

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 20 October 2004

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

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

DR THE HONOURABLE YEUNG SUM

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H.

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

THE HONOURABLE 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:

DR THE HONOURABLE JOSEPH LEE KOK-LONG

THE HONOURABLE MA LIK, J.P.

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

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

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

CLERKS IN ATTENDANCE:

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Import and Export (General) (Amendment) Regulation 2004.....	155/2004
Import and Export (Fees) (Amendment) Regulation 2004.....	156/2004
Trade Descriptions (Country of Manufacture) (Piece-Knitted Garments) Order	157/2004
Trade Descriptions (Place of Manufacture) (Piece- Knitted Garments) (Amendment) Notice 2004 ...	158/2004
Trade Descriptions (Place of Manufacture) (Repeal) Notice 2004.....	159/2004
Air Pollution Control (Motor Vehicle Fuel) (Amendment) Regulation 2004.....	160/2004

Other Papers

- No. 13 — Urban Renewal Authority Annual Report 2003-2004
- No. 14 — Companies Registry Annual Report 2003-04
- No. 15 — The Land Registry Trading Fund Hong Kong
Annual Report 2003/2004
- No. 16 — Report of changes to the approved Estimates of
Expenditure approved during the first quarter of 2004-05
(Public Finance Ordinance : Section 8)
- No. 17 — The Government Minute in response to the Report No. 42
of the Public Accounts Committee dated June 2004

ADDRESSES

PRESIDENT (in Cantonese): Address. The Chief Secretary for Administration will address the Council on The Government Minute in response to Report No. 42 of the Public Accounts Committee dated June 2004.

The Government Minute in response to the Report No. 42 of the Public Accounts Committee dated June 2004

CHIEF SECRETARY FOR ADMINISTRATION: Madam President, laid on the table today is the Government Minute responding to Report No. 42 of the Public Accounts Committee (PAC).

The PAC Report deals with the Administration's response to one outstanding case in the Director of Audit's Report No. 41. In addition, it examines five subjects in the Director of Audit's Report No. 42. The Administration is grateful for the time and efforts of the PAC.

I would like to reply to some of the comments made by the Chairman of the PAC who spoke on 23 June on these subjects when the PAC Report was tabled.

The PAC's remark concerning the surrender of the Penny's Bay shipyard site was one of the issues raised. The Administration has taken on board the Director of Audit's recommendations in this case. In future, the Lands Department will critically evaluate the risks and financial implications and obtain approval from the relevant Policy Bureaux before accepting a surrender of land on a so-called "as is" basis. The Lands Department has also issued internal instructions to this effect. The Secretary for the Environment, Transport and Works has also instructed all works departments to take on board the Director of Audit's recommendation on strengthening site investigations and liaison with other concerned departments for potentially contaminated sites.

Turning to the PAC's findings on Harbour Fest, we accept that there were inadequacies in the assessment, planning and implementation of the project by all the concerned parties, including the Administration, and that the complexities and the time needed to plan and organize such an ambitious project had been

underestimated. Without understating the exceptional circumstances which gave birth to Harbour Fest, not least of which was the strong community sentiment for urgent actions to get Hong Kong back on its feet after the SARS disaster, we agree that all the concerned parties could have done better in many respects. We have learnt useful lessons from the findings of the Independent Inquiry appointed by the Chief Executive, as well as those from the Director of Audit and the PAC.

In the past months, we have been actively following up the various recommendations made by these bodies. For example, following the PAC's suggestion, InvestHK has obtained from the American Chamber of Commerce (AmCham) its accounting records in relation to Harbour Fest, and the authorization from Red Canvas Limited which had acted as AmCham's Special Purpose Vehicle for the organization of Harbour Fest, for the Director of Audit to access its accounting records which were in the possession of the Independent Panel of Inquiry on Harbour Fest. InvestHK has been working closely with AmCham to explore the opportunities for the broadcasting of the TV video on Harbour Fest in other overseas markets. Recently, the video has been broadcast in Europe. Red Canvas Limited has already assigned all registered trademarks in relation to Harbour Fest to the Government. In consultation with the Intellectual Property Department and the Department of Justice, InvestHK is discussing with AmCham the legal documentation for AmCham to relinquish, in the near future, its custodianship of the intellectual property rights associated with Harbour Fest.

Separately, the Financial Services and the Treasury Bureau has issued a financial circular on the principles which Controlling Officers should observe and the factors which they should consider when planning non-works projects involving government funding. This will provide useful pointers for Controlling Officers to follow throughout project planning and project delivery.

The Civil Service Bureau has been tasked by the Chief Executive to examine the possible culpability of any civil servant involved in the Harbour Fest incident. The Bureau has completed the collation of relevant facts and evidence relating to the manner in which civil servants carried out their duties in connection with Harbour Fest. In undertaking this exercise, the Bureau has taken into account the findings of the Independent Panel of Inquiry's Report on Harbour Fest and the PAC Report No. 42. The Bureau has also invited and

received representations from an officer who faces a possible charge of misconduct. After giving the representations careful consideration, the Secretary for the Civil Service decided to institute formal disciplinary proceedings, including an inquiry, to determine whether the officer is guilty of misconduct.

The PAC was concerned about the performance of the Applied Research Fund (ARF). The Secretary for Commerce, Industry and Technology is thus reviewing the Administration's overall strategy in innovation and technology development, including the role and future of the ARF. The Administration seeks to devise a new strategy for developing innovation and technology which emphasizes market relevance and industry participation in identified focus areas in which we have a competitive advantage. We will see to it that any future role of the ARF will be compatible with this overall strategy. The Secretary for Commerce, Industry and Technology aims to brief the Legislative Council Panel on Commerce and Industry on the outcome of the review by the end of 2004 or early next year.

With regard to the PAC's comment that we should strengthen the disposal mechanism of investments, I am pleased to report that the Applied Research Council (ARC) has agreed with its fund managers on improvement measures. In future, prior approval of the ARC will be sought if the anticipated divestment price is 15% below the latest valuation at market value. The fund managers will also have to seek the ARC's approval if the terms and conditions of divestment would be less favourable than those applicable to others at the same time of disposal. We consider this an appropriate safeguard without unduly restricting fund managers from exercising their best possible professional judgement in managing divestment.

The ARC has reviewed how it should handle its surplus funds. Since the ARF's investment in research and development projects is by definition risky in nature, the ARC considers that its primary investment objective for surplus funds is to take on less risky investment to preserve capital. It will also consider investing in low-risk investment vehicles with good credit rating. In drawing up its investment plan, the ARC will also seek to estimate as accurately as possible the cash flows of individual funded projects. The ARC is now in the process of putting its surplus funds to suitable low-risk investment vehicles with a view to increasing the rate of return of surplus funds and preserving its capital.

The Administration is mindful of the PAC's concerns over the delay and increase in cost in completing the Harbour Area Treatment Scheme Stage 1. We have critically reviewed the experience from the project and formulated effective measures to ensure that future large-scale works projects are delivered on time and within budget.

We have reviewed our policy on the use of forfeited plant in completion contracts, and formulated additional guidelines to protect the Government's interests. The Secretary for the Environment, Transport and Works has directed all works departments to improve budgetary control of works projects, particularly the accuracy of project estimates and the discipline to control spending against approved project estimates. She will make certain that works departments follow these guidelines to improve project management.

On the PAC's recommendation that the Legislative Council be informed of significant differences between the estimated contract sum in the Approved Project Estimate and the awarded tender price, the Administration will be happy to provide the Legislative Council with quarterly reports, beginning from the last quarter of 2004. As for the reporting of dispute settlements under a works contract, the Administration has since October last year introduced a new clause to all public works contracts. This clause permits the Administration to disclose to the PAC, under certain conditions, the outline of the dispute and the terms of the settlement, if the PAC has specifically asked for a disclosure. We believe this has satisfactorily addressed the PAC's concern.

The Administration does not have a set policy on taking legal proceedings against a defaulting contractor. We prefer to settle any dispute arising from a contract by the most equitable and amicable means. That said, we would not refrain from legal proceedings if necessary, after critically assessing the merits of legal action. We believe this approach is in the best interests of the public.

Finally, I wish to echo the PAC Chairman's remarks that the PAC plays an important role in safeguarding public interests by continuing to press for the delivery of high quality public service in an efficient and cost-effective manner. The Administration looks forward to receiving its constructive comments and wise counsel. As always, we shall respond positively and promptly.

Thank you, Madam President.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. According to the House Rules, question time normally does not exceed one and a half hours, that is, each question is allocated about 15 minutes on average. After a Member has asked a main question and when the relevant official has given reply, the Member who asks a question has priority to ask the first supplementary. Other Members who wish to ask supplementary questions will please indicate their wish by pressing the "Request-to-speak" button and wait for his/her turn.

Supplementaries should be as concise as possible so that more supplementaries may be asked by Members. Members should not make statements when asking supplementaries, as this contravenes Rule 26(5) of the Rules of Procedure.

PRESIDENT (in Cantonese): First question.

Air Pollution

1. **MS EMILY LAU** (in Cantonese): *Madam President, on the 14th of last month, the Environmental Protection Department (EPD)'s general ambient air quality monitoring station in Tung Chung recorded a record-high Air Pollution Index (API) reading as high as 201, indicating a "severe" level of air pollution. A number of green groups have pointed out that the serious air pollution problem has its main source from the pollutants emitted from mainland plants and coal-fired power stations in both Hong Kong and the Mainland. In this connection, will the executive authorities inform this Council whether:*

- (a) *they have studied the reasons for the deteriorating air quality in Hong Kong; if so, of the results of the study and the improvement measures in place and the effects such measures are expected to bring about;*
- (b) *they have discussed with the relevant departments in the Mainland ways to solve the problem of emissions within the Pearl River Delta (PRD) Region, and whether both sides have exchanged views on*

environment-friendly technologies; if so, of the details of their discussion and exchange as well as the achievements; if not, the reasons for that; and

- (c) *they will discuss with the relevant departments in the Mainland to seek co-operation in utilizing renewable energy sources for power generation, so as to reduce environmental pollution and solve the energy shortage problem; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President,

- (a) The EPD has all along been actively studying the causes of air pollution in Hong Kong and in the Region together with the most practicable mitigating measures. In general, air pollution is closely related to the economic activities of human beings. With a higher level of economic activities, demand on energy from society and the volume of traffic will increase accordingly. A large amount of air pollutants will inevitably be produced during the process. Since 1999, the Government has implemented a number of enhanced control measures to reduce motor vehicle emissions, including introducing LPG taxis and ultra low sulphur diesels, tightening the motor vehicle emission standards to Euro III and retrofitting pre-Euro diesel vehicles with particulate removal devices. Comparing with 1999, the particulate matters and nitrogen oxides (NO_x) emitted by motor vehicles had dropped by 67% and 29% respectively in 2003. The concentrations of suspended particulates and NO_x at roadside had dropped by 13% and 23% respectively during the same period. However, the concentrations of respirable suspended particulates (RSP) recorded by general air quality monitoring stations had increased from their 1999 levels by 4% whereas that of ozone had increased even by 18%.

The research and actions taken by the Government in this aspect in recent years include a study on regional air quality jointly conducted by the Hong Kong EPD and the Guangdong Environmental Protection Bureau during 1999 to 2002. The results include an emissions inventory of the PRD with 1997 as the base year to

determine the locations of pollution sources and their amount of emissions. Computer simulation was further employed to figure out the distribution of pollution and to calculate quantifiable options for controlling pollution sources. The study found that volatile organic compounds (VOCs) were essential to the formation of ozone and smog. Therefore, the Government proposed in this September to require importers or manufacturers of paints, printing ink and certain consumer products to register with the EPD and provide labelling on the container or packaging of the products as part of the efforts to reduce the emissions of VOCs. The public consultation on the proposal is underway.

The study has re-confirmed that air pollution observes no territorial boundary. The double-digit economic growth in the PRD has already exerted enormous pressure on environment. Apart from the pollution from energy and transportation, the PRD is also facing industrial pollution. Although the Mainland is strengthening its control on pollution produced in industrial processes, the problem has not yet been completely resolved. To address this regional air pollution problem, we should not only control emissions from local motor vehicles, but also co-operate with Guangdong to reduce the total air pollutant emissions in the whole PRD.

Hong Kong's economic recovery in the past year has increased the demand for energy. Together with the fuel problem, there is evident increase in the pollution from electricity generation process. At present, the most important task is to implement energy saving measures. The Electrical and Mechanical Services Department has already been promoting Energy Efficiency Labelling Scheme for various products and Energy Efficiency Registration Scheme for Buildings. The Bureau has also required all government offices to maintain room temperature at or above 25.5 degrees Celsius, which could save 10% of electricity used in air conditioning. In addition, we are actively pursuing with the two power companies on emissions control and increasing the share of natural gas in electricity generation. The discussion with power plants will proceed in accordance with the provisions in the existing Scheme of Control Agreement.

- (b) On the basis of the study on regional air quality, the Hong Kong SAR Government and the Guangdong Provincial Government reached a consensus in April 2002 to reduce by 2010, on a best endeavour basis, the regional emissions of sulphur dioxide (SO₂), NO_x, RSP and VOCs by 40%, 20%, 55% and 55% respectively, using 1997 as the base year. Achieving the targets will not only enable Hong Kong to meet its current Air Quality Objectives, but also significantly improve the air quality of the PRD and the smog problem in the region.

In December 2003, the two Governments jointly drew up the Pearl River Delta Regional Air Quality Management Plan with a view to meeting the above emission reduction targets. A special panel has been set up to follow up that plan. To date, the panel had conducted nine working meetings and four site visits.

After two years of co-operation, the two Governments are on the way to set up a regional air quality monitoring network this year. After testing, the network will be in full operation in the middle of next year to provide comprehensive and accurate air quality data. We will also complete a manual for compiling emissions inventory to enable both sides to follow a consistent approach in assessing emission levels and progress of emissions reduction tasks. Our Bureau will continue our efforts in studies and consultation on environmental policy with Guangdong Province with a view to improving regional air quality through sustained co-operation.

- (c) With respect to renewable energy (RE), our present focus is on the research of its potential for wider application and promotion to the public. While there are abundant RE resources in the Mainland (such as the scheme to import electricity from the western provinces), the mainland authorities attach much importance to the reasonable exploration for and application of such resources to support local development in view of the rapid growth in the demand for electricity. The potential to export RE to Hong Kong at this stage is very limited. Hong Kong has all along been relying on the private sector for supplying its electricity. We will however

give assistance to the power companies as appropriate when they encounter problems in developing energy sources outside Hong Kong.

Madam President, as this is a very long main reply, so I have not answered the question concerning the phenomena on 14 September. As a matter of fact, in this year, that is, 2004, we have seen many cases similar to Tung Chung, that is, a severe level of pollution. This is due to the increase in pollutants and meteorological reasons. The changes in climate also have a great influence on us.

PRESIDENT (in Cantonese): Honourable Members, there are 17 Members waiting for their turn to ask supplementary questions. Would Members be as concise as possible when asking supplementary questions so that more Members may have a chance to ask questions.

MS EMILY LAU (in Cantonese): *Madam President, this question is a concern shared by the entire community and it will also be followed up in the panel meeting next Monday. The Secretary said that a number of measures were implemented in 1999 and at that time the measures were fully supported by the eight political parties with a consensus reached between them. The Secretary said that after the implementation of these measures, less suspended particulates were emitted by motor vehicles. However, she also said that, comparing with 1999, the concentrations of RSPs recorded by general air quality monitoring stations and ozone concentrations had increased last year. May I know the reasons? Since emissions have reduced, do these figures show that they are all caused by pollution sources outside Hong Kong? Does it mean that there is nothing we can do no matter how hard we try? Would the Secretary care to explain what she meant when she said that the objectives would only be reached 10 years later, that is, in 2010? Does it mean that we will have to put up with such a deploring level of air quality for six or seven more years?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, what Ms LAU has said is exactly what I have

in mind. With respect to local emission, our measures of controlling emission by motor vehicles have been successful, evident in the levels recorded by roadside air quality monitoring stations placed at lower locations. As regards the general air quality monitoring stations, since they are placed at the top or in the middle levels of buildings, they give us a general picture of air pollution in Hong Kong. There are two causes for it. First, local pollutants emitted from a height, such as those from the chimneys of power stations. Their emissions will affect the atmosphere. Second, pollutants coming from the north in the PRD and these are growing all the time.

DR YEUNG SUM (in Cantonese): *Madam President, in part (b) of the main reply, the Secretary mentioned that an agreement had been entered into with the PRD and Guangdong Province and that a consensus had been reached in April 2002 to reduce by 2010, on a best endeavour basis, the regional emissions of sulphur dioxide, NOx, RSPs and VOCs by 40%, 20%, 55% and 55% respectively. We would certainly support these objectives provided that they are sound. May I ask the Secretary, as it is now 2004, whether any adjustment has been made to add or subtract the figures in these objectives? What is the anticipated situation in future?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, we have drawn up a number of targets with the Guangdong Provincial Government and it goes without saying that whether these targets can be achieved would depend on the measures taken. In this regard, I have a lot of information at hand and perhaps let me cite a few items. I hope I can tell Members more in the panel meeting next Monday.

Let me first talk about the situation in Guangdong. Measures will be taken to address the processes which cause the most serious pollution in the power plants and motor vehicles, such as restrictions on the use of fuels of a high sulphur content, eliminating small coal-fired power generation units and installation of desulphurization facilities, reducing the emission of pollutants during power generation, eliminating those coal furnaces and industrial furnaces, production processes and equipment which consume enormous energy and cause serious pollution, reducing the emission of VOCs in paints, developing rapid transit systems in cities including green measures like improving the emissions

from the tail pipes of vehicles, control of pollutions caused by tail pipes of vehicles and building a system to produce and supply clean and diversified energy. All these would require time to achieve, but at least this can be done in terms of some progress made and recognition given in government policy. Starting from July 2004, emission standards similar to Euro II have been imposed on new vehicles. Efforts are also made to make all vehicles sold and registered from July 2005 onwards comply with the Euro II emission standards. These are the first steps taken and they are the results of our hard work. Fuels will also need to comply with these measures and the models of vehicles will have to be changed. Vehicles which do not comply with the new requirements cannot be driven on the roads in Guangzhou any more after July 2005 and they will be phased out. We will strive to do better and we hope that we can follow the footsteps of big cities on the Mainland, such as Beijing and Shanghai, to formulate an industrial policy for motor vehicles that will address the pollution problem at its roots. This means that the vehicles manufactured will have to comply with the Euro III emission standards. Another thing we want to do is to bring down the sulphur content in diesel oil from 0.5% to 0.2% starting from 2002 and to introduce diesel oil with 0.05% sulphur content in certain areas. All these targets can be achieved only through joint efforts made with them because this will also affect the diesel oil used by our cross-boundary vehicles.

MR LEE WING-TAT (in Cantonese): *Madam President, the information in the reply given by the Secretary shows that the emissions from vehicles in Hong Kong are decreasing while there is more and more information showing that the source of pollution in Hong Kong is in the PRD. Madam President, here comes my supplementary question. It was in 2002 that the Government signed an agreement with Guangdong Province, but monitoring stations were set up only in 2004 and the first batch of data would be collected only in 2005. May I ask the Secretary if this pace is too slow, and as many people say, the Provincial Government in Guangdong is unable to oversee the specific enforcement of the emissions agreement by the counties and municipalities? Would you agree that there is a great disparity between the two places in this problem so that the problem of air pollution will continue to affect Hong Kong for quite some time to come?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): On the question of air pollution control, the situation is the same

throughout the world. There are always disputes between a more developed city and a developing city. There are no limits and borders when it comes to air pollution. So we can only exert our best in the co-operation with Guangdong. With respect to long-term policies, we hope that they can implement anti-pollution measures early, such as those about using clean energy, improvement of power plants and industrial furnaces, and so on. They have their own timetable, but as to how much they can do, it is beyond our control. As to whether or not the pace is fast or slow, I think they have already made tremendous progress as compared to the situation 10 years ago. As to whether or not the pace is sufficiently fast, of course I would think that it is not. On the question of ameliorating air pollution, we can look at a very good example and that is, Los Angeles. The city has been working on that for more than a decade. It is because while causing air pollution is easy, to reduce it would mean investments in facilities and equipment, and land is also needed. For example, if a power plant has to install desulphurization facilities, the situation is better on the Mainland because land is readily available. But this is not the case with Hong Kong and land is a great problem here. So I can tell Mr LEE that they have done their best and it is not an easy thing for a monitoring network to work well, for it involves many provinces and counties. As Members have said, a network can be established only with the consent of all the places in a province, such as counties and municipalities. When this network is in place, at least we can get some feedback and we will be able to know what the real situation is and whether or not our measures have made things better or worse.

MR ALBERT CHAN (in Cantonese): *Madam President, the Secretary directs the focus of many pollution problems to the PRD and often she avoids talking about pollution in Hong Kong, especially the pollution problem in Tung Chung. As pointed out by the Intergovernmental Panel on Climate Change of the United Nations, the exhaust fume produced by the engines of a passenger aircraft from landing to take-off is equal to that produced by a vehicle travelling 6 400 km, producing emissions such as NOx, carbon monoxide, sulphur dioxide and ozone. One hundred landings and take-offs by Airbuses.....*

PRESIDENT (in Cantonese): Mr Albert CHAN, please come to your supplementary direct.

MR ALBERT CHAN (in Cantonese): *What I wish to ask is, the amount of carbon monoxide produced is 3 103 kg and the problems caused include respiratory diseases, damages done to the lung and causing cancer.....*

PRESIDENT (in Cantonese): Please put your supplementary question.

MR ALBERT CHAN (in Cantonese): *All the information is meant for the Secretary's reference. Will the Secretary look into the impact of such air pollution on Tung Chung, the harms it causes to the body of residents in Tung Chung and try to reduce air pollution and improve air quality?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, Mr Albert CHAN has raised an interesting issue. Actually, I have heard similar things when I was in Europe some time ago. Quite a number of international experts are looking into the issue to examine if the arguments are valid or not. The reason is that after the September 11 attack, the aviation industry has been dealt a severe blow and many people representing vested interests are disseminating lots of messages. We have to study whether they are substantiated by facts or not. After the relocation of the airport from Kai Tak, the pollution problem has not eased. According to the arguments espoused in that report by the United Nations, the air quality in the Kai Tak area now should have improved greatly or that marked improvements can be seen, but actually there are not. So when the ozone in Tung Chung causes the air quality readings to rise to 201, it is entirely due to the photochemical reactions, that is, such high levels are due to the effect of strong sunlight. And when the sunlight factor which helps this chemical reaction is taken away, as when the sun sets three hours later, the readings will drop to 75. But this is a very complicated issue of study in environmental chemistry. It would be too rash to jump to the conclusion that the airport is the cause of air pollution just on the strength of the report.

PRESIDENT (in Cantonese): Sorry, Mrs Selina CHOW, please sit down for the time being. It appears that Mr Albert CHAN does not think that the Secretary has answered his supplementary question.

MR ALBERT CHAN (in Cantonese): *Madam President, the Secretary has not answered my question. I asked her whether or not she would look into the issue. To date, the EPD has not made any study in Tung Chung. So would the Secretary consider making a study in this respect in Hong Kong so that the life and health of the residents of Tung Chung can be protected?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, we have definitely been studying the problem. First, air samples are collected there. As I have said just now, this can be seen in the air pollution index readings, like the level of 201 which I have just cited, and that also includes ozone monitoring work. We also notice a drop in the readings and that is largely related to photochemical reactions. Second, with respect to research, we have computer simulations of the air and such work has been carried out in Hong Kong for many years and a substantial level of accuracy is achieved. We will continue with such research work.*

MRS SELINA CHOW (in Cantonese): *Madam President, I was glad to hear from the Secretary that targets have been set with the co-operation of the Guangdong Provincial Government, but I was also surprised to hear from the Secretary earlier that she was not sure if one of the targets could be reached by 2010. I thought the possibility of reaching the targets would have been considered when such targets were set in the first place. Besides, 2010 seems to be too late. May I ask the Secretary, with respect to emission reduction, now that nine work meetings have been held and four site visits made, whether any of the targets has been achieved as a result of the co-operation with the mainland authorities? With respect to joint efforts, as there are many Hong Kong manufacturers in Guangdong Province, will the Hong Kong Government do anything to urge Hong Kong manufacturers to achieve emission reduction targets as soon as possible?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, we have certainly laid down such targets and I can say that the Hong Kong side will achieve these targets. As to whether we will go to Guangdong Province to effect management of such targets, we will*

certainly not do that. I was only saying that the targets had been set, and as for the progress they are making, we have some mechanisms to monitor that. Actually, 2010 is not too late for, as I have said, we have to make big moves to improve air quality and the installation of related facilities is also a huge task. Mrs Selina CHOW has just mentioned that many Hong Kong manufacturers have set up factories in Guangdong. We have looked into that and various Members have mentioned that fact to us and I have also tried to examine their files to see who are Hong Kong manufacturers. They should do their part to fulfil their duties as corporate citizens by complying with the international emission standards. We will continue working on this, but we must note that pollutions on the Mainland, especially the emissions which cause air pollution, are largely caused by the some 90 power plants there. Some of the BOT projects which saw investment by some Hong Kong businessmen have been returned to the municipal or county governments and these power plants are the first ones to reduce emissions and introduce pollution control measures such as installing desulphurization facilities. These formed one of our inspection subjects last year.

MRS SELINA CHOW (in Cantonese): *Madam President, the Secretary has not answered the first part of my supplementary question. After nine meetings and four site inspections, has any of the targets set been achieved?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Our target is in the ultimate emission standards. Certainly, it is not possible to achieve any emission reduction in real terms in just one year, but we planned the steps to be taken and we have started installing desulphurization facilities. If the desulphurization facilities are installed and working well, then the target of reducing emission can hopefully be met. So work has already begun and it is making progress. Only that we have not yet seen the actual benefits.

PRESIDENT (in Cantonese): We have spent more than 24 minutes on this question. So I think we should not spend any more time on this question. However, as there are still many Members waiting for their turn, I hope these

Members who do not have a chance to ask their questions can follow up in the panel meeting.

Second question.

Central Drug List

2. **MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, regarding the Hospital Authority's (HA) plan to introduce the Central Drug List, that is, the Patients' Choice Items Scheme, will the Government inform this Council whether it knows:*

- (a) *the details of the Scheme, such as the implementation date, its scope and the number of people affected;*
- (b) *the estimated savings in expenditure to be achieved by implementing the Scheme; and*
- (c) *the criteria adopted for compiling the above List; whether the HA will conduct public consultation before implementing the Scheme, and whether it has considered involving the public in compiling the List?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, before replying to the three parts of Miss CHAN Yuen-han's main question, I will first describe the present situation regarding the drug formularies used by hospitals under the HA. For many years, each hospital is responsible for compiling its own Drug Formulary. The Chief Medical Officer or senior doctor of a hospital will make the decisions on the drugs required by patients and request the hospital to procure them. In other words, at present there is no standard Drug Formulary for all hospitals. This has given rise to situations in which some patients can use a certain drug in one hospital but the drug is not available in other hospitals. Therefore, we believe that the HA has to lay down specific service standards and provide a central Drug Formulary to enable patients to receive service of the same standards in different hospitals. Such service standards are not unique to Hong Kong. In many countries, particularly in countries which have predominantly public health care systems,

such as the United Kingdom and Australia, have already put in place these standards. In addition, after compiling such a list, our front-line workers, doctors and dispensers can tell patients clearly which drugs can be provided to them. This arrangement will help reduce disputes between doctors and patients or between dispensers and patients.

Second, a team under the HA has begun to make preparations in this area two years ago. A number of meetings have been convened in this period. A total of 13 teams under various specialties made decisions on which drugs are considered essential and on the choices available. The decisions are made based entirely on the efficacy and cost-effectiveness of the drugs rather than purely on economic considerations. The authorities are also aware that after making the decisions, no expenses can be saved. Changes were made to only 1% to 2% of the drugs, with some old drugs eliminated and some new ones added. Generally speaking, I believe this will only raise the standards rather than lower it.

Concerning the date, discussion is now underway. It is hoped that they will first pay attention to this standard Drug Formulary. In addition, attention should be given to how drugs not included in the Drug Formulary should be dealt with. There are mainly four types of such drugs, the first being some relatively new drugs whose efficacy has not yet be clinically proven; the second being the so-called lifestyle drugs such as weight control drugs, the third being very expensive drugs with marginal benefits. We believe that public money should not be spent on these three types of drugs. Presumably, this area will not give rise to too much controversy.

However, the fourth type of drugs is those that have high efficacy but are quite expensive. The HA simply cannot afford them. On this type of drugs, it is necessary to deal with them positively so that they can be made available to members of the public when necessary but will not break their banks. We have already made this point to the HA in the hope that they will formulate policies in this regard. If the Health, Welfare and Food Bureau considers the proposal feasible after examining it, it will further consult patient groups, the teams or the industry before finally submitting it to the Panel on Health Services for consideration.

For the time being, this is how we plan to proceed. A system granting waivers and subsidies is also in place in the HA. The Samaritan Fund can offer

assistance to patients without the means. This is the gist of my main reply and I will answer the supplementaries later.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, I wish to ask the Secretary something via the President. The Secretary did not follow his script in giving his main reply, but he has given us the gist. Although by compiling this Central Drug List, different drugs used by different hospitals will be grouped together, the efficacy of some drugs is not quite the same after all. For example, if I take an aspirin tablet, my stomach will be affected when it passes through my stomach, but if another type of drug has a coating, its effect on the stomach will be minimal because the coating has not yet dissolved when it passes through my stomach. When compiling the Central Drug List, it is possible that they may choose the former, however, since I have stomach problems, I have to take the latter. According to the Secretary's main reply, if you have to take drugs not included in the standard Drug Formulary but cannot afford it, you can apply to the fund. However, there are certain restrictions on personal assets. At present, it is not necessary to pay extra to obtain this kind of drug. Many patients worry that the compilation of a drug list is just a pretext to increase the charges, that is, to treat some ordinary drugs as specialist drugs and charge higher fees for them. In this connection, may I ask the Secretary how he will deal with situations similar to that mentioned by me?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): *Madam President, first of all, I have to stress that in compiling this Central Drug List, the HA has not deleted any class of drugs. Miss CHAN has mentioned two types of drugs, one being aspirin, the other being aspirin with an enteric coat, which does not have side-effects. This drug will also be retained and the only difference is that in the past, there might be 20 types of similar drugs but we will now examine which ones are used less often, more expensive, outdated or problematic in terms of supply and then delete them. The type of drug mentioned by Miss CHAN will still be retained, so there is no cause for concern. Should this type of drug be needed in future, we can still provide it.*

DR KWOK KA-KI (in Cantonese): *Madam President, although Secretary Dr York CHOW maintained that the Drug Formulary is not designed to reduce health care expenditure, I fully appreciate the difficulties encountered by him,*

who can be described as "a deft housewife having no rice to prepare a meal". In fact, the problem described by Miss CHAN Yuen-han just now will definitely arise. With the rise in the prices of drugs and the launch of many new drugs in the market, I believe the long-term problems confronting health care cannot be solved merely by compiling a Central Drug List. May I ask the Secretary if, under the present tight financial circumstances, any solution can be conceived to solve, in the relatively long term, the problems caused by the rise in drug prices and even problems which cannot be solved by compiling this Central Drug List? Moreover, concerning this Drug Formulary, different hospitals and departments have different considerations in choosing drugs. When compiling this Drug Formulary, is there a system of greater transparency that will enable doctors in the HA or other members of the sector who are not under the HA but who possess the relevant professional knowledge to put forward proposals or revisions to the contents of this Drug Formulary? Thirdly, Secretary Dr CHOW mentioned in the main reply those drugs which have greater efficacy but are more expensive. I believe he was referring to drugs for treating cancer. In fact, as far as I understand it, at present, most patients in hospitals under the HA have to bear the cost of this kind of drugs which have greater efficacy but are more expensive. I believe this will create a great deal of difficulties for many members of the public, however, the root of the problem does not lie in whether patients will purchase this type of drugs but probably in the lack of a clear direction on the part of the HA as to which category of patients to assist. To cancer patients, in fact they need.....

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, although I did not keep the exact time, you have spoken for more than two minutes. You have to know that question time is very precious.

DR KWOK KA-KI (in Cantonese): *Alright. Sorry about that.*

PRESIDENT (in Cantonese): I hope you can cease asking questions. Could you please first sit down and let me tell you the relevant procedures?

DR KWOK KA-KI (in Cantonese): *Fine.*

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, this is the second occasion that you speak in question time. When asking supplementary questions, you can only ask one question, however, you have asked two questions in a row just now and as far as the third part is concerned, you were expressing your personal opinion, then you wanted to go on putting other supplementaries. I consider your first supplementary not at all relevant to the subject of the main question, so I instruct the Secretary to answer only the second question asked by you.

Secretary, did you catch the second supplementary asked by Dr KWOK? Secretary, please answer it.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): The second supplementary asked by Dr KWOK is about what approach we have adopted in compiling this Drug Formulary and whether front-line workers have been allowed to take part. I can reply in the affirmative that these 13 clinical teams are headed by Chief Medical Officers and the decisions were made after discussions with front-line doctors in every hospital.

PRESIDENT (in Cantonese): Secretary, sorry, Dr KWOK Ka-ki is a new Member. In his supplementary, he has in fact also asked whether health care workers who do not belong to the HA also have the opportunity to take part.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): For the time being, health care workers not under the HA cannot take part. However, I believe we have adhered to professional standards in compiling the Drug Formulary and made decisions according to international evidence-based medicine. We will also be receptive to international guidelines such as those of the National Institute for Clinical Excellence of the United Kingdom, which have provided very clear and timely guidelines to us.

DR FERNANDO CHEUNG (in Cantonese): *Madam President, we know that in respect of psychiatric drugs, many new drugs have been launched in recent years. Concerning the use of these new psychiatric drugs or newer drugs, are*

there any clear guidelines in the Central Drug List? As far as we know, one of the approaches is to use older types of drugs first before using new ones. In deciding whether to use older or newer types of drugs, and in choosing the drugs, are there clear guidelines?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I wish to thank Dr CHEUNG for his supplementary. Regarding some particularly new drugs, the HA will discuss with the specialists concerned and decide under what circumstances will new drugs be used. The efficacy of new drugs may sometimes be better but they may also have some new side-effects. Therefore, it will be up to them to decide which types of patients will use the new drugs and which patients who have problems with older types of drugs can switch to new drugs, and so on. There will be different guidelines for different clinical cases. Concerning some rather special, or shall we say, even rare, extraordinary, difficult and diverse illnesses, the HA will only allow senior doctors to make the decisions to avoid wasting drugs. This is also one of the approaches.

MR WONG KWOK-HING (in Cantonese): *Madam President, I think that patients are the actual users. Only patients have real appreciation of the efficacies, side-effects or impacts of the drugs. What is the Government's justification in refusing to consult patients or allow patients to take part when compiling this Central Drug List?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, generally speaking, when patients seek medical consultation, they will heed the advice of the doctor and seldom argue with the doctor. Therefore, I believe this is an issue of communication. Second, we will discuss the procedures of compiling the Drug Formulary and the details thereof with representatives from relevant organizations. Since new drugs are launched in the market every day, one cannot say that the Drug Formulary, once compiled, will not be amended in the future. We must put in place a mechanism to regularly incorporate newly launched drugs into this Drug Formulary and delete old ones from it.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I wish to give the Secretary an example. There is a drug known as "Gleevec" for the treatment of leukaemia, which costs about \$16,000 a month in medication. The Government has not yet included it as an approved drug, although all doctors say that the efficacy of this drug is very high. Our concern is, when the Government decides if a certain drug should be included in the Drug Formulary, its greatest consideration is the price of the drug and only cheap ones will be included in the Drug Formulary while expensive ones will be described as not cost-effective. I hope the Secretary can make an undertaking that the prices of drugs are by no means a factor considered by the Government and only the efficacy of drugs will be considered. I found the term "cost-effectiveness" in the main reply given by the Secretary and it has made my legs tremble, because the meaning of cost-effectiveness is to eliminate drugs that are expensive. In view of this, can the Secretary make such an undertaking?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, let me add a few words. This drug called Gleevec is at present used on two major types of cancer, one being leukaemia, the other being gastrointestinal stromal tumor, which is a rarer form of tumour. In respect of leukaemia, every year there are several hundred patients. If we are to subsidize all patients, expenditure in the range of \$2.7 million to \$4.5 million will be required each year. This drug is truly efficacious, I must admit, but in view of the increasing number of patients, what can we do under such circumstances? Dr KWOK has also raised the issue of how we should meet our health care expenditure. The principle being considered by us is that, I do not have any proposal yet, however, our principle is that those who can afford should shoulder the burden themselves but we must assist those who cannot. Under such a principle, what mechanism should be adopted to deal with this matter? Please give me some time so that we can present this issue together with our proposal to the Panel on Health Services.

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

DR YEUNG SUM (in Cantonese): *Madam President, during the elections, many elderly people questioned us if we supported this policy. This Central*

Drug List is intended, to put it in another way, to make patients buy their own drugs. The Secretary said just now that patients would not argue with the doctor when they seek consultation. This is actually because patients, including I myself, do not know what is going on. Concerning the drugs prescribed or the treatment protocol, I have no idea which ones are good and which ones are not so good, nor can we make enquiries, since this is a matter of knowledge and of professional expertise. Ordinary people, for example the elderly, have limited knowledge and some of them have mobility problems. When they get the prescription, they do not know how they can buy the drugs no matter how they bustle around. There are also people with financial difficulties who do not receive any Comprehensive Social Security Assistance (CSSA). In this connection, may I ask the Secretary if he has considered — initially I thought this measure will help save money, however, you stated clearly in the main reply that the aim is not to save money — in that case, what the effect of implementing this proposal is? Regarding the situations that I have mentioned, has the Secretary given serious consideration to the problems in actual implementation? In the case of the elderly people whom I have mentioned, they do not have much money and some of them even have financial difficulties but they are not receiving any CSSA, in addition, they have limited knowledge and are in poor health and have mobility problems. How can they buy any drugs on their own?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Dr YEUNG may have a little misunderstanding of our approach. Firstly, it is not the intention of the HA to charge patients for the drugs listed in this Drug Formulary. This Drug Formulary covers 99.9% of the drugs needed by patients. I believe it is very important to maintain our standards in this regard. If hospitals in Hong Kong use different types of drugs, it may be necessary for patients to seek consultation everywhere until they can find the drugs they have been taking. I think this will involve a great deal of hassle and lead to a lot of arguments between front-line workers and patients. On the other hand, concerning the drugs not included in the Drug Formulary, which you have mentioned, I have said that we will request the HA to make proposals on how to deal with drugs not included in the Drug Formulary. After examination by the Health, Welfare and Food Bureau, they will be presented to the general public for discussion in due course.

PRESIDENT (in Cantonese): Third question.

Disruptions of Railway System

3. **MR LAU KONG-WAH** (in Cantonese): *Madam President, since July this year, a number of incidents have occurred successively in the railway system of the MTR Corporation Limited (MTRCL), causing disruptions to railway service. In this connection, will the Government inform this Council whether:*

- (a) *the MTRCL has upgraded any major components and devices of its railway system over the past five years in response to the failures, ageing and operational obstacles of the system, or arising from the need to achieve system unification for various lines; if so, of the details of the upgrading work;*
- (b) *it knows the methods and procedure adopted by the MTRCL in the routine inspection and maintenance of its railway system, and whether and how such work is monitored by the authorities; and*
- (c) *in order to press the MTRCL to take a more proactive approach in improving its services, the authorities will, by exercising the power of the Chief Executive in Council under the Mass Transit Railway Ordinance (the MTR Ordinance), give instructions to or impose fines on the MTRCL; if so, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, in the past five years, the MTRCL spent about \$2 billion a year on maintaining and upgrading its equipment including various systems, civil structures, tracks and trains in order to maintain system efficiency and provide better service quality. Major upgrading projects initiated in recent years include:*

(1) *Automation Train Control Replacement Project*

The automatic train control signalling system of the Kwun Tong, Tsuen Wan and Island Lines was completely replaced and renewed by an advanced system in 1998. The replacement included all trackside and train-borne signalling equipment and apparatus. After the replacement, the maximum number of trains within the system is increased and reliability of the train services enhanced.

(2) *MTR Train Modernization Programme*

The MTR Train Modernization Programme was started in August 1998 and completed in September 2001. The programme has enhanced passengers' environment as well as the Train Information System such that it can help monitor more systems on the trains and provide more real time advice to the Train Operator in dealing with incidents.

(3) *MTR Platform Screen Door Retrofit Programme*

The Corporation launched the MTR Platform Screen Door Retrofit Programme in 1999 to provide passengers with a more comfortable travelling environment and to reduce energy consumption. The project covers 30 underground stations on the Kwun Tong, Tsuen Wan and Island Lines and is expected to be completed by 2006.

(4) *MTR Station Improvement Programme*

The MTRCL has been carrying out the MTR Station Improvement Programme since 1999 in order to improve the environment of MTR Stations and operational efficiency. Major improvement works under the programme include refurbishment of concourse and platform areas, increasing the number of passenger lifts in MTR stations, improving air-conditioning in underground MTR stations, enhancing the public address system and closed circuit television, and so on. This rolling programme of station improvements is targeted to be completed by 2006.

Under the MTR Ordinance, the MTRCL has the statutory responsibility to maintain a proper and efficient service. As regards its routine inspection and maintenance of the railway systems, the MTRCL is obliged to set up maintenance manuals and procedures for its railway facilities and deploy adequate competent personnel to carry out maintenance works so as to ensure railway safety. The Hong Kong Railway Inspectorate (HKRI), an independent expert office established in the Government, oversees the design, operations and maintenance of all railway systems, maintains close contact with the two railway corporations and provides advice or guidance on matters which may have safety implications (including maintenance programmes). In addition, the Transport Department (TD) also monitors the service performance of the MTRCL under the Operating Agreement between the Government and the MTRCL.

Under the MTR Ordinance, the Chief Executive in Council may, if he considers the public interest so requires, give directions in writing to the Corporation in relation to any matter concerning the franchise. If the Corporation fails to comply with the provisions of the MTR Ordinance or the Operating Agreement between the Government and the Corporation, or any directions given by the Government, the Chief Executive in Council may impose financial penalty on the Corporation.

The MTRCL's train service delivery and train punctuality have been consistently maintained at a level above 99.5% in the past few months, which is higher than the requirements set out in the Operating Agreement. We, therefore, have not given direction to or imposed financial penalty on the MTRCL under the MTR Ordinance at this stage.

In the light of the recent spate of unusual incidents, the Government and the MTRCL attach great importance to the root causes and implementation of follow-up actions. Under our existing monitoring mechanism, the TD and the HKRI have proactively taken follow-up actions with the railway corporation concerned, monitor the progress of the comprehensive investigation and implementation of remedial measures, in order to avoid recurrence of similar incidents.

Following discussion with the Government, the MTRCL has decided to engage an international railway expert to conduct an independent and comprehensive review on its entire railway system, with a view to further enhancing its service performance and safety aspects. The MTRCL will take a proactive approach to implement effective measures to address any problem identified in order to further enhance its maintenance mechanism and quality of the railway service.

MR LAU KONG-WAH (in Cantonese): *Madam President, under the law, the Secretary can give directions to the MTRCL, and even the Chief Executive can impose financial penalty on it. However, despite successive incidents in the past few months, the Secretary has not given any direction. Is it that the Secretary cannot in the least feel the dissatisfaction and concern of passengers? If, in the future, these incidents continue to occur successively, would the Secretary consider suggesting the Chief Executive to punish the MTRCL?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, regarding the recent incidents relating to the MTR, we do know that the public have certain expectations of the standard of transport services. So do Members of this Council. And once an incident occurs, there is bound to be much dissatisfaction. After the occurrence of an incident, I will, in the first instance, direct the Chief Executive Officer of the MTRCL to thoroughly investigate into the incident and submit a report on investigation to explain the causes of the incident and to identify ways of improvement.

I would like to explain to Members the Government's management of the MTRCL. On the monitoring of the operation of the MTRCL, we certainly have standards, and we also expect the MTRCL to meet certain standards. If they fail to meet the standards, we do have in place a mechanism of punishment, that is, the Chief Executive in Council will impose financial penalty on it under the relevant ordinance. The MTR Ordinance (Cap. 556, Laws of Hong Kong) provided that in more serious cases, apart from financial penalty, we can, under the most extreme circumstances, temporarily suspend or even revoke the franchise of the MTRCL.

With regard to its operation, we have set two different standards. First, train punctuality, and this standard of 99.5% refers to the services provided by the MTRCL. While we expect train service to absolutely meet this standard, we allow a certain degree of delay caused by possible minor problems with the electronic components, machinery and in respect of management. We consider that this 99.5% standard set by us is already a very high threshold compared to world standards. According to statistics, we do compare more favourably than many cities. That said, there are cities which have been doing better than us, and in these cities, all the mechanical units are arranged in duplicate and are therefore costly. So, after striking a balance between cost and safety, we decided to set the standard at 99.5%.

Second, public safety. I think this cannot be achieved simply by setting a standard. The recent incidents, for example, were all special incidents. The Government does not allow one single incident caused by regular minor problems with the mechanical components. We expect all the work to be fail-safe, that is, safety assurance. From a statistical angle, the probability of an accident is one to a million, which is very low. Of course, people may argue

about whether, with a probability of one to a million, an accident will take place now or a million years later. But still, this can be an indicator of the very, very low probability of accident. If there is any sign showing that public safety may be at risk, we will take a very proactive attitude. We will not only look at the figures. Nor will we wait until a certain number is reached before giving them directions. I do not know what Mr LAU Kong-wah referred to when he said that no direction had been given. We have immediately required the MTRCL to address the problem squarely and take actions. The MTRCL has taken actions and commissioned international experts to conduct investigation in order to gain a clear understanding of the incidents.

MR LAU KONG-WAH (in Cantonese): *The Secretary asked me how I have come to this view. Well, I can see it in the third and fourth paragraphs of the main reply. In the third paragraph she said that when the circumstances so require, directions will be given in writing.....*

PRESIDENT (in Cantonese): Mr LAU, you need state only the part of your question that has not been answered.

MR LAU KONG-WAH (in Cantonese): The part about why no direction has been given. I can note from the fourth paragraph of the main reply that no direction has been given.

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

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *It is true that we have not given directions on the requirement of the relevant facilities, because we have yet looked into the situation. So, it is difficult for us to direct the Corporation to do anything. I think there is some misunderstanding on this point. I have directed it to take actions, in order to find out what need to be done. But if we directed the Corporation to install a certain facility and the Corporation fails to do so, then we can punish it. Before imposing punishment, we still have to wait for the report of the experts. For*

example, if the experts concluded that seven actions must be taken and if the Corporation has taken none of these actions, we will direct it to take such actions and their failure to do so can be a cause for us to impose punishment on it.

MR ANDREW CHENG (in Cantonese): *Madam President, generally speaking, if we cannot ask supplementary questions in a meeting of the Legislative Council, you will ask us to follow up the issue at panel meetings. But unfortunately, the Secretary did not attend the panel meeting this morning and so, I hope that you, Madam President, can be more generous today by giving us more time to ask more questions. The Secretary was absent from this morning's panel meeting. Does it show that insofar as this issue is concerned, the Government has, in fact, often adopted an ostrich policy and acted as a mouthpiece, knowing only to ask the MTRCL and the Kowloon-Canton Railway Corporation (KCRC) to furnish reports? We hope that the Government will not only look at that 99.5% standard of service delivery and punctuality, so to speak, for this cannot reflect the reality. The problem now is the rate of system failures or the number of such failures. I would like to ask the Secretary this: Will she seriously consider making legislative amendments in order to set a more objective standard to reflect the current rate of system failures? Take the MTRCL as an example. A total of 1 160 minutes of failures were recorded in the past three months, and under section 16 of the existing Ordinance, does this already constitute a default? Is this an instance of a substantial breakdown of service? Since we could not put this question to the Secretary this morning, I would like the Secretary to tell us whether, under the Ordinance, the Secretary considers these 1 160 minutes of failures a substantial breakdown of service or a default which warrants penalty?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Madam President, I know that Mr Andrew CHENG was very unhappy with my absence from the meeting of the panel. However, on these professional issues relating to the MTR, I hope that Members can obtain a thorough understanding of the implementation and operational details from the executives of the corporations concerned at meetings of the panel — representatives from the MTRCL and KCRC also attended the meeting this morning — as well as from our colleagues in the Bureau and the Department. As I have said very clearly, we attach great importance to railway safety, and we*

do not assess their service by merely looking at their service delivery or train punctuality. The 99.5% standard is only meant to assess the general service quality. The purpose is to set a standard to indicate how many minutes of delay to the service during a journey of how long are considered unacceptable, with a view to ensuring the quality of service delivery.

On the question of safety, we cannot draw a conclusion simply by looking at the number of minutes. As I have said, we do not allow even one or two incidents. If we do nothing to find out the causes thoroughly, should we only proceed to punish it when a serious accident has occurred? Moreover, punishment carries little meaning, because the maximum penalty is only the revocation of the franchise. This is a passive method, and I think no Hong Kong people would wish to see this happen. On the contrary, as I said just now, on the question of safety, if we find that the incidents may have safety implications, actions will be taken in a comprehensive manner, and we will not be looking at the figures. We are not saying that only one incident has occurred now and we should wait until five incidents have occurred before actions will be taken. So, I think insofar as the handling approach is concerned, ours is slightly different from that expected by Mr Andrew CHENG.

MR ANDREW CHENG (in Cantonese): *I would like to know whether, under the existing Ordinance, these 1 160 minutes — or is there already a default resulting in a substantial breakdown of service? There is this Ordinance now, only that the Government has not invoked it. I am not suggesting that the Secretary must punish it, but she should at least state her position in respect of the policy of the Government. Does the Secretary consider 1 160 minutes of system failures in three months a substantial breakdown of service? If so, why does the Secretary not consider imposing punishment on it?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): 1 160 minutes of failures in three months are certainly a very large number and constitute an irregularity. As I said earlier, whether these incidents are caused by electronic problems, mechanical problems or problems with the supply of electricity, and while these are all independent incidents, they all took place in the past three months. In saying that the incidents are independent, I mean they are not repeatedly caused by failures in the same

system. But even if it is not the same system, there is still a probability of one to a million for a system failure to occur. We certainly must conduct comprehensive studies. I do not think that this is normal, and we cannot accept this figure. That is why I have required the MTRCL to thoroughly investigate into the incidents in the first instance and to engage independent international to conduct professional studies. As Dr York CHOW said earlier on, only the medical practitioners will know how to look at the problem. We, as managers, can only give directions, although we also have to be sensitive. Certainly, the community and Members have been urging us to take actions. We are aware of the problem and that is why these actions have been taken.

DR LUI MING-WAH (in Cantonese): *Madam President, may I ask the Secretary, in view of the recent spate of incidents with the MTRCL, if the Government has studied the nature of these incidents and examine whether they are systemic or occasional incidents? If they are systemic, does it have anything to do with the acquisition of refurbished carriages (as reported in newspapers)? That is, if they are systemic incidents, is there anything to do with the fact that the refurbished trains are not new trains?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): As I have just said, in the three incidents that have attracted much attention recently, the system failures had occurred due to different causes. So, on the surface, they do not seem to be systemic. It is, therefore, necessary for us to engage experts to check it all over again and examine if there are problems with the machinery, equipment, electronic apparatuses and also in such aspects as personnel, resources and maintenance, before we will know the root cause of the problem.

PRESIDENT (in Cantonese): Dr LUI Ming-wah, has your supplementary question not been answered?

DR LUI MING-WAH (in Cantonese): *Madam President, a follow-up question please. Are the trains involved in these incidents refurbished trains or brand new ones?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Cantonese): Madam President, we have both types of trains.

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

MR TAM YIU-CHUNG (in Cantonese): *Madam President, as more and more new railways have come into operation, the coverage of railway service will grow and stretch wider over the territory. It follows that more and more people will rely on railways as the major means of public transport. In view of this, how helpful in the Secretary's view are the HKRI and the TD in monitoring the safety and performance of the two railways? Is there a need to provide additional manpower to step up monitoring over the operation and services of the railways? The Secretary now appears to be relying on the assistance of overseas experts. What does the Secretary think in this respect?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Cantonese): Madam President, I believe the two railway corporations already have the largest teams of professionals in the region. No matter how we work to strengthen our professional departments, we are still no match for the railway corporations, and it is also impractical to draw a comparison between us. In fact, the two railway corporations should have a very good operational system and the talents required. Over the past decades, they have consistently provided services of a very high standard. So, we in the Government only have the responsibility to monitor their overall operation and set some standards, relying on their compliance with established international standards in their operation. As for their inadequacies, when problems arise, we certainly cannot stick to the rut or shy away from taking actions. Insofar as these incidents are concerned, our entire procedure is to first engage international experts to conduct consultancy studies and then we will determine the inadequacies that need to be addressed. However, it is basically impossible to replace the KCRC or the MTRCL with a full team of professionals. I think Members will understand this.

PRESIDENT (in Cantonese): Fourth question.

Usage of Golf Driving Range

4. **MR LI KWOK-YING** (in Cantonese): *Madam President, it has been reported that the usage rate of a golf driving range in Sha Tin, which had been managed by the Hong Kong Sports Development Board (SDB) until its dissolution, has remained low since its opening in 2002 because its opening hours failed to meet public needs and there had been inadequate publicity. In this connection, will the Government inform this Council:*

- (a) *of the criteria used by the SDB for determining the opening hours of the driving range, and the respective average usage rates of the driving range on weekdays and holidays in each of the past two years;*
- (b) *of the details of the revenue and expenses of the driving range in each of the past two years; and*
- (c) *whether, since the dissolution of the SDB on the first of this month, it has adopted any arrangements and measures to increase the usage rate of the driving range?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Madam President, the former SDB was responsible for the management of the facilities of the Hong Kong Sports Institute in Sha Tin. In 1998, in view of the increasing popularity of golf and in order to augment the sources of income, the Board of Directors of the then SDB endorsed the conversion of a relatively underused baseball/softball court and a grass soccer pitch into a golf driving range. The driving range, which formally started operation in December 2001, has 32 bays and is still a facility of the Hong Kong Sports Institute. It mainly caters for young golf players and beginners and it is also open for public use. Upon the dissolution of the SDB on 1 October this year, the Hong Kong Sports Institute Limited (HKSIL) has taken over the management of the Institute's existing facilities.*

- (a) *In determining the opening hours of the driving range, the former SDB had made its decision with reference to the findings of a market survey. The findings of the survey showed that the usage rate of the driving range in the daytime from Monday to Friday was lower*

than that on weekends and public holidays. In the light of such findings, the former SDB decided to open the driving range from 6 pm to 11 pm from Monday to Friday and from 8 am to 1 pm and 6 pm to 11 pm on Saturdays and from 1.30 pm to 11 pm on Sundays and public holidays.

There are two grass soccer pitches adjacent to the golf driving range. Though surrounded by safety nets, the golf driving range is closed temporarily when the soccer pitches are in use. The purpose of this is to avoid golf balls getting over the nets into the soccer pitches, thus ensuring safety for the soccer pitch users.

In the past two years (that is, 2002-03 and 2003-04), the average usage rates of the driving range from Monday to Friday were 31.2% and 26.3% respectively, whereas the corresponding rates on Saturdays, Sundays and public holidays were 31.1% and 28%. Considering the fact that usage of driving ranges is generally only high in the evening, and given the usage rates of the two driving ranges of the Leisure and Cultural Services Department (LCSD) as well as the distribution of and competition among the 17 similar driving ranges in Hong Kong, we consider an average usage rate of about 30% to be normal.

- (b) According to information available on the former SDB, for the past two years (2002 to 2004), the golf driving range had an operating surplus of \$410,000 and \$70,000 respectively. The drastic decrease in the operating surplus in 2003-04 was due to a fall in the number of patrons as a result of the SARS outbreak. Because of the outbreak, the facilities of the Institute were temporarily closed to the public and the revenue plummeted consequently. The expiry of two golf-related service contracts in 2003-04 also led to a further drop in revenue.
- (c) The management of the newly-established HKSIL are looking into ways and making efforts to increase the rate of usage and the rate of return of the driving range. In addition to organizing a series of promotional activities (such as concessionary charges for the use of the driving range, parent-child and youth golf camps, Golf Fun Days for corporations and schools), they are also considering

turning the driving range into a multi-purpose facility. According to a survey conducted by the management of the HKSIL, some corporations and organizations are interested in holding Fun Days at the driving range on Sundays and holidays. Therefore, the HKSIL believes that turning the driving range into a multi-purpose facility will be conducive to increasing the rate of usage and the rate of return of the driving range.

The SDB was formally dissolved on 1 October 2004 and the HKSIL took over elite sports training on the same day. It is the aim of the HKSIL to continue to develop elite sports in Hong Kong in a more cost-effective manner with more flexible modes of operation and management, and to secure more necessary resources and support for our elite athletes.

At present, local elite sports training is mainly conducted at the Hong Kong Sports Institute. However, golf is not one of the 13 identified elite sports. Therefore, we think that it is necessary to discuss with the Board of Directors and the management of the HKSIL whether the usage of the existing golf driving range as well as its way forward should be reviewed. We should also give careful consideration to the future demand of elite athletes for training venues and draw up the most suitable and reasonable strategy for long-term land use. We understand that the facilities of the Institute have been partially opened for public use under certain conditions, with the aim of fully utilizing resources, increasing revenue and reducing annual operation deficits. This practice should give no cause for criticism and it is a workable means to augment the sources of income. However, it is still necessary for us to weigh, on the "athlete-oriented" premise, the pros and cons and strike an appropriate balance between increasing revenue and providing the best support to our athletes. We will conduct an in-depth study of this issue with the Board of Directors of the HKSIL.

MR LI KWOK-YING (in Cantonese): *Madam President, if we compare this average usage rate of 30% to those of other golf driving ranges, it can be described as normal. However, for the ordinary users, a usage rate lower than*

50% would be considered as too low. As this driving range involves huge expenses, has the Government planned to, in the light of the needs of the people, conduct a comprehensive consultation on a territory-wide basis, with a view to changing the land use of the driving range or constructing other sports or public facilities for use by the public?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, at present, the Hong Kong Government is operating altogether four golf driving ranges which are open for use by the public. All these four driving ranges are managed by the LCSD. Among these four driving ranges, two are outdoor while the other two are indoor. Both indoor driving ranges have a usage rate of about 30%, which is similar to the one managed by the Hong Kong Sports Institute (HKSI). As for private driving ranges, they are managed by private operators on private management practices. As for the usage rates of driving ranges, they are mostly open for use in the evenings and are normally closed in the mornings. In this regard, the driving ranges are slightly different from the golf courses, which mostly have a usage rate of over 80% or even 90%. Due to the limited supply of land, the driving ranges are usually for practice by beginners, young players or fresh learners. As such, they are usually open for use during weekends or in the evenings. A driving range requires an extensive piece of land in order to comply with the established standards. Normally, the land should measure up to 100 yards or even 200 yards in stretch before it is considered compliant with the standards. In addition, it has to be surrounded on all its four sides so as to prevent golf balls from flying over the safety nets. Therefore, it has very stringent land use requirements. Although there are not many driving ranges in Hong Kong, it seems that they are adequate in meeting the demand in this regard. Therefore, we think that the present facilities are already sufficient for Hong Kong golf enthusiasts to take part in this sport.

MR WONG TING-KWONG (in Cantonese): *Madam President, may I ask the Secretary for Home Affairs how much money is required in constructing a driving range like this?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): As I check the past record of the former SDB, it is shown that the construction project of the driving

range started at the end of April 1994 and was completed in June 2000. The total project expenditure was \$14.55 million.

MR DANIEL LAM (in Cantonese): *Madam President, can the Secretary inform this Council, taking the revenues and expenses into account, what is the financial situation on a territory-wide basis of all the driving ranges managed by the Government? Secondly, will it contract out the operation of such poorly managed golf courses?*

PRESIDENT (in Cantonese): Mr Daniel LAM, this question is about a facility of the former SDB in Sha Tin before dissolution, and it is now under the management of the HKSI. But your supplementary question is on such facilities on a territory-wide basis, the scope of which is wider than the original subject matter. Perhaps I should give you some time to think about it again, and I can invite you to ask your question later. Do you agree?

MR DANIEL LAM (in Cantonese): *Thank you, Madam President. I would like to withdraw the supplementary question I have just raised.*

MR HOWARD YOUNG (in Cantonese): *Madam President, the Secretary provided an approximate usage rate of 30% at the end of part (a) of the main reply. May I ask the Secretary, with the exception of Saturdays and Sundays, whether the usage rate from Mondays to Fridays is calculated against the opening hours, or the time also covers the period from noon to 6.00 pm on weekdays? I ask this question because it would mean a great difference. I sometimes patronize such private driving ranges myself. I feel that they are really quite crowded in the evenings or on Sundays, and so on. So there is no reason why the usage rate should be as low as 30%, unless the off-peak periods are also included in the calculation.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, this percentage does not take the closed periods into calculation. So only the

opening hours are counted. For example, there are 32 bays in the driving range of the SDB in Sha Tin. We calculate the usage by counting how many persons have made use of these 32 bays.

PRESIDENT (in Cantonese): Mr Howard YOUNG, you will raise your next question in the next turn, will you not?

MR HOWARD YOUNG (in Cantonese): *I shall ask another question when my turn comes again.*

PRESIDENT (in Cantonese): Great, thank you.

MR LAU KONG-WAH (in Cantonese): *Madam President, according to the Secretary, these driving ranges mainly cater for young golf players and beginners. However, in order to save money, the range is open only in the evenings. Some students have booked many venues of LCSD for their practice sessions in the daytime. If the venues are closed during daytime, and during such periods of time, they are absolutely not available to the young players for practice, is this not a waste of resources? Does this not defeat the original intention?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, when the former SDB first adopted such opening principles and hours, they based their decision on the findings of a market survey. In other words, young golf players and beginners will generally go learning to play golf after work or after school, that is, in the afternoon or the evening. The decision was made with reference to the findings of a market survey.

MR HOWARD YOUNG (in Cantonese): *Madam President, I would like to follow up the supplementary question on the usage rate during weekends. As far as my personal experience is concerned, I still find the usage rate too low. I*

note that there are a lot of users making use of the facilities of the private driving ranges during weekends, and the majority of the users are motorists. I would like to ask this question: Does this venue follow the example of private driving ranges in providing ample parking spaces for motorists? Are there resident professional coaches in this driving range? All these are ways to attract more business. Have such methods been adopted?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, on the issue of parking spaces, we have considered this adequately. With regard to this aspect, we have formulated relevant measures to meet the requirements as far as possible. What are the major problems with the venue? I hope Honourable Members have taken note of my main reply. Allow me to repeat this, "There are two grass soccer pitches adjacent to the golf driving range. Though surrounded by safety nets, the golf driving range is closed temporarily when the soccer pitches are in use. The purpose of this is to avoid golf balls getting over the nets into the soccer pitches, thus ensuring safety for the soccer pitch users."

The grass soccer pitches are provided for use by elite athletes, that is, the athletes of the HKSI, whereas the golf driving range is open for use by the public. However, the public has to give way to elite athletes who use the grass soccer pitches. In other words, if the athletes hold some activities in the weekends, such as Saturday afternoon, or in the evening, then this driving range cannot be used. I think this has limited the opening hours of this driving range. As a result, there are less opening periods, thus reducing its competitiveness.

PRESIDENT (in Cantonese): Fifth question.

Works Projects Left Behind by the Two Municipal Councils

5. **DR RAYMOND HO** (in Cantonese): *Madam President, the two Provisional Municipal Councils (PMCs) were dissolved on 1 January 2000, leaving behind 169 capital works projects pending funding approval. In this connection, will the Government inform this Council:*

- (a) *of the respective names of and estimated expenditures on such projects which have received funding approval and those which have not;*
- (b) *whether it has assessed the social impact of the non-delivery of such projects; if it has, of the assessment results; and*
- (c) *whether it has set any funding timetable for such projects; if it has, of the details; if not, how the authorities will deal with such projects?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President,

- (a) Of the 169 outstanding projects of the two PMCs which were dissolved on 1 January 2000, 30 were environmental hygiene (EH) projects, while 139 were leisure and cultural services (LCS) projects.

(I) 30 EH Projects

Out of the 169 projects, 30 projects are related to environmental hygiene facilities. Eight of these projects have already been allocated around \$390 million. They include the Temporary Off-street Refuse Collection Point cum Public Toilet at Ma Tau Kok Road which has been completed and seven ongoing projects. The remaining 22 projects (including two deferred projects, eight projects under review by the Government and 12 projects which are considered no longer necessary to proceed with by the Government) have not been allocated funding. Please refer to Annex 1 for details on these projects.

(II) The 139 LCS projects

The 139 LCS projects comprise 64 projects included in the Accelerated Programme (AP) and 75 projects not included in the AP.

(1) *The 64 projects included in the AP*

On 22 May 2003, we reported the 64 projects included in the AP to the Legislative Council [Subcommittee to follow up the outstanding capital works projects of the former Municipal Councils]. The latest progress of the Programme is summarized below.

Of the 64 projects, one project "Renovation of Libraries" involves a total of 11 libraries and has to be carried out in two phases. Hence, the 64 projects included in the AP should in fact be 65. They include:

- (i) 32 priority projects, among which eight were completed; 11 have been allocated with funds and are under construction or to commence soon; 13 have been earmarked funding and are under active planning and funding approval from the Legislative Council will be sought. The project costs for the above 32 projects amount to \$2.3 billion.
- (ii) two projects will be tried out as pilot projects under "Private Sector Finance (PSF) approach". We have reported to the Legislative Council and have completed consultation with the District Councils (DCs) and the Town Planning Board. We are preparing the tender documents and we aim to launch the tendering exercise early next year.
- (iii) three projects are shelved because of the stoppage of reclamation works for the proposed sites or land formation issue.
- (iv) 28 projects are under review.

A list showing the latest position of the 65 projects is at Annex 2.

(2) *The 75 projects not included in the AP*

- (i) Eight of the projects were planned to be implemented as minor works items. Among them, the Local Open Space in Area 75, Ma On Shan, has been completed. The District Open Space in Area 16 (Yau Oi South), Tuen Mun, will also be completed by the end of this year. Of the remaining six projects, owing to limited resources of the Government, and having regard to the overall needs and the urgency of these projects, they were not accorded priority for the time being.
- (ii) Eight of the projects, after reviewing their actual needs and situations, have already been deleted from the Public Works Programme (PWP). The respective DCs were duly notified, and we have reported the same to the Legislative Council in July 2002.
- (iii) Nine of the projects recommended by the DCs as priority projects include the construction of civic centres for the Islands, North and Tai Po Districts; the construction of sports centres for Kwai Chung and Sai Kung and the construction of leisure centres for Lam Tin North and Wah Fu Estate. As these facilities involve substantial project costs and long-term financial implications, and after taking into account the utilization and similar facilities in the proximities, the Government considers it necessary to reconsider them carefully and

continue to monitor the situation before a decision will be made.

- (iv) the remaining 50 projects will be kept under regular review in consultation with DCs.

A list showing the 75 projects is at Annex 3.

- (b) Regarding the EH projects, given that the majority of the 10 projects under review and/or deferred without funding approval are meant for improving the existing facilities, their delay will not have significant impact. We will review the need for the proposed facilities and the scope of works with a view to implementing those projects with pressing needs as far as resources permit. As regards the 12 projects considered not necessary, the decision that they are not pursued should not have impact on the society since there is no real need for them.

Regarding LCS projects, as long as resource allocation permits, we have made every effort to accord priority to some of these projects to meet the demand of the districts, in particular the new towns, in view of their demand for LCS facilities arising from a growing population. In selecting the priority projects, our major considerations are as follows:

- (i) the need of the district, and the expectation of the DCs and the community;
- (ii) the substantial demand for LCS facilities of the new towns with a growing population;
- (iii) the distribution of LCS facilities throughout the territory and their utilization; and
- (iv) the need to improve and renovate existing facilities.

Other than the 32 projects listed in (a)(II)(1)(i) above, 17 projects were also chosen as priority projects based on the above considerations. The cost of these projects amounts to \$2.7 billion. Among them, seven have been completed, eight have been allocated funding and are under construction, and two capital works projects have been earmarked funding and under active planning and funding approval from the Legislative Council will be sought. Information of the 17 projects is at Annex 4.

After the implementation of the above priority projects, we consider the urgent needs of the public for the LCS facilities will generally be relieved. Owing to limitation of overall resources, we are unable to implement all the remaining projects of the two ex-PMCs. However, we acknowledge the pressing need of the community for LCS facilities. Based on the factors including the overall need of society, population changes, the utilization of the existing facilities, and so on, we would continue to review if these projects have to be implemented.

- (c) For the EH projects, the two review projects pending funding approval, namely, Retrofitting of Air-conditioning to Fa Yuen Street Market and Cooked Food Centre, and General Improvement Works to Po On Road Market and Cooked Food Centre, we plan to seek funding approval in the current Legislative Session after finalizing the project details with the relevant DCs and stall lessees. As for the other six projects under review, funding arrangements will be made after we have completed a review of the need for the proposed facilities and the scope of works.

For LCS projects, we will take into account various factors as mentioned earlier in reviewing the remaining projects not allocated with funds.

On the whole, the two ex-PMCs had left behind 103 projects which are subject to review. The Chief Executive has pledged that the Secretary for Home Affairs would actively follow up and provide a list of these projects for reporting to the relevant Panel of the Legislative Council in three months' time.

Annex 1

30 Projects Involving EH Facilities

<i>Status</i>	<i>Project Title</i>		<i>Estimated Project Cost (\$Million)</i>
Projects with Funding Approved (eight projects)	Total Estimated Project Cost:		392.32
- One project completed (Item 1)	1.	Temporary Off-street Refuse Collection Point cum Public Toilet at Ma Tau Kok Road	12.50
- Three projects under construction (Items 2 to 4)	2.	Retrofitting of Air-conditioning to Yue Wan Market and Cooked Food Centre	68.80
	3.	Retrofitting of Air-conditioning to Bowrington Road Cooked Food Centre	24.20
- Four projects upgraded to Category A and works will commence (Items 5 to 8)	4.	Refuse Collection Point in Area 10B, Kwai Chung (Project included in the capital works project "Kwai Chung Ambulance Depot with Fire Services Department Offices and Refuse Collection Point at Hing Shing Road in Area 10B, Kwai Chung". The estimated cost of the whole project is \$93.9M)	13.50
	5.	Market and Public Toilet in Aldrich Bay Reclamation Area	143.02
	6.	General Improvement Works to Aberdeen Market and Cooked Food Centre	27.70
	7.	General Improvement Works to Ngau Tau Kok Market and Cooked Food Centre	58.00
	8.	General Improvement Works to Ngau Chi Wan Market and Cooked Food Centre	44.60
	Sub-total:		392.32
Projects with Funding Not Yet Approved (22 projects)	Total Estimated Project Cost : (excluding Item 16 since the estimated cost of which is not yet available)		3,128.39
Projects under review on the necessity/development scope (eight projects)	9.	Retrofitting of Air-conditioning to Fa Yuen Street Market and Cooked Food Centre [^]	79.00
	10.	General Improvement Works to Po On Road Market and Cooked Food Centre [^]	65.00
	11.	Redevelopment of Existing Public Toilet at Ngong Ping, Lantau (After review, the scope of this project has been revised to Construction of a New Public Toilet at Ngong Ping)	2.50
	12.	General Improvement Works to Sheung Wan Market	13.10

<i>Status</i>	<i>Project Title</i>		<i>Estimated Project Cost (\$Million)</i>
	13.	Chai Wan Vehicle Depot *	321.30
	14.	Tung Chau Street Complex *	588.00
	15.	Hung Shui Kiu Complex *	374.05
	16.	Reprovisioning of Sai Yee Street Depot at West Kowloon Reclamation	-
Sub-total:			1,442.95
(Excluding Item 16 since the estimated cost of which is not yet available)			
Projects deferred (two projects)	17.	General Improvement Works to To Kwa Wan Market	9.10
- Items 17 and 18: We reported progress to the Panel on Food Safety and Environmental Hygiene of the Legislative Council at its special meeting held on 3 March 2004 and the Panel did not express different views.	18.	General Improvement Works to Kwun Chung Market and Cooked Food Centre	14.00
Sub-total:			23.10
Projects not really necessary# (12 projects)	19.	Cooked Food Centre, Refuse Collection Point and Public Toilet in Area 10G, Kwai Chung	31.23
- Items 19 to 27: We reported progress to the Legislative Council's Subcommittee to follow up the outstanding capital works projects of the former Municipal Councils on 7 March 2002 and the Subcommittee did not express different views.	20.	Tseung Kwan O Complex *	370.00
	21.	Redevelopment of Cheung Sha Wan Temporary Cooked Food Market *	71.80
	22.	Multi-purpose Building at Wing Hong Street	52.50
	23.	Fuk Wing Street Complex *	473.55
	24.	Lai Wan Market Extension	21.00
	25.	Reprovisioning of Kam Tin Market	45.26
	26.	Lau Fau Shan Market	45.26
	27.	Redevelopment of Fo Tan Cooked Food Market *	157.59
	28.	Siu Sai Wan Complex *	270.90
	29.	Sai Kung Vehicle Depot	106.05
	30.	Local Open Space, Public Toilet and Refuse Collection Point in Area 40, Tuen Mun *	17.20

<i>Status</i>	<i>Project Title</i>	<i>Estimated Project Cost (\$Million)</i>
- Items 28 to 30: After the meeting of the abovementioned Subcommittee, the Government has completed the review and proposed to the relevant DCs that the projects were not really necessary. The relevant DCs did not express different views.		
Sub-total:		1,662.34

* Projects with leisure and cultural facilities.

^ Funding approval will be sought in the current Legislative Session after project details have been finalized with the relevant DCs and/or stall lessees.

Projects classified as "not really necessary" refer to the part involving EP facilities.

Annex 2

Outstanding Former Municipal Councils Projects 64 AP Projects^(Note)

<i>Item No.</i>	<i>PWP No.</i>	<i>District</i>	<i>Project No./Project Title</i>	<i>Estimated Project Cost (\$M)</i>	<i>Actual/ Anticipated Works Start Date</i>	<i>Actual/ Anticipated Works Completion Date</i>
(1) 32 Priority Projects						
Eight completed projects						
1	3044RG	Sha Tin	Renovation of the Wu Kwai Sha Youth Village of YMCA, Ma On Shan	23.70	09/2003	03/2004
2	3240RS	Sha Tin	301LS Ma On Shan Sports Ground - Phase 2	105.20	10/2002	07/2004

^(Note) Renovation of Libraries, will be implemented in two phases, hence counted as two projects, (items 19 and 32).

<i>Item No.</i>	<i>PWP No.</i>	<i>District</i>	<i>Project No./Project Title</i>	<i>Estimated Project Cost (\$M)</i>	<i>Actual/Anticipated Works Start Date</i>	<i>Actual/Anticipated Works Completion Date</i>
3	-	Sha Tin	312LS District Open Space Between Hang Hong Street and Heng On Estate Area 92, Ma On Shan	11.24	07/2002	02/2004
4	3381RO	Yuen Long	177LS Local Open Space in Ping Shan, Yuen Long	31.80	02/2003	08/2004
5	3377RO	Yuen Long	183LS Local Open Space in Area 15, Tin Shui Wai	44.00	12/2002	09/2004
6	3375RO	Kwai Tsing	114LS District Open Space in Areas 3 and 8, Tsing Yi	66.60	10/2002	07/2004
7	3371RO	Tuen Mun	308LS Local Open Space in Area 14 (Mouse Island), Tuen Mun	31.40	10/2002	07/2004
8	-	Sai Kung	305LS Improvement to the Jockey Club Wong Shek Water Sports Centre	6.28	06/2003	03/2004
Sub-total:				320.22		
11 projects under construction or commence soon						
9	3241RS	Tai Po	030LS Football Pitch in Area 5, Tai Po	43.00	12/2002	11/2004
10	3382RO	Tai Po	294LS District Open Space in Area 5, Tai Po	34.30	12/2002	11/2004
11	3373RO	Islands	283LS District Open Space in Area 7, Tung Chung	58.70	02/2003	04/2005
12	-	Islands	271LS Tung Wan Beach Building Cheung Chau	13.00	01/2003	12/2004
13	3386RO	Tuen Mun	154LS District Open Space Area 18 Tuen Mun	35.20	05/2003	07/2005
14	-	Tuen Mun	315LS Improvements to Butterfly Beach Area 44 (Ferry Pier) Tuen Mun	7.79	12/2004	09/2006
15	3244RS	Sha Tin	211LS Hin Tin Public Swimming Pool Phase II, Sha Tin	164.20	02/2005	03/2007
16	3374RO	North	076LS Local Open Space in Areas 18 and 21 Fanling	33.60	07/2002	End-2004
17	3384RO	Kwun Tong	397CR Improvement to Lok Wah Playground, Kwun Tong	44.90	02/2003	12/2004

<i>Item No.</i>	<i>PWP No.</i>	<i>District</i>	<i>Project No./Project Title</i>	<i>Estimated Project Cost (\$M)</i>	<i>Actual/ Anticipated Works Start Date</i>	<i>Actual/ Anticipated Works Completion Date</i>
18	3379RO	Yau Tsim Mong	121CR Cherry Street Park, Tai Kok Tsui	76.60	12/2003	08/2005
19	3052RE	Territory-wide	Renovation of libraries - Phase 1 works	125.20	02/2005	01/2007
Sub-total:				636.49		
13 projects under active planning						
20	3242RS	Sai Kung	298LS - Phase I Tseung Kwan O Sports Ground	320.00	08/2005	08/2008
21	3-52RO	Sai Kung	311LS District Open Space Area 40A, Tseung Kwan O	52.10	04/2007	02/2009
22	3396RO	Islands	282LS District Open Space Area 2 Tung Chung Lantau	41.00	07/2005	05/2007
23	3--1RS	Islands	22MF Indoor Recreation Centre (Type C) cum Library in Area 17 Tung Chung Lantau	272.00	08/2008	04/2011
24	3-54RO	Tuen Mun	260LS Local Open Space Area 16 (Yau Oi South) Tuen Mun	63.80	04/2007	02/2009
25	-	Tuen Mun	326LS Local Open Space Area 52 (Ching Chung) Tuen Mun	8.50	01/2006	12/2006
26	3399RO	Tsuen Wan	300LS District Open Space in Area 35, Tsuen Wan - Phase 2	50.00	07/2005	09/2007
27	3394RO	North	137LS District Open Space in Area 39, Fanling/Sheung Shui	35.70	07/2005	05/2007
28	3390RO	Yuen Long	320LS Local Open Space in Areas 25, 25A and 25B, Tin Shui Wai	66.00	12/2005	02/2008
29	3-31RO	Eastern	365CR Improvement to Victoria Park - Swimming Pool Complex	260.00	11/2006	03/2009
30	3388RO	Sham Shui Po	204CR Sham Shui Po Park (Stage II)	47.98	02/2007	01/2009
31	-	Kowloon City	458CR Sheung Lok Street Rest Garden (Site B), Kowloon City	13.90	01/2006	12/2006
32	3049RE	Territory-wide	Renovation of libraries - Phase 2 works	120.00	02/2007	11/2008
Sub-total:				1,350.98		
Total:				2,307.69		

Outstanding Former Municipal Councils Projects
64 AP Projects

<i>Item No.</i>	<i>District</i>	<i>Project No./Project Title</i>	<i>Estimated Project Cost (\$M)</i>
(2) Two Projects proposed to be carried out as pilot scheme for PSF approach			
1	Kwun Tong	444CR Kwun Tong Leisure and Cultural Centre	530.00
2	Sai Kung	298LS - Ph.II Tseung Kwan O Ice Sports Centre and Town Park	595.00
Total :			1,125.00
(3) Three Projects to be shelved			
1	Tsuen Wan	325LS District Open Space Tsuen Wan Bay Further Reclamation	114.00
2	Tsuen Wan	242LS Waterfront Promenade Tsuen Wan Bay Further Reclamation	86.00
3	Islands	285LS Regional Open Space Area 52 Tung Chung Lantau	295.00
Total :			495.00
(4) 28 Projects under review			
Urban Districts			
1	Eastern	050CX Siu Sai Wan Complex	210.00
2	Eastern	Proposed Park in Aldrich Bay	82.50
3	Eastern	Quarry Bay Park Phase II (Stages 2 and 3)	82.80
4	Central and Western	388CR Sun Yat Sen Memorial Park (Phase II)	200.00
5	Southern	307CR Recreational Development of the "LO" site at North Ap Lei Chau Reclamation	38.00
6	Yau Tsim Mong	405CR Open Space at Tai Kok Tsui Temporary Market	16.50
7	Sham Shui Po	045CX Tung Chau Street Complex	441.00
8	Wong Tai Sin	319CR "DO" Development at Po Kong Village Road	321.00
9	Kwun Tong	218CR Provision of an Ecological Park and other Recreational Facilities on Jordan Valley Former Landfill	93.98

<i>Item No.</i>	<i>District</i>	<i>Project No./Project Title</i>	<i>Estimated Project Cost (\$M)</i>
New Territories Districts			
10	Tai Po	324LS Golf Course in Shuen Wan Landfill Tai Po	133.28
11	Tai Po	020LS Recreation Ground Area 33, Tai Po	40.00
12	Tai Po	065LS Local Open Space Area 6, Tai Po	24.00
13	Yuen Long	69LS Tin Shui Wai Public Library cum Indoor Recreation Centre	540.00
14	Yuen Long	096LS Public Library and Indoor Recreation Centre, Area 3, Yuen Long	288.00
15	Yuen Long	318LS Local Open Space Kau Hui Yuen Long	32.00
16	Tuen Mun	040LS Swimming Pool Complex Area 1 (San Wai Court) Tuen Mun	261.00
17	Tuen Mun	107LS Indoor Recreation Centre Area 14 (Siu Lun) Tuen Mun	130.00
18	North	138LS District Open Space Area 37 Fanling/Sheung Shui	66.00
19	North	071LS Local Open Space Area 28 Fanling/Sheung Shui	38.00
20	North	085LS Local Open Space Area 20 Fanling/ Sheung Shui (the Existing Luen Wo Hui Market Site)	23.00
21	Sha Tin	024MF Indoor Recreation Centre-cum-Library Area 14B, Sha Tin	335.00
22	Sha Tin	212LS District Open Space Area 90, Ma On Shan	39.30
23	Sha Tin	313LS Ma On Shan Waterfront Promenade	169.00
24	Kwai Tsing	081LS Indoor Recreation Centre Area 4 Tsing Yi	159.00
25	Kwai Tsing	293LS District Open Space Area 9 Tsing Yi	143.00
26	Islands	292LS Swimming Pool Complex Area 2, Tung Chung, Lantau	200.00
27	Islands	284LS District Open Space Area 18 Tung Chung Lantau	158.00
28	Sai Kung	027MF Tseung Kwan O Complex, Area 44, Tseung Kwan O	370.00
Total :			4,634.36

Outstanding Former Municipal Councils Projects
75 projects not included in the AP

<i>Item No.</i>	<i>District</i>	<i>Project No./Project Title</i>	<i>Estimated Project Cost (\$M)</i>
Eight projects - to trim down the scope of works and implement as minor works items			
1	Sha Tin	234LS Local Open Space Area 75, Ma On Shan (Works completed)	2.80
2	Tuen Mun	132LS District Open Space Area 16 (Yau Oi South) Tuen Mun (To be completed by end-04)	4.00
3	Yuen Long	012CE District Square Areas 33A and 29 Tin Shui Wai	238.35
4	Yuen Long	178LS Local Open Space Hung Shui Kiu Phase I	19.92
5	Yuen Long	179LS Hung Shui Kiu Town Square	16.30
6	Tsuen Wan	245LS District Open Space Area 3 Tsuen Wan	54.31
7	Tsuen Wan	247LS District Open Space Lo Wai Area 39 Tsuen Wan	49.78
8	Central and Western	381CR Proposed Education Centre cum Office Accommodation at Hong Kong Zoological and Botanical Gardens	17.19
Eight projects to be deleted			
9	Eastern	010CA Chai Wan Vehicle Depot	321.30
10	Kowloon City	311CR Chung Hau Street Garden	42.54
11	Kwun Tong	160CR Temporary Recreational Development at Ma Yau Tong West Landfill	59.96
12	Southern	128CR Recreational Development at Wong Chuk Hang	150.62
13	Islands	115LS Sports Ground Package 6 Mui Wo Lantau	153.88
14	Kwai Tsing	226LS Indoor Recreation Centre Area 10B Kwai Chung	144.83
15	North	275LS Regional Indoor Stadium Area 11A Fanling/Sheung Shui	1,212.03
16	Tai Po	067LS District Open Space Area 30, Tai Po	21.72

<i>Item No.</i>	<i>District</i>	<i>Project No./Project Title</i>	<i>Estimated Project Cost (\$M)</i>
Nine projects recommended by the DCs			
17	Islands	006CE Civic Centre for Islands District	633.62
18	Kwai Tsing	227LS Indoor Recreation Centre Area 9H Kwai Chung	142.11
19	North	007CE Civic Centre for North District	633.62
20	Sai Kung	306LS Indoor Recreation Centre in Area 4, Sai Kung	169.27
21	Tai Po	009CE Tai Po New Civic Centre and Central Library	769.40
22	Tsuen Wan	276LS Ecological Park (Tso Kung Tam Valley Tsuen Wan)	274.27
23	Kwun Tong	120CR Lam Tin North Family Leisure Centre	519.75
24	Southern	126CR Leisure Centre at Wah Fu	499.65
25	Wong Tai Sin	116CR Ngau Chi Wan Recreation Ground	195.74
50 projects to be constantly reviewed in consultation with the DCs			
26	Eastern	338CR Improvement of camping facilities in Lei Yue Mun Park and Holiday Village	119.95
27	Kowloon City	454CR "LO" site at Chung Yee Street	36.75
28	Kowloon City	155CR Lo Lung Hang Garden	110.25
29	Kwun Tong	092CR Kai Tak Park	93.24
30	Kwun Tong	424CR Lam Tin Park (Phase II) (that is, Ma Yau Tong Central Landfill)	43.47
31	Wan Chai	368CR New Tennis Centre cum Carpark at Moreton Terrace	232.42
32	Southern	313CR Replenishment of the Stanley Main Beach	48.39
33	Sham Shui Po	456CR Lai Chi Kok Park Stage III (IGC-Phase IB)	199.50
34	Sham Shui Po	399CR Improvement to Cheung Sha Wan Playground	64.55
35	Yau Tsim Mong	330CR Regional Park at West Kowloon Reclamation	Not yet available
36	Yau Tsim Mong	421CR Open Space Development in West Kowloon Reclamation at Road D10	Not yet available

<i>Item No.</i>	<i>District</i>	<i>Project No./Project Title</i>	<i>Estimated Project Cost (\$M)</i>
37	Islands	224LS Tong Fuk Beach Building Lantau	34.40
38	Islands	223LS Kwun Yam Wan Beach Building Cheung Chau	34.40
39	North	171LS Indoor Recreation Centre Area 28A Fanling/Sheung Shui	167.45
40	North	089LS District Open Space Area 17 Fanling/Sheung Shui	32.58
41	North	201LS District Open Space Areas 47 and 48 Fanling/ Sheung Shui	35.30
42	North	202LS District Open Space Area 27D Fanling/Sheung Shui	22.63
43	North	086LS Local Open Space Area 25 Fanling/Sheung Shui	21.72
44	North	204LS District Open Space Area 4 (Remainder) Fanling/Sheung Shui	28.06
45	Sai Kung	008CE Civic Centre for Sai Kung District Area 66, Tseung Kwan O	633.62
46	Sai Kung	233LS District Open Space in Area 37, Tseung Kwan O	34.03
47	Sha Tin	013LS Indoor Recreation Centre Area 24D, Sha Tin	152.07
48	Sha Tin	011CE Expansion of Sha Tin Central Library	177.41
49	Sha Tin	046LS Local Open Space Area 4C, Sha Tin	20.18
50	Sha Tin	092LS Indoor Recreation Centre Area 103, Ma On Shan	141.66
51	Sha Tin	036LS District Open Space Area 11, Sha Tin	107.53
52	Sha Tin	025MF Redevelopment of Fo Tan Cooked Food Market, Sha Tin	157.59
53	Tuen Mun	042LS Recreation Ground Area 17 (Industrial City) Tuen Mun	33.50
54	Tuen Mun	135LS Recreational Facilities in Green Belt Area Tuen Mun Phases I and II (Ching Chung)	24.62
55	Tuen Mun	302LS Hung Lau Park (former Castle Peak Farm)	85.81
56	Tuen Mun	307LS District Open Space in Area 27 (San Shing) Tuen Mun	58.11

<i>Item No.</i>	<i>District</i>	<i>Project No./Project Title</i>	<i>Estimated Project Cost (\$M)</i>
57	Tuen Mun	158LS Recreational Facilities Western Extension Area (Tap Shek Kok) Tuen Mun	51.23
58	Tuen Mun	003MF Local Open Space, Public Toilet and RCP Area 40 (Tsing Shan) Tuen Mun	17.20
59	Tai Po	051LS Leisure Centre Area 33, Tai Po	122.20
60	Tai Po	025LS Ha Hang Village Playground Area 31, Tai Po	22.63
61	Tai Po	094LS Indoor Recreation Centre Area 6, Tai Po	113.15
62	Tai Po	214LS Tai Mei Tuk Water Sports Centre Extension, Area 74, Tai Po	84.63
63	Tai Po	213LS Local Open Space Area 32, Tai Po	16.75
64	Tsuen Wan	252LS District Open Space and Indoor Recreation Centre Area between Tsuen Wan Park and Tsuen Wan Road	235.35
65	Tsuen Wan	243LS District Open Space Area 2 Tsuen Wan	135.78
66	Tsuen Wan	299LS Local Open Space Sham Tseng Area 50 Tsuen Wan	25.80
67	Tsuen Wan	314LS Improvement to the Facilities in Approach Beach	126.72
68	Yuen Long	159LS Indoor Recreation Centre Area 12 Yuen Long	167.45
69	Yuen Long	187LS Swimming Pool Complex Kam Tin	123.10
70	Yuen Long	319LS Leisure Centre Area 101 Tin Shui Wai	190.08
71	Yuen Long	316LS District Open Space Area 107 Tin Shui Wai	53.00
72	Yuen Long	188LS Indoor Recreation Centre Kam Tin	167.45
73	Yuen Long	005LS Sports Complex and District Open Space Area 12 Yuen Long	176.51
74	Yuen Long	259LS Local Open Space Hung Shui Kiu Phase II	28.97
75	Yuen Long	001MF Hung Shui Kiu Complex	374.05
Total:			11,530.20

Annex 4

17 Other Priority Projects

<i>Item No</i>	<i>PWP No.</i>	<i>District</i>	<i>Project No./Project Title</i>	<i>Estimated Project Cost (\$M)</i>	<i>Actual / Anticipated Works Start Date</i>	<i>Actual / Anticipated Works Completion Date</i>
Seven completed projects						
1	3048RE	Sha Tin and Tuen Mun	013CE Renovation to external walls of Sha Tin and Tuen Mun Town Hall Complexes	69.30	11/2000	12/2001
2	3366RO	Tuen Mun	262LS Local Open Space in Area 44, Tuen Mun	54.30	11/2000	5/2003
3	3235RS	Sai Kung	322LS Improvement Works to Lady Macle hose Holiday Village and Sai Kung Outdoor Recreation Centre	108.60	1/2001	4/2003
4	3044RG	Sha Tin	19MF Indoor Recreation Centre cum Library in Area 100 Ma On Shan	455.80	10/2000	9/2004
5	3367RO	Kwun Tong	459CR Jordan Valley Playground, Phase II, Stage 2	70.10	11/2000	6/2003
6	5236RS	Kwun Tong	162CR Provision of a Multi-purpose Grass Pitch on Sai Tso Wan Former Landfill	46.50	3/2003	4/2004
7	3369RO	Eastern	337CR Improvement to Victoria Park in Causeway Bay, Hong Kong	256.60	4/2000	12/2002
Sub-total:				1,061.20		
Eight projects under construction						
1	3234RS	Southern	380CR Water Sports Centre at Stanley Main Beach	51.40	2/2003	Late-2004
2	3046RG	Southern	038CX Stanley Complex	173.80	6/2003	1/2006
3	3370RO	Wong Tai Sin	303CR Hammer Hill Road Park, Diamond Hill	177.00	7/2003	Mid-2006
4	3376RO	Eastern	469CR Improvement works to Lei Yue Mun Park and Holiday Village	81.30	9/2004	11/2006

Item No	PWP No.	District	Project No./Project Title	Estimated Project Cost (\$M)	Actual / Anticipated Works Start Date	Actual / Anticipated Works Completion Date
5	3045RG	Yau Tsim Mong	046CX Tai Kok Tsui Complex (Phase 2)	726.30	1/2001	Mid-2005
6	3368RO	Kuwn Tong	200CR Kowloon Bay Recreation Ground	109.20	10/2002	11/2004
7	3383RO	Tsuen Wan	174LS Additional open space adjacent to Tsuen Wan Town Hall	28.50	11/2003	12/2005
8	3243RS	Yuen Long	182LS Indoor Recreation Centre in Area 17, Tin Shui Wai	119.60	12/2003	2/2007
Sub-total:				1,467.10		
Two projects under active planning						
1	3051RE	Central and Western	Non ex-PMC Project Dr. SUN Yat-sen Museum	91.30	3/2005	6/2006
2	-	Yau Tsim Mong	Non ex-PMC Project Improvement works of Kowloon Park Indoor Swimming Pool	118.00	11/2006	5/2009
Sub-total:				209.30		
Total:				2,737.60		

DR RAYMOND HO (in Cantonese): *Madam President, I cannot but sigh. The Secretary has used more than 10 minutes to give us nothing but a reply that all boils down to a very disappointing fact. Four years ago, when the two former PMCs were dissolved, they left behind 169 works projects connected with people's quality of living. Of these, 139 were LCS projects falling within the responsibility of the Home Affairs Bureau. From part I(2) of the main reply, it can be noted that only eight priority projects have been completed, and 11 others for which funds have been allocated have not yet commenced. As for the remaining LCS projects, there have only been endless reviews, with commencement nowhere in sight. These projects all involve the construction of LCS facilities affecting people's quality of living, such as sports centres, recreation centres and libraries, so people would very much like to see their early completion. Will the Secretary please inform this Council whether he agrees that the Government has not done a very good job in respect of all these very significant municipal services projects, most of which are supported by the DCs after discussions? Has the demand of people in this respect been completely ignored?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, in regard to the 139 projects left behind by the two former PMCs, those which are deemed to be in genuine demand have been included in the AP. In this connection, 32 priority projects under the AP have been completed, and following this, we have reviewed all the 139 projects and added new ones deemed to be in genuine demand. We have already added 17 new projects. They are meant for coping with the development of new towns and population changes, in brief, the latest demand situation. These projects were never considered by the two former PMCs because the new towns concerned were not yet completed at that time. But in order to keep abreast of the times, we have added these 17 new projects. We have already completed 32 of the 139 projects left behind by the two former PMCs. The total cost amounts to \$2.3 billion. As for the 17 projects meant for keeping abreast of the times, the total cost is \$2.7 billion. In other words, we have completed a total of 49 projects at a combined cost of \$5 billion. There are still more to come. The Chief Executive has instructed the Secretary for Home Affairs to review the remaining projects, and we have accounted to the Legislative Council on those projects which we have decided to shelve. The number of outstanding projects is 103. The Secretary for Home Affairs will examine these 103 projects again and then consult all the 18 districts on a priority list before reporting to the relevant panel of the Legislative Council. So, I hope that Dr Raymond HO can just be patient and wait for what we have to say.

MR ABRAHAM SHEK (in Cantonese): *Madam President, thanks to the Secretary for giving us such a lengthy reply and for giving us this runaround. He can indeed keep abreast of the times because giving people a runaround is such a common practice these days. We have waited for the commencement of the 169 projects for a very long time. No matter how many projects are added or deleted, we have still got nothing so far. In the main reply of the Secretary, the word "accelerated" is used, and used many times indeed. May I ask when the remaining projects will be accelerated? If the Government does not have the money to commence these projects, will it outsource them to private-sector companies?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): As I mentioned just now, the number of projects which are left behind and worth implementing is

103. We have in fact accelerated all those projects that require acceleration. For those which are already underway or due to be completed soon, even acceleration will not do much in achieving faster progress. There are 103 outstanding projects, and we will proceed to the next stage, the stage of finding out which of these 103 projects should be expedited. We will work out an overall plan on proceeding with these projects only after drawing up a priority list.

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

MR ABRAHAM SHEK (in Cantonese): *No, Madam President. I asked the Secretary whether projects requiring acceleration would be outsourced.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, to decide which projects should require acceleration, we must first draw up a priority list. If outsourcing can be considered as an option, we will of course outsource the projects concerned because we also wish to expedite the projects. But if the opposite is the case, I think it will be difficult to bring about any acceleration.

MR DANIEL LAM (in Cantonese): *Madam President, some of the points I wish to raise in my supplementary question have already been covered by other Members, and the Secretary has also given his replies. However, I still wish to follow up the undertaking made by the Government before the dissolution of the two former PMCs, the undertaking that all the works projects left behind by them would be completed as scheduled. Four years has now passed, but in many new towns such as Tung Chung, there is not yet any swimming pool, so it is "really all talk but no action". Now that the economy has started to pick up, will the Government expedite the approval of the relevant projects?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, as I have mentioned, all will depend on the needs in new towns and also old towns, for that matter. The needs of the local population and the new towns

concerned, as well as the expectation of the relevant local communities and DCs are all factors that have to be considered. Besides, we must also take account of the overall distribution and utilization of the relevant facilities in Hong Kong. And, we also need to explore whether any existing facilities should be renovated for use. To sum up, we must take account of and review the overall situation. We are doing exactly this at the moment.

MR CHEUNG HOK-MING (in Cantonese): *Madam President, of all the 139 LCS projects listed in the Annexes, five are related to Tin Shui Wai — three of these are AP projects, while the remaining two are not classified as such, and only one of the former projects is underway. As for the completion dates of these five projects, the soonest will be 2004, followed by 2007 and 2008. And, in the case of the remaining two, there is not even any scheduled completion date. Since Tin Shui Wai is a new community under rapid development, may I ask the Secretary whether the Home Affairs Bureau will group the two relevant projects under the AP as early as possible and complete the remaining projects before their scheduled completion in 2007 and 2008, taking account of the actual circumstances? Since Tin Shui Wai is a rapidly developing community, the Government should seriously consider the needs of the local residents.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, thanks to Mr CHEUNG Hok-ming for his supplementary question. Doubtless Tin Shui Wai, especially its northern part, is a place with rapid development. For this reason, we will introduce adjustments to the works projects in question in the light of its development. Currently, there are already three priority projects for Tin Shui Wai South in Yuen Long, including the Local Open Space in Area 15, which was completed in September 2004 and opened to the public in October 2004. Besides, the construction of a sports centre in Area 17, which commenced in December 2003, is now in progress and will be completed in February 2007. The construction of Local Open Spaces in Areas 25, 25A and 25B will also commence in 2005, with expected completion in May 2008. We are also working actively on a priority minor works project to construct a seven-a-side soccer pitch in Area 107, Tin Shui Wai North. Construction works will commence in April 2005, and completion is scheduled in June 2006. The construction of other Open Spaces in Area 107 will be implemented as public works projects, and the facilities planned to be constructed include basketball courts, sports facilities for the elderly, jogging paths and landscaped

gardens. We plan to apply for the necessary funding under the Resources Allocation Exercise next year, so that the development schedules of these facilities can be finalized as early as possible.

PRESIDENT (in Cantonese): Mr CHEUNG Hok-ming, has your supplementary question not been answered?

MR CHEUNG HOK-MING (in Cantonese): *No, Madam President. I wish to ask the Secretary a further question on the projects that have not been included in the AP. On the basis of actual circumstances, one can say that Tin Shui Wai is a rapidly developing community. Will the Bureau upgrade these two projects by including them in the AP? I hope that the Secretary can consider my suggestion.*

PRESIDENT (in Cantonese): Mr CHEUNG Hok-ming, next time, you need only pinpoint the part which the Secretary has not answered.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I will definitely consider it.

MR FRED LI (in Cantonese): *Madam President, as a former Urban Council Member, I must say that I am extremely dissatisfied. For this reason, I think those who endorsed the dissolution of the two former PMCs should really regret their decision now. Madam President, I wish to clarify the meaning of the word "accelerated". It is mentioned in the Secretary's main reply that there are 64 projects under the AP. However, it is also mentioned that almost half of these projects are under review, for which no completion date is specified. Of these 64 projects, 13 are claimed to be under active planning and the construction works related to five others will not commence until 2007. What then is meant by the word "accelerated"? If the Secretary insists that there has been no departure from the arrangements made by the former PMCs, then why do some projects take so long to complete? Why are so many AP projects still under review? What is the reason for the long lapse of time before the commencement of some projects?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, all is because project planning always takes time, and there is also the question of priority. Since there are so many projects, it will take quite some time before they can be implemented.

MR FRED LI (in Cantonese): *I have made it a point to ask why five of the projects cannot be launched until 2007. They are AP projects, so what is the reason for delaying their commencement until 2007? The Secretary has not answered this part of my question.*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I have nothing to add.

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

MISS CHAN YUEN-HAN (in Cantonese): *Madam President and Secretary for Home Affairs, the relevant panel of the Legislative Council has also discussed these 169 projects and we can all note the problems. The Secretary has repeatedly used the word "accelerated", but it remains a fact that some projects cannot possibly be completed until 2007. The Secretary should be aware of the Chief Executive's concern about this matter. He has certainly given very detailed answers, but he has also failed to analyse the problems involved. For example, he has not told us why some projects cannot be completed before 2007, or even in 2007, I am afraid, despite their inclusion in the AP. The Secretary has actually pointed out that these projects involve many different government departments. I suppose the main reason should be the procedural delay caused by red-tape. It has been four years since the dissolution of the two former PMCs, but we are still discussing these 169 projects left behind by them. For this reason, may I ask the Secretary whether he has ever tried to tackle the problems concerned? These are all projects desired by the people, and their*

implementation was approved ages ago. Can one solve all the problems simply by using the word "accelerated" all the time?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I have actually been using the word "accelerated" in a rather loose sense. By this, I just mean that some projects will be given immediate consideration. The word "accelerated" does not mean immediate commencement; it just means prompt consideration, arrangements and planning. I have already given an account on most of these projects. Those that are necessary have either been completed or launched. As for those that have to be shelved, I have also given a detailed account. The remaining projects will require further review, and we shall continue our work in this respect.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. It has been four years since the two former PMCs were dissolved and left behind all these projects, and the Legislative Council has been holding discussions on them for a very long time. There have been much talk about how the projects are accelerated, but just how much longer do we still have to wait? My question is simply this: Is the Secretary aware of this problem, and has he thus explored what should be done? The Secretary must not say that he wants to see acceleration but is unable to do so. What actually is the problem? This is the thrust of my question. But the Secretary has not answered it.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we will continue to look into the situation.

PRESIDENT (in Cantonese): Last oral question.

Admission of Minors to Watch Horse Races

6. **MR ANDREW CHENG** (in Cantonese): *Madam President, it has been reported that 7 200 persons aged below 18 joined the National Day Carnival*

organized by the Hong Kong Jockey Club (HKJC) on 3 October this year and watched horse races at the Sha Tin Racecourse on that day, and reporters spotted that some parents brought their children to the Members' Betting Lounge. In this connection, will the Government inform this Council whether it:

- (a) has assessed if events of this kind will increase young people's interest in gambling; if it has, of the assessment criteria and results; if not, the reasons for that;*
- (b) knows if the HKJC has assessed if any apparent loopholes exist in its security measures, resulting in children gaining access to the Members' Betting Lounge; and*
- (c) will request the HKJC not to organize events of this kind in future, in order to prevent more young people from being contaminated by gambling?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, my reply to the questions is as follows:

- (a) The HKJC organized, with the assistance of a number of other organizations, the National Day Carnival at the Sha Tin Racecourse and Penfold Park on 3 October to celebrate the 55th Anniversary of the People's Republic of China. This was a large-scale family event in celebration of the National Day and was not intended to encourage the underage to participate in gambling activities. As it was also a race day, the HKJC implemented a series of measures to prevent underage betting. These measures include:
 - Designated family areas were set up in the Public Enclosure and in Public Stands for families with children. No betting facilities were provided in these areas. All betting terminals and betting counters within these areas were shut down and covered up.
 - Additional staff were deployed to prevent underage persons from entering areas where betting services were available.

A total of 1 000 staff from the HKJC, disciplined services, and event co-organizers were deployed for this purpose.

- Security staff were positioned at all entry and exit points in the Public Betting Halls to prevent access of the underage.
- Posters were posted in Betting Halls and at entrances reminding parents and the underage that the latter were prohibited from entry into betting areas.
- Warning signs against underage betting were posted at all betting counters and betting ticket dispensers. All staff members on duty were reminded to exercise extra vigilance against underage betting and to check identity cards in the event of doubt about a person's age.

We consider the above measures effective in preventing underage betting during the Carnival. The activities of the Carnival also did not carry any gambling connotations. We therefore do not consider that the event would increase young people's interest in gambling.

- (b) We understand that HKJC Members who had booked Members' Boxes for lunch on 3 October were allowed to bring along underage persons. Minors were not allowed to stay inside Members' Betting Areas, and were not allowed to place bets. Members who made bookings for Private Boxes were reminded of these restrictions, and extra staff were deployed in the Members' Area to ensure compliance. Minors were permitted to pass through the Betting Hall only because this was necessary for them to go to and from the Members' Area and other parts of the Racecourse.
- (c) We appreciate the concerns of some organizations and some quarters in the community about the possible negative impact on adolescents of staging a carnival on a race day at a racecourse. We have already requested the HKJC to avoid staging similar events (which allow the entry of adolescents to a racecourse) on race days.

If such events were to be organized, effective measures should be put in place to prevent underage betting, so as to minimize any possible adverse impact on adolescents.

MR ANDREW CHENG (in Cantonese): *Madam President, in the ancient time, Mencius's mother moved her home three times to prevent Mencius from picking up bad habits under influence in an undesirable environment. Will the Government not agree that the organizations of the Carnival by the HKJC can actually expose young people under the age of 18 and even children to the gambling trend? In replying to part (c) of my main question as to whether the Government will request the HKJC not to organize events of this kind, the Secretary merely said lightly that the HKJC had been requested to avoid staging similar events in future. Will the Secretary tell the young people to avoid taking drugs? The Government should actually make it clear that such events have to be prohibited or ceased. Will the Secretary answer my question again and not to tell me the HKJC would be urged to avoid staging similar events? The Secretary must now answer this question: Will you request the HKJC not to organize events of this kind again?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we have tried our best to balance all factors in considering the staging of the National Day Carnival by the HKJC on 3 October, which was also a race day. On the one hand, we understand that it is the HKJC's intention to enable the public to celebrate the 55th National Day with their families by organizing activities in the Racecourse and, on the other hand, we consider it necessary to take appropriate measures on that day to prevent adolescents from placing bets. According to our observation, many participants took part in a great variety of games and activities, particularly those held at Penfold Park, with their whole families. They spent an enjoyable afternoon taking part in activities which were not related to betting. Judging from this aspect, this large-scale celebration can be considered hugely successful. Before and after the staging of the Carnival, we noted the reservations of some members and organizations of the community about the impact of opening the racecourse to the underage on a race day, particular the possible adverse impact on adolescents. Appreciating their concerns, we have specially erected publicity panels on the prevention of, and

education on, gambling problems at Penfold Park and set up a stall to distribute publicity leaflets about prevention of gambling problems to enhance public awareness of gambling.

Furthermore, we have relayed the abovementioned concerns to the HKJC and requested it not to organize events of this kind on race days for the underage in the future. I would like to reiterate here that the Government's gambling policy is to confine gambling to a few regulated outlets, and the underlying notion is to discourage gambling. We consider it inappropriate for the underage to take part in betting and licensees to accept their bets. We understand that the HKJC agrees and implements this principle in concrete terms. Moreover, appropriate measures are in place to prevent the underage from taking part in gambling. We will continue to maintain close liaison with the HKJC to ensure effective implementation of this principle.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, the HKJC turned the National Day Carnival into a horse-racing family day by allowing some adolescents to enter and remain in the Betting Halls. Was the Government notified in advance and did it give its consent? In respect of the mistakes made by the HKJC in its arrangements, is the Government responsible for tolerating and conniving at the HKJC and negligence? Has the principle of disallowing people under the age of 18 from entering the Betting Halls been violated?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the Carnival organized by the HKJC in the Sha Tin Racecourse on a race day this time was intended to celebrate the 55th Anniversary of the People's Republic of China. The Bureau was aware that the HKJC had taken a series of measures to prevent the underage from placing bets on that day. As the event did not involve a permission for the underage to take part in gambling, no approval from the Bureau was required. The HKJC has all along been strictly implementing its policy of prohibiting the underage from betting. It was also based on this understanding that the Government issued a licence to the HKJC on an annual basis to allow it to accept horse bets.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, the reply indicates very clearly the appearance of the underage in the betting areas. This arrangement was made by the HKJC. May I ask whether the Government was informed of this arrangement in advance and gave its consent?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Madam President, the Members' zone is a private zone specially reserved for HKJC members and closed to the public. According to our understanding, the HKJC has taken measures on the day the Carnival was held to prevent the underage from remaining in the members' betting area. Furthermore, minors were not allowed to place bets on that day. We will examine the public view on the measures taken by the HKJC and in the members' designated zone to prevent minors from placing bets in considering whether or not it is necessary to add a requirement concerning the arrangements for controlling betting in the Members' zone in the HKJC's licence in future.*

MR TOMMY CHEUNG (in Cantonese): *Madam President, I would like to declare that I spent the whole day watching horse races on that day and noticed that many parents deliberately brought along their children to watch horse-racing. Actually, there were not too many adolescents aged between 16 and 17 in the Racecourse on that day. On the contrary, most children were between the age of six and seven. I could see that they were having great fun; I was having great fun too. It was a great pleasure to see so many young people watching horse racing. Madam President, it has never occurred to me that horse racing is tantamount to gambling. In part (c) of the main reply, the Secretary pointed out that there might be possible negative impact on adolescents in staging a carnival on a race day at a racecourse. I believe many Honourable colleagues think in the same way too. However, in overseas countries, racecourses are entirely open to children, and not merely on special dates. It has been a long-standing practice in overseas countries to open racecourses to children, who are allowed to organize barbecues or other activities in racecourses on race days. May I ask whether the Secretary has referred to such overseas practices? If not, will he try to examine whether the opening of racecourses to adolescents in overseas countries will really encourage them to engage in gambling after they have grown up?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, there are different considerations in different societies for they each have their unique cultural background. We have looked at how other countries deal with this issue. For instance, in Japan, Australia, New Zealand, the United States, Canada and the United Kingdom, parents are allowed to bring their underage children to racecourses.

MR ALBERT CHENG (in Cantonese): *Madam President, may I ask why the Secretary kept repeating his remark that allowing children to enter the Racecourse was related to the National Day celebration? Is there necessarily a connection between the National Day celebration and horse racing? Has there to be a connection between the staging of the National Day Carnival by the HKJC and its race days? May I know why there is a connection between the celebration and the HKJC?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, it was a special occasion for it happened to be the 55th anniversary. It has been the tradition of the HKJC to organize race meets on special occasions or festive days. It was a special occasion given that horse races happened to be held on both days. It is precisely for this reason that we have requested the HKJC to avoid organizing carnivals on race days in future.

DR YEUNG SUM (in Cantonese): *Madam President, the Secretary remarked earlier than parents in overseas countries would allow adolescents to go to racecourses probably because they considered this as an opportunity for them to maintain parent-children relationship or holding family activities. In Chinese society, however, parents might be seen as encouraging their children to gamble in bringing them to the racecourses. I hope the Secretary can pay attention to this and refrain from encouraging activities of this kind again.*

PRESIDENT (in Cantonese): So, what is your supplementary question?

DR YEUNG SUM (in Cantonese): *Will the Secretary pay more attention in the cultural aspect?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I will pay constant attention to this on a continued basis.

MR ALBERT CHAN (in Cantonese): *Madam President, the Secretary pointed out that racecourses were open to adolescents in many overseas places. Same-sex marriage, legalization of prostitution and the election of the highest regional representatives by universal suffrage are allowed in many overseas places too, but they are not allowed in Hong Kong. Why does the Secretary have particular faith in racecourses and this group of adolescents? Is it the case that he considers it necessary to discriminate against or pinpoint other aspects?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, my earlier reply was given in response to the question raised by Mr Tommy CHEUNG. In replying to his question, I pointed out that every region had its own culture and background, and it was therefore impossible to adopt a uniform standard for assessment. We will therefore pay attention to this area.

MR ALBERT CHAN (in Cantonese): *Madam President, the Secretary has not answered my supplementary question.*

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR ALBERT CHAN (in Cantonese): *I asked the Secretary whether he was pinpointing a particular area and whether he was having particular faith in those adolescents who were found at the Racecourse. He has not answered this part of the question.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, this is not the case. I have faith only in the rule of law and parents in Hong Kong.

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

WRITTEN ANSWERS TO QUESTIONS

Extending Specialist Out-patient Service Hours

7. **MS AUDREY EU** (in Chinese): *Madam President, as specialist out-patient (SOP) service at public hospitals is available only within office hours on weekdays, will the Government inform this Council whether, on the premise of no change in resources and by redeploying doctors to work shift duty, it will consider extending such service to public holidays and evenings, in order to meet the needs of the working people; if it will not, of the reasons for that?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): Madam President, extension of SOP service of public hospitals into the evening and public holidays could not be made simply by redeploying doctors to work shift duties and would have significant resource implications. This is because almost all doctors working in SOP clinics are responsible for both in-patient and out-patient care. As most of the in-patient activities in public hospitals have to be conducted during daytime, the number of doctors, nurses and other health care staff on duty during daytime cannot be substantially reduced. Extension of SOP service into the evening would mean either longer working hours for these groups of staff or a larger establishment. Furthermore, the operation of an SOP clinic requires the support of other departments and facilities such as the laboratory, radiological department and pharmacy which also serve in-patients. The Extension of SOP service into the evening and public holidays would therefore also require a larger establishment for the departments and associated facilities mentioned above, with a corresponding increase in administrative overheads.

In view of the significant resource implication, the Hospital Authority (HA) does not have any plan in extending SOP service to evenings and public holidays at present. However, the HA has already lengthened the consultation time for each SOP consultation session where possible to facilitate patients. The use of a computerized system for making appointments in advance has also made it easier for patients to select a suitable time for their consultation.

As the average follow-up interval for patients in SOP clinics is around three to six months and necessary arrangements for attending the consultation can be made well in advance, we do not expect the existing clinic opening hours to pose any significant inconvenience to patients who work during normal working hours.

Duration of Change of Light Signals

8. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that on 3 September this year, an 81 years old man was knocked down and killed by a vehicle on Prince Edward Road West because he failed to cross the road before the traffic light signal changed. In this connection, will the Government inform this Council:*

- (a) of the total number of cases in the past three years in which pedestrians crossing the road were injured or killed for the same reason;*
- (b) of the total number of complaints lodged by users of pedestrian crossings about the rapid change of traffic light signals in the past three years; and*
- (c) whether it will conduct a territory-wide review to see if the duration of traffic light signals poses any hazard to pedestrians crossing the road; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, we do not have statistics on cases where pedestrians were knocked down by vehicles due to failure to cross the road before the traffic light signals changed. Nonetheless, in the past three years, there were 991 cases in which pedestrians were knocked down by vehicles at signalized crossings.

We do not have statistics on complaints about rapid change of traffic light signals. Nevertheless, in the past three years, we received 547 complaints related to traffic lights at pedestrian crossings.

The duration of the steady green light of a pedestrian traffic light is determined by the width of the crossing and the volume of pedestrian flow; while that of the flashing green light is to ensure that pedestrians who have started to cross the road when flashing begins would have sufficient time to reach a safe point. The Transport Department will continue to monitor and review the traffic conditions of individual locations, and will extend the steady or flashing green light when such is necessary.

Illegal Felling of Trees and Debris Dumping

9. **MISS CHOY SO-YUK** (in Chinese): *Madam President, it has been reported that trees were cut down and debris was dumped illegally on the government land at Nam Shan Lane, Po Lo Che in Sai Kung for the construction of roads. In this connection, will the Government inform this Council whether:*

- (a) *any government department has followed up and investigated the incident; if so, of the details and progress of the incident; if not, the reasons for that; and*
- (b) *it will report to the Legislative Council upon the completion of the investigation; if it will, how the report will be made; if not, the reasons for that?*

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

- (a) Under the Land (Miscellaneous Provisions) Ordinance (Cap. 28) (LMPO), any person who excavates in or occupies government land without authority is liable to prosecution.

As regards the case in question, upon receipt of complaints from members of the public, the District Lands Office/Sai Kung (DLO/SK) deployed staff to inspect the site. Staff of DLO/SK found that a temporary vehicular access had been constructed on the government land without approval. Whilst no suspect responsible

for the excavation works could be found on the spot, a warning sign was immediately posted on the site. The sign states that any person who unlawfully occupies, excavates or dumps on government land would be liable to prosecution under the LMPO. Moreover, to prevent deterioration of the site condition, four concrete boulders have been placed at the entrance of the temporary vehicular access to prevent vehicles from entering it.

During a follow-up inspection, staff of DLO/SK found that construction materials had been piled on the government land by a contractor. A notice ordering the removal of the construction materials within a specified period was posted up under the LMPO. As the construction materials had not been removed upon the expiry date of the notice, a statement was taken from the contractor. DLO/SK is examining the evidence available and will prosecute the contractor in due course. DLO/SK will continue to monitor the site closely and will take land control action as appropriate if further offences are found.

As regards tree felling, the Agriculture, Fisheries and Conservation Department (AFCD) is empowered under the Forests and Countryside Ordinance (Cap. 96) to take enforcement action against illegal felling of trees on government land. In response to the complaint about tree felling at Nam Shan Lane, the AFCD conducted an investigation in late September. However, neither clear evidence nor witness could be identified. As such, no prosecution can be instigated at this stage.

- (b) Management of government land to guard against illegal excavation or occupation is one of the normal duties of the Lands Department. Prevention of illegal felling of trees on government land is part of the day-to-day responsibilities of the AFCD. Under normal circumstances, the Administration will not submit reports to the Legislative Council on the cases handled by individual departments in the course of their day-to-day work. However, if any Member of this Council wishes to receive a report on any particular case, the departments concerned can furnish the requested information to the Member concerned for reference.

Marking Scheme for Tenancy Enforcement in Public Housing Estates

10. **MR FREDERICK FUNG** (in Chinese): *Madam President, will the Government inform this Council of the following since the implementation of the Marking Scheme for Tenancy Enforcement in Public Housing Estates (the Marking Scheme) in 2003:*

- (a) *the number of public housing tenants who have been awarded penalty points so far, broken down by the names of the public housing estates and the offences involved;*
- (b) *the number of public housing tenants who have been awarded 10 or more points so far and, among them, the number of tenants whose tenancy has been terminated by the Housing Department after having been awarded 16 points; and*
- (c) *whether more focused measures will be introduced to further improve the levels of cleanliness and environmental hygiene in public housing estates; if so, of the details?*

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

- (a) Since implementation of the Marking Scheme in August 2003, a total of 2 668 public housing households had been allotted penalty points as at 13 October 2004. Breakdown by public housing estate and by offence is set out at Annex.
- (b) Of the 2 668 households having been allotted penalty points, only 52 have accumulated 10 points or more due to commitment of two or more misdeeds. Of them, one household has reached the ceiling of 16 points. A notice-to-quit has been served on the tenant concerned to terminate his tenancy.
- (c) The Marking Scheme is aimed at strengthening enforcement against misdeeds concerning public health, safety and environmental nuisances in public rental housing estates so as to improve

cleanliness and estate management. Since its implementation, the environmental hygiene of public housing estates has improved and tenants' satisfaction over estate cleanliness has increased. We will continue to implement the Marking Scheme to sustain the effectiveness of our work in promoting estate hygiene and cleanliness. We are conducting a thorough review of the Marking Scheme in the light of operational experience, feedback from the public and Estate Management Advisory Committees, as well as the preliminary views of Housing Authority members. The review covers the scope of the Marking Scheme, allotment of penalty points for individual misdeeds and the enforcement arrangements. To enhance the effectiveness of the Marking Scheme, we are considering whether additional measures are necessary to address tenants' concerns over a number of hygiene related issues, such as dripping laundry, accumulation of stagnant water leading to mosquito breeding and the use of leased premises as food factory or storage. We will consult the Housing Authority on the detailed proposals shortly. If approved, we expect to introduce the enhancement measures in January 2005 at the earliest.

Annex

Allotment of Penalty Points under the Marking Scheme
(Between 1 August 2003 and 13 October 2004)

(A) Breakdown by estate

<i>District</i>	<i>Estate</i>	<i>Number of Tenants</i>
Hong Kong Island	Ap Lei Chau Estate	29
	Hing Man Estate	6
	Hing Tung Estate	10
	Hing Wah (1) Estate	14
	Hing Wah (2) Estate	13
	Hong Tung Estate	1
	Lei Tung Estate	65
	Ma Hang Estate	1
	Model Housing Estate	4
	Oi Tung Estate	15

<i>District</i>	<i>Estate</i>	<i>Number of Tenants</i>
	Siu Sai Wan Estate	27
	Tin Wan Estate	4
	Tsui Lok Estate	2
	Wah Fu (1) Estate	78
	Wah Fu (2) Estate	9
	Wan Tsui Estate	23
	Wong Chuk Hang Estate	32
	Yiu Tung Estate	22
	Yue Wan Estate	11
Kowloon East	Choi Fai Estate	4
	Choi Hung Estate	26
	Choi Wan (1) Estate	24
	Choi Wan (2) Estate	2
	Chuk Yuen South Estate	16
	Fu Shan Estate	6
	Hing Tin Estate	6
	Kai Tin Estate	9
	Kai Yip Estate	19
	Ko Yee Estate	6
	Kwong Tin Estate	11
	Kei Yue Mun Estate	12
	Lok Fu Estate	10
	Lok Wah North Estate	16
	Lok Wah South Estate	17
	Lower Ngau Tau Kok (2) Estate	32
	Lower Wong Tai Sin (2) Estate	22
	Mei Tung Estate	1
	Ping Shek Estate	21
	Ping Tin Estate	23
	Po Tat Estate	24
	Sau Mau Ping (1) Estate	9
	Sau Mau Ping (3) Estate	7
	Sau Mau Ping Estate	43
	Shun Lee Estate	12
	Shun On Estate	10
	Shun Tin Estate	19
	Tak Tin Estate	7
	Tsui Ping South Estate	12
	Tsz Ching Estate	19

<i>District</i>	<i>Estate</i>	<i>Number of Tenants</i>
	Tsz Hong Estate	9
	Tsz Lok Estate	20
	Tsz Man Estate	7
	Tung Tau (1) Estate	6
	Tung Tau (2) Estate	12
	Upper Ngau Tau Kok Estate	1
	Upper Wong Tai Sin Estate	22
	Wan Hon Estate	2
	Wang Tau Hom Estate	10
	Wo Lok Estate	18
	Yau Tong Estate	24
	Kowloon West	Chak On Estate
Fortune Estate		7
Fu Cheong Estate		31
Ho Man Tin Estate		43
Hoi Fu Court		7
Hung Hom Estate		1
Lai Kok Estate		22
Lai On Estate		6
Lei Cheng Uk Estate		5
Ma Tau Wai Estate		4
Nam Cheong Estate		12
Nam Shan Estate		24
Oi Man Estate		46
Pak Tin Estate		37
Shek Kip Mei Estate		18
So Uk Estate		26
Tai Hang Tung Estate		8
Un Chau Estate		20
Kwai Tsing, Tsuen Wan and Islands	Cheung Ching Estate	8
	Cheung Fat Estate	12
	Cheung Hang Estate	28
	Cheung Hong Estate	26
	Cheung Shan Estate	5
	Cheung Wang Estate	8
	Fu Tung Estate	6
	Fuk Loi Estate	16
Kwai Chung Estate	5	

<i>District</i>	<i>Estate</i>	<i>Number of Tenants</i>
	Kwai Fong Estate	57
	Kwai Hing Estate	1
	Kwai Shing East Estate	58
	Kwai Shing East Estate (Interim Housing)	1
	Kwai Shing West Estate	19
	Lai King Estate	14
	Lai Yiu Estate	7
	Lei Muk Shue (1) Estate	5
	Lei Muk Shue (2) Estate	19
	On Yam Estate	14
	Shek Lei (1) Estate	16
	Shek Lei (2) Estate	25
	Shek Wai Kok Estate	16
	Shek Yam East Estate	5
	Shek Yam Estate	8
	Tai Wo Hau Estate	26
	Yat Tung (1) Estate	13
	Tuen Mun and Yuen Long	Butterfly Estate
Fu Tai Estate		71
Grandeur Terrace		4
Long Ping Estate		50
On Ting Estate		17
Po Tin Interim Housing		3
Sam Shing Estate		1
Shan King Estate		45
Shui Pin Wai Estate		8
Tai Hing Estate		63
Tin Chak Estate		18
Tin Heng Estate		33
Tin Shui (1) Estate		9
Tin Shui (2) Estate		9
Tin Tsz Estate		36
Tin Wah Estate		4
Tin Yan Estate		2
Tin Yat Estate		27
Tin Yiu (1) Estate		19
Tin Yiu (2) Estate		3
Tin Yuet Estate	27	

<i>District</i>	<i>Estate</i>	<i>Number of Tenants</i>
	Wu King Estate	37
	Yau Oi Estate	38
Tai Po, North, Sha Tin and Sai Kung	Cheung Wah Estate	16
	Choi Yuen Estate	20
	Chun Shek Estate	15
	Chung On Estate	14
	Fu Shin Estate	23
	Hau Tak Estate	11
	Hin Keng Estate	1
	Ka Fuk Estate	10
	Kin Ming Estate	7
	Kwong Fuk Estate	14
	Kwong Yuen Estate	4
	Lee On Estate	28
	Lek Yuen Estate	14
	Lung Hang Estate	17
	Mei Lam Estate	19
	Ming Tak Estate	7
	Po Lam Estate	18
	Pok Hong Estate	2
	Sha Kok Estate	42
	Sheung Tak Estate	25
	Sun Chui Estate	26
	Sun Tin Wai Estate	25
	Tai Yuen Estate	10
Tsui Lam Estate	16	
Wah Sum Estate	5	
Wo Che Estate	43	
Total:		2 668

(B) Breakdown by offence

<i>Offence</i>	<i>Number of Cases*</i>
Littering	2 135
Spitting in public areas	520
Throwing objects from height	34
Keeping animal, bird or livestock inside leased premises without prior consent of the Landlord	17

<i>Offence</i>	<i>Number of Cases*</i>
Denying Housing Department staff or staff representing the Housing Department entry for repairs responsible by the Housing Department	4
Accumulating a large quantity of refuse or waste inside leased premises, creating offensive smell and hygienic nuisance	4
Urinating and defecating in public places	3
Using leased premises as food factory or storage	2
Disposing refuse indiscriminately, such as improper disposal in lift lobbies or inside bins without cover	1
Obstructing corridors or stairs with sundry items, rendering cleansing difficult	1
Total:	2 721

* Of the 2 668 households being allotted penalty points, only 52 have committed two misdeeds or more and have thus accumulated 10 points or more. Hence, the total number of cases exceeds the total number of households with penalty points allotted.

Divestment of Hospital Authority's Retail and Car-parking Facilities

11. **MS EMILY LAU** (in Chinese): *Madam President, the Administration has established The Link Management Limited (TML) to manage the real estate investment trust to be set up for the divestment of the Housing Authority (HA)'s retail and car-parking facilities. In this connection, will the executive authorities inform this Council:*

- (a) *with regard to the divestment plan, of the detailed explanations given directly to the tenants of shops and car parks concerned, and consultations made with the public housing tenants, before the establishment of TML; and*
- (b) *whether TML will invite the tenants concerned, and not just their representatives, to attend meetings or briefings to exchange views on the business environment, car-parking facilities, rent levels and the operation of the company, and so on, and whether TML will issue to the tenants leaflets or pamphlets outlining the arrangements of the divestment plan; if so, of the details; if not, the reasons for that?*

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

- (a) The HA commenced an extensive consultation exercise immediately after the decision in 2003 to divest its retail and car-parking facilities. Apart from sending out leaflets to all commercial tenants and other concerned parties to inform them of the key features and timetable of the divestment project, the HA met various commercial tenant groups from time to time to update them on progress of the project and listen to their views. The HA also proactively sent out these leaflets to all District Council members and, upon the request of individual District Councils, sent representatives to attend their meetings to brief them further on the divestment project and listen to their views. After TML was established, the views gathered from various channels have already been conveyed to the company for its consideration.
- (b) TML has clearly expressed that it would be keen on fostering an open dialogue and close partnership with the commercial tenants to enhance the operational efficiency of the retail and carparking facilities. The Chief Executive Officer of the company has started meeting commercial tenant groups to discuss issues of concern. Given the large number of retail and car park tenants, it may not be practicable to meet all of them. Where necessary, TML will make use of various effective means, such as distributing leaflets or pamphlets to the retail and car park tenants or other parties concerned, to disseminate further information on the divestment project and let them know the relevant arrangements. Prior to the divestment of the retail and car-parking facilities, the HA will continue to maintain a keen interest in the dialogue between the company and the commercial tenants, and will facilitate the two sides to identify win-win solutions to the issues raised.

Handling Bodies of Persons Certified Dead at Public Places

12. **MR FRED LI** (in Chinese): *Madam President, it has been reported that on the 30th of last month, an elderly man fell from height in Hung Hom and lay*

near a bus stop. He was certified dead by the ambulance crew at the scene, but his body was left lying for more than two hours on the street before it was removed by the workmen of the Food and Environmental Hygiene Department (FEHD). Many passers-by and passengers waiting at the bus stop were disturbed at the sight of the dead body. Moreover, according to the new guidelines promulgated by the Hospital Authority (HA) last month, public hospitals will no longer admit people who have been certified dead by ambulance crew at the scene. In this connection, will the Government inform this Council:

- (a) of the details of the new guidelines;*
- (b) whether, upon the implementation of the new guidelines, the waiting time for the removal of bodies of persons certified dead at public places has become longer; if so, whether it has assessed if the relevant arrangements amount to disrespect to the deceased; and*
- (c) whether it will review the procedure for handling bodies of persons certified dead at public places, so that the bodies of the deceased will be removed expeditiously?*

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

- (a) In July 2004, the HA wrote to the Fire Services Department (FSD) suggesting that the Accident and Emergency Department in the HA hospitals are not the appropriate facilities for receiving obviously dead bodies, for example, those heavily charred. In such cases, the appropriate action is to remove the deceased directly to the mortuaries. This arrangement has no bearing on the time needed for removing dead bodies.
- (b) and (c)

On arrival of the ambulance crew at a scene where there are reported injured and/or dead persons, the crew will examine the injured and/or apparently dead persons to see if there is any sign of

life. Any injured person with signs of life will be delivered to public hospitals as quickly as possible. For any body certified dead, the police have to conduct enquiries at the scene before the dead body is removed in order to ensure that evidence essential to possible subsequent criminal investigation or death inquest is secured. Upon completion of the investigation process, the police will notify the dead removal team of the FEHD to remove the dead body to a public mortuary. Under normal circumstances, subject to the location and traffic conditions, the FEHD staff can remove the dead body from the scene in about 30 to 60 minutes after notification by the police. The departments involved are mindful of the need to keep any inconvenience and disturbance to the public to a minimum throughout the handling of such a case.

In the present case, the enquiries conducted by the police included ascertaining the location of the fall and the cause of death. The dead body was covered during the entire investigation process.

The departments concerned will continue to take prompt actions to complete dead body removal process within the shortest time possible without compromising the necessary investigations.

Complaints About Services Provided by Beauty or Slimming Centres

13. **MR LAU KONG-WAH** (in Chinese): *Madam President, regarding complaints about the services provided by beauty or slimming centres, will the Government inform this Council:*

- (a) *of the total number of such complaints received by the authorities concerned in the past two years;*
- (b) *of a breakdown by subject matter of the complaint cases mentioned in (a) above and, among these cases, the number of those in which the services provided had caused injuries to the complainants, as well as the total amount of compensation consequently paid by the centres concerned;*

- (c) *whether complaints involving the misuse of beauty treatment devices have been on the rise over the past two years, and whether it will consider introducing legislation to regulate the use of the beauty treatment devices in question; if it will not, of the reasons for that; and*
- (d) *as there have been people sustaining injuries as a result of beauty treatment, whether it will issue guidelines to the beauty business, or advise or caution consumers in respect of the risks involved in the course of beauty treatment?*

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

- (a) Between January 2002 and September 2004, the Consumer Council has received a total of 1 462 complaints about the services of beauty or slimming centres, details of which are set out in (b) below.
- (b) Breakdown of the complaints received by the Consumer Council is as follows:

<i>Nature of complaint</i>	<i>2002</i>	<i>2003</i>	<i>2004 (January to September)</i>
(i) Sales practices	41	77	91
(ii) Complainants unable to enjoy the number of service entitled	100	95	61
(iii) Charges	27	26	17
(iv) Quality of services	222	203	156
(v) Allergy, pain or appearance of mark on the skin after being serviced	8	26	28

<i>Nature of complaint</i>	<i>2002</i>	<i>2003</i>	<i>2004 (January to September)</i>
(vi) Shop closing down	102	9	17
(vii) Others	42	65	49
Total	542	501	419

Source: Consumer Council

The Consumer Council does not have information on whether these cases involved compensation or the amount involved.

- (c) Of the cases in (b)(v) above, those suspected to have involved the misuse of beauty or slimming treatment devices are as follows:

<i>2002</i>	<i>2003</i>	<i>2004 (January to September)</i>
1	8	2

At present, there is no legislation regulating the use of beauty treatment devices. However, some beauty treatment devices like IPL devices and lasers may be regarded as medical devices. The Health, Welfare and Food Bureau will, by the end of this year, introduce an administrative control system for medical devices, which includes a set of risk-based pre-market registration requirements for the products, the manufacturers and the traders; and a post-market control and adverse incident reporting system. Moreover, depending on the risk level of the medical device in question, the Health, Welfare and Food Bureau will restrict the use of such device to medical practitioners, and/or personnel who have undergone recognized training. Certain types of high-powered lasers and IPL devices commonly used in beauty parlours fall within this category. However, this control system will not cover intermediate and low powered lasers which are less dangerous.

The Health, Welfare and Food Bureau has drawn up this system earlier this year, after a public consultation exercise and taking into account the views of the Legislative Council Panel on Health

Services. The system is the first step in regulating the sale and use of medical devices and statutory control could be introduced in future if necessary.

- (d) With the implementation of the system, non-medical professionals, including beauticians, will have to undergo recognized training before they can operate certain medical devices such as IPL equipment. As part of the training, they will be reminded of the need to inform their clients of the potential risks and obtain their consent before performing certain types of beauty treatment. Furthermore, operators of such devices will be required to follow a code of practice on appropriate and safe use of these devices.

The Department of Health is preparing guidelines on infection control for skin penetration practice to personnel providing such service. The Department will also conduct publicity campaigns to remind the public to patronize properly trained personnel.

Separately, the Consumer Council, through its *CHOICE* magazine, reminds consumers from time to time on matters of concern and the potential risks involved in obtaining beauty treatment services.

Provision of Accessible Polling Stations

14. **MR FRED LI** (in Chinese): *Madam President, it is learnt that out of the 501 polling stations set up for the Legislative Council elections held on 12th of last month, only 287 (that is, 57%) are fully accessible to mobility-handicapped persons, including wheelchair-bound persons (accessible polling stations). In this connection, will the Government inform this Council:*

- (a) *of the reasons for the authorities' failure to provide accessible polling stations throughout the territory;*
- (b) *of the measures or arrangements put in place to facilitate mobility-handicapped persons' access to those polling stations which were not fully accessible; and*

- (c) *given that Article 25 of the International Covenant on Civil and Political Rights provides that every citizen shall have the right and opportunity to vote at periodic elections, whether the authorities have assessed if their failure to provide accessible polling stations throughout the territory, thereby causing inconvenience to mobility-handicapped voters or affecting their motivation to vote, has violated the spirit of the above provision; if they have, of the assessment results?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Chinese): Madam President, taking the question raised by the Honourable Fred LI as a whole, our reply is as follows:

Under the laws of Hong Kong, there is no distinction between disabled persons and other persons in terms of voting right. To facilitate disabled persons in casting their votes, the Registration and Electoral Office (REO) has made every effort in past elections to identify venues accessible to the mobility-handicapped or wheelchair-bound persons for use as polling stations. If a venue is not readily accessible to disabled persons, the REO would try to provide, where practicable, special facilities such as temporary ramps to make the venue an "accessible polling station" suitable for use by disabled persons.

However, in some cases no suitable "accessible" venues in the neighbourhood of voters' places of residence are available for use as polling stations, and providing special facilities such as temporary ramps may not be feasible for certain polling stations due to environmental constraints. As a result, not all polling stations are accessible to disabled persons. Of the 501 polling stations set up for the 2004 Legislative Council Election, a total of 287 (including 10 which were converted into accessible polling stations through the provision of special facilities by the REO) were "accessible polling stations" suitable for use by disabled persons, representing 57% of the total number of polling stations. The number of polling stations with such access is 71 more than that for last year's District Council election.

The REO designates all "accessible" polling stations suitable for use by disabled persons as special polling stations. It is provided in the electoral legislation that if a person with a disability is allocated to a polling station

unsuitable for his use, he may make a request, not later than five days before the polling day, to the REO for reallocation to a special polling station in his constituency.

A map showing the location of the polling station to which an elector is allocated is attached to every poll card issued by the REO. The map will indicate whether the polling station allocated to the elector is suitable for use by disabled persons. For all polling stations which are unsuitable for use by disabled persons, the REO will specify on the map that an elector with a disability may apply to the REO for reallocation to a special polling station in the same constituency.

When making arrangement to reallocate a polling station for disabled persons, the REO will take the initiative to ask them if they need Rehabus service for commuting to the relevant polling station. The REO will then forward the list of electors in need of the service to the Hong Kong Society for Rehabilitation to arrange for free Rehabus service.

The above arrangements should provide the necessary convenience to disabled persons to enable them to cast their votes. Thus, there should be no question of the arrangements violating the International Covenant on Civil and Political Rights. The REO will continue to make every effort to identify venues accessible to disabled persons for use as polling stations in future elections.

Provision of Cycling Tracks in Tuen Mun and Yuen Long

15. **MR ALBERT CHAN** (in Chinese): *Madam President, at present, bicycles are the daily means of transport for a large number of residents in Yuen Long (including Tin Shui Wai) and Tuen Mun. Many residents in Tin Shui Wai have told me that the cycling tracks in the district are not connected. Cyclists are forced to ride on the pavements in road sections where cycling tracks are not available, resulting in their violation of the law and posing danger to pedestrians. In this connection, will the Government inform this Council of:*

- (a) *the number of traffic accidents involving bicycles and the number of cyclists prosecuted in Yuen Long District in each of the past three years; and*

- (b) *the comprehensive planning of the cycling track works in Yuen Long and Tuen Mun, with illustrations to show the finished and unfinished works respectively, and the completion date of all the works?*

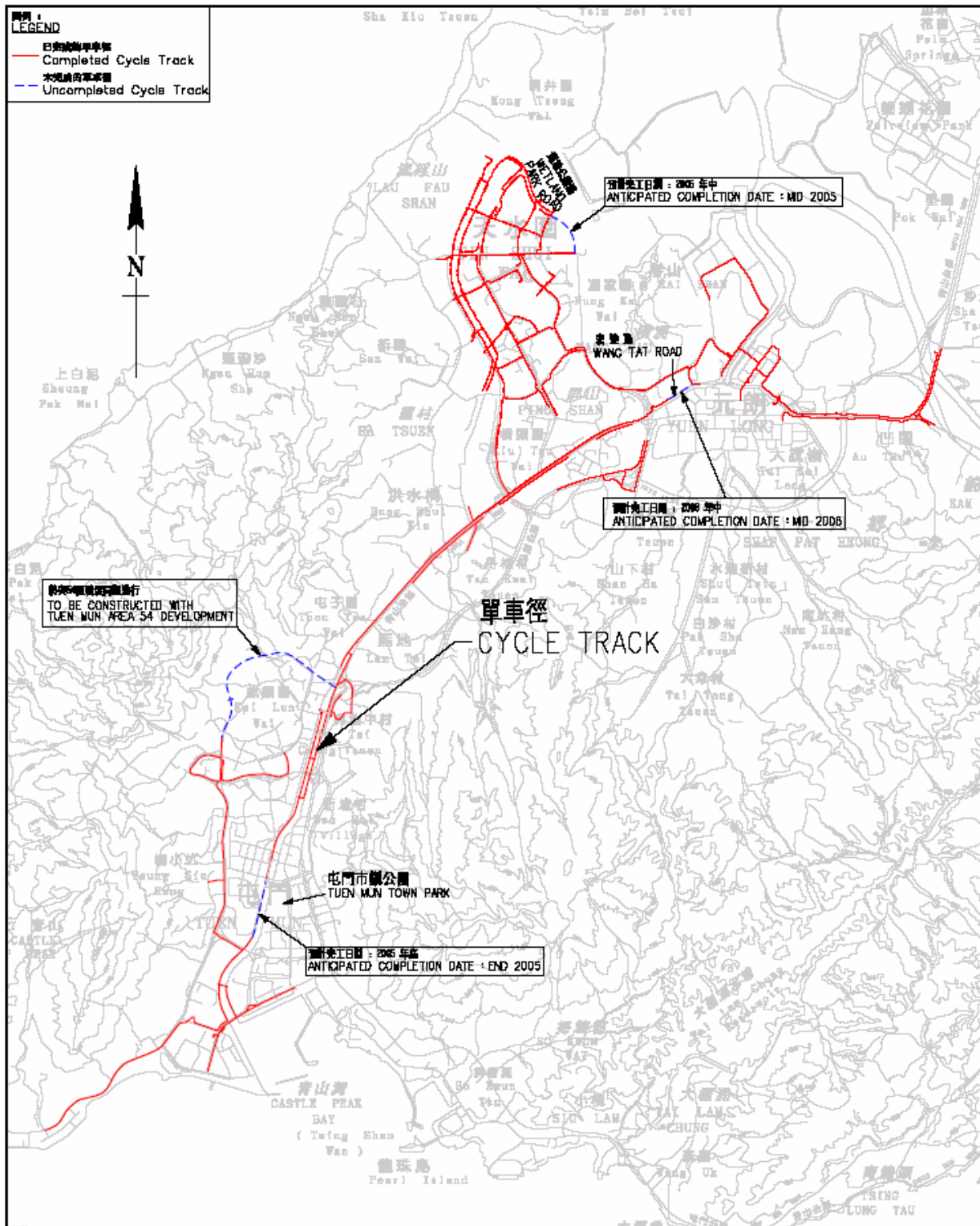
SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):
Madam President, my reply to the two parts of the question is as follows:

- (a) According to the information from the Environment, Transport and Works Bureau, the number of traffic accidents involving bicycles and the number of cyclists prosecuted in Yuen Long District in the past three years is set out in the table below:

	2001	2002	2003
Traffic accidents involving bicycles (number of cases)	231	289	288
Cyclists prosecuted (number of persons)	576	187	738

- (b) The planned cycle track networks in Yuen Long (including Tin Shui Wai) and Tuen Mun are shown in the attached drawing. These cycle tracks have largely been completed. Certain parts of the completed cycle tracks are interrupted due to close proximity of some sections to bus stops or the carrying out of other projects in the vicinity. The Transport Department is investigating the feasibility to carry out improvement measures and aims to complete the possible improvement works in about two years' time.

As indicated in the attached drawing, the uncompleted section of the cycle track along Wetland Park Road in Tin Shui Wai New Town is under construction and is anticipated to be completed in mid-2005. The uncompleted section along Wang Tat Road in Yuen Long Town is anticipated to be completed in mid-2006. The uncompleted section adjacent to the Tuen Mun Town Park is anticipated to be completed in end-2005. The works for the section in Tuen Mun Area 54 will be carried out together with the development of the area. The anticipated completion date is under review.



圖則名稱 drawing title

元朗及屯門之單車徑網絡
CYCLE TRACK NETWORK IN
YUEN LONG AND TUEN MUN

比例 scale

1 : 50 000

Tuen Mun Cross-border Ferry Pier

16. **MR ALBERT CHAN** (in Chinese): *Madam President, it has been reported that the conversion works on the Tuen Mun Cross-border Ferry Pier, which is scheduled to begin operation in December this year, have not yet commenced as the works plans have not been approved by the Architectural Services Department (ArchSD). As a result, the ferry service between Tuen Mun and Macao scheduled to begin in that month may have to be delayed. In this regard, will the Government inform this Council:*

- (a) *of the reason for the delay of the works on the pier;*
- (b) *whether there are penalty clauses in the contract to penalize the persons in charge of the conversion works on account of the delay in commencing the works; if so, of the details; if not, the reasons for that;*
- (c) *whether there are measures to ensure timely completion of the conversion works on the pier; if so, of the details; if not, the reasons for that; and*
- (d) *whether there are measures to ensure that the ferry service between Tuen Mun and Macao will begin operation in December this year as scheduled; if so, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, the tenant of the Tuen Mun cross-boundary ferry terminal has twice submitted pier modification plans to the ArchSD. Since some of the plans cannot fully meet the requirements of the Buildings Ordinance, the tenant has to amend the plans for re-submission. The ArchSD is now vetting the revised plans submitted by the tenant in early October. As the demolition plans have been approved, the tenant has already started the demolition works.

Even if the tenant fails to launch cross-boundary ferry services in December 2004 as originally planned, it is still required under the tenancy agreement to pay around \$1.35 million to the Government every month starting from December 2004. Failure to do so would amount to a breach of the

tenancy agreement, in which case the Government may consider terminating the agreement and forfeiting part or the whole of the \$2.5 million deposit paid by the tenant.

The tenant has indicated that it would expedite the pier modification works and launch the ferry services to Macao as soon as possible. We will endeavour to facilitate the tenant's work.

Residential Development Projects

17. **MR LEE WING-TAT** (in Chinese): *Madam President, regarding residential development projects, will the Government inform this Council:*

- (a) *of the number of applications made by real estate developers in the past three years for assessment of regrant premium in respect of residential development projects, and the details of each application, including the area and location of the site, as well as the assessed land premium; and*
- (b) *whether it knows which property development projects above stations along railway alignments are scheduled to be put up for tendering by the two railway corporations in the period between the end of this year and the beginning of the next year, as well as the projected completion dates of these projects?*

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

- (a) In the past three years from 1 September 2001 to 31 August 2004, the Lands Department received 338 applications for lease modifications in respect of residential developments. The information requested by the Honourable Member, which concerns 313 executed cases of application, is set out in Annex.
- (b) Between the end of this year and the beginning of next year, the MTR Corporation Limited tentatively plans to invite tender for Phase 1 of its Tseung Kwan O Area 86 development. The

estimated completion date for this phase of the development, involving 2 100 flats, is 2007-08. The tendering of the rest of the development would be in phases. There is currently no definite tendering timetable. The Kowloon-Canton Railway Corporation plans to invite tender in March next year for its Ma On Shan Rail Wu Kai Sha Station property development which involves three phases of 2 500 flats for completion in 2008 and 2009 respectively.

Annex

Lease modification transactions in respect of
residential developments executed between
1 September 2001 and 31 August 2004

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2001/9/3	Lot 3088 in Demarcation District 1	Shek Lau Po, Tung Chung, Lantau Island	105	396,700
2001/9/5	Lot 3689 section A and section C in DD120	65-67 Castle Peak Road, Yuen Long	165	3,930,000
2001/9/6	Rural Building Lot 810	1 Barker Road, The Peak	1 352	37,330,000
2001/9/7	Lot 269 in Demarcation District 390	Sham Tseng, Tsuen Wan	52 591	110,000,000
2001/9/10	Inland Lot 8972	Tai Hang Road, Happy Valley	7 230	943,000,000
2001/9/12	New Kowloon Inland Lot 4146	39 La Salle Road, Kowloon Tong	941	3,620,000
2001/9/17	Inland Lot 8897	Queen Street, Land Development Corporation Project H1	7 964	82,690,000
2001/9/24	Rural Building Lot 506 and Extension	71 Mount Kellett Road, The Peak	2 848	3,050,000
2001/9/24	Tuen Mun Town Lot 392	Tsing Shan Tsuen, Tuen Mun	N/A	27,500
2001/9/26	Inland Lot 29 section GG Remaining Portion	1 Hysan Ave, Causeway Bay	887	0 (technical amendment)
2001/9/26	Inland Lot 29 section KK	111 Leighton Road, Causeway Bay	530	0 (technical amendment)
2001/9/27	Tsuen Wan Town Lot 382	Castle Peak Road, Tsuen Wan	13 200	0 (technical amendment)
2001/9/29	Inland Lot 2605 section A Remaining Portion	11 Ngan Mok Street, North Point	663	0 (technical amendment)
2001/10/11	Tuen Mun Town Lot 384	Area 4C, Tuen Mun	90 200	0 (technical amendment)

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2001/10/16	New Kowloon Inland Lot 6361	J/O Nga Tsin Wai Road and College Road, Kowloon Tong	2 314	144,150,000
2001/10/16	Lot 653 in Demarcation District 238	Hang Hau Wing Lung Street, Sai Kung	2 460	14,570,000
2001/10/31	Lot 1847 in Demarcation District Cheung Chau	Sai Wan, Cheung Chau	2 130	0 (technical amendment)
2001/11/2	Kowloon Inland Lot 9518	4 King Tak Street, Ho Man Tin	993	1,000
2001/11/6	Sha Tin Town Lot 161	Hilton Plaza, 3-9 Sha Tin Centre Street, Sha	50	300,000
2001/11/9	Inland Lot 2441	192 Victoria Road, Po Fu Lam	3 164	600,000
2001/11/14	Lot 1859 in Demarcation District Cheung Chau	Chung Hing Back Street, Cheung Chau	65	1,700,000
2001/11/16	Inland Lot 7894	6-12 Mount Bulter Road	3 530	1,000
2001/11/16	Inland Lot 7863 Remaining Portion	1 Moorsom Drive	338	300,000
2001/11/21	New Kowloon Inland Lot 3946	Dianthus Road, Yau Yat Chuen	2 200	0 (technical amendment)
2001/11/21	Inland Lot 3546	560 King's Road, North Point	5 914	0 (technical amendment)
2001/11/22	Lot 4960 Remaining Portion in Demarcation District 51	Pak Fuk Tsuen, Fanling	145	760,000
2001/11/23	Fanling Sheung Shui Town Lot 204	Wah Ming Estate, Fanling	78 123	0 (technical amendment)
2001/11/23	Rural Building Lot 571	72 Deep Water Bay Road, Deep Water Bay	1 115	45,000,000
2001/11/26	Tuen Mun Town Lot 415	Fu Tei	3 904	1,430,000
2001/11/28	Rural Building Lot 1132	129 Repulse Bay Road, Repulse Bay	10 570	300,000
2001/11/29	Hung Hom Inland Lot 432	55-59 Station Lane, Hung Hom	335	1,000
2001/11/30	Tuen Mun Town Lot 276	32 Tsing Sin Street, Tuen Mun	900	0 (technical amendment)
2001/12/3	Sha Tin Town Lot 418	Area 100, Ma On Shan	6 050	2,960,000
2001/12/3	Inland Lot 1460 section G Remaining Portion and Inland Lot 1460 section G subsection 2	6 Blue Pool Road, Happy Valley	746	0 (technical amendment)
2001/12/6	Kowloon Inland Lot 11076	Hung Hom Bay Reclamation Area	27 818	300,000
2001/12/6	Inland Lot 8393	3 Tregunter Path, The Peak	7 320	2,000,600
2001/12/14	New Kowloon Inland Lot 6320	Lai Chi Kok Road, Cheung Sha Wan	19 473	0 (technical amendment)
2001/12/15	Tsuen Wan Town Lot 405	Hoi Shing Road/Tai Chung Road	2 050	9,500,000
2001/12/15	Sha Tin Town Lot 418	Area 100, Ma On Shan	N/A	0 (technical amendment)

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2001/12/17	Yuen Long Town Lot 85	48 Castle Peak Road, Yuen Long	130	0 (technical amendment)
2001/12/19	Yuen Long Town Lot 367	44-46 Castle Peak Road, Yuen Long	156	0 (technical amendment)
2001/12/20	Inland Lot 187 Remaining Portion, section B Remaining Portion, section E Remaining Portion and Inland Lot 7397 Remaining Portion	26 Peel Street, Central	330	0 (technical amendment)
2001/12/21	Tsuen Wan Town Lot 369	Tai Uk Wai, Tsuen Wan	4 273	900,000
2001/12/21	Rural Building Town Lot 1142	Near 14, South Bay Road	2 267	231,600
2001/12/22	Inland Lot 62 section D Remaining Portion, section D subsection 1 Remaining Portion and section G Remaining Portion	69-73 Hollywood Road, Central	145	0 (technical amendment)
2002/1/7	Inland Lot 2363	1 Chatham Path, The Peak	816	0 (technical amendment)
2002/1/8	Rural Building Lot 1148	8, 12 and 16 Severn Road	13 570	812,000
2002/1/10	Inland Lot 1149 section A subsection 1 Remaining Portion and section A Remaining Portion	Moreton Terrace, Causeway Bay	2 227	0 (technical amendment)
2002/1/14	Inland Lot 8354	12 Cloud View Road, North Point	666	1,000
2002/1/21	New Kowloon Inland Lot 6328	Lai Chi Kok Road, Cheung Sha Wan	18 912	182,750,000
2002/1/23	Tai Po Town Lot 160	Area 11, Tai Po Kau, Tai Po	4 070	8,000,000
2002/1/29	Inland Lot 8971	Kennedy Town New Praya, Kennedy Town	6 075	1,000
2002/1/30	Lot 2208 in Demarcation District 3	Yung Shue Long Old Village, Lamma Island	59	170,000
2002/2/1	New Kowloon Inland Lot 27 section D	348 Lai Chi Kok Road, Cheung Sha Wan	N/A	0 (technical amendment)
2002/2/6	Lot 3070 in Demarcation District 316	Lot 3070 in Demarcation District 316 Pui O	48	453
2002/2/7	Yuen Long Town Lot 503 Remaining	Kai Tei, Yuen Long	21 933	246,500,000
2002/2/8	Inland Lot 8844	121-131 Thomson Road and 2-10 Fleming	1 033	14,000,000
2002/2/8	Kowloon Inland Lot 2500	13 Ho Man Tin Street, Ho Man Tin	N/A	0 (technical amendment)
2002/2/8	Lot 67 in Demarcation District 175	Kau To, Sha Tin	390	9,320,000
2002/2/9	Kowloon Inland Lot 11118	J/O Princess Margaret Road and Wylie Road, Ho Man Tin	36 006	0 (technical amendment)

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2002/2/11	Sha Tin Town Lot 521	Hung Kiu Lane, Kau To, Sha Tin	3 172	4,670,000
2002/2/18	Sha Tin Town Lot 448	Area 77, Ma On Shan	14 505	315,000,000
2002/2/18	Lot 2860 in Demarcation District 130	Fuk Hang Tsuen Road, Lam Tei	36 830	165,000,000
2002/2/21	Tsuen Wan Town Lot 373	Ma Tau Pa Road and Yeung Uk Road, Tsuen Wan	10 416	488,320,000
2002/2/21	Lot 3070 in Demarcation District 316	Pui O, Lantau Inland	48	453
2002/2/22	New Kowloon Inland Lot 5195 Remaining Portion	15-37 Broadcast Drive, Kowloon Tong	29 703	1,000
2002/2/25	Inland Lot 2147 section A Remaining Portion	33 Caroline Hill Road, Causeway Bay	3 422	0 (technical amendment)
2002/2/28	Inland Lot 126 Remaining Portion	G/F and C/L, 55 Elgin Street, Central	114	0 (technical amendment)
2002/3/1	Inland Lot 3443	2A North Street, Kennedy Town	400	26,500,000
2002/3/1	Inland Lot 8962	12 and 12A, North Street, Kennedy Town	427	26,500,000
2002/3/1	Tuen Mun Town Lot 399	Fu Tei, Tuen Mun	11 500	123,250,000
2002/3/1	Rural Building Lot 371 Remaining Portion	34 Lugard Road, The Peak	2 022	0 (technical amendment)
2002/3/4	Kowloon Inland Lot 11100	J/O Shanghai Street and Waterloo Road, Yau Ma Tei	3 870	184,630,000
2002/3/4	Kowloon Inland Lot 11151	Olympic Station Site D, Tai Kok Tsui	17 192	815,050,000
2002/3/7	Inland Lot 7385	25 Cooper Road, Jardine's Lookout	1 695	300,000
2002/3/8	Rural Building Lot 652	33 Tung Tau Wan Road, Stanley	623	0 (technical amendment)
2002/3/13	Rural Building Lot 1150	60-62 Chung Hom Kok Road, Stanley	1 144	0 (technical amendment)
2002/3/13	Tsuen Wan Town Lot 352	Yau Kom Tau, Tsuen Wan	3 716	43,370,000
2002/3/16	Rural Building Lot 1169	3-5 Gough Hill Path	4 582	18,000,000
2002/3/18	Lot 1739 in Demarcation District 122	Castle Peak Road, Ping Shan, Yuen Long	13 396	19,263,500
2002/3/18	Lot 1740 in Demarcation District 122	Tong Yan San Tsuen, Yuen Long	7 319	500,000
2002/3/21	Kwun Tong Inland Lot 625 and Kwun Tong Inland Lot 626	Shop 1 and 2 on G/F, A1 and A2 on M/F, Fu Shing House, 10-24 Fu Yan Street, Kwun	511	3,930,000
2002/3/23	Rural Building Lot 428	110 Repulse Bay Road, Repulse Bay	1 626	8,000,000
2002/3/28	Rural Building Lot 384 and Extension	26 Middle Gap Road	1 536	870,000

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2002/4/9	Lot 1740 in Demarcation district 122	Tong Yan San Tsuen, Yuen Long	7 319	500,000
2002/4/11	Inland Lot 4223 and Extension	70 Tai Hang Road, Happy Valley	3 176	0 (technical amendment)
2002/4/11	Kowloon Inland Lot 3389 Remaining Portion	15 Ho Man Tin Hill Road, Ho Man Tin	2 422	66,110,000
2002/4/15	Lot 2574 Demarcation District 92	Castle Peak Road — Kwu Tung section, Sheung Shui	6 216	600,000
2002/4/19	New Kowloon Inland Lot 5301	G/F-3/F, Manning Theatre Building, 1 Koon Wah Lane, Tsz Wan Shan	1 355	4,300,000
2002/4/23	Lot 2427 in Demarcation District 83	Kwan Tei North, Fanling	15 521	1,090,000
2002/4/25	Lot 3777 in Demarcation District 120	50-54 Castle Peak Road	260	0 (technical amendment)
2002/4/26	Inland Lot 730 section B subsection 6 section A, section B subsection 6 Remaining Portion, section B subsection 4 section D subsection 1, section B subsection 4 section D Remaining Portion, section B subsection 4 section C subsection 1, section B subsection 4 section C Remaining Portion, section C subsection 1 and section C Remaining Portion, Inland Lot 5457 Remaining Portion, Inland Lot 5458 Remaining Portion, Inland Lot 5459 Remaining Portion, Inland Lot 5460 Remaining Portion, Inland Lot 5461 and Inland Lot 5462	23-45 Sharp Street East and 11-13 Yiu Wa Street, Wan Chai	969	0 (technical amendment)
2002/4/30	New Kowloon Inland Lot 5301	1 Kwun Wah Lane, Tsz Wan Shan	1 355	4,300,000
2002/5/6	New Kowloon Inland Lot 47 section A Remaining Portion	Ground Floor, Hai Tan Mansion, 145-149 Hai Tan Street, Sham Shui Po	1 749	0 (technical amendment)
2002/5/6	Inland Lot 4469 and Inland Lot 4470	5 Tun Wo Lane, Central	70	0 (technical amendment)
2002/5/7	Lot 747 in Demarcation District 332	Cheung Sha, Lantau Island	8 280	2,550,000
2002/5/8	Inland Lot 1366 section F subsection 2 section C Remaining Portion	28 Mercury Street, Hong Kong	476	0 (technical amendment)

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2002/5/9	Quarry Bay Marine Lot 4 section C subsection 1 Remaining Portion	913-919 and 929-935 King's Road, Hong Kong	1 556	0 (technical amendment)
2002/5/9	Fanling Sheung Shui Town Lot 144	Area 10B, Fanling Wai, Fanling	3 383	2,200,000
2002/5/17	Kowloon Inland Lot 7929	99-105, Maidstone Road, To Kwa Wan	485	1,000
2002/5/17	Tai Po Town Lot 161	Sam Mun Tsai Road, Tai Po	91 265	10,000,000
2002/5/22	Fanling Sheung Shui Town Lot 195	Area 19, Fanling	12 212	0 (technical amendment)
2002/6/4	Kwai Chung Town Lot 467	29-51 Wo Yi Hop Road, Kwai Chung	7 825	274,680,000
2002/6/4	Rural Building Lot 1158	Chung Hom Kok, Stanley	2 578	0 (technical amendment)
2002/6/5	New Kowloon Inland Lot 48 section C subsection 6, section C and Remaining Portion section E section F and section	216-224 Tung Chau Street, Sham Shui Po	N/A	0 (technical amendment)
2002/6/5	Inland Lot 431 section A subsection 1 section A and section A subsection 1 Remaining Portion	1/F, 10-12 Stone Nullah Lane, Wanchai	140	0 (technical amendment)
2002/6/10	Inland Lot 8840	2 Wah Fu Road, Pokfulam	1 995	300,000
2002/6/12	Stanley Inland Lot 49	90 Stanley Main Street, Stanley	251	5,000,000
2002/6/18	Fanling Sheung Shui Town Lot 189	Area 36, Sheung Shui	9 024	110,000,000
2002/6/18	Lot 272 in Demarcation District 213 and Extension	103 Chuk Yeung Road, Sai Kung	855	600,000
2002/6/24	Tuen Mun Town Lot 374	So Kwun Wat, Tuen Mun	42 453	75,000,000
2002/6/26	Shaukeiwan Inland Lot 730	37-39 Wai Hang Street, Shaukeiwan	220	1,000
2002/7/9	Tsuen Wan Town Lot 404	Area 40, Route Twisk, Tsuen Wan	6 970	1,790,000
2002/7/10	Rural Building Lot 365 section A	57 Shouson Hill Road, Shouson Hill	3 608	1,500,000
2002/7/11	Inland Lot 2302 section Q and Extension, section R and Extension	8A-8F Shiu Fat Terrace, Happy Valley	2 776	98,000,000
2002/7/13	Rural Building Lot 168 section A subsection 1	117 Repulse Bay Road, Repulse Bay	1 596	110,000,000
2002/7/19	Inland Lot 8297 Remaining Portion	1100 King's Road, Quarry Bay	N/A	0 (technical amendment)
2002/7/24	Tseung Kwan O Town Lot 43	88 Po Hong Road, Tseung Kwan O	12 900	462,970,000
2002/7/24	New Kowloon Inland Lot 3783 section A	47-49 La Salle Road, Kowloon Tong	1 065	0 (technical amendment)

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2002/7/24	Tuen Mun Town Lot 424	Tsing Fat Lane, Tuen Mun	5 520	0 (technical amendment)
2002/7/24	Mui Wo Lot 645 in Demarcation District 2	Mui Wo Lot 645 in Demarcation District 2	54	260,000
2002/7/29	Inland Lot 8343	7A Comfort Terrace, North Point	715	1,000
2002/8/2	Inland Lot 1277 Remaining Portion	G/F, 297 Queen's Road East (include basement)	72	0 (technical amendment)
2002/8/2	Rural Building 536 and Extension	35 Deep Water Bay Road, Shouson Hill	4 479	2,200,000
2002/8/5	Tuen Mun Town Lot 419	Siu Lam, Area 58, Tuen Mun	19 318	0 (technical amendment)
2002/8/6	Inland Lot 3505	180 Tung Lo Wan Road, Causeway Bay, Hong Kong	695	0 (technical amendment)
2002/8/15	New Kowloon Inland Lot 26 section A subsection 1, section A subsection 2, section A Remaining Portion, section F subsection 2 and section F Remaining Portion	192-200 Yee Kuk Street, Cheung Sha Wan	485	0 (technical amendment)
2002/8/16	Lot 14 in Demarcation District 231	Chuk Kok, Sai Kung	2 790	0 (technical amendment)
2002/8/19	Tsuen Wan Town Lot 395	Area 40, Route Twisk, Tsuen Wan	25 630	300,000
2002/8/22	Inland Lot 2305 and Extension	12B Bowen Road, Mid-Levels	1 285	6,890,000
2002/8/26	Rural Building Lot 1161	Island Road, Deep Water Bay	5 250	68,010,000
2002/8/27	Yuen Long Town Lot 516	83 Castle Peak Road, Yuen Long	98	0
2002/8/29	New Kowloon Inland Lot 2802	1 Derby Road, Kowloon Tong	1 115	600,000
2002/9/2	Rural Building Lot 810	1 Barker Road, The Peak	1 352	0
2002/9/3	Sha Tin Town Lot 434	Hang Lok Lane, Shatin	958	100,000
2002/9/3	Lot 2094 in Demarcation District 105	Ngau Tam Mei	19 556	0 (technical amendment)
2002/9/9	Tin Shui Wai Town Lot 27	Tin Shui Wai Area 108B, Yuen Long	14 901	600,000
2002/9/12	Tsuen Wan Town Lot 406	Yeung Uk Road, Tsuen Wan	5 583	309,000,000
2002/9/12	Rural Building Lot 170	28 Lugard Road, The Peak	1 728	0 (technical amendment)
2002/9/19	Rural Building Lot 732	7 Mount Kellett Road, The Peak	2 081	0 (technical amendment)
2002/10/8	Kowloon Inland Lot 11123	15-21 Fa Yuen Street, Mongkok	449	60,000,000
2002/10/17	Inland Lot 6399	79 Sing Woo Road, Happy Valley	374	300,000
2002/10/18	Lot 2515 in Demarcation District 3	Fui Yiu Ha, Tung Chung	N/A	48,200

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2002/10/21	Kowloon Inland Lot 2411 and Extension	1 Ho Man Tin Hill Road, Ho Man Tin	2 934	25,800,000
2002/10/25	Rural Building Lot 1138	Wong Ma Kok Road, Stanley	53 126	0 (technical amendment)
2002/10/25	Rural Building Lot 1137	20-22 Severn Road	3 810	0 (technical amendment)
2002/11/1	New Kowloon Inland Lot 6332	31 Grampian Road, Kowloon	488	6,000,000
2002/11/4	Ma Wan Lot 392	Ma Wan	126 500	300,000
2002/11/20	Inland Lot 584 section A subsection 1	8 Rednaxela Terrace, Mid-Levels	186	0 (technical amendment)
2002/11/22	Inland Lot 7461 section A and Remaining Portion, Inland Lot 7462 section A, section B and Remaining Portion, Inland Lot 7463 section A, section B and Remaining Portion, Inland Lot 7464 section A, section B, section C and Remaining Portion	33-39A North Point Road and 50-52 Wharf Road, North Point	533	0 (technical amendment)
2002/11/22	Inland Lot 7459	33-39A North Point Road and 50-52 Wharf Road, North Point	533	0 (technical amendment)
2002/11/26	Inland Lot 7878	10-12 Peak Road	6 132	0 (technical amendment)
2002/12/2	Inland Lot 8571	88 Queensway, Hong Kong	10 690	0 (technical amendment)
2002/12/3	Lot 999 in Demarcation District 214	Nam Wai, Sai Kung	4 030	7,300,000
2002/12/4	Tsuen Wan Town Lot 398	J/O Yeung Uk Road and Tai Ho Road, Tsuen Wan	19 292	340,000,000
2002/12/13	Kowloon Inland Lot 11147	24-26 Kimberley Road, 55-61 Carnarvon Road and 38-40 Kimberley Street, Tsim Sha Tsui	N/A	0 (technical amendment)
2002/12/21	Lot 786 in Demarcation District 249	Kai Ham, Sai Kung	121	199,400
2002/12/23	Kowloon Inland Lot 9274 Remaining Portion	157 Prince Edward Road West, Mongkok	N/A	0 (technical amendment)
2002/12/27	New Kowloon Inland Lot 48 section A Remaining Portion and section D Remaining Portion	1/F., Canaan Building, 200 Tung Chau Street, Sham Shui Po	100	0 (technical amendment)
2002/12/31	Rural Building Lot 586 and Extension	91 Repulse Bay Road	1 916	300,000

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2003/1/9	Kowloon Inland Lot 3947 and Remaining Portion	G/F., 19 Tung Choi Street, Mongkok	101	0 (technical amendment)
2003/1/15	Kowloon Inland Lot 4234 section A	377 Prince Edward Road West, Kowloon City	1 020	32,500,000
2003/1/20	Rural Building Lot 204	30 Peak Road, The Peak	1 552	600,000
2003/1/21	Kowloon Inland Lot 8423	11-21 Cheong Lok Street, Yau Ma Tei	213	0 (technical amendment)
2003/1/30	Lot 13 in Demarcation District 231	Chuk Kok, Sai Kung	N/A	0 (technical amendment)
2003/2/6	Shaueiwan Inland Lot 761	Sai Wan Terrace, Sai Wan Ho	2 647	0 (technical amendment)
2003/2/8	Inland Lot 2823 Remaining Portion	Lockhart Road, Wanchai	446	0 (technical amendment)
2003/2/8	Lot 1144 in Demarcation District	Tui Min Hoi, Sai Kung	5 140	100,000
2003/2/12	Aberdeen Inland Lot 393 Remaining Portion	45 Yue Kwong Road, Aberdeen	11 900	0 (technical amendment)
2003/2/13	Lot 2543 in Demarcation District 92	Kam Tsin, SheungShui	45 000	300,000
2003/2/17	Inland Lot 2348	64-64A Mount Davis Road, Pokfulam	5 399	4,000,000
2003/2/21	Lot 677 in Demarcation District Peng Chau	Wing On Side Street, Peng Chau	57	256,000
2003/2/24	Inland Lot 218 section B and Others	106-116 Hollywood Road	1 841	0 (technical amendment)
2003/2/26	Kowloon Inland Lot 1157	1C-1F Kwong Wa Street, 1-11 and 2-4 Kwong Yung Street, 22-30 Yin Chong Street, Mong Kok	6 789	0 (technical amendment)
2003/2/28	Kowloon Inland Lot 3102 Remaining Portion	10 Nelson Street and 76A-76E Fa Yuen Street, Mongkok	N/A	0 (technical amendment)
2003/2/28	Shatin Town Lot 283	Kam On Court, Ma On Shan	N/A	0 (technical amendment)
2003/3/3	Sha Tin Town Lot 470	Ho Tung Lau, Fo Tan	26 687	1,322,000,000
2003/3/7	Lot 742 in Demarcation District 332	Cheung Sha Ha Tsuen, Lantau Island	28	997
2003/3/12	Rural Building Lot 719	54 Peak Road	613	0 (technical amendment)

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2003/3/14	New Kowloon Inland Lot 42 section B subsection 2 Remaining Portion and New Kowloon Inland Lot 42 section B Remaining Portion	G/F. and Cockloft, 263 Yu Chau Street, Tai Kok Tsui	89	0 (technical amendment)
2003/3/16	Kowloon Inland Lot 1565 section B subsection 6 Remaining Portion	G/F., 71 Sai Yee Street, Mong Kok	2 026	0 (technical amendment)
2003/3/18	Kowloon Inland Lot 8152	145-151A Kau Pui Lung Road, Kowloon	502	310,000
2003/3/22	New Kowloon Inland Lot 5799 section B	J/O Po Kong Village Road & King Tung Street, Diamond Hill	2 620	0 (technical amendment)
2003/3/22	Lot 754 in Demarcation District 225	Sheung Yeung, Hang Hau	409	0 (technical amendment)
2003/3/25	Kwai Chung Town Lot 484	188 Kwai Shing Circuit, Kwai Chung	9 100	0 (technical amendment)
2003/3/26	Rural Building Lot 615	5 Middle Gap Road, The Peak	1 045	0 (technical amendment)
2003/3/29	Kowloon Inland Lot 8064	320-324 Shanghai Street, Yau Ma Tei	197	0 (technical amendment)
2003/3/31	New Kowloon Inland Lot 6275	J/O Hing Wah Street West and Sham Shing Road, Cheung Sha Wan	N/A	3,413,600
2003/4/1	Inland Lot 6715, Inland Lot 6716, Inland Lot 6717 and Inland Lot 6718	122-128 Chun Yeung Street, North Point, Hong Kong	378	0 (technical amendment)
2003/4/10	Tin Shui Wai Town Lot 28	Area 111, Tin Shui Wai, Yuen Long	222 710	5,400,000
2003/4/11	Inland Lot 7385	25 Cooper Road, Jardine's Lookout	1 695	0 (technical amendment)
2003/4/11	Rural Building Lot 668	70 Deep Water Bay Road, Hong Kong	2 936	47,355
2003/4/14	Inland Lot 2837 section C subsection 1	7 Star Street, Wan Chai	81	0 (technical amendment)
2003/4/22	Rural Building Lot 842	82 Chung Hom Kok Road, Stanley, Hong Kong	1 643	0 (technical amendment)
2003/4/23	Tuen Mun Town Lot 451	Chung Shan, Tuen Mun	32 875	0 (technical amendment)
2003/4/24	Sha Tin Town Lot 533	11 Sha Tin Heights Road	3 558	6,690,000

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2003/5/12	Inland Lot 57 section F and Others	8-10 Wing Fung Street, Wan Chai	250	0 (technical amendment)
2003/5/15	Inland Lot 8955	Wai Wan Ho Ferry Concourse, Sai Wan Ho	12 200	0 (technical amendment)
2003/5/16	Kowloon Inland Lot 1565 section 6 Remaining Portion	G/F., 71 Sai Yee Street	2 026	0 (technical amendment)
2003/5/16	Kowloon Inland Lot 1385 Remaining Portion and Kowloon Inland Lot 1386 Remaining Portion	240-244 Portland Street and B/F-6/F, 11 Nelson Street, Mong Kok	1 054	0 (technical amendment)
2003/5/20	Kowloon Inland Lot 4013 Remaining Portion	38 Sung Wong Toi Road, To Kwa Wan, Kowloon	71	0 (technical amendment)
2003/5/20	Lot 536 in Demarcation District 10 Lamma Island	G/F, 25 Sok Kwu Wan First Street, Lamma Island	50	250,000
2003/5/21	Chaiwan Inland Lot 119	Yan Tsui Court, Chai Wan	4 523	0 (technical amendment)
2003/5/21	Shatin Town Lot 526	2 Lot Kwai Path, Area 43, Sha Tin	19 300	0 (technical amendment)
2003/6/2	Inland Lot 7751 and Extension	51 Mount Davis Road, Pokfulam	1 404	300,000
2003/6/3	Inland Lot 457 section C subsection 1	Yan Ping Road, Causeway Bay	3 883	0 (technical amendment)
2003/6/9	Inland Lot 8953	Queen's Road East and Wan Chai Road, Wan Chai	6 781	168,000,000
2003/6/13	Inland Lot 3960 Remaining Portion	29-31 Queen's Road East, Wan Chai	1 161	0 (technical amendment)
2003/6/17	Shatin Town Lot 481	Area 77, Ma On Shan, Shatin	11 380	2,469,000
2003/6/20	Inland Lot 4784 in Demarcation District 104	Ngau Tam Mei, Yuen Long	16 167	17,000,000
2003/6/20	Lot 3569 in Demarcation District	Lau Fau Shan, Yuen Long	15 450	600,000
2003/6/20	Shatin Town Lot 427	Tung Lo Wan Shan, Shatin	308	1,185,000
2003/6/23	Tsuen Wan Town Lot 406	124-142 Yeung Uk Road, Tsuen Wan	5 583	0 (technical amendment)
2003/6/23	Rural Building Lot 1143	20-22 South Bay Road, Repulse Bay	1 925	400,000
2003/6/24	Rural Building Lot 809	23 Big Wave Bay Road, Shek O	2 023	300,000
2003/7/2	Kowloon Inland Lot 8787	115-115A Kau Pui Lung Road, To Kwai	223	1,000
2003/7/9	Marine Lot 52 section L subsection 1	517 Jaffe Road, Causeway Bay	780	0 (technical amendment)

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2003/7/16	Tsing Yi Town Lot 163	2 Tsing King Road, Tsing Yi	6 043	0 (technical amendment)
2003/7/17	Shaukeiwan Town Lot 4 section B, Shaukeiwan Town Lot 4 section B, section C and section D and Shaukeiwan Twon Lot 5 section A subsection 3 section A and Others	244-254 Shaukeiwan Road	633	0 (technical amendment)
2003/7/18	Tuen Mun Town Lot 209	1 Tuen Shing Street, Tuen Mun Town Plaza	24 407	0 (technical amendment)
2003/7/23	Kowloon Inland Lot 9278	224 Argyle Street, Ma Tau Wai	734	1,000
2003/7/24	New Kowloon Inland Lot 4253	50-56A Begonia Road, Kowloon Tong	4 253	1,000
2003/7/24	Lot 2574 in Demarcation District 92	Castle Peak Road, Kwu Tung, Sheung Shui	6 216	0 (technical amendment)
2003/7/28	Rural Building Lot 378	19 Middle Gap Road, The Peak	2 185	0 (technical amendment)
2003/8/4	Tsuen Wan Town Lot 407	116-122 Yeung Uk Road, Tsuen Wan	2 146	137,000,000
2003/8/8	Tuen Mun Town Lot 415	18-22 Tuen Fu Road, Tuen Mun	3 904	0 (technical amendment)
2003/8/19	Lot 1736 in Demarcation District 122	Tong Yan San Tsuen	2 040	41,724
2003/8/20	Inland Lot 8912	13 Bowen Road	1 047	300,000
2003/8/20	Rural Building Lot 537 and Extension	3 Middle Gap Road, The Peak	1 227	0 (technical amendment)
2003/8/26	Lot 1265 in Demarcation District 253	Pak Shek Wo, Sai Kung	2 798	0 (technical amendment)
2003/9/4	Rural Building Lot 801	3 South Bay Close	1 765	0 (technical amendment)
2003/9/5	Apleichau Inland Lot 128	Ap Lei Chau Drive, Aberdeen	9 301	0 (technical amendment)
2003/9/9	Lot 783 in Demarcation District 42	Chek Nai Ping, Ma Liu Shui	1 128	0 (technical amendment)
2003/9/11	Lot 2188 in Demarcation District 3 Lamma	Po Wah Yuen, Yung Shue Wan, Lamma Island	84	0 (technical amendment)
2003/9/15	New Kowloon Inland Lot 6328	Lai Chi Kok Road, Cheung Sha Wan	18 912	0 (technical amendment)

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2003/9/16	Lot 4785 in Demarcation District 104	Ngau Tam Mei, Yuen Long	1 350	80,000
2003/9/24	Inland Lot 110 Remaining Portion	G/F and 1/F, 52 Hollywood Road, Hong Kong	124	28,500
2003/9/24	Inland Lot 7384	89-93 Tai Hang Road	11 000	25,000
2003/9/26	Inland Lot 7410	55 Blue Pool Road, Happy Valley	450	1,000
2003/9/26	Lot 1740 in Demarcation District 122	Tong Yan San Tsuen, Yuen Long	7 319	540,000
2003/9/30	Kwai Chung Town Lot 420	150 Tai Wo Hau Road	6 805	0 (technical amendment)
2003/10/9	Lot 4315 in Demarcation District 124	Hung Shiu Kiu, Yuen Long	311	4,000,000
2003/10/23	Inland Lot 8977	2-6 Aberdeen Street, Central	397	21,250,000
2003/11/3	Kowloon Inland Lot 11100 Remaining Portion	8 Waterloo Road, Yau Ma Tei	N/A	0 (technical amendment)
2003/11/19	Inland Lot 4365 section A Remaining Portion and section A subsection 1	42-44 Blue Pool Road, Happy Valley	300	27,870,000
2003/11/26	Kowloon Inland Lot 3102 Remaining Portion	76A-E Fa Yuen Street and 10 Nelson Street, Mong Kok	362	0 (technical amendment)
2003/11/26	Kowloon Inland Lot 4013 Remaining Portion	30 Sung Wong Toi Road, Kowloon City	14 180	0 (technical amendment)
2003/11/27	Lot 2286 in Demarcation District	Kam Tin, Yuen Long	20 500	9,000,000
2003/12/11	Kowloon Inland Lot 11156	302-302A Prince Edward Road West, Kowloon City	933	44,850,000
2003/12/13	New Kowloon Inland Lot 3943	345-347 Po On Road, Cheung Sha Wan	837	1,000
2003/12/15	Lot 1984 in Demarcation District 2	Anderson Road, Sai Kung	7 480	5,500,000
2003/12/17	New Kowloon Inland Lot 4763 Remaining Portion and Extension	43-45 Beacon Hill Road, Kowloon Tong	1 227	56,010,000
2003/12/17	Inland Lot 692 in Demarcation District 333	Shap Long, Lantau Island	65	0 (technical amendment)
2003/12/19	Fanling Sheung Shui Town Lot 222	Area 31, Tin Ping Road, Fanling	16 488	184,000,000
2003/12/22	Kowloon Inland Lot 11080	1 Austin Road West, Tsim Sha Tsui	135 403	0 (technical amendment)
2003/12/23	New Kowloon Inland Lot 6272	Po Kong Village Road, Diamond Hill	2 250	150,000,000
2003/12/24	Rural Building Lot 169 section A subsection 1	117 Repulse Bay Road, Repulse Bay	1 596	270,000
2004/1/13	Tai Po Town Lot 73 Remaining Portion	Tai Wo Estate, Tai Po	0	0 (technical amendment)

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2004/1/13	Rural Building Lot 707	74 Repulse Bay Road, Hong Kong	1 398	2,325
2004/1/16	Lot 329 in Demarcation District 1 Mui Wo	Mui Wo, Lantau Island	65	220,000
2004/1/27	Tai Po Town Lot 180	Tai Po Kau, Tai Po	1 000	1,570,000
2004/2/4	Kowloon Inland Lot 11076	Hung Hom Bay Reclamation Hung Hom Peninsula	27 818	864,000,000
2004/2/10	Kowloon Inland Lot 4234 section A	377 Prince Edward Road West, Kowloon	1 020	400,000
2004/2/12	Lot 1953 in Demarcation District 244	Nam Pin Wai, Sai Kung	2 448	160,000
2004/2/25	Lot 2860 in Demarcation District 130	Fuk Hang Tsuen Road, Lam Tei, Tuen Mun	36 830	32,000,000
2004/3/3	Tseung Kwan O Town Lot 75	Area 55B, Tseung Kwan O	11 877	3,500,000
2004/3/8	Kowloon Inland Lot 10475	69 Mody Road, Tsim Sha Tsui	2 220	3,000,000
2004/3/12	Lot 2574 in Demarcation District 92	Kwu Tung, Sheung Shui, New Territories	6 216	970,000
2004/3/17	Kwai Chung Town Lot 475	LG/F 2, Car Parking Facilities, Yi Fung Court, 8 Po Lei Street, Kwai Chung	12 056	0 (technical amendment)
2004/3/22	New Kowloon Inland Lot 6196	Cornwall Street, Kowloon Tong	14 700	0 (technical amendment)
2004/3/31	Inland Lot 8041	20 Lung Wah Street, Kennedy Town, Hong	22 654	77,000,000
2004/4/1	Lot 2536 in Demarcation District 33 Tung Chung	Ha Ling Pei, Tung Chung	208	770,000
2004/4/2	New Kowloon Inland Lot 6102	15 Wing Ting Road, Ngau Chi Wan	708	135,000
2004/4/15	Sha Tin Town Lot 421	Tung Lo Wan Hill Road, Shatin	23 300	483,330,000
2004/4/15	Sha Tin Town Lot 438	Tung Lo Wan Hill Road, Shatin	6 086	75,270,000
2004/4/15	Sha Tin Town Lot 496	Tao Fung Shan, Shatin	5 290	38,210,000
2004/4/27	Lot 452 in Demarcation District 302	Tai O, Lantau Island	65	350,000
2004/4/28	Lot 1776 in Demarcation District 221	32 Po Tung Road, Sai Kung	167	0 (technical amendment)
2004/5/3	Lot 14 in Demarcation District 231	Chuk Kok, Sai Kung	2 790	0 (technical amendment)
2004/5/3	rural Building Lot 1106	6 Black's Link, The Peak	6 460	640,000
2004/5/7	Rural Building Lot 588	73 Mt Kellett Road	1 321	0 (technical amendment)
2004/5/17	Lot 2160 in Demarcation District 244	Nam Pin Wai, Sai Kung	5 910	270,000
2004/5/18	Inland Lot 8973	50A, B and C Tai Hang Road	557	40,900,000

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2004/5/20	Inland Lot 8705	G/F, 35 Wong Nai Chung Road, Happy Valley	0	0 (technical amendment)
2004/5/21	Fanling Sheung Shui Town Lot 217	Ng Uk Tsuen, Area 36 Sheung Shui	2 322	80,550,000
2004/5/31	Inland Lot 2299 section A Remaining Portion	62 Kennedy Road	279	12,710,000
2004/5/31	Rural Building Lot 423	15 Mt. Cameron Road, The Peak	1 766	2,380,000
2004/6/3	Kowloon Inland Lot 11159	220-222 Tai Kok Tsui Road, Tai Kok	3 358	390,160,000
2004/6/3	Yuen Long Town Lot 504	Castle Peak Road, (Yuen Long Section), Yuen Long	28 712	1,468,900,000
2004/6/10	Rural Building Lot 515	23 Severn Road, The Peak	5 242	5,770,000
2004/6/17	Inland Lot 8955	Sai Wan Ho Ferry Concourse, Sai Wan Ho	12 200	0 (technical amendment)
2004/6/26	New Kowloon Inland Lot 6179	Clear Water Bay Road near Choi Hung MTR Station, Ngau Chi Wan	N/A	310,000
2004/6/26	New Kowloon Inland Lot 6179	Clear Water Bay Road near Choi Hung MTR Station, Ngau Chi Wan	3 254	95,190,000
2004/6/28	Yau Tong Inland Lot 38	6 Cho Yuen Street, Yau Tong, Kowloon	2 329	146,600,000
2004/7/2	Tuen Mun Town Lot 443	Fu Tei, Tuen Mun	6 320	3,650,000
2004/7/5	Rural Building Lot 820	13-19 South Bay Close, Repulse Bay	1 747	40,370,000
2004/7/5	Rural Building Lot 833	5-11 South Bay Close, Repulse Bay	1 778	41,400,000
2004/7/6	Shatin Town Lot 465	Sha Tin Height Road, Shatin	4 560	29,890,000
2004/7/13	Inland Lot 8997	Johnston Road, Wan Chai (Urban Renewal Authority-H16)	1 970	1,000
2004/7/14	Lot 1738 in Demarcation District 122	Ping Shan Yuen Long	3 290	26,690,000
2004/7/15	Inland Lot 488 section A	G/F and 1/F, 26 Leighton Road, Causeway Bay	0	0 (technical amendment)
2004/7/22	Tsuen Wan Town Lot 373	J/O Yeung Uk Road and Ma Tau Pa Road, Tsuen Wan	10416.3	32,200,000
2004/7/23	Inland Lot 606 section A Remaining Portion and Extension	5 Hospital Road and 1 High Street	1 462	0 (technical amendment)
2004/7/23	Fanling Sheung Shui Town Lot 189	Area 36 Ng Uk Tsuen, Sheung Shui	9 024	160,520,000
2004/7/26	Lot 2131 in Demarcation District 121	Tong Yan San Tsuen, Yuen Long	24 410	204,370,000
2004/7/27	New Kowloon Inland Lot 5744	33 Wai Yip Street, Telford Garden, Kowloon Bay	161047.4	270,000

<i>Execution Date</i>	<i>Lot Number</i>	<i>Location</i>	<i>Area (sq m)</i>	<i>Premium (HK\$)</i>
2004/8/2	Lot 4296 in Demarcation District 124	Tan Kwai Tsuen, Yuen Long	5 062	5,400,000
2004/8/5	Kowloon Inland Lot 11080	1 Austin Road West, Hung Hom Reclamation, Kowloon West	20	0 (technical amendment)
2004/8/5	Lot 4783 in Demarcation District	Ngau Tam Mei, Yuen Long	8 255	23,430,000
2004/8/6	Lot 2081 in Demarcation District	Kam Tin Road, Yuen Long	50 594	214,830,000
2004/8/9	Inland Lot 8953	Wan Chai Road/Tai Yuen Street, Urban Renewal Authority Project H9	6 781	0 (technical amendment)
2004/8/11	Fanling Shui Sheung Town Lot 229	Ng Uk Tsuen, Sheung Shui	2 890	168,910,000
2004/8/30	Rural Building Lot 532	54 Mount Kellett Road	2 325	0 (technical amendment)

STATEMENTS

PRESIDENT (in Cantonese): Statement. The Secretary for Education and Manpower will make a statement on Consultation Document on Reforming the Academic Systems for Senior Secondary and Higher Education.

In accordance with Rule 28(2) of the Rules of Procedure, no debate may arise on the statement but I may in my discretion allow short questions to be put to the Secretary for Education and Manpower for the purpose of elucidating its contents.

Consultation Document on Reforming the Academic Systems for Senior Secondary and Higher Education

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, all parents hope to see a bright future for their children. All school heads and teachers hope to see success in their students. The future of Hong Kong hinges on our younger generation.

A lot of people are concerned about education and are willing to invest in our future. Some people asked me why we have to reform our academic structure. To put it simply, the purposes of our senior secondary education and higher education reform are:

"All for students.
For the good of students."

With the implementation of the academic reform, we hope to achieve the following:

- To provide all students with the opportunity to receive three-year senior secondary education.
- To cater for the learning needs of all students, so that students with different aptitudes, interests and abilities can give full play to their potential.
- To provide greater learning space and widen students' knowledge base for all-round development.
- To enable a better articulation to the pathways for further learning and work so that every student can make a success.
- To provide a four-year programme in university education for a more balanced and all-round development of students.

At present, only about one third of Secondary Five graduates continue their studies in Secondary Six. We have to provide all students with an opportunity to study three years at the senior end of the secondary school. This will enable them to be better prepared for work or further learning in the rapidly changing knowledge-based society, and to cope with the challenges of the 21st century.

Every student is a unique individual with different personality and interests. The new senior secondary curriculum will help strengthen students' generic skills including biliterate and trilingual fluencies, information technology skills as well as self-learning skills. It also caters for the different learning needs, aptitudes and interests of students by providing diversification, including career-oriented studies as choices to students. This will help them develop their potential and become knowledgeable and responsible citizens.

With the adoption of the "3+3" academic structure in secondary schools, students will receive more coherent and diversified senior secondary education.

This will also facilitate the development of a curriculum which is flexible and cross-disciplinary. In order to help students widen their horizons and consolidate their knowledge base, we propose that the new senior secondary curriculum will have the following components: four core subjects, that is, Chinese, English, Mathematics and Liberal Studies, two or three elective subjects, and other learning experiences. The new curriculum will help students strengthen their language and mathematical abilities and broaden their knowledge base. Their communication, analytical, critical thinking, independent learning and interpersonal skills will also be improved.

As regards assessment, it is proposed that the current Hong Kong Certificate of Education Examination and Hong Kong Advanced Level Examination will be replaced by a new public examination, the Hong Kong Diploma of Secondary Education. With one less public examination, the pressure on students and teachers will be reduced and the learning time and space as well as the learning effectiveness will be increased. Furthermore, we propose that school-based assessment should be strengthened to give a more comprehensive assessment of students' learning.

The new senior secondary curriculum will better prepare students for further learning and work. It helps students to develop various potentials and nurture the spirit for continuous and lifelong learning. The "3+3+4" academic structure will enable a better articulation with other major international systems, as well as with the local post-secondary and tertiary institutions, making it easier for students to pursue their academic, professional or vocational education and training or to join the workforce and embark on the journey to success.

A four-year undergraduate programme gives universities more time and space to provide a broader and more diversified curriculum and learning experiences such as overseas exchange. This will widen students' horizons and expose them to both specialized and broad knowledge for a more balanced whole-person development.

After years of deliberations and discussions, the education sector and the community have generally come to the consensus that the "3+3+4" academic structure will serve the best interest of students. However, substantial resources are needed for the reform, and arduous preparation will be involved. Detailed planning is therefore necessary with full support and participation from the education sector and the public.

We hope to plan this far-reaching new academic structure together with the community. We now launch a three-month consultation and hope that the education sector and the community will actively express their opinions regarding the design blueprint, timing of implementation and financing arrangements for the new academic structure.

Our initial discussion with the education sector has indicated that a minimum lead-time of four years is required for the new academic structure to commence. In other words, the new senior secondary academic structure will be implemented in September 2008 at the earliest and pupils who are studying in Primary Six this year will be the first cohort studying under the "3+3+4" academic structure.

While resolution and perseverance are needed to realize education aspirations, we understand that well-planned supporting measures and implementation details are also the key for success. With their professionalism and dedication to education, I am fully confident that our secondary school and university staff will meet the needs of academic reform. The Government will work hand in hand with the education sector in dealing with various matters related to the academic structure reform. We will also create space for teachers and provide professional development to enable smooth implementation of the reform.

The Government will continue to invest heavily in education and ensure that no student would be deprived of the opportunity to study through lack of means. However, the Government has been running an operating deficit budget since 1998-99. The academic structure reform involves tremendous expenditure. We hope that a sound and feasible financing arrangement can be agreed on through community discussion.

We estimate that the non-recurrent expenditure for the new academic structure will be about \$6.7 billion, which covers development of the new curriculum, professional development for teachers, increase in the number of classes during the transitional period and provision of additional university complexes and facilities. The Government stands ready to bear all the non-recurrent expenditure, which is, \$6.7 billion.

As regards recurrent expenditure, we now estimate that an additional year of university studies will cost at least an extra \$1.8 billion each year. We

propose that a shared funding arrangement be adopted, namely, the parents will pay higher tuition fees while the extra recurrent expenditure will be borne by the whole community through the general revenue of the Government.

The "3+3+4" academic structure will bring about impressive and long-term benefits to our younger generation and the whole community. It is a highly rewarding social investment. We need very much the support of parents and the community to endorse the principle of shared funding to ensure the smooth implementation of the reform.

To "educate all without exception and teach according to the students' abilities" is not an unreachable goal for education. We have the following common goals: to provide all students with the opportunity to receive a higher level of education, and to provide them with a more suitable curriculum according to their individual needs and abilities so as to pave the way for their success. There is now a consensus on the future direction of education. The question is whether we are willing to make joint efforts and commitment. The implementation of reform will inevitably bring about many challenges and involves complicated issues that will have lasting implications. However, I am sure we can create a better future for our younger generation if we always have the students' well-being as our top priority and make concerted efforts to develop our new academic structure.

Thank you, Madam President.

PRESIDENT (in Cantonese): Six — now seven — Members have indicated that they would like the Secretary of Education and Manpower to elucidate the contents of his statement. Would Members please indicate which paragraph of the statement they would like to seek elucidation from the Secretary before making such requests. Mr CHEUNG Man-kwong.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, I wish to seek clarification on the 20th and 21st paragraphs of the government document entitled "Reforming the Academic Structure for Senior Secondary Education and Higher Education — Actions for Investing in the Future" concerning the issue of tuition fee increases. This "3+3+4" academic structure reform will be implemented at the senior secondary level in 2008 at the earliest and in the case*

of universities, in 2011. We have no idea as yet of the fiscal situation of the Government by then.....

PRESIDENT (in Cantonese): Mr CHEUNG, sorry, but I have to interrupt. You can seek elucidation only on the contents of the statement made today. Although the Secretary has provided some additional information, I believe Members can still ask further questions in the meetings of the Panel on Education in future.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, I wish to seek elucidation on the 16th and 17th paragraphs, namely, the part concerning the increases in tuition fees. This "3+3+4" academic structure reform will be implemented at the senior secondary level in 2008 at the earliest and 2011 for universities. We have no idea of the fiscal situation of the Government by then or how much the Government will invest in education at that time. Is the Government's decision to increase the tuition fees as mentioned in the paper a subject on which consultation will be conducted, and even a subject that can be debated and opposed?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, to consult is to listen to views and some views may express support, while others may express approval or opposition. I believe no one wants to see any tuition fee increase as the economy has not yet turned the corner. However, if we do not raise this issue for public discussion, then we are being irresponsible. Although we do not know what the future holds, the most important principle is that all parties, namely, parents, members of the public and the Government, have to shoulder the responsibility and make commitment. This is the most important thing as far as this area is concerned.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I wish to ask about the 16th paragraph. In the 16th paragraph, the Secretary estimates that an additional \$1.8 billion will have to be borne by the Government. Is it the case that the tuition fees of both secondary schools and universities will have to be increased, or it will only be necessary to increase the tuition fee of just any one area?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, this amount of \$1.8 billion refers to the recurrent expenditure of universities and has nothing to do with secondary schools. As regards secondary schools, we also suggest that it may be necessary to increase the tuition fees. This is because as a matter of government policy, the cost recovery rate is 18%. Based on the tuition fees for secondary schools at present, which is \$5,050 for Secondary Four and Five and \$8,700 for Secondary Six and Seven, the rate is just 15% rather than 18%. If we are to raise it to 18% for secondary schools, by how much will the tuition fees increase? The increase will be about \$1,000 for Secondary Five and Six. However, I believe that if an extra \$1,000 is added to the \$5,000 abruptly, this will create a great impact. Therefore, even if we have to increase the tuition fees of secondary schools, we are prepared to do so in stages. For example, an increase of about \$250 can be made each year for four years. If an increase of \$250 is made each year, it will amount to an increase of about \$21 or \$22 each month. We think that this is feasible. However, we believe that it is still necessary to raise this issue for further discussion.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I also wish to ask about the 16th paragraph. In that paragraph, it is said that an additional amount of at least \$1.8 billion will be required for universities and it is then pointed out that the tuition fees will have to be increased. In fact, how would the increase be shared? How much will be borne by the Government and how much can be recovered by way of tuition fees after the increase? What criteria will actually be adopted by the Government in determining by how much the tuition fee should be increased? Since parents are made to shoulder such a great amount, on what basis is the level of increase determined?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I have said that this amount of \$1.8 billion is recurrent expenditure. Of this \$1.8 billion, on calculation, it is anticipated that \$1.1 billion will be footed by the Government, so \$600 million to \$700 million will be recovered by way of tuition fees. However, I wish to clarify one point, which is, even if the tuition fee is to be increased, the Government undertakes that if there is any difficulty in a student's family circumstances, we will definitely adhere to the existing practice and will definitely provide subsidies and loans to students. As regards whether it is unfair to make students whose family

circumstances permit pay a little bit more, since you have mentioned the question of fairness, it is necessary to raise it for discussion. However, of this \$1.8 billion, about two thirds will be footed by the Government, that is, by members of the public, and one third will be borne by parents.

DR FERNANDO CHEUNG (in Cantonese): *Madam President, I hope that the Secretary can elucidate the 14th paragraph, in which it is said that the Government will continue to invest heavily in education and ensure that no student would be deprived of the opportunity to study through lack of means. I hope the Secretary can elucidate how the Government can ensure that no student would be deprived of the opportunity to study through lack of means.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): It is indisputable that the Government will continue to invest heavily in education. The Government's expenditure on education is now 23%. In the future, if Members approve of the "3+3+4" academic structure, as I have said, we will further allocate an additional \$6.7 billion to put in place complementary facilities in secondary schools and facilities in universities. As to how it can be ensured that no student would be deprived of the opportunity to study through lack of means, we believe that at present, no student is deprived of the opportunity to study through lack of means and we will continue to subsidize students in this regard. In the future, it is necessary for all of us to examine the extent to which subsidies are provided and whether they should be further increased. Should the repayment period be extended? It is necessary to listen to the views of various quarters on this.

PRESIDENT (in Cantonese): Dr CHEUNG, has the Secretary elucidated your question?

DR FERNANDO CHEUNG (in Cantonese): *Madam President, the Secretary said he assumed that at present, no student has been deprived of the opportunity to study through lack of means. I only wish to ask one more thing or seek further elucidation. If indeed a student is deprived of the opportunity to study through the lack of means, then the Secretary's assumption is wrong. How can he ensure that this will not happen?*

PRESIDENT (in Cantonese): Dr CHEUNG, I think it would be better for you to raise this question in the Panel on Education. I believe some questions require detailed answers to satisfy Members.

DR KWOK KA-KI (in Cantonese): *Madam President, I wish to seek elucidation on the 13th paragraph. In fact, in the past few years, the education reform has exerted very great pressure on teachers. This document says that the Secretary is fully confident of the ability of our teaching staff to meet the needs of the academic reform. May I ask the Secretary what support he will provide to teachers? When will such support become available? If the new academic structure will be put in place in 2008, when will the training be conducted?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): If all parties in the community agree that we should prepare for the introduction of the academic structure in 2008 from now on, then we will start getting this type of support ready right away. As regards what the support will be, firstly, not all schools offer Liberal Studies at the moment, so how are our teachers going to prepare for this subject? This is because we will not provide any teacher specifically for Liberal Studies, so we have to provide corresponding facilities in various areas and we hope that we can put them in place within four years.

MR ALBERT CHENG (in Cantonese): *Madam President, I wish to ask the Secretary to elucidate the fourth paragraph. The fourth paragraph says that all students will be provided with the opportunity to receive subsidized three-year senior secondary education. Can the Secretary elucidate if consideration will be given to extending the nine-year free education to 12 years?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we do not have such a plan for the time being, since the present economic problems have left us facing a budget deficit. However, this will not prevent us from deciding what to do in future.

MS EMILY LAU (in Cantonese): *Madam President, I would also like to seek elucidation from the Secretary on the 14th paragraph regarding how to ensure that no student would be deprived of the opportunity to study through lack of means. Can the Secretary elucidate what the estimated number of such students is and by how many students with such a need will increase? Since the existing problem of disparity in wealth is worsening and since the Secretary has given such an assurance, can he elucidate by how many in his estimation students facing such a situation will increase and how much additional funds will be allocated to support them?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): As far as secondary schools are concerned, about 100 000 students are receiving subsidies from us. In universities, less than 60% of the students are receiving subsidies.

MS EMILY LAU (in Cantonese): *No, I meant subsidizing students with financial difficulties and I believe that means approving applications for loans, government subsidies, and so on. Has the Secretary misunderstood my question?*

PRESIDENT (in Cantonese): I think the Secretary is in a position to answer.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Those are the figures. At present, we subsidize students differently. Some subsidies do not require repayment while others will depend on the financial circumstances of the student concerned.

MS EMILY LAU (in Cantonese): *What he said is correct. He has described the present situation but he fails to foresee how serious the problem will be.*

PRESIDENT (in Cantonese): Secretary, since you said in your statement that you would ensure no student would be deprived of the opportunity to study

through lack of means, Ms Emily LAU has asked you how much the estimated amount of additional resources that will be allocated is.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): For universities, the amount required will be \$400 million according to our calculation, that is, the amount of subsidies has to be increased by \$400 million.

MS EMILY LAU (in Cantonese): *What about secondary schools then? Sorry about this, Madam President.*

PRESIDENT (in Cantonese): Secretary, did you include secondary schools in your estimate?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Since most of our recurrent expenditure is spent on universities, most of our estimates are related to universities.

MR ALBERT HO (in Cantonese): *In the 16th paragraph, the authorities estimated that the new academic structure will incur an additional \$1.8 billion in recurrent expenditure each year, as a result, it is necessary for the Government to increase funding and tuition fees. May I know if this estimate has taken into account the fact that the academic structure of secondary schools has been reduced by one year because of the reform, and how much will be saved in this regard? If this factor is taken into consideration, can any adjustment be made to the increase of \$1.8 billion?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): This \$1.8 billion in expenditure will be spent solely on universities. As regards secondary schools, although the structure will be reduced by one year, in fact the expenditure will increase. At present, only one third of the students can attend Secondary Six and this one third of students can also go on to Secondary Seven. Despite the one third of students in Secondary Seven are done away with, since

all students will have the opportunity to attend Secondary Six, therefore, the number of students enrolled in Secondary Six will actually increase by one third and the expenditure will also increase accordingly.

MRS SELINA CHOW (in Cantonese): *Madam President, concerning the 13th paragraph about improving supporting measures and the implementation details, it is undeniable that in the past.....*

PRESIDENT (in Cantonese): Sorry, Mrs Selina CHOW, please continue.

MRS SELINA CHOW (in Cantonese): *Concerning making improvements to supporting measures and implementation details, it is undeniable that they were both very important in past education reforms, and it can be said that often the failure of the reforms can be attributed to the problems in this regard. Therefore, I was very pleased to hear the Secretary say so. However, I wish to understand further if these so-called well-planned supporting measures and implementation details will also pay heed to parents? Apart from taking into account the views of people of the education sector and the relevant government departments or those people offering courses on education, will attention be also given to parents?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we attach great importance to parents' views and their views are valuable. This is also the reason that this consultation document is intended for the general public of Hong Kong rather than merely for the education sector.

MS AUDREY EU (in Cantonese): *Madam President, I hope the Secretary can clarify some matters relating to the tenth and the thirteenth paragraphs. I hope the Secretary can explain clearly what the chief objective of this consultation is. This is because in the 10th paragraph, he said right at the beginning that the education sector and the community have generally come to the consensus that the "3+3+4" academic structure is the best, however, substantial resources are needed and arduous preparation will be involved. The next paragraph goes on*

to say that it is hoped the community will actively express their opinions. Judging from the questions raised by Honourable colleagues and from this document, I have the impression that the objective of this consultation is to ask the public if they think it is worth the money if the tuition fee is to be increased now by such and such an amount and when the increase should come into effect.

However, in the 13th paragraph, the Secretary said that he understands that well-planned supporting measures and implementation details are also the key for success. Therefore, I wish to ask the Secretary if he actually wants to consult the public on the supporting measures and implementation details. If the public wants to express their opinions on your document, apart from raising issues concerning resources, increase in tuition fees, the time of implementation, and so on, can they raise other issues such as how school-based assessments should be conducted, how convergence can be effected with other countries, how the quality of teachers can be raised, and so on? Do they have to raise issues concerning supporting measures, if so, how can it be ensured that they will voice relevant opinions rather than all dwelling just on the issue of tuition fee increase?

PRESIDENT (in Cantonese): Ms Audrey EU, what you have raised is in fact a question rather than a request for elucidation, however, since you are the last Member seeking elucidation and I think all of us are very concerned about this area, I therefore invite the Secretary to give a brief reply.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, in chapter eight, which invites feedback, we have set out the areas clearly, for example, the intention, curriculum design, assessment and reporting. As regards supporting measures, funding arrangement, implementation and other areas, in fact, we believe that the "3+3+4" structure is no longer at issue, however, a lot of details and complex issues are involved in implementing such an excellent system. The Government will not go it alone without listening to views. Therefore, in publishing this document, it is hoped that the public and the education sector can be consulted and everybody can point out to us how best to implement the blueprint and what the best timetable for implementation and financial arrangements are. Everyone has different views on these issues, so it is necessary for us to take some time to listen to these views before deciding the next step.

PRESIDENT (in Cantonese): Members, this is obviously an issue of great public concern, therefore, Members are also very concerned about this and have raised a particularly large number of questions seeking elucidation. The time we have spent on seeking elucidation is almost longer than that spent by the Secretary in making his statement. Moreover, in his replies, the Secretary has not just made elucidations but also provided a lot of new information to us. In this connection, I believe Members will definitely probe further into this matter in the meetings of the Panel on Education.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legal effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. The movers of the motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendments. The mover of an amendment will have up to 10 minutes to speak. Other Members will each have up to seven minutes for their speeches. I am obliged to direct any Member speaking in excess of the specified time limit to discontinue.

First motion: Total smoking ban in workplaces. Mr Bernard CHAN.

TOTAL SMOKING BAN IN WORKPLACES

MR BERNARD CHAN (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed.

I believe this motion will provoke discussions at various levels and at all times, and there are quite a number of controversial issues related to it.

In early 2001, I proposed a similar motion debate and the motion was passed with amendment. At that time, the amended motion called for the Government to undertake studies with a view to designating more public areas as smoke-free areas and that adequate public consultation must be undertaken and a review should be made of the enforcement of the Smoking (Public Health) Ordinance.

Some people may ask, "Why do you take the trouble of tabling this motion for discussion in the Legislative Council again." The reason is that I am convinced that there should be a total smoking ban in indoor places, especially workplaces. I am also convinced that there should be no more delay in the implementation of this policy. I hope that our new Secretary for Health, Welfare and Food can take action to put this motion into practice soon.

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

I do not intend to dwell on here the health hazards posed by smoking for Dr CHOW as a physician would know better than I do. However, does he know about public expectations on government efforts to implement policies to ban smoking? Findings of surveys show that most members of the public want to see an expansion of the smoke-free areas and that a total ban on smoking can be expanded to include workplaces, restaurants and all indoor places.

From 2001 to the present day, apart from discussions, publicity and educational efforts, what concrete actions have been taken to implement a smoking ban? How effective has the law been enforced? How many laws are in force to protect the interests of non-smokers?

Existing legislation stipulates that restaurants with 200 seats or more must designate at least one third of the premises as no smoking area. The law also prohibits smoking in all indoor public areas in shopping malls, department stores, supermarkets and banks. Have all these measures, however, looked after the non-smokers adequately?

As to the question of a smoking ban in workplaces, the Department of Health set up a Tobacco Control Office in February 2001 with a view to promoting a smoke-free culture. We are of course supportive of the objectives of this Centre but we also find that insofar as smoking ban or tobacco control is concerned, government efforts are still confined to encouragement and education and nothing concrete is done to implement a total smoking ban in indoor areas and workplaces.

When people smoke indoors, they will constitute an annoyance to the non-smokers. As Hong Kong is such a tiny place, not much space exists

between people and so smokers are indeed causing enormous impact on other people. So there is actually a need to designate more smoke-free areas.

Figures show that about 85% of the people of Hong Kong are non-smokers, but they have to put up with the second-hand smoke from the smoking minority. While smokers have their freedom to smoke, should non-smokers also not have the freedom to choose not to breathe in second-hand smoke? We cannot stop breathing simply to avoid passive smoking, can we?

Air quality in Hong Kong has always been not at all satisfactory. It is not easy to draw a breath of fresh air. It would be too much if non-smokers would still have to bear with the air contaminated by second-hand smoke.

I urge that a total smoke ban be imposed in indoor workplaces. Of course, I think it would be the best if a total smoke ban can be imposed in all indoor workplaces, restaurants and other indoor areas. So I will also lend my support to the two amendments today.

I understand that the call for a total smoke ban would have widespread implications and the number of people affected would be great. I do not mind putting this into practice on a gradual basis. That is why I have reduced the scope of the motion to workplaces. I hope Members can all support this motion, including Mr Tommy CHEUNG and other Members representing employers. This will enable both the Government and the public to know that the Council is united in this motion in calling on the new Director of Bureau to implement a total smoking ban in workplaces as soon as possible.

Working people spend at least eight hours or more daily in their workplace. If people smoke in the workplace, other people will be forced to inhale second-hand smoke for long periods of time. So I think it is very important to fight for a smoke-free workplace.

I understand that it is very difficult to implement a total smoking ban in all workplaces. I am sure that much opposition will come from the catering industry. It is because people from the catering industry think that a total smoking ban will seriously hamper their business. This view is especially held by owners of bars, karaokes and such like eating and entertainment establishments. They think that, since many of their customers are smokers, the imposition of a smoking ban will simply drive them away.

I would like to point out, however, that a bar in Central started to impose a total smoking ban in August. It is true that fewer smokers have patronized it, but a number of non-smokers have been attracted to it. So business for that bar has remained steady. That demonstrates that a smoking ban in eating establishments will not necessarily impair business.

Though we are calling for a total smoking ban be imposed in offices as a start, that does not mean that those who work in places other than offices are inferior. According to Article 25 of the Basic Law, all residents of Hong Kong are equal before the law. The Occupational Safety and Health Ordinance also stipulates that employers should ensure that the workplace is safe and healthy. As responsible employers, we should provide a healthy and comfortable working environment to employees. So the idea of a total smoking ban in workplaces should ultimately be expanded to include all indoor spaces.

Places like California and Norway have enforced a total smoking ban in workplaces. Restaurants in Thailand and Singapore have banned smoking. Smoking is prohibited in bars in Toronto and Vancouver. There are even two cities in California which outlaw smoking on the beaches.

Of course we should not just follow the measures adopted in other places indiscriminately, but there are certainly some merits of these measures that we can draw reference from. Many of these places first began by imposing a smoking ban in the workplaces and later gradually extended it to include indoor places like restaurants.

In addition, the findings of the General Household Survey show that as many as 61.5% of the chronic smokers formed the habit of smoking frequently every week before the age of 19 years. Young people smoke because they may be rebellious, curious or in search of excitement. But it may also because they are not fully aware of the harms of smoking. They may even form the wrong perception that smoking is a commonplace activity and they can easily kick the habit. In view of these, we think it is both a necessity and an obligation to enhance the awareness of the harms of smoking among young people, teach them to stay away from cigarettes and create a healthy and smoke-free society for them. In these regards, apart from publicity and education efforts made on the part of the Government, it is also important that young people should get proper guidance from schools and families.

I understand that some people, especially those smokers, will think that our call for a total smoking ban is to make things difficult for them. But smokers should know the harms that cigarettes are doing to themselves and those around them.

Actually, we do not intend to infringe upon or try to change people's lifestyle. I think both smokers and non-smokers should respect each other. As I have said earlier, whenever a smoker exhales a fume of smoke, the non-smokers will come under no choice but to inhale second-hand smoke.

Each year thousands of lives are lost due to smoking and the medical bills for all diseases caused directly and indirectly by smoking amount to billions of dollars. In terms of economic effects, the entire society of Hong Kong can be considered a loser.

The competitive edges of Hong Kong have become a word pet phrase off our lips these days. To impose a total smoking ban and get it done fast will certainly help raise the quality of our living and make us more competitive.

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

Mr Bernard CHAN moved the following motion: (Translation)

"That this Council urges the new Secretary for Health, Welfare and Food to actively expedite the implementation of a total smoking ban in workplaces so as to safeguard public interests and protect the public from the health hazards of passive smoking, and to step up anti-smoking efforts to combat the problem of young smokers."

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

DEPUTY PRESIDENT (in Cantonese): Mr Andrew CHENG and Mr Albert CHENG will move amendments to this motion respectively. Their amendments have been printed on the Agenda. Both the motion and the two amendments will now be debated in a joint debate.

I now call upon Mr Andrew CHENG to speak first, to be followed by Mr Albert CHENG; but no amendments are to be moved at this stage.

MR ANDREW CHENG (in Cantonese): Madam Deputy, often when I go to enjoy a cup of Hong Kong-style tea with milk in a cafeteria filled with cigarette smoke, people will come to me and ask when the Government will impose a total smoking ban in restaurants and cafeterias. I hope the new Secretary for Health, Welfare and Food can give us a satisfactory answer and positive response to this issue today.

Laws are actually supposed to protect our health and economic benefits should not be allowed to override public health. People from the catering industry, especially Mr Tommy CHEUNG, often say that a total smoking ban will affect business. But there are in fact many people who hold the view that they will return to restaurants for meals or enjoy a cup of Hong Kong-style tea with milk in a cafeteria only when smoking is totally banned in these eating establishments.

Mr Bernard CHAN has given an example just now. I think I can give another one. Recently I went to a cafeteria in Sha Tin and I learned that after some renovation works, a total smoking ban was imposed there. The owner told me that his business had increased by one third as compared to the past. So I hope Mr Tommy CHEUNG will not oppose to a total smoking ban in restaurants by saying that this would affect business in the catering industry.

In each term of the Legislative Council, there would be debates over and over again on the anti-smoking issue. Regardless of whether it is in the Council meetings or in the panel meetings, this is no longer a new topic. However, the anti-smoking efforts have been making very slow progress only indeed.

The harms of smoking and passive smoking is common knowledge and indisputable. The Government has had a tobacco control policy in place for a long time which states clearly what measures will be adopted to discourage smoking, curb the popular use of tobacco and reduce the impact of passive smoking on the public. Since 1982 the Smoking (Public Health) Ordinance has been in force in Hong Kong. It restricts the use, sale and promotion of tobacco products. But even to this day, with respect to many of the measures widely recognized by the international community to be effective and those which are

implemented in many foreign countries, what Hong Kong has done is merely discussing them but they are still not implemented.

Every time when the medical sector, the Legislative Council or the public wants tougher action be taken to ban smoking, the Government will always say that such work has to be done in a gradual and orderly manner and it should be practical as well. In the end, the result is invariably the same as no progress is ever made. It was before the reunification in 1997 when the Smoking (Public Health) Ordinance was last amended. Over these past eight years, no stricter regulation has ever been imposed. In 2001, the Government issued a consultation paper on the proposed amendments to the Smoking (Public Health) Ordinance. It was clearly stated at that time that it was the right time to undertake a review of the Ordinance with a view to amending it. But Madam Deputy, four more years have passed and one can only hear thunderclaps but no rain. Time and again the Democratic Party has urged the Government to introduce a bill to this Council expeditiously but despite a positive reply given every time, no legislation is in sight.

Many friends from the business sector, like those from the Liberal Party, often use the phrase "in a gradual and orderly manner" to interpret the issue of a total smoking ban. They said that eight years ago and now eight years later, they are saying the same thing again. This so-called implementation in phases is only a ploy used by the business sector. The way it treats the total smoking ban issue is similar to the approach on the universal suffrage issue. Again the phrase "a gradual and orderly manner" is used like a fetter. I hope very much that the new Director of Bureau will act boldly and decisively, take away this fetter and stop putting up this phrase of "a gradual and orderly manner" as a pretext.

I am very glad that Mr Bernard CHAN has proposed this motion today so that Members can reiterate our call for stepping up and expediting anti-smoking efforts on behalf of the people of Hong Kong, as it is believed that close to 80% of the people are non-smokers. However, I am sorry to say to Mr Bernard CHAN that his motion is only limited to imposing a total smoking ban in workplaces. As far as I know, the Secretary will crack some good news later. As reported by the *South China Morning Post* and from a confirmation I got from the Secretary himself, we know that the Secretary is going to introduce a law to this Council that will include a total ban on smoking in food

establishments. So if we support the motion moved by Mr Bernard CHAN, it may send a wrong message to the Secretary and lead him into believing that this Council only wants a smoking ban in workplaces but not a total ban. Therefore, the Democratic Party cannot support the original motion and will only support the amendment proposed by Mr Albert CHENG.

First of all, I would like to know what the definition of a workplace is. A workplace should mean the place of work where a public organization, a school or company carry out its administrative work. When employees in a workplace should be afforded protection, it is only reasonable that employees working in other places should also be given the same treatment in that they will not be subject to the impact of passive smoking. So I have changed the reference to "workplaces" to "indoor areas of workplaces" in the amendment. According to the consultation paper issued by the Government in 2001, the definition of a workplace is any place where employees work, for example, an office, a shop, a factory, and so on. In the indoor areas of a workplace, smoke will not dissipate so easily and hence its harm on the health of the employees is greater. So in my amendment I propose that there should be a total smoking ban in the indoor areas of workplaces.

Madam Deputy, according to the findings of a survey conducted by the Census and Statistics Department in 2001, about 733 000 people working indoors are forced to inhale second-hand smoke in their places of work. A survey done by the University of Hong Kong shows that 42.5% of the employees who have been exposed to second-hand smoke have had respiratory troubles over the past 12 months, such as influenza, common cold, fever, and so on. For those who have not been exposed to second-hand smoke, only 29% have the abovementioned problems. Employees who have been exposed to second-hand smoke in the workplace will stand an increased risk of contracting respiratory diseases by as much as 48%. Among non-smokers, one in every seven who contracts a respiratory disease is due to their exposure to second-hand smoke in their workplaces.

The problem of employees inhaling second-hand smoke is far more serious in restaurants and bars. A study conducted by the Council on Smoking and Health in 2001 shows that most of the employees in the catering industry are exposed to second-hand smoke in their workplaces. This has a direct impact on their health. The chances of their getting heart diseases and cancer later are

also increased. It is estimated that among those working in the catering industry, 6 000 will eventually die of heart diseases or lung cancer because of passive smoking. Of this number of people, 64% have never been smokers.

As one who cares about labour rights, I cannot agree with the tobacco traders' claim that the choice and right of smokers should be respected. I cannot concur also with the view held by Mr Tommy CHEUNG, that employers refuse to impose a smoking ban because they do not want to see the business environment affected. These arguments are tantamount to saying that employees should give up their health or even their lives for their salary or their job. Health should not be compromised for the business environment. There is absolutely no ground to reject the idea of imposing a smoking ban in the indoor areas of workplaces.

Madam Deputy, another theme found in the motion is the problem of young smokers and stepping up anti-smoking efforts. Of course, I support the spirit of the original motion in its attaching of importance to the problem of young smokers. However, I would like to focus the attention on the creation of a social environment conducive to protecting the young people from the harmful effects of tobacco. The young people must never be led to think that while adults can smoke, they are not allowed to do so. We do not want to see that we adults do not practise what we preach. I therefore hope that anti-smoking efforts can be stepped up and that a smoke-free environment can be created. Only by so doing can the problem of young smokers be ameliorated.

A report from the World Health Organization (WHO) points out that certain measures like increasing tobacco duty and raising cigarette prices, and so on, which do not seem to bear any direct relation to the problem of young smokers, are actually the most effective in preventing the young people from smoking.

So, as I have pointed out in my amendment, to tackle the problem of young smokers, a comprehensive tobacco control initiative must be carried out in the form of imposing a total smoking ban in the indoor public areas and increasing tobacco duty. Only by doing so can the young people be protected from the harms of tobacco products.

With these remarks, Madam Deputy, I seek to move my amendment.

MR ALBERT CHENG (in Cantonese): Madam Deputy, I speak to propose an amendment to the motion moved by Mr Bernard CHAN, urging the new Secretary for Health, Welfare and Food to actively expedite the implementation of a total smoking ban in workplaces and at the same time, take proactive action to expedite the implementation of a total smoking ban in restaurants and air-conditioned indoor public areas.

It is social consensus that smoking endangers health. But the existing Smoking (Public Health) Ordinance is fraught with deficiencies and so a total smoking ban is still not imposed in most of the public places in Hong Kong. On top of this are the various obstacles to tobacco control posed by stakeholders. The tobacco companies are not making wholehearted efforts to fulfil their corporate responsibilities. It may be that the dissolution of the Tobacco Institute of Hong Kong next year would be good news. But still the Government is obliged to step up its tobacco control efforts.

According to a survey found in Report No. 8 of the Hong Kong Council on Smoking and Health, second-hand smoke is extremely poisonous; it contains over 4 000 chemicals in the form of particles and gases. Exposure to second-hand smoke is the cause of many health problems in non-smokers. These include extreme irritation to mucous membranes in the eyes, nose and throat, and chronic respiratory symptoms such as cough, phlegm and wheeze and exacerbations of asthma. Children exposed to second-hand smoke will develop health problems including otitis media, bronchitic troubles and acute chest infections. Second-hand smoke is also implicated as one cause of heart diseases and cancer. Doubtless second-hand smoke is hazardous to health.

At present, the places in Hong Kong where non-smokers are mostly likely to be exposed to second-hand smoke are restaurants and air-conditioned indoor public areas. But legislation on this is clearly inadequate. It only requires restaurants with more than 200 seats to designate one third of the premises as non-smoking area. However, in indoor closed areas in restaurants, the ventilation system forms an indoor circulation system for second-hand smoke. As there are only 800 out of the 9 862 restaurants in Hong Kong with 200 seats or more, so most of the non-smoking members of the public will still have to be tortured by passive smoking.

Surveys also show that passive smoking will not only endanger the health of restaurant patrons, but its negative impact on workers in the restaurants is even greater. A study undertaken jointly by the University of Hong Kong, The Chinese University of Hong Kong and some members of the medical profession in the United States shows that the cotinine level found in people exposed to second-hand smoke in workplaces is 67% higher than those not exposed to second-hand smoke in workplaces or other places. It must be noted that the money spent each year on medical bills related to exposure to second-hand smoke in non-smokers and restaurant workers amounts to billions of dollars. Such social costs are staggering. It is therefore a great wastage of resources in the public health sector which is already plagued by the problem of insufficient resources.

In the past when efforts were made to enact laws to ban smoking, Mr Tommy CHEUNG of the Liberal Party representing the catering industry would always oppose to the imposition of a total smoking ban in the restaurants. He was actually misleading the public and also the industry. For the findings of a survey published in Report No. 9 of the Hong Kong Council on Smoking and Health show that if a total smoking ban is imposed in all restaurants in Hong Kong, not only 77% of the respondents say that this would not affect their habit of eating out but that 20% of the respondents say that they would eat out more often. There is only 3% who say that they will eat out less. So a total smoking ban in the restaurants will present a win-win solution to both the industry and its patrons.

The motion today does not carry any political or ideological implications. Therefore, I implore Members not to be affected by any prejudices, act prudently in the overall interest of the community, attach importance to public health, and vote in support of my amendment.

I believe many Honourable colleagues must have received this booklet, which is a report by experts. I hope people from the industry, especially Mr Tommy CHEUNG who speaks for their interests, will stop distorting the truth about the hazards which passive smoking poses to restaurant patrons and workers or argue that a total smoking ban will affect their living or business. We also received a letter yesterday. I think most Members have also received it. It was a letter from Dr LO Ying-shui. Who is this Dr LO? He is a famous cardiologist in Hong Kong and a member of the family who owns the Great

Eagle Holdings Ltd. The Group runs hotels and restaurants not just in Hong Kong but throughout the world. It is a leading member of the industry. Members of the LO family are also voters in Mr Tommy CHEUNG's constituency. I think this is not a motion which has anything to do with ideology but one which involves the overall interest and health of all the people of Hong Kong. It is closely related to everyone. Last week we had a debate on minimum wage and maximum working hours. Mr Tommy CHEUNG said that he hoped restaurant workers could be given more holidays, but as restaurant workers would go out for entertainment during holidays, they would become very tired when they returned to work. However, it would be more harmful to their health if they work one more day in exposure to more second-hand smoke. Also, given the equality of opportunities, it would not be reasonable not to ban smoking in restaurants if the ban is enforced in other workplaces. Flight attendants on aeroplanes who share a similar job nature with restaurant workers are working on smoke-free aeroplanes, so why should restaurant workers continue to be exposed to second-hand smoke? It is true that we have to take into account the rights of smokers, but of more importance are the rights of the non-smokers. So I dare ask Mr Tommy CHEUNG to stop distorting the views of the catering industry, for the issue is one which is related to the health of all the people of Hong Kong. All Members of this Council have sworn their allegiance not only to the People's Republic of China and the SAR Government, but also to the people of Hong Kong. We are here not just to protect the interests of the voters of our constituencies or those of our industry alone. So I do not see any reason why we should veto a motion on a total smoking ban again. Actually, I also support the amendment proposed by Mr Andrew CHENG. I also hope that Dr York CHOW, having assumed office, will do his best to honour the pledge given to us by his predecessor, Dr YEOH Eng-kiong, and introduce legislative proposals in this Council to impose a smoking ban in all air-conditioned places in Hong Kong. I so submit.

DR KWOK KA-KI (in Cantonese): Madam Deputy, I would like to thank three Members, that is, Mr Bernard CHAN, Mr Andrew CHENG and Mr Albert CHENG, for their motion and amendments.

As Members have said, smoking is a great problem. The issue has been brought up time and again in this Council. Much time has been spent on discussing this topic which should not be brought up again.

Cigarettes are probably the only kind of poisonous commodity which can be bought in society nowadays. As medical doctors we have to face many problems caused by cigarettes and second-hand smoke every day. These include relatively simple problems in the respiratory tract to more complicated ones like those with the heart, blood vessels, blood vessels in the brain, all forms of cancer, allergies, and so on. They are all related to cigarettes and second-hand smoke.

I am grateful to those Members who have spoken earlier for referring extensively to the relevant data. This has spared me from wasting time on quoting figures to prove that cigarettes and second-hand smoke are causing harms to society. In Hong Kong, about 5 000 deaths each year are due to smoking or passive smoking. Society is paying a high price for this. The Government, Members and the public all know very well that at this time when medical resources are extremely scarce, and if we are to shoulder the costs of the health hazards caused by poisonous stuff like cigarettes, this will only add to our burden. Of the \$30 billion we spend each year on health care services, billions of dollars are expended on treating problems caused by smoking or passive smoking. While we say that we should respect smokers and let them be treated fairly, have we ever thought about whether or not non-smokers are protected in our society and treated fairly?

A great part of the working population, that is, those who work in restaurants, bars and karaokes, do not have the right to choose their places of work. There is nothing to protect them. Do our friends in business know how much is the money spent each year to pay for the sick leave or medical expenses of these workers who are exposed to second-hand smoke? The figures, if Members would care to look for them or perhaps I can tell them, are simply staggering. As friends from the business sector are always talking about protecting the business environment, we should know how heavy a burden they are creating for society.

I think people in the business sector know very well that we have a very high public expenditure which includes expenses on health care, disease prevention, and so on, and such expenses are rising every year. At the end of the day, these expenses will have to be paid by society, including the business sector. Health problems associated with smoking and passive smoking are deteriorating all the time and eventually the business sector will have to face them and tackle them. I hope Members, especially friends from the business

sector, could all think carefully the great price that society has to pay for passive smoking and the huge sums spent on expenses which can otherwise have been avoided. As we wish to lower the business costs to make Hong Kong more competitive, to ban smoking in all indoor places like restaurants, bars and karaokes is actually a very simple, effective and direct move to benefit the people of Hong Kong for this generation and thereafter.

Hong Kong is a world-class city in Asia. Just now many Honourable colleagues have cited many examples to illustrate how it has become an important policy in many world-class cities to ban smoking in some public places, indoor public places and restaurants. A ban on smoking will tell the world that the city concerned has taken some responsible action. Since Hong Kong is striving to become a world-class city, why can a motion as simple as this not secure enough support in this Council to urge the Policy Bureau concerned to undertake actions as appropriate?

We demand the Director of Bureau to do a lot of things including law enforcement, and while such actions are being taken, there is a point we need to think about, that is, all Members actually do carry a great responsibility for this problem of passive smoking or a ban on smoking. The problem should be addressed not by a single Policy Bureau or Director of Bureau. It is a problem which all the people of Hong Kong and all Members will face and should solve every day.

Regardless of which amendment or motion that these three Honourable colleagues have moved, I hope all Members can lend them their support so that these motion and amendments can be passed. My wish is that at the end of the day Hong Kong can join the ranks of other world-class cities in taking resolute actions to ban smoking in all indoor areas, including public places, workplaces and all restaurants.

At present, the Government is only working on this half-heartedly, such as banning smoking in places with 200 people. Actually, businessmen find compliance with these requirements difficult, and so do their employees. So that is why a total ban on smoking is the only way to put this smoking ban into practice and only a total ban can enable both employers and employees who are victims of these half-hearted initiatives by the Government to find a solution to all their problems. Lastly, I hope all Honourable colleagues, especially those

from the business sector, can give serious thoughts to this policy which has long-term implications on the health of the people of Hong Kong, especially the majority of them who are non-smokers, and support it.

Madam Deputy, I also support the amendment proposed by Mr Albert CHENG. I so submit. Thank you.

MR JAMES TIEN (in Cantonese): Madam Deputy, the Liberal Party agrees to the idea that smoking is hazardous to health. The Liberal Party also agrees to the idea that passive smoking is equally hazardous to health. This is because in recent years we have seen many cases in our health care system in which many people who have been exposed to second-hand smoke have developed health problems. We also appreciate the data obtained from relevant studies.

All the above are our views on the topic of a ban on smoking all through these years. But Mr Andrew CHENG has criticized the Liberal Party of saying that everything should be done in a gradual and orderly manner. What we are referring to is in fact not progress in a gradual and orderly manner as in a timetable, we are saying that in terms of scope and coverage, it should be done in a gradual and orderly manner. So we support the original motion moved by Mr Bernard CHAN, that there should be a total smoking ban in workplaces. As a matter of fact, offices are the places where most wage earners make their living. Most people from the business sector have their own offices as well. I often work in my office. When I am in my office, I also encourage my colleagues to stop smoking. This is because I am not a smoker. So with respect to the first point in the motion, if the scope of the smoking ban is limited to the offices, that is, the areas inside an office building, the Liberal Party would support it. All the 10 Members of the Council from the Liberal Party would support the idea. No one has applied for an exemption. So I think the Secretary could hear what we say on that and if he wants to put this into practice, he is welcome to take expeditious action.

However, we also notice that if some laws are to be passed to enforce some actions immediately, that would be like what the Democratic Party likes to do the most. They love to do things across the board. They love to wield a knife and chop. They want things get done right away. We feel on the other hand that it is a civilized and open society that we are living in and it is one

where public opinion is heard. It is a society which the democrats, in the slogans which they are always chanting, would want to picture themselves in. So we should also listen to what the smokers have to say. This is definitely not my view, though, for I am a non-smoker. If someone happens to smoke, I would go elsewhere. But please look at what happens now. About the cafeteria in Sha Tin to which Mr Andrew CHENG has referred, if its business has really become so much better after it has imposed a smoking ban, then why do all other cafeterias not follow suit and impose a total smoking ban at their own initiative, as this will make their business grow by 20% to 30%? Put this in another way, if this is really the case, why should there be a need for legislation after all? Moreover, if the business of that cafeteria has increased by 20% to 30%, then why do we not ban smoking in all other kinds of restaurants so that their business can all increase by 20% to 30%? Would this not make those who eat at home come out to dine in these smoke-free cafeterias? On this point, Mr Tommy CHEUNG will talk to Members later.

On the other hand, we think that the problem of young smokers should be addressed. Figures from the Government show that findings of a survey done in 1982 show that only 42% of the young people aged 20 have ever smoked. But in 2003, figures show that as many as 60% of the young people aged 20 have smoked. I think the Government should do more in this respect. I also notice that smokers among young women aged between 15 to 19 number six times more than that of 20 years ago. The Government should also address this situation.

If it is suggested that smoking should be banned in schools, the Liberal Party would think that the ban should be imposed in all areas of the school, regardless of indoor and outdoor areas. The school areas are not only confined to classrooms or offices or indoor workplaces. They also mean places like the playground. A smoking ban should be imposed there as well to make the entire school smoke-free. What I am saying is that this should be done in secondary schools first. That means the ban will be imposed on pupils aged between 15 and 18. This will hopefully arrest the rising trend of smoking among young people.

On the question of how a total smoking ban is enforced, we have looked into how other countries have taken this into practice. In the United States, the country started to ban smoking in workplaces, that is, indoor workplaces in 1995. But on the other hand, bars and other places of entertainment are

exempted. There are as many as 12 kinds of exemption in the State of California. In a hotel there, 65% of the rooms and 50% of the lobby area are exempted. So in foreign countries, even if a smoking ban is imposed, it will only come by and by, not in terms of time but in terms of scope where the relevant laws will come into effect. So I think if the first step we want to take now is just to ban smoking in the workplaces and that laws should be enacted now to this effect, then I think that this will work. The idea of doing things in a gradual and orderly manner means say, giving an exemption to Chinese restaurants for two or three years. How about other places like bars? If one goes to Las Vegas, one can still see smoking is permitted in the bars there. The case about karaokes is more complicated. For we do not know what do people do inside the karaoke rooms. Do they sing most of the time, drink alcohol or smoke cigarettes? Will exemption be given to karaoke rooms which people have hired for their exclusive and private use? All these could be looked into by the Government.

On the two amendments, we think that in terms of their wordings, not in terms of what we have heard, the greatest difference between the amendment proposed by Mr Albert CHENG and that proposed by Mr Andrew CHENG is that Mr Albert CHENG's amendment has the words "to introduce a bill to the Legislative Council in this Session". So the Liberal Party can support the amendment proposed by Mr Albert CHENG. This is what he writes in the wording of his amendment. But then it seemed that all of a sudden he said that he supported Mr Andrew CHENG. I can only say that this is what he says. We are just looking at the wording. We would be grateful if Mr Albert CHENG would get smarter and write the wording clearly in future, then we will know what he wants to say. For if not, we can only decide to support him or otherwise just by looking at the wording. As for today, we will support the amendment proposed by him.

As to the amendment proposed by Mr Andrew CHENG, we have said why we cannot support it. This is precisely because he said that he wanted to introduce a bill to the Legislative Council to impose a total smoking ban in restaurants, bars and karaokes all at one go and during the current Session. Members of the Liberal Party who represent their sectors, that is, Mr Tommy CHEUNG, Mr Vincent FANG and Mr Howard YOUNG, will speak later on their own views. Having said that, we all support the original motion moved by Mr Bernard CHAN. Thank you, Madam Deputy.

MR VINCENT FANG (in Cantonese): Madam Deputy, to people who do not smoke, the smell of cigarettes is indeed repulsive. But to those who have the habit of smoking, it would be like taking their lives if they are not allowed to smoke. There were reports that in some overseas countries job advertisements stated that only non-smokers would be hired. That is really a kind of discrimination against smokers! If a total smoking ban is imposed in the workplaces in Hong Kong, the same kind of advertisements may appear in Hong Kong in future.

The socio-economic development of Hong Kong is closely linked with that of the Mainland and the two are inalienable. Mainland cadres, professionals and company representatives are stationed in Hong Kong for long periods of time and when their number is added to the tourists, the total will be more than a hundred thousand. We all know that China has the most smokers in the world and if a total smoking ban is imposed in Hong Kong workplaces, our friends from the Mainland would certainly find it very inconvenient.

Although imposing a total smoking ban in workplaces is not conducive to economic benefits and office efficiency, on account of the health of non-smokers and the working environment, I would agree to the proposal of imposing a total smoking ban in the workplaces.

On the other hand, an Honourable colleague has proposed an amendment to ban smoking in entertainment venues. The relevant law which was amended in 1997 stipulates that restaurants with 200 seats or more shall designate one third of their premises as non-smoking area. The law also provides that there should be a total smoking ban in indoor places like cinemas, amusement game centres, shopping malls, supermarkets, and so on.

Unfortunately, after the law has been amended, there have been very few cases of restaurants and amusing game centres being prosecuted for breaching the law. So this law is rarely enforced.

I understand that the economy of Hong Kong remained sluggish during the past few years and many business owners did not want to offend their customers. Though the economy has now improved, it is still not the best time to extend the coverage of this law. What the Government should do is to take rigorous enforcement actions according to the existing laws so that the laws are effectively enforced.

I am not sure about the reasons behind the proposal made by Honourable colleagues to introduce a total smoking ban, whether they are only aiming at giving non-smokers a smoke-free workplace or they are trying to use this as a means to reduce the urge to smoke in the smokers and so bringing the number of smokers down. If the latter is the case, then a total ban on smoking will not tackle the problem at its roots. It is because the age of smokers in Hong Kong is getting younger and this should be a cause of greater concern for us. If nothing is done to arrest this trend, when these young smokers join the workforce, it will be difficult to ask them to quit smoking as they will have become veteran smokers.

Madam Deputy, I do not think the Government has done its level best in controlling the sale of cigarettes to persons under the age of 18. So I hope the Government can step up its efforts to regulate the tobacco retail business. Despite the provisions in the existing law on the sale of cigarettes to persons under the age of 18, these provisions have rarely been enforced. The Government must step up its enforcement efforts. It should empower the retailers to inspect the identity cards of cigarette buyers as when necessary and refuse to sell cigarettes to those who do not produce them.

The industry should be more concerned about the problem of young smokers and financial support should be given to independent organizations such as the Committee on Youth Smoking Prevention which has done a lot of work in preventing young people from smoking. Their activities include the promotion of a smoke-free school campus, inviting young people to sign the Smoke Free Pledge, and so on. Such activities are very successful.

Therefore, while I support a smoke-free workplace, I also hope that the Government should step up its efforts in youth smoking prevention and reduce the number of smokers in Hong Kong.

Madam Deputy, I support the motion moved by Mr Bernard CHAN, but I oppose the amendments proposed by Mr Andrew CHENG and Mr Albert CHENG. I so submit.

DR FERNANDO CHEUNG (in Cantonese): Madam Deputy, second-hand smoke is really offensive to those of us who do not smoke. Besides, the health of non-smokers who are exposed to second-hand smoke will be endangered. Existing laws in Hong Kong only require restaurants with a seating capacity of

200 or above to designate non-smoking areas and those who do not want to be exposed to second-hand smoke can patronize these restaurants.

Unfortunately, workers in restaurants have no choice. As it is so hard to find a job these days, they will not be so silly as to quit their jobs if the restaurants in which they are working allow customers to smoke, or ask their bosses to find smoker waiters to serve customers in the smoking area in their place. They will have to bear with all these. Likewise, in other workplaces, if the employers do not ban smoking, those non-smoker employees will have to risk their lives working there.

As a matter of fact, if only a person is exposed to second-hand smoke for as short as 30 minutes, that will serve to reduce the blood flow in his heart. There is a report this year which says that non-smokers who are exposed to second-hand smoke over long periods of time will stand greater chances of having cardiovascular problems than other non-smokers by as much as 50% to 60%.

Wage earners have to be exposed to second-hand smoke over the years just because they want to make a living. And if unfortunately they get sick, the money they earn will not even be enough to meet their medical bills. These are just people who want to earn a living, so why should they be required to risk their lives?

Every time when there are calls to impose a smoking ban in restaurants, Mr Tommy CHEUNG of the catering industry would jump to his feet. The Hong Kong Catering Industry Association commissioned a consultancy to compile a report some years ago, and it was estimated that a total smoking ban would lead to a loss of \$7.9 billion in income across the catering industry. As this is only an estimate made by Mr CHEUNG and the consultancy, so why do we not look at some real-life examples in other countries?

Many states and cities in the United States have enforced smoke-free laws. For example, the City of New York has since May 2003 put into practice the amended Clear Indoor Air Act and a smoking ban is extended to all workplaces such as restaurants and bars. The law forbids employers to provide smoking rooms for employees and it is also against the law if one hides in his office and smoke. In other words, smokers are forbidden to smoke in any part of the public indoor areas.

Then has the catering industry in New York suffered catastrophic losses as a result of the total smoking ban as Mr CHEUNG would suggest? According to a report made by the Department of Finance in New York, the amount of profits tax collected from bars and restaurants up to January this year has increased by 12% compared to the same period last year. In other words, the bars and restaurants in New York have made more money and so they are paying more tax. Another example is in the State of California. Smoking has been banned in the bars and restaurants since 1998 and tax collected in California has increased ever since.

Members may say that the situation in the United States is different from that in Hong Kong. Our economy has remained sluggish over the past few years and it would make the situation in the catering industry go from bad to worse if a total smoking ban is imposed and many people may lose their jobs. But may I ask if the restaurant bosses will bear the responsibility if their employees contracted some serious diseases as a result of passive smoking? Will the bosses promise to take care of them for the rest of their lives to thank them for their help at times of difficulty to the extent that they have laid down their lives?

To impose a ban on smoking in all indoor public places such as workplaces, restaurants, bars, and so on, is not meant to discriminate against smokers. We have to get the facts straight. At present, habitual smokers in Hong Kong account for 14% of the population above the age of 15. And if we all know the health hazards of smoking, why then should we subject the majority of the population who are non-smokers to the same risk to which smokers are exposed? We are not forbidding smokers to smoke. We are just asking them to smoke without causing any negative impact on others.

A smoking ban is imposed in Ontario, Canada in three phases. In phase one, the ban is imposed in all workplaces. In phase two, smoking is banned in cinemas and restaurants. In phase three, it is banned in hotels and casinos. Recently, this three-phase programme in Ontario is complete. Now the Province plans to ban the provision of special rooms for smokers in all indoor public places by 2007. From this we can see the determination and boldness of the Ontario government in combating smoking. In contrast, our progress in this regard is much too slow.

I hope Dr York CHOW, the Secretary for Health, Welfare and Food, will introduce a bill to this Council expeditiously to impose a total ban on smoking in

all workplaces, restaurants and indoor public areas. I therefore support the amendment proposed by Mr Andrew CHENG.

MS AUDREY EU (in Cantonese): Madam Deputy, I speak in support of the original motion and the two amendments. I agree strongly to the idea that a smoking ban should be imposed at the soonest in all workplaces and offices, as well as in all restaurants, and that a bill to this effect should be introduced to this Council in this Legislative Session. As for the reasons, I shall not try to repeat them as Members have spoken a lot on these and this is also not the first time that motions of this kind are debated in this Council.

Madam Deputy, then why did I press the button to speak? The only reason is that I wish to speak on behalf of the four persons sitting in this row that we have some reservations about a total smoking ban in bars and that a bill should be passed in this Legislative Session right now to impose such a ban in the bars.

Madam Deputy, it is not that we are not concerned about the health of the smokers, but we feel that smokers ought to have some liberty where they can release their pent-up pressure, though this may be subject to some restrictions. So can they be given some sort of exemption? That is why we have some reservations about this. Having said that, our reservations in this aspect are not so strong as to cause us to oppose to the amendments, so we would support the motion and the amendments. We are just making our stand clear on a smoking ban in the bars and that is all.

MR PATRICK LAU (in Cantonese): Madam Deputy, irrespective of whether it is done for our own health or for that of our next generation, a total ban on smoking is the best solution. A smoke-free environment is the goal that we will strive to achieve ultimately.

In 2001 when this Council debated on a motion of a smoking ban moved by Mr Bernard CHAN, the then Secretary for Health, Welfare and Food said that the Government would look into this and ultimately would make all restaurants and indoor workplaces smoke-free areas under the law. The Secretary also said at that time that enforcement was never easy. I think that apart from enforcement problems, there are also many other problems in terms

of practical operation. According to figures released by the Census and Statistics Department in end 2003, the smoking population in Hong Kong is as high as 870 000, or 10% of our population. In a society where freedom, democracy and human rights are valued, I think that some obstacles are bound to appear if a total smoking ban is implemented. That is why some transitional arrangements in planning and construction should be put into practice before a total ban is introduced. These would help reduce the harms done by exposure to second-hand smoke to the non-smokers.

These transitional arrangements may include encouragements given to the provision of some outdoor space in the form of hanging gardens in the design when multi-storey buildings are constructed. These hanging gardens will not only have a greening effect, but also give smokers some outdoor place to smoke without disturbing others. Another suggestion is to build additional rooms with additional or separate ventilation systems. This can be used in workplaces and restaurants, as well as other indoor air-conditioned areas. It can prevent exposure to second-hand smoke as smoke can travel through the circulations in the central air-conditioning system to the non-smoking areas. So anti-smoking efforts can be enhanced when a requirement is laid down to set up independent smoking areas inside a building.

Madam Deputy, the problem of young smokers is also very serious. In such a short span as five years from 1994 to 1999, the number of smokers in Secondary One to Secondary Three pupils has risen by 40%. It can be seen that the problem is acute. Existing laws only provide that post-secondary institutions and managers can designate all or part of the area of a place as smoke-free but there is no requirement of a total ban on smoking. So I hope that the Government can introduce a bill to the Legislative Council for scrutiny during this Session so that a total smoking ban can be imposed within the bounds of all schools.

With these remarks, Madam Deputy, I support the amendment proposed by Mr Albert CHENG in the hope that a total smoking ban can be imposed in all indoor public areas. Thank you.

DR YEUNG SUM (in Cantonese): Madam Deputy, we are grateful to Mr Bernard CHAN for bringing up this anti-smoking topic. I would like to state

some facts before presenting the views of the Democratic Party. First of all, smoking is hazardous to health. This is an indisputable fact supported by the incidence of many diseases in the respiratory system and various cancers caused by smoking. As many Honourable colleagues have said earlier, there is strong medical evidence showing that smoking is hazardous to health. Even some tobacco companies in the United States are beginning to admit this fact. Second, the harms caused by second-hand smoke are enormous. Owing to their working environment, many salaried people find that they can do nothing to reduce the frequency and number of times they are exposed to second-hand smoke. Consequently, the harms done by passive smoking are even greater than those to which the smokers themselves are exposed. Third, as Mr Patrick LAU has said, there is a growing trend and proliferation of smoking among young people. That is why the Democratic Party has put forward an amendment and we also support the amendment proposed by Mr Albert CHENG. We hope the Government can introduce a bill to impose a total smoking ban.

Madam Deputy, the Smoking (Public Health) Ordinance has been amended many times since its enactment in 1982. Now smoke-free areas exist in the following places:

- for restaurants with more than 200 seats, at least one third of the premises should be smoke-free;
- banks, shopping malls;
- department stores, supermarkets;
- amusement game centres, cinemas, theatres;
- means of public transport; and
- public lifts.

The existing provisions on a smoking ban in restaurants actually stem from an amendment made by the Democratic Party in 1999. At that time, the proposal gained the support of all quarters. But a smoking ban is only imposed in the form of designating smoke-free areas in large restaurants. So under existing laws, it is not possible to impose a total smoking ban in restaurants.

In June 2001, the Government issued a consultation paper. The consultation exercise was completed nine months later, but no bill was introduced immediately afterwards. The new smoke-free areas proposed in the consultation paper include the following:

- all restaurants;
- bars, karaokes;
- all workplaces except sauna baths, nightclubs and mahjong parlours;
- the entire campus of kindergartens, primary and secondary schools; and
- indoor areas in universities and post-secondary institutions.

Public opinion at that time was obvious: apart from workers in restaurants, most people were supportive of the consultation paper. I therefore hope that the Government can introduce a bill during this Session to put into practice the recommendations made in the abovementioned consultation paper. On the question of expanding the smoke-free areas, most sectors including the community organizations, health care professionals and many other organizations support the idea. A survey conducted by the Democratic Party in 2001 showed that 75.4% of the interviewees agreed to the idea of legislating to impose a total smoking ban in indoor restaurants. Of the people with a smoking habit, 49.6% agreed to the idea while 38.8% did not. Of the interviewees, 74.5% agreed that legislation should be made to ban smoking in all indoor workplaces. Of those with a habit of smoking, 58.9% also agreed to the idea.

The Government has also conducted surveys on a smoking ban in bars and karaokes. It was found that 38% of the interviewees supported the idea while 28% opposed it. The stand of the Hong Kong Council on Smoking and Health is that since there is clear medical evidence that passive smoking is detrimental to health, the Government should legislate to impose a total smoking ban.

On the question of expanding the smoke-free areas, the strongest opposition comes from the catering industry. Operators of Chinese restaurants, bars, karaokes, and so on, think that a smoking ban will deal a heavy blow to their business. Mr Tommy CHEUNG is a Member who attends diligently to

the interests of the sector he represents. He will certainly attend to the interests of his sector as he is returned from a functional constituency. Madam Deputy, this state of affairs serves to expose the inadequacies of functional constituencies as the interests of the sectors are often in conflict with the Hong Kong community as a whole. Smoking is one good example and it is good teaching material. As a representative of his sector, Mr Tommy CHEUNG is left with no other choice but to do his best to oppose a smoking ban. This is to make himself accountable for his voters. The catering industry is generally of the view that a smoking ban in bars and restaurants should be decided by market forces. Madam Deputy, if we do not require all restaurants to enforce a smoking ban and hence make all restaurants operate in the same smoke-free environment, it would be hard to achieve a total smoking ban in all the restaurants.

Madam Deputy, I recall the catering industry has once hired a consultancy to do a survey and the conclusion reached was that a total smoking ban would mean a loss in income of 110.6% in the restaurants and a total of 21 500 job losses. However, I am also aware that anti-smoking groups have doubts about the credibility of the report.

Madam Deputy, presently there is no evidence showing that a smoking ban will affect the business turnover of the catering industry. More than 200 districts in the United States have enacted legislation to ban smoking in restaurants. Researchers in Australia and the United States have made an analysis of 98 studies from various countries on the impact caused by a smoking ban on the income of restaurants and reached the conclusion that a smoking ban in restaurants will not put customers off.

Studies made by the Hong Kong Government also show that most people would prefer to dine in a smoke-free restaurant. As many as 75% of the interviewees say that given two restaurants, they would choose the one that prohibits smoking. Findings of a survey done in 1999 show that if smoking is prohibited in all restaurants, more people indicate that they will dine out more frequently and those who say they will dine out less only account for 3%.

In sum, the Democratic Party urges the Government to introduce a bill as soon as possible to impose a total smoking ban in all restaurants and workplaces. Thank you.

MR TOMMY CHEUNG (in Cantonese): Madam President, I wish to speak but it seems I do not have many options. I thank Dr YEUNG Sum for his compliments, although my views on the functions of the functional constituencies are totally at odds with his. I still wish to respond to what Mr Albert CHENG described as brazenness and distortion, but do not intend to go into the details here.

First, as a matter of fact, in voicing such opinions, I was not being brazen. There was no need for me to be brazen or shy in doing so. I voiced the opinions according to what I thought was righteous. Second, I represent the industry and it believes that this measure will affect business. Mr James TIEN has made it very clear that at present, there are over 10 000 restaurants, tens of thousands of employers and hundreds of thousands of management personnel and employees. If a smoking ban in restaurants could indeed bring better business, why would they not consider doing so? The cafeteria mentioned by Mr Andrew CHENG just now banned smoking only after renovation and it is hard to tell if it is the renovation or the smoking ban that has made the business better.

Earlier in the debate, many Members have mentioned the smoking bans in many other countries (frankly speaking, these countries implemented smoking bans when their economies were booming). I also wish very much to ask if it was the smoking bans that led to better business, or were their economies already thriving. It is possible that business could have been even better but there is less business as a result of the smoking ban. It is impossible for us to ascertain this.

Members have also mentioned my report. I only wish to say that the report was the outcome of my instruction to the company concerned to conduct a study on the effects of a total ban on the business of restaurants. At that time, I told the company concerned that it had to say what it found to be favourable as well as unfavourable. If a smoking ban was found to be desirable, then no matter what the consequences were, I would still publish the report. I did not commission this report with a view to opposing a smoking ban.

If a smoking ban is indeed as beneficial as many friends here have claimed — I heard all the arguments put forward by Members today — then it would be best to enlighten operators of restaurants. They are now feeling quite troubled. Deflation has persisted for over 60 months and they cannot even boost their business a little bit. Why not tell them how a smoking ban can really bring a lot more business? They will immediately follow the advice and there

will not be any need for legislation. In fact, to say that legislation should be introduced this year or next is a waste of energy. If business will increase, all restaurants will follow the advice.

In fact, I do not wish to dwell on whether a smoking ban in restaurants will cause a drop in business. What I very much want to say to all Members is that the motion today has raised two fundamental issues: first, smoking is detrimental to the health of the public and passive smoking is bad to the public and employees. This point is beyond any dispute. Second, I hope Members will no longer be mired in the issue of whether a smoking ban in restaurants will bring an increase or fall in business because there is no way that one can ascertain this. Should business decline after implementing a smoking ban in restaurants in future, some people will attribute this to deflation, high rents, high wages or high unemployment rate, whereas should the business of restaurants pick up after a smoking ban, this may be attributed to an upturn in the economy or a return to those days when people down rice with shark's fin soup. Therefore, as far as I am concerned, this matter is very clear and two major principles are involved: smoking is hazardous to public health and passive smoking is bad to waiters and employees. I absolutely agree with this. On the other hand, I have no doubt whatsoever that a total smoking ban will affect restaurants.

I am of the view that if Members can agree on these two principles and go on to discuss how Hong Kong society as a whole should take the matter forward, even though restaurants may lose some business and operators may suffer, for the overall interests of Hong Kong, they will still consider if it is worthwhile to endure the pain. Of course, it is up to the operators of restaurants to consider this point. However, at a time when their business is declining, please do not tell them, "Blockhead, your business will not get worse, in fact, things will be good for you. Just believe me." They have invested so much money in their business. Some of them have spent all their savings, others have spent their "savings for their funeral" and some may even have mortgaged their wives' flats. Therefore, frankly speaking, if there is any measure that can make their business better, they will put it into practice without further ado.

Therefore, I think we should not be bogged down by the issue of whether there will be business or no business, or if business will be better or worse. I just do not bother to talk about this. Let us look at the smoking ban in Dublin, since Members have mentioned the smoking ban in Ireland. I have some figures here concerning Dublin. The business of the pubs over there has

dropped 16% and the unemployment rate has risen 14%. I think it is pretty pointless to talk about such things. Ireland and Dublin are faraway places. How many people have been to those places? I have. However, why is it necessary to talk about such distant things? If the business of restaurants will worsen, so what? Will the implementation of the ban be halted if business declines?

Therefore, I think the best thing to do is to come back to the problem here in Hong Kong and be focused. This is after all better than targeting me — I do not mind in the least because I have a thick back and I have the word "valour" emblazoned on my chest, so you can just go on shooting. However, I am not speaking for the tobacco companies. I just want to relate some facts to Members to explain why restaurants have raised objections.

In fact, as Mr James TIEN has said, the crux of the problem lies in smoking among young people. Smoking among young people cannot be prevented merely by banning smoking in restaurants. I very much hope that at a time when the Secretary has just assumed office, he will not wait until a piece of legislation has come into being before holding discussions with the industry. I also very much hope that Secretary Stephen IP can hold discussions with the industry as soon as possible and tell the industry what the future objective is. If the industry feels that this will hurt, then they have to tell the Government how it will hurt, to see if all of us can find ways or directions that can mitigate the pain. This is what I dearly hope the Secretary can do.

Many Honourable colleagues often talk about the disadvantaged in society. Today, I also want to talk about the disadvantaged. In fact, insofar as today's subject is concerned, there are two groups of disadvantaged people. The first group is smokers, the other, bosses and employees in the catering industry. I do not know how they voted, however, I believe they have also received messages from Honourable colleagues affiliated with labour unions telling them that a total ban on smoking will affect employees. Therefore, I always think that if our society is enlightened and fair, so in dealing with these disadvantaged groups, it is necessary for us to examine how we can give them a timetable and the opportunity to get out of the slump together with us, so that the objective can be achieved. The problems cannot be solved by targeting me in this very Chamber. It is necessary to knock our heads together and study how this problem can be solved.

Madam Deputy, I support the original motion.

MR LAU CHIN-SHEK (in Cantonese): It is an indisputable fact that passive smoking is hazardous to health and many Honourable colleagues have pointed this out. It is also an undeniable principle that employers have the responsibility to provide a safe and healthy work environment to employees. Unless we have other ways to nullify the hazards wrought by passive smoking, to ban smoking completely in the workplace is the certain conclusion.

It is a pity that Members of the Legislative Council are self-employed, and for this reason, self-discipline matters a great deal. Our Honourable colleague, Long Hair, by smoking in his office in the Central Government Offices, not only affects the health of other workers in the offices but also subjects workers in his office to passive smoking. I believe that back in those years, if Che Guevara had known that smoking was hazardous to health, he would have quitted smoking, or at least he would have smoked only after going into the forest. I am very concerned about the health of Long Hair and that of the colleagues in his office and my office. Therefore, for his own sake and the sake of other people, I call on Long Hair not to smoke in the office. Some people claim that among my colleagues, someone also smokes. However, my colleague exercises self-discipline. Since there is no forest, he goes outside to smoke. Otherwise, other colleagues and I will be subjected to passive smoking. If anyone refuses to put up with passive smoking, then disputes will arise incessantly.

There are also people who say that in some companies, everyone from the employer to the employees smoke. Barring them from smoking in the workplace would in fact be courting trouble. I do not agree with such an argument because even if everyone from the top level to the bottom level in a company smokes, it cannot be ruled out that non-smokers may apply for jobs with it in the future. Do we want to exclude non-smokers from working in those companies, or else they have to put up with the hazards of passive smoking? Will this not impose restrictions on the right of non-smokers in choosing jobs?

The first part of Mr Andrew CHENG's amendment is to change "workplaces" to "indoor areas of workplaces". Taken at face value, this should include catering and entertainment establishments such as restaurants, bars and karaoke lounges, since employees also work at such places and these are their workplaces. Bearing in mind the principle of protecting the health of workers, I

support this amendment and also agree that the Government should introduce a bill to the Legislative Council as soon as possible.

Of course, I understand that operators of catering and entertainment establishments are concerned about the effects of a total smoking ban on their business, and some customers also consider that cigarette and wine are just as inalienable as bread and butter. Many customers of restaurant also have the habit and idea of "lighting up after a meal is a bliss greater than heavenly weal".

A great deal of controversy still surrounds the introduction of a complete smoking ban at such places as restaurants, bars and karaoke lounges. As a stopgap measure and a transitional arrangement, I do not oppose exempting workplaces such as restaurants, bars and karaoke lounges from the total ban on smoking for the time being. However, I must stress that the exemption is only temporary and there should be a deadline. If the relevant operators cannot come up with a solution to reduce the threat of passive smoking to the health of their employees to nil, then no mercy will be shown after the transitional period.

Madam Deputy, another related topic is the air quality at indoor workplaces. Some years ago, a survey conducted by the Environmental Protection Department found that half of the respondents working in the office were suffering from the sick building syndrome, which includes sneezing, irritation to the eyes, headache, and so on, and I was also one of the sufferers. The air quality of indoor workplaces, just like passive smoking, affects the health of employees. In the interest of public health and in order to protect employees, I hope that Honourable colleagues who support banning smoking, as well as colleagues in the Government, will tackle the issue of air quality in indoor workplaces with the same proactive attitude.

Thank you.

MR LEUNG KWOK-HUNG (in Cantonese): I am a smoker and I oppose a total ban on smoking. I have my justifications. Since I am a leftist and a Marxist, of course I attach great importance to workers' rights. In fact, a very simple reason is that if workers have to work in workplaces filled with cigarette smoke for the simple reason that he has no other choice, this is inhumane because these workers are not consumers but people who make a living with their hands

or brains. I firmly believe that as far as this issue is concerned, workers should not be made to work in an environment that they are not willing to stay in and which will jeopardize their health. This is just like other public health hazards mentioned in industrial safety.

I also wish to apologize, since Mr LAU Chin-shek said that I was wrong to smoke in Room 325. I will never do this again and on that occasion, I only had a few puffs. (*Laughter*) However, I have to point out that the logic behind banning smoking is not sound. This total ban on smoking, that is, this measure to totally ban smoking in indoor restaurants and karaoke lounges will deprive smokers of their human right to smoke as they drink or sing — maybe Members are beginning to criticize me now — but this is not how things should be. Let us say that smokers account for one tenth of the population. Some people may want to establish a restaurant which fully allows smoking. Also, if some people want to kill themselves, they should just be allowed to do so. The reason is very simple and there is no need to argue. The majority cannot oppress the minority with their superiority. The problem can be solved simply by establishing a smoking club. Whoever thinks that this kind of business is viable should be allowed to operate it. If there are places that allow people to smoke freely, naturally people of this stripe will go there to wine and dine.

The problem is that the Government does not allow people to establish these if such legislation is passed, the Government will not allow people to establish bars, restaurants and other establishments of this nature. I think that such an act basically violates human rights. Although from the viewpoint of workers' rights, there is nothing that I can say, I personally feel that there is no reason to impose on other people. The only logic is that this is the tyranny of the majority. How can you behave like this? Why do we not allow these people to have a choice? We can allow bosses to establish bars that fully allow smoking. If they suffer losses, only their money will be at stake. Why do we not allow people to establish a smoking club so that those people can binge and smoke as they listen to songs? I think that in modern society, this is highly anti-intellect. The present approach is tantamount to saying that the rights of the minority are not respected at all.

From the standpoint of workers, the rationale that I cannot refute is that I cannot allow employees to work in workplaces filled with cigarette smoke or places where there is any industrial hazard. Therefore, I will abstain at voting.

However, I hope that all Members will understand one thing. The rationale we are talking about a dangerous, namely, the majority can decide the affairs of the minority. This is just like people saying that I should not wear the clothes that I am wearing now. We have to give others what is left of their rights. Do Members understand what I am saying? Why do we not allow people to apply for licences to establish such establishments? The biggest problem now is that the people are thrown together and you say that 10% of the people are subjecting 90% of the people to passive smoking. Why do we not allow people to establish establishments which fully allow smoking? Non-smokers will not patronize them. If some people say that their boyfriend or girlfriend is a smoker and in order to smoke and drink with him or her, they have to go inside, then these people can only lament that they have to sacrifice their own interest of their own accord. The problem now is that should this piece of legislation be passed, nobody can establish this sort of establishments and I consider this a violation of human rights. Please do not mistake that I suggest mixing the people together. Things will just be fine if they are segregated.

Another point is that nowadays, human society has become pathological, that is, there is an over-reliance on air-conditioning, without which this problem can be solved much more easily. Our problem lies in the fact that air-conditioning systems will give rise to a lot of viruses in the ozone layer. This has nothing to do with smoking. I am not being apologetic. If Members really care about issues like these, then they really have to be concerned about this aspect. The great majority of buildings in Hong Kong are not fit for human habitation because it would not be alright to go without air-conditioning facilities. However, has any attention ever been paid to ventilation? Has anyone ever paid any attention to the poor ventilation in public housing estates?

My views are very simple. I will not yield to the unreasonable acts of the majority. I only wish to make one point, that is, the minority have their freedoms and if their freedoms do not affect others, then they should be entitled to such freedoms. Even if they want to kill themselves, if they do so out of their own volition, they should be allowed, should they not? If we do not even have such freedoms, humans beings will become very terrible creatures, since the majority can order you to do such and such today and not to do such and such tomorrow. I think that it is where the crux of the issue lies, therefore, I am compelled to abstain at voting, but for the sake of workers' interests, I have no choice but to vote in favour.

However, there is one thing that I cannot figure out no matter how hard I think about it. Why do we not solve the problem of workers being subjected to passive smoking in bars and restaurants? I think that if I have to sort this out using my own wits, I have no other choice. Today, I will definitely (and also for the first time) make an ambivalent gesture by abstaining at voting. I really have no choice, otherwise, I will have to violate two principles of mine. This puts me in a quandary. I hope Members will ponder over this question, this question of human rights, freedom and democracy.

Thank you.

MR LI KWOK-YING (in Cantonese): Madam Deputy, the anti-smoking movement in Hong Kong began in the '80s. Through various measures such as stepping up publicity and education, introducing legislation to restrict the promotion of tobacco products, increasing the duty on tobacco drastically, putting in place a policy on no-smoking areas, as well as setting up the Tobacco Control Office in recent years, the Government has boosted its tobacco control efforts and achieved some measure of success. However, it must still be noted that although compared with the past, the public has shown a marked increase in anti-smoking awareness, there are still 800 000 habitual smokers in Hong Kong, that is, for every 100 members of the public, there are about 15 smokers.

The bane of smoking to health is well-known to all and what is more, passive smoking is a lethal killer of non-smokers. A number of medical research shows that the level of carcinogenic substances attributable to tobacco in the urine of people who have been subjected to passive smoking for extended periods of time is three times higher than that of ordinary people. According to a survey, each year, about 5 500 members of the public died of smoking-related diseases and each year, 50 000 to 60 000 people fell prey to lung cancer, chronic lung diseases, coronary heart disease, and so on, as a result of smoking. The amount of medical expenses incurred is close to \$800 million, which is enough to plug the fiscal deficit plaguing the Hospital Authority (HA) and the Government. Therefore, the problem of smoking remains an important public health issue.

Madam Deputy, the Government published in 2001 a consultation document which proposed that the legislation be amended and tobacco control be stepped up and one of the proposals was to extend the no-smoking area, including putting in place legislation to provide for a complete smoking ban in

offices. In fact, we all know that the modern office makes use of central air-conditioning systems. Therefore, if anyone smokes indoors, the indoor air quality of the entire building will deteriorate rapidly and air quality standards will be compromised, directly affecting the health of employees. The Harvard Report, which made recommendations on the reform of the health care system in Hong Kong, also pointed out that the sick leave taken by employees each year would increase by 39% as a result of passive smoking. In view of this, in recent years, an increasing number of offices have implemented smoking bans and people who have the smoking habit also go outside spontaneously to smoke. In view of this, if further control is to be imposed, we should be able to secure the widespread support of society.

However, if no-smoking areas are extended to establishments such as restaurants, karaoke lounges and bars, stronger opposition will be encountered. The catering industry is concerned that should a total ban be implemented, their business will be affected. The concerns of the industry are in fact understandable. However, they should also know that the present approach of delineating a no-smoking zone cannot genuinely protect non-smokers from the nuisance of passive smoking and there are many gray areas that cause disputes in enforcement. What matters most is the effect on workers, since they cannot choose their workplaces and the duration which they remain in such places are generally far longer than customers in general. In these establishments that allow smoking, their health is often sacrificed.

For this reason, the Democratic Alliance for Betterment of Hong Kong (DAB) supports the extension of no-smoking areas step by step. When implementing its policy to ban smoking totally, the Government should take into consideration the concerns expressed by the affected industries and draw up an appropriate adjustment period, as well as conducting frequent reviews in the process of on issues of enforcement, for example, so that the industry can adapt to the new changes.

However, designating no-smoking areas is merely a stopgap measure. Instead of expending too much of our energy on debates, it would be better to contrive ways to reduce the smoking population. In order to do so, the most important thing is to try to reduce the number of people who try smoking, in particular young people, and assist habitual smokers to kick the habit. Although the Government and non-government organizations have expended a

great deal of anti-smoking effort that targets young people, the problem still persists and the problem of smoking among young women even shows a trend of deterioration.

A number of research found that the major reason that young people smoke is peer influence. To address this situation, the anti-smoking campaign should exploit this factor to its advantage by delivering the anti-smoking message through the school network and the social network of young people, as well as making use of peer influence, so that the new generation has the courage to say no to tobacco products.

Apart from this, a certain proportion of young smokers tried smoking out of curiosity or imitation of other people. Tobacco companies often make use of images in films and television programmes as well as idols of young people to associate tobacco products with rebellion, independence, individualism, maturity, and so on, and young people are led to the misconception that by lighting up, they will be able to find their identity. Whether the anti-smoking campaign can emerge victorious in this battle of image depends ultimately on the awakening of society as a whole. It is a very important link to reduce as far as possible the association that young people erroneously established between the images and smoking through exposure to the media.

On the other hand, I believe an overwhelming majority of the smokers know the harms of smoking and understand the benefits of kicking the habit, both to themselves and to the health of their families. However, given their unbearable psychological "itch" and their established dependence on nicotine, a suitable and effective smoking cessation service is very important and the Government should have committed resources to the work in this area earlier. Unfortunately, it was not until the year before that the Hospital Authority and the Department of Health began to provide smoking cessation service. Meanwhile, due to resource limitations, at present, the Smoking Counselling and Cessation Centres operated by the Hospital Authority only provide service to patients who suffer from chronic diseases as a result of smoking and their service hours are limited to between 9 am and 5 pm. This can hardly meet the needs of the average wage earner. Of the four Smoking Cessation Clinics operated by the Department of Health, only one of them is open to the public. During a two-year period, a total of 18 cessation centres offered smoking cessation therapy to only 38 000 members of the public and the success rate was 70%, that is, on average, they succeeded in helping only 13 000 members of the public quit

smoking each year. Based on the approximately 680 000 smokers in Hong Kong, it will take at least 52 years before we can help all the people in this group kick their habit. To put it not so nicely, many smokers will die of smoking-induced diseases before they can make use of the smoking cessation service. The DAB holds that the benefits of success in helping a smoker kick the habit are definitely several times greater than that of the expenditure on smoking cessation service. Therefore, the Government should commit more resources to smoking cessation service and train more health care personnel in the private health care sector to provide smoking cessation service jointly, so that a greater number of smokers can make use of smoking cessation counselling and therapy early.

Madam Deputy, the anti-smoking effort is a long-term and arduous effort involving many policy areas. Therefore, a comprehensive strategy is required. If we drag our feet in implementing other anti-smoking efforts because of one or two controversial measures, only the public will suffer and tobacco companies will stand to gain. We hope that the Government can implement various anti-smoking policies in earnest, so that Hong Kong can become a smoke-free society as soon as possible.

Madam Deputy, I so submit.

MISS CHOY SO-YUK (in Cantonese): Madam Deputy, I will focus my speech on the effects of implementing a total ban on smoking on the relevant sectors.

The DAB has always supported imposing a ban on smoking at indoor public places as a matter of policy direction. However, we have also suggested that the implementation of any specific legislative measure should carry consideration of its effects on the business of catering and entertainment establishments such as restaurants, bars and karaoke lounges. We appreciate the concerns of the catering industry about a complete ban on smoking in restaurants, and we have also noticed the occasional discrepancies in the conclusions of various studies on the positive or negative effects of a total smoking ban on the business and operation of restaurants and bars.

However, in the past year or so, there has been a growing trend towards implementing a total ban on smoking worldwide. Take the example of the United States. As of January this year, five states and 72 cities have passed

laws on banning smoking in workplaces, restaurants and bars. One of the examples is New York, which is a cosmopolitan city. Over a year's experience has been accumulated since its law to completely ban smoking came into effect in March last year and we can draw on this experience. In contrast, we think that the SAR Government should reconsider this issue with a more proactive attitude.

More importantly, studies on the effects of a total smoking ban on the catering industry have also become more mature and reliable. A more recent and authoritative example is a research report published by the Centre for Disease Control and Prevention of the United States in February this year. It involves a case study on a city called El Paso in Texas, which has implemented the most stringent smoking ban. An analysis of the sales tax and mixed beverage tax revealed that the business revenues of restaurants and bars have not been affected by the smoking ban. The report also stresses that the results of the studies on the effects of a smoking ban on the catering industry in various American cities are the same, namely, laws banning indoor smoking do not have any effect on the operation of the catering industry.

Of course, the catering industry will naturally present studies with contrary conclusions to back up their concerns. However, some academics in the United States have evaluated a total of 97 research reports conducted up to August 2002 on the financial impact of a smoking ban on restaurants. This "study on studies" concluded that the quality of the studies which concluded that a smoking ban would affect the revenues of operators in the catering industry was of unsatisfactory quality. In respect of their research methodologies, subjective measurements were used more frequently to assess the effects instead of objective measurements such as the taxable sales volume. These studies have also been subject to academic evaluation by their professional counterparts less often. Furthermore, they were subsidized by tobacco companies or their allies. Among the 21 studies considered to have met professional and academic standards, none of them found that the catering industry would be adversely affected and four of them even held that the effect would be positive.

We understand that operators in the catering industry may not be concerned about the assessment on the industry as a whole but they are concerned about the actual effects on the operation of their restaurants, bars or karaoke lounges, for example, the loss of customers in the short run. They may also be concerned that should the proportion of smokers in their customers be

relatively higher than that of their counterparts in the industry, their business will likely be adversely affected. In New York State, if operators can prove that they have lost 15% of their business as a result of the smoking ban and if effective measures have been put in place to prevent other customers and employees from being subjected to passive smoking, they can apply for exemption. When implementing measures to ban smoking in restaurants, the SAR Government can draw on the experience of other places, including regimes for phased implementation and granting exemptions. We believe that all parties in the community will be willing to consider with an open mind any policy proposal that can ultimately bring about a total ban on indoor smoking and at the same time, reduce to a minimum the adverse effects on individual operators.

Some people think that smoking is a personal choice and so is the choice to patronize restaurants that allow smoking. However, as pointed out by the British philosopher, J. S. Mill in *On Liberty*, "The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people." The freedom of choosing to smoke should also be based on the condition that it will not affect anyone else, including employees in restaurants. This is because for many employees in restaurants, given the present economic situation in Hong Kong, it would be very difficult for them to choose freely between working environments that permit smoking and those that are smoke-free.

I believe that in principle, with the exception of tobacco companies, the interests of no other relevant sectors are at odds with the policy to implement a total ban on indoor smoking. Moreover, since we should not do unto others what we would not do unto ourselves, if an operator in the catering industry does not wish to be subjected to passive smoking in the office, I believe he will also be just as reluctant to see his employees being subjected to long-term passive smoking in the work environment, that is, restaurants.

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

MISS CHAN YUEN-HAN (in Cantonese): Madam Deputy, one can say that this subject is debated in the Legislative Council every year.

(THE PRESIDENT resumed the Chair)

The Government's proposal to ban smoking completely in the office has aroused concern in the community. The general public also increasingly understand that we have to make some changes insofar as this issue is concerned. Today, I will speak on behalf of the three Honourable colleagues from the Hong Kong Federation of Trade Unions (FTU). The thrust of what we wish to say is that once this motion was proposed, we followed our past practice and consulted the labour unions concerned, that is, those in the catering industry, which Mr Tommy CHEUNG often mentions. In the past few years, we have always hoped that society would understand this problem, and based on our observation, an increasing number of people favour or understand the need to ban smoking in such establishments as restaurants or karaoke lounges. As society develops, many Hong Kong people think that if anyone wants to smoke, they should find a place to do so themselves rather than smoke at places frequented by the public, so as to avoid affecting the health of non-smokers. I listened carefully to Mr Tommy CHEUNG's speech earlier and he also agreed that smoking would affect health.

The issue now is what we should do in the face of the difficulties encountered by the industry or by us. When I deliberated this issue with people in the labour unions, they also felt that some difficulties might arise. However, in the end, they believed that this issue should hinge on the wish of the majority in society. They all believed that smoking should be totally banned in the office, and in order to prevent young people from smoking at places frequented by them, smoking should also be banned in karaoke lounges.

After listening to all the views during the consultation and learning about the problems, we, as three Members of this Council from the FTU, decided that when voting this year, we will support the original motion, the amendment and the amendment to amendment. Here, we wish to tell everybody that although we understand some sectors may be affected, I think that the effects may not necessarily materialize if we can break with some existing practices. I have received some information concerning some restaurants and overseas countries indicating that with sufficient deliberation, preparation and consultation in advance, the companies concerned can find solutions to the problems concerning the business of restaurants or karaoke lounges. After many years of incubation, I think it is now time the Government did something.

The former Secretary, Dr YEOH Eng-kiong, established the Tobacco Control Office and proposed a total ban on smoking. I hope that this year, the

new Secretary and the Government can quickly come up with a proposal that has taken on board the consensus of all parties and included the introduction of a smoking ban in the office at an early date, since this legislature is already different from that of last year or last term. Furthermore, should the public venues under discussion, such as restaurants and karaoke lounges, be included on the agenda?

Madam President, the speech we give today is intended mainly to point out that we have extensively consulted the "wage earners" in the relevant industries in the process of consultation and heard people who had expressed their worries and concerns, but there were also people who considered this a good thing and that smoking should be banned. In view of this, we have made this decision. However, before I conclude my speech, I wish to tell the Secretary that I hope he can listen to views through various consultation channels before making a decision. If a smoking ban is implemented and the relevant parties encounter difficulties, the Government should provide assistance to the industries as much as possible. Only in this way can we support the Government in banning smoking completely in the office on the one hand, and also help businesses overcome the difficulties that they may encounter on the other.

Madam President, we support the original motion and amendments. Thank you.

DR RAYMOND HO: Madam President, nobody disagrees that smoking is hazardous to health. While some people choose not to smoke, others do. It is supposed that non-smokers' health is better than smokers'. However, the real situation is not 100% so. It is said that the impact of passive smoking on health is stronger than smoking. Under these circumstances, why should non-smokers be exposed to passive smoking? In most cases, passive smoking is out of their control. Our Government should do something to protect their health.

As we all know, smoking can lead to lung cancer and cause the respiratory system to deteriorate. It is particularly bad to those people who are suffering from asthma and heart problems, as well as, generally speaking, to those who have health problems. They should have an option not to be exposed to passive smoking. However, they are very often exposed to passive smoking in areas such as restaurants, workplaces and air-conditioned indoor public areas. In order to protect their health, a total smoking ban in these areas is necessary. On

the other hand, such a ban can hopefully minimize the smoking volume of smokers. The purpose of it is to protect their health and, in the long run, to save government expenditure on medical care. The issue on a total smoking ban has been discussed for several years, the implementation of it should be expedited.

In recent years, there is an increase in the number of young smokers. Some of them even start smoking in early teenage, and the percentage of young people picking up the bad habit of smoking is on the increase. Definitely, this trend is not good to Hong Kong as young people are the pillars of Hong Kong in the future. The Government should deal with this problem more seriously and urgently. In the past, the Government had conducted anti-smoking campaigns. However, in these campaigns, disappointingly, the problem of young smokers was not addressed. I hope that in future when the Government designs a promotion campaign to combat smoking, it will take young smokers into account. I would even go as far as saying that the Government should lay particular emphasis on the smoking problems of the young generation.

Smoking definitely is not good. It not only causes deterioration in people's health, but also the health of Hong Kong's economy. When people's health goes wrong, their contributions to our economy will be negatively affected. Hong Kong's economy is on the road to recovery. I hope that all people in Hong Kong have the health condition which will enable them to foster a full economic recovery. Under these circumstances, a total smoking ban is necessary.

Madam President, I so submit. Thank you.

MR HOWARD YOUNG (in Cantonese): The original motion today urges the Secretary for Health, Welfare and Food, who has newly assumed office, to actively expedite the implementation of a complete ban on smoking in workplaces, which the travel industry very much supports. As employees have to work for extended periods of time in the office, its air quality will have a direct bearing on their health and efficiency.

Of course, the travel industry consists of hotels, airline companies and travel agencies. Airline companies have taken the lead in banning smoking and consider it most desirable if smoking can be banned by way of legislation. This

is not just a health issue but also an issue of aviation safety. I believe the position of the aviation industry is crystal clear. On this issue, travel agencies do not have any particularly strong views.

In fact, I did consult the industry on this motion. It has always been my practice to inform the industry of the details of motion debates if the subjects have any effect on the industry and to collect its views. The views collected came almost exclusively from the hotel sector. Just now, someone has even given me a call to convey his views.

Nearly all the views I have collected have to do with restaurants in hotels. In fact, I can also let Mr Tommy CHEUNG say what I intend to say. As Mr James TIEN said, we in the Liberal Party unanimously support the original motion and support a ban on smoking and in the long run, a complete ban on smoking.

Why can we not accept Mr Andrew CHENG's broad-brush amendment? Our Chairman, Mr James TIEN, has already explained the reasons very clearly, so I am not going to repeat them here. The only amendment that is somewhat different is the one proposed by Mr Albert CHENG. Mr CHENG has removed the one-year deadline. Originally, I thought that this very much merited our support, however, he deliberately included restaurants in hotels in the scope of the smoking ban. The views I gathered from the hotel sector are all focused on this area and I must respect their views. They are of the view that if the scope of the smoking ban is enlarged in a broad-brush fashion to include all restaurants, that is, restaurants, bars, karaoke lounges or entertainment establishments inside hotels, in order to protect young people from the harms of cigarettes, will this help achieve the objective of eradicating the harms of cigarettes to young people?

Friends in the hotel sector told me that young people only accounted for an extremely small minority of the customers patronizing restaurants in hotels and of the visitors staying in hotels. They also pointed out that their customers come from various places, in particular, in recent years, visitors from the Mainland have become a major source of customers for Hong Kong. Their number is increasing and these travellers on individual visits have instilled vigor into the consumer market and given impetus to the Hong Kong economy. Therefore, friends in the hotel sector think that this is a huge market. They find it most unacceptable if the scope of the smoking ban is enlarged at this stage. Of course, they also agree that in the long run, it is necessary to implement a

smoking ban but this should be implemented in a gradual and orderly manner. For example, is it possible to gradually reduce the size of the present smoking areas until there are eventually no smoking areas and smoking is eventually completely banned? They are willing to consider this. Ms Audrey EU said that although the four of them held different views on banning smoking in bars, this would not affect their support for the amendment proposed by Mr Albert CHENG. However, it is also precisely because of this issue that I am not convinced for the time being to support the amendment proposed by Mr Albert CHENG.

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

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, the slogan "Smoking is hazardous to health" is well-known to all people from children to adults, and all of us know what it means. However, has the slogan "Smoking is hazardous to health" achieved its effect? If it has, then there is no need to have such a great deal of discussion today.

In fact, the phrase "smoking is hazardous to health" has not served to advance the cause of the anti-smoking lobby a great deal. The main reason is that, unlike narcotics, smoking does not lead to any instant and evident negative effects on the human body. It is often necessary to wait for a longer period of time before they emerge. Very unfortunately for me, my mother began to smoke at a tender age. It was until she was very advanced in years that problems occurred to her respiratory tracts. Her condition then deteriorated incessantly. Even though she stopped smoking towards the end of her life, she still failed to recover. In the end, she passed away two years ago because of problems with her respiratory tracts.

During the period before her death, I could see that she was really suffering tremendously. Therefore, my advice to smokers is that they really should kick the habit as soon as possible, otherwise, the suffering that you will experience at your old age does not merely affect you yourselves, for your family members will not have a good time either. I hope you can understand this rationale and quit smoking as soon as possible.

Today's debate is mainly about ways to quit smoking. How can we make everybody understand and quit smoking? Today, Honourable colleagues have

proposed two amendments, one of them is about a ban on smoking in workplaces and I also agree with this point. Why? Because the impact of smoking on our health is just like that of pneumoconiosis. Problems do not emerge right after inhalation but will after a long period of time. The respiratory system will be damaged and even one's life will be at stake. We have already included pneumoconiosis in the list of occupational diseases and will offer compensation to workers for their loss of health. Should such a situation arise in the workplace, it is only right that compensation for injury at work should also be offered. As I have said, just like those workers who inhaled dust all the time as they cast concrete, thus sustaining bodily damage, this group of workers should also be entitled to compensation. I hope that the Secretary can consider offering compensation for injury at work, otherwise, it would be very unfair to employees subjected to passive smoking. They probably have no choice but to work there, and they are subjected to passive smoking at work and their health is affected. Therefore, I hope that the authorities will examine this issue.

Although smoking is hazardous to health, why do so many people still puff away? I believe this is mainly because some of us think that smoking can help raise their spirits or reduce stress. It turns out that many smokers began to smoke in adolescence, and this has been mentioned by many Honourable colleagues. Having started, they will continue to do so even in adulthood. According to the survey conducted by a government body, the Council on Smoking and Health, 80% of the adult smokers began to smoke before they were 15 or 16 years old and they have continued to do so ever since. Therefore, if we can tackle the problem of smoking among young people first, the results may be more pronounced. As Members have said, it is the problem of smoking among young people that is the most important.

However, it is proposed in the other amendment that apart from banning smoking completely in workplaces, a complete ban on smoking should also be implemented in karaoke lounges, pubs, and so on, if the ban is to achieve results. Is this really the case? I do have a lot of doubts and misgivings about this. What is the aim of the people who patronize pubs and karaoke lounges? The main thing is they want to have some so-called "personal freedom" and do whatever they like there, be it to unwind, to redress stress or do other things, to do whatever they like. If they are not permitted to smoke at such places, they may as well not go there. How would things turn out? If they do not go to these places, it does not mean that they will kick the habit, rather, they will go somewhere else to do other things. This will not serve the purpose.

Since today's debate is about introducing legislation to ban smoking, our only aim is to make people stop smoking. However, such an approach is like squeezing a tube of toothpaste. If they are not allowed to smoke in karaoke lounges or restaurants, they will go somewhere else to smoke. Such an approach is meaningless and cannot root out the problem. In fact, if we look at this the other way round, as I have said, since 80% of adult smokers began to smoke at a young age, we have to explore the reason why they began to smoke from a young age. The Neighbourhood and Workers Centre, to which I belong, has conducted a survey and found that several factors are invariably involved. Firstly, the main reasons are family discord, smoker parents, the lack of friends at school, problems in their relationships with friends, and so on. The other factor has to do with image, that is, the image projected by the mass media nowadays.

When we debate the issue of banning smoking today, it is not enough to ban it by way of legislation, rather, we should think about the problems young people encounter, for example, to consider how to alleviate their discontent or unease as a result of family discord and to understand their discontent with school life. We should tackle the problem by beginning in these areas and this will be more effective than thinking about where smoking should be banned. I have already said that if smoking is banned at a certain place, they will switch to other places and the problem is not solved at all. Rather, we are behaving like an ostrich. Even though we know full well that they are smoking, we just designate places at which they can smoke and we stop at that. There is no meaning in doing so. If we really want to do something about this, then we should find out what the problems facing young people in their lives are. If they are discontented with the education system, then we have to improve the education system in earnest. If they are discontented with their families, then we have to improve family relationships, for example, nowadays, problems have occurred in many families..... (*the buzzer sounded*), so more social workers should be assigned to deal with these problems.

MR MARTIN LEE (in Cantonese): Madam President, I think a quorum is lacking for the meeting now.

MR ALBERT CHENG (in Cantonese): I think there are only 12 Members in the Chamber.

PRESIDENT (in Cantonese): I will ask the Clerk to ring the bell to summon Members to the meeting. The summoning bell will now be rung for 15 minutes and Council will resume after a quorum has formed.

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

PRESIDENT (in Cantonese): A quorum has now formed. Mr Martin LEE, you may now speak.

MR MARTIN LEE (in Cantonese): Madam President, I would like to tell Members and particularly, I would like to tell young smokers that I used to smoke too, but I quit smoking soon after I began to smoke, because smoking damaged my throat and I could not speak. I was a teacher then and as my voice was too weak, I therefore quit smoking. Subsequently, I read many articles and realized the benefits of quitting smoking early. So, young smokers do not have to worry, because so long as they quit smoking early, they should be able to live a long life.

My father had long been a smoker. He could smoke several packets of cigarettes a day, but he quit smoking when he was 80. I was very happy and told Mr SZETO Wah that my father had quit smoking. "Uncle Wah" asked when he quit it and I said he did it at the age of 80. "Uncle Wah" said, "Martin, I will also quit smoking when I am 80.". Later, Mr SZETO Wah quit smoking, but not at the age of 80. He was once hospitalized and as smoking was not allowed in that hospital, he therefore quit smoking then. Regrettably, sometimes when I have meetings with him recently, I can smell smoke from him once in a while, wondering if that smell of smoke came from his breath after he had smoked on the sly. My father ultimately died of cancer, but he died at the age of 93. So, it is still good to quit smoking at 80.

Madam President, some Members mentioned freedom. I will certainly pay much attention to any argument which mentions human rights and freedom. In fact, Members need not worry about this. When I was a member of the Basic Law Drafting Committee, I had raised this issue because at that time, four members in my group were smokers and they had been smoking all the time. I therefore proposed that the Basic Law should explicitly stipulate that people do

not have the freedom to smoke. They asked me if I had got anything wrong and considered it impossible to ban smoking, for it was their freedom. I, therefore, asked them if they would agree that they had the freedom to inhale smoke but not the freedom to exhale smoke. It is because if they inhale smoke, they will only do damage to themselves, but if they exhale smoke, it will cause the many problems of passive smoking. Although I proposed such a good idea at that time, like many other very good ideas that I had proposed, it was not accepted by other members of the Basic Law Drafting Committee.

"Long Hair" — This long-haired Member mentioned that private clubs could be a solution to the problem. In fact, the long-haired Member can invite all his friends who like smoking and drinking to his place and extend hospitality to them. It is most important that all people in his family must be smokers as well. But if his servant does not smoke, it would not be right for him to do so, as also admitted by him. So, if all in a family are smokers, asking friends to one's place to smoke together is entirely allowed in law.

Some Members mentioned bars. Must smoking and drinking go hand in hand at all times? Many people who drink or people who like to watch soccer matches and drink at bars do not smoke. But their health will also be damaged, and many people who work in bars actually do not smoke. Some people mistakenly think that smoking can do away with depression. I hope the Government can tell us later in its speech if there are justifications for this and tell us if people feeling depressed will not feel blue any more after pulling a few puffs and drinks. The result, however, may be even worse. I do not know, because I am not a doctor.

Madam President, there is one thing for which I must praise myself. Smoking is now banned in this Chamber and the entire Legislative Council Building. Madam President, you also mentioned in a certain year's report that smoking has been banned in the entire Legislative Council Building since April 1999. In fact, I had striven for a smoking ban here for many years. I had striven for it for 12 years and then some Members supported my view and subsequently, smoking was allowed in a particular room, namely, Room 217. The place was indeed appalling and filled with smoke. Then, some Members said that it was not good and that the air-conditioning was not good enough and so, the air-conditioning system should be improved. I said that it was not the right thing to do and instead, no air-conditioning should be provided there, so that there would be no circulation of air inside the room. I said that smoke

should be allowed to be trapped inside the room until those who smoke in it ceased to smoke. I finally succeeded in April 1999 and now, smoking is banned in the entire Legislative Council Building. So, Long Hair, let me now warn you this: Smoking is prohibited inside the Legislative Council Building. A number of senior staff here are smokers, but they will smoke outside this building in the car park.

Why was it so difficult for this to be done back then? It was because several Members (at least one or two of them) were Directors of British-American Tobacco. Therefore, such a smoking ban was very difficult. Even the wife of a senior staff member of the Secretariat worked in a tobacco company. So, it had been a tall task for me to press for and eventually realize a smoking ban in this building. Mr Allen LEE was strongly opposed to my proposal before. But recently, he told me, "Martin, I have quit smoking and I hate people who smoke. I just cannot put up with it.". So, Allen is saved.

In fact, Madam President, the effects are not only confined to indoor places. When I go hiking at the Peak, I often see people practising "Tai Chi" there take deep breaths of fresh air. But if a smoker passes by, it would be disastrous to them, because when the smoker exhales smoke, those who are taking deep breaths of air will inhale the smoke. Certainly, this motion does not mention these public places, but I hope that smokers who have to exhale smoke when they are hiking will not exhale it when other people are passing by.

Some people oppose Mr Andrew CHENG's amendment and Mr Albert CHENG's amendment. In fact, have they ever thought about this: What if those to be affected are our own children? Have we ever thought that our children may be inhaling smoke from other people in a restaurant continuously? What if our children work in those places? So, please think about our family. In fact, many people have relatives who were killed by smoking. Have we ever thought about a total smoking ban in restaurants? As far as I know, a person's appetite will improve after quitting smoking. Such being the case, more people will be eating in restaurants and it follows that the restaurants will gain more business.

Finally, Madam President, I would like the Government to do two things. First, after listening to Members' speeches, the Government should introduce a motion or a bill to the Legislative Council. As long as a majority of the Members are present and when a majority of them vote for it, the motion or the

bill will be carried. The Government does not have to worry about this at all. If, after some counting, 31 votes are in support of the Government, please introduce a bill to the Legislative Council this year to implement a total smoking ban in indoor places. This will certainly be passed; 31 votes will suffice and the Government does not have to worry about separate voting. Second, I hope the Government will very seriously consider whether or not to sue the tobacco companies. It is because, as we all know, a substantial amount of public coffers is spent on the treatment of diseases caused by smoking or the inhalation of second-hand smoke every year. In some countries, particularly in the United States, legal proceedings have been instituted. I hope that the Hong Kong Government will do the same.

Thank you, Madam President.

MS MARGARET NG (in Cantonese): Madam President, I did not intend to speak originally. But having listened to "Long Hair" who seemed so pitiable, I think I should say something. He said that he was caught in a dilemma. On the one hand, he felt that he should support this motion for the benefit of the health of workers. But he opposed the making of legislation to subject the freedom of the minority to the majority wish. He considered it despotic rule. So, caught in a dilemma, he has to abstain in the vote.

In fact, I do not think that there really is a dilemma. It is because we are discussing this issue in a real environment. That is, we are discussing some practical legislation or what legislation should actually be enacted in real life society.

Theoretically, all legislation will restrict people's freedom in varying degrees. All we can do is to lift the threshold to a higher level, that is, we should not lightly enact laws to restrict the freedom of the people. Then what is this threshold? It normally concerns the harm caused to other people. When enacting laws, we will adopt a minimalist approach to protect other people from being harmed. I used to think that if I do not like people smoke, I should refrain from smoking and that would already do, and why should we ban smoking? But when it comes to a stage, that there is evidence showing that inhaling second-hand smoke is harmful to the health of other people, it becomes a different matter. It transpires that we must take measures to ensure that the people are not exposed to the harmful effects of second-hand smoke.

Today, many Members opined that smoking is hazardous to health and so, we do not encourage people to smoke. Mr Martin LEE had even taken great pains to warn us against smoking for longevity's sake (I wonder why everyone is so keen on longevity). As he has said, one should quit smoking for longevity. I, however, hold that I will not go for a piece of legislation only because its enactment will benefit some people, thinking that I should therefore force the benefits on them and make them become good men. I only think that it is fine if a person does not like to become a good man; and it is fine if he does not like to live a long life and to stay healthy. But if a person's act will do harm to other people, then we must think it over.

In the meantime, when enacting laws, we must have regard to the freedom of the minority. When we talk about democracy, why should we mention human rights and the rule of law? It means that even the greatest majority cannot trample on the rights of the minority. So, if the minority like to smoke, what can we do? Can we provide some sort of an environment in which they can smoke without doing harm to other people, so that they can be allowed to smoke there? In other words, as long as they will only do harm to themselves, give them the liberty to enjoy how they do harm to themselves. Sometimes when we drink, the foreigners may ask, "What's your poison?" That is, it is known that drinking will do harm to health and since we have chosen this way to do harm to ourselves, it is fine so long as we voluntarily choose to do so. Earlier on, Ms Audrey EU put forth some views to Mr Andrew CHENG on behalf of the several of us (though we do not frequent bars). We have the feeling that people going to bars mostly for smoking and drinking, enjoying how they do harm to themselves. So, a mutual consent may be included in it. That is, a consent to doing so by the adults. Yet, there could be another solution and that is, when a total smoking ban is implemented, exemption can still be granted to some bars. It should be clearly made known that smoking is not banned in those bars and those who go there will be taken as doing harm to themselves of their own accord. So, the people can be allowed to do harm to themselves given mutual consent.

However, the people certainly cannot be given unlimited freedom to do harm to themselves even with their own consent. For example, drugs are still banned and prohibited. If anyone says that he wants to do harm to himself — he can really do harm to himself alone by taking drugs as there is no "passive drug-taking" — it must still be prohibited. Why? Suicide used to be an

offence and now, it is also an offence for a person to do serious bodily harm to himself. So, in some societies, or based on the moral standards of certain religions, people are prohibited from committing certain acts. Those who look at freedom from a broader perspective may consider these standards social shackles or moral shackles. We do not agree with excessive (or puritanical) shackles designed to do good to the people. But sometimes, we are short of options, because we live in real life society. Certainly, we can broaden the scope of freedom through social movements, but being Members of the Legislative Council, we have to enact laws for society and this is a responsibility that we cannot possibly evade. For example, as Mr LEUNG Kwok-hung (I am sorry that I have addressed him by his nickname just now) said in mentioning the issue of air-conditioners, it is not right for us to excessively rely on the air-conditioning system or even to excessively rely on electrical appliances and electric lamps. He said that our living environment now is not suitable for human habitation. I cannot agree with him more. I lived in the rural villages in the New Territories when I was small. I think that this concrete jungle of Hong Kong is not a suitable place for children to grow up in. But I can do nothing about it. I live in such a society and so, I will ask for the making of minimal legislation to ensure that the majority of the people are not harmed by passive smoking. As regards ways for the minority to protect their freedom, so that they can enjoy how they do harm to themselves without doing harm to others, we can absolutely give them consideration. I hope that these remarks can be of some help to Mr LEUNG Kwok-hung.

Thank you, Madam President.

MR WONG KWOK-HING (in Cantonese): Madam President, in her speech earlier on, Miss CHAN Yuen-han has stated the position of the three of us from the FTU. I only wish to add a couple of points.

I wish to respond to a question asked by a Member earlier about whether a smoking ban is in conflict with the "rice bowls" of workers. I think they are not in conflict. There is not necessarily a conflict between them. If it is said that the implementation of a smoking ban would smash the "rice bowls" of many workers, I would rather think that the business sector should give some thoughts to how a healthy environment can be promoted in society for people's living and business operation. If we do not ban smoking and passive smoking because of

the alleged conflict and hence evade this responsibility or if the trade unions discourage the implementation of such a good proposal for this reason, I would consider it unfair. Nor do I consider this a correct view. I think "rice bowls" and smoking ban are not in conflict at all. Besides, the rights of the wage earners should be respected. What are their rights? They should have the right to choose not to smoke, and the right to choose not to inhale second-hand smoke. But under the present circumstances, wage earners who work in restaurants and bars do not have a choice, because they have to be there to provide services and to work. If their customers smoke, they will inhale their second-hand smoke. Even though the worker may also be a smoker, he may not be able to smoke, for he cannot smoke on those premises in the course of work. But certainly, he will inhale second-hand smoke and has no choice. So, if this motion is passed and with follow-up actions taken by the Government, the workers' right of not inhaling second-hand smoke can then be protected. Moreover, I think that the Legislative Council is the highest echelon of parliamentary assemblies in Hong Kong and should therefore lead the community to healthiness and progress. This is what we should do. So, the spirit of this motion is actually to encourage and promote in the community respect for the right of not inhaling second-hand smoke, thereby protecting public health. So, I think the amendments and the original motion all merit our support.

I would like to share with Members my actual experience. I am a member of the Liquor Licensing Board. A couple of inspections are conducted by the Board each year. We have no choice, for such inspections must be conducted. Whenever we are in the bars and in particular, discotheques, the places are always filled with smoke. I think Honourable Members who do not support the motion and the amendments should really go to the bars and have a look. It is because after you have staken a stroll round the place, your clothes will be soaked with the smell of smoke. It is extremely polluting there. So, when I arrive at home after the inspections, I will certainly wash from head to toes and change all the clothes. From this we can see that wage earners who work on these premises night and day have no choice because they have to make ends meet and to preserve their "rice bowls". They have to continuously inhale the second-hand smoke from other people into their lungs. As the effects accumulate, their health will definitely be affected, and the resultant diseases will put a heavy burden on their living. All these will have to be borne by the wage earners. In fact, if the Government can take the lead to implement this measure, it would provide very good protection to the community and to the

wage earners. But no doubt this concept has not yet gain popularity in restaurants and places of entertainment around us now. As the operators concerned would wish to attract as many customers as possible, they will naturally cater for the needs of their customers. However, the Government has the duty to encourage them to pursue healthy development and give them guidance in this direction. I hope the relevant government departments, when implementing a total smoking ban in future, will proactively assist the industry to improve their operation and at the same time ensure that the workers are not affected in their employment in the process. They should not yield to the threats from the business sector, that workers' "rice bowls" would be broken and render the implementation of such a good proposal being impeded.

With these remarks, I support the amendments and the original motion. Thank you, Madam President.

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, Ms Margaret NG has earlier responded to the point about personal freedom raised by Mr LEUNG Kwok-hung. In fact, if passive smoking is beneficial to health, I think we would not be calling for a smoking ban here.

I mainly wish to speak on Mr Andrew CHENG's amendment, about enacting legislation in this Session. I hope the new Secretary will seriously consider this, because the timing is very important. This issue has been discussed for a very long time. I hope the Government can press ahead without any let-up, because only some two years are left in the remaining term of the Government. If this term of the Government fails to press on and get this done, I am afraid that this might have to be dragged on to the next term of the Government. But by the time the next term of the Government starts to deal with it, this term of the Legislative Council will be approaching the end, and if this happens, the relevant proposals might again be nipped in the bud and we might not be able to accomplish this task within this term of office.

The Secretary knows clearly what is right and proper. He knows that smoking is hazardous to health and that it involves a cost borne by society. The early implementation of this policy will actually be helpful to the health of Hong

Kong people and also to our medical bill in the long term. So, the sooner it is implemented, the better. I hope the Government will introduce a bill in this Session, so that we can have more time to scrutinize the more controversial provisions. I think that during the scrutiny of the bill, the bill would become a Christmas tree, for Mr Tommy CHEUNG or Mr Bernard CHAN may put ornaments onto the Christmas tree, stating the circumstances under which exemption may be granted, and so on. Therefore, we do need a longer time.

Just now I passed behind the mover of the motion and I said to him, "Do not be a traitor, insofar as smoking is concerned." I know that Mr Bernard CHAN has for many times made anti-smoking proposals during debates in the Legislative Council. I trust that he sincerely believes in the importance of combating smoking. He will think that even if we move only one step forward, it is still better than not making any progress at all. However, I think this is something worthy of our discussion. In making this one step forward, should we take a whole great stride or should we just take a small step forward? I think the Government must indeed press ahead without any let-up this time.

In fact, we in the Democratic Party have had a rather difficult time in discussing whether or not we should support the original motion assuming the two amendments are negated. After an arduous discussion, we think that we cannot support it, but it does not mean that we do not support the spirit of the motion. We hope that the Government will not have any misunderstanding about our resolve to combat smoking. If the Government introduces a bill to the Legislative Council, the bill can be passed with a majority vote. Mr Martin LEE also mentioned this point earlier. I wish to emphasize that, judging from the comments made by various political parties in our discussion here, the Government can in fact secure support from a majority of Members in this Chamber for the implementation of anti-smoking measures which can achieve the goal in one go or are up to world standards. I think there will be enough votes.

If the motion together with the two amendments are all negated today, I hope the Government will not be discouraged. On the contrary, it should, after listening to our views in this debate, work harder to introduce a bill in this Session, for this will not only greatly benefit passive smokers, but will also be helpful to the "medical wallet" managed by the Secretary in the long run. I so submit.

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

MR ALBERT HO (in Cantonese): Madam President, I cannot tolerate Mr LEUNG Kwok-hung's backing down today, because if anyone should back down, it must not be Mr LEUNG Kwok-hung. Particularly after I have listened to his reason for backing down, I must explain it to him more clearly.

First, he said that he had one reason for opposing the proposal and one reason for supporting it. His reason against it is that he must consider the situation of workers. It is because his prime concern is workers' rights and interest, and his conscience, driven by Marxism-Leninism, requires him to do everything to protect the workers. In fact, it is not difficult to solve this problem, for we can stipulate that smokers who have smoked for a certain number of years can work in places where smoking is not banned. This can ensure that no harm will be done, and these smokers can perhaps work and smoke together with their stripe. This is fine. They can enjoy puffs together, and the problem can be solved. So, it is indeed not difficult to find a solution. But if he looks at it from the perspective of freedom, then the problem will zoom in scale, particularly to us who have attached great importance to freedom, and we must immediately rise to say something. Why are we said to be suppressing the minority?

I would like to say that we have never ever agreed that we should force moral values on other people, particularly with the intention of telling other people that they will hurt themselves in doing something and so, they are not allowed to do it. This applies even to the Legislative Council. I remember the gas chamber in Room 217. That room was really horrible. We subsequently abolished the arrangement of allowing smoking in that room, not to care for Mr Andrew WONG, hoping that he can live a bit longer. The reason was that sometimes we were really unable to find a place to hold meetings. I had been to that gas chamber twice and I almost got myself killed. *(Laughter)* Staying in the room was a torture and I had to leave after staying there for 20 minutes at the most. Of course, the smokers might feel that being in there was a boost to their spirit. *(Laughter)*

However, I wish to stress that insofar as our proposal today is concerned, it is not our intention to force moral values on other people. We are not saying that we do not want them to smoke because it is good to their health and because

we want them to choose to quit smoking in order to improve their health conditions. I think people should have the freedom to choose their way of living. Some people may like to stay up at night, and they may do things that are not very good to their health every night. This does not matter, for everyone has the freedom to do this.

I remember that people like us who studied law had come across a topic for debate when studying jurisprudence. That is, is it right to legislate purely to enforce moral principles? I remember that so far, many mainstream views do not consider it right to do so. One of these views is that when we have to restrict other people's freedom, we can do so only when such restriction will affect a third party. If these people close their doors and do as they like without affecting other people, we should not impose any restriction on them.

Nevertheless, the question is: What are the things done by a person that will affect a third party? This is a matter of judgement. I remember that there was much controversy when we made it compulsory to wear seat belts. There was the view that if one does not put on a seat belt, it has nothing to do with other people and that even if that person has a car accident, he will be the only one to suffer. Some people even said at the time that we were paternalistic and questioned why they should be subject to such control. However, I think the data have clearly shown that in the event of a car accident, if the people involved have not put on seat belts, they will not only hurt themselves, but will also bring certain costs to society. By the same token, when it comes to smoking, will smoking bring a cost to society? If everyone smoke to such extent that their lungs are ruined or they often cough or they suffer from asthma, medical expenditure will be incurred for treating patients with these respiratory diseases. What do we think then?

I must say that as of today, the medical statistics available to us still cannot tell us that smoking is the same as drug abuse. I think it can only be said that there is a difference between them. Someday when more statistics can show that smoking is not much different from taking heroin, that it may to some extent lead to many diseases, and that it may even be addictive, then we may really need to further tighten the control. So, ultimately, the practical issue of legislation will arise and I think it is only realistic for us to examine in a reasonable manner whether this restriction today is suitable and proportional, or whether there is a sense of proportionality. I think that insofar as our proposal today is concerned, the central idea is that we do not wish to force some people to inhale

second-hand smoke at public places which are covered and enclosed. Our proposal only revolves around this concept.

Today, I have read the motion and the amendments several times, and found that they do not stop any person from forming private clubs to conduct the activity of smoking. Everybody is welcome to smoke there together. I think this is not prohibited. But if a place is open for people to come for food (which, I think, is already a restaurant) and then it says that many people may smoke there, under such circumstances, I think it is necessary to impose some control over the place for this place is actually a public place or public space. Judging from the effects of smoking on health that are known to us so far, as well as the statistics available and the actual circumstances, I think that such control is sensible and proportional. As to whether the restriction would be further strengthened, I think it depends on the future development. I will not rule out this possibility, but we need to consider the practical circumstances in all cases.

So, under such circumstances, I hope that Mr LEUNG Kwok-hung will rethink about this and I hope that he will not back down. If we agree that this is for the sake of public interest and health, we should in fact give our support. Besides, the present proposal will not stop anyone from going home or renting a place to smoke alone or with his fellow smokers. They are entirely free to do so.

Thank you, Madam President.

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

MR ALBERT CHAN (in Cantonese): Madam President, smoking has in fact been a contentious issue in this Council for many years, and there have been acrimonious debates on it among Members of the Legislative Council. I remember that Mr Andrew WONG had been involved in this issue. About the room for smoking mentioned by Mr Martin LEE earlier, we had had discussion for a long time and the Legislative Council Building has gradually been turned into a smoke-free area. I always see that the staff and Members of the Legislative Council have to smoke in the car park. I do think that the Legislative Council has set a very good example. It shows that even when

Honourable Members of the Legislative Council wish to smoke, they have to do so in outdoor places for the benefit of the health of the staff of the Legislative Council, and many colleagues here also attach great importance to their health. Here, we at least have the right to choose not to inhale the smoke exhaled by other people.

Some Members mentioned that smokers have their rights too. They opined that if smokers are not allowed to smoke in restaurants, it is tantamount to taking away their freedom and even constitutes despotic rule by the majority. However, I wish to point out that while smokers have their rights, when they smoke, the people around them in the same room or people who enter the room afterwards nevertheless have no right to refuse inhaling the smell of smoke or substances which may be harmful to health. They simply do not have this right, unless we choose not to breathe and then suffocate ourselves to death. The situation now is that when other people smoke, they will deprive me of the right to choose. But under the fundamental principle of democracy, a person cannot deprive other people of their interest for the sake of his own interest. Nor can we take pleasure in other people's suffering. This is a basic principle. We have to respect each other. We have to respect even the rights of the minority, let alone those of the majority.

Now, the problem with smoking is that it deprives the majority of their rights. Smokers are in the minority in Hong Kong and a vast majority of Hong Kong people are forced to inhale the smoke exhaled by smokers in different places. Every day when I go to some places, particularly the cafeterias — I very much like to go to cafeterias for I like the sweet crust bun with butter and tea with milk there — I feel unhappy, because the smoke from the surrounding people is abhorrent. Now that as I speak, I can smell the smoke from "Long Hair". The smell of smoke from him is very strong, like the impression of Ernesto Che GUEVARA, and the smell keeps oozing from him. Certainly, he is not smoking now, but I can still smell his smoke. Madam President, I am not lodging a complaint. I only wish to tell Members this. I choose to sit beside "Long Hair". I know that he is a smoker and I have to smell smoke from him everyday. But this is my choice, and I do not regret it.

I think smoking is similar to drink driving. One may say that he has the right to drink and so, he drinks as he likes. But drink driving will pose dangers to the safety of other people. That is why a driver whose alcoholic content in

his blood exceeds the limit will be prosecuted. I think smoking is the same as drink driving, unless you can negate the effects of smoking or passive smoking. Many medical studies — I believe the Government can present many relevant statistics — can prove the harmful effects of inhaling second-hand smoke, which will do harm to the health of people with respiratory diseases, pregnant women and people with ailments, unless you can repute all the findings of these medical studies. Mr Tommy CHEUNG has left the Chamber and I hope the Liberal Party can help. Is it that passive smoking will do no harm to human health? If inhaling second-hand smoke can do harm to health and if you are concerned about public interest, should we not wipe out this harm from the territory? There is no denying that restaurants are public places. Restaurants are licensed by the Government and are open to all the people. When people go to these places but have no choice, the Government has the duty to ensure that the health of Hong Kong people will not be jeopardized by the conduct of some people. The case of drink driving is the same. If we accept smoking in food premises and workplaces, then we can support drink driving. The recent accident in Taiwan was obviously tragic. Drink driving claimed the lives of several people and injured dozens of others. I believe the accumulated damage that has been caused to smokers or people who are forced to inhale second-hand smoke or the resultant death tolls may be more disastrous than the damage caused by drink driving. So, since drink driving is banned, this motion which calls for a total smoking ban in workplaces and even in more places all the more merits support.

Madam President, I support the amendments today. Thank you, Madam President.

MR KWONG CHI-KIN (in Cantonese): Madam President, I am the Chairman of a non-government organization named Action on Smoking or Health (ASH). The objective of this organization is to promote a smoke-free environment, an expression commonly used nowadays. In the past, we would call it an anti-smoking group, which sounds a bit violent in language. Nowadays, it is more popular to say that it promotes a smoke-free environment.

As I have participated in this organization for 10 years and have been its Chairman in recent years, my position is very clear. I support Mr Bernard CHAN's motion as well as the amendments of Mr Andrew CHENG and Mr Albert CHENG. The non-government organizations hope that the Legislative

Council will not only pass a motion. They also hope that the Legislative Council can truly enact effective legislation to create an even better smoke-free environment in the community. A number of colleagues have pointed out that smoking among youngsters has become more and more serious. But from the many discussions, I think it is more worthwhile to deal with the concerns of the catering industry, which were discussed by trade unions and operators of catering establishments some years ago. They are concerned that a smoking ban in restaurants or food premises will affect the operation of the industry.

I think there have been more in-depth discussions on the subject in recent years. I would like to quote the comments made by a relevant government organization, namely, the Hong Kong Council on Smoking and Health (COSH). Its name is similar to that of our organization, which is a non-government organization, whereas the COSH is a government organization. The comments made by Dr TSO Wei-kwok, who is now sitting in the public gallery listening to our discussion, were quoted in the press. Dr TSO said that according to many studies, in such countries as the United States and Canada, a smoking ban in restaurants has not in the least affected their business and so, the catering industry should throw weight behind us.

Madam President, two years ago, I talked to some Hong Kong emigrants operating Chinese restaurants in Australia as a smoking ban is also implemented in restaurants and food premises in Australia. That friend of mine, who has emigrated to Australia, told me that when this legislation was initially implemented in Australia, they were also worried that their business might be affected. But after it had come into effect for some time, they found that their business did not drop and better still, there seemed to be more business, because more customers were bringing their families and children to dine in restaurants. So, I think the concern of the industry may be unnecessary. Given this concern in the industry, the FTU voted in a manner to cater for the concern of trade unions in the catering sector in the past. But after repeated discussions with the relevant trade unions, we realize that their concern is, after all, a concern. In fact, as long as we need to dine out, we will dine out anyway. We have seen in foreign countries that people who wish to smoke will go outside the restaurant to smoke and return to the restaurant for their meals afterwards. There is actually not much conflict.

Madam President, let me reiterate the aspiration of the non-government organizations here. They actually hope that the Legislative Council can really

do something to earnestly promote a smoke-free environment in Hong Kong. Thank you, Madam President.

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

MRS SELINA CHOW (in Cantonese): Madam President, over the years, whenever the issue of a smoking ban was discussed in the Legislative Council, some Members would become sentimental and even get hot under the collar. I remember the first time when I saw Mr Martin LEE quarreling with the late Mr Stephen CHEUNG who had even stormed out of the Chamber in rage, they were arguing about whether or not the latter should be allowed to smoke. From that time when smoking was allowed during meetings to the present when smoking is banned, we have actually gone a long way insofar as this issue is concerned.

Is smoking an issue of contention between smokers and non-smokers, or has it even become a moral issue? As some colleagues have said, this is meant to protect public health because passive smoking is harmful. From this angle, this is a moral issue. Another way to look at it is from the angle of personal freedom mentioned by Mr LEUNG Kwok-hung, who opined that imposing a smoking ban will infringe upon the freedom of individuals. Ms Margaret NG said earlier that we have the right to impose such restriction and cited as an example that drugs are also prohibited. But is cigarette a drug? Should the sales of cigarettes be banned? Should people be prohibited from smoking? That is unbelievable. Quite on the contrary, not long ago smoking was considered fashionable and classy. In fact, views in the community have been changing. Certainly, the medical profession has been telling us that smoking is hazardous to health, and this, I think, is an indisputable fact. But how rapidly should we exterminate tobacco or smokers because of the health hazards of smoking? Should we prohibit them from smoking even when they are not doing any harm to other people? Or should we prohibit them from smoking even when they choose to do so voluntarily? We really have to think about this.

Indeed, the Chairman of our Liberal Party made it clear at the outset that we very much support the original motion of Mr Bernard CHAN. As for the two amendments, we already told Mr Albert CHENG that we support his amendment, saving the need for him to plead for support from the Liberal Party.

However, we have reservations about the part on legislation. As regards the point on legislation mentioned by Mr Andrew CHENG, we are concerned that the minority will be bullied by the majority in that smoking will be banned across the board without regard to all circumstances and without conducting consultation and to the neglect of the plights of the industry. Just as Mr SIN Chung-kai said, "Go ahead for it because there are already enough votes, and as long as there are enough votes, the bill will be passed and there is no need to consider anything." By then, Mr Tommy CHEUNG, even in tears, can do nothing about it. Is that what we intend to do? We do not hope that legislation be used to scare people. As a community, we should strive to achieve an objective, that is, the objective mentioned by Mr Albert CHENG earlier on. However, do we have to hastily implement it across the board without regard to the situation of the affected parties and aim only to impose a ban expeditiously?

As Honourable colleagues have said, disregarding the outcome of today's motion or how the Government will think about it then, we hope that the Secretary can give us an undertaking. That is, we cannot say in a most righteous manner that in order to protect all non-smokers and ensure that their health is well protected, a total smoking ban will be imposed immediately, hastily and across the board without regard to other considerations, particularly giving immediate effect to a total smoking ban across the board at venues mentioned in Mr Andrew CHENG's amendment. We also hope that the Secretary will not oppose the drawing up of a timetable.

So, our view is not too far from that expressed by the several Members of the Article 45 Concern Group earlier, just that their view is one of "yes, but". That is, they support Mr Andrew CHENG's amendment and support the making of legislation, but they consider it necessary to look into the situation of bars and this and that. Our view is that no legislation should be enacted before the situation is examined. So, there is actually not a great difference between us. Nevertheless, we basically hold a different view from the Democratic Party on one point and that is, we hold that even if legislation has to be enacted, please also look after the smokers such as Mr LEUNG Kwok-hung, so that they can make a choice without doing harm to other people. For example, smokers can choose to patronize some restaurants and bars which, to the knowledge of smokers, allow customers to smoke. These can be open to discussion and will not do harm to other people. Can we do this? Or must we insist on driving them to the wall and implementing a smoking ban across the board, come what

may? Cigarettes are, after all, legitimate commodities which are allowed to be sold and consumed in Hong Kong. This is a point often made by Mr Andrew WONG but unfortunately, he is not here today to take part in the debate in this Chamber. I think we do not have to make any allusion to "traitor". Our views may only be different on the pace of implementation. Can we look at this issue with a more accommodating attitude? We can seek a consensus among us. In fact, I do not see a great difference among us. But on the pace of implementation, we appear to hold different views, and because of historical factors, certain industries are set to be affected. So, we urge Members to exercise caution. Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Bernard CHAN, you may now speak on the two amendments. You have up to five minutes to speak.

MR BERNARD CHAN (in Cantonese): Madam President, Mr SIN Chung-kai mentioned my name. When he passed behind me just now, he urged me not to be a traitor to the non-smokers. I can tell him and all the other Members clearly that I will absolutely not take up this role, because I personally detest the effects of smoking. I have used more moderate wordings in this motion purely because I am worried that if the amendments are negatived later, it would appear that eventually, no consensus could be reached even after a debate for over three hours, and this would send a message to members of the public that we are again making empty talk here. So, I hope to come up with a proposal acceptable to all for implementation in a gradual and orderly manner. If the amendments are really negatived but if the motion is passed, we can at least start to ban smoking in workplaces first.

Here, I thank the 26 Members who have spoken. I also thank Mr Andrew CHENG and Mr Albert CHENG for proposing amendments to my motion. I hope that other Members will support their amendments. It is not my wish to see that the two amendments are negatived while my original motion

is opposed by the Democratic Party. If this happens, my motion and the two amendments would all become futile. I hope Members will support the two amendments.

Thank you, Madam President.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, Honourable Members, first of all, I must thank you all for spending more than three hours debating this very important issue. This issue has been debated continuously in the Legislative Council over the past few years, and a consensus has been reached, that is, smoking is hazardous to health and may even be fatal. This is indisputable, particularly as smoking still kills about 6 000 people every year and at least one in two long-term smokers will ultimately die of smoking-related diseases. From a financial viewpoint, the medical expenses in the public sector attributable to smoking amount to a yearly average of \$900 million. Earlier on today, we discussed the cost of medication for treatment of cancer, and this \$900 million can indeed help a lot of patients.

"Prevention is better than cure". This is a major principle of health care, and one of the most effective preventive measures is to control smoking. On the hazards of passive smoking, I believe Members already know them very well and so, I do not wish to further cite any statistics and evidence. In many advanced countries, passive smoking has already been considered carcinogenic. As a responsible government, we must take measures to protect the health of the people.

Regarding the policy on tobacco control, I agree with the gradual and orderly approach that we have all along adopted to dissuade people from smoking, contain the proliferation of tobacco use, and minimize the impact of passive smoking on the public. A multi-pronged approach is also adopted, including taxation, publicity campaigns, promotion of self-initiated anti-smoking measures and legislative control. We hope to achieve two objectives. First, to reduce the number of young smokers and hence reduce the number of smokers in the community in the future. Second, to help current smokers quit smoking, but smokers must have the determination and must understand the adverse impact of smoking on their health in the future before they can quit smoking successfully. Ongoing education initiatives will be made.

As regards taxation, tobacco duty now accounts for about 50% of the retail price of cigarettes in Hong Kong. This is, in general, a rather high proportion when compared with other communities.

In respect of publicity and education, we have made a lot of efforts. On the education front, the Department of Health and the Hospital Authority (HA) have carried out a lot of work in education, but such work has not been very effective. Since its establishment in 2001, the Tobacco Control Office under the Department of Health has all along promoted a smoke-free culture and educated the public on the existing legislation, in order to help managerial personnel in enforcing the relevant legislation. But at present, enforcement is not easy, particularly in food premises. While some catering establishments said that they have provided smoking and non-smoking areas for customers, the situation may be different when inspection is conducted a few days later. Sometimes, the best seats, such as window seats or seats with sea view, may be designated as smoking areas, and this has caused great inconvenience to many people. Therefore, I think it is necessary to make a more comprehensive decision.

On the prevention of smoking among youngsters, we consider that importance should particularly be attached to education, and with the support of other measures, we aim to prevent youngsters from smoking as a habit. In this regard, we still need to carry out a lot of work.

With regard to the smoking cessation service, I have already stressed that we have carried out a lot of work. The HA has set up smoking counselling and cessation centres in 16 hospitals in the territory. Apart from providing counselling services and information, assistance will also be provided to people who wish to quit smoking. Members who wish to "patronize" these centres might as well let me know.

Neither publicity/education programmes nor self-initiated measures can immediately reduce the number of smokers. Nor can they directly mitigate the adverse impact of passive smoking on non-smokers. Smoking is indeed a habit which harms others without doing any good to the smoker. It could even be a habit which harms others and the smoker as well. Smokers must not think that they will be fine as they do not have any problem now, because when they fall ill in the future, they would drag many people into troubles. Their families aside,

I think they would drag the medical and health care personnel into troubles too. If they suddenly suffer from angina pectoris in the middle of the night and was sent to hospital, many people would have to get up to perform the "balloon angioplasty" for them. If they suffer from gastrorrhagia, many people would be required to perform a surgery on them. I think we should not only think about ourselves. We should also think about the needs of other people.

The Smoking (Public Health) Ordinance was last amended in 1997. In 2001, the Government published a consultation document, proposing further amendments to other items. In terms of time, we have already spent many years, although I have only assumed office for a week only. I think there is little controversy on this issue. The World Health Organization adopted the Framework Convention on Tobacco Control last year, requiring all signatories to enact legislation in this regard. So far, 32 countries have signed the Convention, and when the number of Member States reaches 40, the Convention will fully come into force. Both Hong Kong and China intend to become its signatories.

I understand that some Members and people, particularly owners or workers of catering establishments, are concerned that a total smoking ban in food premises will adversely affect their business. But this may not be the case according to statistics. From the birth of 800-odd smoke-free restaurants in the territory and the experience of many countries in Europe and America, smoking ban in restaurants may not necessarily affect business, particularly as everyone would be operating in a fair environment after smoking is banned in all restaurants. Unless the people do not dine out, there is certainly business for restaurants.

Having discussed this with various parties concerned, we plan to expedite our work, with a view to introducing an amendment bill in this legislative year as far as possible. On the scope of the extension of the smoking ban, we will, in line with international trends, introduce legislative amendments to ban smoking in such places as indoor workplaces, food premises, bars, karaokes, and so on. We hope that grace periods can be incorporated into the bill to reduce the difficulties faced by the people or business concerned in enforcement.

To further prevent youth smoking, we propose to extend the statutory smoking ban form venues frequented by youngsters, such as shopping malls,

cinemas and amusement game centres to schools, universities and tertiary institutions. Under the amendment bill, the smoking ban will apply to both the indoor and outdoor areas of all kindergartens, primary and secondary schools, and in the indoor premises of universities and tertiary institutions.

Moreover, we note that youngsters are still exposed to promotional messages of tobacco products outside schools. The proposed legislative amendments will further tighten control over the sale and promotion of tobacco products and allow health warnings to contain pictorial and graphic contents on cigarette packages. I hope that these measures can further reduce the inducements for smoking among youngsters.

In conclusion, I hope Members will support the bill to be introduced by us this year. I also hope that Members will provide support to facilitate its implementation. As mentioned by Members earlier on, it is not only the responsibility of the Government to address the problem of smoking. It is also the responsibility of all members of the public and all leaders of the people. I hope everyone can contribute their efforts to help us in various sectors and districts, for smoking has a significant bearing on the health of the entire community. Hong Kong is densely populated place. I hope that Hong Kong can truly become a smoke-free city gradually. Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mr Andrew CHENG to move his amendment to the motion.

MR ANDREW CHENG (in Cantonese): Madam President, I move that Mr Bernard CHAN's motion be amended, as printed on the Agenda.

Mr Andrew CHENG moved the following amendment: (Translation)

"To add "indoor areas of" after "smoking ban in"; to add "and to introduce a bill to the Legislative Council in this session" after "workplaces"; to add "and comprehensive tobacco control" after "anti-smoking"; and to add ", which include imposing a total smoking ban in places such as restaurants, bars and karaoke, with a view to creating a social environment conducive to protecting young people from the harmful effects of tobacco" after "young smokers"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew CHENG to Mr Bernard CHAN's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes and we will then proceed to a division.

PRESIDENT (in Cantonese): Will Members please proceed to vote. Mr LEUNG Yiu-chung, do you wish to only indicate your presence but not to vote?

MR LEUNG YIU-CHUNG (in Cantonese): I have pressed the "Vote" button.

PRESIDENT (in Cantonese): Right. You have already voted.

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr WONG Kwok-hing, Dr KWOK Ka-ki,

Dr Fernando CHEUNG, Mr WONG Ting-kwong, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the amendment.

Ms LI Fung-ying abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr CHEUNG Hok-ming, Mr TONG Ka-wah and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW and Mr LEUNG Yiu-chung voted against the amendment.

Mr LEUNG Kwok-hung abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 11 were in favour of the amendment, 11 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 23 were in favour of the amendment, three against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

MS MIRIAM LAU (in Cantonese): Madam President, I move that in the event of further divisions being claimed in respect of the motion "Total smoking ban in workplaces" or any amendment thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion "Total smoking ban in workplaces" or any amendment thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Albert CHENG, you may now move your amendment.

MR ALBERT CHENG (in Cantonese): Madam President, I move that Mr Bernard CHAN's motion be amended, as printed on the Agenda.

Mr Albert CHENG moved the following amendment: (Translation)

"To add "and, at the same time, take proactive action to expedite the implementation of a total smoking ban in restaurants and air-conditioned indoor public areas" after "young smokers"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert CHENG to Mr Bernard CHAN's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Tommy CHEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr WONG Yung-kan, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr WONG Ting-kwong, Mr Patrick LAU, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Mr Howard YOUNG, Mr Tommy CHEUNG and Mr Vincent FANG voted against the amendment.

Geographical Constituencies:

Mr James TIEN, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr TONG Ka-wah and Mr Albert CHENG voted for the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 20 were in favour of the amendment and three against it; while among the Members returned by geographical constituencies through direct elections, 28 were present and 27 were in favour of the amendment. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was carried.

PRESIDENT (in Cantonese): Mr Bernard CHAN, you may now reply and you have six minutes 20 seconds.

MR BERNARD CHAN (in Cantonese): Thank you, Madam President, I will not speak for such a long time. *(Laughter)* Madam President, first, I am glad to see that many Members have eventually managed to reach a consensus so that the general public can see that the legislature is united behind a single objective, that is, to turn Hong Kong into a smoke-free society. In addition, I am very pleased to hear the new Secretary, that is, Secretary Dr CHOW, make an undertaking to table a relevant bill in the legislative year to come, so that Hong Kong can become a smoke-free city at an earlier date. Here, I am grateful to Members' support and hope that the message delivered by us has been consistent. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Bernard CHAN, as amended by Mr Albert CHENG, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

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

PRESIDENT (in Cantonese): Second motion: Enacting a fair competition law.

ENACTING A FAIR COMPETITION LAW

MR FRED LI (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, 11 years ago, I moved a motion debate for the first time on formulating a fair trade policy. Today, I am moving a motion on the same subject for the third time in this Council.

Why have I moved this motion once again today? In fact, there has been a triggering point recently. It all happened in a private housing estate called the Banyan Garden in Cheung Sha Wan. While the incumbent and prospective owners were not informed of the arrangement beforehand, a bundled contract for the provision of residential telephone and Internet services of the whole estate was awarded to a telecommunication company, which is an associate company of the same group; and the relevant service fees are bundled into the management fees. Therefore, all the owners have no alternative but to pay the fees, regardless of whether they make use of the services.

After conducting detailed investigations into the issue, the Telecommunications Authority (TA) pointed out specifically that this kind of arrangement "may place other operators at a significant disadvantage". Unfortunately, as the management company involved in the conferment of advantages in this incident is not a telecommunication licensee, it is beyond the jurisdiction of the TA. But it has reflected that the business environment in Hong Kong has actually been affected by unfair competition and the victims are no longer confined to other rivals involved in the competition, but also small tenants and small owners who are made to shoulder unreasonable charges due to the monopolization.

In fact, there are more and more cases of monopolization in large private housing estates, where major developers monopolize the services. In September this year, the Consumer Council released a report entitled "Report on the Bundling of Telecommunications Service Charges with Building Management Fees". In this Report, it is revealed that the information provided by the developers in the sales brochures is mostly not detailed enough; some have even provided incorrect or misleading information. The case in question, the Banyan Garden, is only the tip of the iceberg. Similar problems are also

found in other private housing estates such as the Vianni Cove, the Seasons Villas and the Rambler Crest (all seems to be in New Territories West).

The Competition Policy Advisory Group (COMPAG) chaired by the Financial Secretary has also looked into this incident. Although the findings of the Report point out that there are really problems with the present arrangements, the Government at the same time indicates that enacting a comprehensive fair competition law is not the solution to the problem. However, unfortunately, I do not know why the entire press release only contained this remark which was not supported by any concrete justifications, nor is there any explanation on why a fair competition law is not the solution to such problems.

We believe that it will become an increasingly prevalent trend in future that large private housing estates will further provide one-stop compulsory services for tenants, including telecommunication services, telephone, television channels, medical care and feeder buses. Let me quote the Banyan Garden as an example again. It is discovered that, much to our amazement, even costs for private out-patient services are bundled into the management fees. So even healthy tenants are made to pay a "medical financing fee" across the board. If they do fall sick and seek treatment at the on-estate clinic, all they need to pay is just \$40, which is rather inexpensive. However, in fact, regardless of whether you have consulted the doctors, you have already paid the fee (which is included in the management fee). This is not optional, and it is most ridiculous, and it really exists in some private housing estates.

When there is an imbalance of demand and supply in the market, or when the market is manipulated by a small number of consortia, the Government is duty-bound to address this kind of problems. Yet, unfortunately, the Government has all along negated the need to enact a fair competition law, and it also opposes the setting up of a fair competition commission. Instead, the Government established the COMPAG in 1997 which is chaired by the Financial Secretary, and Secretary Stephen IP has also assumed a post in it for many years. When the COMPAG was first established, all of its members were government officials. Later, after repeated requests by us, only one extra member was added to it, namely, Mrs Pamela CHAN, the Chief Executive of the Consumer Council. But the rest of the members are still all government officials. Therefore, there is very little transparency because no press release has ever been published on what has happened in the COMPAG or on its meetings.

There is only a report that is published annually, and it is now only available on the Internet and no hard copies have been issued. So there is really little to write home about this COMPAG. Annually, it has only received a rather small number of complaints, and the number of investigations it has conducted is also rather small. The COMPAG issued the "Guidelines to Maintain a Competitive Environment and Define and Tackle Anti-competitive Practices" in September last year. It only urges the trades and industries to exercise self-discipline, but it is not legally binding. So, how can an advisory group request large consortia of gigantic financial strength to exercise self-discipline? How can it ensure that there is adequate protection for fair competition?

When the Chief Executive, Mr TUNG Chee-hwa, answered Dr YEUNG Sum's question on whether the Government should study the possibility of enacting a fair competition law in his Question and Answer Session, he just acted like a recording machine by repeating the same old tune of the Government. The Government's response is: It will examine the specific situations of individual trades and industries; if necessary, it will formulate some measures to ensure fair competition.

However, as illustrated by concrete facts, the Government's approach of pinpointing individual trades and industries as regulatory targets in a piecemeal fashion is absolutely impractical and will be dictated by the circumstances to play a passive role in the process. The Banyan Garden is a good example. Since the management company in question is not a telecommunication licensee, so the TA has no jurisdiction over it. Then who will have any jurisdiction over it? None.

In Hong Kong, there are many large enterprises with businesses stretching across many different sectors. The property developers are a common example. The large enterprises usually operate businesses in such sectors as telecommunication, transportation, retail operations and even insurance and medical services. However, the current policy of the Government is to address the problem in a piecemeal manner by pinpointing individual trades and industries as the regulatory targets. For such multi-industry exclusive competition practices, individual government departments absolutely lack the overall vision to formulate such regulatory measures or solutions to deal with the situations. Therefore, the piecemeal, industry-specific approach of regulation is definitely not good enough for solving the problem. I hope the Secretary can seriously respond to me: This is not good enough for meeting the challenge.

You have not put on the headphone until now, Secretary? I hope you can catch the question I have just raised.

Furthermore, the Government encourages the industries to exercise self-discipline. In fact, this is a self-contradictory concept. How can we request these large consortia, which benefit mainly from anti-competitive practices, to exercise self-discipline in the interest of safeguarding fair competition? How would those large consortia of vested interests exercise self-discipline? To request them to safeguard fair competition is as futile as climbing up a tree to look for fish. Therefore, friends representing the business sector, please think about this. Many operators of small and medium enterprises (SMEs) have asked us why there is no fair competition law. They said that if there is no fair competition law, the large consortia are protected.

At present, the Government is extremely passive. It will make a response only when it receives a complaint or only when some serious problems have emerged in certain trades and industries. It adopts the approach of "treating the head when there is a headache and treating the legs when there is some pain on the legs" to deal with such complicated financial matters. It fully illustrates that the governance mentality of the SAR Government has lagged far behind the actual state of development in Hong Kong.

The Democratic Party thinks that effectiveness of the present industry-specific approach of regulation is doubtful, and it is fragmented and piecemeal in nature. I would like to make it clear that, with the exception of Hong Kong, it seems that there is no other place that adopts such a fragmented approach to safeguard fair competition in a society overall. Only a few countries would target additional regulatory measures at individual industries so as to impose enhanced legal regulation on certain industries such as the telecommunication industry. But a general fair competition law still exists in such countries. Therefore, after a general "one-stop" or "across-the-board" fair competition law has been enacted, additional regulatory measures may be introduced to individual industries particularly problematic, unlike Hong Kong where only problems in certain industries are tackled.

I would like to stress that, even after a fair competition law has been introduced, it would not interfere with or distort the market. The situation is like policemen maintaining law and order in different parts of the world. They will interfere only when someone has acted against the law. So at normal

times, they will be there just to produce some deterrent effect. Therefore, the business sector needs not worry that the enactment of a comprehensive fair competition law will affect the business environment of Hong Kong.

Madam President, the Democratic Party tabled a private bill to the Legislative Council at the end of 2000 in an attempt to enact laws against horizontal collusive agreements; it was intended to strictly forbid companies from reaching private agreements among themselves for the purpose of achieving or attempting to achieve the objective of reducing, distorting or obstructing competition from goods of the same category. However, due to the limitation stipulated in Article 74 of the Basic Law, the bill ultimately could not be tabled for discussion. However, we have not given up. Whenever we have any opportunity or whenever we come across any related ordinances, we would put forward our ideas; and we still request the Government to ban any horizontal or vertical collusive agreements in order to prevent such unfair practices as specifying retail prices, excluding competitors, and so on.

In fact, the Hong Kong Consumer Council published a research report in 1996 on the implementation of fair competition in Hong Kong. This was the first detailed report on the subject. It is interesting to note that Dr Sarah LIAO was one of the members compiling the report at that time, and now she is a colleague of Secretary Prof LI. I hope she can come forward to tell us why she supported a fair competition law and the establishment of a fair competition commission at that time. The report was really well written. According to the information provided by the Consumer Council in 2001, more than 50 countries had enacted fair competition laws to regulate their markets. Even in our Motherland, that is our sovereign state, the "one country" in "one country, two systems", there is also relevant legislation to outlaw manipulation of prices and abuses of market dominance.

Let me do some recap on the past five motion debates (the present one is the sixth). In 2001, Mr LEUNG Yiu-chung moved a motion on the same subject. As I read the speech delivered by Mr Abraham SHEK at that time, I find that he opposed the enactment of a fair competition law. He quoted an example and said that the two major supermarkets had not monopolized the market because there were the Carrefour Supermarket and the AdMart; so this was indeed a market with competition. Let me tell Mr Abraham SHEK, all of them have now gone. The AdMart had ceased operation for a long time, and

the Carrefour Supermarket also could not compete with the two major supermarkets because it was subject to the limitations imposed by the retailers and wholesalers. It could not obtain any supply of goods, nor could it fix good prices because the two major supermarkets were very influential. Therefore, I think that the examples cited by Mr Abraham SHEK serve exactly to illustrate the problem. Those supermarkets are no longer here, and the two major supermarkets are still dominating the retail market. If we do not have such laws or such deterrent power in place, so such a situation will go on deteriorating. I hope Mr Abraham SHEK can see that, in the incident of the Banyan Garden, many tenants have lodged their complaints because it is unfair. They are forced to pay the fee, which is already bundled into the management fee, even though they may not require any Internet services at all. I hope Members can really consider the issue carefully. Other Members of the Democratic Party will speak on different subject matters. With these remarks, I beg to move.

Mr Fred LI moved the following motion: (Translation)

"That, as a survey conducted by the Consumer Council shows that the management companies of a number of private housing estates have, without giving prior notice to or obtaining the prior consent of the property owners, outsourced the estates' telecommunication services to their associate companies, with the charges of such services being bundled into the management fees, such practices have violated the principle of fair competition and undermined the interests of consumers, this Council urges the Government to thoroughly review the existing policy on fair competition, including the powers and operation of the Competition Policy Advisory Group, and to study the feasibility of enacting a fair competition law so as to safeguard the business environment in Hong Kong."

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

PRESIDENT (in Cantonese): Mr TONG Ka-wah and Mr LEUNG Yiu-chung will move amendments to this motion respectively. Their amendments have been printed on the Agenda. The motion and the two amendments will now be debated together in a joint debate.

I now call upon Mr TONG Ka-wah to speak first, to be followed by Mr LEUNG Yiu-chung; but no amendments are to be moved at this stage.

MR TONG KA-WAH (in Cantonese): Madam President, Honourable colleagues, having become a Member of the Legislative Council for barely two weeks, I can already deeply feel that great discrepancies do exist in this Council on major and controversial subjects; and this fact, together with the structural barriers inherent in this Council, simply gives people a rather negative impression — even 60 Members cannot promote the aspirations of the people, and eventually we could not achieve anything.

I have proposed this amendment today not because I oppose the original motion of Mr Fred LI. I just hope to achieve the least yet the greatest possible consensus within this Council, and wish to bring this cause one step forward, which has been debated for so many years, as well as to strike home a positive message to the public. In order to achieve this, the first point that we must establish is whether the present mechanism is effective and perfect; and then we may move on to conduct some more in-depth discussions in the hope that we may build up a fairer business environment through legislative procedures.

As demonstrated by the experience in most developed countries, an absolutely liberal market will give rise to some distorted competitive situations. Hong Kong has been honoured as the freest economy in the world for the past 10 consecutive years. This in fact is a dangerous warning in itself. This is because, in an absolutely liberal market, all the market participants can do whatever they can do to the best of their abilities. As such, they will make use of their own strengths and their dominant market shares to prevent others from competing with them on an equal footing. Some market leaders will adopt certain business practices contrary to the principles of fair competition in order to strengthen their leading positions, thereby depriving society of a good business environment.

On the economic level, an unfair business environment will make the operation of enterprises inefficient; resources are unevenly distributed or even wasted; increased costs will undermine their international competitiveness.

On the social level, an unfair business environment will lead to high prices of goods and services, which will directly affect the people — especially by aggravating the financial burden on the grass-roots people.

On the political level, an unfair business environment will lead to over concentration of the financial strengths of society in a small number of enterprises, thereby enabling them capable of exerting excessive and unreasonable influence on the governance and administration of the Government.

Given these reasons, we have a widespread consensus in society, especially in the society of Hong Kong, that we must ensure a fair business environment in Hong Kong. Yet, unfortunately, in the process of putting this consensus into practice, some serious discrepancies have emerged.

The Consumer Council suggested as early as in 1996 that the Government should formulate a comprehensive competition policy, including the enactment of a fair competition law and the establishment of an independent statutory organization responsible for enforcement. Two years later, the SAR Government promulgated the Statement on Competition Policy (the Statement), which is not binding, and established the Competition Policy Advisory Group (COMPAG).

After learning that I was elected to this Council, I consulted some scholars and people in the business community on the work of the COMPAG. I found that most people had the impression that the work of the COMPAG could not effectively ensure a fair business environment. On the contrary, business practices that violate a fair competition environment have become increasingly serious.

If I have to briefly conclude why the COMPAG has failed to operate effectively, I would say that it is attributable to its structural limitations. Such limitations can be briefly summarized into four points:

Firstly, instead of being an independent body, the COMPAG is only an organization under the Government. It does not possess the statutory investigation power similar to that of the Equal Opportunities Commission, the Office of The Ombudsman and the Independent Commission Against Corruption. There are many kinds of anti-competitive practices, such as the

manipulation of prices, the abuse of one's market domination in different industries as well as the bundled style of sale behaviour in different industries. Although such practices do have certain characteristics, concrete evidences can be acquired only if the involved organizations are willing to provide the relevant information and data on costs and prices. As the COMPAG does not possess any statutory investigation power, the organizations under investigation can simply refuse to co-operate and then it will not be able to take any action against entrepreneurs who have committed acts in violation of fair competition due to the lack of evidence.

Secondly, the COMPAG can only follow up complaint cases referred to it by government departments or public organizations. For private organizations, even if anti-competitive practices are proved to exist, the COMPAG does not possess the power to impose any sanctions. All it can do is to make an attempt to encourage the offenders to adopt some self-disciplined measures, such as complying with the principles listed in the Statement on a voluntary basis, or formulating some non-binding code of practice, and so on. However, as supported by our experience during the past six years, the effectiveness of this approach is minimal.

Thirdly, regarding its mode of operation, the COMPAG can only, upon receiving complaints, passively refer them to the relevant Policy Bureaux or government departments for follow-up actions. It will not take the initiative to conduct a full-scale investigation in industries suspected of anti-competitive acts, or even conducting investigation that straddles different industries. It remains a major doubt as to whether such a mode of operation can effectively deter anti-competitive acts.

Fourthly, the COMPAG is lack of independence, and its operation is short of transparency. When the units suspected of anti-competitive behaviour are government departments or public organizations, the complainants may be deterred from lodging complaints due to doubts about the independence of the COMPAG. Besides, people outside the COMPAG have no knowledge of how it actually operates, apart from the limited information released once a year on the work it has done in the previous year. Frankly speaking, not too many people in Hong Kong know about the existence of the Group. As the COMPAG is relatively little known in society, coupled with the fact that it has no power to impose any sanctions, it is difficult for it to achieve sufficient deterrent effect on the business sector.

Summing up the above points, both the business sector and the public generally find the COMPAG a "toothless tiger", incapable of stamping out anti-competitive acts which are so common nowadays.

Today, I am sure many Honourable colleagues will cite many examples. Due to the time constraint, I am not going to cite detailed examples. However, one of the examples that has caused great concern is probably the issue of supply of fuels. Many people believe that the fuel suppliers have in fact agreed to rig their prices with each other. A simple example is, in overseas countries, in a certain street with four filling stations, all of them will charge different prices for the fuels they supply because their operating costs are very different. Yet, unfortunately, all filling stations in Hong Kong, be they in Tuen Mun or in the busiest part of Central, the fuel prices may only have a difference of several cents. If we want to explore into and improve the situation, we must have an organization with investigation power to demand the suppliers to present their internal documents for in-depth studies. Only in this way can we take appropriate actions to address the issue. Apart from fuel suppliers, we still have many other examples. Just as the case of Banyan Garden mentioned by Mr Fred LI, it is an example of how services of multi-industries can be bundled together, and there should be a different way of handling such an issue.

In order to upgrade the international competitiveness of Hong Kong, build up a healthy business environment and reduce the financial burden of the grassroots in their daily life, our priority task should be to build up a level playing field. We hope to improve the present mechanism by legislative means. I hope Honourable colleagues can cast aside their established political positions to support my amendment, so as to take the first step to improve the level playing field in Hong Kong.

Thank you, Madam President. Thank you, Honourable colleagues.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, since the formation of the new Legislative Council, a new Council culture has emerged. Today, on the subject of a fair competition law, three Members from the pro-democracy camp have put forward their respective proposals. This is quite rare in the past, and it illustrates that our political spectrum has really broadened.

I feel that the emergence of diversified approaches for a social issue should be applauded.

However, some critics say that, among the three proposals, that is, the original motion and the two amendments, my amendment calling for the expeditious enactment of a fair competition law and the setting up of a fair competition commission is the most radical. Undoubtedly, in comparison with the original motion and the other amendment, the requests put forward by my amendment are really one step ahead of them. However, if Members can take a retrospective look at history (just as what Mr TONG Ka-wah has done in mentioning the historical development), they will know that the ideas put forward by me are not radical at all. Even the Consumer Council has proposed such ideas before, so the allegation that my amendment is too radical simply cannot hold water.

As a matter of fact, Mr TONG Ka-wah has just mentioned that, as early as 1996, after the Consumer Council had completed its studies on the competition situation in seven industries, it already advocated for the enactment of a fair competition law and the establishment of a fair competition commission. And in the Legislative Council context, this is the sixth time that this subject is raised for discussion here. Among such discussions, I moved a relevant motion in 2001. However, it saddens me when I realize that, up till now, we are still in square one without making any progress. This is really miserable because we can see that the problems have persisted, kept repeating again and again. But why has the Government kept on declining to listen, allowing the problems to continue? This is really saddening me.

In past discussions, arguments put forward by opponents to the enactment of a fair competition law could mostly be categorized into several major areas. First, it is not essential to enact a sweeping law. All we need to do is to enact the laws for certain individual sectors. However, if we do not enact a sweeping law, then why or how do we need to regulate certain sectors, but not others? For example, there is a law governing the telecommunication industry, but why are the supermarkets not regulated? How can we account for such an approach? I feel that it would be very difficult for us to explain.

Second, most people in the business sector think that upon the enactment of such a law, it would give rise to all sorts of unnecessary litigations, and the

administrative costs would be very high as well. However, some scholars say that such an allegation does not hold water. Some scholars have conducted a study and found that Australia has enacted a competition law and established an organization similar to the Consumer Council, and the situation in Taiwan is similar. Yet, after making the comparison, it is found that their expenditures are even lower than that of the Consumer Council. Therefore, the allegation that working in such a direction will lead to more litigations or higher expenses may not be valid.

Besides, some critics say that such legislation will undermine Hong Kong's competitiveness and drive away foreign capitals, and the ones who ultimately will suffer are none other than the wage earners. Madam President, on the allegation that the enactment of the law will drive away foreign capitals, I think we may discuss it from two perspectives. First, even if there is no question of foreign capitals withdrawing from Hong Kong, if the monopolization by major corporations continues to exist and wipe out the small enterprises, then our wage earners will still suffer. We also think that if large enterprises want to stifle the development and strangle the survival of small enterprises, the number of people becoming unemployed will be even larger than that caused by the withdrawal of foreign capitals from Hong Kong. Secondly, if someone says that the enactment of law will definitely lead to the withdrawal of foreign capitals from the territory, then let us take a look at the situations in other countries which have already enacted such laws. They have not only enacted the laws, but also introduced a lot of regulations and limitations, why have those large organizations and large enterprises not withdrawn their capitals from the territory? Some countries have even made their way to the top 10 in the competitiveness table after the enactment of such a law, and such countries include Netherlands, Denmark, and so on. Therefore, the allegation that such legislation will drive away investors and make them withdraw their capitals from Hong Kong very much questionable.

In the past, the businessmen have always held that the Government should not interfere with the operation of the market because such intervention would deprive the market of high efficiency, and that is not good. They also point out that the so-called monopolization in the market is not really monopolization; it is just the process of knocking out enterprises that are not operating efficiently. Madam President, this point is really questionable. The Government often says that enterprises with poor performance should be eliminated, but have they really

been not doing well so that they are eliminated? I believe later on many colleagues will point out that this is not true; even when they are doing exceedingly well, some enterprises will still use their capital as the weapon to wipe out their opponents. This is the crux of the question. When a large enterprise uses its capital to defeat its opponent, the smaller enterprise, no matter how good or how bad its performance is, will lose as its competitiveness cannot match that of the large enterprise. For the same piece of goods I am selling at \$1, the large enterprise will sell it at 50 cents, how can I compete with them? I simply do not have the capability to compete with it, so I will lose definitely. Therefore, we cannot describe such a process as the elimination of enterprises with poor efficiency. Madam President, as we consider the issue of enacting laws specifically, the basic difference is whether we believe that a free market mechanism can make self-adjustment and how well it can adjust itself. I think we need to enact a fair competition law because we do not believe that the self-adjustment capability of the market can rectify distorted market conditions. Therefore, I feel that we must address the problem of market failure by way of legislation. If we just stress the self-adjustment capability of the market, and the Government will never interfere no matter how bad the situation is or how serious monopolization is, then why should we need to have a government? Or do we wish to see anarchism in the market?

Perhaps some Honourable colleagues may ask: Has the situation really become so bad that we absolutely have no alternative but to enact the law? Honourable colleagues from the Liberal Party did raise this kind of questions in past debates. They think that the present situation is not so bad really, and the enactment of the law will only bring about improper or abnormal operations in the market. However, I think that such an assumption may not be correct.

In the Guidelines for Maintaining a Competitive Environment and Defining and Tackling Anti-Competitive Practices drafted by the COMPAG led by the Financial Secretary, the COMPAG has defined anti-competitive practices and abuses of market position, and such cases have obviously taken place in many economic sectors of Hong Kong.

For anti-competitive practices, we have seen a lot of such cases. Mr TONG Ka-wah has just quoted some examples, and petroleum is one of them. In this example, we can see that the oil companies have introduced quick price rises but slow reductions, as well as substantial rises but small reductions. And

very often, these measures are implemented jointly by several oil companies, and this has made us conclude that this is an oligopoly, which leaves the people with no choice at all. Madam President, we think that such examples exist not only in the petroleum industry, but also in the property industry. And such a phenomenon does not just occur in the property industry, but also in many public utilities including the power companies, and so on. This makes us feel that the impact suffered by the people in their daily life is very severe. It is a problem not for the small enterprises only, for even the living of the people is also greatly affected. As such, we feel that if this issue is not tackled, the problem faced by us at present will not be solved. Of course, we have also said that, apart from the daily necessities, we are also very much concerned about whether the Government has acted in favour of the major consortia insofar as anti-competitive acts are concerned, thereby enabling such consortia to strangle the development of the entire market. This is our greatest concern and worry, and this is also the reason why we keep on criticizing the Government. We feel that the Government should now rectify the situation, instead of allowing it to go on worsening; otherwise it will aggravate the impact on the people's livelihood as well as stifling the development of small enterprises. Today, we can see that the unemployment rate is still very high, and the small enterprises are still supporting the livelihood and job opportunities of many workers. If we allow these major consortia and large enterprises to continue with their monopolistic practices, the unemployment situation will only deteriorate. Therefore, we feel that it is necessary for us to rectify such situations. Thank you, Madam President.

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

DR FERNANDO CHEUNG (in Cantonese): Madam President, the price of crude oil in the international market has risen by over 60% compared to that in the beginning of the year, and this greatly disturbs professional drivers in many countries and regions. However, Hong Kong drivers seem to have the greatest worries, because according to information provided by the International Energy Agency, the average pump prices of both unleaded petrol and ultra low sulphur diesel in Hong Kong after deducting the duty rank first in the world. In August this year, the average pump prices of these two types of fuels are close to \$6 per litre, which is even \$2 higher than that in Japan.

Secretary for Economic Development and Labour Stephen IP explained that the oil prices of Hong Kong are higher than those of other countries due to its reliance on imported crude oil from other countries, higher costs and overheads of filling stations, and so on.

The reasons cited by Secretary Stephen IP sound justifiable on the surface. However, two colleagues of mine, Dr LAM Pun-lee and Dr Thomas CHAN, have pointed out that Japan is similar to Hong Kong in relying on oil imports from other countries; however, even after the addition of 50% government duty, the pump prices in Japan are still lower than those in Hong Kong. And on top of that, please do not lose sight of the fact that the land and wage costs in Japan are also very high. Dr LAM Pun-lee also pointed out that, by employing the tactics of "quick rises and slow reductions" in adjusting oil prices, the oil companies have managed to make an additional profit of over \$100 million within this year. The oil companies pocket the profits comfortably, but the people have to suffer the miserable consequences.

As we explore into the root causes of the problem, it is because the oil companies have formed an oligopoly which is responsible for pushing up the oil prices, thereby making the people suffer enormously. In fact, this issue has been discussed to *ad nauseam*, yet the Government still firmly refuses to enact a comprehensive fair competition law with all kinds of specious excuses such as its policy of non-intervention. However, it has been at its wits' end in the face of excessively greedy oil merchants. I believe the Government can still recall that, two years ago, the former Secretary for Economic Services, Ms Sandra LEE, could only plead oil companies not to introduce immediate price rises when international oil price started to surge. In May this year, Secretary Stephen IP urged oil companies to reduce oil prices quickly when oil prices dropped. We can see that the oil companies are operating as a cartel, whereas the Government can only reluctantly accept this. This is most ridiculous indeed.

We may shift our focus to Australia: The Australian Competition and Consumer Commission, the special body tasked with combating monopolization in Australia, raided the offices of three oil companies, namely Caltex, Shell and Exxon Mobil, in May this year in an attempt to collect evidences to prove that they had jointly manipulated prices. If the oil companies are found guilty, they will have to pay a maximum penalty of AUS\$10 million per charge, that is, about HK\$42.12 million.

This incident demonstrates the incompetence of the SAR Government which will surrender readily before the large consortia. It is tantamount to an insulting slap on the face of the SAR Government.

The COMPAG in Hong Kong will respond and make suggestions only when it receives complaints, but it does not possess any investigation power. It is neither fish nor fowl. Perhaps the Government thinks that serious competition problems have not emerged in Hong Kong. However, would it not be too late if we would proceed to enact laws only when the problem has become really serious? And now the monopolistic acts of the oil companies are a solid fact of life in Hong Kong, what will it take to make the Government agree that the problem has become really serious?

In fact, monopolization exists not just in the oil market. In August last year, the Consumer Council released a Report on Competition in the Foodstuffs and Household Necessities Retailing Sector, highlighting the fact that the number of outlets of supermarket chains has increased by nearly 30% from 1993 to 2003, whereas there has been a substantial decline of small supermarket operators by 41% during the short span of six years from 1996 to 2001. The Consumer Council also discovered that, despite the deflation that occurred some time ago, prices of goods of the two supermarket chains have still gone up, and this indicates that the people have been made to pay more than they should. The Report cautioned that, "Should any mergers or acquisitions occur in the sector, it would already reach the threshold level as stipulated by overseas competition authorities that would warrant further attention to the competition in this market."

I would like to ask the Government: Do we have to wait until the two major supermarket chains have completely wiped out all the competitors before we should take any long overdue action of enacting the law? Can the Government show some foresight? Singapore, our competitor, has already started its consultation on the enactment of a fair competition law in April this year and will proceed to enact the law by the end of this. Is the SAR Government prepared for being left behind?

The Liberal Party has always said that it prefers to maintain a free market in the territory. But I wish to point out that, anyone who has done some reading

in Political Economics would know that the essence of capitalism is to make many major corporations strive for monopolization, so as to maximize their profits. So a free market does not necessarily mean fair competition. American oil tycoon John ROCKFELLER established the Standard Oil Company which was ordered to break up into smaller companies for having violated the Anti-Trust Act. In 2000, a court judgement ruled that Microsoft had violated anti-trust laws for using the Windows operating system to obstruct market competition. All these examples show that major enterprises have a tendency of pursuing monopolization and price manipulation, and such tendency will directly affect the livelihood of the people. Therefore, I support the original motion of Mr Fred LI and the amendment of Mr LEUNG Yiu-chung.

Madam President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): Madam President, as mentioned by Mr Fred LI, today's motion debate is already the sixth one on this subject matter. In fact, this is a rather important debate, as it has a profound impact on the rice bowls of workers and the people's livelihood, as well as whether there should be a fair competition law. At present, the greatest problem faced by Hong Kong overall is a question frequently asked by Mr TUNG. Why our grass-roots people cannot share the benefits of our economic recovery? Why the benefits cannot be enjoyed by the lower strata of society while our economy is growing? Actually, one of the reasons is, the economic development of Hong Kong has reached such a state where too many cases of monopolization have emerged nowadays.

Last week, we had a debate on minimum wage and maximum working hours. Whenever our discussions touch on such subjects, many Members representing the business sector will immediately say that the business costs in Hong Kong are already very high, and we must be very careful, otherwise all the capital will drain outwards. When we say that the business costs are high, what have actually made them so high in Hong Kong? As a matter of fact, the most significant factor responsible for pushing up the business costs in Hong Kong is not workers' wages; instead, it is due to the monopolistic situations in Hong Kong that prevent the prices from being adjusted downwards. As the prices cannot be adjusted downwards, the costs will remain high, and the only beneficiaries are the large consortia. Therefore, if there is no fair competition

law, is it not true that the high costs are due to anti-competitive acts? Or is it not because of monopolization? If there is no legislation governing such behaviour, the prices will always remain at a high level. If the prices are always at a high level, it will become the largest obstacle to the economic restructuring of Hong Kong and our aspiration to enhance the competitiveness of Hong Kong. So, while today we are fighting for the enactment of a fair competition law, we are actually fighting for a law that will enable Hong Kong continue to develop, make costs in Hong Kong not so high, and prevent the consortia from swallowing all the fruits of Hong Kong's overall economic development in the interest of fostering a fairer environment. This is a very important factor in today's motion debate on our aspiration for a fair competition law.

In fact, among the opposition voices, I found that they are invariably repeating the same points. Later, the Secretary will definitely say that the Government is also concerned about fair competition, but it is not necessary to enact any law on this; that all we have to do is to examine the situations in certain industries. I feel that the logic is rather ridiculous, that is, whenever we detect certain problems in certain sectors in society, then we should hold a discussion on it and see if there is a need for legislation. However, it actually involves a major chicken-and-egg question. If we see that some problems have emerged in a certain industry, and if we do not have any laws, how can we prove that there are problems? As Dr Fernando CHEUNG said just now, the case of filling stations is a most explicit example. We suspect — I dare not say that we have the evidence — that they have collaborated to fix the prices. If the high prices are the result of their collaboration, then this is unfair competition. I believe the Government also opposes the fixing of prices by collaboration. Despite the fact that the Government also thinks that they should not collaborate with each other to fix the prices, it says that enactment of laws is not necessary and asks us to produce the evidence to prove the existence of collaboration. What can we do then? If we do not launch any investigation, how can we get the evidence? So we must enact a law so as to facilitate investigation, otherwise we have no way of conducting an investigation, and we shall never be able to find out whether the oil companies have monopolized the market.

As I am saying this, the oil companies could say that they have been wrongly accused and claim that they have never collaborated to fix prices. Frankly speaking, we shall never know the truth unless an investigation has been

made. But we cannot conduct any investigation. I would like to ask the Secretary: Can we conduct an investigation? He may say later that we cannot launch any investigation as we do not have any law for it at present. If the situation should continue and it is always unlawful for us to conduct any investigation, then we would always have the problem of lag, that is, after the problems have emerged, the Government maintains its stance of not enacting any laws for it. Then, even if we do take a look at the problem eventually, it would become too late because the market would have already been monopolized. Will the Secretary really refuse to enact the law by using such ridiculous excuses? I can recall that Mrs Selina CHOW of the Liberal Party has said in certain forums that we should not make it "sweeping". Why we cannot make it "sweeping"? If we do not make it "sweeping", how can we justify that certain industries, such as the telecommunication industry, have to be subject to statutory regulation, whereas others are not? How can the Government explain this? How can it explain why certain industries require supervision, while others do not? This can never be explained.

If the Government says that it will not take any action unless it sees the problems, it is exactly like what I have just said, that if we never enact any laws, then we shall never see the problems. If we say that we shall take action only after some problems have emerged in certain industries, and that the principles of fair competition have been violated, then it will not be an easy task because it sometimes involves a whole string of problems. For example, Mr Fred LI has just said that the property sector is conducting their business in a "one-stop" mode, with the provision of all the services bundled together. As such, after examining the telecommunication industry, will the Government next proceed to examine the property sector? Then after the property sector, the medical services industry also seems to be providing all the services. If the Government should examine the situation of different industries one after the other, it will never see the whole picture, and it can never do any work. Therefore, I feel that ultimately, whether a fair competition law is enacted is in fact a very significant factor to competition in Hong Kong. I do not wish to see that we always remain in square one without making any progress forward.

The Government has been avoiding the enactment of a fair competition law and the only explanation is that the Government has considered the consortia as its "bosses". As the "bosses" are the consortia, they do not wish to investigate themselves. Is there any consortium which would say that

investigations are welcome, and hopes that everyone can investigate it? No, the consortia do not. Is it because the consortia do not want the Government to launch any investigation, so the Government does not take any initiative to do any work? Is the Liberal Party the "Consortia Party", so it opposes conducting any investigation? In fact, there is no problem with enacting a law, but the investigation may cause some problems. There will be problems if the investigation really finds out that unfair competition does exist. If there is no unfair competition, in fact, it will not cause any problem. (*The buzzer sounded*)

Thank you, Madam President.

MR TOMMY CHEUNG (in Cantonese): Madam President, the subject of formulating a fair competition law has been debated in this Council many times in the past, and the stance of the Liberal Party has always been very clear — we support and encourage fair competition, but we do not agree to enacting a sweeping fair competition law which is applicable to all the different trades and industries at the same time.

In fact, being an international city, Hong Kong has been renowned as the freest economy in the world. Although we have not enacted any fair competition law, I believe no one can deny the fact that the competition in our market is very keen, the extent of which is no less than countries or territories where there is already a fair competition law.

We do know that many countries in the world have already enacted fair competition laws. In Asia, among economically developed places, only Hong Kong and Singapore have not implemented such laws. And Singapore is planning to introduce a fair competition law in January next year.

However, Mr SONG Seng-wun, an economist from the renowned financial research institute G K Goh has repeatedly questioned the effectiveness of introducing the law to Singapore. This is because more than 10 categories of public utilities, such as telecommunication, electricity, water supply, container terminals and public transport, and so on, have been excluded from the scope of regulation by the law; only the markets of certain industries, such as medical services, are open to overseas investors so as to strengthen the competitiveness of such industries.

On the contrary, at present, in our telecommunication and broadcasting industries, we have already included provisions forbidding anti-competitive conduct into the laws governing such industries, which provide the overall regulatory frameworks. This is meant to prevent the emergence of acts of monopolization in telecommunication and cross-media industries. Yet Singapore has, on the contrary, shown no intention of bringing competition into such industries. From this, we can see that the present approach adopted by Hong Kong is more desirable.

As a matter of fact, Hong Kong people can choose to subscribe services from different telecommunication services providers and enjoy inexpensive services. Hong Kong people can also watch various local or overseas channels either free of charge or at relatively low prices to enjoy rich and versatile television programmes.

As for industries not yet benefited, such as the issue of opening up the electricity market, we think certain overseas experience may give us some useful lessons. As Members may recall, the Liberal Party supported the negotiation of schemes of control agreements between the Government and the two power companies, especially for the introduction of a mechanism that would allow the prices to go either upwards and downwards. However, the major blackout that took place in 2001 in California as well as the general blackout in the United States and Canada that occurred a year or so ago were caused by the excessively keen competition after the opening up of the industry and the injection of competition. The smaller power companies were engaged in fierce price wars and they could not afford to make further investment to construct transmission networks. As a result, the networks were overloaded and eventually collapsed.

Recently, Prof Joseph A. DOUCET, who had come all the way from Alberta, Canada to attend a seminar in Hong Kong, said that there is no single mode of operation which will suit all electricity markets and can be applied to any parts of the world. As such, Hong Kong must, in the light of its small market, conduct detailed studies on its own demands and objectives of electricity supply.

Madam President, one of the worst things about fair competition legislation is that it could easily trigger off a large amount of litigation cases; and as such proceedings are highly specialized, usually they will require the service of veteran legal experts and the cases could drag on for many years and lead to substantial legal costs amounting to millions or even tens of millions dollars.

Of these cases, the classic example is the case in which Microsoft was prosecuted by the European Commission for breaking the competition law by leveraging its near monopoly in the market with its Windows operating system and it was imposed a fine of HK\$4.7 billion. The case had lasted for five years, and Microsoft said recently that it would appeal against the decision and expected that the case would go on for another four to seven years, with the gross litigation costs amounting to US\$10.4 billion. Of course, mega-corporations like Microsoft can afford such high costs. But if small and medium enterprises (SMEs) are involved in such litigations, how can they afford such astronomical costs? Therefore, a fair competition law may not be a blessing for SMEs. Instead, the best approach should be to do our best to enhance their competitiveness, so as to facilitate them to compete with each other on a fairer platform. A large proportion of the voters in my functional constituency are operating business in the "wet markets". They are small shop operators who have rented shops in the markets operated by the Housing Department. They say that the Housing Department let shop space adjacent to them to large supermarkets and allow them to sell "wet goods" as well, and this has affected them to a very great extent. In recent years, whenever they come to see me, they will raise questions such as: Should the size of the operations of supermarkets be restricted? Or should the supermarkets be stopped from selling "wet goods", so that the shop operators can survive in the markets? I keep on explaining the situation to them. Recently, during the electioneering period of the Legislative Council Election, candidates of the Democratic Party also talked a lot on whether a fair competition law should be enacted. But I told them this actually might not help them, and the most important point was how to help them to enhance their competitiveness. This is really the key issue.

Therefore, Madam President, to promote fair competition, we may not necessarily have to rely on a fair competition law. For example, some years ago, the Consumer Council criticized the saving system of banks. After the interest rate agreement was abolished three years ago, the interest rates of banks have shown much greater differences than before, and at present, even interest rates of mortgage loans are adjusted downwards to P minus 2.5% to 2.8%. From this, we can see that all roads lead to Rome. There must be more than one road to any destination. It just depends on whether we are willing to explore more to identify the right solutions.

Therefore, the Liberal Party supports the amendment proposed by Mr TONG Ka-wah to urge the Government to thoroughly review the functions and effectiveness of the Competition Policy Advisory Group (COMPAG).

The Liberal Party considers that one of the feasible approaches is to reorganize the COMPAG along the line of the Consumer Council, so as to enhance its transparency and public accountability. This will inspire greater public confidence in the COMPAG for its fair and impartial handling of complaints against unfair competition.

As the Consumer Council has been able to effectively handle complaints involving consumers, we can see that we can actually adopt an inexpensive yet effective approach to handle disputes or complaints, and this can save the trouble of having to take cases direct to the Court from time to time.

With these remarks, Madam President, I oppose the original motion and Mr LEUNG Yiu-chung's amendment, but I support the amendment of Mr TONG Ka-wah. Thank you.

MR CHAN KAM-LAM (in Cantonese): Madam President, the DAB absolutely supports that it is necessary for us to maintain the competitiveness and a high degree of transparency in the business environment of Hong Kong. Any measures, such as conducting a feasibility study on the enactment of a fair competition law, are worth considering if they can promote fair competition in the market and strengthen consumer protection. In the relatively small market of Hong Kong, the issue of whether a fair competition law should be enacted is rather complicated. On the one hand, it will impact on the business environment of Hong Kong, and on the other, it will have a direct bearing on the interests of all consumers. Therefore, we must hold in-depth discussions and studies on this subject, and we should not make any hasty decision on this. What is more, so far internationally there has not been any single all-embracing and proven fair competition regulation that is applicable to all industries.

The major justification advanced by those who support the enactment of a fair competition law in Hong Kong is: Since most developed countries or territories in the world have enacted comprehensive competition legislation, even Singapore will soon introduce such a law, Hong Kong should follow suit.

However, I would like to point out that, certain countries or territories already have competition laws in place for different underlying objectives. An economist from Singaporean financial research institute GK Goh points out that, Singapore will enact a fair competition law mainly to open up certain sectors of the market such as hospital services, instead of tackling the existing monopolization in the market; and industries such as electricity, fuels, telecommunication, media, armed security services, water supply, sewage treatment, public transport and container terminal, and so on, will not be included in the scope of regulation of the fair competition law. From this, we can see that the existence of a fair competition law does not necessarily mean that the market will be subject to fair competition regulation. At present, the industry-specific fair competition policy of Hong Kong has already won the support of the Asia-Pacific Economic Co-operation (APEC). Is the enactment of certain laws just for sake of following the footsteps of other countries suitable for Hong Kong? Is this most favourable to Hong Kong? We must think carefully about this.

Besides, the competition laws of different countries have each put in place very different enforcement mechanisms and standards. So far, there has not been any set of reliable criteria which we can rely and follow. So it is indeed rather complicated and difficult to enact a comprehensive fair competition law which must be practical. For example, although Taiwan has enacted a fair competition law, its public utilities and transport industries have not been included into the scope of regulation after the introduction of the competition legislation. What is more, some other joint actions or monopolistic conduct are allowed to proceed if they have been scrutinized and approved by the Government. In comparison, though there is no competition law in Hong Kong, we are not at all inferior to other countries with competition laws already in place in terms of ensuring fair competition. We are of the opinion that we should carefully think about the practical situation in Hong Kong before deciding whether there is a need to enact a comprehensive competition law.

Madam President, the DAB thinks that it is most imperative that we create a level playing field, and we may enact laws at different levels so as to make our market more competitive, and enacting a fair competition law is just one of the options to achieve the purpose, instead of the only option. There are laws in Hong Kong which tackle unfair, deceptive or misleading business practices such as the Control of Exemption Clauses Ordinance, the Unconscionable Contracts Ordinance and the Sale of Goods Ordinance, and so on. It is only because such

provisions are scattered in different ordinances that their function in protecting the consumers are not highlighted.

In our opinion, the most efficient approach of finding the perfect laws for the purpose is to accord priority to considering optimizing the existing laws, apart from studying the possibility of enacting a fair competition law. With regard to protecting the interests of consumers, we suggest that we may consolidate all the provisions for protecting consumer interests from different ordinances so as to enact a consolidated "Protection of Consumer's Interests Ordinance". Moreover, we should formulate some policy measures in connection with the Ordinance, which are more comprehensive and complete, so as to strengthen the enforcement and effectiveness of the Ordinance, and at the same time, enable the people to gain a more in-depth understanding of consumer protection laws.

Meanwhile, we may also take the opportunity to conduct a comprehensive review of the inadequacies of the existing laws in consumer protection. In fact, some of the ordinances were enacted many years ago and may have become out of date, failing to protect the interests of consumers adequately. For example, the Sale of Goods Ordinance and the Trade Descriptions Ordinance just offer protection for transactions between consumers and merchants. This has made Internet bidding activities, which are private transactions made between users, beyond any legal control. As a result, many fraud cases like goods not meeting the original descriptions or even non-delivery of goods occur frequently. Therefore, by consolidating the present consumer protection provisions, amending outdated ordinances, strengthening the complementary provisions among the various ordinances and plugging loopholes in existing ordinances, we can achieve the purpose more efficiently both in terms of time and utilization of resources than enacting a new competition law from scratch.

Mr LEUNG Yiu-chung mentioned in his speech that some practices in violation of fair competition principles had occurred in various industries such as petroleum, supermarkets and town gas supply, so he proposed that the Government should enact a fair competition law as soon as possible. However, the industries mentioned by Mr LEUNG do not have any market entry restrictions, nor is there an absence of competitors or substitutes in the market. As such, there seems to be insufficient evidence to substantiate the

monopolization allegation, and we are not totally agreeable to the claim for a need to enact such a law now.

With these remarks, Madam President, I support the original motion and the amendment of Mr TONG Ka-wah.

Thank you.

DR YEUNG SUM (in Cantonese): Madam President, let us recap the course of development of the competition policy in Hong Kong.

In the '90s, some of the local enterprises had already upgraded themselves to world-class standards, and the issue of abusing one's market dominance was a subject drawing widespread public concern. In 1992, at the request of the Government, the Consumer Council conducted studies on the competition situation in various industries. In 1990, the Office of the Telecommunications Authority was officially established. In January 1996, after conducting studies on seven industries, the Consumer Council put forward its conclusion in a study report entitled "Competition Policy: The Key to Hong Kong's Future Economic Success" with the theme of advocating the enactment of a fair competition law and the setting up of a fair competition commission to enforce the law. Later, Mr Martin LEE will speak on his experience as the Chairman of the Consumer Council.

In 1997, the Government responded to the Consumer Council by setting up the Competition Policy Advisory Group (COMPAG), which is a "toothless tiger". In 1998, the Government published the Statement on Competition Policy, which was also something nominal in nature. In November 1999, the International Monetary Fund (IMF), in the Conclusion Statement of Article IV Consultation, showed its concern for the very first time about competition in the internal economy of Hong Kong and commended the work of the Consumer Council. In 2000, with the enactment of certain legislation, the Broadcasting Authority and the Office of the Telecommunications Authority were given greater power to monitor the competition situations.

In 2000, both the European Union and the World Trade Organization requested Hong Kong to review its competition policy then. Therefore, Madam President, under such circumstances, many organizations in the world have in

fact expressed concern over the fact that there is no fair competition law in Hong Kong. The European Parliament, which was mentioned earlier, had also expressed its concern in 2000 about the internal competition in Hong Kong, whereas the IMF mentioned this issue once again in the Conclusion Statement of Article IV Consultation.

At present, basically it is not true to say that the Government exercises absolutely no regulation at all insofar as its policies are concerned, but they are mainly for monitoring individual industries, such as the telecommunication and broadcasting industries, and so on. As a matter of fact, so far, the Government still opposes the idea of enacting an all-embracing fair competition law that would regulate all the industries, as well as setting up an organ responsible for enforcing such a law — I think Secretary Stephen IP will reiterate the stance in this regard. And he will probably put forth the rationale that the Government should not interfere too much with the market, and that flexibility should be exercised with regard to the circumstances in individual industries.

But the Democratic Party thinks that Hong Kong does need a fair competition law. Mr CHAN Kam-lam has just said that we should act in the light of the actual situation in Hong Kong. I am also proposing to enact a fair competition law in the light of the actual situation in Hong Kong, and the reasons are as follows:

First, the market force of Hong Kong has been abused. Although Hong Kong is said to be a highly liberal economic market, we can see that oligopolies do exist in many sectors, such as oil companies, property companies, supermarkets, and so on. I think as the internal market of Hong Kong is relatively small, and the thresholds for our planned economy are relatively low, it is easy for some strong market forces to emerge. They may gain the power through fair approaches, but it is difficult to ensure that they would not abuse such enormous power in future. Secondly, some people think that the enactment of a comprehensive fair competition law is interfering with the market. But many Western countries which have adopted liberal economic systems and capitalism have also enacted fair competition laws. Why? As they also put great emphasis on capitalistic free economy, do they not worry about market intervention? Madam President, a fair competition law is in fact like a referee in a ball game — its objective is to ensure fair competition and the capability of a market to operate properly, instead of directing the market or even replacing the market.

Thirdly, someone thinks that the enforcement of a fair competition law will entail expensive costs, just as Mr Tommy CHEUNG said. However, Madam President, this actually depends on the complexity of the law in question and the setup of the enforcement body. Can we try to prevent the costs from becoming too high when we devise the law and the setup of the enforcement body? In fact we do have a precedent. Madam President, in terms of per capita costs, both the Australian Competition and Consumer Commission and the Fair Competition Commission in Taiwan are less costly than the Consumer Council in Hong Kong.

Fourthly, why should we enact some fair competition legislation for individual industries, but not for the others? Let us take the case of the Banyan Garden as an example. A moment ago, Mr Fred LI has gone into great details about the case. The inclusion of the broadband service charges in the management fees is the best example illustrating the point in question. The authorities launched an investigation only after receiving complaints about it. So, the authorities can respond only after problems in certain industries have aggravated, and this has indeed put the authorities in a rather passive position.

Fifthly, unfairness will also emerge among different industries. Why is the practice of price-rigging not allowed in telecommunication and broadcasting industries when there is no such restriction at all in other industries? It is virtually impossible for the authorities to harbour the wishful thinking that the industries could exercise self-discipline. As a matter of fact, industries which are subjected to regulation may lodge complaints as well: Why should restrictions be imposed on them, but not on other industries? This is a question which the Government can never explain adequately.

Madam President, let us take a look at the international experience. According to the information provided by the Consumer Council in 2001, more than 50 countries and territories, accounting for 80% of the trade volume of the world, had enacted comprehensive fair competition laws. Should Hong Kong, being an advanced territory, become an exception? Therefore, we hope the Government can seriously consider enacting a fair competition law for Hong Kong. Of course, this mechanism has to be set up through the Court or a commission. In Taiwan, the Commission is engaged as the mechanism. We suggest the Government to conduct extensive consultations and studies on the establishment of an independent fair competition commission and the enactment of a comprehensive fair competition law. All that we are asking the

Government to do is to conduct comprehensive consultations and studies on the issue. Neither we nor Mr Fred LI are demanding the immediate enactment of such law. Thank you, Madam President.

DR KWOK KA-KI (in Cantonese): Madam President, I rise to speak in support of urging the Government to consider enacting a fair competition law. Many Honourable colleagues have spoken about the Banyan Garden incident. In fact, the enactment of a fair competition law may have very little relevance to me, a Member returned by the medical functional constituency. However, due to several recent incidents, I cannot but admit that, with so much monopolization by large consortia in Hong Kong, many different industries, or even the professionals are affected in some measure.

The tenants of the Banyan Garden are made to pay on a compulsory basis a fixed monthly fee to a medical services group, regardless of whether they have made use of the services. Other medical organizations or even other private medical clinics can never enjoy such benefits. Such developers or the management companies under them must definitely have certain exchange of benefits with these medical services groups. In the past, when our discussions mentioned fair competition cases, we would invariably quote some major public utilities as examples. For instances, many Honourable colleagues have repeatedly talked about oils, electricity and energy, and so on.

Another point of argument is: Why do we have to consider the enactment of the law? I have only one principle, that is, if fair competition has always existed in Hong Kong and if there is no problem about it, then I believe Honourable colleagues will not put forward debates once a year on this issue in this Chamber, and it will not be necessary for us to argue every year about why we should enact the law. Many Honourable colleagues have mentioned the study report compiled by the Consumer Council in 1996, which eventually made the Government establish the Competition Policy Advisory Group (COMPAG). I believe that if I had not been elected to this Council, I would never come to realize that Chief Secretary for Administration Donald TSANG has been working in the COMPAG for seven years, and that he has been leading the Government in monitoring the situation in order to help create a fairer environment in Hong Kong. I believe I have known more about his work in the West Kowloon tender project and the Team Clean project than his work in the area of fair competition.

Insofar as the present monopolization situation is concerned, I believe it is unlike what some Members have alleged, that it has nothing to do with many industries. There are two categories of people who are especially affected. First, I would like to talk about the small and medium enterprises (SMEs). All along, it is hoped that the business environment in Hong Kong can be conducive to the business development of SMEs. I believe many Honourable colleagues, including those from the Liberal Party or the DAB, would know that many of their friends or their supporters are from the SMEs, and we can see that the party which is most affected by such monopolistic practices is none other than the SMEs. I do not understand why the prices of electricity, oils and energy, and so on, can surge without any limitation, or why the oil companies can jointly work out and implement agreed price rises, thereby leading to increases in operating costs. In this way, how can we help the SMEs? Why can we not feel the need to create a better and fairer competition environment? Secondly, I would like to point out that, many Honourable colleagues have earlier mentioned the cut-throat operation of the two major chains of supermarkets, thereby making only very few SMEs can survive in the market. This will eventually affect each and every consumer.

Government officials or some other colleagues may say, "Do not worry, there is no need to enact any law. What is the point of enacting laws?" I would like to remind everyone: We are legislators. The people have chosen us to take our seats in this Council, and they expect us to conduct discussions and enact laws, instead of doing some chit-chat here, or simply talking about the review of some policies. It is not necessary for us to come to this Council if we just want to review the policies. It would suffice to write a submission to the COMPAG and demand it to conduct a review; nor is there a need for so many Directors of Bureaux to come and spend so much time here. The spirit of enacting laws is not so formidable as to destroy any industry. Now, we seem to be in a ball game. All we want to do is to find a referee. Is there any football game that can do without a referee? And then the two sides can play in whatever way they want to? I think, for the Legislative Council and the Government, their major role is to create an environment without any monopolization, so that impartiality and fairness could be achieved. It is exactly with such a spirit that we make laws. The Legislative Council will not put anyone in a disadvantageous position in such an environment, nor will it make any businessmen feel ashamed or lose its competitiveness. On the contrary, the enactment of laws offers more explicit and legally-binding

protection which will enable the people and the SMEs to conduct their commercial activities in a fairer environment with better protection and a clearer point of reference.

We often say that we should not enact a "sweeping" law. I do not know what is meant by enacting a "sweeping" law. But I do know that the spirit of legislation is not to prohibit anyone from conducting commercial activities. On the contrary, legislation is meant to look after the weaker groups in the business sector or the consumers who do not have any bargaining power in society, so that they can enjoy better protection. After a law is enacted, it may help the Government in taking forward its work. Apart from the enactment of law, the motion also mentions the aspiration of setting up a fair competition commission, and this means that we may have to rely on the authority provided by some public offices or the Government so as to implement this law or its spirit. In fact, even after the enactment of the law, its enforcement is still the responsibility of the Government. So, no one, including us, can make use of certain unreasonable viewpoints to stop certain industries from operating their business in a fair manner. It is exactly for this reason that I would like to declare once again my stance of supporting the original motion of Mr Fred LI and the amendment of Mr LEUNG Yiu-chung, calling on the Government to consider and enact a fair competition law. I so submit.

MR WONG TING-KWONG (in Cantonese): Madam President, the Hong Kong economy is noted for its openness and freedom. But the enactment of a fair competition law as proposed by the motion will reduce free competition in the market. A fair competition law indeed sounds very appealing, but in reality, it will only protect weak market players against elimination while thwarting the development of capable ones. This violates the principles of free economy. Anyone who claims that there is no fair competition in Hong Kong must be ignorant of the local market situation.

The DAB is of the view that the Government should foster a business environment marked by both competition and a high degree of transparency, where market forces are left alone to improve operating efficiency and the quality of goods and services. Whether a fair competition law should be enacted is a highly contentious topic *per se*. What causes even more concern is Mr LEUNG Yiu-chung's proposal on setting up an enforcement agency, that is, a fair competition commission.

Under the proposal of the Consumer Council, the fair competition commission to be established shall be responsible for investigating complaints, initiating prosecutions and sanctioning those companies violating the fair competition law. Besides, there shall also be an appeal mechanism to hear appeals against the decisions of the fair competition commission. It is also proposed that consideration should be given to conferring the power of injunction on the fair competition commission. This will turn the fair competition commission into a super regulatory authority hoarding executive, judicial and legislative powers.

Because of all these extensive powers, the operation of the fair competition commission will certainly cause direct impact on the free market and the attitudes of investors.

Experience tells me that in the existing environment, it will not be appropriate to enact any fair competition law and set up a fair competition commission. The reason is that all this will stifle market development.

I can cite one example to illustrate my point. Many people have been complaining about the high degree of monopolization enjoyed by some supermarket chains. But the truth is that the competition among the three major supermarket chains has instead brought benefits to consumers. The enactment of a fair competition law and the establishment of a fair competition commission may only achieve the opposite result of reducing the interests of consumers.

As for the clash of interests between suppliers and retailers, it is just a supplier-buyer conflict in the internal process of business operation. But we are believers in market forces. We believe that at the end of the day, no matter what the supplier-buyer relationship is like, no one will be interested in any unprofitable business. For this reason, consumers, suppliers and retailers must all think twice about the enactment of a fair competition law and the establishment of a fair competition commission.

Madam President, the Democratic Party criticizes that the Competition Policy Advisory Group (COMPAG) set up in 1997 is not given any investigation and statutory powers, and it therefore advocates a review of the COMPAG's terms of reference. However, we are of the view that the COMPAG's existing practice of acting in response to complaints, compared with the power of direct

investigation, is more consistent with the competition policy of minimizing market intervention.

In the COMPAG's Annual Report every year, there is a full list of the Government's initiatives in promoting fair competition, and a detailed account of all the complaint cases examined by the COMPAG is also given. Last year, for example, most of the complaints were properly handled and followed up after their referral to government departments. This proves that it is an effective measure to refer complaints to the relevant Policy Bureaux for handling.

And, there is also the example of Banyan Garden, a case also mentioned by many Members. In this particular case, the Telecommunications Authority ruled that the management company had breached the relevant legislation. Following this, the COMPAG studied the Authority's findings and took follow-up actions. The industries concerned subsequently took actions in response to the COMPAG's recommendations. This shows that although the COMPAG is not vested with any enforcement power, it is still able to function effectively and win recognition in society.

Madam President, the enactment of a comprehensive fair competition law in Hong Kong may bring forth adverse consequences that will dampen the desire of foreign investors to come to Hong Kong; the Government's establishment of a large administrative framework to investigate allegations of anti-competitive practices may adversely affect Hong Kong's advantage of having a highly flexible business environment and also lead to endless lawsuits. We remain convinced that this is not the best time to enact a fair competition law and establish a fair competition commission.

Madam President, I so submit.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, since part of the motion today involves the management of private housing estates, I wish to make a declaration of interest first. I am the Chairman of the Owners' Committee of Galaxia.

There is keen competition indeed among the hundred or so property management companies in Hong Kong, and the Government has been promoting the formation of Owners' Corporations (OCs) for private buildings. For these

reasons, many owners who are concerned about their own interests have stepped up their monitoring of the performance of property management companies.

On the part of property management companies, fearing that OCs and owners may find their performance unsatisfactory and terminate their service by invoking the Building Management Ordinance and Deeds of Mutual Covenant, they will try every possible means to upgrade their service. In some cases, the so-called "five-star", or "six-star", management service is even flaunted in television commercials on new residential properties.

But, "the fleece comes off the sheep's back". Management companies have to incur costs to maintain all those items of service which are claimed to be provided for the convenience of owners and tenants. Needless to say, the costs are bundled into management fees.

It is of course undesirable and unfair to require owners to pay management fees that cover the costs of those service items they do not really need. However, surprisingly, the Government is also a supporter of such a concept of "one-stop" service.

In the Consultation Document on Building Management and Maintenance published early this year, the Government suggested that management companies can provide owners with a kind of "one-stop" services. The idea is to form a pool of professionals from the legal, property management, surveying and architectural fields to solve the problem of housing estate repairs and maintenance. This proposal was made on the high-sounding pretext of efficiency enhancement, but in actual effect, it is bound to undermine the long-standing practice of outsourcing services by open tender. It will deprive owners of their choices and thus run counter to the principle of fair competition.

Although the Government has not made any final decisions since the completion of the consultation exercise, I still wish to advise it that in the course of formulating any policy, it should not depart from the principle of fair competition and take the lead in fostering any degree of monopolization in the business environment.

As for Mr TONG Ka-wah's amendment, I am of the view that we cannot possibly ensure a fair business environment in Hong Kong simply by reviewing the functions and effectiveness of the Competition Policy Advisory Group

(COMPAG). We must realize that the fair competition laws of the United States and the European Union all provide for the establishment of an enforcement agency with extensive powers to conduct investigation and monitor the market on the presence or otherwise of monopolization. And, such an enforcement agency is even empowered to instigate lawsuits in case it detects any acts in breach of the laws.

In contrast, being a mere advisory body, the COMPAG has been deficient since the very beginning. Without the backing of any legislation, it certainly cannot compare with other organizations such as the Equal Opportunities Commission and the Office of the Privacy Commissioner for Personal Data, which both possess investigation and enforcement powers. What is more, over the years, the COMPAG has never put forward any concrete recommendations on improving our business environment in terms of fairness and openness. The Annual Reports of the COMPAG are nothing but occasions on which the official position is repeated. They are only meant to deal with the criticisms and pressure coming from members of the public, SMEs and Legislative Council Members. Their significance is no more than symbolic.

Madam President, some say that the enactment of a fair competition law in Hong Kong will result in over-regulation, thus adding uncertainties to the business environment and dampening investment desire. But I must say that this argument is a gross deception.

Fair competition laws are now found in more than 80 countries all over the world, including the United States, which is the locomotive of the global economy, and even mainland China. But possibly no one will believe that the presence of fair competition laws in China and the United States will in any way dampen the desire of businessmen to make investments in these two countries.

As early as 1994, the Consumer Council already published a survey report on the development of local supermarkets. But it is such a great pity to observe that over the past 10 years, many small and medium supermarkets have still been forced into closure by the unfair and "cut-throat" price reductions of the two major supermarket chains.

Only two major supermarket chains are now left. They often boast that the prices of their goods are the lowest in town, but has it ever occurred to us that consumers are simply offered not too many choices? The reason is that with the

exception of the operators themselves, probably no one will know whether there is any collaborated price-fixing, something that may unnoticeably result in monopolization, making it difficult for new competitors to enter the market unless they possess huge capitals. In the long run, this will not bring any benefits to consumers.

Madam President, on the surface, Hong Kong has always been a city marked by openness and free competition. But in reality, market monopolization is all the time spreading among different industries and services. If we still hold ourselves back on the enactment of a fair competition law, if we still refuse to make any progress, then at the end of the day, not only the common people but also our investment environment will suffer the adverse consequences.

With these remarks, Madam President, I support Mr Fred LI's original motion and the amendment of Mr LEUNG Yiu-chung. Thank you.

MR LI KWOK-YING (in Cantonese): Madam President, Hong Kong is a free port of world renown. We are proud of this. I have recently heard the comment that if Hong Kong wishes to consolidate or upgrade its international image and enhance its competitiveness, it should enact a fair competition law, for this is the world trend. But is such an argument valid? As far as I know, even without any fair competition law, Hong Kong has been rated as the world's freest economy for nine years in a row by international research institutes in the United States and Canada and 57 others in the rest of the world. We are naturally proud of this achievement, even more so of the Government's strict adherence to positive non-intervention in respect of our economic development.

We can thus observe that there is no direct or indirect relationship between the enactment of a fair competition law and the upgrading of competitiveness. A fair competition law may be a useful regulatory tool for some specific industries, but if it is applied blindly and too extensively in total disregard for the actual situation in Hong Kong, then I am afraid that well before our competitiveness in the world market can ever be upgraded, our hard-earned economic achievements over all these years will first be ruined overnight.

All Members will agree that the key to Hong Kong's economic success has been our upholding of the free economy, this is the case now and will continue to

be so in the future. The role of the Government should be to count on market forces as much as possible and reduce its intervention to the minimum. Even if there is really a need for regulation, as when market manipulation is detected, the Government should do no more than ensuring ready entry of new competitors; it should not unilaterally formulate any comprehensive laws to regulate the market structure or interfere with business practices.

As a matter of fact, despite the long years of discussion, the various sectors of society are still unable to reach a consensus on whether or not a comprehensive fair competition law should be enacted. Those for the idea and those against it are just equal in strength.

What is more, although more than 50 countries in the world have already enacted fair competition laws, the international community has hitherto failed to work out any common criteria or standard practices for the implementation of fair competition. In the case of Hong Kong, though it adopts a sector-specific approach, it is still able to win the approval of international organizations. For example, in July last year, the Competition Policy and Deregulation Group under the Asia-Pacific Economic Co-operation conducted an on-site inspection on how Hong Kong was promoting competition, and in its report, it expressed approval of the rationale and approach of Hong Kong's implementation of sector-specific competition measures.

For this reason, I do have some reservations about any rash and hasty request for the enactment of legislation before conducting any detailed studies on how a fair competition law should be implemented under the specific circumstances of Hong Kong.

Frankly speaking, people who expect too much from a fair competition law are bound to be disappointed because such a law is no panacea at all. Many of the existing problems found in the market are not necessarily related to fair competition. We may look at the cases mentioned in the motion as an example. The management company of the housing estate is criticized for outsourcing the estate's telecommunication service to its associate company, but the truth is that the developer concerned has never barred any other telecommunication service providers from the housing estate, nor has it ever stopped any residents from patronizing other telecommunications service providers. There is no *prima facie* evidence of any anti-competitive practices. Following its investigation, the COMPAG also drew the conclusion that the problem was mainly caused by

the developer's exploitation of the grey areas in law. This is more an unscrupulous business practice than an anti-competitive act, meaning that a fair competition law may not necessarily be an appropriate recourse.

There may indeed be the problem of market dominance or monopolization in some individual industries. But there are also some special cases marked by huge capital investments but a long payback period. This means that the implementation of a compulsory fair competition law may well reduce the appeal of Hong Kong's investment environment.

The various industries are actually facing more business difficulties than before, the Government must thoroughly consider the impacts on the business environment if it really intends to take any further steps towards the introduction of a fair competition law. Besides, we must also consider very carefully whether a fair competition law will result in large numbers of commercial disputes and complex litigations, and whether the huge litigation costs will be shifted onto consumers.

Precisely because of the different problems faced by different industries, and also because of the unique nature of each industry, a comprehensive fair competition law may not necessarily be able to solve all the competition problems faced by different industries. For this reason, I propose that we should take account of the unique circumstances of individual industries and work out feasible measures specific to them, so as to safeguard a fair business environment in Hong Kong. We should also conduct a comprehensive review of the existing legislation on protecting consumer interests, with a view to enhancing consumer protection.

With these remarks, Madam President, I support the original motion of Mr Fred LI and Mr TONG Ka-wah's amendment. Thank you.

MR JEFFREY LAM (in Cantonese): Madam President, the business sector and I have always upheld fair competition very strongly, convinced that a liberalized and open investment environment is definitely beneficial to both investors and consumers. For many years, Hong Kong has been rated one of the freest economies in the world. It is also the case this year. In the "Economic Freedom of the World: 2004 Annual Report", compiled jointly by the Cato Institute of the United States, the Frazer Institute of Canada and 57 other

international research institutes, Hong Kong is once again rated the world's freest economy, which offers complete freedom of market entry and exit to investors. Such an honour is a recognition of the indisputable degree of market liberalization in Hong Kong.

I have some reservations about the proposal of some Members on the enactment of a comprehensive fair competition law applicable to all industries. I am afraid that well before such a law can achieve the purpose of protecting consumer interests, it will first deal a heavy blow to the business environment in our free market as a whole. I am of the view that instead of relying on the "visible hand" of the Government to formulate a fair competition law, we should remove all man-made barriers, open our door wide and allow investors to enter our market freely, in which case the resultant competition in quality and prices will ensure the protection of consumer interests and the delivery of the best products and services to them. Yes, the market is indeed most ruthless and hard-headed, for only the fittest will survive and those lagging behind in cost-effectiveness and competitiveness will be eliminated sooner or later. But, very honestly, I have more faith in market competition than in the intervention of government bureaucrats.

Believers in free market economy principles generally do not think that the Government should enact any legislation to interfere with the market. For example, economists of the Chicago School and also Prof Francis LUI of The Hong Kong University of Science and Technology all do not think that it is necessary to enact any fair competition law. They instead believe that it is more appropriate to adopt a flexible approach by drawing up some sector-specific rules and criteria.

Madam President, the rapid economic development of China in recent years and also the attempts by our neighbouring countries to upgrade their competitiveness have led many academics to worry about the waning of Hong Kong's competitiveness. Last week, the World Economic Forum released its Global Competitiveness Report for this year. Although Hong Kong has risen by three placings to Rank 21 due to the bettering management of its financial markets, it is still lagging far behind Taiwan and Singapore, which are both among the top 10 on the list.

Our fair and open business environment and also our sound legal system are our biggest advantage. And, from the report mentioned just now, we can

see that we must still work harder to enhance our competitiveness. If we are to maintain Hong Kong's status as an international financial centre, we must not erect any barriers to impede our own progress.

Hong Kong has always considered it very important to encourage foreign businesses to establish their regional headquarters here. Recently released statistics show that there has been an increase of 12.5% in this respect. I understand that many foreign and local members of various chambers of commerce worry that a fair competition law similar to anti-trust laws may be used as a means of restricting the entry of foreign investors into the Hong Kong market or even the mainland market. They worry that, like anti-dumping measures, such a law may hinder free trade. These are the views of some business people, and I think we must take them very seriously and give them very careful consideration.

Consequently, I support the idea of first reviewing the functions and effectiveness of the Competition Policy Advisory Group (COMPAG) chaired by the Financial Secretary, with a view to ensuring a fair and equitable business environment in Hong Kong.

The COMPAG was set up in late 1997, and although it is a high-level organization with sole responsibility for reviewing policies and systems relating to market competition, all of its members are government officials, with the exception of a representative from the Consumer Council. Its composition is rather odd, or even lacking in representation, I must say. If I may speak a bit more frankly, I would say that government officials are after all government officials, and they do not participate in any market activities direct. There is an obvious drawback, a drawback that requires no further elaboration, I suppose.

I recommend that the Government should enhance the representativeness of the COMPAG. People from the business and industrial sectors who are well-versed in market operation should be appointed, and so should economists. An open attitude should be adopted to consult the wider community. That way, all can work together to improve the business environment in Hong Kong and bring forth a just society with competitiveness.

With these remarks, Madam President, I support the amendment of Mr TONG Ka-wah.

DR RAYMOND HO: Madam President, Hong Kong's economic success has been built on the free operation of market forces which optimize resource allocation and foster competition. It has long been fully understood and supported by the business sector and the general public that the Government's intervention should be kept to a minimum.

But the public views are not so unanimous on the question of whether the Government should enact a fair competition law to remove unreasonable market domination and unfair market practices. For those who support the Government's intervention, the legislation is justified when market forces are being distorted or when they fail to function properly. The simple logic of the argument that a fair competition law is to right the wrongs of a market is particularly appealing. The reality is not so simple, particularly, when a general competition law is involved. It is usually marked with many shortcomings.

First, it is very difficult to work out reasonable and precise regulations which are applicable to all types of businesses. Regulations which are too specific may not be able to take into account the unique characteristics and particular conditions of individual sectors. The legislation may even be an overkill which stifles the enterprising spirit and investment.

Second, restricting certain forms of business activities or practices across the board may risk undermining our free and open trade policy, and ultimately our competitiveness.

Third, enforcement of relevant legislation requires a huge amount of professional expertise and a large organization. Proliferation of protracted court cases is likely to occur, too. This would lead to rising operating costs of enterprises which could shift the burden to consumers. As a result, the consumers may not benefit from the legislation as always suggested.

Indeed, there are many other disadvantages of enacting a fair competition law. I have just named a few. We must not ignore them and hastily make the decision on the legislation. However, the Government must ensure that there is a highly open and free market, as well as a level playing field for all business operations in Hong Kong.

For the purpose, the Government must review both the function and effectiveness of the Competition Policy Advisory Group (COMPAG). The existing COMPAG, under the personal leadership of the Financial Secretary, is merely an advisory organ. All that the COMPAG can do is to refer the complaints to the Consumer Council or the relevant Policy Bureau. I believe that the role of the COMPAG must be strengthened and if necessary, it should be provided with resources to conduct independent investigations.

Madam President, the Government should adopt pro-competition measures to improve the business environment in Hong Kong. The review of the COMPAG should be one of them.

With these remarks, I so submit. Thank you.

MS EMILY LAU (in Cantonese): Madam President, last Thursday, when the Chief Executive came here for the Question and Answer Session, the Chairman of the Democratic Party asked him a question on enacting a fair competition law. The Chief Executive replied that the Economic and Employment Council (EEC) chaired by the Financial Secretary would handle this matter.

Madam President, I am a member of the EEC, and so are several other Members of the Legislative Council. I intend to raise all these points for discussion now. On 15 September this year, there was a meeting of the EEC. Actually, both Mr Andrew CHENG and I had repeatedly proposed the enactment of a fair competition law in the previous meetings of the EEC and those of the former Task Force on Employment, but it was not until this meeting that the topic was put on the agenda.

What is the paper all about? Madam President, I am sure that you will not believe what I am going to say. Many Members have talked about the need for studies, and the Democratic Party also said that the Legislative Council had discussed this as many as six times. But in this paper, the authorities simply informed members of the EEC (comprising Members, academics and representatives of the business sector and employees) that they had fully considered the pros and cons of a comprehensive law on fair competition. However, Madam President, having read the whole paper, which is just several pages long (There are not many pages indeed, only six pages, all written up by

the Competition Policy Advisory Group Secretariat), I fail to find any mention of the six motion debates held by the Legislative Council. Although Members expressed divergent views in these debates, one must not ignore the fact that the Legislative Council is still an institution representing the views of the people. Can anyone possibly believe that there is no mention whatsoever of the debates in this paper? We have held as many as six motion debates, but it now turns out that all our opinions have virtually fallen on deaf ears.

Something is even more ridiculous, Madam President. The paper even informed members of the EEC that a public consultation exercise on the topic had already been conducted. But do you know when the exercise was conducted? Well, it was conducted between December 1996 and March 1997, involving over 110 organizations, including chambers of commerce, trade and professional associations, key players in various business sectors, and tertiary institutions. What were the findings? Madam President, the findings were summarized in the form of a big heading which reads "Community reservations on competition law". According to the paper, a clear majority of the respondents were not in favour of the enactment of a competition law, and even those who favoured the idea still expressed reservations about the substance of such a law. Can this be considered a public consultation exercise? At the abovementioned EEC meeting, I hastened to dismiss this as completely outrageous, and I must say so once again — I do not know, and I cannot remember, whether the Secretary was present at the meeting. He should be there, for the topic is within his portfolio. To begin with, something ages old has been brought forward again, and they even have the face to call it a public consultation exercise. How can these 110 organizations possibly represent the public at large? It is really no exaggeration to say that the Legislative Council is a representative institution, but its status is simply ignored by this paper.

Madam President, the paper also discussed the experience of other economies. Countries such as Korea and New Zealand were quoted as examples, and it was said that although competition laws were found in these countries, they enacted these laws when their economies were about to transform from a highly-regulated mode to a more liberalized one. The situation in Hong Kong is entirely different, it was said, because the Hong Kong economy has always been free and open. Well, Members have pointed out that similar competition laws are found in several dozen countries, but the paper talked about two of them only. The purpose could not be clearer.

The paper also mentioned international response and also the World Trade Organization (WTO). Actually, as mentioned by some Members earlier on, the WTO had complained about and questioned our policy in 2002. But the paper instead said that in December the same year, the WTO had described our economy as a textbook example. This has prompted me to look up the paper again. Madam President, can you guess who made such a comment? It was one of the discussants! I think the discussant made this comment during a meeting. Madam President, this comment was made by just one individual. He indeed had every right to think that Hong Kong was an example. But is there any justification for describing his comment as that of the whole WTO?

The APEC was also mentioned earlier on. Many Members have all the relevant information, so the DAB and the Liberal Party have both mentioned the information in detail. I pointed out at the abovementioned meeting that there was objection from the European Union. I said that several months before, when the Trade Commissioner of the European Union visited Hong Kong, he had voiced his opposition. Oh, I can remember the whole thing now. The Secretary was not present at the meeting. Only Sandra LEE, the Permanent Secretary, was there. I told her that they should not provide information to Members on a selective basis. But she was unable to give any reply. Madam President, all the information was provided on a very selective basis. In some cases, papers written six, seven and eight years ago were quoted. Good Gracious! And, when was this paper written? September 2004. How could they just select 110 organizations with vested interests for consultation? They would of course voice objection because they were precisely the targets of a fair competition law.

Mr Tommy CHEUNG put forward some extremely ridiculous arguments earlier on. One of his arguments was the possibility of lawsuits. He even talked about the Microsoft case and then went on to ask what SMEs were supposed to do. Madam President, it has never occurred to me that SMEs would be adversely affected. What is their current market share? Are they charging any predatory prices? How are SMEs each with just 10 or so employees operating? I really find the argument of the Liberal Party very baffling.

The argument advanced by Mr WONG Ting-kwok of the DAB is even more ridiculous. According to him, supermarkets must never be regulated, or else consumers will suffer. Members who are his allies should give support to

the motion. These Members all have certain connections with the DAB. Miss CHAN Yuen-han, in particular, belongs to both the DAB and the Hong Kong Federation of Trade Unions. Have they read the report of the Consumer Council? Many Members have already raised the relevant points, so I do not intend to make any repetition here. But I still wish to stress that while we may not see eye to eye with one another over many issues, we must never distort the truth.

Lastly, Madam President, I wish to discuss the amendment of Mr TONG Ka-wah. We in the democratic camp formed the 7.1 United Front to run in the elections on 12 September. We did have many differences in opinions, but we also shared many common viewpoints. We put forward seven hopes during the elections, one of which was fair competition. Besides, we also hoped to prevent government-business collusion, increase job opportunities in Hong Kong, upgrade its competitiveness, clamp down on illegal workers and protect the interests of grassroots. I believe that all the seven candidates have not changed their position. Madam President, there has been no volte-face. I can tell members of the public on behalf of all the seven candidates that we will definitely strive for a fair competition law. Yet, I cannot support Mr TONG Ka-wah's amendment.

MR WONG KWOK-HING (in Cantonese): Madam President, from the success of the legislation on liberalizing the broadcasting and telecommunications industries, one can conclude that a fair competition law can upgrade the quality of individual industries, bringing benefits to consumers. But why is it that instead of being extended to all industries, this kind of very effective competition laws are restricted to just two industries? We notice that fair competition laws are already found in more than 80 countries all over the world, most of which are economically advanced places such as the United States, Canada, Australia and the European Union. And, in Singapore, whose conditions and highly advanced market economy are similar to those of Hong Kong, a fair competition law will also be enacted recently. All these foreign countries have enacted their own legislation one after another with the only purpose of creating a more business-friendly environment in line with international standards. But is Hong Kong still refusing to do so on the ground of its uniqueness? Although a comprehensive competition law appears very costly, one has to note that the costs will ultimately depend on the complexity of the legislation enacted, the kinds of enforcement agencies to be set up and also the design of procedures.

For example, the costs of the Australian Competition and Consumer Commission and those of Taiwan's Fair Trade Commission in terms of scale are both lower than those of the Hong Kong Consumer Council.

Currently, the Government adopts a sector-specific approach to the enactment of fair competition legislation, under which a monitoring agency (such as the Telecommunications Authority) is set up for the industry concerned. But when fair competition laws are enacted for a greater number of industries in the future, the costs involved will certainly increase and the administrative framework will also become much more complex. Hence, it is really better to enact a comprehensive fair competition law.

A monitoring agency responsible for overseeing the implementation of fair competition in all industries — a fair competition commission, for example — can actually function in very much the same way as the Equal Opportunities Commission. As part of its routine work, it can make publicity and education efforts to promote the importance of fair competition and a sound market. At the same time, it can also receive complaints and carry out investigations. As long as a clear-cut and effective complaint mechanism is not set up, we will never be able to ascertain the seriousness of unfair competition in Hong Kong.

From the case of Banyan Garden and also local oil merchants' quick price increases but tardy price reductions, we can see clearly that the Consumer Council and the COMPAG simply do not have any authority to deal with monopolistic conditions, especially when it comes to anti-competitive practices of a complex and cross-industry nature. If the enactment of sector-specific legislation is considered only when a monopolistic situation emerges in a certain industry, then the most dominant market players will have by that time succeeded in employing various non-economic tactics to bar the entry of new competitors or to reduce the competitiveness of existing ones. In that case, hysteresis will still happen despite any rectifications, thus seriously hampering the overall development of the industry concerned. And, we must not overlook the fact that because of the absence of any protection, foreign investors will become wary of making any investments in the local market.

All of us do agree that a free market is essential to the economic development of Hong Kong. But we will not thus think that those market players with vested interests will necessarily respect competition and market liberalization in their very acts. How can we imagine any such market players

allowing any rivals to share their benefits, challenge their established dominance and endanger their vested interests? As a result, even in a free market, there must be a minimum degree of regulation to deter anti-competitive acts.

In its response to the Consumer Council's report on "Wet Markets Vs Supermarkets", the Government pointed out that the issue at stake is not one of "competition" but "competitiveness". What actually is "competitiveness"? Does it simply mean high quality and low prices? What is most critical is precisely the fact that market players with vested interests can increase their "competitiveness" by employing various non-economic means. For example, suppliers of daily necessities can require small shop operators to pay an "on-shelf" fee before allowing them to display their goods. How then can any new market entrants or small shop operators upgrade their competitiveness? Therefore, without the protection of a fair competition law, the small shop operators rooted in a community will simply find it very difficult to compete with all those large consortia which try to snatch their market share by employing various non-economic means. The result is that the unemployment situation in the community concerned will deteriorate. The experience of globalization tells that once a large consortium withdraws from a certain community after establishing its market monopoly there, serious unemployment is bound to follow. The private capitals in the community will be siphoned off by the consortium, as it has already monopolized all the resources, information and services. The sustainable development of the community will hence come under serious threat. More importantly, we must realize that with the dominance by large consortia, our choices of daily necessities will all be dictated, as we will only have access to the goods and information selected by them.

In conclusion, Madam President, a fair competition law and the monopolization of supply are two opposing concepts. Honourable Members must realize that if a fair competition law is not enacted, our choices as consumers from birth to adulthood and marriage — in brief, in the entire life cycle of birth, old age, sickness and death — will all be taken away. What we can do is just to let those in monopoly dictate our consumption choices. We will not be able to make our own choices. All our freedom and rights will vanish. Therefore, Madam President, with these remarks, I support the amendment of Mr LEUNG Yiu-chung and Mr Fred LI's original motion. Thank you, Madam President.

MR ABRAHAM SHEK: Madam President, the question of whether a fair competition law should be enacted in Hong Kong has been discussed in this Chamber for many years. Because of the diverse views held by the different sectors of society, a fair competition law has not been formulated, and rightly so, as any such legislation would have serious repercussions on our free market-oriented economy, and possibly, a loss of jobs in an economy which is recovering.

Madam President, I beg to differ from the views expressed by those who support the enactment of a fair competition law. In spite of their claims, I do not think that fair competition in Hong Kong is deteriorating or evaporating. The fact is, all businesses operating in Hong Kong receive equal treatment and are operating on a level playing field. Free market forces have suited and served Hong Kong well. There is fair play between all enterprises, including large corporations, small and medium enterprises and individual operators. Let us look at the example which Fred likes to quote — the supermarkets. There are many complaints that the two major chains — Wellcome and Park'n Shop — are driving out competition, like that of Carrefour, Apple, small wet market operators and corner stalls. But the truth is the growth of both Wellcome and Park'n Shop is simply evidence of the support they receive from changing consumer tastes. Also I remind my Honourable colleague, Fred, that if he cares to go shopping with his wife, even in Kwun Tong, he would have noticed that there are a lot of supermarkets, apart from Park'n Shop and Wellcome.

In recent years, the number and types of supermarkets have increased, and they offer a wider range of products and supplies, including fresh produce. They provide consumers with a clean one-stop-shopping approach, and give them more choices at an affordable price. Their growth simply bears testimony of their popularity. Yes, there are comments that supermarkets muscle the small wet market operators and corner stalls with unduly tough competition. But overall, they operate in different market conditions and appeal to different market segments and consumers. The bottomline is consumers have the choice as to where, when and what they want to shop. There are people who like small wet markets, and others who prefer supermarkets. To enact a law on fair competition is to deprive consumers of the decision process. Also, I wish to remind Fred that the two supermarket chains employ thousands of employees. If they withdraw from Hong Kong, your voters will be the losers.

Now, I would like to talk about the energy sector which consists of power supplies, gas and petroleum products. The nature of this group is that it operates in an oligopolistic model, which is a market with only a small number of providers. However, it does not mean that this is a monopolistic environment without either monitoring or control. The truth is, both the Government and the public — people like you, Fred — closely monitor these companies' performance and services. For these companies, they have to pass various stringent tests for market entry and sign government agreements regarding profit margins and the prices to be charged. Prior to any price adjustment, they have to apply to the Government for approval. Recently, there has been an abrupt surge in global oil prices, but power supply and gas prices in Hong Kong have been maintained at a stable and acceptable level. This is an evidence that the Administration's policy on electricity and gas supply is sound and beneficial to the community.

Madam President, I simply cannot find any unfair business practice, for example, direct price-fixing, bid-rigging, industry output control, market-sharing, or mergers and acquisitions which prohibits fair competition in Hong Kong. This is particularly not the case with property developers for they need to fight each other. Just look at the recent auction.

Despite the absence of a fair competition law, there are sector-specific measures to regulate the operation of various industries. In addition, there are different channels and organizations to deal with grievances and disputes related to anti-competition behaviour. The Consumer Council and the Competition Policy Advisory Group (COMPAG) provide an overarching policy framework to guide sector-specific efforts in promoting competition. For your information, the COMPAG has actually looked into the case which Fred has referred to in his motion.

As a community, we do not have, nor do we have a need for, a fair competition law because our Government has already had a sound policy in place to ensure fair competition in an open and transparent business environment. This is the very pillar of our economic success. Currently, Hong Kong has no anti-competition legislation. Instead, through various sector-specific ordinances, like the Broadcasting Ordinance and the Telecommunications Ordinance, effective measures are in place to prevent monopolistic operation.

MS MARGARET NG (in Cantonese): Madam President, I rise to speak in support of Mr TONG Ka-wah's amendment. Besides, I would also like to respond to the criticisms levelled against us by some Members who are our allies in democracy.

Firstly, Ms Emily LAU mentioned that the common political platform of the 7.1 United Front covered the enactment of a fair competition law. She asserted that the candidates belonging to the 7.1 United Front had not made a volte-face. I agree with Ms Emily LAU entirely. As far as I know, there has been no volte-face at all. Actually, if we can recall what Mr TONG Ka-wah said at the beginning of his speech in presenting his amendment, we will realize very clearly that he does not oppose Mr Fred LI's original motion, and his only hope is to foster a wider consensus that can enable us to take one real step towards the realization of our long-cherished dream. His speech reads, "..... the first point that we must establish is whether the present mechanism is effective and perfect; and then we may move on to conduct some more in-depth discussions in the hope that we may build up a fairer business environment through legislative procedures." Our support for the enactment of legislation is therefore extremely obvious. It is stated right at the very beginning.

According to Dr KWOK Ka-ki, the conduct of a review is not something of so much relevance, and the proper duty of the Legislative Council should be the enactment of legislation. It is true that very often, when we notice any unfair phenomena in society, we will immediately think that there should be some laws to prohibit such phenomena. And, very naturally, the first thing that comes to our mind will be the enactment of legislation. However, after we have put forward a legislative proposal, there is always such a long way to go before we can formulate a law for enactment. Very often, the impetus we need along the way is the formation of a consensus in society.

Why is it so important to carry out a review of the Competition Policy Advisory Group (COMPAG)? The reasons have already been expounded in Mr TONG Ka-wah's speech. Today, many Members have referred to the report of the Consumer Council in 1996, which recommended the Government to formulate a comprehensive competition policy. The Government's establishment of the COMPAG in 1998 was precisely a response to the recommendation. Therefore, by first conducting a review, we will be able to see much more easily whether the COMPAG has really achieved its avowed

objectives. And if it cannot, we will also be able to find out the reasons. We will be able to identify the deficiencies that have led to its failure. In the process, if we can convince more people that the enactment of a fair competition law is really inevitable, we will have made some headway. In the future, when we discuss the contents of a fair competition law and what mechanisms are required, I am sure that very often, we will have to find the answers through the aid of some reviews of the existing framework. Actually, the first step towards the enactment of legislation is policy formulation, and the latter will in turn call for a review of the existing situation. Even in the case of enacting a criminal law, very often, we must ask ourselves where the problems lie and what the defects are. In other words, we must ask, "What is the mischief? What should we target on?" In the case of enacting a fair competition law, we can also follow this practice. That is why we have chosen this approach as a means of addressing the differences in opinion, in the hope that it can help us achieve our objective and realize our dream.

Honestly speaking, there are two types of reviews. One of them is just a kind of stalling tactic meant largely as a gesture. One example is the so-called review related to the COMPAG, referred to by Ms Emily LAU earlier in this meeting. This is indeed a negative example, illustrating to us that our future review must not be like this but must be based on concrete and specific objectives and able to explain why the desired results cannot be achieved. Why are the desired results not achieved? What are the defects? How can the difficulties be overcome? It is hoped that by collecting facts and information in the course of review, we can entrench the justifications for a fair competition law and persuade more people to support its enactment.

Miss TAM Heung-man argued in her speech that a review could not possibly bring forth an environment of fair competition in Hong Kong. She is right, for a review is just a review and cannot possibly lead to any improvements unless there is a plan on what actions and steps will be taken following the review. It is only by setting down such a plan that we can ever hope to foster an environment of fair competition. Miss TAM Heung-man has made many criticisms about the COMPAG, questioning why it has failed to perform its functions properly. In his speech, Mr TONG Ka-wah has already covered many of the criticisms she has made, pointing out that the COMPAG is not vested with any power of investigation and sanction. We should set out all these viewpoints in more concrete details in the future.

To sum up, we certainly do not think that we should just conduct a review and rule out the enactment of legislation. Nor do we in any way oppose Mr Fred LI's motion. Rather, we only wish to foster a consensus, so as to materialize our objective as soon as possible. For this reason, we very much hope that Members can support Mr TONG Ka-wah's amendment. But if his amendment is negated, we will still support Mr Fred LI's motion.

Madam President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): Madam President, I will support everything, whether or not it is an amendment, because it is better than none, or making no progress at all.

PRESIDENT (in Cantonese): Please put on your microphone.

MR LEUNG KWOK-HUNG (in Cantonese): Excuse me. I will support any proposal, be it raised by Ms Emily LAU or Mr TONG Ka-wah, because it is better than none or accomplishing nothing.

It is actually like the question we ask, "Is there justice in Court?" Justice has to be seen and felt. Members may ask the citizens of Hong Kong on the streets whether there is monopolization in Hong Kong. I believe nine out of 10 will give a positive answer. Everyone agrees that Mr LI Ka-shing is monopolizing numerous trades and industries. One of the examples we discussed concerned whether Park'n Shop was monopolizing the market. In a debate between Mr James TIEN and I in an election forum, Mr TIEN said that monopolization was good because prices were cheaper and shopping would be more comfortable. Therefore, I once handed him a banana and asked him whether it sold cheaper in the market operated in my housing estate or in Park'n Shop. I have conducted almost 100 experiments to prove that bananas sell cheaper in markets. However, as pointed out by Mr WONG Kwok-hing, banana hawkers can be hurt deeply by non-economic means. Every time I passed by a fruit stall, the owner would tell me no one had bought his bananas and then he would ask me to buy all the bananas so that he could return home. Monopolization is thus evident. We can see that some monopolistic practices are left over by the British. For instance, consortia were allowed to freely

operate public services and public utilities in Hong Kong with guaranteed profits because the British were not interested in taking charge of these matters. The market is therefore completely closed.

I have also witnessed that, after monopoly was broken in the telecommunications market, the charges of long-distance calls have dropped to such an extent that they are simply unbelievable. By common sense, it is understandable that monopolization cannot benefit the public.

In a capitalist society, monopolization is inevitable. Whoever gets the largest share of the market reaps the biggest profit. We are merely making a very humble request by pleading consortia not to take up too large a share. Let me cite another example — the monopoly by the Hongkong Electric Company Limited (HEC) — again owned by Mr LI Ka-shing. That the HEC could raise tariff again and again despite the prevailing depression was all because of the monopoly it enjoyed. The Government — particularly the former British Government — has been so irresponsible as to allow public utilities and services to be controlled by a single consortium. These listed consortia, also controlled by other consortia, can thus form themselves into a holy alliance. We were described by Mr Abraham SHEK the other day as an unholy alliance. So, this is a true holy alliance. Like the European counterrevolutionary, Mr METREVELI, who would combat revolutions whenever he saw ONE, this holy alliance has an extensive influence.

This is incomprehensible to the public in general, because all shareholders in the stock market are rich people. I believe not too many Members here are holding such a large number of stocks. Why are Members so unanimous in conniving at monopolization? This is because consortia are mutually controlling each other, holding shares in each other's companies. This is the truth. Why do the rich accuse "Long Hair" of being anti-monopoly? Because they are the shareholders as well as listed companies. Many consortia are operating business behind the doors like family business. This is the secret. As such, people opposing monopolization by the consortia are actually opposing the highest stratum of this pyramid-like society. What can people of this stratum be called? They can be called "profit-reapers". Doing nothing at all, they rely merely on dividend or, in other words, the value gains of their shares and wealth building. They ride over us. This is the reason why we are facing such a difficult task.

Mr Abraham SHEK accused Mr Fred LI's motion of depriving Park'n Shop and Wellcome of their business and forcing them out of the market, with the ultimate result of depriving his voters of their jobs. The excuse given by Secretary Elsie LEUNG years ago for not to press charges against Ms Sally AW was the same — laying charges against the then *Hong Kong Standard* would result in many job losses. This was absolutely the logic of the rich. How does this logic work? The rich are in control of everything. They will benefit the ordinary people by monopolizing the economy.

Even I personally find the remarks made by me not entirely believable, because it is simply impossible to oppose monopolization. However, I still have to raise my objection because many small operators and hawkers have complained to me and many ordinary people have asked me to expose this deceptive game. I have to tell Members that the four major property developers, in collaboration with a number of monopolistic consortia, are consolidating their interest through the small-circle election. A number of Members who are not presently sitting in this Chamber or listening attentively, as well as those who dare not face this issue, are their tools. Therefore, I will definitely support Mr TING Ka-wah and Ms Emily LAU because this is.....

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, your time is up.

MR LEUNG KWOK-HUNG (in Cantonese): (*Facing Ms Emily LAU*) your speech, your speech

PRESIDENT (In Cantonese): Mr LEUNG Kwok-hung, your time is up. Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): I have not finished yet.

PRESIDENT (In Cantonese): Although you have not finished, (*laughter*) your time is up. Are you aware of such a requirement in the Rules of Procedure?

MR LEUNG KWOK-HUNG (in Cantonese): I have to clarify that I am not supporting Ms Emily LAU's motion — I have made a mistake. I am actually supporting her speech.

PRESIDENT (In Cantonese): Fine, you may sit down.

MR LEUNG KWOK-HUNG (in Cantonese): Thank you, Madam President.

MR VINCENT FANG (in Cantonese): Madam President, the fact that Hong Kong all along upholds free market economy and has been rated by the Heritage Foundation as the world's freest economy for the tenth consecutive year shows that it is indeed a highly competitive city. One of the main factors enabling Hong Kong economy to constantly move forward is that our competitive edge has maintained a lead in the international community.

In a city where its economic development has reached a relatively mature stage, some people or enterprises who have been playing the economic game for years have built up a substantial foundation. To further develop on their established foundation, they inevitably enjoy a greater advantage than new players. Therefore, in each and every trade and industry, some run at a stunningly high speed and operate on a larger scale, while some find it more difficult and operate a relatively small business. In the final analysis, it is because they did not start on the same line.

Members proposing to enact a fair competition law would like to see fairness being upheld because they notice that some players are running with difficulty. However, how can fairness be upheld? Are we going to slow down the fast runners at the front forcibly by enacting legislation rigidly or through administrative means? Are we going to push the slow runners forward?

Mr YEUNG Wai-kong, founder of the *Next Magazine*, made the following comment in an article published in the magazine last week, "Establishing "fair competition" through the Government's visible hand, like helping the shoots grow by pulling them upward, will easily produce a counter effect that runs contrary to the Government's original intention. In other words, once the

Government, however well-intentioned, interferes in promoting "fair competition", an opposite effect will often be achieved. This will provide people with ulterior motive an opportunity to hit their opponents in the name of fairness and lead to unfair competition."

In the wholesale and retail sector, particularly among supermarkets, there is indeed a relatively big gap in terms of the scale of operators. Yet, this disparity between the weak and the strong has not deterred the entry of new participants. Furthermore, it is not true that supermarkets are dominating the consumer market and facing no competitive rivals. For instance, dispensaries that are found throughout the territory are one of the major rivals of supermarkets in selling daily necessities. As supermarkets have their own structural cost problems, many commodities are not sold as cheap as we would imagine. Smart consumers will definitely notice that cleaning products, toilet rolls, diapers, formula milk, and so on, are very often sold more cheaply in dispensaries than in supermarkets.

Should a fair competition law be enacted, how can a line be drawn in determining fairness in the wholesale and retail sector? Is it according to market shares? Or should it be made compulsory for those leading the markets give away some of their shares of the market? I am worried that a "sweeping" fair competition law will, on the contrary, impede the flow of international capital into Hong Kong's investment market and deal a blow to our free and open competitive system, thereby ruining Hong Kong, a free port that has been in operation for more than a century, in one day!

Actually, Members should understand that competition in the international community is extremely fierce, and there are numerous examples of withdrawal from the race because of failures to adapt to the environment. Under the general trend of globalization, Hong Kong must not slow down its pace if it is to maintain its competitive edge, for we will be giving away our market with both hands once we slow down.

In my opinion, the Government had better prepare the late starters and offer them assistance to enable them to keep up with others instead of enacting legislation rigidly. For these reasons, I hope the Government can seriously handle complaints against unfair competition; improve the business environment of the wholesale and retail sector, particularly the condition of the retail market

targeting the small and medium operators; make reference to the way in which assistance is offered by the Trade and Industry Department to small and medium enterprises (SMEs) with a view to providing the wholesale and retail sector with similar assistance by, for instance, setting up a loan fund, to help SMEs acquire additional resources to enhance their competitive edge.

Madam President, I agree that it is essential for Hong Kong to improve the existing business environment and promote its principle of fair competition so as to provide market participants with equal opportunities.

For these reasons, I support Mr TONG Ka-wah's amendment.

I so submit. Thank you, Madam President.

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, this is the second time I mention the film "Infernal Affairs" in this Council today. However, I believe Mr TONG Ka-wah bears more disgrace and an even heavier burden than being a traitor. He obviously wants to achieve some results through this Council in promoting fair competition. It can be said in an exaggerated manner that this Council — excluding this term — has conducted seven debates on this topic since 1993, dating back to the former Legislative Council. The most successful battle was fought in 1997, for even the DAB gave its support.

The amendment proposed by Mr TONG Ka-wah today has merely sought to turn the clock back to 1997, when the Government responded to a report compiled by the Consumer Council by setting up the COMPAG, as if administering a cough syrup to treat a cough. It has now become apparent that this cough syrup, after administration for six years, does not work. Therefore, if a review is conducted again today, we have to consider whether anything can be gained. Frankly speaking, the Democratic Party will be pleased to give support by taking half a step, even if there is a small gain only. However, after a round of discussion, we find that we will not be taking half a step forward. We will probably be making half a step backward, not forward, instead. This is why we cannot give our support.

After listening to today's debate, I find the remarks made by colleagues of the DAB most interesting. Despite their consistent criticisms of the fair competition law, they eventually voiced support for the original motion and the amendment. They can vote for the original motion if they support the amendment to secure its passage. This is probably one of the reasons why they can say that they support the original motion so loudly.

Actually, I have this question in my mind: Can all the problems be resolved after enacting legislation? I do not think so. This is because no one can tell in today's discussion what legislation is going to be enacted. Apart from mentioning several pieces of legislation in principle, we have not yet touched on the details. Even if we focus on a fair competition law, Members must not confuse the legislation we generally refer to as a fair competition law with legislation against monopoly or acquisition and merger activities in terms of their differences in behaviour or the regulation of behaviour. Even the range of behaviour regulated by a fair competition law can be extremely wide.

Mr Fred LI and I once moved a private bill in 2000, seeking to regulate a very small proportion of such behaviour. Let me cite Banyan Garden as an example. A person may have filed a civil lawsuit to press charges against a person engaging in an unfair deal, probably because the former felt that he had been treated unfairly. Had there been regulation of behaviour, or had a fair competition law been in place, or had the private bill we moved years ago been fortunately passed, tenants of the Banyan Garden would be able to file a civil lawsuit. Should they win, they can possibly enforce an injunction to unbundle this service, or prohibit the charging of management fees (including the so-called telecommunications service charges).

Even if we are to discuss fair competition behaviour, it is not necessary for colleagues in this Council, particularly the Liberal Party and Members of the business sector, to make such a swift remark or say right at the beginning that the fair competition law, like a monster, will jeopardize Hong Kong's competition edge. This sounds a bit like raising the issue to a higher political plane. Why? Actually, the number of countries with fair competition laws has exceeded the number of those without. Mr WONG Kwok-hing put the number at approximately 80 earlier. I guess his research assistants have not got the figure right — the figure actually dates back to years ago. I just got some on-line information given in 2000 by a Harvard professor who had surveyed developing

countries only. Before the '90s, only less than 90 countries had fair competition laws (I have not taken into account developed countries because fair competition laws have already been enacted for OECD members for a long time). By 2002, there were already 93 developing countries with fair competition laws. Coupled with OECD members, or the richmen's club, 200 United Nations members have enacted such laws. We can thus see that countries with fair competition laws have outnumbered those without.

I understand our Government very much. I recall that when we discussed this issue more than a year ago, Permanent Secretary Sandra LEE told us when answering our questions concerning the enactment of a fair competition law in Hong Kong that only socialist countries had fair competition laws. I almost fell on the floor with a bang at that very moment. The reason is that it is simply not necessary for socialist countries to have fair competition. Many economic activities carried out in socialist countries are considered national acts. The governments themselves have the authority to decide. All monopolies (if any) are taken as the monopolistic acts of the countries. No country will consider it necessary to regulate itself. Therefore, judging from the Government's way of thinking or its vision (I hope her vision does not represent the Government's vision), there might be other reasons or justifications for the attempt to delay the enactment of legislation.

Nevertheless, we can note from recent developments that some small economies, such as Singapore, have started to enact legislation one after another. Members must not take Singapore lightly. I agree with its approach, for it is a typical example of small economies. The Government has often argued that it is not necessary for small or open economies to enact legislation. The trend has now been reversed. It is my hope that the Government will be willing to formulate a policy. I would rather begin with a small step by considering what should be covered when we begin discussing a fair competition law. I do not know when an anti-trust law, similar to the fair competition law targeting Microsoft, can be enacted in Hong Kong. It will be great for Hong Kong, given its scale, to see the birth of another Microsoft. However, we do not have the requisite conditions at the moment. Yet, I still consider it necessary for us to enact a fair competition law.

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

MISS CHAN YUEN-HAN (in Cantonese): Madam President, although I was not a member of the Panel on Economic Services in the last term of this Council, I would attend its meetings whenever this issue was discussed by the Panel. This, coupled with the fact that I have also spoken on this topic in this Council, shows my great concern about this matter over the years. In the last term, Members were informed by the Government of the plan of the Housing Department (HD) to sell the shopping centres in public housing estates. In the course of a discussion held on this issue, a number of operators sat in the public gallery. They were extremely worried that small businesses would encounter enormous difficulties in starting business should the HD decide to sell its shopping centres. While it could still be possible for small businesses to start up their operation during the initial period, it will be very difficult for them to do so after the shopping centres have built up a brisk business. We can see that only several large groups are now operating in large shopping centres. As a result, shop operators are greatly concerned if there will be room for their survival after their shopping centres are sold. They demanded the HD to, like giving them allowance at present, let them survive. They even proposed that the *status quo* be maintained for a period of 10 years.

Madam President, what we can actually see in the community is that stall operators of government markets will panic whenever a large supermarket appears in the neighbourhood. This is because small operators can simply not compete with large supermarkets. In the districts I am familiar with, stall operators are simply frightened by the appearance of large supermarkets. I have repeatedly presented my view on this issue in this Council. This was the question posed by me: In what way should the Government look at the matter when so many small businesses in the communities and small operators are being suppressed on an unfair platform? We demanded the Government to provide them with a level playing field by, *inter alia*, improving their business environment by, for instance, installing air-conditioning system, and so on, because we noticed and believed that a number of small businesses would disappear within years should the situation be allowed to persist. Many such operations will surely be eliminated.

Madam President, I have often criticized the Government for its design of the so-called "satellite towns". It appears that the newer their design, the more deplorable their condition will become. I have often criticized Tseung Kwan O because its shopping centres were purely designed for supermarkets. I heard

Mr Abraham SHEK say that there were numerous small supermarkets in Kwun Tong. I wonder if he can list them out. Actually, there are just a few. If not for the existence of old buildings in the district, can those supermarkets survive? Members may wish to visit Tseung Kwan O to take a look at the design of the "satellite town". They will surely find a couple of large supermarkets once they step into the shopping centres in the district.

I have mentioned this issue numerous times in recent years because we care about employment. We can see that a number of unemployed people operate small businesses throughout the territory to support themselves. However, they will not be able to continue their business once they encounter the situation mentioned above. I really hope the Government can consider the matter. Actually, I have mentioned this numerous times before — should this situation remain unchanged, the normal job vacancies of workers will gradually dwindle following the globalization of world economy. Judging from the current business situation, the Government is not doing enough by merely introducing fair practices to just one or two industries, without starting to work or tackle the matter.

The Secretary once asked me what should be done. Maintaining an open attitude, I feel that the crux of the matter precisely lies in the Government's willingness to take the first step to address this issue. At least, it should discuss with the stakeholders to examine which industries have seen the emergence of such situations so that the stakeholders are finding it increasingly difficult to survive. What I mean is small operators have found it impossible to continue their business with the emergence of large groups. I understand that some unemployed people have planned to operate small businesses to support themselves. Given our intention to promote a local community-based culture and economy, we should foster a healthy culture of competition to promote the development of the culture and economy. Otherwise, once an operator expresses his wish to engage in creative economy, large groups will follow suit thinking that the business is very profitable. In this way, small operators will eventually be eliminated by large groups. How can the former compete with the latter? This is why I believe, like what was discussed in the motion debate on the setting of a minimum wage last week, the pay of wage earners and the interest of small businesses in the market will become unprotected when the market is so distorted or imbalanced, and when a level playing field is lacking for competition.

Madam President, what I care about is more than small businesses. I can cite plenty examples if I want to. However, Secretary Stephen IP left me a good impression today because he told me that even his friends in the business sector had expressed in the last Council meeting their willingness to discuss the minimum wage issue in the Labour Advisory Board (LAB). In this connection, he undertook that he would move a motion next month, or the month following the selection of the new term of the LAB, to discuss the minimum wage issue. Of course, we have no idea how the discussion will fare. Certain industries may remain undecided as to whether they will take part in the discussion. I guess this is not important; what matters most is that the discussion can proceed. Their willingness to talk shows that Hong Kong is a civilized society.

Similarly, we do not want to take the fair competition law to extremes honestly. After rounds and rounds of discussion, I have come to realize that this is not going to work. Whenever this topic was discussed in the last term of this Council, I would try my best to speak and gave an account of the unfair practices found in the market at that time. After repeated debates, I really hope that Members can sit down for a discussion. It helps as long as Members are willing to discuss.

Therefore, I will support both the original motion and Mr LEUNG Yiu-chung's amendment today. However, I have to say sorry to Mr TONG, for his starting point is too low — still discussing the COMPAG, an organ teased by us as a "toothless" tiger. I find the starting point a bit too low if he insists on starting from there. Madam President, I so submit.

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

MR MARTIN LEE (in Cantonese): Madam President, I was appointed Chairman of the Consumer Council by the Government for the period 1988 to 1991. Up till now, I still have no idea why I was chosen. Yet, why did the Government "fire" me subsequently? It might be due to a report compiled by us during my tenure to examine whether there was monopoly or oligopoly in Hong Kong, for the answer was found to be affirmative. Shortly afterwards, I received a letter thanking me for my contribution. The three-year chairmanship was actually very short. Can the Secretary explain to me why my tenure lasted

only three years or why I was allowed to stay in the post for such a long period?
(*Laughter*)

In presenting a very short paper that was far from being a report, we pointed out that an in-depth study was warranted if we were to truly identify the problem in detail. We also suggested the Government to, should an in-depth study be required, commission experts to assist in its work or carry out its own study. The Government later decided to commission the Consumer Council to undertake the study, though I had already been "fired" then. In 1996, the Consumer Council conducted a considerably in-depth study and presented a report afterwards. No one or Members pointed out the mistakes of the report at that time. The recommendations of the Consumer Council covered two aspects, namely the enactment of a fair competition law and the establishment of a fair competition commission.

What is the content of the relevant law? The matter is very simple, for only two major issues are involved. Item 8.12 of the report reads, "the Consumer Council strongly recommends the enactment of a competition law to cover horizontal and vertical collusive agreements". The report then briefly says: First, to prohibit agreements between firms that are intended or have the effect of preventing, restricting or distorting competition. Second, to prohibit any abuse by one or more undertakings of a dominant position that prevents, restricts or distorts competition. Should Members consider this no good, would they tell me whether they want such a distorted situation appear? I hope the Secretary can address these recommendations.

The Consumer Council made these two recommendations (the Consumer Council was essentially a "toothless tiger") because it knew that it was a "toothless tiger". Given the serious attitude of the Government, it thus suggested the Government not to create another "toothless tiger". Guess how the Government reacted? It decided to set up the Competition Policy Advisory Group, another "toothless tiger".

May I invite Members to examine the consequences of the amendment proposed by Mr TONG Ka-wah? Let us examine the amendment. Where is it? (*Laughter*) Here it is. He has proposed to delete the following from Mr Fred LI's motion ", as a survey conducted by the Consumer Council shows that the management companies of a number of private housing estates have, without giving prior notice to or obtaining the prior consent of the property owners,

outsourced the estates' telecommunication services to their associate companies, with the charges of such services being bundled into the management fees, such practices have violated the principle of fair competition and undermined the interests of consumers,". I really cannot understand why he proposed deleting all these words. The motion originally reads: "this Council urges the Government to thoroughly review the existing policy on fair competition, including the powers and operation of the Competition Policy Advisory Group, and to study the feasibility of enacting a fair competition law so as to safeguard the business environment in Hong Kong." Yet, Mr TONG has proposed to amend this part by deleting "existing policy on fair competition", "function and effectiveness" and "to study the feasibility of enacting a fair competition law", and adding the following: "This Council urges the Government to thoroughly review the function and effectiveness of the Competition Policy Advisory Group so as to ensure that there is a fairer trading environment in Hong Kong."

Since the Government is so determined to create a "toothless tiger" and rejected the two very useful recommendations of the Consumer Council, I will say that I definitely agree with the proposal of asking the Government to review the function and effectiveness of the organ. This approach is fine with me. However, how can we ensure a fairer trading environment in Hong Kong? So, we are not going to do what we can do! Actually, I consider Mr Fred LI's motion not strong enough, for he has not demanded the Government to enact legislation. He has merely proposed studying the feasibility of enacting a fair competition law. Actually, the Consumer Council has presented the two problems, as well as all the principles. Mr Fred LI has taken a step backward, probably because he is getting old.

In contrast, I am greatly impressed by Mr LEUNG Yiu-chung. He has put forth a very clear demand to the Government to expeditiously enact a fair competition law and set up a fair competition commission. Actually, he was merely following the recommendations of the Consumer Council's report. Therefore, I would like to draw Members' attention to the fact that we will be playing into the Government's hand should we endorse Mr TONG Ka-wah's amendment. I surely understand that Mr TONG does not want to see the motion and the two amendments end up being negated. Neither do I. Sometimes, we will end up achieving nothing at all! Even if we can identify the crux of the problem and reach a consensus, what will happen if the amendment is passed? We must consider the consequences. I can tell Mr TONG through the President that nothing will be accomplished, as it will not make any difference

whether or not the amendment is passed. Will the Government enact legislation? The Government will not do so even if the amendment is passed.

The barristers are actually supportive of Mr Fred LI's motion. If that is the case, they should not introduce any amendment because once an amendment is made, they cannot support enacting legislation anymore. Nor can they consider or study the feasibility of enacting legislation. The amendment, if passed, will render Mr Fred LI's proposal completely useless, for the most useful wordings will be deleted in their entirety. I had originally doubted whether I had got it wrong, but now I am absolutely certain that I am right, for I found Mr Abraham SHEK paying tribute to Mr TONG. This is why I know that I have not made a wrong judgement. (*Laughter*) Thank you, Madam President.

MR ALBERT CHAN (in Cantonese): Madam President, I remember vividly this line from *Animal Farm*, a book I read years ago: All animals are equal, but some are more equal than others. Hong Kong's free market is operating in the same manner: Everyone enjoys freedom, but some enjoy more freedom than others. Some of the influential super-rich enjoy more freedom than others — without going through tender procedures, they can, for instance, secure the Cyberport; construct buildings and have them managed by their own management companies; allow their management companies to pick their own telecommunications companies as providers of telecommunications services; allow their subsidiaries, cleansing firms, and so on, to be monopolized by companies controlled by their family members or relatives. This is the *modus operandi* of the free market which the Hong Kong Government has often insisted upon.

Some major consortia in Hong Kong may let their own shopping centres exclusively to the supermarkets under their operation. This is indeed a common phenomenon. They can go so far as to exercise control on all supermarkets and the management of markets. In other words, the living environment of the entire population of a district, reaching 200 000, is in the hand of a single consortium. The freedom enjoyed by Hong Kong can possibly be judged in this way: apart from the operation of coffin shops, the market is controlling almost everything, from clothing, food, housing to transportations. This is the Government's version of Hong Kong's free market. Yet, many people seem to find Hong Kong's free market very appealing and admirable.

In my opinion, Hong Kong's free market can be compared to an African jungle, in which natural selection and survival of the fittest, as advocated by socialist DARWIN, are dominating, with small creatures being swallowed by the rich and powerful. Hong Kong can also be compared to the Amazon River, in which crocodiles and piranhas flourish and anyone who is not careful can be eaten at any time. If we think this is a free market and this is where human beings survive, we can join Mr LEUNG Kwok-hung in his Trotsky revolution by lifting the arms and engage in assassinations in order to fight for more freedom.

Freedom will become the source of force if the former is not subject to regulation or constraint, and shows no respect to the existence and dignity of men. People who are ruthless enough, rich and powerful can now ignore the life and death of others. Some management companies are allowed even to sell newspapers, thus depriving the means of living of newspaper vendors who have been in the business for five or six decades. The Secretary, if advocating such freedom, will have to face a violent revolution staged by Hong Kong citizens. When freedom is abused, the suppressed will fight for their freedom by their own means. Revolutions broke out in Russia, France and China precisely because people were determined to fight for the freedom to which they were entitled.

I have cited a lot of similar examples in this Chamber before. I see that Members are laughing. Guess I am kidding? Over the years, I had met many people who were so furious that they even killed themselves, or made emotional remarks. Members must not underestimate these flames of fury or assume that the flames of fury have come from Albert CHAN only. I am merely reflecting the fury felt by the masses with whom I have come into contact.

When I look back at our market, I find that I resemble Rosemary's Baby of Roman POLANSKI, whereas Hong Kong is like a freak born out of the cross breeding between government officials, businessmen and politicians. Under the disguise of accepting the free market, the Government is actually conniving at, assisting in, and supporting major consortia and "chaebol" (財閥) to control the market. Upon retirement from their official posts, senior officials will be recruited by the major consortia. If Members should care to refer to the personnel lists of the major consortia, they will find many senior officials are working in these consortia as their staff, salaried directors or consultants. Many officials from the Lands Departments took up new posts in consortia soon

after their retirement. Of course, the Government will definitely repeat that there is a very stringent mechanism and vetting procedure. Yet, this clearly demonstrates the traditional manner in which government officials and businessmen exchange benefits. This freak has now thrown Hong Kong into great misery, with the disparity between the rich and the poor growing wider and wider. The concentration of wealth on a handful of consortia is so serious that it has become alarming. However, our Government adopted the same attitude as that of Mr TUNG Chee-hwa by merely greeting us "good morning" for three consecutive days after 500 000 people took to the streets on 1 July. Despite the seriousness of Hong Kong's present situation, the Government is still telling us that it has to conduct further studies. Even though the proposal of enacting legislation has been discussed for more than a decade, the Government is still afraid of proceeding with legislation.

I remember a committee set up to review the Building Management Ordinance (Cap. 344) has reached an agreement with the Government that it will no longer be necessary to secure more than 50% indivisible shares in order to terminate the appointment of management companies effected by virtue of unequal deeds of mutual covenant. Instead, the threshold will be lowered to 20% of the total number of owners. Despite the agreement, the Government dared not put the proposal into practice and withdrew its proposal after consultation because of opposition from the major consortia. This is because the consortia were afraid that they might lose their management power in the event that 20% of the owners could terminate the appointment of management companies.

Even in our great Motherland, the management of all new property developments have to go through public tender before it can be entrusted to management companies. A new legislative procedure on real property was passed in China early this year. Our Hong Kong officials have now lagged behind those of our Motherland! Yet, Hong Kong's major consortia dare not criticize our Premier WEN Jiabao or our mainland leaders for failing to take care of their interest. Should Hong Kong's government officials continue to lag behind their counterparts in the Motherland, Hong Kong will become hopeless.

I find Mr TONG Ka-wah's amendment disappointing. I really hope the Article 45 Concern Group can find out the grievances and sentiments of the people. I always feel that they are keeping themselves aloof from the masses, and that they do not care about or understand the plight of the grassroots.

I support Mr Fred LI's motion and Mr LEUNG Yiu-chung's amendment. Thank you.

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

MS AUDREY EU (in Cantonese): Madam President, I have listened very attentively to the speeches delivered by all colleagues today. Many opponents of the original motion consider the motion controversial and unable to secure a consensus. Furthermore, it cannot provide a miracle cure for all ills. We are most familiar with all these excuses, for they are applicable in all cases. They can be used in whatever context too. Should we stick to these excuses, however, nothing can be accomplished because a 100% consensus is simply impossible in this world without causing any controversies. Neither can there be one single solution that is able to resolve all the problems. Members making these excuses can apply them to everything.

Madam President, as the saying goes, one who is not in the same unfortunate situation does not realize other people's suffering. I recall that a similar question, namely fair competition, was debated in the last term. On the one hand, the Liberal Party raised its opposition, and on the other, Mr Kenneth TING of the Liberal Party moved a motion demanding the Government to interfere in the terminal handling charges because they were too high. Actually, Mr TING was able to make such a request for fairer charges because there was a lack of fair competition in an oligopoly market. However, when it came to supermarkets, he considered that there was adequate competition and no changes were warranted.

Mr Abraham SHEK argued that supermarkets had not driven out the small grocery stores because many such stores could still be found in Kwun Tong. However, Madam President, I wonder whether it had occurred to Mr SHEK that the number of such stores could be greater still had there been fair competition.

Mr Albert CHAN earlier accused members of the Article 45 Concern Group of failing to appreciate the misfortune of the grassroots. Madam President, I was elected to this Council through direct elections. I have visited a number of old housing estates too. Before the 12 September election this

year, I visited some old housing estates in Aberdeen. I was told by the owner of a store that his parents bought the store and raised him. Now he was in his forties; yet the housing estate had to be relocated. Not knowing what to do, he could only continue his life as usual, for small grocery stores can hardly survive regardless of their location. Madam President, it is not true that we do not appreciate the plight of the grassroots. Nor is it true that we do not support a fair competition law. Insofar as this issue is concerned, I will respond to the viewpoint of Mr Albert CHAN later.

I would like to say a few words on the viewpoint of Mr Abraham SHEK because it is even more "impressive". Mr SHEK stated that he did not see any evidence of a breach of fair competition. In other words, there was presumably no breach of fair competition just because he did not see it. He then went on to say that property developers had not collaborated in the bidding last time. Madam President, the fact that they had not collaborated in the bidding last time does not mean that they have never done that before. Mr SHEK may have forgotten that it was precisely due to the occurrence of such an incident that a three-person team was set up by the Government to investigate the incident, and I was one of the team members. We did make some proposals to the Government and we pointed out that certain rules must be observed in the course of bidding. These rules are actually still in use nowadays. Therefore, Madam President, the reasoning that it is not necessary to enact legislation because there was no violation last time is not right. All these issues have to be considered further.

However, Madam President, I agree that it is not easy to enact legislation. As pointed out by me earlier, enacting legislation cannot resolve all problems. However, this does not mean we do not have to do anything. Mr Vincent FANG raised the point that we should not enact legislation in a "broad-brush" manner. Madam President, there is no need to us to accomplish our goal in one step. This also explains why Mr TONG Ka-wah is going to move an amendment. In our opinion, we should at least take the first step by, for instance, turning the Competitive Policy Advisory Group, called by Members a toothless tiger, into a tiger armed with teeth by giving it powers of investigation and sanction so that the public can lodge complaints with it. At least, a precautionary deterrent effect can be achieved if the public can file complaints against apparent non-compliance cases and violations of fair competition, and this independent tiger armed with teeth is able to launch its own investigation.

Madam President, I would like to come back to the speech delivered by Mr Albert CHAN earlier. Is it true that we do not support a fair competition law? Actually, both Mr TONG Ka-wah and Ms Margaret NG have made it clear in their speeches, and I am going to say it for the third time, that we support a fair competition law. It is not true that we oppose it. We will support Mr Fred LI's original motion as well as Mr LEUNG Yiu-chung's amendment. Nevertheless, we feel concerned that, should the motion and the amendments be negated, the Government will take advantage of the voting results and say that nothing needs to be done because there is no consensus. Actually, we very much hope that, after years of debate, at least a little progress can be made this time, though I am not saying that there is absolutely no substantive problem. If this Council can reach a consensus, like the eight-party coalition in the past, Members can make a strong appeal demanding the Government to expedite its work with more vigour.

Madam President, I do understand that Mr TONG Ka-wah's amendment will not be supported should there be a chance for Mr Fred LI's motion to be passed. Madam President, I very much support and respect Members who hold the attitude of "dying with honour rather than surviving with dishonour". But, actually, our purpose of being here in this Council is not merely to make known our stand and support only one position. I have made it very clear that the three of us support Mr Fred LI and Mr LEUNG Yiu-chung. Besides making known our stand and supporting our position, we also hope that something concrete can be done. If all Members or a great majority of Members can reach a consensus and join hands in forcing the Government to take a very clear stand, the Government will have to expedite its work. Madam President, this also explains why Mr TONG Ka-wah is going to move an amendment.

Lastly, Madam President, we will support the motion and the two amendments. Thank you, Madam President.

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

MRS SELINA CHOW (in Cantonese): Madam President, I do not mind taking all the trouble to say it once again that the Liberal Party opposes unfair competition. Yet, it does not support enacting a fair competition law in a broad-brush manner because this is not the right answer to the problem.

To start with, is legislation a solution to the problem? Apart from doubts, we have reservations too. We consider it even more difficult to enact a sweeping law. A colleague asked just now why Hong Kong had failed to enact a fair competition law, given that similar laws had been enacted throughout the world. Despite the saying everywhere that there are also more supporters for sales tax than those for enacting fair competition laws, why is Hong Kong so resistant to the idea? It is imperative for Hong Kong to consider its own problems in the light of its unique circumstances. Hence, it is useless to apply laws enacted in Singapore to Hong Kong. Despite the presence of a fair competition law in Singapore, it is applicable to a limited scope only. This point was also raised by Mr CHAN Kam-lam earlier. Even colleagues who spoke a moment ago pointed out that the law did not apply to electricity, fuels, public transport, container terminals, and so on, in Singapore. Even water supply and other sectors that are very likely to be subject to monopolization are not covered. In other words, many trades and industries are not covered, despite the presence of a fair competition law in Singapore.

Our stand is, in the event that there really is monopolization or unfairness in Hong Kong, we will definitely not rule out the possibility of enacting legislation to specifically deal with the situation. So, why are we going to support Mr TONG Ka-wah's amendment? This is because greater flexibility is needed if we are to help operators of SMEs. It will, on the contrary, be helpful to them if not every matter has to be taken to Court, given that litigation fees are exorbitant. Setting up an organ with solid powers, thus making it possible for justice to be sought without recourse to the Court, going through judicial proceeding and paying exorbitant lawyers' fees, is likely to resolve problems more speedily and be less costly, thus eliminating the possibility of rising costs and putting off SMEs. Actually, a door to many people will thus be opened for them to file complaints. We are convinced that this is worthy of our support.

I am not implying that we should never enact such a law, only that we do not consider legislating in a "broad-brush" manner the solution to the problem. Just now, a colleague raised the point — Mr LEUNG Kwok-hung has already left — and I do not understand why he accused Mr James TIEN of saying that monopoly was good. This is impossible. It is definitely not the position of the Liberal Party and Mr James TIEN. I feel that Mr TIEN has been "wronged". This is not right. The success enjoyed by Hong Kong today is actually attributable to the absence of monopoly. As a result, small enterprises can

become medium enterprises, whereas medium enterprises can become large enterprises. This is made possible because of the free market law. It is the hope of the Liberal Party that the free market principles be preserved as far as possible. It is simply wrong for some people to frequently think that the Government should intervene whenever there are problems, or lower the property prices should they remain high. This is because once an adjustment is made, we will, on the contrary, face such problems as the negative equity problem. Members should not believe every matter can be resolved by making legislative interference. It is not that simple. The market, pulled by a combination of forces, is very complicated.

Can the problem of having unsold bananas be resolved by simply enacting a fair competition law, as suggested by Mr LEUNG Kwok-hung? Now that everyone says that there is monopolization by supermarkets, but why is this possible as prices are marked even higher in supermarkets? Given that supermarkets pay higher rents, why do we still find a lot of shoppers and thriving business in supermarkets? Although I cannot claim myself to be a versatile housewife, I am nevertheless a housewife. Like other housewives, I like to buy fresh food, and wet markets enjoy a definite advantage. But why do we often shun wet markets? This is because wet markets are poorly managed, wet and dirty, and they are not air-conditioned. Who should be held responsible for this? Actually, the Government can certainly inject more resources into these markets to enhance their competitive edge. In this way, the markets can operate and in turn help the SMEs. Why do we not come up with more solutions, such as providing direct assistance to SMEs to raise their competitiveness?

I was indeed baffled by an extremely odd remark made by Dr KWOK Ka-ki earlier. He commented that the Legislative Council, being a legislature, should merely deal with legislation. He is wrong. This Council should discuss whether or not to legislate and which approach can make society better. This is the point we must consider. Sometimes legislation cannot necessarily resolve the problems. Very often, we have to put pressure on the Government to rectify some unfair circumstances speedily and directly through its policies or by administrative means, not necessarily by way of legislation. Therefore, Members must not mislead themselves and the public into thinking that all problems can be resolved by legislation. Actually, we have presented many problems, and they cannot necessarily be resolved by simply enacting a fair competition law.

Actually, the fact that we can be considered to be a typical free market means very much to us. Mr Albert CHAN accused us of merely emphasizing the merits of free market. I would like to remind Members that I was just quoting the Cato Institute in the United States and the Fraser Institute in Canada. Along with 57 other countries, the Institutes have named more than once Hong Kong as the freest economy in the world, as operators are allowed free access to Hong Kong's business market. This is our strength; it must not be deprived of indiscriminately.

Thank you, Madam President.

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

MR ALBERT CHENG (in Cantonese): Madam President, the transformation described by Mrs Selina CHOW, a result of history, can be traced back to the era of "Under the Lion Rock". The government official who quoted "Under the Lion Rock" has already quitted his post. Back in the old days, there were provision stores, groceries, laundry shops, and so on. Nowadays, stores are rarely seen. I think many kids have no idea what a grocery is. Even laundry shops have vanished. I do not know where Mr Abraham SHEK lives; he probably lives in heaven. He also mentioned Kwun Tong, the constituency to which Mr Fred LI, Miss CHAN Yuen-han and I belong. During the election month of September, we visited every corner of the district. Being an infrequent visitor, I made more frequent visits during that month. I know that, in the era of "Under the Lion Rock", Kwun Tong was a place where Mr Abraham SHEK frequented. He probably only remembers the past and cherishes the old days. Now it is very difficult to find a non-affiliated supermarket operating on its own. Mr SIN Chung-kai was right in saying that it is not difficult to find a supermarket, for Park'n Shop and Wellcome can be found throughout the territory.

When it comes to monopolization, Mr Abraham SHEK again said that he did not see any. Even our Secretary once admitted or tried to find out whether or not there was any monopolization in the oil market. The conclusion reached at that time was, even though there was no monopolization, there was agreement among suppliers. Despite Mr SHEK's denial of monopolization, after the

standardization of oil prices, Madam President, as pointed out by Mr TONG Ka-wah, the prices of petrol per gallon sold in Central and Tuen Mun were the same. Even the gifts, bottled water, were the same. After a visit to the filling stations, there would be more bottles of water and boxes of tissue in my trunk. In the past, there would be no need for us to check the price when we bought newspapers. Now we can check the price when we buy newspapers. This is because newspapers are not sold at a standard price, and packets of tissue may come with newspapers as gifts. Because of monopolization, even newspaper vendors are being forced out of business. The services provided in Members' apartments may range from newspaper delivery to the installation of broadband service, and so on. Yet, you must pay for all these services, whether or not you use them. Furthermore, there are laundry service, green minibus arrangements, and even service provided by doctors. Mr Albert CHAN said that only one service was missing, and that is, the provision of coffins. I can tell Members that this service will be provided soon or later. Mr Vincent FANG told us earlier that formula milk and detergents were sold at lower prices in some dispensaries. I guess it is not necessary for Mr FANG to remind Members, because these dispensaries will soon be phased out.

There is a separate voting system, as well as directly-elected and functional constituency Members, in this Council. Whenever motions are moved in this Council, functional constituency Members will invariably say that — as in the case of the motion just now — they are speaking in the interest of the trade or industry they represent. Moreover, they will claim that they are safeguarding the interest of their trade or industry. I would like to remind Honourable Members representing the retail and catering sector, and even the transport industry, as well as those wealthy Members, that your voters come from the SMEs. May I ask whose interest Members represent, that major consortia or that of voters from the SMEs? How can Members representing the retail, catering, and transport industries to, for the sake of protecting the interest of major consortia, stifle the interest of voters from the SMEs? Do these Members wish to lose their votes and give up their own seats? Mr Abraham SHEK was elected automatically because it is hard to find someone to compete with him.

I have no idea why Mrs Selina CHOW mentioned the word "broad-brush". I see that Mr Fred LI's motion has not mentioned this phrase at all. I very much understand Mr TONG Ka-wah because both of us belong to the pan-democracy camp — he is compromising for the sake of overall interests.

Just now, Ms Audrey EU rose in defence of him, explaining that he was worried that the motion and the two amendments would end up being negated. Numerous veteran Members concur that they have pushed for enacting legislation to protect fair competition for years and repeated their arguments again and again. Insofar as the Competition Policy Advisory Group (COMPAG) is concerned, I wonder how Mr TONG interprets it. As its name suggests, its objective is to protect fair competition. However, it was described by Mr TONG as a "toothless tiger". How can fair competition be protected without setting up a fair competition commission by way of legislation? In this respect, I really have to consult Mr TONG.

Mr TONG is a newcomer; so am I. A British proverb has it that "British dogs allowed two bites" — meaning British dogs can bite two times: while no consequences are caused by the first bite, the dogs will be euthanized after the second bite. First, I respect Mr TONG; second, I think he is sincere. He wants to form a holy alliance with Honourable or wealthy Members who represent the interest of major consortia in order to do something in concrete terms. I do believe his sincerity. As in the case of British dogs, it will be fine if they bite only once. As such, I am prepared to accompany Mr TONG to make one mistake. As he has behaved in such a naive manner, I cannot but do the same. While I support Mr Fred LI's motion, I also support the amendments proposed by Mr TONG Ka-wah and Mr LEUNG Yiu-chung.

I so submit.

MRS SELINA CHOW (in Cantonese): Madam President, just now Mr Albert CHENG mentioned the reference to "broad-brush" unfair competition law in my speech. Can I elucidate this point?

PRESIDENT (in Cantonese): Yes.

MRS SELINA CHOW (in Cantonese): In fact, a lot has been said on this. A "broad-brush" unfair competition law means a single piece of legislation enacted to regulate all cases of unfair competition. It covers all trades and industries and everything. That is what I mean by a "broad-brush" unfair competition law, and this is what we in the Liberal Party oppose.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Fred LI, you may now speak on the two amendments. You have up to five minutes to speak.

MR FRED LI (in Cantonese): Madam President, I would like to thank the 26 Members for speaking on this motion. Insofar as the two amendments are concerned, Mr LEUNG Yiu-chung actually moved a similar motion in 2001, though it was not passed owing to the separate voting system. This year, a motion debate on the same topic is proposed again, following the one moved by Mr LEUNG Yiu-chung in 2001. Just now, Mr Martin LEE described my motion as mild and weak. This is not surprising, for I am growing old. After the retirement of "Uncle Wah", I am now going to replace him as his successor. This explains why I will probably be more conservative than before.

We do not take issue with Mr LEUNG Yiu-chung's amendment, because our views are very often fundamentally consistent. Therefore, I have no comment in particular. On the contrary, a number of colleagues have expressed many views on Mr TONG Ka-wah's amendment. Had Mr TONG listened to the points advanced by Members supporting his amendment and those opposing his amendment, he should have noticed that they stand on two opposite sides. Members supporting his amendment are those from the Liberal Party, including the Alliance. They have clearly expressed their support for including some representatives, like business representatives, academics, full stop, to the Competition Policy Advisory Group (COMPAG). Some Members, however, suggested giving the COMPAG more power, and Mrs Selina CHOW was one of the supporters of this idea. Even Dr Raymond HO supported the idea of giving the COMPAG additional investigation power and armed it with more "teeth". Yet, the crux of the problem is, should the organ be armed with "teeth", legislation will become necessary. The conferment of power cannot be achieved merely by word of mouth. Even the Secretary cannot confer on the COMPAG any power. At the same time, these Members keenly oppose the idea of legislation. Their colleagues have expressed great fear of legislation. I have therefore no idea what result they intend to achieve through supporting this

amendment. Perhaps they are thinking of including two more representatives. When it comes to legislating to arm the COMPAG with some "teeth", I guess it is likely to trigger fierce debates and disputes, not to mention the enactment of a fair competition law. Mr TONG, you should have heard that they are totally against the enactment of a fair competition law. It is simply impossible for you to convince them. As stated very clearly by your colleagues, even if they lend you support, they still oppose the idea of legislation and the "broad-brush" approach, on the ground that the economy and freedom will be completely destroyed as a result. They have even acted in such an "extreme" manner by comparing the situation to an overnight disaster, economic damage, and so on. I believe you are a kind-hearted person, yet they will not in the least appreciate your intention. They will merely make use of your amendment to negate everything, because four of the five lines of words in my motion will be deleted. In my opinion, some deletions are not warranted. For instance, the reference to housing estates is intended to highlight why I have moved this motion again. It is because this problem has just come into light recently.

As such, I hope Mr TONG will realize that we fully appreciate his sincerity and his intention to do something. However, after we have discussed this issue again today, we in the Democratic Party still find it difficult to support his amendment. I hope the media will not make a big fanfare over this matter by making such claims that the pro-democracy camp is breaking up and that members of the pan-democracy camp are attacking one another, and so on. I absolutely disagree with these claims. We are still working very hard towards the same goal, though we cannot support this amendment. I can only express our views in this way.

I so submit.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, like Mr Fred LI, I also feel that I am getting old, and a bit tired too. But I really admire Mr Albert CHAN, for he is still so full of fire. *(Laughter)*

Members have offered plenty of valuable advice on the motion of enacting a fair competition law. To begin with, I must point out that the Government's objective is just the same as that of Members: We in the Government also

support fair competition. We also hope to enhance economic efficiency and promote free trade by fostering competition, with a view to benefiting consumers in the end.

Some Members have demanded the enactment of a comprehensive fair competition law to deal with competition-related matters in all sectors. I believe Members all understand that each industry, or each sector for that matter, is unique in one way or another. For this reason, can a comprehensive competition law applicable to all sectors serve as an effective means of solving all anti-competition problems? I think Mr SIN Chung-kai was very frank, because he admitted that we had neither discussed the definition of a fair competition law nor talked about what contents and mechanisms such a law should cover. That being the case, how can we assert that a comprehensive fair competition law will be able to solve all the problems? The desirability of fair competition does not necessarily call for a fair competition law. Likewise, the presence of such a law does not necessarily mean that there is fair competition. There are actually many ways of achieving fair competition. For instance, in the light of the respective circumstances and needs of individual industries, we may work out different measures for them, some examples being licensing conditions, contract provisions, codes of practice, administrative means or even the introduction of legislation directed specifically at the anti-competitive problems found in individual industries. I also wish to point out that if administrative measures fail to achieve their desired results in any specific industry, and if the enactment of legislation is really necessary and effective, the Government will be more than ready to enact legislation on the anti-competitive practices concerned. The provisions in the Telecommunications Ordinance and the Broadcasting Ordinance on anti-competitive practices are a good example proving that a comprehensive fair competition law is not the only means to foster fair competition.

Over the past few years, the Legislative Council has repeatedly discussed the question of whether or not a comprehensive fair competition law should be enacted. I agree that ideally, it is best to enact a comprehensive fair competition law applicable to all sectors and industries. But in actual practice, it will be very difficult to formulate a law that can really cover all anti-competitive practices. Fair competition laws do vary from place to place, and it is only understandable that there are bound to be differences in the scope of

application. For instance, in different places, depending on the public interest and considerations of public policies, different industries or businesses may be granted exemption. In the United States, the Federal Government and its subordinate organizations are exempt from being sued under the anti-trust law. Besides, some specified practices of agricultural co-operatives, the insurance industry, airlines and shipping companies are also granted exemption. Even in the case of Singapore, which was mentioned by many Members earlier on, we can notice from the recently released consultation paper on the draft Competition Bill that the exclusions actually cover practically all utility services and industries of strategic importance, including the electricity and gas sectors, public transport, telecommunication services, postal services, the media, cargo terminal operations, the armed security service industry, the supply of bottled water, sewage treatment and clearing house activities. If industries badly need protection are not covered, what is the point of enacting a so-called fair competition law? So the enactment of a fair competition law may not necessarily solve the competition-related problems in all industries and sectors. The types of practices that warrant regulation vary from place to place, and the means of regulation also vary, depending on the local context in question.

Besides, in regard to many vital concepts such as "market", "substantial restriction of competition" and "dominant market position", the competition laws and enforcement agencies of different places have not been able to come up with any common definitions so far. For example, market share is one of the main factors determining whether a company should be deemed as occupying a dominant market position, but there are vast variations among the competition laws of different places in this regard. For example, in the United States, only a market share of more than 70% may be regarded as constituting monopolization. In the European Union, however, a dominant market position may just be defined as a market share of merely 40% to 50%. And, in Canada, a market share of roughly 35% already suffices to constitute a dominant market position. Moreover, since the respective circumstances and needs of industries are different, a market share which is not considered as constituting a dominant market position in one industry may well be so regarded in another. For this reason, if a comprehensive competition law is applied across the board to regulate the anti-competitive practices in all industries regardless of their respective circumstances and needs, enterprises may be plunged into uncertainties, resulting in more disputes and adding to operating costs. This is not at all conducive to the promotion of competition.

That the enactment of a comprehensive competition law is not supported does not mean that there is no fair competition in Hong Kong. As a matter of fact, in terms of competition, Hong Kong does not compare any less unfavourably with places enforcing competition laws. For 10 years in a row since 1994, Hong Kong has been rated by the American Heritage Foundation as the freest economy in the world. What is more, since 2001, it has also been rated by the Frazer Institute of Canada and the Cato Institute of the United States as the world's freest economy. I am aware of Ms Emily LAU's remarks relating to the World Trade Organization Secretariat, but I am not going to dwell on them here. Let me just talk about something more recent. The Competition Policy and Deregulation Group of the Asia-Pacific Economic Co-operation, following its scrutiny of Hong Kong's competition policy in 2003-04 — this is something much more recent — has expressed its support for and approval of Hong Kong's market-led competition policy, whereby measures are formulated to cater for sector-specific needs. The Group is of the view that this is an effective means to foster competition and also an appropriate policy in the context of Hong Kong.

Madam President, Hong Kong has actually been making many efforts to promote competition. In 1997, the Government set up the Competition Policy Advisory Group (COMPAG) under the chairmanship of the Financial Secretary. The COMPAG is tasked with the responsibility of formulating Hong Kong's competition policy, examining anti-competitive issues, related policies and systems and also putting forward measures to foster competition in Hong Kong. The COMPAG promulgated a Statement on Competition Policy in 1998, setting out the Government's policy objectives. It also developed a set of guidelines later on. Besides, the COMPAG also investigates cases of anti-competitive practices. Since its inception in 1997, the COMPAG has handled more than 90 such cases. And, government departments and bureaux have introduced roughly 60 measures to foster competition in accordance with the relevant advice given by the COMPAG.

Since the international community has so far failed to agree on any common standards in regard to many vital concepts and the scope of regulation, the Government has decided, after considering all divergent views and the experience of other economies, that Hong Kong should foster a competitive business environment and promote competition in individual industries by formulating sector-specific measures in the light of practical circumstances and

the needs of the industries concerned. Such measures include licensing conditions, contract provisions, the issuing of business guidelines, codes of practice and the incorporation of provisions against anti-competitive practices into the ordinances regulating the industries concerned. For example, in view of the unique circumstances of the telecommunication and broadcasting industries, we have incorporated provisions against anti-competitive practices into the ordinances prescribing the overall regulatory frameworks for these two industries. If there is any need to introduce legislative control in other industries, we shall be more than ready to enact legislation focused on the anti-competitive practices in question. The Government is also assisting the retail payment system industry in drawing up a code of practice, so as to foster its market competition, upgrade its economic efficiency and bring forth more market entry opportunities to potential operators.

Many Members have referred to the fuel market. Since petrol filling station sites are indispensable to operators seeking market entry, the Government has introduced a series of measures to facilitate the award of petrol filling station sites to new entrants, so as to foster competition in the fuel market. Recently, we have revised the tender system, whereby petrol filling station sites are tendered in batches and tenderers are allowed to submit a single bid for all of the sites and separate bids for individual sites included in a batch. The aim is to enable potential new entrants to achieve a "critical number" of sites and economies of scale, thereby encouraging more competition in the retail fuel market. Two new operators, namely the Chinaoil (Hong Kong) Corporation Limited and the Sinopec (Hong Kong) Limited, have entered the market under the new tender arrangement.

As for whether or not there are any anti-competitive practices in the fuel market, we have been closely monitoring price changes in the international and local oil markets. And, as disclosed by the Financial Secretary this morning, the COMPAG will conduct a review of the local fuel market to ascertain whether there are any monopolistic or anti-competitive practices.

Besides government efforts, the participation of the business sector and the general public is also very important to the promotion and assurance of fair competition. Last year, in consultation with 30 chambers of commerce and trade and industry organizations, the COMPAG developed the "Guidelines to Maintain a Competitive Environment and Define and Tackle Anti-competitive

Practices". The guidelines have received positive responses from the business sector. The Hong Kong Retail Management Association, for example, has drawn up a code of practice applicable to supermarkets. Besides, the COMPAG has also designed various interactive games and courses aimed at increasing the awareness of the Government's competition policy among students and young people.

Mr Fred LI's motion mentions that the management companies of a number of private housing estates have, without giving prior notice to or obtaining the prior consent of the property owners, outsourced the estates' telecommunication services to their associate companies, with the charges of such services being bundled into the management fees. It is further said that such practices may have violated the principle of fair competition. After studying the case of Banyan Garden, the COMPAG is of the view that the problem concerned is basically related to property management, not competition, and as such, it cannot be properly handled simply by enacting a competition law. The COMPAG considers that the real estate developer should have given advance, comprehensive and comprehensible information on the types of services included in the management fee prior to the sale or occupation of the building. The COMPAG further concluded that where building management services are provided by the real estate developer or management company before an Owners' Corporation can be formed, the contracted services should only be of a reasonable duration such that the owners will have the option of making their choice subsequently.

The COMPAG noted that the Deed of Mutual Covenant (DMC) and the Building Management Ordinance (BMO) provide a mechanism for Owners' Corporations to be actively involved in the procurement process to ensure that services procured by building managers are fair, transparent, and to the benefit of all owners. The COMPAG directed that the Housing, Planning and Lands Bureau and the Home Affairs Department should examine the DMC and the BMO and make recommendations to the COMPAG to address the issues identified.

In regard to Mr LEUNG Yiu-chung's concern about the domains of power supply, gas and supermarkets, I wish to point out that there is currently complete liberalization in all these markets, as no franchise is awarded to any of the existing operators.

For the power supply market, the Scheme of Control Agreements signed between the Government and the two power companies do not award any franchise to the power companies, nor do the Agreements specify any power supply boundaries or market entry restrictions. Similarly, the Information and Consultation Agreement signed between the Government and the Hong Kong and China Gas Company Limited (HKGCC) does not entitle the latter to any franchise. As a matter of fact, the domestic fuel market is also marked by competition among the power companies, the HKGCC and other liquefied gas suppliers.

Quite a number of Members are of the view that the COMPAG is structurally constrained and devoid of any real powers. First, I wish to point out that the responsibility of the COMPAG is to oversee and co-ordinate the actions taken by the Government to handle and follow up matters related to the competition policy. Actual investigation and follow-up actions are the responsibility of the Policy Bureaux and departments concerned. I have just mentioned that the COMPAG has so far examined some 90 cases. For instance, in 2002, it instructed the Health, Welfare and Food Bureau to look into the competition situation in the pork supply market and report the findings to it. In another case, the estate management problem in Banyan Garden mentioned just now, the COMPAG likewise conducted an examination, made improvement recommendations and instructed the relevant Policy Bureaux and departments to conduct further reviews. We therefore think that the COMPAG has been able to perform its functions effectively. Although the COMPAG is not backed up by any competition law, it has never encountered any particularly serious difficulties in its work of investigating and following up complaints related to competition. The enterprises concerned were generally co-operative, willing to submit the required information voluntarily. In the future, if there is any evidence of anti-competitive practices in any individual companies or industries, the Government will implement administrative measures or enact sector-specific legislation to deal with the anti-competitive issues.

As for Mr TONG Ka-wah's proposal on reviewing the function and effectiveness of the COMPAG, we would like to express our welcome. Although the COMPAG is already able to perform its function effectively, we still think that it is necessary to continuously review its function, composition, structure and mode of operation, so as to ascertain whether it should be vested with powers of investigation and sanction. Like Mr TONG Ka-wah, we also hope that the COMPAG can perform still more effectively in its function of fostering competition and ensuring a fair business environment in Hong Kong.

We will consider all required improvement and enhancement measures with an open attitude.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mr TONG Ka-wah to move his amendment to the motion.

MR TONG KA-WAH (in Cantonese): Madam President, I move that Mr Fred LI's motion be amended, as printed on the Agenda.

Mr TONG Ka-wah moved the following amendment: (Translation)

"To delete ", as a survey conducted by the Consumer Council shows that the management companies of a number of private housing estates have, without giving prior notice to or obtaining the prior consent of the property owners, outsourced the estates' telecommunication services to their associate companies, with the charges of such services being bundled into the management fees, such practices have violated the principle of fair competition and undermined the interests of consumers," after "That"; to delete "existing policy on fair competition, including the powers and operation" after "thoroughly review the" and substitute with "function and effectiveness"; to delete ", and to study the feasibility of enacting a fair competition law" after "Competition Policy Advisory Group"; and to delete "safeguard the business environment in Hong Kong" after "so as to" and substitute with "ensure that there is a fairer trading environment in Hong Kong"."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Dr Raymond HO, Ms Margaret NG, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr Patrick LAU voted for the amendment.

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Kwok-hing, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted against the amendment.

Dr KWOK Ka-ki abstained.

Geographical Constituencies:

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Ms Audrey EU, Mr LI Kwok-ying, Mr CHEUNG Hok-ming and Mr TONG Ka-wah voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Mr LEE Wing-tat and Mr LEUNG Kwok-hung voted against the amendment.

Mr Albert CHENG abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 16 were in favour of the amendment, six against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 10 were in favour of the amendment, 14 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

MS MIRIAM LAU (in Cantonese): Madam President, I move that in the event of further divisions being claimed in respect of the motion on "Enacting a fair competition law" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Enacting a fair competition law" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, you may move your amendment now.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, I move that Mr Fred LI's motion be amended, as printed on the Agenda.

Mr LEUNG Yiu-chung moved the following amendment: (Translation)

"To delete ", such practices have violated" after "being bundled into the management fees" and substitute with ", and as practices violating"; to delete "undermined" after "the principle of fair competition and" and substitute with "contributing to unreasonable market domination also exist in many domains including power supply, gas, petroleum products and supermarkets, thus undermining"; to delete "study the feasibility of enacting" after "the Competition Policy Advisory Group, and to" and substitute with "expeditiously enact"; to add "as well as to set up a fair competition commission," after "a fair competition law"; to delete "the" after "so as to safeguard" and substitute with "fair competition in Hong Kong's"; and to delete "in Hong Kong" after "business environment" and substitute with "and the interests of the public"."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEUNG Yiu-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung has claimed a division. The division bell will ring for one minute, after which Council will proceed to the division.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr Patrick LAU voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LEUNG Kwok-hung, Mr TONG Ka-wah and Mr Albert CHENG voted for the amendment.

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, eight were in favour of the amendment and 15 against it; while among the Members returned by geographical constituencies through direct elections, 26 were present, 17 were in favour of the amendment and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Fred LI, you may now give your reply. You have up to three minutes six seconds.

MR FRED LI (in Cantonese): Madam President, I have listened attentively to Honourable colleagues' speeches. Several colleagues referred repeatedly to the case of Singapore. But I have never mentioned this country. I did not mention Singapore in my speech because I knew that the situation there is a complete mess. I have never talked about Singapore, and please do not drag in the bad examples of any foreign countries in discussing my motion and then go on to criticize how bad a fair competition law can be. This is nothing but a selective way of quoting the fair competition laws of foreign countries.

Let me come back to my own position. I absolutely do not recommend Singapore as an example. Okay? Please do not drag the case of Singapore into my motion. Competition laws are found in so many places in the world, so why just talk about Singapore? Why are places with success experiences not mentioned? The Secretary has actually conducted some studies on the experience of foreign countries, and he has also talked about that in his speech. This is precisely the point — there are so many fair competition laws in foreign countries, so why are they not studied and adapted for the purpose of working out something good and suitable for Hong Kong? Why does the Government refuse to do so? Why has it simply described the situations in a number of countries and then lightly concluded that the issue is a very difficult one which many countries do not know how to handle? This is nothing but of responsibility.

The case of Banyan Garden is even more shocking. It is said that the whole incident is just a property management issue. However, I must say to the Secretary that it is not. The truth is that the developer has selected a management company belonging to it, and this management company in turn favours the telecommunications company, health care provider and clinics owned by the developer. They are all like the children of the same mother. Is this simple property management? No. Those organizations which cannot provide these services in this housing estate have all been unfairly treated. All these organizations are themselves large consortia — the New World Development Company Limited, the Wharf (Holdings) Limited and the Cheung Kong (Holdings) Limited, which all have their respective spheres of monopolization, which all operate their own telecommunications companies. The only thing is that all of them are prepared to remain silent when a rival is trying to get all the benefits in its own sphere. "Long hair" was perhaps right in using the term "mutual tolerance". Mr Albert CHAN was also right in saying that the large consortia will tolerate one another because they have all got their own benefits. They will lodge no complaint because they all have vested interests.

I also wish to say that the wordings used in my motion are actually very mild and moderate. Have Members actually read the motion? Its wordings are really not as radical as those of the previous motions on the same topic. It only asks for studies on the feasibility of enacting a fair competition law and a review of the existing policy on fair competition, including the powers and operation of the Competition Policy Advisory Group. Are all these really so "frightening"? What is the point of dragging the case of Singapore into my motion, of saying that any attempt to enforce a fair competition law across the

board will ruin the operation of the free market and our entire economy? I think all these are nothing but downright exaggerated arguments. I am convinced that my motion has taken account of Members' divergent views. But these arguments do reflect that Members representing the business sector are in fact the agents of large consortia. They are simply indifferent to the complaints of small and medium enterprises about how they are bullied by the two supermarket groups. I so submit.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Fred LI rose to claim a division.

PRESIDENT (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for one minute, after which Council will proceed to the division.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG,

Mr WONG Ting-kwong, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Dr Raymond HO, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr TONG Ka-wah and Mr Albert CHENG voted for the motion.

Mr James TIEN and Mrs Selina CHOW voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 10 were in favour of the motion and 13 against it; while among the Members returned by geographical constituencies through direct elections, 26 were present, 23 were in favour of the motion and two against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

MR LEUNG KWOK-HUNG (in Cantonese): Madam President, I wish to make a declaration concerning Mr Albert CHAN's description of me.

PRESIDENT (in Cantonese): Sorry, the matter is closed. In the future, you have to follow the Agenda and make clarifications at an appropriate time. It is no longer the time to do so.

NEXT MEETING

PRESIDENT (in Cantonese): Now I have no choice but to say good morning to Members. *(Laughter)*

I now adjourn the Council until 2.30 pm on Wednesday, 27 October 2004.

Adjourned accordingly at one minute past midnight.