); continuation and enhancement of existing nature conservation measures in the light of the actual situation, including the designation of country parks, special areas, marine parks, Coastal Protection Areas and conservation zonings, as well as implementation of conservation plans for important habitats and species; conversion of the Wetland Advisory Committee into a nature conservation subcommittee of the Advisory Council on the Environment (ACE) so as to reinforce the advisory role of the ACE in nature conservation; and

enhancement of public education and publicity to give the public a better understanding of the importance of protecting biodiversity and enhancement of the conservation awareness of government departments, and so on.

As regards the sustainable conservation of ecologically important sites under private ownership, we have made a clear response in the new nature conservation policy. We have proposed two new conservation measures, namely management agreements and public-private partnership (PPP), to achieve enhanced conservation of the 12 priority sites. Under the management agreements, non-governmental organizations (NGOs) may apply for funding from the Government for entering into management agreements with landowners. NGOs may provide the landowners with economic incentives and, through exchanging land management rights or co-operation, enhance conservation of the relevant sites. Under PPP, limited development will be allowed at the ecologically less sensitive portion of any of the priority sites identified provided that the scale of development has gained government approval and the developer undertakes to conserve and manage the rest of the site that is ecologically more sensitive on a long-term basis. This measure can ensure that public interests, that is, the interests of nature conservation and development, can be served.

In order to test the feasibility of these two new measures, we have started launching pilot schemes. The application period just ended on 31 May. The fact that the Government has received a total of four management agreements and six PPP applications demonstrates that the pilot schemes have received positive support from people of various sectors of the community. The applicants' proposed sites for enhanced conservation include land within Ramsar Site, Deep Bay Wetland outside Ramsar Site, Sha Lo Tung, Tai Ho, Wu Kau Tang, Mau Ping and Mui Tsz Lam, Fung Yuen and Long Valley, as well as Yung Shue O. The area of the conservation sites involved exceeds 500 hectares.

We are very pleased to see the large number of applications which is evident of the interest of private land owners, green groups and members of the community in participating in the pilot schemes. We are currently studying the applications received with the relevant Policy Bureaux and government departments. An interdepartmental ad hoc group has been set up to scrutinize the PPP proposals in detail. The successful management agreements and PPP applications are expected to be announced by the end of November this year.

Under the PPP improvement measure, limited development will be allowed in the ecologically less sensitive portion of the identified sites in order to provide the proponents with an incentive to conserve the rest of the sites that are ecologically more sensitive for the purpose of achieving the objective of conserving the relevant sites. Consideration of the relevant applications will be premised on enhancing the conservation of the relevant sites and adherence to the principle of sustainable development. Only comprehensive proposals with concrete conservation plans will be considered for approval. Incidentally, a couple of Members have raised the point about the criteria for ecological conservation and asked whether a set of standards has been drawn up for compliance. Actually, our scoring system has demonstrated how ecological values are calculated and how they are measured. However, as each site is different in terms of its geographical environment and ecological and natural conditions, and coupled with the fact that each proposal has to be drawn up in the light of its site limitations and its source of resources, we have to vet the proposals one by one.

We will consult the ACE or its subcommittees on the applications submitted under the pilot schemes. The PPP proponents must meet all the statutory requirements and, among other things, apply for change of land use or planning approval under the Town Planning Ordinance (TPO). If the proposed development projects cover projects designated under the TPO, the relevant proposals cannot proceed unless the requirements of the TPO are met.

We consider PPP a win-win proposal. I have repeatedly pointed out that the land interests of landowners are governed by the existing leases, whereas ecological sites on private land are usually governed by agricultural leases. According to the provisions of such leases, the landowners do not enjoy any development right to erect structures or buildings on the land. It is not mandatory for the landowners to take part in this project; nor will their rights and interests under the leases be affected. However, in the event that the land owners choose to voluntarily join the project and if they are permitted to do so under the new conservation legislation, they may develop part of their land and, subject to the endorsement of the Town Planning Board (TPB), may even apply for exchange of land. As their rights and interests are not reduced in any way, it is not advisable to use taxpayers' money to make compensation to them.

A number of Members have expressed their views on the feasibility of acquiring land with public money. According to our preliminary estimate, it

will cost the Government \$20 billion if the 12 sites are acquired and cleared. This sum of money is calculated according to the Government's normal compensation standard in land acquisition, and the recurrent expenditure for managing these sites in future has not been included. Moreover, there are more than 12 sites with conservation value in Hong Kong. For this reason, buying these sites and conserving them in a sustainable manner with public money is not a good conservation method that optimizes resources.

As regards the proposal raised by a number of Members for the Government to consider setting up a nature conservation fund to promote conservation, we indicated in the new nature conservation policy published last year that we would further examine the feasibility of this proposal. This kind of nature conservation fund can be found in many developed countries. The setting up of a nature conservation trust fund can help raise funds from various sectors of the community (including donations from individuals as well as private companies) for the maintenance and conservation of our natural assets. The fund can also provide funding to sustain nature conservation work. Of the applications submitted under the PPP proposal, some applicants propose setting up a separate trust fund for the relevant conservation sites to finance their long-term management. While the continuity and cost-effectiveness of these trust funds warrant our attention, we must wait until the PPP scheme is implemented before practical problems and the feasibility of the scheme can be ascertained. We believe, subsequent to the implementation of PPP, the first step has already been made. Many overseas funds began in this manner too.

Some Members consider it necessary for a specialized department to be set up to deal with legislation relating to nature conservation matters. We must understand that an extremely extensive scope is involved in regulating, protecting and managing natural resources most vital for protecting the rich biodiversity of the territory. Protection of wild plants and animals, land planning, environmental pollution control, prevention of development projects from adversely affecting the environment, and so on, are included. Actually, a number of Members raised the point earlier that although relevant laws are in place to regulate these matters, law enforcement is carried out by different departments. However, when the situation is found to be relevant to nature conservation, relevant laws will be interpreted within their related scope for application purposes. For instance, the TPO deals with the regulation of land use in Hong Kong. The inclusion of regulation of land use in planning intentions can be used as a tool to protect ecologically sensitive sites from certain development and incompatible land uses under the TPO. All this can be

incorporated into the TPO. There are many other laws enacted for the same purpose too. I have always believed that every relevant party should regard environmental protection or nature conservation as one of its responsibilities. Only with this level of conservation can high efficiency and coverage in depth be achieved. In my opinion, effective regulation by the existing legislation is essential. Of course, we can continue to seek improvement. However, I do not advocate consolidating these laws into a single piece of law to be handled by one department, because I do not believe effectiveness can be enhanced by doing so.

As regards training of conservation personnel, we will continue to enhance their training. In general, Forestry Officers of the Agriculture, Fisheries and Conservation Department (AFCD) are responsible for co-ordinating and implementing conservation work. They have all acquired relevant academic qualifications above the tertiary level. With years of experience in conservation work, officers of the supervisory grade have also undertaken enormous work in publicity and education as well. The AFCD has organized for various sectors of the community a variety of activities, such as tree-planting, fire protection, country side exploration, ecological tour, and so on. The AFCD has also erected illustration boards in a number of popular ecological spots, such as Tung Ping Chau, Lai Chi Wo, Tai Tam Reservoir, and so on, for the purpose of enhancing the sightseeing value of these scenic spots. Furthermore, the AFCD has from time to time organized workshops and, for instance, provided guided tour service in Hoi Ha and a great variety of nature education information on the Internet for the reference of teachers, students and members of the public. Since 2000, the AFCD has produced more than 100 publications of different varieties. These publications are available in bookshops throughout the territory and are quite popular. Such nature education work will surely be continued.

The Government has been working closely with NGOs in promoting local nature conservation work. For instance, the Government has, from time to time, worked in collaboration with green groups, universities, research institutions, the private sector, and so on, in organizing publicity and educational activities and conducting field studies; invited scholars, ecological researchers, and green group members to sit on different advisory groups and working groups set up under the Government; co-operated with rural organizations in publishing publications relating to nature conservation; and directly subsidized NGOs, through the Environment and Conservation Fund, to undertake scientific research work and promotional activities on nature conservation.

I am convinced that the new nature conservation policy published last year can achieve some of our nature conservation targets more effectively. Through co-operation between the Government, business sector, rural committees, NGOs, the academic sector and the public, I hope generations of Hong Kong citizens will be able to enjoy these natural resources of great beauty and diversity.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr CHEUNG Hok-ming, you may reply and you still have three minutes seven seconds.

MR CHEUNG HOK-MING (in Cantonese): Madam President, seven Honourable colleagues have spoken on this motion, and their speeches are all very constructive. They have put forward many good suggestions, some of which are even one step ahead of my original motion. However, what surprised me most was the reservations held by our Honourable colleague, Mr Martin LEE of the Democratic Party, who said that he would abstain from voting.

I have looked up some old records and found that the DAB had moved a motion debate on this subject in 2001. I believe there are no major differences between the ideas of that motion and those viewpoints expressed by Mr Martin LEE on item (d) of my original motion. He stressed that if the approaches of land resumption or land acquisition were adopted, it would impose a heavy burden on the Government. A moment ago, Ms Audrey EU already responded to this point and I do not intend to spend any more time on endless arguments on this point. Instead, I would like to tell Honourable colleagues some facts, to which I would also like to draw the attention of the Government. Among owners of private lands who are either indigenous residents or non-indigenous residents of the New Territories, a substantial proportion of them just own 1 000 and several hundreds sq ft of land. These people can be classified into three categories. The first category consists of people aged 67 or above who are eligible for the old age allowance. However, they cannot apply for such an allowance simply because of their ownership of a piece of desolate land which makes them fail the assets test. The second category consists of people who want to live in a public housing flat, yet their ownership of a piece of desolate

land makes them ineligible. The third category of people includes those who would like to apply for CSSA, and similarly, because of their ownership of a piece of desolate land of 1 000 or several hundreds sq ft, they become ineligible for the allowance. These are the concerns of the people.

The proposal put forward by the DAB in setting up a fund does not aim at spending \$20 billion on acquiring land, as mentioned by the Secretary or as alleged by a misleading speculation. What we are saying is, at the moment, insofar as those 12 sites are concerned, we hope the part on regrant premium in the co-operative agreements can be retained, together with the injection of a certain proportion of capital by the Government, to form a fund. Such a fund can be used in two ways, namely, first, for conservation — the DAB and the Heung Yee Kuk know this very well, and second, we hope this fund can make some compensation to certain landowners.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHEUNG Hok-ming be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Albert HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes, after which the division will start.

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

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

Functional Constituencies:

Dr Raymond HO, Ms Margaret NG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Tommy CHEUNG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Daniel LAM, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr WONG Ting-kwong and Mr KWONG Chi-kin voted for the motion.

Mr CHEUNG Man-kwong and Mr SIN Chung-kai abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Albert CHAN, Ms Audrey EU, Mr LI Kwok-ying, Mr CHEUNG Hok-ming, Mr Ronny TONG and Mr Albert CHENG voted for the motion.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG and Mr LEE Wing-tat abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 14 were present, 12 were in favour of the motion and two abstained; while among the Members returned by geographical constituencies through direct elections, 21 were present, 13 were in favour of the motion and seven abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

PRESIDENT (in Cantonese): Second motion: Deepening the Mainland/Hong Kong Closer Economic Partnership Arrangement.

DEEPENING THE MAINLAND/HONG KONG CLOSER ECONOMIC PARTNERSHIP ARRANGEMENT

MR WONG TING-KWONG (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, the Mainland/Hong Kong Closer Economic Agreement (CEPA) is a trade agreement whereby the Central Government gives preferential treatment to Hong Kong in entering the mainland market before China takes a progressive step to fulfil its obligations under the World Trade Organization treaties. The aim of CEPA is to achieve a win-win situation for both China and Hong Kong. Now it has been almost two years since CEPA was signed and we think it is the right time to conduct a serious review of CEPA to see what terms and conditions therein should be deepened. Therefore, we are moving this motion topic in this Chamber again to draw the attention of all parties on CEPA.

A key point in the second phase of CEPA is the "investment facilitation policy" for mainland private enterprises. This is in line with the mainland policy of encouraging its private enterprises to go global, and enabling Hong Kong hopes to play the role of a services platform in the process. A survey done by the Hong Kong Trade Development Council (TDC) in end 2004 in Jiangsu Province and Shandong Province showed that 66.8% of the private enterprises interviewed there pointed out that their strategy for further development was to expand into the overseas market. In addition, 67.9% said that it was their hope that they could leverage on Hong Kong to build up an overseas market and a sales network. However, 60.7% of these private enterprises said that the major obstacle they faced in making investment in Hong Kong was a lack of understanding of the business environment here.

It should be clear enough to the Hong Kong Government that when it wants to attract more mainland private enterprises to come here, promotion efforts on the Mainland must be enhanced. However, during the first four months after the "investment facilitation policy" for mainland private enterprises has come into force, only 68 qualified mainland private enterprises have come here for investment. This shows that resources put by the Hong Kong Government into promotion efforts are simply not enough. This is why progress in this area has not been satisfactory. What the Hong Kong Government should do after reviewing its past performance is to revamp its promotion plans and strategies.

Apart from Invest Hong Kong and the TDC, government offices in Guangzhou, Shanghai and Beijing can in fact also play a role in promotions. They can take active steps in fostering among these private enterprises the idea of opening up the international market by coming to Hong Kong to set up companies. Hong Kong officials should take the initiative to strive to get more chances of taking part in visits to the Mainland or other trade activities. These will help publicize Hong Kong's edge as a springboard for Chinese companies going global. Hong Kong officials should also help the business organizations in Hong Kong organize various kinds of promotional activities.

To make this "investment facilitation policy" for mainland private enterprises a success, there must also be adjustments to other policies. Among all these, support in terms of foreign exchange control is the key. Though under the "investment facilitation policy" for mainland private enterprises, a lot of restrictions barring these private enterprises from doing business in Hong Kong have been lifted, there is no clearly-defined foreign exchange control policy on the Mainland. At present, the Ministry of Commerce will give approval to the amount of investment these private enterprises may make in Hong Kong by applying flexibility in the light of the situation in various trades. As a result, mainland private enterprises are not confident and determined enough about setting up companies in Hong Kong.

Since Hong Kong possesses rich experience in financial management and an abundant supply of experts on the same, the Hong Kong Government should make use of this edge in financial services. It should take active steps to explore with the Central Government on what can be done to address the problems in connection with the inward and outward flows of capital as well as how a balance can be maintained to ensure financial stability of the country. Efforts should be made to pursue with the Central Authorities the relaxation of the control over investment capital and for the early implementation of the Qualified Domestic Institutional Investors scheme (QDII scheme). This will help make Hong Kong become an offshore centre for Renminbi (RMB), thus offering a special but lawful channel to enable mainland residents to invest outside China. Other advantages are that the move will be beneficial to the liberalization of RMB and hence facilitate the coupling of China's economy with the world.

Another problem that should be addressed in encouraging mainland private enterprises to come to Hong Kong is related to the arrangements on sending mainland staff over to Hong Kong. Some mainland businessmen told me that after setting up a company in Hong Kong and buying the equipment needed, they

faced the problem of delays in the applications for permission from the Hong Kong Government to get their mainland staff to come over here to work. As a result, the new companies set up had to face the problem of not being able to start doing business right after they had made the investment. This dealt a severe blow to their incentive to invest in Hong Kong. The SAR Government should therefore consider devising some kind of special arrangements for a work visa, coupled with simple application and approval formalities so that employees of mainland private enterprises will find it convenient to travel between the two places on business. This will also facilitate the flow of talents and technology and help remove obstacles posed to these employees when they are required to work in Hong Kong.

The most notable achievement during the first phase of CEPA is the zero-tariff preferential treatment for Hong Kong goods. As at end 2004, a total of 3 008 applications for certificates of origin was approved, with a total amount of \$1.15 billion of goods involved. Of this amount, 2 577 consignments have entered the Mainland, representing a total value of \$990 million and a tariff concession of RMB 66 million yuan. This is solid proof that under CEPA, there are first signs that trade in goods has benefited.

Despite this, many Hong Kong businessmen said that they had encountered a problem of a lack of policy co-ordination among local governments on the Mainland but they had no channel of redress. In the words of Dr Eden WOON, CEO of the Hong Kong General Chamber of Commerce, CEPA is like a door to a big house opened up for Hong Kong businessmen, but after the door is opened, there is still a lock to each door of the rooms inside. In the face of numerous hurdles and restrictions, Hong Kong businessmen may not be able to fully utilize the preferential treatment they can enjoy under CEPA.

Faced with regional protectionism on the Mainland, the SAR Government must inform the Central Authorities of the true picture about the lack of policy co-ordination in the provinces and municipalities. A solution will need to be found. There must be enhanced communication between the customs administrations on both sides and efforts must be made to align the requirements on certificates of origin for Hong Kong goods as imposed by various provinces and municipalities because uniform standards will facilitate the entry of Hong Kong goods into the mainland market. The customs clearance facilities on both sides must be improved at a quicker pace, including putting into force the measure of co-located customs clearance in Hong Kong and Shenzhen and lifting the restriction of "one driver for one truck". These will forge a seamless flow of land cargo transportation between the two places.

In addition to these, the SAR Government must have a sound system to collect and handle complaints from the business sector and help the small and medium enterprises reflect to the mainland authorities those problems they may encounter in their day-to-day operation.

A greater implication of the granting of zero tariff to goods manufactured in Hong Kong is that world-renowned brands will be attracted to set up plants in Hong Kong and that Hong Kong manufacturers who have relocated into China may return, thereby giving a boost to the development of local industries. However, to revive Hong Kong industries, there must be matching policies on the part of the SAR Government. In the past, the DAB has pointed out that the non-intervention policy is out of tune with the times and so the SAR Government must adopt policies as appropriate to boost the economy. These include the offer of tax concessions, low-interest loans and land premium concessions to support the development of high value-added brands in Hong Kong and to enable high value-added industries like R&D in design and other high-end industries to place all or part of their manufacturing process in Hong Kong or relocate them here.

A revival in the local industries can serve not only to revert the former imbalance in our economic structure which relies excessively on real estate and finance but also offer more jobs and help solve the unemployment problem in Hong Kong. In fact, during the first two years since CEPA has come into force, more than 29 000 jobs have been created for Hong Kong people both here and on the Mainland.

Boosting the trade in goods may create more jobs for Hong Kong, and allowing Hong Kong people to set up individually owned stores on the Mainland would be a way out for some people in Hong Kong. There are many low-skilled and middle-aged people among the unemployed. These people find it hard to get a job in Hong Kong and the savings they have will not suffice to maintain their living when they are old. The Hong Kong Government should take proactive measures to encourage these people to start up individually owned stores on the Mainland. This will give them a chance to become self-reliant and rebuild their confidence.

When Hong Kong people go north and become operators of individually owned stores, the first problem they may face is the movement of capital. Though in recent years the Mainland has lifted its restrictions on the inward and

outward movements of RMB and foreign currencies, as there has not been any confirmed policy in this aspect, there is always a possibility that people will be charged with the offence of smuggling currencies. Besides, there is no regulated development in the movement of goods through the boundary, so operators are forced to pack their goods in plastic bags and hand them over to people to bring them across the boundary as courier goods. This is also likely to put them at the risk of committing the offence of smuggling goods. Therefore, the Hong Kong Government must talk with the Chinese Government on how matters regarding the movement of capital and goods across the boundary can tie in with the lifting of restrictions concerning individually owned stores and offer greater facilitation to business operation.

Another point is that since Hong Kong people generally lack knowledge of the mainland legal system and the business environment there, they are usually hesitant in starting up individually owned stores on the Mainland. While the Government encourages Hong Kong people to go to the Mainland and start businesses, there is not enough publicity and education in this regard. To pinpoint the people's lack of knowledge of the mainland legal system, the DAB is making arrangements for trade officials from the Mainland to come here to hold briefings. As a responsible government, the Hong Kong Government is more so obliged to step up publicity efforts and forge closer links with the chambers of commerce and other related bodies and enlist their support in organizing such publicity events.

Madam President, on facilitating trade in services between Hong Kong and the Mainland, the Hong Kong Government issued 668 Certificates of Hong Kong Service Supplier last year. But only some 100 cases or about a quarter of these professional services providers have gained approval from the Mainland and hence can start their business on the Mainland. Apparently, progress in this respect is very slow.

Under the CEPA framework, there are still difficulties for Hong Kong professionals to set up companies and practise on the Mainland. The main reason is due to a difference in the systems of the two places. Take the architects profession as an example. The Mainland requires a Hong Kong architect to register on the Mainland and it is only when he has gained a certain amount of experience that he can open an architect's firm there. But the question is a Hong Kong architect cannot practise on his own before he is registered on the Mainland and so he cannot possibly accrue enough experience.

Hence the chances of their opening an architect's firm and practise on the Mainland are minimal. Hong Kong doctors are in the same situation. A spokesman from the Hong Kong Medical Association has pointed out that some Hong Kong doctors who are applying to open clinics on the Mainland are facing a lot of obstacles. They have to enter into partnership with medical bodies on the Mainland and they need to have \$20 million or more as capital for investment. On top of all these, they need to meet the requirements of various departments before they can start their practice.

Two years ago, the DAB released a report on the policy obstacles confronting Hong Kong professionals when they want to practise in Guangdong Province and the suggested solutions. The report points out that the SAR Government should strive to cause an adjustment to the policies on the part of the Central Authorities, enable both sides to permit each other to set up professional services institutions and step up business exchanges. In addition, the report also suggests measures like lowering the threshold for Hong Kong providers of professional services to set up business and practise on the Mainland. I urge the SAR Government to rethink all these suggestions to see if they are workable so that Hong Kong professionals can grasp business opportunities at the soonest.

CEPA can well be an excellent opportunity to spur economic recovery in Hong Kong and push the economy to move in the direction of high value-added industries. But this excellent opportunity would not last forever and the edges presently enjoyed by Hong Kong would diminish with the increasing opening up of the mainland market to the world. It follows that Hong Kong must seize this opportunity and deepen CEPA.

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

Mr WONG Ting-kwong moved the following motion: (Translation)

"That, as the SAR Government has just completed its study on the economic benefits of the first phase of the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA I), and the business sector and professional organizations have respectively expressed their views on ways to improve CEPA, this Council urges the Government to take proactive measures to respond to the aspirations expressed by various sectors in the review of CEPA I, including:

- (a) strengthening its promotion efforts to attract Mainland enterprises to set up offices in Hong Kong for developing the international market, and pursuing with the Central Authorities the relaxation of the control of capital flows, with a view to implementing the investment facilitation policy for Mainland enterprises to invest in Hong Kong and Macao;
- (b) assisting Hong Kong businessmen in overcoming the trade barriers they encounter in various Mainland provinces and cities, improving the customs clearance facilities, and promoting the trading of goods, so as to assist the development of local industries and to create local job opportunities;
- (c) stepping up its promotion efforts to encourage low-skilled people of Hong Kong to start their businesses in the Mainland by setting up individually owned stores; and
- (d) pursuing with the Central Authorities the admittance of Hong Kong professionals to the Mainland to set up their businesses and practise there, so as to facilitate the trade in services."

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

PRESIDENT (in Cantonese): Mr SIN Chung-kai will move an amendment to this motion. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr SIN Chung-kai to speak and move his amendment.

MR SIN CHUNG-KAI (in Cantonese): Madam President, it has been one and a half years since the inception of CEPA in 2004. According to figures from the Government, the value of goods from Hong Kong claiming zero tariff on Certificates of Hong Kong Origin last year was only \$1.15 billion. They accounted for only 3% of the total value of Hong Kong goods exported to the

Mainland. In the service industries, of the 668 companies issued a Certificate of Hong Kong Service Supplier, only 27% said that they would open a business on the Mainland in 2004 and 44% said that they would do so in 2005.

As Hong Kong people have excellent business acumen and it is unlikely that they will not flock to places teeming with business opportunities. If it is said that the above figures demonstrate that substantial effects have already been achieved under CEPA, then it would not be convincing at all.

The Democratic Party agrees that CEPA has indeed served to give Hong Kong businessmen greater room in doing business on the Mainland. But the above figures clearly show that the Government still has to put in more efforts to understand the difficulties met by Hong Kong businessmen on the Mainland and more talks should be held with the mainland authorities to put CEPA into practice. Differences in policies and practices on both sides must be ironed out.

Madam President, it is a fact that CEPA has given Hong Kong businessmen very favourable conditions such as they can enter the mainland market earlier, and some restrictions on doing business on the Mainland are lifted such as the requirements on registered capital and restrictions on the origin of capital, and so on.

But as companies set up by Hong Kong businessmen are still regarded as foreign companies, Hong Kong businessmen are also subject to regulations imposed on foreign companies. These regulations include strict requirements on registered capital and past performance, as well as a smaller scope of permitted business activities. The result is only Hong Kong companies with very strong finances will benefit from CEPA and enter the mainland market. But even as they can do so, the restrictions they are subject to are much more than their mainland counterparts.

An example is companies operating on retail business in commodities. Though the registered capital for this kind of companies is only RMB 500,000 yuan, foreign companies are required to have RMB 50 million yuan before they can start doing business on the Mainland. Even after CEPA has come into force, Hong Kong companies will still need to have RMB 10 million yuan as registered capital.

Another example is that, as stipulated in the Government Procurement Law of the People's Republic of China, with the exception of certain special circumstances, mainland government bodies should purchase goods and services from their own country. The Ministry of Information Industry recommends that government units should make it a priority to purchase products supplied by domestic software companies. This measure is meant to assist the domestic software industry. The Ministry has also drafted implementation details together with the Ministry of Finance on standards to be adopted when purchasing software products. The result is that Hong Kong companies which are regarded as financed by foreign capital or being foreign companies will often encounter numerous hurdles and restrictions in fighting for a government contract.

Information technology companies from Hong Kong when engaging in systems integration business are not allowed to do any business on products of other suppliers.

Hong Kong manufacturers of online games may manufacture and produce games, but they are subject to longer approval periods than their mainland counterparts. This will greatly affect the development of Hong Kong manufacturers on the Mainland.

These trades apart, there are also some other service industries that hope to be accorded national treatment when they operate on the Mainland.

In fact, when China joined the World Trade Organization (WTO) in end 2001, it pledged that it would liberalize the service industries gradually. As according national treatment to service suppliers from WTO members is one of the conditions for China's accession to the WTO, the Mainland is actually liberalizing various service industries and so it is just a matter of time before foreign businessmen are accorded national treatment. The Democratic Party is of the view that granting priority access to the mainland market to Hong Kong businessmen will serve to help mainland companies get used to competition from all over the world.

In view of the requirements imposed by the WTO, the mainland Ministry of Finance plans to align the profits tax rates for foreign companies and local companies in 2007. In future, Hong Kong enterprises will no longer be eligible for tax concessions currently called "two waives and three halves". The profits tax rate may even rise from the present 11% sharply to 20% or above.

If Hong Kong companies no longer enjoy the tax concessions but are subject to stricter policies and laws than those imposed on mainland companies, then it is clear that Hong Kong companies will be handicapped in competition in the mainland market.

Now the governments of many provinces and municipalities in China such as Linzhou, Zhanjiang, Changchun and Guang'an in Sichuan, Heilongjiang and Jilin, and so on, have said that they would give national treatment to Hong Kong and foreign capital companies. This shows that if Hong Kong companies are given national treatment, it would help spur greater development on the Mainland.

Therefore, I suggest that when the SAR Government talks with the Central Government about the third phase of CEPA, it should strive to get national treatment for Hong Kong companies, that is, concessions like lowering the requirements on registered capital and past performance and permitting Hong Kong companies to engage in sole proprietorship in more trades and industries so that they can do business there.

Mr WONG Ting-kwong has also mentioned the QDII issue earlier. This "Qualified Domestic Institutional Investors scheme" has been in the air for some time and the idea was put forward to the State by former Financial Secretary Antony LEUNG in 2001, but so far no timetable has been devised for its implementation.

To implement the QDII scheme and allow mainland residents to invest overseas through approved institutions and reap profits would help ease the pressure on appreciation of RMB while also strengthen the Hong Kong financial markets. Hence the scheme is beneficial to both Hong Kong and the Mainland. The Democratic Party understands that a lot of details will have to be worked out before QDII can be implemented. But we still hope that the Government can speed up its talks with the Mainland to put the scheme into practice at the soonest. Maybe a city or two on the Mainland can be picked as a testing ground so that qualified institutions there can be permitted to invest in the Hong Kong stock market. Thus the QDII scheme can be put into force step by step. In a way, this is like the DIY tours in which mainland residents from more and more cities are allowed to come to Hong Kong as individual travellers. This is a direction the Government may pursue.

At the same time, the Democratic Party urges the Government to devise matching measures so that when the scheme actually comes into force, funds from the Mainland can be attracted to invest here.

On strengthening the role played by the Beijing office, Mr Albert HO will put forward suggestions from the Democratic Party on this issue later.

Madam President, I so submit.

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

"To delete "and" after "setting up individually owned stores;"; and to add "; (e) enhancing its support for those Hong Kong people who work and operate businesses in the Mainland, e.g. by strengthening the functions of the Office of the Government of the Hong Kong Special Administrative Region in Beijing and the Hong Kong Economic and Trade Office in Guangdong, so as to render assistance to Hong Kong residents who encounter in the Mainland such difficulties as trade or legal disputes and threats to personal safety; (f) discussing with the Central Authorities the early implementation of the Qualified Domestic Institutional Investors scheme for promoting Mainlanders' investments in Hong Kong; and (g) discussing with the Central Authorities according national treatment to Hong Kong companies operating in the Mainland" after "to facilitate the trade in services". "

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

MR WONG KWOK-HING (in Cantonese): Madam President, last Tuesday, in a meeting of the Panel on Financial Affairs, the Financial Secretary said that since he had become the Financial Secretary two years ago, more than 140 000 new jobs had been created. In citing this figure, the Financial Secretary in fact wanted to illustrate that since his assumption of office, a considerable number of new job opportunities has been created. Unfortunately, although there are more

jobs, the unemployment problem among grass-roots members of the public has not seen any improvement or shown any signs of looking up. Between February and April this year, the unemployment rate still stood at 5.9% and 210 000 people in the labour force were still unemployed.

An even greater shame is that, apart from the great number of unemployed people, there is also no improvement in the livelihood of members of the public who have still got a job. Over 140 000 people still earn a monthly salary of less than \$5,000, which is lower than the level of Comprehensive Social Security Assistance (CSSA) payment. According to government figures, not only was there no increase in the overall real wage in the fourth quarter, on the contrary, it has decreased by 0.9% when compared with that of the same period in 2003. Therefore, it can be seen that the economic benefits brought about by CEPA have not truly benefited grass-roots members of the public in any way.

So far, CEPA has been implemented for over a year. In spite of this, the foregoing figures provided by the Government are sufficient proof that CEPA has not brought any major benefit as far as the labour market is concerned. In fact, according to the figures found in the report on the effects of CEPA published by the Government in April, the Government has failed to seize the opportunity proffered by CEPA to bring about a positive effect on employment. The study on the effects of CEPA found that in 2004-05, only 29 000 jobs were created in Hong Kong on account of CEPA, namely, 2 280 jobs in relation to trade in goods, 10 000 jobs in relation to trade in services and over 16 000 jobs in relation to the Individual Visit Scheme. Of these trades, the trade in services has created over 17 000 jobs for the Mainland — and I stress for the Mainland, so this should be very clear — and the number of jobs created is higher than that created in the service industry in Hong Kong by 7 000 jobs. At that time, I asked the Government whether it had made any mistake. The Secretary is also here today. Why has the trade in industry only created a paltry 2 280 jobs for Hong Kong? With the premise of bringing about mutual benefits, CEPA has indeed created employment opportunities for the Mainland and this is of course a cause for celebration. However, the unemployment situation in Hong Kong is still precarious, so it is most imperative to deepen CEPA, with a view to creating more jobs in Hong Kong. I hope that the Secretary will listen to me, register what I have said and bear my words in mind, then come up with some solutions to help us.

To Hong Kong businessmen, CEPA offers a good opportunity because goods can be manufactured in Hong Kong as long as the expenses on things like raw materials, parts, labour as well as product research and development account for about 30% of the total cost and the CEPA requirements are met. This condition is not harsh at all. Compared with the 40% to 60% set by many countries that have entered into free trade agreements, this can be considered a great concession. If the Government can seize this opportunity to attract investments, then apart from offering development opportunities to businessmen, this will also be conducive to creating more local employment opportunities and the employment problems encountered by grass-roots labourers can be solved.

Originally, given the zero-tariff concession under CEPA, many manufacturers should have been attracted to make investments in Hong Kong. However, so far, the Government still cannot tell us what manufacturers of well-known brands have been attracted by CEPA to move their production to Hong Kong and invest in production here. That the desired result has not come into fruition is closely related to the Government's neglect of its policy on industry. In fact, be it any country or region, if it wants to attract investments and production, it is necessary to put in place a comprehensive set of policies, such as those on land, research and development and taxation, so as to complement and assist such an initiative. Our neighbour, Macao, has put in place such complementary measures but Hong Kong has not.

On such policies, the track record of the SAR Government is like a blank sheet of paper and it is still talking about the so-called "big market, small government" principle. To put it in a worse light, the Government is just sitting dumbly and waiting for dumb luck. As the saying goes, you reap what you sow. Precisely because of the Government's non-intervention policy, it is difficult to attract any important or large-scale manufacturer to make investments in Hong Kong. Every time I pass by Shenzhen, I can see the prosperous sights on the northern side of the Shenzhen River and when I turn to look back at Hong Kong, I can only see a stretch of greenery that is extremely desolate. There is neither investment nor development in the restricted area hugging the boundary between Hong Kong and Shenzhen in the northern New Territories and one can say that the area is a scene of dereliction. It bears indeed testimony to the so-called "positive non-intervention" and "big market, small government" policies.

Since the supply of grass-roots labourers is greater than the demand for them, there has been no improvement in the dire unemployment situation, so the

Government must in particular bear this situation in mind. When the business sector tries to lobby for the importation of labour, we must handle it very carefully. Of course, imported labour may be conducive to lowering costs further, however, since Hong Kong is a place where costs are high, producers seeking zero-tariff status for their products under CEPA on exporting their products to the Mainland should not merely compete only in terms of cost but also focus on adding high value to their products by employing high-quality local workers. Moreover, given that many labourers at the grass-roots level are facing unemployment and paid very low wages, the importation of labour will have a tremendous impact on Hong Kong.

Hong Kong is an international financial centre. Under CEPA, while it is possible for Hong Kong to give full play to its role as a regional financial centre, it should also try to get a share of the manufacturing industry by attracting investments and production, so that employment opportunities can be created at the grass-roots level. Thank you, Madam President.

DR RAYMOND HO: Madam President, according to a government report submitted recently to the Panel on Commerce and Industry, the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) has brought considerable benefits to both business enterprises and the Hong Kong economy as a whole.

For trade in goods, more than 3 000 certificates of origin were issued in 2004 under the first phase of CEPA (CEPA I), involving products with a total value of \$1.15 billion which enjoyed tariff-free treatment on importation into the Mainland.

For trade in services, more than 660 companies have obtained the Hong Kong Service Supplier certificates in 2004. Services receipts generated in 2004 as a result of CEPA I totalled \$1.6 billion. In the labour market, 29 000 new jobs have been and are forecast to be created for Hong Kong in the first two years of implementing CEPA I.

Despite the positive notes of the abovementioned report and the subsequent implementation of the second phase of CEPA since 1 January this year, some of the sectors, particularly the professional ones, including engineering services which I am most familiar with, have yet to derive the full benefits from CEPA.

It is widely known that the mutual recognition for engineering professionals between the Mainland and Hong Kong remains very restrictive in scope. It is true that 90 structural engineers from Hong Kong have just obtained the qualification certificates of the Mainland, but for all the other 16 disciplines and the construction supervising engineers, there is still a long way to go. At present, efforts are being concentrated on construction supervising engineers, electrical engineers and geotechnical engineers. Even with the mainland qualifications, this does not mean that the Hong Kong engineers concerned can start practising on the Mainland. There are still many other hurdles for them to clear. In this respect, the Government of the Hong Kong Special Administrative Region (SAR) must discuss with mainland authorities for coming up with better arrangements.

The high requirement thresholds have also deterred the entry of engineering contractors and engineering consultancy firms into the Mainland. For Hong Kong construction firms to set up a class-1 construction enterprise on the Mainland, the required registered capital is RMB 60 million yuan and the minimum number of professional staff is 300. Though the company's turnover and the number of professional staff, including those of its Hong Kong parent company, are taken into account for entry assessment, it is unclear whether the same condition holds for getting the annual approval as no details are provided in the relevant documents. In addition, the Hong Kong company needs to obtain from the SAR Government a certificate of Hong Kong Service Supplier.

It is therefore not surprising that so far, only four Hong Kong companies have successfully set up class-1 construction enterprises on the Mainland. As a matter of fact, the set-up of these newly established enterprises on the Mainland incurs very high overhead costs amidst the difficulties encountered by them in getting business on the Mainland.

Indeed, the Hong Kong engineering consultancy firms have been encountering similar problems. For Hong Kong firms to set up an engineering consultancy on the Mainland, the required registered capital is RMB 6 million yuan and the minimum number of engineering staff is about 80, plus a prescribed number of architects. Besides, there must be track records in specific project areas, such as bridges, railways and tunnels, and so on, for meeting the required qualification assessment. It is difficult for Hong Kong consultancy firms to meet these requirements. If they have to team up with the mainland firms in the form of joint ventures, they may be subject to arbitrary practices of their partners,

such as unreasonably high charges for particular tasks. Their future growth may be adversely affected.

From the experiences of the engineering sector, there is still much room for refining and improving the detailed requirements of CEPA. It is therefore important for the Government to consult the different sectors with a view to deepening CEPA for mutual benefits of both Hong Kong and the Mainland.

With these remarks, Madam President, I so submit. Thank you.

MR JEFFREY LAM (in Cantonese): Madam President, the Hong Kong General Chamber of Commerce proposed in 2000 the setting up a free trade zone between the Mainland and Hong Kong. Subsequently, the Government and the business sector made a lot of efforts in discussing with the Mainland about the matter. Eventually, the Central Authorities signed the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) in 2003 when the Hong Kong economy plummeted to the rock bottom. Now CEPA has been implemented for two years in a twinkle of an eye. During this period, CEPA has provided impetus to the recovery of Hong Kong economy and further promoted the integration of Hong Kong and mainland enterprises.

Six months later, we will enter the third phase of CEPA. The business sector has submitted a lot of views to the Government. For instance, the Hong Kong General Chamber of Commerce has submitted a report entitled "CEPA III" delineating the aspirations of different sectors. They hope that the measures proposed by them can be implemented by spring next year.

I would like to point out 1 000-odd commodities in Hong Kong can now enjoy zero tariff on export to the Mainland, and 68 mainland enterprises have been allowed to invest in Hong Kong, thus injecting more than \$3.66 billion into Hong Kong by the end of last year. Having said that, Hong Kong businessmen investing in the Mainland are still facing some trade barriers, indicating that the effectiveness of CEPA has not been maximized.

For instance, one of the most important areas of CEPA is to allow 18 categories of service industries in Hong Kong to access the mainland market. However, despite the fact that around 700 companies in Hong Kong have been

certified as service providers, only 27 companies really started operations in the Mainland in 2004. The total number of such companies is only 71 together with those which have planned to go into the mainland market this year. This illustrates that Hong Kong businessmen are still facing a lot of difficulties which demand prompt solution.

Many businessmen find the regulations concerning the service industries in the Mainland numerous and intricate, with a lack of transparency. But the Government may not be able to provide assistance in all cases. On the contrary, bodies formed by the business sectors in Hong Kong and the Mainland will co-operate and provide assistance jointly to resolve the problems.

For instance, the Hong Kong-Mainland Joint Business Liaison Committee, which is formed by the four major chambers of commerce in Hong Kong, will provide updated information on the Mainland's economic, trade, taxation, customs, investment and charging policies, rules and measures to the business communities. Real life examples, after analysis, will also be provided for public reference.

The PRD Council has also done a lot of work over the past year in assisting Hong Kong businessmen to overcome the trade barriers they encounter in the Mainland, improve customs clearance facilities and promote the trade in goods. One of the major tasks of the Council is to maintain regular contact with the authorities through the liaison mechanism established with Guangdong Province in order to expeditiously resolve problems such as the lack of electricity, lack of workers, customs clearance and customs management encountered by Hong Kong businessmen. Such a mechanism has also become an effective communication channel.

In order to implement CEPA in a more effective way, I think the Government should set up a standing committee with an objective of facilitating the trade in goods, the trade in services and investments. The four chambers of commerce should also be appointed as members so that they can form a joint business committee with their mainland counterparts in order to solicit views on CEPA from different trades. The Beijing or Guangdong Office of the Hong Kong Government should enhance its assistance and try to sort out a fair solution for Hong Kong businessmen whenever the written terms stipulated in documents are inconsistent with actual operation.

Besides, according to a survey conducted by the Trade Development Council (TDC), more than 60% of the private enterprises in the Mainland are of the view that the biggest obstacle preventing them from seeking development opportunities in Hong Kong is not the exorbitant operating costs but the lack of information on doing business in Hong Kong. In my opinion, the Government should introduce and promote Hong Kong's investment environment to private enterprises on the Mainland through its Beijing or Guangdong Office and the TDC Offices in the Mainland as soon as possible.

Madam President, I so submit.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, my colleague, Mr WONG Kwok-hing, has delivered a speech just now which stated the extreme dissatisfaction of the Hong Kong Federation of Trade Unions (FTU) or our affiliated associations (especially those trade unions of the manufacturing sector) with the Government in its implementation of CEPA for more than a year. The present situation really makes us very disappointed. I believe the Secretary must have heard about such viewpoints presented by us here in this Chamber. Maybe the colleagues of the Secretary also heard about such views from us on this issue when they attended other meetings.

From the former Financial Secretary putting forward this concept in 2003 to its eventual implementation in 2004, we have been holding high expectations of CEPA. Of the proposals introduced at that time, there was also the Individual Visit Scheme (IVS), in addition to CEPA. After the implementation of IVS, the retail sector in Hong Kong has improved substantially within a very short period of time. We had made many suggestions in respect of CEPA. Even at the time right before CEPA was implemented, we had also gone to Beijing to hold discussions with officials of the Ministry of Commerce, in the hope that they might understand the definition of Hong Kong products, and we also offered our viewpoints. During the preparatory stage and even when the Governments started implementing it, we had put forward various opinions to both the mainland authorities and the Hong Kong Government.

Yet, unfortunately, after this bilateral agreement was passed in October 2003, more than a year has lapsed, and what is our present situation now? According to Mr WONG Kwok-hing who has spoken just now, goods which

have a total value of hundreds of million dollars have only brought about 29 000 job opportunities. Strictly speaking, such job opportunities could have existed all the same, with or without CEPA. With regard to the development of the manufacturing industries, due to the quota system, so it may lead to an increase in job opportunities. But now, we have also factored such job opportunities into our computation.

My colleagues and I, together with the group of fellow manufacturing workers who are members of the FTU, are all quite disappointed with the present situation. We feel that the Government has not fully utilized this golden opportunity. We had made enormous efforts to lobby the various parties in a bid to enable Hong Kong to exploit the full advantages of zero tariff. However, when CEPA was implemented in Hong Kong, it is obvious to us that the opportunity was not fully utilized. If the Hong Kong Government does not change its existing practice, it will let go other good opportunities even if they do emerge in the future. In this way, how can the Government benefit those who are still unable to get into the economy of Hong Kong in which the financial industry is the mainstream? What should they do then?

We very much hope that Secretary John TSANG can understand that, in particular he knows too well people who think like us, the economy needs diversified development. This is the only way that will enable us to have more job opportunities. Secretary John TSANG used to live overseas, so he should understand such a situation, and he should also agree that the United States is obviously a highly liberal society with a non-interventionist atmosphere. But the economy of the United States is a dual economy, particularly it manages to retain certain manufacturing industries. The lands in New York and the Los Angeles are all very expensive, but why do manufacturing industries still exist in these districts? It is because they made it a point to provide job opportunities to the ethnic minorities and those who cannot join the mainstream economy. In Hong Kong, our opportunities are better than those districts, why can we not do this? Has Secretary John TSANG ever studied why other people can do it, and why we cannot? Where do our problems lie?

Madam President, today, I do not wish to speak on such thing as a high degree of intervention or something like that. I do not wish to speak on such issues. I just wish to ask Secretary John TSANG a question and hope that he can reply me later on: Having implemented CEPA for more than a year, why is

the Government still unable to ride on the opportunities created by CEPA to establish some industries with Hong Kong characteristics? Madam President, as Mr WONG Kwok-hing said just now, we are not talking about some labour-intensive work types. We find there would be great difficulties in this aspect. However, we realize that Hong Kong does have its own characteristics, so we can consider the possibility of developing industries with such characteristics. What we are referring to are, for example, those drugs made in Hong Kong, those cosmetic products made in Hong Kong, those intellectual property products made in Hong Kong and some certification centres made in Hong Kong, and so on.

We have been making such suggestions for many years. We have even identified certain lands in the border zone and the river-loop area. In fact, we have done a lot of preparatory work. But unfortunately, all along, the SAR Government has been acting like a piece of fossil, motionless and unchanged. No matter what conditions we have come up with, it just never gives us any response. Why has it been so difficult for it to make any move? If the Government really wants to achieve what Mr TUNG had said in the past, that is, to identify ways of solving the unemployment problem, then it must make some moves. However, the Government has never made any moves at all. Now, if we want to solve the structural problems before us — at present, in spite of the present good economic conditions, we still have an unemployed population amounting to some 200 000 people, and if something unusual happens, the figure could rise to several hundred thousands — then the Government must do something about it. Therefore, I hope Secretary John TSANG will not just say something to pacify us by answering only the parts of the question raised by us. Why can CEPA not assist Hong Kong in developing another economy, thereby increasing the employment opportunities?

Madam President, apart from this issue, I would also like to ask the Government some other questions. In fact, sometimes the labour sector and the business sector can hold discussion. For example, Mr FANG also shares our views. Even when it comes to the issue of minimum wage, we can still conduct some good discussions. He also agrees with our viewpoints personally — I am sorry, Mr FANG. In other words, we did exchange opinions in private. On ways of promoting the development of small and medium enterprises (SMEs) in Hong Kong, the SMEs have put forward many suggestions on removing barriers and lifting restrictions. Many years ago, they commissioned The Hong Kong

Polytechnic University to conduct some research studies, and made a series of proposals. These SMEs also wish to relocate their operations back to Hong Kong. The FTU and some trade unions of the manufacturing sector had discussed the issue with them, and we all thought that there must be some feasible proposals, and that it all depends on what kinds of policy changes the Government would like to introduce; the terms regarding lands and the overall environment and opportunities of the manufacturing sector.

Madam President, I once visited a place which is similar to a prison, and talked to an official belonging to that particular department. Frankly speaking, I very much hope that Secretary John TSANG can answer two questions of mine: Why can the Government not help us overcome the present predicament by making use of CEPA, thereby enabling Hong Kong to promote some alternative economic development? This is the first question. The second question is: The SMEs, people in the manufacturing sector and the business sectors including businessmen and unionists, all think that we can make use of the opportunity to launch some industrial development. Of course, it will involve taxation matters and land. Yet, we all have this question: As other people can do it, why can we not?

I would like to mention another point in particular. As Hong Kong is no longer subject to the restrictions of the quota system, industrialists of the manufacturing sector are all very anxious now. They have told us they wanted us to do this and do that. Of course we cannot say yes very casually, unless the employment opportunities of local workers are safeguarded. Therefore, as all sorts of objective factors are coming our way, thus putting Hong Kong in a favourable position, can Hong Kong move one step forward? And can the Government abandon its fossil posture? This is particularly significant as we shall know who is the Chief Executive of Hong Kong tomorrow, so I expect the new Chief Executive can attach great significance to the prevailing problems, and also identify ways of addressing the unemployment problem of Hong Kong. Thank you, Madam President.

MR PATRICK LAU (in Cantonese): Madam President, the concession and convenience enjoyed by businessmen or professionals in Hong Kong and on the Mainland since the implementation of CEPA in the two places in January 2004 are evident to all. For instance, the first batch of zero-tariff goods produced in

Hong Kong was exported to Guangxi recently, and there has seen a marked increase in the number of mainland properties sold or launched in Hong Kong, and *vice versa*. Insofar as professionals like us are concerned, the agreements reached with respect to mutual recognition of professional qualifications and examination arrangements in a number of professional sectors in the two places are even more encouraging.

Nevertheless, Hong Kong professionals are still confronted with lots of obstacles. As the setting up of enterprises on the Mainland is subject to the monitoring and restriction of the Central Government, a number of professionals, albeit having acquired Class I Registered Qualification on the Mainland (for instance, I am a Class I Registered Architect too), are still unable to formally set up their businesses and practise there. Furthermore, there are bound to be certain differences between Hong Kong and mainland professionals in their mode and tradition of practice, it seems unfair if the practising qualification of Hong Kong professionals are assessed and the problems of setting up businesses are handled entirely in accordance with the mainland standards. In particular, insofar as many of the professionals engaging mainly in a single profession or small and medium enterprises are concerned, they are not only frustrated by the Mainland's higher capital requirement, they are confronted by numerous difficulties because of the requirement of integrated practice combination in the mode of setting up businesses as well.

I therefore hope to take today's opportunity of discussing ways to deepen CEPA to reiterate to the Government the persistent call from my professional sector and me for the relaxation of the qualification of setting up businesses on the Mainland: pursuing with the Mainland for suitably lowering the threshold on capital, the number of technical personnel, equipment, and so on. We also hope the relevant mainland authorities can, in assessing the qualifications of Hong Kong professionals intending to start up businesses on the Mainland, allow them to include their working experience, capital and technical resources in Hong Kong and exempt them from meeting the requirement of setting up joint ventures with mainlanders. Not only is it imperative for the Hong Kong Government, particularly the Commerce, Industry and Technology Bureau headed by Secretary John TSANG, to expeditiously convey these aspirations of ours through the formal official channel, it is also necessary to proactively examine the feasibility of streamlining the tax declaration systems of the two places to prevent Hong Kong people operating businesses or working on the Mainland from being caught by the law because of the difference in the taxation systems of the two places.

I must emphasize that the urgency of the above aspirations for deepening CEPA. This is because, following China's joining of the WTO Convention in end 2001 and the coming into effect of the "Administrative Measures for Commercial Enterprises with Foreign Investment" promulgated in end 2004, the mainland market has formally opened to foreign-funded and foreign enterprises. Should the Central Government and Hong Kong Government fail to reach an agreement on the arrangements for deepening CEPA for Hong Kong businessmen and professionals shortly, Hong Kong people will lose their edge in terms of time.

This has also led to a crucial issue confronting many Hong Kong businessmen in competing with foreign businessmen. Actually, it has been pointed out by a number of my friends in the profession a long time ago that many foreign-funded companies competing in China are supported by their consulates and governments through different channels and on different levels. Some might even entail help of the highest level, such as the presidents of their own countries, and thus they would enjoy a far greater advantage over others. How can general businessmen and professionals from Hong Kong compete with these rivals with such a strong backing?

For these reasons, Madam President, I very much agree with the motion and the amendment calling for strengthened support for those Hong Kong people who work and operate businesses on the Mainland. The only reservation I have is the according of national treatment to Hong Kong companies operating on the Mainland. Both my sector and I share the view that the Hong Kong Government should not only strengthen the functions of the Office of the Government of the Hong Kong Special Administrative Region in Beijing and the Hong Kong Economic and Trade Office in Guangdong, it should even consider setting up offices in various major cities in the "Nine plus Two" provinces and regions in the Pan-Pearl River Delta in order to step up communication with the relevant authorities in organizing activities similar to the "Hong Kong Week" Activities (湖北·香港周) to be launched in Wuhan at the end of this year to promote the goals of CEPA more clearly, and conferring on these offices more concrete power to enable them to provide support and services to Hong Kong people on the Mainland in various aspects. Should this prove effective, the governments of the two places may even extend this measure to all major mainland cities to help Hong Kong people to establish more extensive and closer ties with regional governments and the business sector for pursuing more opportunities of co-operation. Thank you, Madam President.

DR KWOK KA-KI (in Cantonese): Madam President, from many of the views expressed on CEPA by Honourable Members earlier, particularly those from the commercial and industrial sectors, which I greatly share, I find that I am not the odd one out. The medical sector has been greatly disappointed with CEPA. Since April 2004, we have gathered a lot of information indicating that CEPA can help various services industries in Hong Kong to cross the mainland threshold and open up its market, thereby assisting the territory in resolving its economic and employment problems. However, from the views expressed by a number of colleagues from the industrial sector and import/export trade earlier, I note that they do not find CEPA very helpful.

Hong Kong was in economic doldrums after the outbreak of SARS in 2003. The proposal of the Central Authorities to launch CEPA at that time was indeed like giving Hong Kong a booster. However, the booster, like a shot of adrenalin administered by a doctor to a dying patient, is not intended to save the latter, but help his heart beat a little longer, make his electrocardiogram look more presentable, and give him sufficient time to discuss what actions should be taken after his death. This is definitely not the only purpose I want CEPA to serve. Let us examine what assistance CEPA has offered so far.

Since 2004, only 668 Certificates of Hong Kong Service Supplier have been issued. However, the number of applications submitted by a couple of sectors, including accounting services and securities services, is zero simply because they have made no application at all. Only one application from the medical services sector has been submitted, though the medical practitioner in question has eventually decided not to apply for starting up a business. Therefore, nothing has indeed been achieved. The service sectors submitting less than 10 applications are as follows: audiovisual, banking, convention and exhibition, hotels and travel agencies, insurance, legal services, passenger traffic and real estate. It is thus evident that CEPA may have been reduced to mere empty talk.

Nevertheless, CEPA cannot be described as completely useless. When CEPA was launched in 2004, Members could often find in the newspapers property advertisements or investment proposals speculating on the concept of CEPA. Moreover, not only has CEPA resulted in the appreciation of countless third or fourth liner stocks and "rubbish stocks", it has given many property developers a loophole to exploit, thereby pushing land prices higher and higher by virtue of the CEPA concept. And yet what practical assistance has Hong Kong people received from CEPA? We can see that the entire CEPA has, since

its implementation, merely created some 2 000 additional jobs for Hong Kong. In relation to our 2 million working population, this figure is indeed negligible.

I very much sympathize with the Secretary and the Government because CEPA's failure to realize its potentials is definitely beyond the control of the Government of the Hong Kong Special Administrative Region (SAR). Even if a major hurdle is removed, Members would still understand and agree that the mainland market remains closely guarded, thus creating numerous obstacles for practitioners of different industries intending to start up businesses on the Mainland. Let me cite medical services as an example. We can see that the only benefit brought about by CEPA is that medical practitioners or dentists who have graduated in Hong Kong and are formally qualified to practise are allowed to practise on the Mainland after obtaining a provisional licence. However, they will have to overcome hurdles after hurdles should they wish to continue to practise formally on the Mainland. First of all, they have to get \$20 million investment ready; secondly, they have to reach an agreement with a mainland unit to operate their business in the form of joint venture.

Insofar as Hong Kong's medical services are concerned, medical practitioners who are fresh graduates or have just completed training are in the most difficult situation. How can they find \$20 million for investment on the Mainland when they cannot even find a job and have received no job offers from the Hospital Authority? It is almost impossible for them to do so. Furthermore, they have to set up a joint venture with a mainland unit for they are not allowed to practise on their own on the Mainland. This is poles apart from the mode of practice of Hong Kong's existing medical services. In Hong Kong, most of the medical service providers are required to engage in private practice, and mostly in the mode of individual operators. This is also attributed to the fact that they are fundamentally incapable of forming themselves into medical organizations easily. Moreover, the imposition of hurdles, precisely caused by these difficulties, has made it impossible for medical practitioners or dentists to practise in this manner.

Although the SAR Government might not be able to completely remove the numerous hurdles on the Mainland, apparently I have not seen any effort made by the Government over the past year or so. Some seminars held to serve cosmetic, advertising and publicity purposes have actually been attended by a large number of professional institutes. However, the answer to the question of whether there are really ways for service practitioners to provide services on the Mainland or Hong Kong enterprises to explore markets on the Mainland is close to nil.

I guess many Hong Kong people have stopped holding any fantasies about CEPA. However, nothing can be done even if we know that this is the truth. This is because Hong Kong will gradually compare less favourably with other international investors when the WTO agreement is formally implemented in Hong Kong and China. It will then be even harder for us to compete with overseas investors on the mainland market or get a share. As such, the Government is duty-bound to do something about this. However difficult the situation was described by the Government, its performance has been unacceptable as the situation now stands.

I dare not hastily jump to the conclusion that the historic significance of CEPA may have probably expired. However, given the sharp rises in property prices and many penny stocks, it can be said that CEPA has completed its historic mission. As we no longer have to rely on CEPA to push up property or stock prices by speculation, should CEPA take on a new form?

I hope the answer is no. However, history will surely make its comment and judgement. I only hope that the Government will not present us with another blank timetable when this item is re-examined in a couple of years.

Thank you, Madam President.

MS MARGARET NG (in Cantonese): Madam President, first of all, on behalf of the legal profession, I wish to thank the Secretary for Justice for her efforts of assisting the solicitors and barristers of Hong Kong in entering the mainland services market. Besides, I also wish to express my gratitude to the Hong Kong Trade Development Council for organizing various activities in the Mainland to promote the legal services of Hong Kong.

Understandably, since the legal systems and laws of the two places are vastly different and so are their economic conditions, we should not expect instant success in entering the mainland market. On the one hand, we hope that the two professional bodies of the legal sector, the arbitration body and various institutes can continue their negotiations with the relevant mainland authorities. On the other hand, we also hope that we can continue to receive assistance from the Administration whenever we encounter difficulties. In the following part of my speech, I shall raise a number of more pressing problems.

First, under the existing arrangements, the legal services that Hong Kong solicitors and barristers are permitted to render in the Mainland are restricted to matters of an economic or commercial nature. They are not permitted to act on instructions from any clients in the handling of litigation matters, nor can they appear before the Court as defence counsels, whether in civil or criminal cases. This is a great pity because litigation is one of the major strengths of the Hong Kong legal profession and also the most developed component of the Hong Kong Special Administrative Region's legal system. In respect of legal procedures, the presentation and verification of evidence as well as the protection of clients' interests, for example, we are surely able to raise many issues for discussions with the mainland legal profession. Permission for Hong Kong solicitors and barristers to render litigation services will further promote the convergence and mutual development of the legal systems of the two places.

The Hong Kong Bar Association understands that under the existing legal system of the Mainland, persons with no legal qualifications recognized by the Mainland are already permitted to appear before the Court as "litigation agents". And, it is up to the Court to determine which categories of persons are permitted to do so. This means that as long as there is the consent of mainland Courts, Hong Kong solicitors and barristers can already handle litigation in the Mainland as "litigation agents", even though the mainland authorities do not introduce any legislative amendments. I therefore urge the SAR Government to continue to engage in active communication with the Mainland on this possibility.

Even though it is for the time being impossible to grant any blanket approval for Hong Kong legal practitioners to deliver full-scale litigation services in the Mainland, we still hope that the mainland authorities can give priority consideration to allow Hong Kong solicitors and barristers to visit Hong Kong permanent residents suspected of committing offences or having been arrested in the Mainland and also to handle some legal matters on their behalf. Sometimes, these matters are connected with Hong Kong and must be handled by Hong Kong lawyers. The Hong Kong Bar Association and The Law Society of Hong Kong have repeatedly raised this issue with the mainland authorities, but there seems to be no marked progress so far.

Second, CEPA is a breakthrough, in the sense that Hong Kong permanent residents can now sit for the law examination of the Mainland and obtain the professional qualifications required for professional practice there. As disclosed to this Council by the Secretary for Justice in the Budget debate in

April this year, four Hong Kong candidates already succeeded in passing the examination in September last year. However, after obtaining the required qualification, these successful candidates still face other problems before they can begin their practice in the Mainland. A certain legal practitioner in Hong Kong has passed the examination and completed his training in a mainland law firm, but he still cannot begin practice in the Mainland because the authorities there insist that he must first give up his legal practice in Hong Kong before he can be qualified for practice in the Mainland. This runs completely counter to the spirit and objective of CEPA.

As far as my understanding goes, such a situation is mainly due to Article 12 of the Mainland's Lawyers Law: "A lawyer shall practise in one law firm and shall not practise in two or more law firms simultaneously." However, should the application of this provision be restricted to the Mainland? Or, should it be applied in the whole country, including Hong Kong? Many Hong Kong solicitors and barristers are also qualified to practise law in other jurisdictions such as Singapore and the State of California, United States. Under the principle of "one country, two systems", can we interpret Article 12 as being applicable only in the Mainland, not in the Hong Kong jurisdiction? If this problem remains unresolved, I am afraid that Hong Kong lawyers will still have to face a very difficult decision even after all their efforts of passing the mainland law examination. This will greatly reduce the actual effect of the breakthrough we have managed to achieve. I hope that the authorities can communicate with the Central Authorities on this issue, with a view to removing the obstacle.

Third, under CEPA, the joint operation of Hong Kong law firms and their mainland counterparts is permitted. But so far, there have only been three such joint operations — one in Beijing, one in Chongqing and one in Tianjin. However, there are many ties between Hong Kong and Guangdong, and they are close to each other. The legal sector therefore hopes that the authorities can adopt measures on encouraging and facilitating the establishment of more joint operations by Hong Kong law firms and their counterparts in Guangdong.

I hope that the authorities can hold discussions with the legal profession as soon as possible and put forward a feasible scheme on promoting the joint operation of Hong Kong and Guangdong law firms.

Thank you, Madam President.

MR LEUNG KWOK-HUNG (in Cantonese): Madam President, today's motion is on CEPA, which reminds me of zippers. The zipper is a great invention of human beings. It saves us the trouble of doing up the buttons — all you have to do is to pull it up, and it is done. It is so convenient, and it can be done very quickly. If CEPA is considered a zipper, its functions are just the same — this system is also very convenient.

What conveniences has it provided? It has provided convenience in two ways: Firstly, it has quickened the pace of hollowing out of the local production structure. Many local manufacturers have already moved their production plants northwards, and this process has become even easier now. Even services industries can now enter the Mainland. As a result, it has become increasingly difficult for Hong Kong workers to find employment in the territory. This is the first zipper — one that is provided for the manufacturers, a slight pull will provide a wide opening for them.

Second, things do not happen in a one-way direction: there must be compensatory arrangements. Another zipper is pulled wide open, that is, it has become easier now for mainland capital to access Hong Kong for investment. Just let me cite some examples. The daughter of former Premier LI Peng said that she intended to conduct electricity-related businesses. So, some rich tycoons, such as LI Ka-shing (who is never afraid of initiating litigations against the SAR Government. His men would immediately start legal proceedings when the Government mentioned the possibility of resuming certain pieces of land), immediately said that it would be fine. And her business has already started operating. And there is also a Mr ZHOU Zhengyi who will soon be released from jail. I do not care about what he has done in the Mainland, but regarding what he and his partners have done in Hong Kong, the Government has really been unable to make any decision despite having held numerous discussions on the issue. I really do not know what is on the mind of Mr TSANG. Although the incident has happened for such a long time, no progress has been made with the investigation, thus no prosecution can be instituted.

CEPA has exercised the functions of a zipper, enabling Hong Kong businessmen to develop their services and manufacturing industries in the Mainland, so as to exploit the workers by paying them very low wages. This is all done in exchange for opportunities for mainlanders to do things here in Hong Kong which they could not do in the Mainland in the past, that is, allowing them to raise capital and to reap huge profits, in Hong Kong through seeking listings

on the Hong Kong security exchange. This is what CEPA, or the zipper, is all about. The greatest damage CEPA has done to Hong Kong is, as I have already said, that it will continue making Hong Kong's tertiary production hollowing out.

On the surface, CEPA benefits everyone. But actually it just benefits those who work along this zipper. Today, both Mr SIN Chung-kai and Mr WONG Ting-kwong have said something with very visionary aspirations. However, I have to tell them, CEPA is not designed for them. The Minister of Commerce, BAO Xilai, is the son of BAO Yibo. AN Min, do you still remember AN Min? He is that guy who sent a special regard to the late father of Mr Martin LEE, and the one who asked Mr Henry TANG whether he had anything to add on the issue of patriotism. He is the son of AN Ziwen. These guys belong to the so-called Prince Gang. AN Ziwen is a top national official, so is BAO Yibo. Their sons, two members of the Prince Gang, are now in command of the Ministry of Commerce. This zipper of CEPA is designed for these people, and it is also meant to serve those in Hong Kong who can deal with them.

We all know that the Chief Executive (I think there is no need for me to address him as the future Chief Executive) who has secured over 700 nominations will soon officially assume the top post. He shall restore the positive non-intervention policy previously practised by the former British Hong Kong Government, that is, he shall apply the jungle law to enable a minority of people to be benefited, who will then allocate the benefit to the rest of the people by way of dripping.

The time has changed and the past practice is no longer applicable. Globalization has already converted China into a capital-exporting country. After the implementation of CEPA, we shall see the beginning of another round of rent seeking activities. Hong Kong has to endure the hard time. It has to pay the price to reverse this unreasonable economic structure. Some say that the high rent policy cannot work anymore, and the high premium policy cannot work anymore. In the past, everyone who spoke in defence of TUNG Chee-hwa said that Mr TUNG had a good intention behind all his work. As long as Hong Kong people could go on enduring the hardship, such hardship would soon be over and the bright future would wait for us in our way forward. Today, as we take a retrospective look, we realize that the rent seeking activities have put the financial gains of Hong Kong into the wallets of only a handful of people. As there is no regulatory body like the Securities and Futures

Commission in the real estate sector, so we have no regulatory supervision over such malpractices as market manipulation by the developers to create the "bubble effects", thereby strangling the survival of small and medium enterprises. This is in effect directly strangling the vulnerable services industries. What kind of Government is this?

I just wish to point out one phenomenon, that is, after implementing CEPA, the zipper is wide open, the road ahead will be like what I have described, and the rules of the game have been changed. In the past, money from red-chip companies, corruption money and "runaway capital" from the Mainland had to make every effort to find agents in Hong Kong. The situation is not the same now. These capitals can come to Hong Kong through perfectly legal channels. Today, many Hong Kong tycoons would like to foster good relations with them. With CEPA, the pie of Hong Kong may have grown bigger, but there are considerably more people ready to share this pie. How can the Government allocate the remaining bits and pieces of the pie to Hong Kong people? Today, I would like to proclaim that, both Mr WONG Ting-kwong and Mr SIN Chung-kai have very good intentions, but they have failed to understand the real nature of the issue.

Therefore, everyone must take a good look at the truth with eyes wide open: This zipper of CEPA is designed not for the general public of Hong Kong. Thank you, Madam President.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, a year and a half ago, when the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) was first implemented, we believe the entire Hong Kong did hold great expectations for this brand new arrangements, thinking that with CEPA alone, we could easily made great achievements in the mainland market and find unlimited business opportunities in the Mainland. Yet, as time passes, after one and a half years, we now find that some unexpected problems have emerged within the framework of CEPA. Today, a Member has proposed a motion on "Deepening the Mainland/Hong Kong Closer Economic Partnership Arrangement", I think the focus should not be on stepping up promotion efforts and assisting Hong Kong enterprises and professionals to enter the mainland market alone. Instead, the Government should in the meantime consider how best the problems faced by Hong Kong people after gaining access to the mainland market can be addressed.

CEPA is definitely an arrangement conducive to the long-term development of Hong Kong. Ever since China has gained accession to the WTO, all the markets in China must be open to the outside world according to the relevant provisions. In other words, over the long term, all overseas companies will be able to access the mainland market freely. Without CEPA, Hong Kong businesses can enter the mainland market only as foreign businesses at the same time as other overseas enterprises. When they face keen competition from overseas enterprises, will Hong Kong businesses be able to excel by then? The implementation of CEPA enables Hong Kong businesses to take one step ahead of others in entering the mainland market, so that they can establish some early advantages in the competition. Theoretically, CEPA is beneficial to Hong Kong, and we should support and call on the Government to further promote the various phases of CEPA. However, while efforts are being made to promote CEPA, we still need to take good care of Hong Kong businessmen who have already entered the mainland market. Otherwise, if those having gone to the north to ride on the CEPA advantages all end up as losers incurring huge debts, then will CEPA only bring about bad results despite its good intentions?

For example, with the preferential treatment under CEPA, Hong Kong people may conduct businesses in the form of individually owned stores on the Mainland. Since the implementation of the first phase of CEPA, many major cities in the Pearl River Delta Region have seen the opening of many shopping arcades promoted primarily as the hub of many Hong Kong stores. Many small business operators in Hong Kong had been attracted to start their operations in such shopping arcades. When such shopping arcades were first launched, they were actively promoted with all kinds of gimmicks. They were launched with a lot of fanfare and there were many people visiting such arcades. So these Hong Kong businessmen could make some money when they first started their operations and manage to enjoy the opportunities brought about by CEPA. However, after the novelty has gone, much less mainland customers continue patronizing these shops operated by Hong Kong businessmen. And such shopping arcades have failed to launch the required promotion campaigns, and some Hong Kong businessmen have even been forced to move out of these arcades. Many businessmen who managed to reap some profit in the earlier stage have to eventually close down their shops. Therefore, it is not adequate for the Government to simply encourage Hong Kong businessmen to go northwards to tap the mainland market.

Let me take the accounting sector in which I work as another example. Under the arrangements of the second phase of CEPA, accountants with Hong Kong qualifications are exempted from two subjects in sitting the mainland professional examination. Although this is a very good preferential treatment, it really benefits only several hundred accountants who represent only an extremely small proportion of the over 20 000 accountants in the territory. Therefore, while I very much agree with the part of the motion in requesting the Government to step up helping the professionals, I would like to highlight one most important point, that is, basically not many accountants are willing to practise in the Mainland. In a seminar held some time ago, an accountant who had acquired the mainland accountant qualifications for a long time said that, even though he had held the qualifications for over a decade, he had declined to work in the Mainland. He has made the decision because the mainland system is far from satisfactory and the accounting records are very confusing. If he takes the risk of accepting the work of auditing such accounting records, he may incur unnecessary losses. Another fellow accountant told me that he had once accepted a project, but the client surprisingly disappeared overnight. So, no matter how successful CEPA is, do you think there are still accountants willing to practise in the Mainland?

The above examples have illustrated one point, that is, Hong Kong businessmen will not be able to conduct their businesses in the Mainland with a relaxed mind until the mainland system has been improved, the protectionist culture has been changed, Hong Kong people will no longer be subject to unreasonable exploitation and will not be unreasonably detained or blackmailed just due to economic disputes. Otherwise, no matter how good CEPA is, Hong Kong businessmen will only follow the example of the accountants, just adopting a wait-and-see attitude. Under such circumstances, are we going to let this good policy negotiated after a lot of effort and time eventually end up as a failure? If the SAR Government really intends to understand and address the real concerns of Hong Kong businessmen, it should work in a way that will facilitate the healthy development of the mainland system and strengthen the support and matching services provided by the Hong Kong Government to Hong Kong businessmen and professionals. The amendment proposes to strengthen the functions of the offices of the Government in Beijing and Guangdong. This is really a specific measure that can address the crux of the problem. I support this proposal.

Undoubtedly, CEPA is a blessing to Hong Kong. Therefore, we should spare no effort in promoting the continued development of this arrangement. On the other hand, CEPA is a two-way arrangement. We should abandon our "Hong Kong Chauvinism". We should not think that CEPA just serves to protect the interest of Hong Kong businessmen. We should also be prepared that some mainland enterprises will come to Hong Kong to develop their business here. Only by doing so can we make this arrangement work in the long term, thereby avoiding the emergence of biased policies. More importantly, we must have sufficient backup. Only with this can we enable CEPA to bring its functions into full play. I so submit. Thank you, Madam President.

MR TIMOTHY FOK (in Cantonese): Madam President, CEPA is an important initiative of the Central Government to revive Hong Kong economy and promote economic and trade integration between the Mainland and Hong Kong. Since its full implementation on 1 January 2004, CEPA has achieved an instant, crucial effect of restoring confidence in Hong Kong economy and become one of the important means to revive Hong Kong economy. Statistics have shown that a total of 2 991 Certificates of Origin, accounting for goods valued at \$1.145 billion, were approved last year under CEPA I. It is estimated that the value will reach \$1.6 billion to \$1.7 billion this year. In my opinion, the practical effectiveness is still not satisfactory.

Actually, following the Mainland's rapid economic development, the SAR Government is moving in the right direction by proactively promoting co-operation with the Mainland in exploring the extensive mainland market for Hong Kong businesses. What is more, the implementation and continuous development of CEPA and "Nine plus Two" have provided Hong Kong businesses infinite scope of development. It is however a pity that the role played by the SAR Government in promoting economic and trade co-operation between the two places has been too conservative and passive. After laying down the structure, the Government would often choose to fade out and Hong Kong businesses would be left alone to assume the ensuing work of developing the market. Members must understand that the conditions of the mainland market are relatively complex and its laws and regulations on control are different from those of Hong Kong too. Hong Kong businesses are not only fighting alone powerlessly in face of high risks in opening up the market, they also feel a sense of helplessness as if they are groping their way across the river.

I have often heard the industry complain of the vast difference between the Mainland and Hong Kong in their laws and regulations on control. What is more, they are at a loss as to what to do as rules vary from place to place. Moreover, they cannot make preparations beforehand and they can only "deal with the problem when it pops up". As such, they hope that the SAR Government can take the lead in, apart from proactively discussing with the Mainland and pursuing more liberalization and joint ventures, following up the implementation of the projects in the relevant areas as well as providing relevant assistance in, for instance, conducting market research and analysis, leading the industries in direct communication with various provinces and cities, and consolidating the strategic publicity and promotion efforts undertaken by the industries. Meanwhile, it is necessary for the authorities to help and encourage mainland businessmen to come to Hong Kong for investment or search for business partners to enable the relevant co-operation proposals to ultimately achieve a win-win situation in a comprehensive and two-way manner.

Madam President, the mainland economy is taking off with unfathomable potentials for development. We have to take advantage of our strength by virtue of our geographical location and ethnic link with China to expeditiously explore the mainland markets. China's mass media market, for instance, has exceeded \$300 billion. The movie industry is vigorously pushing its market forward to develop at full speed, whether through reorganization of cinemas or the inflow of capital from outside the industry. According to the statistics provided by the Film Administrative Bureau of the State Administration of Radio, Film and Television, the annual gross receipts of the mainland's movie industry reached RMB 3.6 billion yuan last year. If every Chinese citizen is willing to spend RMB 10 yuan more on movie-watching annually, the box office receipts would increase by RMB 13 billion yuan every year. This shows that the development potential of the industry is most enormous.

Furthermore, according to the media market research conducted by AC Nelson, China has become, next to the United States, the world's second largest broadcasting market. Besides the continuous annual growth, the turnover of broadcast advertisements on the Mainland has even recorded an annual growth rate of even more than 20%.

The full acquisition by an American online bookshop, Amazon, of a mainland online bookshop, Cisco China, as well as the entry of the world's second largest outdoor advertising group, JC Decaux Pearl & Dean, to the

mainland outdoor advertising market by way of acquiring a Hong Kong listed company are evident to all. The momentum of foreign capitals continuously flowing into and seizing the mainland market has directly threatened and even deprived Hong Kong of its strength and competitive edge in this area. Such economic and trade co-operation programmes as CEPA and "Nine plus Two" have given Hong Kong an advantage in terms of time. Madam President, it has always been the duty and mission of a responsible government to support the business sector in developing markets and upgrading its competitive edge. Whether Hong Kong can consolidate and integrate with the Mainland and whether Hong Kong businesses can grasp the business opportunities arising as a result of the liberalization of the mainland market depend very much on whether our SAR Government can act courageously and resolutely enough with commitment to this.

I so submit.

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

MR ALBERT HO (in Cantonese): Madam President, CEPA has promoted the liberalization of trade between Hong Kong and the Mainland, and this is mutually beneficial to the economic and trade development of both places. However, due to the differences between the two places in their respective legal and social systems, many Hong Kong businessmen have encountered all kinds of difficulties in operating their businesses in the Mainland, and some of them have even lost their personal freedom or are detained for extended periods of time just due to disputes.

Of course, as Mr WONG Ting-kwong said, some of the incidents had taken place just because certain Hong Kong citizens were not versed in the laws or policies in the Mainland. However, we are aware of many cases which involve or may involve mainland law enforcement agencies adopting unfair or even illegal measures against Hong Kong businessmen doing business there.

Madam President, the Democratic Party has conducted an opinion poll among Hong Kong citizens who have to make frequent business trips to the Mainland or who have to station in the Mainland. The findings of this survey

reveal that 40% of the respondents worry most about encountering incidents which may affect their own personal safety. Of these respondents, one quarter of them worry that they may lose their identification documents, while another 6% worry that they may encounter trade and legal disputes. Among these respondents who are either trading or working in the Mainland, 80% of them think that the support provided by the Hong Kong Government in assisting people who have encountered special incidents in the Mainland is inadequate.

The Democratic Party strongly requests the Hong Kong Government to assume a more positive and proactive role in assisting Hong Kong businessmen or citizens when they encounter difficulties (including detention due to disputes) in the Mainland. The Office of the Government of the Hong Kong Special Administrative Region in Beijing (the Beijing Office) should not just play the role of a messenger or a liaison officer. Instead, it should provide much needed assistance to those helpless Hong Kong citizens. Of course, they should also lodge administrative complaints against some obviously unfair or even illegal measures.

We absolutely agree that the Hong Kong Government should respect "one country, two systems", and should by no means interfere with the normal law enforcement actions of mainland authorities, nor should it protect those Hong Kong citizens who have committed illegal acts. However, the Hong Kong Government also has an explicit responsibility to safeguard the legitimate rights of Hong Kong businessmen operating businesses in the Mainland. In addition, when mainland organizations are involved in certain unreasonable or illegal acts, the Hong Kong Government should make criticisms, and provide appropriate assistance to the victims.

During the past few years, the Society for Community Organization and many Members' Offices have received dozens of or even over a hundred such request for assistance cases, which involved the long-term detention of certain Hong Kong citizens in the Mainland due to disputes. These Hong Kong citizens who are arrested and detained may take one option, that is, to pay substantial fines or ransoms to resolve such disputes. Upon making the relevant payment, they will be allowed to leave. Otherwise, they may have to continue to face indefinite terms in prison, and eventually they may even have to face criminal prosecutions, trials or imprisonment. During the extended periods of detention, these people are not allowed visits by their families or even by representatives of the Hong Kong Government. Even if they have engaged the services of lawyers,

very often, the lawyers would adopt a pessimistic attitude and find it difficult to help them.

Madam President, the most staggering example is a case recently lodged with the Complaints Division of the Legislative Council. A Hong Kong businessman formed a partnership in Hong Kong with a mainland organization. The business failed and was closed down several years ago. After the winding up of the business, the Hong Kong businessman thought that it was all over. But he was immediately arrested and detained on his return to the Mainland. After he was arrested and detained, the case should be heard by the People's Court of Shenzhen. However, in view of the fact that the incident took place in Hong Kong, the People's Court of Shenzhen refused to exercise its jurisdiction. So the Court opined that the case should be heard in Hong Kong.

However, the law enforcement body brought the case to the Supreme People's Court in Beijing for review. So the petitioner continues to be detained. As of today, he has been detained exactly for three years and eight months. Madam President, the length of his detention is already equivalent to the period of the Japanese occupation of Hong Kong. This Hong Kong businessman is not granted bail, nor is he put under residential custody, which is a more lenient arrangement. So he continues to be detained indefinitely. Even though the Hong Kong Government has repeatedly requested an explanation, it has all been in vain. The only answer we can get is, they are acting according to the law.

How can we accept that Hong Kong people should be subject to such treatment? In our opinion, any country proclaiming to be practising the rule of law cannot accept such standards. From this case, we can see that the Beijing Office has not fought for the legitimate interests of this Hong Kong citizen who is being detained indefinitely through all the most effective channels.

Madam President, we demand that the Beijing Office must strive for the humane and reasonable treatment of any detainees. During the period of detention, they should be entitled to the right of visit by their families. They should be provided with legal services, and they should not be subject to any inhumane and illegal treatment. I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no Member wishes to speak, I now call upon Mr WONG Ting-kwong to speak on Mr SIN Chung-kai's amendment. You have five minutes.

MR WONG TING-KWONG (in Cantonese): Madam President, I am very grateful to Mr SIN Chung-kai — Mr SIN has just gone out of this Chamber — for moving an amendment which has enriched my original motion. I would like to thank Mr SIN for the concern he has shown. I believe the DAB will also support his amendment.

I am also thankful to the 12 Honourable colleagues for providing us a lot of valuable opinions.

PRESIDENT (in Cantonese): Mr WONG Ting-kwong, will you please just speak on Mr SIN Chung-kai's amendment now. You still have an opportunity to reply later on.

MR WONG TING-KWONG (in Cantonese): Fine. The DAB approves of Mr SIN Chung-kai's amendment. Thank you, Madam President.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I am grateful to Mr WONG Ting-kwong for bringing up this important topic of CEPA for debate.

The debate today is most timely because the Mainland and the SAR are now discussing the liberalization measures for the next phase of CEPA. With respect to the motion moved by Mr WONG Ting-kwong and the amendment moved by Mr SIN Chung-kai, Honourable Members have presented a lot of valuable opinions and they will serve as very useful reference for me and my colleagues in charge of CEPA affairs.

Since the full implementation of CEPA last year, things have been going quite smoothly. At present, a total of 1 108 Hong Kong products can enjoy zero tariff on export to the Mainland. In terms of trade in services, Hong Kong service suppliers from 26 service sectors are given preferential treatment by the Mainland and these sectors include quite a number of professional services.

In addition, the Individual Visit Scheme launched under CEPA brought an extra 4.26 million mainland visitor trips to Hong Kong in 2004 and HK\$6.5 billion of additional spending. CEPA has therefore made very positive contribution to the Hong Kong economy. In the first two years since the implementation of CEPA, it is estimated that about 29 000 new jobs have been created for Hong Kong, of these most are located in Hong Kong.

As a matter of fact, CEPA may bring job opportunities to various sectors. I think Members will know that presently CEPA is only at an initial stage and its full effect will only be noticed at a later time. I am aware of the expectations held by the grassroots for CEPA and it is my hope that in the next few years we may be able to see more jobs available in the market and more investments in Hong Kong. I agree that it is important that our society and economy should take on a diversified course of development and that the Government should give a big boost to the development of high value-added industries. In this respect, the Hong Kong Productivity Council, Innovation and Technology Commission and such like departments have launched various plans to help Hong Kong industries take on a high value-added course of development.

When many Members spoke earlier, they placed an emphasis on the importance of further liberalizing the mainland market and fostering a better understanding of the market regulation measures on the Mainland. I agree with this view put up by Members. I understand that the sectors hope that there can be improvement to the regulatory conditions in the mainland market and they hope that the liberalization measures under CEPA can be deepened and broadened. The SAR Government will keep on conveying the concerns of the sectors to the mainland authorities and we will give our staunch support to Hong Kong businesses in making the best use of the opportunities brought about by CEPA.

I would now respond to the motion and the amendment in the following seven areas.

- (1) *Stepping up publicity to attract mainland enterprises to set up companies in Hong Kong and pursuing with the Central Authorities the relaxation of the control on capital flows*

All along the departments concerned in the SAR Government and the Hong Kong Trade Development Council (TDC) have been committed to

promoting the advantages of Hong Kong as a springboard for mainland enterprises in venturing into the overseas market. The Office of the Government of the HKSAR in Beijing (Beijing Office), the Economic and Trade Office of the Government of the HKSAR in Guangdong (Guangdong Office), and Invest Hong Kong (InvestHK) have all along been organizing seminars, exhibitions and other promotional activities to publicize the contents of CEPA and the investment opportunities available. Meanwhile, the TDC has set up CEPA Business Service Centres in Beijing, Shanghai and Guangzhou to enable both Hong Kong and mainland companies to capture business opportunities brought about by CEPA. Last year, the mainland authorities streamlined the vetting and approval procedures for mainland companies wishing to invest in Hong Kong and Macao. In view of this, InvestHK has developed a series of services tailored for mainland investors under the name of "One Stop Service". These services include:

- setting up the InvestHK 800 Hotline;
- setting up the InvestHK Service Centre;
- publishing the InvestHK Kit; and
- publishing the InvestHK Step-by-step Guide.

Both the SAR Government and the TDC will continue to step up their efforts in attracting mainland enterprises to come to invest in Hong Kong. Visits will be made to mainland enterprises to gauge their needs. Investment promotion seminars and other publicity activities are held on the Mainland to introduce Hong Kong's investment environment. We will work together with the Ministry of Commerce, the local government departments and other institutions to organize delegations to come to Hong Kong.

As to the question of pursuing with the Central Authorities the relaxation of the control on capital flows, we know that foreign exchange control is a policy adopted by the State taking into account its overall economic development and mainland authorities are always keeping control in this respect under constant review and relaxation measures will be made as and when appropriate. The SAR Government will keep a close watch on the situation and will seize any opportunity to discuss with the mainland authorities further measures to bring in more investments from the Mainland.

(2) *Overcoming the trade barriers and improving customs clearance facilities*

Under CEPA, there are liaison mechanisms for the two governments as well as other co-operation mechanisms to solve problems related to the implementation of zero tariff. In case of problems in customs clearance in respect of goods, for example, the customs administration on the mainland entry point concerned has not received any electronic copy of the information of the goods or if suspicions are aroused on the information declared in the certificate of origin, the mainland customs will normally act according to the procedures specified under CEPA and the cargo is released first after a deposit is paid. Then follow-up action will be taken. This will avoid causing any obstruction in the flow of goods.

In order to speed up the flow of goods, the customs administrations on both sides are always looking into customs facilitation measures and implementing them. These include mutual recognition of cargo inspection findings in order to simplify the procedures and reduce the time involved in cargo inspection. Since January this year, the customs administrations on both sides have adopted the unified road cargo manifest to save the time used by truck drivers in completing the duplicated task of filling in cargo manifests. The carriers can send the cargo information to the Advanced Road Cargo Information Regime of the Hong Kong Customs and Excise Department. This will enable the Department to make a prompt assessment of the risks of the cargo concerned, thereby enhancing customs clearance efficiency.

(3) *Operators of individually owned stores*

Under CEPA provisions, Hong Kong residents may operate individually owned stores all over China and the kinds of business permitted have expanded from retail to services like catering, hairdressing, beauty and health services, and so on.

At present, there are some 1 000 Hong Kong people operating individually owned stores in Guangdong Province. These stores engage in retail business and the total amount of investment involved is more than RMB 60 million yuan. After the commencement of phase II of CEPA in January this year, we know that some Hong Kong people have started their individually owned stores in Beijing, Shanghai and other places in China.

The SAR Government is disseminating information on application to operate individually owned stores in China and other related information through various means such as websites, publications and regular newsletters. The Trade and Industry Department (TID), for example, has set up toll-free telephone hotlines and an e-mail enquiries service to answer questions from Hong Kong residents on starting up individually owned stores on the Mainland. The TID and the Guangdong Office have organized or co-organized seminars on many occasions with target audience being the operators of individually owned stores and small and medium enterprises. Guangdong officials are invited to speak in these seminars to answer questions and provide information.

To facilitate Hong Kong residents in setting up individually owned stores on the Mainland, the State Administration for Industry and Commerce has recently issued the "Guidelines on the Registration Administration of Individually Owned Stores Set up in the Mainland by Hong Kong and Macau Residents". The document stipulates the procedures, requisite documents for registration, standards of registration fees, and so on. In addition, the SAR Government will urge regional industry and commerce administrations in China to set up "special windows" and "green channels" under CEPA to handle matters for Hong Kong residents operating individually owned stores.

The Government encourages Hong Kong residents and enterprises so interested to make good use of the business opportunities offered by CEPA. However, it is my hope that investors and business starters, before making any major business decisions, should acquire an in-depth knowledge of the sector and market concerned. They should also know that risks are bound to exist in making investments and doing business. This is very important to those running individually owned stores with limited experience and capital.

(4) Admittance of Hong Kong professionals to the Mainland to set up business and practise there

At present, professional services given preferential treatment under CEPA include accounting, legal, medical and dental, real estate and construction services, and so on. The concessions should be able to assist professional services from Hong Kong in accessing the mainland market. Since the inception of CEPA, the number of Hong Kong service suppliers offering professional services to the Mainland has been constantly on the rise.

To help professionals in Hong Kong make effective use of opportunities offered by CEPA, the SAR Government has been committed to encouraging mutual recognition of professional qualifications. Studies and discussions are conducted with government departments and professional bodies on both sides to devise practical measures to this end. With respect to mutual recognition of professional qualifications and examination arrangements, both sides have reached agreements or arrangements in a large number of professional sectors. To facilitate Hong Kong residents in sitting for the national judicial examination, the Ministry of Justice in China has agreed to a suggestion made by the Department of Justice in Hong Kong to set up an examination centre in Hong Kong to hold the national judicial examination starting from this year. The examination will be held this September. Besides, as far as I know, recently a dozen or so medical doctors from Hong Kong have been awarded the qualification of medical practitioners in China. They will begin practice in some hospitals in Guangdong. All these examples show that both sides have put in much effort in various areas.

With respect to further opening up the mainland market for Hong Kong professionals, there are still many practical problems that need to be solved. Members have made many suggestions on this earlier and we will explore these with the local professions and the mainland authorities concerned, with a view to ensuring Hong Kong professionals can make full use of the opportunities offered by CEPA.

(5) *Enhancing support given by Beijing Office and Guangdong Office to Hong Kong people who work and operate business on the Mainland*

All along the Beijing Office has been keeping a close eye on the liberalization of the mainland market under CEPA, as well as the matching measures launched by the major provinces and municipalities. This is meant to ensure that the relevant departments of the SAR Government can notify the sectors promptly for preparations. The Beijing Office also co-organizes sharing sessions with mainland organizations as and when necessary to enable Hong Kong businessmen to reflect to the mainland government direct the problems they come across in their day-to-day operation and those related to investment matters. Hong Kong businessmen in general have shown very enthusiastic response to such kind of sharing sessions.

The Guangdong Office has also been actively involved in assisting Hong Kong businessmen to reflect the problems they face in doing business and investing in Guangdong Province to the relevant departments of the provincial government for follow-up actions. During the past year, the Guangdong Office held more than 20 seminars and talks on CEPA. A newsletter is published every Friday to report the latest news on the implementation of CEPA in various municipalities of Guangdong.

With respect to offering assistance to Hong Kong residents who encounter in the Mainland such difficulties as trade or legal disputes and threats to personal safety as mentioned by Mr SIN Chung-kai in his amendment, the Secretary for Security gave a written reply to a question raised by Mr SIN in the Council on 11 May. So I would not repeat the explanation now.

In sum, there is a mechanism in the Beijing Office to render assistance to Hong Kong residents who encounter difficulties on the Mainland and links are established with the relevant work units there. The Beijing Office will maintain and expand such links and it will continue to offer assistance to Hong Kong residents under the existing mechanism.

The purpose of setting up the Guangdong Office is to promote economic co-operation between Hong Kong and Guangdong Province. The Guangdong Office will, depending on the circumstances of each case, offer assistance to Hong Kong businessmen or other Hong Kong residents working in Guangdong Province when they are in need. Currently the SAR Government does not have any plans to change or expand the functions of the Beijing Office or Guangdong Office in this regard.

(6) Qualified Domestic Institutional Investors (QDII)

The QDII scheme permits mainland financial institutions which possess foreign exchange to invest in capital markets outside China, including Hong Kong, subject to certain specified conditions. The mainland authorities will make the decisions under the scheme and the role played by the SAR Government is to provide information on the Hong Kong markets, the regulatory frameworks and the legal system to the mainland authorities, as well as conveying the ardent expectations of the Hong Kong financial services sector for the scheme and its wish to play an active and constructive part in it.

We notice that the mainland authorities are gradually permitting individual institutions on the mainland to make investments outside China. For example, the State Council gave an approval in February 2004 to permit the National Social Security Fund to invest its foreign exchange funds in overseas markets. At present, details on this are being drawn up. In August 2004, the mainland authorities announced the Interim Administrative Measures on Overseas Use of Insurance Foreign Exchange Funds whereby qualified mainland insurance companies are allowed to invest overseas not more than 80% of the balance in their foreign exchange funds as at the end of the previous year. As more and more funds from the Mainland are seeking overseas investment opportunities, the financial markets in Hong Kong will certainly stand to benefit. It is our hope there will be more schemes which permit using Hong Kong as an investment platform for mainland funds.

(7) According national treatment to Hong Kong businesses operating in the Mainland

As with other free trade agreements, the fundamental goal of CEPA is to eliminate trade barriers and liberalize trade. Our goal is to strive for the most favoured treatment for Hong Kong companies on the Mainland. Under the existing mainland regulatory system, in certain specified trades, foreign companies, including Hong Kong companies, may enjoy a more favourable treatment such as in tax matters as opposed to mainland enterprises. So the SAR Government will take into account the situation in individual trades and the measures in question to pursue with the mainland authorities in a flexible manner this so-called "national treatment" for Hong Kong businesses.

Madam President, CEPA is a key policy of the SAR Government in promoting the economic development of Hong Kong. We attach great importance to the successful implementation and sustainable development of CEPA. As in the past, we will listen carefully to views expressed by the Legislative Council, the business sector and members of the public and we will strive to secure greater business opportunities for the sectors in the mainland market. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr WONG Ting-kwong, you may now speak in reply. You have one minute 27 seconds.

MR WONG TING-KWONG (in Cantonese): Madam President, I am very grateful to Mr John TSANG, Secretary for Commerce, Industry and Technology, for his reply and Honourable colleagues for their valuable input.

I hope that Hong Kong people can reap as many benefits as possible from CEPA. This is why I hope the SAR Government can note the views put forward by people from all sectors across the community on CEPA positively so that the views collected may be used to facilitate the review to be conducted in phase III of CEPA. This will enable improvements to be made. As Mr WONG Kwok-hing has pointed out, the essence of deepening CEPA does not lie in folding our arms and wait for luck to come. Even if there are good opportunities available, we should work hard to achieve success. I hope the SAR Government can play a greater role in making CEPA a success. There are split-second changes in the market and the slightest lax would mean the slipping away of many an opportunity. I therefore hope that the SAR Government can seize all the opportunities that may come our way. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 22 June 2005.

Adjourned accordingly at twenty-four minutes past Four o'clock.

Appendix I

WRITTEN ANSWER

Written answer by the Director of Environmental Protection to Mr Bernard CHAN's supplementary question to Question 1

As regards the relative contribution of different fuels to power generation in Hong Kong, the breakdowns for the two power companies are provided below:

CLP Power Hong Kong Limited

(I) Fuel Consumption for Electricity Generation

<i>Year</i>	<i>Total fuel consumption (TJ)</i>	<i>Share of different fuel consumption (%)</i>		
		<i>Coal</i>	<i>Oil</i>	<i>Gas</i>
2002	194 915	51.6	0.7	47.7
2003	214 025	71.5	0.8	27.7
2004	221 371	60.3	0.9	38.8

(II) Generation by Fuel Type

<i>Year</i>	<i>Total generation (GWh)</i>	<i>Share of generation by different fuels (%)</i>			
		<i>Coal</i>	<i>Oil</i>	<i>Gas</i>	<i>Nuclear</i>
2002	32 726	30.9	0.4	37.5	31.2
2003	34 057	46.4	0.5	22.7	30.4
2004	34 633	39.3	0.6	32.7	27.5

Hongkong Electric Company Limited

(I) Fuel Consumption for Electricity Generation

<i>Year</i>	<i>Total fuel consumption (TJ)</i>	<i>Share of different fuel consumption (%)</i>		
		<i>Coal</i>	<i>Oil</i>	<i>Gas</i>
2002	109 714	99.5	0.5	Not applicable
2003	110 465	99.5	0.5	Not applicable
2004	112 342	99.6	0.4	Not applicable

WRITTEN ANSWER — *Continued**(II) Generation by Fuel Type*

<i>Year</i>	<i>Total generation (GWh)</i>	<i>Share of generation by different fuels (%)</i>			
		<i>Coal</i>	<i>Oil</i>	<i>Gas</i>	<i>Nuclear</i>
2002	11 779	99.6	0.4	Not applicable	Not applicable
2003	11 816	99.6	0.4	Not applicable	Not applicable
2004	12 018	99.7	0.3	Not applicable	Not applicable

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Housing, Planning and Lands to Mrs Selina CHOW's supplementary question to Question 2**

As regards the programme for developing the open space site at Kwai Chung Estate Phase 2 and reasons for the delay, Kwai Chung Estate Phase 2 has been planned for use as district open space. Due to resource constraint, the Government must prioritize the implementation programmes of various proposed recreational and leisure facilities in the light of local needs and existing provisions.

In the case of Kwai Chung Estate Phase 2, residents can enjoy a full range of leisure and cultural facilities in the district including Central Kwai Chung Park, Tsing Yi Park, Kwai Tsing Theatre as well as a number of community halls, community centres, public libraries, sports centres and sports grounds. Furthermore, we intend to implement two district open space projects in Shek Yam Estate (Phases I and IV) and Area 9, Tsing Yi, which are among the 25 projects targeted for priority implementation as announced in the Chief Executive's 2005 policy address, and are scheduled for completion by mid-2009 and mid-2010 respectively. These open space facilities will also address the leisure and recreation needs of the residents in Kwai Chung Estate.

Against these considerations, the Administration does not have an immediate development programme for the district open space project at Kwai Chung Estate Phase 2, but will continue to review the programme to ensure that the community is provided with adequate leisure and cultural facilities.

Appendix III**WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Mr Ronny TONG's supplementary question to Question 4**

As regards information on the number of tenders which had not been considered under the mandatory requirement for tender assessment, based on the information from departments which had invited tenders for the relevant service contracts* since the implementation of the said mandatory requirement on 27 March 2004, of those tenders approved by the relevant tender boards on or before 15 June 2005, 10 tenders involving two tenderers had not been considered on account of having three or more convictions under the mandatory requirement for tender assessment; three tenders involving two tenderers had also been disqualified on account of their failure to declare their conviction records as specified in the tender document. Moreover, no tenders were not considered on account of tenderers having received more than six demerit points.

* Relevant service contracts refer to service contracts (excluding construction contracts) that rely heavily on the deployment of non-skilled workers.

Appendix IV**WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Mr WONG Kwok-hing's supplementary question to Question 4**

As regards the labour dispute between the previous contractors of Museum of History and its ex-employees, before the previous service contract expired, the Leisure and Cultural Services Department (LCSD) had followed the usual practice by informing the old and the new contractors as well as the staff affected of the arrangement concerning the new contract. The LCSD had also reminded the old and the new contractors to sort out matters concerning the handover of duties and staff as soon as possible. Hence, this incident is a labour dispute between the previous contractor and its ex-employees arising out of their different interpretation of termination of the relevant employment contract. Upon learning the issue, the LCSD mediated actively between the two sides to assist in finding a solution. The Labour Department also stepped in to assist in the conciliation of the labour dispute. After conciliation, the workers accepted the settlement agreement offered by the employer. With the assistance of the Labour Relations Division (Kowloon East Office) of the Labour Department, the arrangement was completed on 28 June 2005 and the issue has come to a satisfactory conclusion.