

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 17 May 2006

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

DR THE HONOURABLE LUI MING-WAH, S.B.S., 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, S.B.S., 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.M., 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, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

DR THE HONOURABLE JOSEPH LEE KOK-LONG

THE HONOURABLE 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.

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

MEMBERS ABSENT:

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

THE HONOURABLE LI KWOK-YING, M.H.

THE HONOURABLE MA LIK, G.B.S., J.P.

THE HONOURABLE LEUNG KWOK-HUNG

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE RAFAEL HUI SI-YAN, G.B.S., J.P.

THE CHIEF SECRETARY FOR ADMINISTRATION

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

SECRETARY FOR HOUSING, PLANNING AND LANDS

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

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

THE HONOURABLE STEPHEN LAM SUI-LUNG, J.P.

SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

SECRETARY FOR SECURITY

DR THE HONOURABLE YORK CHOW YAT-NGOK, S.B.S., J.P.

SECRETARY FOR HEALTH, WELFARE AND FOOD

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

PRESIDENT (in Cantonese): A quorum is not present. Clerk, please ring the bell.

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

PRESIDENT (in Cantonese): A quorum is present, the meeting shall now start.

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>
Broadcasting (Revision of Licence Fees) Regulation 2006	98/2006
Fire Service (Installation Contractors) (Fee Revision) Regulation 2006	99/2006
Fire Services Department (Reports and Certificates) (Fee Revision) Regulation 2006	100/2006
Dangerous Goods (General) (Fee Revision) Regulation 2006	101/2006
Timber Stores (Fee Revision) Regulation 2006	102/2006
Chief Executive Election and Legislative Council Election (Miscellaneous Amendments) Ordinance 2006 (Commencement) Notice.....	103/2006

Other Papers

No. 92 — Securities and Futures Commission
Annual Report 2005-06

Report of the Bills Committee on Dentists Registration (Amendment) Bill
2005

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Impact of Opening of Hong Kong-Shenzhen Western Corridor

1. **MR ALBERT HO** (in Cantonese): *President, it has been reported that the Hong Kong-Shenzhen Western Corridor (HKSWC) will open shortly and, by then, the traffic flow of Northwest New Territories will increase. On the other hand, as the daily traffic volume of Route 3 falls short of expectation, the Government is exploring with the operator of Route 3 the proposal to adjust its tolls downwards to attract more vehicles to Route 3. In this connection, will the Government inform this Council:*

- (a) *apart from the traffic management measures and road projects which have been proposed by the authorities, whether there are other options for relieving the pressure brought by the HKSWC on the traffic of Northwest New Territories;*
- (b) *of the progress of the discussion between the authorities and the operator of Route 3 on the proposal to adjust its tolls downwards; and*
- (c) *whether it will consider enacting legislation to allow the authorities to buy back Route 3 from its operator on grounds of significant public interests, at a price determined according to an independent and reasonable assessment by the Judiciary; if so, of the details; if not, the reasons for that?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in the absence of Secretary for the Environment, Transport and Works) (in Cantonese): Madam President, according to the Northwest New Territories Traffic and Infrastructure Review (the Review) completed by the Administration, the existing major transport infrastructure in Northwest New Territories, together with the road improvement measures implemented or planned, should be able to cope with the

traffic demand in the region up to 2016, including the traffic to arise from the commissioning of the HKSWC. The results of the Review indicate that there will be about 31 000 vehicle trips per day using the HKSWC upon its commissioning. By that time, the volume/capacity ratios of the existing road networks in Northwest New Territories, including Route 3 (Country Park Section), Tuen Mun Road and Lantau Link, will remain within the acceptable level of 1.2 during peak periods. The projected total traffic volume of Route 3 (Country Park Section) and Tuen Mun Road will remain at a level below their total design capacity of 250 000 vehicle trips per day. It is estimated that in 2016, there will be 60 000 vehicle trips using the HKSWC per day, while the volume/capacity ratio of the existing major roads in northwest New Territories will remain below 1.2 during peak periods. The total traffic volume of Route 3 (Country Park Section) and Tuen Mun Road will also remain below their total design capacity.

The road improvement measures mentioned above include lengthening the bus bay along Tuen Mun Road southbound near Tseng Choi Street, improving the merging lane from Tuen Hi Road to the town centre section of Tuen Mun Road, and installing additional directional signs to enhance traffic flow at the town centre section of Tuen Mun Road. In addition, we expect that the widening works at Tuen Mun Road near Tsing Tin Interchange will commence in mid-2007. We have also largely completed the study on further improving the town centre section of Tuen Mun Road.

Meanwhile, we are actively exploring with the franchisee of Route 3 possible measures, including extension of the franchise period in exchange for reduced tolls, to attract more motorists to use Route 3.

We are not inclined to consider buying back the franchise of Route 3, as it involves substantial public expenditure and deviates from the principle of "small government, big market".

MR ALBERT HO (in Cantonese): *According to the reply given by the Secretary in the first paragraph of the main reply, the existing road networks in Northwest New Territories, if fully utilized, together with the road improvement measures, should be able to cope with the traffic demand in the region up to 2016, including*

the traffic to arise from the commissioning of the Deep Bay Link (DBL) or the HKSWC. By that time, the volume/capacity ratios of the existing road networks in Northwest New Territories, including Tuen Mun Road, will remain within the acceptable level of 1.2 during peak periods. This means at least it would exceed the level of 1 in the original design. My supplementary question goes like this. According to the third paragraph of the main reply, if the Government cannot reach an agreement with the franchisee of Route 3 within a short time and reduce the tunnel tolls which are so expensive, the Government estimates that there would be a drastic increase in the volume/capacity ratio to 1.5 or even 2 in future, that is, before 2016 and hence would cause serious traffic congestion. How then should the problem be addressed?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):

Madam President, according to my limited knowledge of the matter, we anticipate that with respect to the road networks in Northwest New Territories (incidentally, we have also explained to the Legislative Council Panel on Transport on this) it would not be necessary to complete any major infrastructure project before 2016. According to our analysis, given the present traffic configuration, in 2006 when the trunk road is commissioned, the projected daily traffic volume of Tuen Mun Road will be 100 000 vehicle trips per day and 52 000 vehicle trips at Route 3, representing a slight increase from the current traffic volume. By 2016, we anticipate that the traffic volume of the HKSWC will reach 60 000 vehicle trips per day while the traffic volume of Tuen Mun Road will reach 123 000 vehicle trips per day and that of Route 3 will be 65 000 vehicle trips per day. All these are projections made on the current averages. Of course, we hope that when matching work comes on stream, especially when the tolls for Route 3 can be maintained, there will be more vehicles using Route 3. According to current estimates, we believe by 2016, the transport networks concerned will still have capacity to cope with the traffic flow at that time.

MR ALBERT HO (in Cantonese): *Sorry, my supplementary question is: According to the third paragraph of the main reply, if the Route 3 tolls are not reduced, would it be necessary to revise these figures, that is, to raise the ratios concerned? It is this question, that is, when tolls cannot be reduced even after discussions are held.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as far as I know, the figures were worked out after taking into account the scenario when tunnel tolls cannot be reduced. This is how projections work. Therefore, if the tolls can be adjusted downwards, there would be more optimistic projections on the average traffic volume.

MS MIRIAM LAU (in Cantonese): *We have in fact been discussing this topic for three or four years. The Secretary has mentioned earlier that matching work is important. What he refers to is adjusting the tolls of Route 3 downwards. However, when we discussed this issue a few years ago, the matching work would also involve the building of an eastbound link extending from the DBL to Route 3 in order to encourage motorists to use Route 3 and hence divert the traffic. But now it seems that there would be no eastbound link. May I ask the Secretary whether this eastbound link is still an important matching facility? If so, what is the plan? Will the Secretary please inform this Council.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I recall in 2004 the Government said in the Legislative Council that efforts would be undertaken to actively explore the feasibility of constructing an eastbound link at Route 3 and the model of public-private partnership would be adopted. However, in our opinion, as this eastbound link can only reduce travelling time by two to four minutes, it would not have any significant effect on the traffic volume. The enormous outlay in public expenditure would therefore not justify its construction. As we do not have any data or information to prove that the construction of this eastbound link is cost-effective, we would not consider it for the time being.

PRESIDENT (in Cantonese): There are altogether 10 Members waiting for their turn to ask questions, Members given an opportunity to ask questions should be as concise as possible.

MR LEE WING-TAT (in Cantonese): *President, the design of this road is, put simply, somewhat like the Western Harbour Crossing and the old Cross-Harbour Tunnel, that is, it is anticipated that after this road is commissioned, most vehicles will use the toll-free Tuen Mun Road to go into the Tuen Mun town*

centre while no one will use the tollable Route 3. I hope the Secretary could answer this question. As there is serious traffic congestion in Tuen Mun Road at present and it is expected that the problem will deteriorate after the commissioning of the new road, and since the section of the road being proposed is very short, why is the Government still confident that Tuen Mun Road will not be as congested as the Cross-Harbour Tunnel now where motorists will have to queue up for more than an hour before they can get through?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):

Madam President, a while ago in the main reply and when answering a supplementary question raised by Mr Albert HO, I have said that according to our estimated traffic volume, there would not be any serious traffic congestion even in 2016. So in this respect, we are not thinking of any other proposal for the time being. The Government has said here that with respect to Northwest New Territories, we would take into account the future developments such as the developments on Lantau Island and the Hong Kong-Zhuhai-Macao Bridge. I think the Government will inform the Legislative Council of other plans in future.

MRS SELENA CHOW (in Cantonese): *I have got a question for the Secretary. Unfortunately, the Secretary for the Environment, Transport and Works is not here and I think Secretary Dr York CHOW may not be as well versed in the subject as Members. I have this question for the Secretary. Is the Government aware of the fact that residents of Tuen Mun and the Tuen Mun District Council are very much against the entire plan proposed by the Government and they are very hostile to it?*

Another question is, if it is possible — as the Government has mentioned it and a reply is given to them: Has the Government ever thought of how to relieve traffic congestion which may occur in the Tuen Mun town centre and which is not acceptable, and devise mitigation measures like building the West Tuen Mun Bypass, widening Tuen Mun Road as well as adopting other traffic management measures? In what aspect has the Government taken into account their demands and put these measures into practice? Or has the Government only devised some facilities in a casual manner in spite of opposition from the people? It is mentioned in the main reply and the Secretary may also know that they do

not agree to these solutions. As to their requests, the Government has not acceded to them. Has the Government ever sat down and really talked with them and listened to what they think can really ease the traffic problems in the Tuen Mun town centre?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, according to information I have at hand, there is a number of short-term measures adopted with respect to the Tuen Mun town centre, such as lengthening the bus bay along the Town Centre Section of Tuen Mun Road, improving the merging lane from Tuen Hi Road to the Tuen Mun Road, and so on. These measures have been completed. In addition, the installation of additional directional signs will be completed this August. As for the widening works at Tuen Mun Road near Tsing Tin Interchange, it will commence in 2007 and complete at the end of 2008. There are also some further improvement measures in the town centre, for which our consultants have almost finished the relevant work. It can be seen that there will be a number of measures and works undertaken in response to requests made by the Tuen Mun District Council and the residents.

Another point is that we have looked into the issue of widening Tuen Mun Road with the District Council. On the technical front, we have explored the feasibility of widening Tuen Mun Road to dual four-lane standard, but the proposal would have an impact on the construction costs which would rise sharply by 70% over the current estimates. I think some other proposals would be put forward and we will study them with the District Council and Members. As for the details, I hope these will be followed up later in the Panel on Transport.

MR ANDREW CHENG (in Cantonese): *President, I think in the past both the Bureau and the Legislative Council were worried that there would be a situation in Tuen Mun Road where cars could not find any road to travel on, that is, heavy traffic jams would occur. But with the commissioning of Route 3, there would be a situation where there is a road but no cars would travel on it, that is, very few cars would use it. Therefore, as the Bureau points out in the penultimate paragraph of the main reply, the Bureau is exploring with the franchisee of Route 3 possible measures. However, the situation seems to be like what Secretary Dr York CHOW has been doing with health care financing, that is, after so many*

years of active studies, no result is in sight. Therefore, we would like to ask if Route 3 can be bought back, but the Secretary invokes the principle of "small government, big market". May I ask the Secretary if the Government can consider issuing bonds to offset the huge public expenditure as it would not contravene the principle of "small government, big market" and it would address the problem of huge public expenditure and prevent the occurrence of heavy traffic congestions at Tuen Mun Road?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):

Madam President, on the suggestion to buy back the franchise of Route 3, I do not think it is the first time this issue is raised in the Legislative Council. The Government is not inclined to consider buying back the franchise for the following reasons. First, it violates the contractual spirit. What we should do is to discuss with the operator on how to maintain operation while not affecting the interest of the public and road users. Therefore, we will continue to discuss the matter with the operator. Second, would people shy away from using this road because a toll is charged? For myself, I will prefer to use Route 3 whenever I wish to travel to the New Territories. I would not mind paying the toll if I drive. Some lorry drivers also consider the time factor very important and they would rather pay some tens of dollars in tunnel toll and use that road. As for traffic volume, of course we hope that it will increase. But we also see that now the traffic is distributed quite evenly. As Tuen Mun Road is closer to the Tuen Mun town centre, so more people would use it. This is based on different considerations. We should not therefore come to the rash conclusion that the Government should buy back a tunnel built by the private sector under a franchise.

MR TAM YIU-CHUNG (in Cantonese): *President, Secretary Dr York CHOW is a substitute and I have no intention to make things difficult for him. However, after reading the main reply, I am quite upset. The main reply states that there is no cause for worries and traffic demand 10 years later should be well taken care of. But as 10 years are involved, though the Government seems to be very optimistic, the public and the District Council are very much worried. I would like to know how the words "should be able to cope with" are to be understood. Has the Government conducted any simulated tests or calculations on things like how long the travelling time would increase during the peak hours given the greater traffic volume at Tuen Mun Road? Does the Government have*

any data of this kind or is it just saying in a vague manner that it should be able to cope?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as far as I know, the Government would come up with some new planning data from time to time, such as those on forecast economic growth, population changes, urban development plans, traffic volume on the roads, and so on. Statistics for different time periods will be compiled. In this regard, the Government will undertake a review of the demand for major highway projects in various aspects of planning. Therefore, as I have just said, the Government has made very detailed considerations and come to the conclusion that even in 2016, the existing transport networks should be able to cope with developments in relation to the HKSWC. Of course, as I have said, there are other developments in Northwest New Territories that call for a comprehensive review again. This applies especially to the developments on Lantau Island and the issue of the Hong Kong-Zhuhai-Macao Bridge, and so on. I think the Government will examine demand in this respect and consider other options as when appropriate.

PRESIDENT (in Cantonese): We have spent more than 19 minutes on this question. Now the last supplementary question.

MR DANIEL LAM (in Cantonese): *Could the Secretary inform this Council whether or not the road improvement measures and works projects would be carried out concurrently and when they will complete?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as I have said just now, some work is being done concurrently while some other is being planned. So with respect to the medium range progress of these items, the Tuen Mun District Council will be briefed and this applies to the plan to widen Tuen Mun Road. More follow-up actions will be undertaken and these will be done not only until 2016.

PRESIDENT (in Cantonese): Second question.

Controlling Import of Freshwater Fish

2. **MR JAMES TO** (in Cantonese): *President, the relevant authorities of Hong Kong and the Mainland reached an agreement in August last year, which stipulates that only registered farms approved by the mainland authorities concerned are allowed to export freshwater fish to Hong Kong, and that every consignment of fishery products must be accompanied by a health certificate issued by the mainland authorities concerned certifying that the products do not contain malachite green or any other harmful substances. In this connection, will the Government inform this Council whether:*

- (a) *freshwater fish imported without the relevant health certificate may be sold legally in Hong Kong after being tested and confirmed as not containing harmful substances by the authorities concerned; if so, of the reasons;*
- (b) *it will consider introducing legislation to prohibit the import of such freshwater fish; if it will, of the legislation timetable, and what measures will be taken to prohibit the import of such freshwater fish before the legislative process is completed; and*
- (c) *triad members are involved in the import of such freshwater fish; if so, of the measures in place to combat these activities?*

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

- (a) The Public Health and Municipal Services Ordinance (Cap. 132) stipulates that all food sold in Hong Kong must be fit for human consumption. At present, there is no law that requires that imported freshwater fish must be accompanied by health certificates. Therefore, freshwater fish imported from the Mainland that has been confirmed to be free from harmful substances after tests can be sold in Hong Kong.
- (b) The Government has already started to study ways to safeguard the safety of aquatic and fishery products (including freshwater fish) and is actively considering legislative amendments to further

strengthen the regulation on aquatic and fishery products. We hope to submit our plan for a regulatory framework to the Legislative Council and consult the trade at the end of this year.

Before concluding the studies on regulating aquatic and fishery products, the Food and Environmental Hygiene Department (FEHD) will work with the departments concerned, including Agriculture, Fisheries and Conservation Department (AFCD), Customs and Excise Department and the police to step up interdiction efforts at various points of entry to seize freshwater fish imported from the Mainland that are not accompanied by health certificates. Samples would then be taken from these consignments for tests to ensure that no freshwater fish that fails to meet our hygiene standard would enter Hong Kong. In case malachite green or other harmful substances are found in these freshwater fish, the FEHD would destroy the fish products and institute prosecution against the parties concerned. The AFCD has also strengthened the management of the Cheung Sha Wan Wholesale Food Market (wholesale market), including increasing the number of security staff and requiring mandatory registration of all persons and vehicles entering the wholesale markets.

To deter people from unloading and distributing such freshwater fish at Cheung Sha Wan Wholesale Food Market, the enforcement officers of the departments concerned have already formed a special task force to conduct 24-hour patrols at the piers and vehicular loading areas of the wholesale market and Western Wholesale Food Market over the past few weeks. On the night of 5 May, the task force intercepted a lorry of live freshwater fish that did not have health certificates on its entry into wholesale market and the consignment was held and tested by the FEHD. Subsequently, one of the samples tested positive for trace amounts of malachite green (5 mg per kg) and the whole consignment was destroyed.

- (c) The police do not rule out the possibility that some of the people involved in the import of freshwater fish without health certificates might have links with triad societies. The law enforcement departments will closely monitor such activities and step up

intelligence gathering efforts to prevent such freshwater fish from entering Hong Kong market illegally.

MR JAMES TO (in Cantonese): *President, besides food safety I have been prompted to ask this question by also the fear that triad societies or organized crime syndicates may make use of the opportunity to obtain benefits illegally. This will make the overall situation very bad indeed. My supplementary question is: Will this so-called inter-departmental task force of the Government, especially the police and the Customs and Excise Department (C&ED), upgrade the handling this issue to the level of organized crimes and invoke the relevant legislation to clamp down on such illegal activities?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as far as I know, the police and C&ED are both keeping a continued watch on activities in the fishery product market, and they have collected some relevant information. If there is enough intelligence and information, the police will of course take actions. On the part of the Health, Welfare and Food Bureau, we will not actively ask for too much information in this regard because we consider it most imperative to maintain confidentiality, so that the police can do their job effectively.

PRESIDENT (in Cantonese): There are nine Members waiting for their turns. I hope that Members can be as concise as possible when asking their supplementary questions.

MR WONG YUNG-KAN (in Cantonese): *President, it is pointed out in the last paragraph of part (b) of the main reply that on 1 March this year, the task force intercepted a lorry of fishery products which contained malachite green and which were not accompanied by any health certificates. But we know that subsequent to the detection of malachite green in fishery products last year, the Government and the General Administration for Quality Supervision, Inspection and Quarantine of the State already signed an agreement. May I ask the Government why the fishery products concerned could still be imported? Has the Government conducted any tracing investigation? Will any law-breaking*

merchants switch to other piers for the unloading of fishery products? Has the Government put in place any surveillance mechanism in this regard?

PRESIDENT (in Cantonese): Mr WONG Yung-kan, you have asked two supplementary questions. Are they

MR WONG YUNG-KAN (in Cantonese): *Are they related?*

PRESIDENT (in Cantonese): Yes.

MR WONG YUNG-KAN (in Cantonese): *The greatest connection is that if they switch to other piers for unloading, there will in effect be no surveillance. At present, the specified fishery product markets*

PRESIDENT (in Cantonese): Mr WONG, thank you. I cannot quite catch your point. I hope the Secretary can understand what you mean.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I think I understand what he wants to ask. *(Laughter)* I think Mr WONG Yung-kan wants to ask questions on two issues. First, since there is currently no law regulating live fish, how are we going to maintain supervision if live fish can be unloaded at different piers upon arrival at Hong Kong? In this regard, we have been maintaining close liaison with the C&ED. They will carry out marine interceptions as many as possible. Second, we also maintain communication with the Mainland, and whenever we detect any problems, we will notify them. However, since the coastline of the Mainland is very long, it is often impossible to interdict all illicit activities. For this reason, the customs authorities of Hong Kong and the Mainland will have to enhance their co-operation. Besides, in regard to information exchange (most importantly on management at source), we will inform the General Administration for Quality Supervision, Inspection and Quarantine for follow-up actions if we learn of any places where fishery products with unknown sources are found. In this respect, Guangdong Province has been quite co-operative.

MR VINCENT FANG (in Cantonese): *Some time ago, the media reported that the sale of illicit freshwater fish was rampant at the Cheung Sha Wan wholesale market. I think this is largely due to the inadequate supply of freshwater fish to Hong Kong from mainland fish farms following the occurrence of the malachite green problem last year. May I ask the Bureau whether the daily import volume of freshwater fish with health certificates issued by mainland health authorities is at the same level as the daily consumption volume registered by it?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, by now, the number of mainland fish farms with approval to export freshwater fish to Hong Kong has increased to more than 50. There should be clear records for public inspection. These fish farms were all inspected by the FEHD and the decision of permitting them to export live freshwater fish to Hong Kong was made jointly with the Guangdong Entry-Exit Inspection and Quarantine Bureau.

As far as I can remember, since the occurrence of the malachite green incident, we have been making daily enquiries with the relevant authorities of the Mainland to ascertain the volume of freshwater fish that can be exported to Hong Kong, because we do not know whether our regulatory measures have been so harsh as to deprive Hong Kong of an adequate supply of freshwater fish. I can remember that in the initial period, that is, in October or November, the import of freshwater fish was indeed small. But since the beginning of this year, the daily import of freshwater fish has remained at the level of at least more than 70 tons a day, and depending on market conditions, the daily import volume may even approach 100 tons in times of good business. Hong Kong people seem to have regained their confidence in freshwater fish. I believe the supply of freshwater fish should be sufficient to cater for the demand in Hong Kong. But why do we always emphasize the imposition of safety regulation on the wholesale market and the requirement that fishery products must be imported through proper channels? The purpose is to totally prevent the import of any fishery products without health certificates into Hong Kong. We think that this is the only way to maintain Hong Kong people's confidence and ensure their desire to consume freshwater fish. I therefore very much hope that all in the industry can render their co-operation. It is only in this way that improvement can be made.

MR TOMMY CHEUNG (in Cantonese): *Regulation is mentioned in the Secretary's main reply. Speaking of the wholesale market, I have to say that there is currently no legislation requiring fishing vessels berthed at piers to hold health certificates before they can sell live fish. But the Government has done nothing about this. Is it not fair to the industry? My supplementary question is: Is there any requirement on health certificates? If no, will the Secretary consider the idea of requiring the production of health certificates as a condition for permitting fishing vessels to unload at the Cheung Sha Wan pier and all other piers under the control of the Government? The authorities may also inspect their goods. In this way, it will be possible to know which vessel and fish farm are connected with a certain load of fishery products, thereby enabling the authorities to trace the source. Without such a requirement, we will simply be kept in the dark, so how can we possibly tackle the problem?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, it is precisely for this reason that we have introduced the measure of registration. When a fishing vessel arrives at Hong Kong, we will inspect whether there are any health certificates for its fish load. If yes, we will permit the unloading and sale of the fishery products concerned. If no, we will impound the products, forbidding their unloading and sale. Samples of the fishery products will then be tested. If no problems are detected after testing, the sale of the fishery products will be allowed, though they may have been illegally exported from the Mainland. The import of such products into Hong Kong is permitted, but we will still notify the Mainland, so that they can take follow-up actions. This measure can at least tackle the problem we are facing. But, as I have mentioned, we intend to deal with all these problems in the long run through the enactment of legislation at the end of this year. At that time, we will examine the details with the Legislative Council and consult the industry, so as to identify ways of effective regulation and enable them to have better business.

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

MR TOMMY CHEUNG (in Cantonese): *President, I hope that the Secretary can answer all these questions. Apart from the wholesale market, how many*

piers are also under the control of the Government? Is the production of health certificates required at every pier? And, is testing

PRESIDENT (in Cantonese): Mr CHEUNG, these questions are not part of your supplementary question just now.

MR TOMMY CHEUNG (in Cantonese): *In fact they are. But he*

PRESIDENT (in Cantonese): Please wait for another turn.

DR LUI MING-WAH (in Cantonese): *President, there is no law regulating the import of freshwater fish in Hong Kong currently. But the Government has been conducting frequent sample testing to check whether there are any malachite green and other harmful substances in imported freshwater fish. May I ask the Secretary whether such tests are unlawful? If yes, is it not fair to fishery traders? Besides, since there is no legislative regulation, what are the other harmful substances?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, there are in fact two supplementary questions here. *(Laughter)*

PRESIDENT (in Cantonese): You may choose to answer one of them. But if you so wish, you may answer both.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, under the existing food safety legislation, we are vested with the enforcement power to stamp out the supply of unsafe and inedible food to the public. That is why we do have the authority to check whether fishery products contain malachite green or other harmful substances. As for the kinds of harmful substances, I can give a full list after the meeting. (Appendix I) They may include pesticides and prohibited chemicals for fish farming. Currently,

sample testing is the most effective means of stamping out the import of fishery products or seafood containing drugs that endanger human lives. To sum up, we do have the enforcement power. The opposite is certainly not the case.

MR FRED LI (in Cantonese): *President, there is a huge conflict between parts (a) and (c) of the Secretary's main reply. I wish to seek an elucidation from the Secretary. As has been mentioned by the Secretary himself, there is currently no legislation requiring all imported freshwater to come from the 50 or so registered fish farms in the Mainland, nor is there any law on the mandatory production of health certificates. But it is mentioned in part (c) that the law-enforcement departments will step up the collection of intelligence to prevent illicit freshwater fish from entering the Hong Kong market. Since there is no legislative regulation, how can we talk about "illicit" market entry?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, at present, if the C&ED spots a vessel carrying fishery products with no manifest, the products will be treated as illicit. We are sure that the C&ED will work with us to tackle this problem. Likewise, fishery products tested to be containing prohibited substances will also be treated as illicit. This is what we can do given the limited room currently available. But at the same time, we do not dismiss the possibility of some other forms of illicit market activities existing. It is of course not appropriate for me to name these activities here. But we suspect they do exist.

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

MR HOWARD YOUNG (in Cantonese): *Madam President, it is mentioned in the Secretary's main reply that a lorry was intercepted at the wholesale market in May. May I ask whether it is true that interception at other places is not permitted under the existing mechanism? Since a lorry was intercepted, the smuggling activity must have taken a land route. I note that there are various clearance systems for entry by land. For this reason, can it be said that the existing system is not sound enough, such that it is impossible for the Government to intercept such lorries at an earlier time?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, live fish can in fact be imported into Hong Kong both by sea and on land. Regarding entry on land, interceptions are conducted by the C&ED at Man Kam To. Health certificates must be produced for the live fish carried by a lorry before entry. Live fish are of course also produced in local fish farms, so fishery products from different sources will all enter the wholesale market. Currently, Hong Kong is a place with considerable freedom of trade activities. Precisely for this reason, we think that there must be legislative regulation in the long run.

PRESIDENT (in Cantonese): Third question.

Conditions for Implementation of Universal Suffrage in Hong Kong

3. **MS EMILY LAU** (in Cantonese): *President, it has been reported that, at a seminar held on the 27th of last month in Beijing, a mainland member of the Committee for the Basic Law has remarked that the following six basic conditions have to be fulfilled before universal suffrage may be implemented in Hong Kong: (a) politically, there is consensus on universal suffrage among the various sectors of the community and such consensus is endorsed by the Central Authorities; (b) economically, the implementation of universal suffrage facilitates the development of a capitalist economy and guarantees the economy of Hong Kong against recession; (c) legally, laws have been enacted to implement Article 23 of the Basic Law and the laws on the development of political parties have been further perfected; (d) educationally, there is sufficient national education in Hong Kong; (e) in the sphere of political culture, instead of pursuing a culture that is simply confrontational in nature, the different sectors of Hong Kong seek to establish an active and constructive political culture; and (f) regarding the way of life, the various sectors of the community and the public have sufficient time to accept new way of life brought about by the implementation of universal suffrage, for example, a Chief Executive elected by universal suffrage will face greater pressure from public opinions and his ways of handling matters will change accordingly. In this connection, will the executive authorities inform this Council:*

- (a) *whether officials of the Hong Kong Special Administrative Region (SAR) Government attended the seminar mentioned above; if so, of*

the post titles and names of the officials concerned; if not, the reasons for that;

- (b) whether the above six conditions are the consensus reached between the Central People's Government and the SAR Government on matters relating to universal suffrage; and*
- (c) given that the mainland authorities in charge of Hong Kong affairs are discussing issues on the implementation of universal suffrage in Hong Kong, whether the authorities in the SAR will initiate relevant discussions in Hong Kong; if so, of the forums for such discussions and their contents and directions; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, in response to the question raised by Ms Emily LAU, our overall reply is as follows.

The seminar mentioned in the question was co-organized by the Research Institute of Hong Kong and Macao of the Development Research Center of the State Council and a media organization. As we understand it, the purpose of the seminar was to commemorate the 16th anniversary of the promulgation of the Hong Kong Basic Law and the 13th anniversary of the promulgation of the Macao Basic Law, and to allow experts and academics from the Mainland, Hong Kong and Macao to exchange views on the implementation of the Basic Law and issues such as constitutional development in Hong Kong and Macao.

Mr TSANG Tak-sing, Member of the Central Policy Unit (CPU), accepted the organizers' invitation and attended the seminar to take part in academic exchange with participants. The relevant Policy Bureaux of the Government were not invited.

Both the Central Government and the SAR Government are fully alive to the community's aspirations on universal suffrage. We will promote democratic development in accordance with the Basic Law to attain the ultimate aim of universal suffrage. As to how universal suffrage is to be attained, this will require consensus among the Central Authorities, the Government, the Legislative Council, and different sectors of the community.

The Government has not taken any view on a roadmap for universal suffrage. The issue is being pursued through discussion by the Commission on Strategic Development (the Commission). The Committee on Governance and Political Development of the Commission will hold its fourth meeting on 26 May and will conclude discussions on the concepts and principles relating to universal suffrage. It will then proceed to examine possible models of a universal suffrage system for the Chief Executive and the Legislative Council. The aim of the Commission is to conclude discussions by early 2007. The conclusions on the discussions can provide a basis for us to commence our next stage of work. We will also reflect the conclusions to the Central Authorities.

MS EMILY LAU (in Cantonese): *President, a seminar was held by the State Council to discuss the universal suffrage issue of Hong Kong, but corresponding bureaux of the SAR Government were not invited and might not even know about it. President, this is really most thought provoking.*

President, in the Secretary's main reply, it is stated that the Central Authorities and the SAR Government are fully alive to the community's aspirations on universal suffrage, and this aspiration on universal suffrage is not premised on any prerequisite. President, in part (b) of my main question, I asked whether the six conditions put forth by Mr WANG Zhenmin were the consensus reached between the SAR Government and the Central People's Government on the implementation of universal suffrage in Hong Kong? May I ask the Secretary to explain clearly in what way do the Central Authorities and the SAR Government understand fully the aspirations of the people of Hong Kong for universal suffrage? Should these six conditions be fulfilled before universal suffrage can be implemented here?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the Development Research Center of the State Council is an organization responsible for policy studies and consultations, and studies are conducted on the basis of promoting prosperity and stability in the Hong Kong and Macao Regions. The seminar conducted this time is not, as Ms Emily LAU so claimed, a forum on which the mainland authorities in charge of Hong Kong affairs discussed the implementation of universal suffrage in Hong Kong. It was actually a forum that allowed experts and academics from the three places to

exchange views. Our colleague from the CPU also took part in it, and it is a mode of participation that promotes exchanges among the three places.

On the development of democracy and constitutional system, I have to reiterate that on the question of how universal suffrage can be attained, surely, the Central Authorities and the SAR Government are concerned about it, only that a decision is yet to be made. We will not comment on views expressed by individual scholars. On the part of the SAR Government, we will follow strictly the principles laid down in the Basic Law, which include the attainment of the ultimate aim of universal suffrage in the light of the actual situation and in accordance with the principle of gradual and orderly progress, to promote the gradual development of democracy in Hong Kong.

MS EMILY LAU (in Cantonese): *President, the Secretary has not answered whether it has been reflected to the Central Authorities that the aspirations of the people of Hong Kong do not include those unreasonable conditions? The Secretary should be aware of this point, so has he ever reflected this to the Central Authorities?*

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

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, whenever we have the opportunity and whenever we reflect the views of the people of Hong Kong on constitutional development, just as we did in the past two years, we will reflect all the views we have received, including the opinion polls conducted by different educational institutes and universities, which findings constantly indicate that 60% of the people of Hong Kong hope for the early implementation of universal suffrage. However, as to which principles laid down in the Basic Law should be complied with in attaining universal suffrage, it is exactly the focus of the current discussions being held by the Commission.

PRESIDENT (in Cantonese): In total 13 Members are waiting for their turns. Will Members asking supplementaries please be as precise as possible.

MR RONNY TONG (in Cantonese): *President, in the last paragraph of the Secretary's main reply, it is stated that the aim of the Commission is to arrive at conclusions next year, and that "the conclusions on the discussions can provide a basis for us to commence our next stage of work". It is also stated that the relevant conclusions will be reflected to the Central Authorities.*

May I ask the Secretary whether the next stage of work includes an extensive consultation of the people of Hong Kong, the Legislative Council in particular? Moreover, in reflecting the relevant conclusions, will he also include our earlier proposals to consult the views of the people of Hong Kong and the Legislative Council?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, discussions on this issue have been commenced at the Commission. Views received from various sectors will be summarized and a report on the conclusions will be issued early next year. I believe, upon the completion of this report on conclusions, the Hong Kong community, including the Legislative Council, will certainly have the opportunity to further express their opinions and will be looking forward to it.

With this report and the set of opinions, I believe, during the term of office of the third term Chief Executive, from 2007 to 2012, the entire community of Hong Kong will once again have the opportunity to discuss the issue of constitutional development.

MR RONNY TONG (in Cantonese): *What is the next stage of work? The Secretary has not answered this part. I asked him whether the work would include consultation of the people of Hong Kong and the Legislative Council, but he only said that the views had been heard. Can he give a brief account on the next stage of work?*

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

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, we hope that the report on the conclusions of the relevant discussions can be completed by early 2007, and thus the third term Chief Executive, during

his term of office, may lead Hong Kong society to get ready for addressing the constitutional development issue. I believe this will form the foundation for the SAR Government to continue to enhance its work in listening to the views of the people of Hong Kong, and I hope that this will foster consensus within Hong Kong society, prompting the emergence of a consensus between Hong Kong and the Central Authorities.

MR CHIM PUI-CHUNG (in Cantonese): *President, I would like to follow up a supplementary question put earlier. The Secretary states in the main rely that a conclusion will be made after the meeting on 26 May. Is that conclusion to be made by the Commission legally binding on the Legislative Council? If it is legally binding, to what extent should the Legislative Council comply with the conclusion made by the Commission? If not, why is the public being misled to sidestep the Legislative Council?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the issue is discussed at the Commission for we want to solicit views from various sectors. Members of the Commission include professionals, academics, businessmen as well as a number of Members of the Legislative Council, for we aim to strive for consensus and progress for the constitutional development in Hong Kong. Therefore, discussions have to be held and consensus has to be reached within and without the Legislative Council, as well as in the various sectors of Hong Kong society.

Certainly, if we have to implement a proposal, we must first of all seek the consent of two thirds of the Members of the Legislative Council; second, we must have the consent of the Chief Executive; and finally, the consensus of the Central Authorities. Only after these procedures can we make amendments to Annex I and Annex II. Therefore, the discussions now being conducted by the Commission are work of the initial stage. But once constitutional procedures are involved, the matter must definitely be submitted to the Legislative Council. And before entering the stage involving constitutional procedures, the Legislative Council will also hold discussions on these issues.

In the past six months, from last November up to now, in addition to discussions held by the Commission, the Legislative Council Panel on Constitutional Affairs has also held discussions on these issues.

MR CHIM PUI-CHUNG (in Cantonese): *The Secretary has not answered my supplementary question. My supplementary question is very straightforward, is it legally binding? It is just a yes or no question.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, this is a step to induce discussions and strive for consensus. As for the legal and constitutional procedures, the Legislative Council will be a starting point.

MR MARTIN LEE (in Cantonese): *Madam President, the Chief Executive once said that he believed he would certainly see the first implementation of universal suffrage in Hong Kong. This question is about the six conditions imposed by Mr WANG, but the answer given can be regarded as the sole condition prescribed by Mr LAM: "it will require consensus among the Central Authorities, the Government, the Legislative Council, and different sectors of community", and universal suffrage may thus be implemented.*

Will the Administration inform our Chief Executive how long does he have to live to see the implementation of universal suffrage under the "six conditions of WANG", and how long does he have to live to see the implementation of universal suffrage under the "sole condition of LAM"?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I believe if various parties and groupings within the Legislative Council may work together, each and every one of us will have the opportunity to see the implementation of universal suffrage within our remaining years.

MR MARTIN LEE (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. I asked him how long the Chief Executive had to live to see that.*

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

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I have already stated the most important principle.

MR MARTIN LEE (in Cantonese): *The Secretary has not answered my question. Some Members of the Legislative Council are quite young, while the Chief Executive is already 60. We cannot wait until the younger one or the one already at 60 Take myself as an example, I am already 67, the Secretary cannot say that I will also see it during my remaining years.*

PRESIDENT (in Cantonese): Mr Martin LEE, "age" is a very interesting issue, but since a number of Members are waiting to ask their supplementary questions, I have to let the next Member ask a question.

MR JAMES TIEN (in Cantonese): *President, on the issue of universal suffrage, I believe this must have the common consent of the Central Government and the SAR Government. If Mr WANG Zhenmin being a mainland member of the Committee for the Basic Law has put forth these six conditions, these conditions must be representative in some measure. May I ask the Government, at the meeting of the Commission to be held on the 26th of this month — I am a member of the Commission, I have just made an enquiry but papers have yet been received — whether the Government is going to discuss in Hong Kong these six conditions put forth by this authoritative mainland member? I think they should be discussed anyway; will they be discussed on the 26th of this month? Or, in Hong Kong, will these views expressed by mainland members be discussed by the Commission in future?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, Prof WANG gave his set of opinions on that day at a forum for academic exchanges but not at a formal meeting of the Committee for the Basic Law. The Commission will solicit views extensively and the Secretariat of the Commission will issue a paper summarizing the discussions held in the last couple of months, and members are welcome to express their opinions on this paper freely. If any member wishes to give further comments in respect of the opinions reflected in Beijing this time, we will surely be willing to listen. However, the Secretariat of the Commission will issue a paper of summary.

MR CHEUNG MAN-KWONG (in Cantonese): *President, does the Government agree with WANG Zhenmin that one of the conditions for the implementation of universal suffrage is that it will not drive the economy of Hong Kong into recession? But this is a condition that even God cannot give any guarantee. If so, is such a condition ridiculous and is this a display of ignorance? If the Government agrees with this condition, does it mean that universal suffrage will never be realized?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, every academic has his own opinions and positions, and we had better leave it to the academic sector to comment on these views. However, as the SAR Government, we have to follow the Basic Law which has stipulated the development of the economic system in Hong Kong. These include: the previous capitalist system practised in Hong Kong shall remain unchanged; the SAR shall keep its expenditure within the limits of revenues and strive to achieve a fiscal balance; and Hong Kong shall practise the low tax policy. Therefore, we have already put forth during our discussions at the Commission that on the promotion of the constitutional development in Hong Kong, the interest of various strata of Hong Kong society should also be looked after and the steady development of Hong Kong economy assured. I think the Basic Law has already included the most important principles.

MR CHEUNG MAN-KWONG (in Cantonese): *President, the last part of my supplementary question asks whether the Hong Kong Government agrees with Mr WANG Zhenmin that such a guarantee must be included as a condition for the implementation of universal suffrage.*

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

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, we recognize the principles in the Basic Law and will act in accordance with them.

MS AUDREY EU (in Cantonese): *President, it is pointed out in a certain part of the main reply — if the short sentence at the beginning is also counted, that*

should be the last sentence of the fourth paragraph — that "as to how universal suffrage is to be attained, this will require consensus among the Central Authorities, the Government, the Legislative Council, and different sectors of the community". Obviously, President, the Commission can in no way represent the consensus among different sectors of the community. Thus, may I ask the Secretary whether it will consider adopting the method suggested by a mainland scholar LIAN Xisheng, for example, the holding of a referendum? That is to achieve a consensus among various sectors by means of the method suggested by LIAN Xisheng.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, in handling issues related to constitutional development, we will follow strictly the requirements laid down in the Basic Law, the provisions in Annex I and Annex II and the interpretation made by the Standing Committee of the National People's Congress in April 2004. Amendments to any provision related to the electoral system under the Basic Law can only be made if we have the endorsement of a two-thirds majority of all the Members of the Legislative Council and the consent of the Chief Executive, and the amendments have to be approved or reported to the National People's Congress for the record. We will act in accordance with this set of constitutional procedures and will not add any provisions other than those.

PRESIDENT (in Cantonese): We have spent precisely 19 minutes on this question. Last supplementary question now.

DR YEUNG SUM (in Cantonese): *Madam President, Mr WANG Zhenmin has put forth six conditions, and let me quote one of them: "legally, laws have been enacted to implement Article 23 of the Basic Law and the laws on the development of political parties have been further perfected." May I ask the Secretary whether the SAR Government subscribes to this saying of his, that is, to bundle up the legislation on Article 23 of the Basic Law with universal suffrage? That is to say, if laws on Article 23 of the Basic Law are not enacted, Hong Kong cannot implement universal suffrage? Does the Government agree with this approach?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the SAR has the constitutional obligation to enact local laws to

implement Article 23 of the Basic Law, but at present, the SAR Government has not yet set a timetable for this. On the other hand, it is stipulated in the Basic Law that the ultimate aim of universal suffrage must be attained in Hong Kong. The SAR Government will follow the requirements of the Basic Law to gradually develop a democratic constitutional system in Hong Kong with the ultimate aim of implementing universal suffrage.

We are also aware that the enactment of laws on Article 23 of the Basic Law must enlist adequate support in society. At present, we are concentrating on improving the economic development and the people's livelihood. Certainly, we have also conducted studies on constitutional development, and the Commission is working on this. We hope that later, after the release of the report by early 2007, further promotion of the constitutional development can be carried out between 2007 and 2012.

DR YEUNG SUM (in Cantonese): *Madam President, the thrust of my supplementary question is whether the Government will bundle up the enactment of legislation on Article 23 of the Basic Law with the implementation of universal suffrage? The Secretary has not answered this part.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, this is also the work we wish to promote in the context of the Basic Law. However, in respect of work related to the enactment of legislation on Article 23 of the Basic Law, we have yet to set a timetable for the work, and we will continue with our study in this respect. As for the subject of constitutional development, we have already arranged for the Commission to carry out extensive discussions and work on this. I believe by making good preparations in this respect, we will have the opportunity to further promote constitutional development between the period 2007 and 2012.

DR YEUNG SUM (in Cantonese): *The Secretary has not answered whether the two will be bundled up.*

PRESIDENT (in Cantonese): Up to this point, I do not think it necessary to ask further question. For the government official has heard your question clearly,

and you have put your follow-up question clearly. If the Secretary chooses to answer it this way, I as the President can do nothing about it. We will now proceed to the fourth oral question.

PRESIDENT (in Cantonese): Fourth question.

Mainland Tourists Visiting Hong Kong

4. **MR LAU KONG-WAH** (in Cantonese): *President, with regard to mainland tourists visiting Hong Kong, will the Government inform this Council:*

- (a) *of the respective numbers of mainland tourists to Hong Kong during the Chinese New Year and 1 May "Golden Week" holidays this year and, among these tourists, the respective numbers of those who travelled individually and those who travelled in tour groups, as well as how such figures compare to those for the past two years;*
- (b) *how Hong Kong's hotel room prices during the above two festive periods compare to those for the corresponding periods last year, and whether it has assessed the correlation between hotel room prices and the number of tourists from the Mainland; and*
- (c) *of the numbers of complaints lodged by mainland tourists received by the relevant authorities in each of the past two years and in the first four months of this year respectively, about being compelled by local tour guides to buy goods or dishonest marketing practices of shop operators, and so on, together with a breakdown by the subject matter of the complaints, and whether the authorities concerned have any new measures to curb such practices?*

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

(a) and (b)

During the Chinese New Year Golden Week this year, Hong Kong received some 562 000 mainland visitors, a new record for Golden

Week arrivals. It represented an increase of nearly 20% compared to the same period last year. The growth of Individual Visit Scheme (IVS) visitors was particularly strong, at 30.8%. IVS visitors and group tour visitors accounted for 59.1% and 12.7% of the total mainland visitor arrivals respectively.

As to the Labour Day Golden Week this year, we received some 415 400 mainland visitors. Compared to the same period in 2005 and 2004, there was an increase of 6% and 11.3% respectively. IVS visitors and group tour visitors accounted for 54.8% and 7.5% of total mainland visitor arrivals respectively. According to past experience, the Labour Day Golden Week recorded fewer mainland visitor arrivals amongst the three Golden Week holidays each year.

These figures reflect that Hong Kong remains attractive to mainland visitors. As the IVS becomes more popular, the share of IVS visitors has increased to more than half of the total mainland visitors while the proportion of group tour visitors decreased correspondingly. This shows a change in the travel pattern of mainland outbound tourists. The "Golden Week effect" is expected to diminish gradually. Taking the visitors from Guangdong Province as an example, they prefer to visit Hong Kong during normal weekends so as to avoid the crowd and the surcharges for peak seasons. In March and the first two weeks of April, during which there were no major holidays, the number of mainland visitors increased by 20% and 15% respectively compared with the same periods last year. On the other hand, the number of countries granted the "Approved Destination Status" by the Mainland has increased substantially from 14 in 2000 to 81 in March 2006, providing more destination choices for mainland visitors. Hong Kong therefore faces more competition for mainland visitors from other destinations. The detailed numbers of mainland visitor arrivals during the Chinese New Year and Labour Day Golden Week holidays this year and comparison with the corresponding periods in the previous two years are at Annex for Members' reference.

As to the hotel room rate, according to the Hong Kong Hotels Association, the average room rates during the Chinese New Year

and Labour Day Golden Weeks increased by 13.5% and 15% compared to the corresponding periods last year. The adjustment of hotel room rates during peak season reflects the market demand and supply situation. The rates of increase were comparable to the peak season of previous Golden Weeks. Judging from the increase in arrival figures during the Chinese New Year and Labour Day Golden Weeks this year, hotel room rates did not have a significant impact on the number of mainland tourists visiting Hong Kong. However, in the face of keen competition from other tourist destinations, it is necessary for the hotel industry to enhance its competitiveness.

- (c) According to the Travel Industry Council of Hong Kong (TIC), the breakdown of the number of complaints received from inbound group tour visitors in the past two years and in the first four months of this year in respect of shopping is as follows:

	<i>Complaints concerning shopping</i>
2004	437
2005	473
January to April 2006	233

Complaints by tourists received by the Consumer Council in the past two years and the first four months of this year concerning sales practice are set out below:

	<i>Tourists' complaints concerning sales practices</i>
2004	633
2005	765
January to April 2006	246

To safeguard the consumer rights of group tour visitors in shopping arranged by travel agents in Hong Kong, the TIC has implemented the "14 Days 100 Percent Refund Guarantee Scheme" since February 2002. According to TIC's requirements, travel agents need to pre-register with the TIC those shops which they would take their visitors for shopping. They can only take their visitors to the

"registered shops". At the same time, these "registered shops" must comply with the "14 Days 100 Percent Refund Guarantee Scheme". If group tour visitors make purchases at these shops as arranged by the travel agents, and are dissatisfied with the purchases and wish to return their purchases, the shops need to provide 100% refund to tourists, provided that (i) the purchased goods are undamaged and returned with the original packaging; and (ii) the request for return is made within 14 days after purchase.

In order to improve the "14 Days 100 Percent Refund Guarantee Scheme" and enhance consumer protection for inbound group tour visitors on shopping arranged by travel agents, the TIC launched the "Demerit System for Registered Shops" in April 2005 to give demerits to registered shops for breaches of pledges they made to the TIC on shopping arrangement. Once a certain threshold of demerits is reached, the TIC will suspend or revoke the registration of the shops. According to the TIC's requirements, travel agents are not allowed to take their tour groups to shop at these establishments if their registration was suspended or revoked.

If a local travel agent is found to have breached the TIC's directive or Code of Conduct on shopping arrangements, it could be either warned or fined by the TIC. For repeated and serious cases, the travel agent's membership with the TIC may be suspended or revoked, which may also lead to suspension or revocation of its licence by the Registrar of Travel Agents.

The TIC has promulgated the Code of Conduct for Tourist Guides (the Code) in 2003, giving guidelines on the practice and professional ethics of tourist guides. The Code covers the principles governing shopping activities which stresses that tourist guides shall not allow their service attitude be affected by visitors' unwillingness to purchase or the value of their purchases. Further, it is also the responsibility of tourist guides to let the visitors understand their consumer rights, for example, the visitors should be briefed on their rights enjoyed under the "14 Days 100 Percent Refund Guarantee Scheme" before arranging tourists to visit the shops. Non-compliance of the Code will be penalized by the TIC

and repeated offenders may have their Tourist Guide Pass revoked or the application for the Pass rejected. The travel agents they are working for will also be warned or fined; serious non-compliance cases may lead to revocation of a travel agent's membership with the TIC.

To help visitors to easily recognize reliable retail shops and restaurants, the Hong Kong Tourism Board (HKTB) will continue to enhance its promotion on Quality Tourism Services (QTS) Scheme. The accredited shops under the Scheme have to meet stringent assessment standards in order to ensure the attainment of service excellence. To further protect the consumer rights of tourists, the HKTB will expand the QTS Scheme to other tourism-related industries and raise awareness in major visitor source markets.

Besides, to further enhance visitor and consumer confidence for shopping in Hong Kong and strengthen Hong Kong's reputation as a "Shopping Paradise" for genuine products, the Intellectual Property Department has launched the "No Fakes" Pledge System since 1998. The System aims to establish and uphold honest and trustworthy trading practices, which help consumers to distinguish honest and reliable merchants.

The Government will continue to monitor the trend of complaints received from tourists. We will work closely with the Consumer Council, the HKTB and the travel trade to enhance consumer protection for visitors.

Annex

<i>Periods</i>	<i>Mainland visitors</i>	<i>Individual visitors</i>	<i>Group tour visitors</i>
2006 Chinese New Year (27 January to 5 February)	562 350	332 463 (59.1%)	71 220 (12.7%)
Compared to 2005	469 039 +19.9%	254 217 +30.8%	67 482 +5.5%
Compared to 2004	409 933 +37.2%	160 182 +107.6%	49 593 +43.6%

<i>Periods</i>	<i>Mainland visitors</i>	<i>Individual visitors</i>	<i>Group tour visitors</i>
2006 Labour Day (29 April to 8 May)	415 446	227 624 (54.8%)	31 349 (7.5%)
Compared to 2005	391 993 +6.0%	203 506 +11.9%	34 328 -8.7%
Compared to 2004	373 263 +11.3%	149 825 +51.9%	34 981 -10.4%

Source: Immigration Department

Figures in () represent the percentage of the total mainland visitors

MR LAU KONG WAH (in Cantonese): *President, according to the first table in part (c) of the main reply, during the first few months of the year, the number of visitors' complaints is almost half of the number received last year. In view of the situation in recent years, there is a rising trend for these figures. Besides, these figures only come from group tour visitors, which represent only 7.5% of the total number of tourists. On the other hand, IVS visitors account for more than 54% of the total number of tourists. So, these figures may only be the tip of the iceberg. May I ask the Secretary whether the complaint figures from IVS visitors are totally unavailable? Besides, even though some schemes were launched by the authorities in 2002 and 2005, it seems that they cannot curb some malpractices which tarnish Hong Kong's reputation as a "Shopping Paradise". The Secretary has not answered whether there are any new measures to curb such malpractices.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have already provided the relevant figures. I believe Mr LAU Kong-wah may not be aware that in respect of the figures provided by the Consumer Council, they mainly refer to the complaints by mainland visitors and all the complaints are made by IVS visitors. We can see that there were 246 complaints in the first four months of the year. But we should not forget that tourists to Hong Kong, particularly the mainland visitors, have increased tremendously. From this, a continuous rising trend of the figures will certainly be seen. In the main reply, I have elaborated on the new measures that have been launched, such as the "14 Days 100 Percent Refund Guarantee Scheme" and the "Demerit System for Registered Shops" which was launched in 2005.

Besides, regarding the QTS Scheme, we will continue to enhance the promotion in this aspect and make more efforts to provide more choices to mainland visitors. In fact, mainland visitors can refer to our leaflets which contain information on quality shops and restaurants. These leaflets can provide more choices to visitors who will know which shops are accredited by the HKTB. We will continue to make more efforts in this aspect and promote QTS in other aspects such as guesthouses which provide accommodation to visitors, or even the beauty care and hairdressing industry.

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

MR LAU KONG WAH (in Cantonese): *President, the Secretary has not answered my question concerning complaints by individual visitors. He only mentioned the complaints about sales practices received by the Consumer Council. Since there are two kinds of different complaints, one is about shopping arrangement and the other one is about sales practices, can the Secretary tell us whether the Consumer Council's information has included complaints by individual visitors and it has noted such complaints?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, that is exactly the answer.

MR SIN CHUNG-KAI (in Cantonese): *President, may I ask the Secretary whether the Government has discovered any complaints which involve fraud or criminality among the thousands of complaints lodged in 2004, 2005 and 2006? In the Secretary's memory, has any criminal investigation been conducted? If yes, can he provide any relevant figures; if not, why not? Did all the complaints involve poor quality of goods or exorbitant prices?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, regarding this supplementary question, I would like to give a reply in writing. (Appendix II)

MR WONG KWOK-HING (in Cantonese): *May I ask the Secretary whether he has paid attention to the quality of tourist guides and whether their quality will affect mainland visitors' impression of Hong Kong? We have received complaints from some trade unions, that many illegal tourist guides have tarnished the quality of Hong Kong people and affected the employment opportunity of local tourist guides. I hope the Secretary can answer this supplementary question and provide relevant statistics.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): My thanks go to Mr WONG Kwok-hing for his question. We are all very concerned about the quality of tourist guides. In order to improve and ensure the service quality of local tourist guides, the TIC implemented the "Tourist Guides Accreditation System" in 2002 to provide training, examination and then issue a pass to tourist guides. Starting from July 2004, the TIC further stipulated that travel agents could only assign tourist guides who had such passes to receive inbound tourists. In order to ensure compliance by travel agents, the TIC will conduct frequent surprise checks at popular tourist spots so as to confirm that the tourist guides possess such passes. The TIC will impose penalties on travel agents who have failed to comply with the stipulation.

Regarding illegal tourist guides, in fact, many government departments, including the Travel Agents Registry, the Immigration Department and the police have conducted joint inspections with the TIC. These joint inspections will be continued in future. During inspections in the past, it was found that a number of Hong Kong residents without tourist guide pass were engaged in providing such service. We will continue to carry out such inspections.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not answered my question concerning data on illegal tourist guides. I hope the Secretary can provide such information.*

PRESIDENT (in Cantonese): Secretary, do you have any information in this aspect?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I have already answered the question. If we

know that illegal tourist guides are employed, we will take action and initiate prosecution. As I just said, we will conduct inspections and take action, such as conducting spot checks at popular tourist spots to ascertain if the tourist guides possess tourist guide passes. We have also conducted joint inspections and found that five tourist guides without such passes.

MR WONG KWOK-HING (in Cantonese): *President, is the Secretary telling us that no statistics have been compiled? I asked the Secretary about the statistics instead of whether he has done any thing. The Secretary has conducted inspections but has not given us a reply on statistics.*

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

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have already answered Mr WONG's question.

MR CHAN KAM-LAM (in Cantonese): *President, in the main reply, it is mentioned that hotel room rates fluctuate with the market demand and supply. But as we can see, the difference between the rates in peak and non-peak seasons is more than 100%, thus showing that the supply of hotel rooms is far from adequate. Does the Government have any measures or strategies to increase the supply of hotel rooms so that visitors will not be turned away from Hong Kong?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I believe Mr CHAN will also know that hotel room rates fluctuate with supply and demand and the price difference between peak and non-peak seasons is very great. I trust Members will know when they go travelling that the prices in peak season are sometimes higher than that in non-peak season by more than one fold. Of course, we hope more hotel rooms can be provided in order to meet visitors' need. In fact, the number of hotel rooms in Hong Kong has been increasing. Now, we can see that about 48 000 rooms are offered by hotels and guesthouses in the whole territory. And as far as hotels are concerned, there are about 43 000 rooms. Compared with the figure of last

year, the number has increased by several thousands. It is estimated that about 10 000 new hotel rooms will be completed in the year to come. In other words, the increase of hotel rooms also depends on the market situation. The developers are clearly aware of the growth rate of tourists and have launched a lot of new hotel projects. Now, the number of hotels is rising and about 70% of them are three-star hotels, while the remaining are five-star hotels.

In the main reply, it is mentioned that we hope the hotels can maintain or enhance their competitiveness. No one would like to see that hotel room rates are too expensive. However, Hong Kong does not only compete with tourist attractions in Southeast Asia and other places. Nor does it receive mainland visitors only. Apart from mainland visitors mentioned in the main reply, inbound tourists from all parts of the world, including mainland visitors, in the 10 days during the Golden Week is more than 720 000, representing an increase of more than 70% compared with last year. Nevertheless, the supply of hotel rooms was also adequate and the occupancy rate was more than 80%.

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

DR KWOK KA-KI (in Cantonese): *The Secretary just said that there are many ways which can facilitate the public in choosing quality shops. In fact, I believe it is difficult to do so. The tourists will not only patronize quality shops and refrain from patronizing the inferior ones by sole reliance on a list. Does the Secretary have any measures which can impose appropriate penalties on the inferior shops or shops which engage in malpractices so that Hong Kong's reputation will not be tarnished again?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I thank Dr KWOK for his question. If the shop operators intend to cheat the customers, it is basically an offence. I believe Members also know that such practice is now regulated by law. For instance, false trade descriptions, forged trade mark or misrepresentation are prohibited under the Trade Descriptions Ordinance. Apart from that, we have the Unconscionable Contracts Ordinance. In fact, legislation regulating such problems is in place. Regarding fraud with intent, warnings were issued in the past.

Regarding the information just asked for by Mr SIN Chung-kai, I have undertaken to provide a written reply. But I do not agree with Dr KWOK's comment that the leaflets published by us are not effective. When planning a trip, we will search for information on the Internet in order to know where we can enjoy ourselves and go shopping. Such leaflets are in fact very useful because it has clearly set out what goods are sold in these places, apart from information on restaurants. With such information, visitors can decide on their own where to go shopping and dining. In my opinion, such information will at least be helpful to the visitors, particularly those who have never visited Hong Kong before. For those who have come to Hong Kong before, they will certainly have their own ideas.

DR KWOK KA-KI (in Cantonese): *President, the Secretary has not answered one question. When the whole Nathan Road is lined with shops which intend to cheat customers, the methods mentioned by the Secretary cannot help the visitors. I would like the Secretary to state clearly what penalties will be imposed so that shop operators who intend to cheat the customers cannot tarnish Hong Kong's reputation anymore.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): First of all, to be fair to the shops in Nathan Road, we should not say that all the shops there intend to cheat tourists. I believe the relevant figures only represent a minority. As shown by the figures provided by me earlier, millions of mainland visitors come to Hong Kong every year and the number of complaints received by the Consumer Council is not too staggering. Of course, I agree with Dr KWOK's comment that shopping is very important to the tourists and it is even more important to ensure that inbound tourists can shop with confidence and without any fear of being cheated. So, in the main reply, I have elaborated the measures we will adopt. And now better protection has been provided to group tour visitors. Under the "14 Days 100 Percent Refund Guarantee Scheme", they will be refunded within 14 days if they are not satisfied with the goods. Besides, regarding IVS visitors, as I just mentioned, they are protected by the law and efforts are now being made to help them.

PRESIDENT (in Cantonese): Fifth question.

Assisting Development of Logistics Industry

5. **MR CHEUNG HOK-MING** (in Cantonese): *President, many land lots in Northwest New Territories are being used as logistics back-up sites in recent years. On the other hand, some people of the logistics industry have complained to me that instead of injecting resources to assist in the development of the logistics industry, the Government has throttled it by regulating it through town planning. In this connection, will the Government inform this Council:*

- (a) *of the names and locations of the supporting infrastructures (such as roads) built or improved by the authorities as well as the costs involved in each of the past four years;*
- (b) *of the locations and sizes of the land lots designated as "Open Storage" zones or areas in Northwest New Territories in each of the past four years; the number of applications received by the authorities for changing the land uses of the land lots in Northwest New Territories into "Open Storage", the sizes of the land lots involved as well as the reasons for the authorities' approving or rejecting these applications; and*
- (c) *whether it has assessed the impact of restricting open storage operations by means of planning on the economy and employment situation of Hong Kong; if so, of the assessment results; whether the authorities will consider re-formulating a policy on comprehensive land use planning for the land in Northwest New Territories, so as to tie in with the commissioning of the Hong Kong-Shenzhen Western Corridor (HKSWC), thereby promoting the long-term development of the logistics industry in Hong Kong; if so, whether the policy concerned will include a package of proposals to achieve a balance between the operations of the logistics back-up base and the impact of such operations on the environment?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, my reply to the three parts of Mr CHEUNG Hok-ming's question is as follows:

- (a) A comprehensive transport network is one of the most essential elements for the development of the logistics industry. The

Government is continuously improving the transport network. For instance, to enhance the cross-boundary flows of goods, the new bridge connecting Lok Ma Chau and Huanggang was commissioned last year, and the HKSWC is expected to be commissioned in the first half of next year. In addition, the Stonecutters Bridge will be completed in the year following the next. In the past four financial years, the Government spent a total public expenditure of over \$100 billion on infrastructure.

- (b) The Town Planning Board (TPB) recognizes the industry's need for land for open storage and port back-up uses. The TPB drew up a set of planning guidelines for "Application for Open Storage and Port Back-Up Uses under the Town Planning Ordinance" (the Guidelines) in as early as 1994. The Guidelines have been reviewed and revised several times over the years. Currently, the areas suitable for open storage and port back-up uses, that is, Category 1 areas as we classify in the Guidelines, amount to 846 hectares in the rural New Territories as a whole. Given their proximity to the boundary, the geographical location of these areas facilitates the operation of the logistics industry as well as cross-boundary economic activities.

At present, the Category 1 areas in Northwest New Territories include 257 hectares of land zoned for "Open Storage". In general, open storage and port back-up activities in these areas are permitted as of right within this land use zone and prior planning permission is not required. For the remaining areas with other land use zonings, permission for logistics-related uses may be granted through planning application.

Apart from Category 1 areas, sites are also designated as Category 2 areas by the TPB to allow greater flexibility to meet the needs of the logistics industry. Category 2 areas include areas within or close to clusters of open storage and port back-up sites which are regarded as "existing uses" or subject of previous approvals, or areas without development programme for the time being. Applications for new open storage and port back-up uses or extension of existing temporary open storage and port back-up uses in Category 2 areas, subject to a maximum period of three years, will be considered.

There are a total of 260 hectares of Category 2 areas in Northwest New Territories.

According to our record, two applications for rezoning of land lots in Northwest New Territories to "Open Storage", involving about two hectares of land, were received by the TPB in the past four years. The two applications were rejected by the TPB in 2003 and 2004 respectively, mainly on grounds that the proposed rezonings were considered as incompatible with the surroundings, and that there was already sufficient land in the vicinity for temporary open storage use by the industry.

- (c) As one of the pillars of Hong Kong's economy, the logistics industry accounts for 5.4% of our Gross Domestic Product and offers 198 400 jobs (which represents 6% of the labour force). The Government and the TPB are fully aware of the significance of their incentives and support to the industry. The TPB reviews from time to time the demand for sites for open storage and port back-up uses to cater for the needs of the industry and the economic development of Hong Kong as a whole. As to whether more sites will be designated for open storage and port back-up uses in Northwest New Territories, the Planning Department will, in the light of the demand for such land use, submit its land use planning proposals for the TPB's approval having regard to such factors as the opportunities to be brought about by the commissioning of the HKSWC, whether there would be any adverse drainage, traffic, visual, landscape and environmental impacts caused to the surrounding areas by its proposals, and views of the residents nearby. The Government will continue to create favourable conditions for the development of the logistics industry.

MR CHEUNG HOK-MING (in Cantonese): *Madam President, the Secretary said in part (a) of the main reply that a comprehensive transport network is one of the most essential elements for the development of the logistics industry, and the Secretary mentioned several examples in particular, including the new bridge connecting Lok Ma Chau and Huanggang, and even the HKSWC. All this relates to cross-boundary transport but the Secretary did not say in the main reply when vehicles enter Hong Kong via these means, whether the Government*

has any measures to ameliorate certain conditions, for example, works at Ping Ha Road in Ping Shan, heavy gridlock at Tin Wah Road in Tin Shui Wai, and even the imminent opening of the Wetland Park. When there is a huge influx of vehicles, what impact will it have on the logistics industry?

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

As regards arrangements for the construction and improvement of these roads, I will discuss with the other Bureau Directors after this meeting and tender a written reply. (Appendix III)

MISS CHOY SO-YUK (in Cantonese): *President, in his entire main reply, the Secretary has in fact taken on a rather passive tone. What he said was so long as there are applicants, decisions on whether approval should be given would be made in accordance with Category 1, Category 2, and so on. On the other hand, we of course also notice that the environmentalists are concerned about certain impact of the entire logistics industry on New Territories North, but the industry really needs such land. May I ask the Secretary if the Government would proactively make zoning of land for use by the logistics industry to store containers in the light of its demand? That is to say, would the Government take the initiative to plan rather than deciding on whether to approve when applications come in?*

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

Miss CHOY, in fact, we have made planning in this respect as early as 1994. As we had then mapped out our planning, suitable areas are now available for that purpose. Otherwise, a lot of land use would have become disorganized now. Regarding land lots which we have presently made plans for or have approved for certain uses, we have considered the factors mentioned earlier by the Honourable Member, and considered that giving approval to the applications would not create unnecessary impact on traffic or the environment. Of course, some of the Category 2 areas may not be very good, the reason being those areas will have future development or some areas are not too suitable. We will go through a selection process, secure the TPB's approval, and will also pay attention to the current environment and the duration required before deciding on whether the lots can be used for that purpose. In this regard, we have different approaches to cope with different needs.

MS MIRIAM LAU (in Cantonese): *Actually, the Secretary has pointed out in the main reply the importance of the logistics industry to Hong Kong. However, at the same time, the Secretary has given me the impression that he does not know much about the genuine needs of the industry. In actual fact, over the years, the industry has been complaining about a serious lack of land for use by the industry, and the shortfall is particularly serious in the vicinity of the port or the airport. Recently, after much hard work, several lots have been identified in the vicinity of the port, but the areas are very small, with many restrictions and the terms are extremely short. President, short terms create a big problem because modern logistics is different from the conventional cargo freight a decade ago in that it requires investments. If the terms are too short, there will be no incentive whatsoever for people in the sector to make investments.*

Therefore, there are two parts to my supplementary question. First, the Government's Guidelines were drawn up in 1994, and it has in fact been more than a decade behind the modern needs of the industry, so would the Government conduct a review of its planning with regard to the needs of the industry? Moreover, would the Secretary discuss with the Secretary for Economic Development and Labour, who is sitting behind him, to gain a true understanding of the needs of the industry and identify land suitable for use by people in the industry or the industry for development in the future?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): We will certainly discuss this. A lot of things require co-ordination within the Government. So, Members need not worry, we will definitely do so.

As for the 1994 Guidelines, I have said in the main reply that throughout all these years, we have been reviewing and revising them for perfection. I think Ms LAU has highlighted the problem. It has nothing to do with whether we have sufficient land because we in fact have much land. The major problem is location. Ms LAU said earlier that in most cases, they have to be in close proximity to the airport and the port. As for the areas we are now talking about, they were singled out in response to Mr CHEUNG Hok-ming's question, that is, land in Northwest New Territories which is far away from the port.

I think we all know that Hong Kong is a small place with a large population, and we often receive applications for using the small land lots

neighbouring the port or the airport for different uses. I said earlier that many such lots can only be used for short-term purposes, say three years or so, before we embark on long-term development. Due to these reasons, people always have the impression that they have to relocate after a short while. Thus, the choice here is if you want a longer term, the location will unavoidably be farther away. As I said earlier, there are sufficient Category 1 areas in the New Territories but the setback is less convenient transport and higher related cost. Nevertheless, we also appreciate the needs of the industry. Therefore, we will try out best to satisfy the needs of the industry in this respect under limited conditions. However, we cannot make an optimistic undertaking of providing more vacant land in the vicinity of the airport or the port.

MR SIN CHUNG-KAI (in Cantonese): *President, recent reports pointed out that since China has practised free trade with the ASEAN countries, some cargoes which used to be transported in and out of the Mainland via Hong Kong, or from the Mainland via Hong Kong to the ASEAN countries may not have to go through Hong Kong because of the so-called free trade zone, meaning that the cargoes can enter such countries tariff-free. May I ask the Government if any study or assessment in this regard has been conducted to examine what impact this has on the so-called back-up area of Hong Kong?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): This supplementary question has somewhat gone beyond the focus of today's question. Perhaps I will reply in writing. (Appendix IV)

DR KWOK KA-KI (in Cantonese): *President, I of course understand the importance of the logistics industry, but I am also concerned about the impact of logistics land use on the environment. May I ask the Secretary, regarding the present 257 hectares of Category 1 areas, has there been any complaint or opinion in the past that the usage is incompatible with the environment or traffic, requesting the Government to review the policy concerned?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I do not have information on complaints at hand. However, I can assure Members here that when we selected those areas, like I said earlier, we had

considered the nuisances to the locals and other factors. Therefore, we are rather stringent in our selection which also explains why we cannot designate too many lots as Category 1 areas. I will check if there are figures on complaints, and if there are, I will reply in writing. (Appendix V)

PRESIDENT (in Cantonese): Sixth oral question.

Gas Leaks

6. **MR FRED LI** (in Cantonese): *President, it has been reported that, following the gas explosion at Wai King Building in Ngau Tau Kok last month, the Hong Kong and China Gas Company Limited (HKCG) has used Flame Ionization Detector (FID) to inspect, throughout the territory, pipes of the same type as those involved in the explosion. In the inspections, gas leaks were detected in pipes at 51 locations, and corroded pipes were found at three of these locations. In addition, the HKCG indicated that it would increase the frequency of inspecting its pipeline network from three to six times a year. In this connection, will the Government inform this Council of:*

- (a) *the details of these 51 pipeline locations and the leakage problem;*
- (b) *the reasons for pipe corrosion at the above three locations, and whether the authorities will request the HKCG to replace their gas pipes with stainless steel pipes in order to avoid the occurrence of accidents; if not, the reasons for that; and*
- (c) *the reasons for using FID by the HKCG in its inspections, the differences between the current inspection exercise and those conducted previously, and the reasons for increasing the frequency of inspection?*

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

- (a) Between 13 April and 1 May 2006, the HKCG conducted a comprehensive leakage survey on all its medium pressure ductile

iron (MP DI) pipes, that is, the same type as that involved in the explosion. Details are as follows:

- Minute leakage was detected at three locations, namely the junction of Wong Chuk Hang Road and Nam Long Shan Road on Hong Kong Island, Prince Edward Road West in Kowloon, and Lai Yiu Street at Kwai Chung. The leakage was due to pipe corrosion, and the HKCG has undertaken immediate replacement and repair works.
- Of more than 200 000 pipe joints along these town gas pipelines, minute leakage was detected at 30 joints. The HKCG has carried out immediate repair works.
- The HKCG has inspected its above-ground installations in the course of conducting the abovementioned leakage survey on the underground town gas pipelines, and carried out maintenance and repair works on 18 installations at which minute leakage was detected.

The HKCG pointed out that such minute gas leakage was only detectable by using sophisticated equipment close to the point of leakage. Such leakage is commonly found in similar underground pipelines in other parts of the world. These leakages are caused by vibration due to road traffic, soil subsidence, and disturbance by road excavation work. As the leaked gas is lighter than air, it will quickly be diluted by air. According to international standard, such minute leakages will not give rise to any hazardous situation. The Electrical and Mechanical Services Department (EMSD) is satisfied that the survey results indicate overall sound integrity of the HKCG's underground town gas distribution pipelines, and there is no indication of public safety problem with the HKCG's town gas distribution network. The locations of the pipe joints and above-ground installations that had minute leakages are listed in the Annex for reference.

- (b) At the three locations where minute leaks were detected due to corrosion, the HKCG observed from the results of a preliminary investigation that the contaminated soil around these pipes had

caused localized pipe corrosion, which eventually led to formation of pin holes on the pipe wall and the resulting gas leakage. The quantity of leaked gas was well below the hazardous level.

DI pipes are still in service for gas distribution network in various parts of the world such as the United States, the European Union, Singapore and Japan. These pipes, with protective coatings, meet international safety standards and should last for 50 years under normal circumstances. Since the '90s, the HKCG has gradually phased out laying of DI pipes and introduced new polyethylene (PE) pipes for underground distribution network to enhance gas safety. The PE pipes are free from ferrous corrosion problem, and possess enhanced quality of pipe joint and better resistance to ground subsidence. The gas industries normally do not replace DI pipes with stainless steel pipes, because the latter also has corrosion problem to some extent.

In the light of last month's gas incident at Wai King Building in Ngau Tau Kok, the EMSD urged the HKCG to undertake further safety enhancement measure by accelerating its replacement programme of MP DI pipes by PE pipes. The HKCG has already agreed to replace all 150 km of MP DI pipes installed for 20 years or more within two years.

- (c) The HKCG regularly conducts routine leakage surveys, with the assistance of FID on its underground town gas distribution pipelines. FID is sophisticated detection equipment and is widely used by the international gas industries. It has very high sensitivity and is able to detect gas leak at very low concentration levels down to one part per million. The method employed by the HKCG in the current leakage survey is basically the same as in their past surveys, and the HKCG also took the opportunity to survey the manholes of other utilities near their pipelines. The results are similar to those of their past surveys. The frequency of leakage surveys carried out by the HKCG is relatively higher than that of most other places. Nevertheless, to enhance the safety of the gas distribution networks, the HKCG has recently increased the frequency of routine leakage surveys to six times per year. The EMSD will also conduct site inspection regularly to monitor and follow up the effectiveness of the surveys conducted by the HKCG.

Annex

Minute Leakage at Pipe Joints (30 locations)

<i>Region</i>	<i>Pipe Location</i>
Hong Kong (two locations)	On Yip Street near Sun Yip Street
	Queen's Road West near Eastern Street
Kowloon (15 locations)	Sau Mau Ping Road near Hip Wo Street
	Prince Edward Road East near subway
	Wai Yip Street near King Yip Street
	Hiu Ming Street
	Fei Ha Road
	Tak Tin Street near Ping Tin Street
	New Clear Water Bay Road near Clear Water Bay Road
	Lok Sin Road near Tung Lung Road
	Kowloon City Road near Lok Shan Road
	Kom Tsun Street
	Boundary Street near Sai Yeung Choi Street North
	Po Kong Village Road near Fung Tak Road
	Cheung Yee Street near Cheung Lai Street
	Tse Wai Avenue
	Clear Water Bay Road near Ah Kung Wan Road
New Territories (13 locations)	Wo Tik Street
	Tsuen Wing Street near Texaco Road
	Tsing San Path
	Ming Kum Road near Tsing Tin Road
	Castle Peak Road - Tsuen Wan near Tai Wo Hau Road
	Tai Pa Street
	Tat Yan Square
	Lei Muk Road near Tung Chi Street
	Ching Hong Road near Tsing Yi Road West
	Tsing Yi Road near Tsing Yi Interchange
	Container Port Road near Kwai Tai Road
	Sha Tin Wai Road near Sha Tin Road
	On King Street

Minute Leakage at Above-ground Installations (18 locations)

<i>Region</i>	<i>Pipe Location</i>
Hong Kong (six locations)	Tin Hau Temple Road near Wan Tin Path
	Shau Kei Wan Road near Factory Street

<i>Region</i>	<i>Pipe Location</i>
	Kennedy Road near Tramway Path
	Hung Hing Road
	Repulse Bay Road near Beach Road
	Cape Road near Carmel Road
Kowloon (one location)	Tak Fung Street near Hung Hom Road
New Territories (11 locations)	Yeung Uk Road near Chuen Lung Street
	Hung Shun Road near Ying Fuk Street
	Long Yat Road near Long Ming Street
	Castle Peak Road near Long Yat Road
	Yuen Tun Circuit
	Fuk Hi Street near Wang Lok Street
	Wo Tong Tsui Street near Kwai Hing Road
	Nam Wan Road near Plover Cove Road
	Lion Rock Tunnel Road near Shatin Park
	Sha Tin Wai Road near Tai Chung Kiu Road
	Ma On Shan Road near Mui Tze Lam Road

MR FRED LI (in Cantonese): *President, in part (c) of the main reply, the Secretary said that the surveys conducted by the HKCG after the incident were not much different from the past surveys. My concern is that the HKCG conducted a regular survey in the vicinity of Wai King Building in mid-March. But two weeks later, the tragedy of gas explosion due to massive leakage of towngas happened. May I ask whether FID had been used in that survey, any gas leakage had been detected then, and why this tragedy would happen?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, the HKCG conducted a survey in March, and Mr LI asked why this situation had happened. His follow-up question is actually why this accident had still happened after the survey, and that is exactly the crux of the question. However, I am unable to answer this follow-up question here. What are the reasons? I believe Mr LI is also clearly aware that the Government has now set up an inter-departmental investigation unit, comprising staff from the EMSD, the Fire Services Department, the Police Force and the Government Laboratory, to conduct an in-depth investigation into the incident. I believe that we do want to know when the survey was conducted in March, how

long there had already been gas leakage. For a few hours or a few days? We all have no idea about such matters. Therefore, we have to conduct this in-depth investigation to find out the cause. We will then take follow-up actions on basis of the investigation report which, of course, has to be made public and submitted to the Coroner's Court. Hence, we are also waiting for the report so that we can study which areas require follow-up actions and how to prevent similar incidents in future.

MR FRED LI (in Cantonese): *President, the Secretary has not answered my very simple question, that is, whether FID had been used by the HKCG during the regular survey in mid-March. Since the Secretary mentioned that there was no difference between the surveys conducted before and after the incident, I thus asked whether that equipment had been used.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): According to the information I have acquired, the answer is yes. They did use that kind of detection equipment.

DR RAYMOND HO (in Cantonese): *President, incidents pertaining to leakage of underground gas pipelines seldom happen in Hong Kong, and the safety level concerned is also rather high. However, this incident is rather serious. In the main reply, the Secretary mentioned that such minute gas leakage is commonly found in other places. May I ask the Secretary whether he has any information for comparison, say in terms of mileage? In other words, given certain kilometres of underground pipelines, we can compare the number of casualties in similar gas leakage incidents in other places. Is there such information for comparison?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): According to the information provided by colleagues from the EMSD, when compared with the United Kingdom and the United States, there is roughly 0.18 time of gas leakage per each kilometre of pipeline each year in Hong Kong, while there is 0.71 time in the United States and the United Kingdom.

Besides, in terms of the standard — I believe that Dr HO is very clear about this, as he is an engineer himself — according to Annex M of Chapter 31.8 in the Gas Leakage Control Guidelines set out by the American Society of Mechanical Engineers (ASME), the standard concerned — you may judge the situation of Hong Kong with these guidelines. The gas leakages detected by the HKCG during the surveys all fall into the non-emergency category — follow-up and repair works can be arranged within 12 months after the leakage is detected, and that is the standard of the United States. However, in Hong Kong, we can see that the guideline of the HKCG is that once a gas leakage is found, it will, of course, not be followed up within 12 months but will be repaired immediately. Therefore, President, we can see that in Hong Kong, once there is gas leakage, it will be immediately repaired, instead of being dealt with within 12 months as according to the standard of the United States.

From this, we can see the standard and frequency of surveys conducted in Hong Kong are more stringent than those in the United Kingdom and the United States. And according to the figures that I provided just now, we can also see that there are also fewer incidents in Hong Kong than in the United Kingdom and the United States.

MISS CHAN YUEN-HAN (in Cantonese): *President, I find that when the Secretary answered parts (a) and (b) of the main question, he seemed to have two different standards. And I have no idea whether this is because the situations are different or due to other reasons.*

In the second item of part (a) of the main reply, the Secretary said, "Of more than 200 000 pipe joints along these town gas pipelines, minute leakage was detected at 30 joints. The HKCG has carried out immediate repair works". However, in the last paragraph of part (b) of the main reply, the Secretary also said that in regard to similar situations, the EMSD had urged the HKCG to accelerate its replacement programme of MP DI pipes by PE pipes. This is the answer of the Secretary. On the one hand, you said that there would not be any problems after the maintenance, but on the other, you want to accelerate replacement with another kind of pipes. What is actually happening between these two statements?

Besides, I also wish to raise another question — President — it belongs to the same question — this kind of so-called maintenance involves roads where

vehicles will pass, or when the works are in progress, it is possible that some openings may have collected towngas. In regard to this kind of problems, how are you going to deal with technically? In other words, the Secretary said that they would repair immediately. Nevertheless, there may be some openings on the road surface. What can be done? Why are you asking them to accelerate replacement with another kind of pipes on one hand, but you only arrange for repair works on the other?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, I thank Miss CHAN for giving me an opportunity to explain it in detail. I think this is also good.

Miss CHAN, if you read the main reply, you will know that I have actually referred to two different scenarios. For the first scenario, they have conducted a very detailed and comprehensive leakage survey in view of this incident. For instance, on 200 000 pipe joints along these MP DI pipelines, they could detect — as I said earlier, the accuracy of the equipment is as high as one in a million. In other words, they can detect one unit of towngas in a million units of air. The accuracy is thus very high. In this respect, you can see that leakage was detected at 30 joints among the 200 000 pipe joints, and repair works were carried out immediately. In this regard, they can handle it well and there is no problem at all.

As regards the next scenario that I mentioned, you asked why there would be repair works while I urged them to replace the old pipes. In fact, these are two different issues. Even though MP DI pipes are repaired, we still think that the adoption of this kind of plastic pipes, or PE pipes that I mentioned earlier, is the long-term and the best option. It is because at the present moment, this kind of pipes is better than MP DI pipes. In my main reply, I also mentioned that PE pipes are free from ferrous corrosion, and possess enhanced quality of pipe joint and better resistance to ground subsidence.

In the long term, it will be more desirable if we can replace those MP DI pipes installed for 20 years or more with these PE pipes. However, we are not saying that these MP DI pipes have any problems. As I mentioned earlier, this kind of pipes is still in service in the European Union, the United States, Japan and Singapore. Nevertheless, in Hong Kong, we think that since there are PE pipes, and while these pipes are better in various aspects, we hope to replace the old pipes for good.

In other words, we are referring to two different issues. First of all, when we find that some pipes have problems or have minute leakage, they will be repaired immediately. After repairs, they will be fine. Then, in the long term, as I said earlier, all these MP DI pipes installed for 20 years or more will be replaced. These are two different issues.

MISS CHAN YUEN-HAN (in Cantonese): *What I would like to ask is that on the technical level, the EMSD thinks that it will be better to replace this kind of pipes. Then, when the EMSD handles this issue, I think.....*

PRESIDENT (in Cantonese): Miss CHAN, you only need to raise the part of your supplementary question that has not been answered.

MISS CHAN YUEN-HAN (in Cantonese): *Yes, President, that is right.*

PRESIDENT (in Cantonese): You only need to state that part of the supplementary. There is no need to explain, all right?

MISS CHAN YUEN-HAN (in Cantonese): *I am not explaining, President. I only feel that the Secretary has not answered my question. What I mean is that since this kind of pipes is better, why do you not replace the old pipes immediately but only repair them? Why do you not replace them immediately? My question might have been clumsily put just now. But that actually is what I meant. However, he did not answer me why the pipes are not immediately replaced, but are only repaired.*

PRESIDENT (in Cantonese): Secretary, please answer.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Miss CHAN said that she did not understand my answer. But in fact, I do not quite understand Miss CHAN's question either.

Miss CHAN, I have actually answered your question. There are two separate issues indeed. First of all, when leakage is detected of the pipes, we will repair them immediately. Besides, concerning immediate replacement of all pipes, I have to stress that it is not possible. How can that be possible? For replacing all pipes immediately, we are now talking about so many kilometers of MP DI pipes installed for 20 years or more, and not replacing only one pipe. Your question may only be about simply replacing one pipe. However, we are now not discussing the replacement of only one pipe, but the replacement of all the old pipes in the territory completely. Not only are we going to replace those pipes with leakage, but also those without leakage.

I think Miss CHAN also understands that the traffic in Hong Kong is very busy. It is not possible to immediately dig out all the old pipes and at the same time, replace all MP DI pipes by PE pipes. This, of course, is impossible. However, we have already urged the HKCG to accelerate, with all efforts, the replacement of these pipes within two years. In respect of the course of replacement, the EMSD and the government departments concerned will determine the priority with the HKCG.

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

MR LEUNG YIU-CHUNG (in Cantonese): *President, a moment ago, the Secretary said that replacing all old pipes by PE pipes was the best option. However, in part (b) of the main reply, he said that he had only urged the HKCG which, in response, undertook to replace 150 km of MP DI pipes installed for 20 years or more within the next two years. It means that those pipes installed for less than 20 years are excluded from this project. I would like to ask the Secretary, in the main reply, you pointed out that the leakage at many locations was due to pipe corrosion. In other words, will this phenomenon only occur on those pipes installed for 20 years or more, and will not occur on those pipes installed for less than 20 years? Have all the pipes at the locations listed in your main reply been installed for more than 20 years, and none of them for less than 20 years?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, as I have already said, under normal circumstances, the

lifespan of these pipes can be as long as 50 years. Of course, under certain circumstances, as I pointed out in the main reply, such as excavation of road surface, soil being moved, corrosion or other factors, the lifespan of pipes will be affected and the pipes will have to be repaired by all means.

In fact, on the question of priority, I share the view of Mr LEUNG. In countries like Japan and the United States as I just mentioned, this kind of MP DI pipes are still in service and have not been replaced. However in Hong Kong, we think that since such an incident has happened, and since the properties of PE pipes, as I mentioned earlier, are now much better than MP DI pipes, to replace the old pipes will be more desirable in the long run. Nonetheless, we do not mean that MP DI pipes are not safe. I think we all understand that huge expenditure is actually required for the replacement of these pipes. At present, the HKCG is spending \$200 million to \$300 million per year in replacing the pipes. We have stated that we did not want to see the HKCG passing the cost of pipe replacement onto the users. In other words, the HKCG is meeting such costs with its own resources.

Therefore, Mr LEUNG can see, and I also agree with you that priority should be accorded to those 150 km of pipes installed for more than 20 years, and they have to be replaced within two years. For those pipes installed for less than 20 years, they also have to be replaced. However, in terms of priority, I think Mr LEUNG will understand that the former has to be replaced before the others.

MR LEUNG YIU-CHUNG (in Cantonese): *President, the Secretary has not answered my question. What you have reported are those locations with gas leakage. Have those pipes concerned been installed for more than 20 years or less than 20 years, and what percentage do the two groups account for? If this situation also happens with those pipes installed for less than 20 years, I think you should require an accelerated replacement, instead of considering it simply from the point of view of money and then take a leisurely pace.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I think safety is of the utmost importance indeed. According to my information, compared with the number of pipes installed for more than 20 years, there are very few problematic pipes installed for less than 20 years.

However, Mr LEUNG should not be worried. When gas leakage is detected, whatever the age of the pipes concerned, all of them will be repaired immediately. I think gas leakage does not only happen in Hong Kong, but also in other places. I emphasize again that this kind of MP DI pipes are still in service in other places, but in Hong Kong, we have at least taken the lead in replacing the pipes.

In regard to the priority, this clearly has to depend on the age of pipes. Since the chance of leakage will be higher for those pipes installed for more than 20 years, they will be replaced first according to the list of priority. Of course, if problems, such as leakage, are detected on those pipes installed for less than 20 years, since the HKCG has been carrying out regular surveys, they will immediately replace them if problems are found. However, if all the pipes have to be replaced, priority will be accorded to those pipes installed for more than 20 years. I think you do understand that it is not possible to replace all the pipes in Hong Kong in one go. What we are now talking about is priority. However, I have to emphasize that all the pipes will be replaced.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Sex Education in Schools

7. **MRS SOPHIE LEUNG** (in Chinese): *President, regarding sex education in schools, will the Government inform this Council:*

- (a) *whether the authorities will consider revising or updating the Guidelines on Sex Education in Schools (the Guidelines) published in 1997, to meet the development needs of young people nowadays;*
- (b) *as the above Guidelines are recommendations for reference only and not compulsory for schools to follow, of the current number of schools which have developed sex education programmes in accordance with the recommendations in the Guidelines; and*
- (c) *whether assessments are conducted regularly on sex education programmes in schools, if so, of the results of the latest assessment?*

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

- (a) The Guidelines was compiled by the former Education Department (now the Education and Manpower Bureau) in 1997 to increase schools' awareness of sex education. As it has been designed mainly for the reference of schools in the implementation of sex education, it should not be regarded as a curriculum guide which is normally drawn up for academic subjects. With the introduction of curriculum reform in 2001 which placed emphasis on holistic education, cross-curriculum programmes in civic education, moral education, sex education, health education and environmental education have all been integrated into moral and civic education. Moral and civic education focuses on cultivating students' positive values and attitudes, helping them develop a healthy lifestyle, acquire skills in life to face and deal with daily life and social problems, learn how to face the challenge of growth, and deal with doubts and perplexities about sex, for example, dating and courtship, gender awareness, and sexual harassment. Moral and civic education covers most of the essential experiences for the whole-person development of students, and is meant to dovetail with the development needs of young people nowadays.
- (b) As the Guidelines is only for the reference of schools in implementing sex education, it should not be strictly enforced. In fact, sex education has already been integrated into the curriculum of various subjects such as General Studies, Science, Biology, Social Studies, Ethics and Religious Studies, Home Economics, and so on, becoming part of what students should learn. Moral and civic education can also help foster proper values in students.

To provide support for teachers, we have launched a "Sex Education Website" (<<http://www.emb.gov.hk/cd/mce/sed>>) where teaching resources are made available on sex-related issues that are of concern to the community or have aroused interest and doubts among youngsters. The website is to provide a source of reference for teachers. Teachers may also design supplementary school-based sex education programmes according to the needs of their students. In addition, we organize professional development programmes from time to time to help them build up confidence and capability in teaching.

- (c) Through school visits and contacts with teachers in professional training activities, we have learnt that schools can make use of different kinds of activities, such as talks, exhibitions, debate competitions, adventure-based training camps, and so on, to provide sex education. We believe that sex education has been generally and properly implemented in schools.

Post Offices to Provide Diversified Services

8. **MR TAM YIU-CHUNG** (in Chinese): *President, given that the number of bank branches has been decreasing in recent years, will the Government inform this Council whether:*

- (a) *it has studied the feasibility of banks providing deposit and withdrawal services in post offices and of the Hongkong Post (HKP) running such services on its own, including the technical difficulties involved; if so, of the results of the study; if not, whether it will conduct such a study; and*
- (b) *the Social Welfare Department (SWD) plans to provide recipients the option of collecting Comprehensive Social Security Assistance (CSSA) payments, Disability Allowance and Old Age Allowance at post offices; if so, of the details of the plan; if not, the reasons for that?*

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

- (a) The Hong Kong Association of Banks has set up a Task Force to identify ways to address the inconvenience to some bank customers resulting from the reduced number of bank branches. At the request of the Task Force, the HKP has earlier provided information on the feasibility of banks providing withdrawal and deposit services in post offices, including:
 - (i) the service scope of the HKP is bound by the Post Office Ordinance and the Trading Fund Ordinance. Under the existing legislation, the HKP cannot provide withdrawal and deposit services on behalf of banks; and

- (ii) the setup of individual post offices (such as security arrangements, floor area, facilities and information technology systems) and human resources are designed primarily to serve the needs of postal services, and the resources of the majority of post offices are already heavily utilized. Therefore, there would be considerable impact on the quality of postal services if the banks were to provide withdrawal and deposit services in post offices.

Having carefully considered the potential implications on the quality of postal services, security and other technical factors, the HKP has grave reservations about providing withdrawal and deposit services in post offices. The HKP has already conveyed the above views to the Task Force. The feasibility of the HKP running its own withdrawal and deposit services is even more remote since it involves issues such as capital arrangement and risk management.

- (b) The SWD normally distributes payments of CSSA and Social Security Allowance (SSA) (including the Disability Allowance and Old Age Allowance) through monthly automatic payment transfer to recipients' designated bank accounts. Currently, there are about 40 banks in Hong Kong providing this service. Recipients can choose those banks that have branches near their homes to facilitate collection of CSSA and SSA payments. Where necessary, recipients can request the SWD to change their designated banks for automatic payment transfers. Under exceptional circumstances, the SWD will arrange special monthly cash delivery to recipients who have mobility problem and have no relatives or friends to collect payments for them.

The SWD is of the view that the current arrangements already meet the needs of the recipients. Therefore, it has no plan to distribute CSSA and SSA payments through post offices at this stage.

Measures to Relieve Teachers' Workload

9. **MR CHEUNG MAN-KWONG** (in Chinese): *President, the Education and Manpower Bureau (the Bureau) issued a circular to schools (Circular No. 4/2006) in March detailing the nine measures announced on 27 February this year to relieve teachers' workload. Four of such measures aimed at*

simplifying the administrative procedures, including further improvements to the arrangements for External School Review (ESR) to be implemented in the 2006-07 school year. However, in a workshop on ESR held last month, in response to teachers' questions about the detailed arrangements for the measures, an officer from the Bureau stated that as ESR had commenced in the 2003-04 school year, for the sake of fairness, the ESR arrangements would neither be simplified nor changed. In this connection, will the Government inform this Council:

- (a) of the concrete implementation arrangements, dates of implementation, resources involved and expected outcomes regarding the four measures to simplify the administrative procedures;*
- (b) whether the above officer's statement represents the Government's position; if so, whether the statement contradicts the contents of the above circular, and if so, of the reasons for that; if the statement is not the Government's position, how the authorities will deal with the inconsistency between the statement and the Government's position; and*
- (c) whether it plans to review the implementation and effectiveness of the nine measures in three years, so that teachers may better focus on teaching, thereby enhancing the quality of teaching?*

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

- (a) The implementation of the four measures to simplify the administrative procedures is as follows:

School-based Assessment (SBA)

In respect of the SBA for Chinese Language, two of the categories (Coursework and Other Language Activities) will be merged; the number of scores to be submitted to the Hong Kong Examinations and Assessment Authority (HKEAA) by schools will be reduced from 10 to four; schools may decide whether students will make oral presentations or provide written reports for the assessments in

Reading Activities and Other Language Activities; and the weighting of the SBA will be reduced from 20% to 15%. As for English Language, the number of texts to be read by students will be reduced from four to three; the number of assessments required will be reduced from four to two; and schools may decide whether students will take part in a group discussion or give an individual presentation for both assessments. The SBA will roll out in phases over a three-year period with effect from 2007, and for the first two years, schools can choose the best time for implementing SBA. The HKEAA has already spent some \$6 million (\$3 million each for Chinese Language and English Language) on the professional development of teachers and production of resources related to assessment. Measures to simplify the SBA have come into effect since their promulgation on 11 April this year. It is envisaged that simplifying the SBA will create more room for teachers in teaching, enhance operational flexibility, reduce the lesson time needed for the assessments, and alleviate the workload of, and pressure on, teachers. At the same time, this will help enhance students' interest and confidence in learning, and develop a conscientious, responsible and self-motivated approach towards their studies. Reduced pressure from examinations will also make learning a more relaxing and pleasurable experience.

Territory-wide System Assessment (TSA)

According to the design and specific operational requirements of the TSA, we have to establish a baseline of performance standards on the basis of three data points at each key learning stage. As we are extending the TSA to the Secondary Three level this year, by 2006, 2007 and 2008 we will have three data points each for Primary Three, Primary Six and Secondary Three respectively. Furthermore, we will review the administrative arrangements for the TSA based on the experience of the past three years and put forward improvement measures. The review of the TSA will not involve additional resources. Subject to the progress of the review and the arrangements required, it is expected that certain improvement measures will be implemented early in the TSA for 2007. We hope that the review can come up with improvement recommendations to streamline the administrative arrangements for the TSA so as to alleviate the workload of teachers.

ESR

A review of the work of ESR in the past three years is under way. The review includes the "Impact Study on the Effectiveness of ESR in Hong Kong in Enhancing School Improvement through School Self-evaluation (SSE)"; examination of the evaluation tools used in SSE and ESR, such as the "Performance Indicators for Hong Kong Schools" and the "Key Performance Measures"; analysis of feedback from the schools reviewed and members of the ESR teams; and collection of views on SSE and ESR through various channels in order to consider the duration and mode of the next round of ESR which will commence in 2008-09. The piloting of the modified evaluation tools will commence in 2007-08. We will inform schools of the mode of and arrangements for the next round of ESR and provide them with the relevant training in the 2007-08 school year.

Quality Education Fund (QEF)

With effect from 1 September 2006, applications for QEF will be accepted throughout the year to relieve the stress of schools/teachers in meeting the application deadline. Its assessment procedures will also be streamlined to expedite the release of results to schools.

- (b) It is stated in paragraph 4 of the Bureau Circular No. 4/2006 that "further improvement to the arrangements for ESR will be implemented in the 2006-07 school year. A review on ESR is under way with a view to determining the mode and arrangements of ESR for the second cycle which will commence in the 2008-09 school year." In a workshop on SSE and ESR held in April this year, teachers asked about the details of the improvement measures. In response, an officer of the Bureau remarked that improvements had been made to the content and arrangements of the two-day workshop organized for schools undergoing ESR in 2006-07, such as strengthening the activity and practical sessions and providing more exemplars for the reference of schools. The officer also pointed out that the Bureau, considering that only a limited number of representatives from each school could participate in the workshop, would introduce a new measure to reach out to teachers on a full scale. Under the new measure, leaders of the ESR teams

would visit all the schools undergoing ESR in the 2006-07 school year. They would have direct dialogue with all the teachers concerned, briefing them on the rationale and requirements of ESR and clarifying common misconceptions. The Bureau was currently reviewing the "Performance Indicators for Hong Kong Schools" and the "Key Performance Measures". As refining these tools took time and given the need for piloting and for briefing the schools on the relevant changes, it was not feasible to implement such changes immediately in the 2006-07 school year. Pending completion of the review, any new mode and arrangements for the next round of ESR would be implemented in the 2008-09 school year. The response made by our officer on that day was in line with the content of the above circular.

- (c) The Committee on Teachers' Work has been established to review the current work situation of teachers. The Committee will look into the nature of teaching jobs in public sector schools and the work they entail from an objective perspective, so as to identify improvement measures which will allow teachers to concentrate more on teaching. The Committee has engaged a consultant to conduct a survey on the work of teachers in Hong Kong for the period from April to July. The Committee will also visit primary and secondary schools in different districts and meet various education bodies from April to June. It is expected that the Committee will submit to us its proposed measures to relieve teachers' workload within the current year. We will then study its recommendations and work out feasible measures with a view to helping teachers better focus on teaching and improving the quality of education.

Introduction of Barrier-free Taxis

10. **DR FERNANDO CHEUNG** (in Chinese): *President, at a meeting of the 2005 Hong Kong Rehabilitation Programme Plan Review Working Group, an officer of the Transport Department (TD) pointed out that for "barrier-free taxis" accessible by wheelchairs to be introduced in Hong Kong, some technical difficulties had to be overcome, including the requirement that the type of taxis used should be fuelled by liquefied petroleum gas (LPG), accessible by wheelchair and up to the safety standards for LPG filling. In this connection, will the Government inform this Council:*

- (a) *of the progress in sourcing the suitable type of vehicles; if no progress has been made, of other concrete solutions; and*
- (b) *whether it has set a specific timetable for the introduction of barrier-free taxis; if so, of the details?*

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

- (a) The objective of the Government's rehabilitation policy in respect of transport services is to develop a public transport system which includes provision of appropriate facilities to meet the needs of people with disabilities (PWDs) so as to enhance their ability to move around at will and facilitate their full participation and integration into the community. For PWDs who are unable to use ordinary public transport, they are provided with point-to-point rebus service operated by the Hong Kong Society for Rehabilitation under government subvention. The Government recognizes the need to actively consider the introduction of wheelchair-accessible barrier-free taxis in order to supplement the rebus service.

According to law, apart from LPG, taxis can also use petrol as fuel. There are petrol-fuelled wheelchair-accessible vehicles available in the market. However, as their operating cost as taxis is higher than that of LPG taxis, the taxi trade has not introduced them for use as taxis.

The Government and the taxi trade are actively sourcing for wheelchair-accessible LPG vehicles for use as barrier-free taxis. Fuel supply system (including the fuel tank and associated pipework) of LPG vehicles requires approval by the Gas Authority (that is, the Director of Electrical and Mechanical Services). To facilitate the introduction of wheelchair-accessible taxis, the TD and the Electrical and Mechanical Services Department (EMSD), held a briefing session recently in late April for the automobile trade on the specifications of LPG taxis, including requirements on gas safety for the fuel supply system, access and fastening devices for wheelchair, and safety harnesses for passengers, to facilitate identification of suitable vehicles by the trade.

- (b) The TD and EMSD conducted a briefing session in late April to explain the standard and specifications of LPG vehicles and encourage the automobile trade and the taxi trade to introduce vehicle model which meets the legal requirements in Hong Kong as taxis so as to provide more convenient services for wheelchair users. Should there be suitable vehicle model, the departments concerned will follow up proactively on relevant procedures, including fuel supply system tests, vehicle inspection and road tests, in order to facilitate the early launching of barrier-free taxis.

Statistics for Primary and Secondary Schools

11. **MS AUDREY EU** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the respective numbers of schools, students and classes in each grade in respect of each type of secondary and primary schools (including government, aided, Direct Subsidy Scheme, private and international schools) in each of the school years from 2004-05 to 2010-11;*
- (b) *in respect of secondary and primary schools, of the respective current annual average costs per class and per student, and the respective numbers of standard classrooms which are in use and left vacant; and*
- (c) *whether it has estimated the following in each of the school years from 2006-07 to 2010-11:*
 - (i) *the respective numbers of children who will be in the age groups for Primary One and Secondary One;*
 - (ii) *the accumulated savings in public expenditure due to class reduction and school closure; and*
 - (iii) *the additional public expenditure which will be incurred each year if small-class teaching is implemented in all government and subsidized primary schools, and of how such amounts are worked out?*

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

- (a) The numbers of schools, students and operating classes in each grade broken down by type of schools at primary and secondary levels in the 2004-05 and 2005-06 school years are given in Annex 1.

Regarding the school years from 2006-07 to 2010-11, we are not able to provide the projected figures broken down by school type. This is because the ultimate distribution of students amongst the different types of schools depends on the school places allocation results and the final enrolment of individual schools, both of which are subject to parental choices and population movement.

Also, schools may operate classes of different sizes and the number of operating classes is subject to change in each year.

- (b) In the 2005-06 school year, the average cost per class and the unit cost per pupil for aided secondary and whole-day aided primary schools are as follows:

	<i>Average cost per class (\$)</i>	<i>Unit cost per pupil (\$)</i>
Secondary	1,200,100	32,260
Primary	792,000	24,370

In the 2005-06 school year, the number of standard classrooms in public sector primary (government and aided) schools and that in secondary (government, aided and Caput) schools are 12 780 and 11 120 respectively. By comparing the number of standard classrooms with the number of operating classes, we may have a rough idea of the utilization of standard classrooms. As far as public sector primary schools are concerned, the number of operating classes in the 2005-06 school year is about 10% less than that of standard classrooms. In fact, many schools use the standard classrooms for other educational purposes such as Information Technology room, language laboratory and remedial teaching room. Therefore, in reality, the actual proportion of vacant classrooms should be smaller. As for public sector secondary schools, floating classes (that is, those not having home classrooms) exist and hence

the total number of operating classes is slightly more than that of standard classrooms (by about 2%).

- (c) (i) Based on the latest territorial population projections released by the Census and Statistics Department (C&SD) in mid-2004, the projected number of school-age population for Primary One (aged six) and Secondary One (aged 12) for each of the school years between 2006-07 and 2010-11 are given in Annex 2. It should be noted that the actual number of Primary One and Secondary One students in the public sector schools is affected by parental choices. Besides, students enrolled in Primary One and Secondary One could be under or over the age of six and 12 respectively. Hence, the actual number of students in Primary One and Secondary One could be different from the projected figures.
- (ii) As explained in part (a), we are not in a position to provide accurate projections on the number of classes to be operated amongst schools in future years. As a matter of fact, the present system allows schools the flexibility to operate a class even if there are unfilled places. Hence, we are not able to provide accurate estimates on the possible cumulative savings arising from class reduction.

On the other hand, the estimated total savings arising from closure of schools in the 2006-07 to 2009-10 school years are as follows:

<i>School Year</i>	<i>Estimated Savings (\$m)</i>
2006-07	50
2007-08	30
2008-09	38
2009-10	5
Total	123

Note: Information is not available for estimating the savings in the 2010-11 school year.

- (iii) If small-class teaching is implemented in all government and aided primary schools from Primary One to Six in one go as from the 2006-07 school year, the estimated additional

expenditure incurred each year in the next five school years will be about:

<i>School Year</i>	<i>2006-07</i>	<i>2007-08</i>	<i>2008-09</i>	<i>2009-10</i>	<i>2010-11</i>
Additional Expenditure (\$billion)	2.7	2.6	2.5	2.4	2.4

The method of calculation is as follows:

[Projected primary student enrolment ÷ 25 (small class size) — Projected primary student enrolment ÷ 32.5 (current average class size)] x \$792,000 (average cost per class in the 2005-06 school year)

Annex 1

Table A: Number of Schools, Students and Operating Classes by Grade at Primary Level by Sector, 2004-05 to 2005-06

	<i>2004-05</i>						<i>2005-06</i>					
	<i>Government</i>	<i>Aided</i>	<i>Direct Subsidy Scheme</i>	<i>Local Private</i>	<i>International</i>	<i>All Sectors</i>	<i>Government</i>	<i>Aided</i>	<i>Direct Subsidy Scheme</i>	<i>Local Private</i>	<i>International</i>	<i>All Sectors</i>
No. of schools	41	612	11	48	47	759	39	570	14	51	46	720
No. of students	30 189	366 615	5 848	27 744	16 741	447 137	28 906	344 763	7 759	26 958	17 478	425 864
No. of operating classes	958	11 233	196	852	730	13 969	913	10 609	259	831	741	13 353
P1	140	1 581	42	132	148	2 043	132	1 478	55	126	149	1 940
P2	152	1 714	41	136	125	2 168	139	1 584	48	130	126	2 027
P3	162	1 822	43	144	125	2 295	151	1 717	49	135	126	2 178
P4	169	1 987	28	149	118	2 452	160	1 820	48	143	120	2 291
P5	167	2 049	23	148	109	2 496	166	1 978	32	150	115	2 441
P6	168	2 080	19	143	105	2 515	165	2 032	27	147	106	2 477

Notes: (1) Figures include ordinary primary day schools, but not special schools.

(2) Figures refer to the position as at September of the respective school years.

(3) International schools include English Schools Foundation schools.

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

Table B: Number of Schools, Students and Operating Classes by Grade at Secondary Level by Sector, 2004-05 to 2005-06

	2004-05							2005-06						
	Government	Aided	Direct Subsidy Scheme	Caput	Local Private	International	All Sectors	Government	Aided	Direct Subsidy Scheme	Caput	Local Private	International	All Sectors
No. of schools	37	371	45	9	34	23	519	37	375	48	9	32	23	524
No. of students	35 657	378 791	34 862	7 034	4 993	12 717	474 054	34 841	379 385	38 355	6 815	5 592	13 452	478 440
No. of operating classes	975	10 149	998	187	195	542	13 045	957	10 187	1 111	177	214	571	13 217
S1	160	1 819	168	30	4	89	2 270	158	1 793	181	28	7	94	2 261
S2	161	1 801	148	34	-	86	2 230	157	1 791	177	29	3	91	2 248
S3	165	1 812	126	35	4	82	2 224	161	1 808	156	34	4	87	2 250
S4	167	1 625	194	31	24	74	2 115	155	1 657	194	29	23	80	2 138
S5	162	1 629	192	31	61	77	2 152	167	1 649	214	31	68	78	2 207
S6	80	742	86	13	52	71	1 044	79	749	101	13	58	76	1 076
S7	80	721	84	13	50	63	1 011	80	740	88	13	51	65	1 037

- Notes: (1) Figures include ordinary secondary day schools, but not special schools.
(2) Figures refer to the position as at September of the respective school years.
(3) International schools include English Schools Foundation schools.
(4) There are fractional numbers of classes due to combined classes. The numbers have been rounded to the nearest integer, and they may not add up to the respective totals.

Annex 2

Projected Number of School-age Population for Primary One (Aged six) and Secondary One (Aged 12) between 2006-07 and 2010-11

	2006-07	2007-08	2008-09	2009-10	2010-11
Primary One (Aged six)	58 900	60 600	59 200	60 300	58 200
Secondary One (Aged 12)	84 800	84 800	81 300	76 500	68 900

Note: Figures refer to the position as in September of the respective years. They are compiled on the basis of the 2003-based territorial population projections released by the C&SD in June 2004. They include estimates for cross boundary students but exclude mobile residents.

Public Transport Services to and from North Lantau

12. **MR WONG KWOK-HING** (in Chinese): *President, regarding the public transport services to and from North Lantau (including Tung Chung), will the Government inform this Council:*

- (a) *of the existing number of bus routes and the respective average frequencies of each route during peak hours and non-peak hours;*
- (b) *of the average daily patronage of the MTR Tung Chung Line and its respective average frequencies during peak hours and non-peak hours; and*
- (c) *whether, in view of the population growth in the area, the MTR Corporation Limited (MTRCL) has plans to increase the train frequency of the Tung Chung Line in the near future; if not, of the reasons for that?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in the absence of Secretary for the Environment, Transport and Works) (in Chinese): President, currently, there are 44 bus routes serving North Lantau (including Tung Chung). These include 17 external bus routes, six shuttle bus services between Tung Chung and Airport, four Tung Chung internal bus routes, six bus services between Tung Chung/Airport (via Tung Chung) and South Lantau as well as 11 overnight bus routes. The respective average frequencies of each route during peak hours and non-peak hours are at Annex 1.

The current train frequency of Tung Chung Line during peak hours and non-peak hours is as follows:

	<i>Between Hong Kong Station and Tsing Yi Station</i>	<i>Between Hong Kong Station and Tung Chung Station</i>
Morning Peak Hours (7.55 am to 9.50 am)	At an average of four-minute interval	At an average of eight-minute interval
Evening Peak Hours (4.45 pm to 7.45 pm)	At an average of five-minute interval	At an average of 10-minute interval
Non-peak Hours	At an average of 10-minute interval	

The MTRCL will consider passenger demand and the need to match with it in determining the train frequency of its respective lines, including Tung Chung

Line. The average loading of Tung Chung Line trains departing Tung Chung Station during morning peak hours is about 24%, while the average loading of Tung Chung Line trains departing Hong Kong Station during evening peak hours is about 40%. According to the MTRCL, the current train frequency of Tung Chung Line provides sufficient capacity to cater for passenger demand in both peak and non-peak hours. The MTRCL will continue to monitor the development along Tung Chung Line and its patronage with a view to introducing necessary adjustments when situation requires.

Annex 1

Bus Services in North Lantau (including Tung Chung)

(1) External bus routes

<i>Bus Company</i>	<i>Route no.</i>	<i>Origin - Destination</i>	<i>Operating Hours</i>	<i>Peak frequency (minutes)</i>	<i>Non-peak frequency (minutes)</i>
Citybus	E11	Causeway Bay (Tin Hau) - AsiaWorld-Expo	5.20 am - 12.00 midnight daily	12	20
Citybus	E21	Tai Kok Tsui (Island Harbour View) Bus Terminus - Airport (Ground Transportation Center)	5.30 am - 12.00 midnight daily	12 (weekday) 10 (Sunday and PH)	30
Citybus	E21A	Tai Kwok Tsui (Island Harbour View) - Tung Chung (Yat Tung Estate)	6.10 am - 11.50 pm daily	20	30
Citybus	E21X	Hung Hom KCR Station - Tung Chung (Yat Tung Estate)	7.20 am, 7.40 am and 8.00 am daily from Yat Tung Estate		
Citybus	E22	Lam Tin (North) - AsiaWorld-Expo	5.30 am - 12.00 midnight daily	9 (weekday) 8 (Sunday and PH)	20
Citybus	E22A	Tseung Kwan O (Po Lam) - (AsiaWorld-Expo)	5.20 am - 11.50 pm daily	20	30
Citybus	E22P	Yau Tong - AsiaWorld-Expo	6.55 am - 7.30 am daily from Yau Tong 5.35 pm - 6.15 pm daily from AsiaWorld-Expo	7	22
Citybus	E23	Choi Hung - Airport (Ground Transportation Center)	5.30 am - 12.00 midnight daily	10	20

<i>Bus Company</i>	<i>Route no.</i>	<i>Origin - Destination</i>	<i>Operating Hours</i>	<i>Peak frequency (minutes)</i>	<i>Non-peak frequency (minutes)</i>
Citybus	E23P	Choi Hung - Airport (Ground Transportation Center)	7.15 am from Choi Hung		
Long Win	E31	Tsuen Wan (Discovery Park Bus Terminus) Tung Chung (Yat Tung Estate)	5.30 am - 12.00 midnight daily	10 (weekday) 12 (Sunday and PH)	20
Long Win	E32	Kwai Fong MTR Station - AsiaWorld-Expo	5.30 am - 12.00 midnight daily	10	20
Long Win	E33	Tuen Mun Town Center - Airport (Ground Transportation Center)	5.30 am - 12.00 midnight daily	10	20
Long Win	E34	Tin Shui Wai Town Center - Airport (Ground Transportation Center)	5.30 am - 12.00 midnight daily	7 (weekday) 8 (Sunday and PH)	20
Long Win	E34S	Tin Shui Wai Town Center - Airport (Ground Transportation Center) (via Tin Shui Wai North)	Monday to Saturday (except PH) 5.25 am and 7.35 am daily from Tin Shui Wai Town Center		
Long Win	E34P	Tin Shui Wai Town Center - Airport (Ground Transportation Center) (Omit Yuen Long)	5.20 am daily and Monday to Saturday (except PH) 7.15 am and 7.40 am from Tin Shui Wai Town Center		
Long Win	E41	Tai Po Tau - AsiaWorld-Expo	5.30 am - 12.00 midnight daily	12	20
Long Win	E42	Sha Tin (Pok Hong) - Airport (Ground Transportation Center)	5.30 am - 12.00 midnight daily	10 (weekday) 12 (Sunday and PH)	20

(2) Shuttle Bus services between Tung Chung and Airport

<i>Bus Company</i>	<i>Route no.</i>	<i>Origin - Destination</i>	<i>Operating Hours</i>	<i>Peak frequency (minutes)</i>	<i>Non-peak frequency (minutes)</i>
Citybus/ Long Win	S1	Tung Chung MTR Bus Terminus - Airport (Ground Transportation Center)	5.30 am - 12.00 midnight daily	7	10
Citybus	S52	Tung Chung (Yat Tung Estate) - Airport (Aircraft Maintenance Area)	5.28 am - 11.50 pm daily	20	20
Citybus	S52P	Tung Chung (Yat Tung Estate) - Chun Ping Road outside AAT	7.16 am, 7.36 am, 7.56 am, 8.16 am, 8.36 am and 8.56 am daily from Yat Tung Estate		

<i>Bus Company</i>	<i>Route no.</i>	<i>Origin - Destination</i>	<i>Operating Hours</i>	<i>Peak frequency (minutes)</i>	<i>Non-peak frequency (minutes)</i>
Citybus	S56	Tung Chung New Development Ferry Pier - Airport (Passenger Terminal Building)	6 am - 11.20 pm daily	20	30
Long Win	S64	Tung Chung (Yat Tung Estate) - Airport (Passenger Terminal Building) (cir.)	5.25 am to 12.00 midnight daily from Tung Chung	9	15
Long Win	S64P	Tung Chung MTR Bus Terminus - Catering Road East (cir.)	5.55 am to 11.15 pm daily from Tung Chung	15	30

(3) Tung Chung Internal Bus Services

<i>Bus Company</i>	<i>Route no.</i>	<i>Origin - Destination</i>	<i>Operating Hours</i>	<i>Peak frequency (minutes)</i>	<i>Non-peak frequency (minutes)</i>
NLB	36	Siu Ho Wan - Tung Chung Town Center	7.45 am, 10 am, 12.15 pm, 3 pm 5 pm and 7.30 pm from Tung Chung daily		
NLB	37	Tung Chung (Yat Tung Estate) - Tung Chung North	Monday to Friday (except PH) 5.45 am to 12.05 am Saturday, Sunday and PH 5.45 am to 12.05 am	5 15	20 20
NLB	38	Tung Chung (Yat Tung Estate) - Tung Chung MTR Bus Terminus	Monday to Saturday (except PH) 5.30 am to 12.24 am Sunday and PH 5.30 am to 12.24 am	2 3	8 10
NLB	38P	Tung Chung (Yu Tung Road) - Tung Chung MTR Bus Terminus	Monday to Friday (except school holidays) 7.00 am to 8.31 am	7	7

(4) Bus services between Tung Chung/Airport (via Tung Chung) and South Lantau

<i>Bus Company</i>	<i>Route no.</i>	<i>Origin - Destination</i>	<i>Operating Hours</i>	<i>Peak frequency (minutes)</i>	<i>Non-peak frequency (minutes)</i>
NLB	3	Tung Chung Old Pier - Mui Wo	6.00 am - 11.15 pm daily	15 (Monday to Saturday) 60 (Sunday and PH)	135 (Monday to Saturday) 140 (Sunday and PH)

<i>Bus Company</i>	<i>Route no.</i>	<i>Origin - Destination</i>	<i>Operating Hours</i>	<i>Peak frequency (minutes)</i>	<i>Non-peak frequency (minutes)</i>
NLB	3M	Tung Chung Town Centre - Mui Wo	5.45 am - 12.10 pm daily	20 (Monday to Saturday) 15 (Sunday and PH)	125 (Monday to Saturday) 135 (Sunday and PH)
NLB	11	Tai O - Tung Chung Town Centre	5.25 am - 1.10 pm daily	5	45
NLB	23	Ngong Ping - Tung Chung Town Centre	Monday to Saturday (except PH) 6.55 am - 7.10 pm	15	60
			Sunday and PH 8.10 am - 7.10 pm	10	45
NLB	34	Shek Mun Kap - Tung Chung Town Centre	Monday to Saturday (except PH) 7.00 am - 10.15 pm	50	110
			Sunday and PH 7.30 am - 10.15 pm	45	65
NLB	A35	Mui Wo - Airport (via Tung Chung)	6.00 am - 12.25 am daily	45	65

(5) Overnight Bus Routes

<i>Bus Company</i>	<i>Route no.</i>	<i>Origin - Destination</i>	<i>Operating Hours</i>	<i>Peak frequency (minutes)</i>	<i>Non-peak frequency (minutes)</i>
Citybus	N11	Causeway Bay (Moreton Terrace) - Airport (Ground Transportation Center)	12.15 am - 5 am daily	30	30
Citybus	N21	Tsim Sha Tsui (Star Ferry) - Airport (Ground Transportation Center)	12.10 am - 5.10 am daily	20	20
Citybus	N21A	Tsim Sha Tsui (Star Ferry) - Airport (Ground Transportation Center) (via Yat Tung Estate)	12.50 am and 1.10 am from Tsim Sha Tsui daily		
Citybus	N23	Tsz Wan Shan (North) - Tung Chung MTR Bus Terminus	3.35 am, 4.35 am, 5.05 am from Tsz Wan Shan and 12.15 am, 1.10 am from Tung Chung daily		
Citybus	N26	Yau Tong - Tung Chung MTR Bus Terminus	4.30 am, 5.00 am, 5.25 am from Yau Tong and 12.20 am from Tung Chung daily		
Citybus	N29	Tseung Kwan O (Po Lam) - Tung Chung MTR Bus Terminus	3.55 am, 4.25 am, 4.55 am from Tseung Kwan O (Po Lam) and 12.15 am, 1.10 am from Tung Chung daily		

<i>Bus Company</i>	<i>Route no.</i>	<i>Origin - Destination</i>	<i>Operating Hours</i>	<i>Peak frequency (minutes)</i>	<i>Non-peak frequency (minutes)</i>
Long Win	N30	Tung Chung MTR Bus Terminus - Yuen Long (East)	3.20 am and 4.20 am from Yuen Long daily; 12.20 am and 1.10 am from Tung Chung daily		
Long Win	N31	Airport (Ground Transportation Center) - Tsuen Wan (Discovery Park)	12:20 am - 5.05 am daily	20	30
Long Win	N42	Tung Chung MTR Bus Terminus - Ma On Shan (Yiu On)	12.20 am from Tung Chung and 4:00 am, 5:00 am from Ma On Shan daily		
NLB	N38	Tung Chung (Yat Tung Estate) - Tung Chung MTR Bus Terminus	12.30 am - 5.10 am daily	15	30
NLB	N35	Mui Wo - Airport (via Tung Chung)	1.30 am and 4.30 am daily from Airport and 3.15 am and 4.20 am daily from Mui Wo		

Note:

"Citybus" refers to "Citybus Limited"

"Long Win" refers to "LongWin Bus Company Limited"

"NLB" refers to "New Lantao Bus Company (1973) Limited"

"PH" refers to "Public Holiday"

Monthly Ticket Schemes for East Rail and Ma On Shan Rail

13. **MR ANDREW CHENG** (in Chinese): *President, the Kowloon-Canton Railway Corporation (KCRC) introduced two monthly ticket schemes, namely East Rail (ER) One-Month Pass and Ma On Shan Rail (MOSR) One-Month Pass, in April last year and January this year respectively. In this connection, will the Government inform this Council:*

- (a) *of the average number of monthly tickets sold each month under each of the above schemes;*
- (b) *whether the patronage of the ER and MOSR has increased and the financial position of the two Rails has improved after the introduction of the monthly ticket schemes; if so, of the average increase per month in the patronage of the two Rails, as well as the details of improvements in their financial position; if not, the reasons for that; and*

- (c) *whether the KCRC has conducted any passenger opinion surveys on the monthly ticket schemes, with a view to making improvements; if so, of the outcome of the surveys and the improvements made; if not, whether such surveys will be conducted?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in the absence of Secretary for the Environment, Transport and Works) (in Chinese): President,

- (a) According to the KCRC, in the first four months of 2006, the average monthly sales of ER One-Month Pass and MOSR One-Month Pass are 39 500 and 22 500 respectively, adding to the average monthly sale of 62 000 passes in total.
- (b) According to the KCRC, while both ER One-Month Pass and MOSR One-Month Pass have encouraged more passengers to travel by the KCR, it is difficult to evaluate the patronage increase solely generated from the said passes as the KCRC also provides other promotional programmes in parallel. As a reference, when the ER One-Month Pass was introduced in April 2005, patronage of the ER increased by about 20 000 from 630 000 in the previous month, whereas introduction of MOSR One-Month Pass in January 2006 boosted the patronage of the MOSR by 8 000 from 112 000 in the previous month.

As regards financial position, the KCRC said that ER One-Month Pass is almost close to revenue neutral. However, as the introduction of MOSR One-Month Pass cannot induce the expected increase in patronage and fails to make up for the overall loss in fare revenue, the KCRC believes that it would be difficult to extend the scheme beyond its trial period.

- (c) Since ER One-Month Pass and MOSR One-Month Pass are implemented as promotional programmes, the KCRC has not conducted any passenger surveys in that regard. As for the current ticketing system (including the overall fare level) and other services, the KCRC collects and follows up suggestions from passengers through various channels. These include Public Consultation Group on Railway Operations, Passenger Liaison Groups, Passenger' Cafes and regular opinion surveys, and so on. The KCRC will take these views into account when considering improvement to its services.

Wild Monkeys Causing Nuisances

14. **MR HOWARD YOUNG** (in Chinese): *President, it is learnt that wild monkeys often appear in rural areas, especially in the Kam Shan Country Park, and some monkeys even try to snatch the visitors' foods and attack them. As such situation is detrimental to the development of eco-tourism and green tourism, will the Government inform this Council;*

- (a) *of the estimated number of wild monkeys in Hong Kong at present and the locations where they mainly frequent;*
- (b) *of the number of complaints or reports received in the past three years by the departments concerned about nuisances or attacks by monkeys and the follow-up actions taken by the authorities; and*
- (c) *apart from prohibiting the feeding of monkeys in country parks, of the other measures in place to prevent over-proliferation of wild monkeys, confine their scope of activities and prevent them from harming human beings?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in the absence of Secretary for the Environment, Transport and Works) (in Chinese): President,

- (a) The Agriculture, Fisheries and Conservation Department (AFCD) estimates that there are about 1 500 wild monkeys in Hong Kong. They are mainly found in Kam Shan, Lion Rock and Shing Mun Country Parks and the Tai Po Kau Special Area.
- (b) In the past three years, the AFCD received 352 reports or complaints (126, 98 and 128 cases in 2003, 2004 and 2005 respectively) concerning nuisance or attack by wild monkeys in country parks or special areas. After receiving such complaints or reports, the AFCD staff would go to the scene immediately to chase the monkeys away and advise the affected visitors of the techniques to minimize further nuisance caused by monkeys.
- (c) Wild monkeys usually stay within woodlands where they live and forage for food. Maintaining sufficient natural food supply in the woodlands could help minimize the chance of wild monkeys foraging outside the woodlands. Each year, the AFCD plants

about 10 000 food plants in the relevant country parks to enrich natural food resources for monkeys. Besides imposing a ban on feeding of wild monkeys, the AFCD has also installed monkey-proof litter bins in country parks to reduce unnatural food source becoming available to wild monkeys. In addition, the AFCD is currently conducting contraception trials on wild monkeys to assess whether such a measure could be adopted to contain the monkey population in longer term.

Information on safety precautions and techniques to avoid monkey nuisance are also disseminated to visitors and eco-tour leaders through large notice boards at main entrances of country parks, information pamphlets and booklets.

Wrong Dispensation of Medicines at Residential Care Homes for Elderly

15. **MR LI KWOK-YING** (in Chinese): *President, regarding a recent incident in which wrong medicines were allegedly dispensed to elderly residents at a residential care home for the elderly (RCHE), will the Government inform this Council:*

- (a) of the progress of the investigation into this incident, and the follow-up actions to be taken;*
- (b) whether the authorities received complaints about the wrong dispensation of medicines at RCHEs in the past year; if so, of the details;*
- (c) whether prosecutions have been instituted in respect of the above complaints in the past year; if so, of the number and results of these prosecutions, and whether it will publish the names of the RCHEs prosecuted and the details of the wrong dispensation; and*
- (d) of the measures to perfect the procedure for dispensing medicines at RCHEs and enhance their employees' awareness of medicine safety?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): President, the Toxicology Reference Laboratory of the Hospital Authority (HA) collected data from public hospitals on the number of cases involving hospital

admission due to hypoglycaemia from July 2005 to March 2006. Fifty-one cases were identified. Twenty-three individuals were suspected of taking hypoglycaemic medication by mistake. Nine of them were residents of nine RCHEs. Upon being notified by the HA of the aforementioned nine cases involving RCHEs in February/March this year, the Licensing Office of Residential Care Homes for the Elderly (LORCHE) of the Social Welfare Department (SWD) conducted investigations on the RCHEs.

My replies to the specific questions raised by the Honourable LI Kwok-ying are as below:

- (a) One of the nine cases involving RCHEs as mentioned above was known to the SWD. The SWD had completed the investigation and follow-up actions on the case in 2005. The incident occurred in August 2005, and involved an elderly resident of a RCHE being admitted to the Queen Elizabeth Hospital (QEH) in an unconscious state. The Community Geriatric Assessment Team (CGAT) of QEH alerted the SWD of the case and the LORCHE started investigation. The LORCHE's investigation confirmed that a staff in the RCHE concerned had mistakenly given the hypoglycaemic medication of another elder to the elder. The LORCHE issued a warning letter to the RCHE in September 2005, instructing it to rectify and improve its procedures of handling drugs and the verification mechanism. Also, the LORCHE reminded the Health Worker (HW) concerned in writing to discharge her duties diligently and in accordance with the requirements set out in the Code of Practice for Residential Care Homes (Elderly Persons) (the Code of Practice). The CGAT provided training to the RCHE to enhance the know-how of its staff on drug safety and management. The LORCHE conducted surprise inspections to the RCHE on a number of occasions after the incident. The latest one was in April this year. The LORCHE observed that the RCHE had made improvements on various aspects of drug management.

For the other eight cases, the LORCHE concluded after investigation that it was not possible to confirm that the RCHEs concerned had mishandled the drugs of the elderly residents. That said, the SWD has followed up with the Visiting Health Teams of the Department of Health (DH) to provide on-site training to the RCHE staff.

- (b) According to the SWD, among the complaint cases for the period from 1 April 2005 to 31 March 2006 which were substantiated following investigation by the LORCHE, five were related to improper dispensation of medicines to elderly residents in RCHEs. One was the case mentioned in the answer to part (a) above. Two cases involved two RCHEs giving wrong medicine to two elderly residents. Another case involved a RCHE making mistake on the timing of the medication to an elderly resident. The remaining case involved a RCHE making mistake on the dosage of the medicine for an elderly resident.
- (c) The SWD issued warning letters to the five RCHEs concerned, instructing them to rectify and improve their procedures of handling drugs and the verification mechanism. Also, the SWD issued warning letters/written advice to four HWs in three of these RCHEs. The HA's CGAT and the DH's Visiting Health Teams provided training and seminars to the RCHEs concerned on drug safety and management. Also, the LORCHE stepped up surprise inspections to these RCHEs and observed that the RCHEs concerned had made improvements on various aspects of drug management.

The LORCHE will continue to closely monitor the drug management in the RCHEs mentioned above. The SWD may take further punitive actions against RCHEs which are found to have committed mistakes repeatedly, including prosecutions or refusal to renew the licence pursuant to the Residential Care Homes (Elderly Persons) Ordinance (the Ordinance), or deregistration of HWs who have committed mistakes repeatedly. Also, the LORCHE will continue to step up surprise inspections on RCHEs assessed to be of higher risks.

The SWD has introduced a new measure since 15 December 2005 to make public the names, addresses, nature of offence and date of conviction of RCHEs convicted under the Ordinance and/or the Residential Care Homes (Elderly Persons) Regulation (the Regulation) on or after that date in the SWD's homepage.

- (d) We place great emphasis on the awareness of RCHEs on drug safety and their capability in handling drugs properly. The Regulation requires that all medicine and drugs should be kept in a secure place. The Code of Practice (October 2005 Revised Edition) further

stipulates that medicine should be clearly labelled, kept in a safe and locked place, and dispensed to elderly residents by nurses or HWs following the prescriptions and advice of registered medical practitioners.

Nurses and HWs are required to receive training on drug management. Apart from regular surprise inspections, the LORCHE also conducts surprise inspections upon receipt of complaints. The frequency of surprise inspections for RCHEs assessed to be of higher risks will be higher. Also, the DH's Visiting Health Teams have been educating RCHEs on the basic knowledge of safe handling of drugs. To help RCHEs enhance their awareness of drug safety, and upgrade the capability of nurses and HWs in RCHEs in drug management, we have put in place the following measures:

- (i) the SWD has revised the entry requirements and course contents of the curriculum for HWs. Starting from 1 April 2006, the minimum educational requirement for enrollees of the HW training courses has been raised from Secondary Three to Secondary Five. The curriculum has also been beefed up, with the course contents and training hours on drug management enhanced (doubled from six hours in the past to 12 hours). Also, drug management has been made a compulsory examination subject;
- (ii) to enhance the knowledge of HWs on medical terms and drug nomenclature, the Skills Upgrading Scheme for the elderly care services has launched a course on "Applied knowledge of medical terms and drug nomenclature" for serving HWs; and
- (iii) to help RCHEs enhance their drug safety awareness, the SWD, DH and HA formed an inter-departmental task group in early April this year to compile the "Working Guidelines for RCHE Staff — Drug Safety Protocol". The guidelines were distributed to RCHEs in late April.

The Health, Welfare and Food Bureau, SWD and DH will liaise with the HA, the various associations representing the local pharmacist profession and the RCHE sector to explore possible means to enhance the drug management capability and know-how of RCHEs.

Use of "Reclaimed Water"

16. **DR RAYMOND HO** (in Chinese): *President, it has been reported that the Government is currently conducting studies on the recycling of water which has been used for washing or flushing into "reclaimed water" after treatment by microfiltration or reverse osmosis. In this connection, will the Government inform this Council:*

- (a) *although there is an international trend of using "reclaimed water" for industrial and agricultural purposes, the scale of Hong Kong's agricultural industry is not large and the majority of its industrial production facilities have been relocated to the Mainland, whether the authorities have assessed how "reclaimed water" should be used in Hong Kong; if so, of the assessment results;*
- (b) *of the measures to remove the public's psychological obstacles in using (or even consuming) "reclaimed water" in their daily lives, so that they will feel at ease in using "reclaimed water"; and*
- (c) *whether it has assessed if the local demand for Dongjiang water will be reduced as a result of the widespread use of "reclaimed water" in Hong Kong; if so, of the assessment results?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in the absence of Secretary for the Environment, Transport and Works) (in Chinese): President,

- (a) Presently, the Government is conducting a pilot scheme on the use of reclaimed water. The Ngong Ping Sewage Treatment Works in Lantau came into operation this March and the reclaimed water produced is used for flushing in public toilets nearby and non-potable uses such as controlled irrigation and rearing ornamental fish inside the facility. The Government will carry out another pilot scheme in Shek Wu Hui, North District at the end of this year, which will further expand the pilot scheme on the use of reclaimed water.

Based on the experiences accumulated from operating the pilot schemes, we will assess various aspects of the schemes including technology, administration, cost-effectiveness and acceptance by the public, with a view to studying the possibility of wider use of

reclaimed water. Meanwhile, we are conducting a strategic study on "Total Water Management". By drawing on the water management experiences around the world and in the light of the actual needs of the local community, we aim to formulate a long-term water management strategy and implementation plan for Hong Kong that is both sustainable and cost-effective. The Study will cover the future development of reclaimed water in Hong Kong and is expected to be completed in the latter half of next year. As such, the Government has no definite plan on the use of reclaimed water at this stage.

- (b) The above pilot scheme does not cover using reclaimed water for consumption. At present, the Government has no such plan either. Public recognition and acceptance are required if reclaimed water is to be used in our daily lives. We will include studying the water quality standards for reclaimed water and the feasible options that are applicable to Hong Kong, under the current strategic study on "Total Water Management". We will also collect public views on this issue and enrich their knowledge on reclaimed water through education initiatives and publicity programmes.
- (c) The "Total Water Management" Strategic Study, now underway, will also examine the applicability of various water resources (including seawater desalination and reclaimed water) to Hong Kong, their cost-effectiveness and their share of the total local water consumption in the long term. As the Study is still in progress, it is too early to say if reclaimed water can reduce our demand for Dongjiang water.

Abandoned Signboards

17. **MR FREDERICK FUNG** (in Chinese): *President, will the Government inform this Council:*

- (a) *in the past five years, whether the Buildings Department (BD) and relevant departments had carried out inspections covering all the districts of Hong Kong in order to confirm the number of abandoned signboards, be aware of their conditions and to assess their risk; if yes, please provide information on the amount of resources and manpower that had been deployed over the past five years for the*

purpose of the said inspections, the number of abandoned signboards in each district and their risk; if no, the reason;

- (b) in the past five years, the annual number of abandoned signboards removed by the authority on behalf of the owners, the amount of public money involved and the number of cases in which the removal costs were successfully recovered; and*
- (c) the current measures adopted by the authority in the handling of abandoned signboards so as to ensure the safety of the public and avoid spending public money to remove abandoned signboards on behalf of the owners; whether the authority has evaluated the adequacy and effectiveness of such measures; and will consider setting up a signboard registration system to ensure that the owner of a signboard is responsible for the removal of the signboard?*

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

- (a) The Government attaches great importance to the safety of advertisement signboards. The BD carries out regular inspections of signboards in all districts to curb the erection of unauthorized signboards and assess the safety conditions of these signboards. When dangerous or abandoned signboards are found, the BD will take enforcement action under the Public Health and Municipal Services Ordinance (Cap. 132) by service of "Dangerous Structure Removal Notices" requiring the removal of the signboards by the signboard owners. Under emergency situations, the BD will take the initiative to remove the dangerous signboards immediately so as to eliminate any imminent or potential danger that these signboards may pose to the public and then seek recovery of the cost involved from the owners of the signboards.

In the past five years, the BD inspected around 210 000 signboards, issued around 4 600 "Dangerous Structure Removal Notices" and around 8 000 dangerous or abandoned signboards were removed.

Since abandoned signboards arise mainly because of the closing down of shops, and the relevant situation would change from time to time, the BD cannot provide the exact number of abandoned

signboards in each district. The BD will assess the safety conditions of signboards during the regular inspections and take follow-up action if any abandoned signboards are found.

The signboard inspection and follow-up work fall within the duty schedule of district teams under the Existing Buildings Division of the BD. The district teams currently have a work force of some 170 staff. Since the above work is part of the Existing Buildings Division's work relating to building safety and removal of unauthorized building works, we are unable to provide information on the resources and manpower involved solely for signboard inspection work.

- (b) In the past five years, the BD removed 83 dangerous or abandoned signboards on behalf of the owners, amounting to a cost of about \$690,000. About \$500,000 was successfully recovered from the owners of the signboards. The BD will continue to seek recovery of the outstanding balance. Details for each year are tabulated as follows:

<i>Year</i>	<i>Number of dangerous or abandoned signboards removed on behalf of the owners</i>	<i>Removal cost</i>	<i>Amount of the removal cost recovered</i>
2001	20	\$189,080	\$144,244
2002	20	\$136,869	\$106,104
2003	20	\$146,484	\$96,607
2004	13	\$85,299	\$69,914
2005	10	\$131,270	\$90,624
Total	83	\$689,002	\$507,493

- (c) As answered in part (a), upon identification of abandoned or dangerous signboards, the BD will invoke the power under the Public Health and Municipal Services Ordinance and serve "Dangerous Structure Removal Notices" on the owners of the signboards. If the owners of these signboards fail to comply with the relevant requirements within 14 days of receipt of the Notices, the BD will arrange to carry out the removal works and seek recovery of the costs from the owners of the signboards.

In order to handle the abandoned signboards effectively and to increase the chance of successfully identifying the owners of these

signboards, the BD will maintain close co-operation with the District Councils. District Councillors will refer the cases of suspected abandoned or dangerous signboards to the BD for follow-up action as soon as possible. The abovementioned arrangement has on the whole been working smoothly and effectively.

In 2000, the Government has considered the feasibility of introducing a "Signboard Registration System". Upon studying the implementation details of the proposal and analysing views from various sectors, we observed that the establishment of a signboard registration system would increase the financial burden of the business owners and signboard owners as they have to pay various fees for registering the signboards and other relevant procedures. One of the suggestions under the proposed signboard registration system was the imposition of an additional levy in order to establish a fund for removal of abandoned signboards. Since the suggestion would be unfair to those responsible signboard owners and the establishment of the registration system would involve a tremendous amount of public money, the proposal was not adopted in the end.

As regards signboard safety, we consider that subsuming the control of signboards within the framework of the building control system is the simplest and most effective way to achieve the objective. The erection of signboards is currently under the same control system as that for other types of building works which will require supervision by registered professionals and approval of the Building Authority before commencement of works. In order to provide a simple and legal means to control the safety of smaller-scale signboards, they will be included in the proposed minor works control system. The draft bill for the proposed minor works control system will be submitted to the Legislative Council for scrutiny in the next Legislative Session.

Under the minor works control system, the erection of signboards will have to be carried out by registered contractors and the applicants will also have to submit their details to the BD. This arrangement will thus assist the BD in establishing the identity of the signboard owners and in following up their responsibilities, including the responsibility to remove the signboards.

Nursing Manpower Shortage

18. **DR JOSEPH LEE** (in Chinese): *President, it has been reported that, due to the implementation of the voluntary retirement and voluntary departure schemes by the Hospital Authority (HA) in recent years, coupled with the growing demand for nursing manpower in the private medical sector, the wastage rate of HA nurses has been on the rise. Nursing staff unions state that the problems of front-line nursing manpower shortage and succession gaps in nursing management personnel will emerge in public hospitals in the future. In this connection, will the Government inform this Council whether it knows:*

- (a) *the respective numbers of HA nursing staff who were promoted, newly recruited or who departed in the past five years, broken down by rank and hospital cluster;*
- (b) *the number of nursing management personnel reaching retirement age as anticipated by the HA in each of the coming five years, broken down by rank and hospital cluster; and*
- (c) *whether the HA will assess the projected wastage rate of nursing management personnel and train up its nursing staff to fill the vacancies concerned as soon as possible; if it will, of the details of the training programme and the implementation timetable; if not, the reasons for that?*

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

- (a) The numbers of promotions, new recruits and departures amongst the nursing staff of the HA over the past five years, broken down by rank and hospital cluster, are set out in the tables below.

Promotion of nurses

<i>Hospital Cluster/ Head Office</i>	<i>2001-02</i>		<i>2002-03</i>		<i>2003-04</i>	
	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/NS/ NO</i>	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/NS/ NO</i>	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/NS/ NO</i>
Hong Kong East	2	6	-	-	-	17
Hong Kong West	-	3	-	-	2	28

<i>Hospital Cluster/ Head Office</i>	<i>2001-02</i>		<i>2002-03</i>		<i>2003-04</i>	
	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/NS/ NO</i>	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/NS/ NO</i>	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/NS/ NO</i>
Kowloon Central	1	14	-	-	-	13
Kowloon East	2	12	1	2	-	11
Kowloon West	1	9	-	1	1	14
New Territories East	-	3	-	1	1	14
New Territories West	-	-	-	-	2	32
Head Office	-	-	-	-	-	1
Total by rank:	7	47	1	4	6	159
Overall Total:	54		5		165	

<i>Hospital Cluster/ Head Office</i>	<i>2004-05</i>		<i>2005-06</i>	
	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/NS/ NO</i>	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/NS/ NO</i>
Hong Kong East	-	25	7	10
Hong Kong West	-	9	3	13
Kowloon Central	2	23	2	41
Kowloon East	2	15	1	13
Kowloon West	1	58	7	44
New Territories East	2	19	4	26
New Territories West	4	45	1	25
Head Office	-	3	-	1
Total by rank:	11	197	25	173
Overall Total:	208		198	

CGM(N) - Cluster General Manager (Nursing)

DOM - Department Operations Manager

APN - Advanced Practice Nurse

NS - Nurse Specialist

GM(N) - General Manager (Nursing)

SNO - Senior Nursing Officer

WM - Ward Manager

NO - Nursing Officer

External recruitment of nurses

<i>Hospital Cluster/ Head Office</i>	<i>2001-02</i>		<i>2002-03</i>		<i>2003-04</i>		<i>2004-05</i>		<i>2005-06</i>	
	<i>RN</i>	<i>SN</i>	<i>NO</i>	<i>RN</i>	<i>RN</i>	<i>EN</i>	<i>RN</i>	<i>EN</i>	<i>RN</i>	<i>EN</i>
Hong Kong East	20			24	37	12	40		70	
Hong Kong West	24			27	66	2	33		53	
Kowloon Central	95	115 ¹		21	44	6	44		82	
Kowloon East	31			15	52	14	39	1	59	
Kowloon West	77		1 ²	45	106	27	57		73	

<i>Hospital Cluster/ Head Office</i>	<i>2001-02</i>		<i>2002-03</i>		<i>2003-04</i>		<i>2004-05</i>		<i>2005-06</i>	
	<i>RN</i>	<i>SN</i>	<i>NO</i>	<i>RN</i>	<i>RN</i>	<i>EN</i>	<i>RN</i>	<i>EN</i>	<i>RN</i>	<i>EN</i>
New Territories East	32			53	59	16	56		71	
New Territories West	23			70	124	11	54	3	75	1
Head Office					1				1	
Total by rank:	302	115	1	255	489	88 ³	323	4	484	1
Overall Total:	417		256		577		327		485	

Note 1: This was the last batch of student nurses taken in by the HA for clinical placement as HA employees.

Note 2: This was an external recruitment at the Nursing Officer rank.

Note 3: Eighty-eight Enrolled nurses were transferred from the Department of Health to the HA in 2003-04, when the HA took over the management of 59 General Out-patient Clinics.

RN - Registered Nurse

EN - Enrolled Nurse

SN - Student Nurse

NO - Nursing Officer

Turnover of nurses

<i>Hospital Cluster/ Head Office</i>	<i>2001-02</i>			<i>2002-03</i>			<i>2003-04</i>		
	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/ NS/NO</i>	<i>RN/EN/ Others</i>	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/ NS/NO</i>	<i>RN/EN/ Others</i>	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/ NS/NO</i>	<i>RN/EN/ Others</i>
Hong Kong East	1	4	29	-	3	17	3	26	77
Hong Kong West	1	6	52	-	8	48	2	29	105
Kowloon Central	-	16	17	1	9	61	9	26	46
Kowloon East	-	4	19	1	4	19	2	14	39
Kowloon West	2	25	57	5	16	44	8	72	163
New Territories East	3	8	34	1	12	24	1	19	98
New Territories West	1	7	28	3	-	13	6	19	81
Head Office	2	-	-	-	-	-	-	-	-
Total by rank:	10	70	236	11	52	187	31	205	626
Overall total:	316			250			862 ⁴		

<i>Hospital Cluster/ Head Office</i>	<i>2004-05</i>			<i>2005-06</i>		
	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/ NS/NO</i>	<i>RN/EN/ Others</i>	<i>GM(N)/ DOM/ SNO</i>	<i>APN/ WM/ NS/NO</i>	<i>RN/EN/ Others</i>
Hong Kong East	3	12	43	1	5	41
Hong Kong West	1	36	54	2	9	40
Kowloon Central	6	45	67	1	9	46
Kowloon East	2	4	36	-	6	29
Kowloon West	9	38	92	3	17	72
New Territories East	4	27	66	1	2	65
New Territories West	4	27	48	1	2	47
Head Office	-	1	-	-	-	1
Total by rank:	29	190	406	9	50	341
Overall total:	625 ⁴			400		

Note 4: Early retirement schemes were offered by both the HA and the Government in these years.

CGM(N) - Cluster General Manager (Nursing) GM(N) - General Manager (Nursing)

DOM - Department Operations Manager

SNO - Senior Nursing Officer

APN - Advanced Practice Nurse

WM - Ward Manager

NS - Nurse Specialist

NO - Nursing Officer

RN - Registered Nurse

EN - Enrolled Nurse

- (b) The number of nurses in the ranks of Nursing Officer and above who are expected to reach retirement age in each of the coming five years, broken down by hospital cluster, is set out in the table below.

<i>Hospital Cluster</i>	<i>2006-07</i>	<i>2007-08</i>	<i>2008-09</i>	<i>2009-10</i>	<i>2010-11</i>
Hong Kong East	1	2	4	5	3
Hong Kong West	2	5	7	5	10

<i>Hospital Cluster</i>	<i>2006-07</i>	<i>2007-08</i>	<i>2008-09</i>	<i>2009-10</i>	<i>2010-11</i>
Kowloon Central	5	3	5	11	13
Kowloon East	-	1	1	2	7
Kowloon West	4	6	9	10	19
New Territories East	3	3	7	3	6
New Territories West	2	4	3	2	7
Total:	17	24	36	38	65

- (c) As part of their annual manpower planning exercise, the HA and its hospital clusters assess and plan for the succession of their management staff, including those in the nursing grade, on a regular basis. In order to ensure the continued provision of quality patient-centred services to the public, the HA attaches great importance to professional manpower planning and development of current and future leaders.

Training is one of the most direct means employed by the HA for the development of its nursing management personnel. The Institute of Advanced Nursing School (IANS) established under the Hospital Authority Institute of Health Care (HAIHC) has organized various leadership training courses specifically for staff in the nursing grade. Examples include courses on crisis management, staff empowerment, and leadership at the point of care. Almost 600 nurses attended these courses last year. Some of these courses are now organized at the hospital cluster level, with over 50 courses being planned for the coming year for about 1 500 nursing staff.

The HAIHC is also offering a number of general management development programmes for managers from different levels and disciplines. These programmes focus on strengthening leadership capability, improving internal communication and enhancing personal as well as team effectiveness. Around 550 nursing staff at the rank of Nursing Officer or above attended these programmes in 2005-06. In the coming year, more efforts will be made on the provision of management training for both newly promoted and experienced managers, who have demonstrated the potential to proceed further in their management career. It is estimated that around 600 nursing staff at the rank of Nursing Officer or above would be offered this type of management training next year.

Protecting Private Properties on Private Land

19. **MR LEUNG YIU-CHUNG** (in Chinese): *President, I have recently received requests for assistance from several members of the public who allege that they have been in adverse possession of some land lots in the New Territories for several decades and their houses, properties, crops, and so on, on these land lots were demolished or sabotaged recently by persons sent by those who claimed to be the land owners, and some disused village houses were also flattened. Their reports of the incidents to the police seeking assistance were not entertained. In this connection, will the Government inform this Council:*

- (a) *of the legislation and measures in place to protect private properties on private land;*
- (b) *how police officers should handle these cases for assistance under police internal guidelines;*
- (c) *of the number of request for assistance cases received by the police concerning sabotage of properties on private land in each of the past three years, together with a breakdown of such cases by districts; and among them, the number of cases which were not entertained; the respective numbers of persons who were arrested and prosecuted for criminal damage, as well as the penalties imposed by the court on those convicted; and*
- (d) *whether the relevant authorities will review the existing legislation and the way the police handle such cases, in order to effectively protect private properties on private land; if not, of the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) If there is any theft or criminal damage of the relevant properties, the case in question may be referred to the police for investigation and handling in accordance with the law (such as the Theft Ordinance (Cap. 210) and the Crimes Ordinance (Cap. 200)).

As regards disputes concerning land title between the landowners and persons claiming adverse possession in respect of private lots, according to our understanding, they may be dealt with by way of

legal proceedings in accordance with the Limitation Ordinance (Cap. 347).

(b) and (c)

The police handle all cases of theft or criminal damage in the same manner, and would not adopt different handling approaches by virtue of differences in land ownership. Hence, there is no need for the police to formulate specific internal guidelines or maintain specific statistics in respect of this kind of cases. Generally speaking, police officers will conduct enquiries according to the information and facts provided by the parties concerned. If no criminal element is involved, the police will advise the parties concerned to resolve the matter by way of civil proceedings.

(d) The police will continue to handle any acts involving criminal elements in accordance with the law.

We understand that, in the event of loss resulting from disputes over property on private land, the relevant parties may seek redress through civil proceedings under the common law.

Hong Kong Energy Efficiency Registration Scheme for Buildings

20. **MISS CHOY SO-YUK** (in Chinese): *President, the Hong Kong Energy Efficiency Registration Scheme for Buildings (the Scheme), launched by the Electrical and Mechanical Services Department (EMSD) in 1998, stipulates the energy efficiency requirements of lighting, air conditioning, electrical, lift and escalator installations. A registration certificate will be issued to a building which meets such requirements. In this connection, will the Government inform this Council:*

- (a) *of the number of registration certificates issued by the EMSD in each of the past five years and the types of installation involved;*
- (b) *whether it will extend the scope of the above Scheme; if it will, of the details; if not, the reasons for that;*
- (c) *whether it will further encourage public participation in the Scheme; if it will, of the details; if not, the reasons for that; and*

- (d) *whether installations used in newly-built government buildings have to meet the above energy efficiency requirements; if not, the reasons for that?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in the absence of Secretary for the Environment, Transport and Works) (in Chinese): President,

- (a) In the five years from April 2001 to March 2006, the EMSD issued 1 276 registration certificates to 625 buildings under the Scheme. The number of registration certificates issued in each of the past five years is as follows:

<i>Year</i>	<i>Number of registration certificates issued</i>
2001-02	26
2002-03	79
2003-04	167
2004-05	275
2005-06	729

Of the registered installations, 38% are lighting installations and 24% are air conditioning installations, while electrical installations and lift and escalator installations each takes up about 19%.

- (b) When introduced in 1998, this voluntary Scheme was mainly intended for commercial buildings and office buildings. However, registration certificates can now be issued to schools, municipal services facilities, medical services buildings, industrial buildings and domestic premises so long as they can comply with the relevant Codes of Practice for Energy Efficiency (the Codes). In 2003, the EMSD launched the Performance-based Building Energy Code. This Code emphasizes the total energy consumption of a building, and serves to provide more comprehensive energy efficiency requirements and to encourage innovative energy efficient design.
- (c) The EMSD has been actively promoting the Scheme through organizing and participating in promotional activities and seminars. A survey conducted in 2005 reveals that 67% of the stakeholders in the relevant sectors are aware of the Scheme. In 2006, the EMSD will step up its promotional campaign. For example, three seminars and promotional activities on energy efficiency are

scheduled to be held in May and June to promote the Scheme among property management companies and the construction industry. Experience-sharing workshops will also be organized to encourage the construction industry to actively participate in the Scheme. In addition, information on the Scheme can be obtained through promotional leaflets or downloaded from the EMSD website.

- (d) The Architectural Services Department and the Housing Department are very supportive of the Codes for buildings and the Scheme. New buildings constructed by these two departments will comply with the Codes and be registered under the Scheme. In 2005, the Government issued a technical circular (works) which stipulates that new government buildings must comply with the requirements of the Codes.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bill: First Reading.

SAFETY OF UNITED NATIONS AND ASSOCIATED PERSONNEL BILL

CLERK (in Cantonese): Safety of United Nations and Associated Personnel Bill.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

SAFETY OF UNITED NATIONS AND ASSOCIATED PERSONNEL BILL

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move the Second Reading of the Safety of United Nations and Associated Personnel Bill (the Bill).

The Convention on the Safety of United Nations and Associated Personnel (the Convention) was adopted by the United Nations General Assembly in December 1994 and entered into force in January 1999. Its objective is to ensure the safety and security of United Nations and associated personnel by requiring State Parties to take all necessary measures to protect these personnel participating in peacekeeping operations in different parts of the world. These measures include establishing criminal attacks against these personnel punishable by appropriate penalties, co-operating in the prevention of such crimes and providing assistance to one another in connection with criminal proceedings. The Convention entered into force for China, including Hong Kong, on 22 October 2004.

Hong Kong's existing administrative measures and legislation can already comply with the majority of the requirements of the Convention. However, the requirements to make certain acts proscribed by the Convention punishable by appropriate penalties; to establish extra-territorial jurisdiction over such crimes; to release and return captured or detained United Nations and associated personnel; and to extradite offenders need to be implemented by new legislative measures.

Article 9 of the Convention requires each State Party to make attacks such as murder and kidnapping, or threats or attempts to make such attacks against United Nations and associated personnel crimes under its national law and punishable by appropriate penalties which shall take into account their grave nature.

Currently, the general criminal offences under a number of existing legislation such as the Crimes Ordinance and the Offences against the Person Ordinance as well as common law can already deal with most of these crimes. For the offence of "threat", section 24 of the Crimes Ordinance already provides that a person in Hong Kong who threatens any other person with any illegal act with intent to cause the person to do any act which he is not legally bound to do or to omit to do any act which he is legally entitled to do, shall be guilty of an offence. However, this offence is only punishable by a maximum penalty of imprisonment for five years. Taking into account the internationally recognized need to protect the safety and security of United Nations and associated personnel and the Convention requirements, we propose prescribing a higher maximum penalty for the offence of threatening to commit an attack proscribed by the Convention. Thus the Bill proposes to provide for a maximum penalty of

imprisonment for 10 years for the offence of threatening to commit an attack proscribed by the Convention.

Article 10(1) of the Convention requires each State Party to establish jurisdiction over the crimes proscribed by the Convention when committed in the territory of that State, on board a ship or aircraft registered in that State, or when the alleged offender is a national of that State. The existing general criminal offences can already deal with such crimes when committed in Hong Kong, irrespective of the offenders' nationality. The Crimes Ordinance and the Aviation Security Ordinance respectively provide Hong Kong with jurisdiction over any offence committed on board a Hong Kong-registered ship or a Hong Kong-registered aircraft respectively. However, these provisions cannot cover the crimes proscribed by the Convention committed outside Hong Kong territory and not on board a Hong Kong-registered ship or aircraft. Thus the Bill proposes to establish extra-territorial jurisdiction over Chinese nationals who are Hong Kong permanent residents committing the crimes proscribed by the Convention outside Hong Kong.

Article 8 of the Convention provides that if United Nations and associated personnel are captured or detained in the course of the performance of their duties, they shall not be subjected to interrogation and they shall be promptly released and returned to the United Nations or other appropriate authorities. Articles 13(1) and 15 of the Convention require taking measures to extradite to another State Party offenders who have committed the crimes set out in the Convention. To give effect to these requirements, we have prepared two draft Orders under the International Organizations (Privileges and Immunities) Ordinance and the Fugitive Offenders Ordinance respectively for Members' scrutiny. The drafts need to be referred back to the Chief Executive in Council to be made as subsidiary legislation under the two Ordinances respectively and are subject to the approval of the Legislative Council under the negative vetting procedure.

With these remarks, Madam President, I urge Members to support the Bill. Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Safety of United Nations and Associated Personnel Bill be read the Second time.

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

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Dentists Registration (Amendment) Bill 2005.

DENTISTS REGISTRATION (AMENDMENT) BILL 2005

Resumption of debate on Second Reading which was moved on 6 July 2005

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report on the Bill.

DR KWOK KA-KI (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Dentists Registration (Amendment) Bill 2005, I would like to report on the deliberations of the Bills Committee.

The Bill seeks to establish:

- (a) a Specialist Register for registered dentists qualified in various specialist fields of dentistry; and
- (b) an Education and Accreditation Committee.

The Bills Committee has held four meetings with the Administration and also met with representatives of the College of Dental Surgeons of Hong Kong (CDSHK) and the Hong Kong Dental Association.

When scrutinizing the Bill, the Bills Committee was particularly concerned about clause 24 of the Bill which added new section 32. Section 32 is drafted as a grandfather clause providing for transitional arrangements.

Members note that since its establishment on 1 October 1959, the Dental Council has adopted an administrative system to grant permission for the use of "specialist title" to registered dentists who have met the minimum level of training and experience requirements in particular areas of dental practice.

Under the existing guidelines adopted by the Dental Council in 2004, only a Fellow of Hong Kong Academy of Medicine (HKAM) and the CDSHK, or an applicant whose qualification is deemed to be of an equivalent status by the Dental Council, would be considered for the granting of specialist titles by the Dental Council. All applicants also have to satisfy the continuing education requirements set by the HKAM and the CDSHK.

As at 1 December 2005, there were 138 registered dentists who had been given approval by the Dental Council to use specialist titles. Among them, only eight dentists do not possess a HKAM and CDSHK Fellowship. As they met the criteria set by the Dental Council at the time they applied to use the specialist titles, they are eligible to continue using the specialist titles.

In order not to cause undue hardship to dentists who aspire to becoming specialists before enactment of the proposed legislative amendments, the Dental Council does not consider it appropriate to impose a cut-off date for granting specialist titles prior to the enactment of this Ordinance.

The Bills Committee supports the proposed transitional arrangements.

The Bills Committee is also concerned about the legislative intent of the proposed section 12B(3)(b). The proposed section 12B(3) sets out the conditions an applicant must satisfy for inclusion of his name in the Specialist Register, and section (3)(b) requires the dentist to be of good character. Members have asked the Administration to clarify the legislative intent of the proposed section and its difference from section 9(3)(b), which stipulates that the Dental Council should take into account any unprofessional conduct.

The Administration has highlighted the basic differences of the policy intent behind the two sections as follows:

- (a) section 9(3)(b) involves broader consideration whereas the proposed section 12B(3)(b) intends to cover considerations relating to competence and performance directly relevant to the specialty only;

- (b) as far as competence and performance are concerned, the proposed section 12B(3)(b) involves a higher requirement specific to that specialty; and
- (c) section 9(3)(b) covers moral/conduct considerations, while the proposed section 12B(3)(b) does not.

In view of members' concern about the legislative intent of the proposed section 12B(3)(b), the Administration will move an amendment to the proposed section to replace "of good character" with "competent in the specialty" to reflect the legislative intent that the non-academic factors to be considered by the Education and Accreditation Committee in vetting an application for inclusion in the Specialist Register are related to an applicant's competence, instead of his moral standard or conduct.

The Administration will also move an amendment to the proposed section 2(4) to enhance its clarity as a construction clause so that the suitability grounds for the name of a registered dentist to be included in, or removed from, the Specialist Register are to be based on the conditions set out in the proposed section 12B(3).

The Bills Committee is also concerned about the policy intent of appeal to Court arrangements.

Clauses 15, 17 and 18 of the Bill provide for the power of the Dental Council to order the removal of names of specialists from the Specialist Register and an appeal mechanism for aggrieved dentists.

Members have asked the Administration to set out the policy intent of appeal to Court arrangements regarding the Dental Council's decision to not include a name in or remove a name from the General Register or the Specialist Register.

The Administration has explained that whether or not appeal to Court is provided for in different non-inclusion or removal scenarios depends on two factors. One is the strength of peer-review element in formulating the decision, and the other is the degree of seriousness of the impact of such a decision on the subject person.

The Administration emphasizes that deliberations concerning inclusion in and removal from the registers are essentially peer-review decisions within the profession. Generally speaking, the Dental Council, being a statutory body mainly comprising representatives from the dental profession, is in a better position to articulate the professional standard expected of their peers.

The Administration has pointed out that the Dental Council's non-inclusion/removal decisions can cause varying degree of hardship to the subject person. The Administration considers that generally speaking, the more such hardship, the stronger the case for the subject person to seek redress through appeal to Court.

Members have asked the Administration why there is no appeal mechanism for non-inclusion decisions on qualifications grounds. The Administration has explained that the Dental Council, being a statutory body mainly comprising representatives from the dental profession, is in a better position to determine matters relating to professional qualifications, which are primarily peer-review in nature. The Administration considers that the right of appeal to Court for such cases is not necessary.

In the case of an application for inclusion in the Specialist Register, and whether a registered dentist should be granted a specialist title is primarily a question of whether he is qualified and hence is a peer-review decision. The Dental Council is therefore considered to be in the best position to make such a judgement.

Members do not agree with the Administration's view and suggest that an appeal mechanism should be provided for an applicant seeking inclusion of his name in the Specialist Register to appeal to Court against the Dental Council's rejection of his application. After consulting the Dental Council, the Administration has agreed to move amendments to section 23 to allow such an appeal to be made.

Members are also concerned about the commencement date of the Amendment Ordinance. Members note that the Dental Council will need about three months after the passage of the Bill to complete the necessary administrative arrangements, including the setting up of the new Education and Accreditation Committee, drawing up the new application form and certificate, and announcement of the new arrangements to all registered dentists and dental

professional bodies. The Administration will arrange commencement of the Bill after the Dental Council's preparatory work has been completed.

The Committee stage amendments to be moved by the Administration in a moment are supported by the Bills Committee.

Madam President, now I would like to express my personal views on the Bill.

First of all, I would like to take this opportunity to thank members of the Bills Committee for pointing out the problems of the Bill in the course of scrutiny. Because of their effort, the Bill has been much improved. As reflected by the report I just read out, some clauses have been amended.

In fact, in the Bills Committee, and in the Health Services Panel, thorough discussions on the Dentists Registration Ordinance have been conducted. Madam President, the setting up of the Dental Council was based on a law enacted in 1940. Since its establishment in 1959, the Dental Council has not undergone any fundamental or major changes. In this connection, many dental professional bodies and dentists have suggested to me or the Bills Committee that there is a need to reform the composition of the Dental Council. In fact, the Government issued a consultation paper as early as 1993 on the reform of the Dental Council with recommendations covering expanding the size of the Dental Council in order to include members directly elected by dentists and lay members so that the Dental Council can be more transparent and more representative. Unfortunately, no more new proposals are made by the Government after 1993. As a result, the Dental Council is still running on an outdated and obsolete system since.

During the discussions by the Health Services Panel and the Bills Committee, the Government has undertaken time and again that arrangements for a comprehensive review of the work of the Dental Council will be conducted as soon as possible after an amendment to the Specialist Register system has been passed. I hope the Government will honour this undertaking and conduct a comprehensive review of the Dental Council and the Dentists Registration Ordinance after passing the Bill so that dentist management and services can keep abreast of time.

I would also like to point out that I have proposed some changes when scrutinizing the Bill. I hope there will be appropriate amendments to the

provisions concerning the registration of specialists in the Medical Registration Ordinance in future. These include the two points I just mentioned, and that is, the criteria of vetting the application of a doctor or a dentist for registration as a specialist and the setting up of a clear appeal mechanism. We have had thorough discussions on these two points in the Bills Committee and I hope the Government will make some timely and consequential arrangements when the Medical Registration Ordinance is amended in due course.

With these remarks, I support the Committee stage amendments to be moved by the Government in a moment. Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, Secretary for Health, Welfare and Food, do you wish to reply?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the Dentists Registration (Amendment) Bill 2005 (the Bill) seeks to establish a statutory specialist list for the dentist profession, with a view to providing better protection to users of specialist dental services and enhancing public confidence in the professional standards of dentists.

The Bill was tabled before the Legislative Council in July last year for the First Reading. A Bills Committee was formed afterwards for the purpose of scrutinizing the Bill. On this occasion, I must express my thanks particularly to Bills Committee Chairman Dr KWOK Ka-ki and members of the Bills Committee for their meticulous scrutiny and valuable input throughout.

The Dentists Registration Ordinance provides for a legal framework for the registration of dental practitioners in Hong Kong as well as the administration and governing of their professional practice and conduct. The Dental Council of Hong Kong (the Dental Council) is set up under the Dentists Registration Ordinance to take charge of the regulation of registered dentists.

Currently, specialist titles are granted to qualified dentists through administrative arrangements. These arrangements are, however, not specified under the existing Dentists Registration Ordinance, so they lack any legal backing and fail to provide clarity and certainty on the requirements and procedures to become specialists.

At the moment, unauthorized use of specialist titles by registered dentists, according to the Code of Professional Discipline, may amount to unprofessional conduct and may lead to removal of the dentists' names from the current register of dentists. However, in contrast to the case of medical practitioners, such an improper act is not specified as a criminal offence under the Dentists Registration Ordinance.

The Bill proposes to incorporate into the Dentists Registration Ordinance the establishment of a statutory Specialist Register, including provisions specifying the procedures for adding names to or removing names from the Specialist Register as well as other procedures for making and refusing applications and a mechanism for reviewing refused applications. An Education and Accreditation Committee will also be set up under the Dental Council to handle matters relating to the Specialist Register and specialists.

The unauthorized use of specialist titles is analogous to misleading the public and may result in serious health consequences. We are therefore of the view that stringent sanction, as in the case of medical practitioners, should be imposed to deal with such an offence. The Bill proposes to make the act a criminal offence. It is proposed that any person who commits the offence of unauthorized use of specialist titles shall be liable on summary conviction to a fine of \$100,000 and to imprisonment for three years.

In sum, the Bill can provide better protection to the public and facilitate the development of specialist practice in the dental profession.

Throughout the formulation of the Bill, the authorities had maintained close co-operation with the Dental Council. In January last year, we also consulted various organizations in the dental profession, including the Hong Kong Dental Association, the Dental Committee under the Government Doctors' Association, the Hong Kong Academy of Medicine and the College of Dental Surgeons of Hong Kong. They unanimously supported the incorporation of a Specialist Register into the Dentists Registration Ordinance. In March last year, we also consulted the Legislative Council Panel on Health Services on the

broad thrust of the Bill and received members' support for the proposed amendments.

During the process of scrutiny, we held in-depth discussions with members of the Bills Committee on the detailed contents of the Bill and responded actively to their recommendations. Members have expressed the view that applicants for the inclusion of their names in the Specialist Register should be permitted to appeal to the Court if their applications are refused by the Dental Council. After consulting the Dental Council, we have decided to accept members' proposal. Members have also expressed the hope that the Bill can state more clearly the conditions for inclusion in the Specialist Register. In response, we have explained to them that the conditions are mainly related to the applicant's competence in the specialty concerned rather than any considerations of moral standards or conduct. We have agreed to move amendments in this respect. We have also agreed to move a number of technical amendments in response to members' requests.

The Bills Committee also invited some relevant organizations to give their views on the Bill. We are very glad that the deputations present at the meetings of the Bills Committee all expressed support for the Bill.

Some Members hope that the authorities can conduct a comprehensive review of the Dentists Registration Ordinance. We understand the aspirations of Members and the profession and we agree that it is necessary to conduct such a review in the long run. At a suitable time after the completion of the Bill, we will conduct a review of all legislation on regulating the health care professions and the priorities will be set. When we conduct a comprehensive review of the Dentists Registration Ordinance, we will consider all the other opinions put forward by Bills Committee members during their scrutiny of this current Bill.

Madam President, the Bills Committee has expressed support for the resumption of Second Reading of the Bill. I implore Members to pass the Bill. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Dentists Registration (Amendment) Bill 2005.

Council went into Committee.

Committee Stage

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

DENTISTS REGISTRATION (AMENDMENT) BILL 2005

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Dentists Registration (Amendment) Bill 2005.

CLERK (in Cantonese): Clauses 1, 2, 4, 5, 7, 8, 9, 11, 13, 15, 16, 19, 20, 21, 23 to 33 and 35 to 39.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 3, 6, 10, 12, 14, 17, 18, 22 and 34.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now, as set out in the paper circularized to Members. I will now give a brief account on the amendments.

The amendments to clauses 3(a) and (b) and 17(c) are consequential amendments to the Statute Law (Miscellaneous Provisions) Ordinance 2005, whereas those to clauses 6(c), 12, 14 and 34(d) are technical in nature.

The amendment to clause 3(c) seeks to enhance the clarity of the provision, whereas the amendment to clause 10 seeks to set out clearly the intent of imposing conditions on inclusion of names in the Specialist Register.

The amendment to clause 18 concerns with an applicant seeking inclusion of his name in the Specialist Register may appeal to the Court against the Dental Council of Hong Kong's rejection of his application.

The amendment to clause 22(b) seeks to enhance the clarity about the power of the Chairman of the Preliminary Investigation Committee to ascertain whether a complaint or information involves a suitability issue and to make referrals.

The above amendments have been deliberated and endorsed by the Bills Committee, and I implore Members to support their passage. Thank you, Madam Chairman.

Proposed amendments

Clause 3 (see Annex)

Clause 6 (see Annex)

Clause 10 (see Annex)

Clause 12 (see Annex)

Clause 14 (see Annex)

Clause 17 (see Annex)

Clause 18 (see Annex)

Clause 22 (see Annex)

Clause 34 (see Annex)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Health, Welfare and Food be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 3, 6, 10, 12, 14, 17, 18, 22 and 34 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

DENTISTS REGISTRATION (AMENDMENT) BILL 2005

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

Dentists Registration (Amendment) Bill 2005

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Dentists Registration (Amendment) Bill 2005 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Dentists Registration (Amendment) Bill 2005.

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2006 and the Poisons List (Amendment) (No. 2) Regulation 2006.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I move that the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2006 and the Poisons List (Amendment) (No. 2) Regulation 2006 as set out under my name in the paper circularized to Members be approved.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and inspection system set up in accordance with the Pharmacy and Poisons Ordinance (the Ordinance). The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the

particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, a registered dentist or a registered veterinary surgeon.

The Amendment Regulations now before Members seek to amend the Poisons List in the Poisons List Regulations and the Schedules to the Pharmacy and Poisons Regulations for the purpose of imposing control on four new medicines.

Arising from the applications for registration of four pharmaceutical products, the Pharmacy and Poisons Board proposes to add four substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations. Pharmaceutical products containing any of these substances must be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

In addition, the Pharmacy and Poisons Board proposes to relax the control on certain lozenges (that is, medicinal tablets) used as Nicotine replacement therapies. At present, lozenges containing not more than 2 mg of Nicotine per piece are classified in Part I of the Poisons List and in the First Schedule to the Pharmacy and Poisons Regulations. That is to say, among other controls, they must be kept in a locked receptacle and sold in pharmacies in the presence and under the supervision of a registered pharmacist with sale records kept.

On the other hand, chewing gums containing not more than 2 mg of Nicotine per piece are currently classified as Part II poisons. That is to say, they can be sold in pharmacies and in other medicines retail outlets, and no pharmacist supervision or record-keeping of sale is required. While the level of control differs, there is sufficient medical evidence showing that there is no material difference between the lozenges and the chewing gums in terms of potency, toxicity and potential side-effects. Therefore we intend to reclassify the above lozenges as Part II poisons.

We propose that these Amendment Regulations take immediate effect upon gazettal on 19 May 2006 to allow early control and sale of the relevant medicines.

The two Amendment Regulations are made by the Pharmacy and Poisons Board, which is a statutory authority established under section 3 of the Ordinance to regulate the registration and control of pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side-effects of the medicines concerned. Therefore, I hope Members will support them.

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

The Secretary for Health, Welfare and Food moved the following motion:

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 26 April 2006, be approved -

- (a) the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2006; and
- (b) the Poisons List (Amendment) (No. 2) Regulation 2006."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Three motions with no legislative effect.

First motion: Supporting the conclusions and recommendations of the Public Accounts Committee on the development of a site at Sai Wan Ho.

SUPPORTING THE CONCLUSIONS AND RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE ON THE DEVELOPMENT OF A SITE AT SAI WAN HO

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

The Public Accounts Committee (the PAC) is a standing committee of the Legislative Council. One of the major duties of the PAC is to examine the value-for-money audit reports of the Director of Audit laid before the Council on the Government's accounts and make its report upon the report of the Director of Audit, so as to monitor public expenditure. According to established procedures, after considering the report of the PAC, the Administration will lay the Government Minute within three months of the laying of the report of the PAC on the table of the Council and comment on the PAC's conclusions and recommendations. In addition, the Administration will also submit an annual progress report to the PAC on matters outstanding in the Government Minute in October each year. The PAC has always adopted a persevering attitude in following up the items in the Government Minute and the progress report, until the Director of Audit confirms that the authorities have taken all necessary actions.

The above mechanism has been proven over the years and has enabled the PAC to play the role of monitoring public expenditure effectively, so as to ensure that public funds are used appropriately. Here, I wish to thank this Council for

its continuous support for the work of the PAC and for the reports tabled before this Council for its perusal.

I believe Members are all clear about the background of this motion moved by me today. The PAC tabled its Report No. 45 before this Council on 15 February this year, in which it drew its conclusions and made recommendations on the development of a site in Sai Wan Ho. Meanwhile, the community is widely concerned that the conclusions made by the Government-appointed Independent Committee of Inquiry (ICI) on the Sai Wan Ho Development on Inland Lot No. 8955 in the report released on 9 May this year by the Government are not in total accord with those of the PAC and members of the public also find this situation confusing. Therefore, after deliberations, the PAC decided that a motion should be moved by me on the issue, so as to enable all Members of the Legislative Council to express their views on the issue and reaffirm this Council's support for the conclusions and recommendations of the PAC, as well as urging the Government to fully implement the PAC's recommendations. I am grateful to the President for waiving the requisite notice, thus allowing me to move the motion today.

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

First, I wish to point out that the PAC held six public hearings on the development of the site at Sai Wan Ho and listened to the evidence given by 17 witnesses. Among them, the former Building Authority (BA), Mr LEUNG Chin-man, was summonsed to the PAC to give evidence under oath. The PAC held 19 internal discussions to establish the relevant facts and made its judgements according to these facts before drafting the conclusions and recommendations of the PAC.

In the following, I will summarize the conclusions of the PAC concerning Mr LEUNG Chin-man's decision to exclude the public transport terminus (PTT) from the gross floor area (GFA) calculation of the site at Sai Wan Ho.

Regarding Mr LEUNG's decision to exercise his discretionary power, the PAC is alarmed, strongly resents, and finds it unacceptable that, in deciding to exercise his discretionary power, he had not attached due weight to the factors for consideration in exercising discretionary approval. Although one view

holds that exercising discretion in public interest is necessarily uncertain and difficult, these factors are in fact listed in the Practice Note on "Discretionary Approval — Factors for Consideration" issued by the Buildings Department (BD), including lease restrictions, views of other government departments, effect of the development on the adjoining sites and the district, and fairness.

When considering public interest, Mr LEUNG had adopted a very restrictive view and confined himself to the question of whether the provision of the PTT was in public interest, without due regard to other factors that might be relevant. Such factors included the fact that the lease had already required the developer to provide the PTT, the difficulty likely to be faced by the Lands Department (LandsD) in charging additional premium, as well as the visual impact, increased development intensity and obstruction to air flow resulting from increased building bulk and building height.

Because Mr LEUNG had viewed his role as distinct from that of a civil servant holding the post of Director of Buildings, he had not adequately taken into consideration such public interest and government policies that might be relevant.

In addition, Mr LEUNG had not attached due weight to the views of other government departments which had raised objection to the exclusion of the PTT from the GFA calculation.

The PAC is gravely dismayed at the Mr LEUNG's decision and finds it unacceptable for its negative impact in terms of finance. The PAC's reasons are: firstly, the value of the site would be affected by whether any of the Government Accommodation would be included in or excluded from the GFA calculation. The tender price offered might have been higher if the PTT had been excluded from the GFA calculation at the outset. Secondly, the LandsD's assessment of the tender reserve price of the site was on the basis that the Government Accommodation would be included in the GFA calculation. The reserve price could have been higher if it had been decided before the land sale that the PTT would be excluded from the GFA calculation. Thirdly, the PAC notes that the prospective tenderer who received written confirmation from the LandsD that the Government Accommodation shall be included in the GFA calculation subsequently offered the second highest bid, which is only \$19 million less than the successful bid of \$2.43 billion and represents less than 1% of the bid. Therefore, the PAC has reasons to believe that the tenderer might

have put forward an even more competitive bid if he had been informed that the PTT would be excluded from the GFA calculation.

The PAC also considers that as Mr LEUNG's decision increased the value of the site at Sai Wan Ho after the land sale, the decision might be unfair to other tenderers bidding for the site because it was contrary to the advice, given to some tenderers before the close of the land sale, that the Government Accommodation would be included in the GFA calculation, which did not turn out to be the case.

On the aforementioned grounds, the PAC criticized Mr LEUNG in its report. The conclusion of the ICI on Mr LEUNG's decision is that it had no financial implication and that his decisions were reasonable, therefore, he should not be subjected to severe criticism. This is obviously at variance with the conclusions of the PAC. I believe that under the present social climate, a decision made by a senior government official may be subjected to criticism no matter if it is correct or not. I really cannot see why the ICI said that Mr LEUNG should not be criticized. I believe the ICI has no intention of interfering with the freedom of thoughts and speech.

I notice that in the Legislative Council meeting held last Wednesday, when the Chief Secretary for Administration tabled the Government Minute and answered Members' questions, he said he very much agreed with the conclusion that I had presented when laying the report on the table of this Council on 15 February. I would like to thank the Chief Secretary here.

Here, I also urge the Government to fully implement the recommendations made by the PAC on this matter, that is, the Secretary for Housing, Planning and Lands has to improve communication and co-ordination among the BD, the LandsD and the Planning Department to ensure that planning intentions are achieved when a site is developed; the BA must ensure that, when exercising his discretionary power, he will include in his consideration of an application the factors listed in any applicable Practice Note issued by the BD; and the Administration has to review the criteria for deciding whether or not the maximum GFA of a site should be specified, with a view to removing any ambiguities about the development potential of the site.

Finally, I wish to point out that the PAC is concerned about one of the conclusions made by the ICI, that is, the PTT is outside the scope of regulation 23(3)(b) of the Building (Planning) Regulations. This conclusion of the ICI

may have far-reaching implications, since this means that the discretions exercised by Mr LEUNG and his predecessors to exclude the PTT from the GFA calculation may lack any legal basis. Misconduct due to an illegal action is far more serious than one that is due to the unreasonable exercise of power of discretion.

With these remarks, I beg to move.

Dr Philip WONG moved the following motion: (Translation)

"That, as recently the community is widely concerned that the conclusions made by the Government-appointed Independent Committee of Inquiry on the Sai Wan Ho Development on Inland Lot No. 8955 in its report published on 9 May this year are not in total accord with those made by the Public Accounts Committee (PAC) in its report laid on the table of the Legislative Council on 15 February this year regarding the development of a site at Sai Wan Ho, this Council reaffirms its support for the conclusions and recommendations of PAC and urges the Government to fully implement the recommendations of PAC."

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

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy President, I have to thank Dr Philip WONG for proposing this motion today. Since the release of the report of the Independent Committee of Inquiry on the Sai Wan Ho Development (ICI) last week, there has been much discussion in the community on a comparison of the conclusions and recommendations made by the Audit Commission, the Public Accounts Committee (PAC) of the Legislative Council and the ICI. Members of the Legislative Council have also raised a lot of opinions.

First of all, I have to give my serious response to the request made to the Government in Dr Philip WONG's motion. The motion "urges the Government to fully implement the recommendations of PAC". Again, today, I have to reiterate here that the Government "fully accepts and proactively implements" the recommendations of the PAC. In fact, as the Director of Audit

states in its report on value-for-money audits on this subject, the government departments concerned agree with all the recommendations of the Audit Commission. Last Wednesday, when I gave my response to Report No. 45 of the PAC, I also stated clearly that the Government accepted all the 21 recommendations made by the Audit Commission and the PAC.

Also, I have to reiterate here that the Government has all along co-operated proactively with the Audit Commission and the PAC, and has been supportive of their work. It has been a long-standing arrangement for the Audit Commission to conduct value-for-money audits on government services. The PAC, which was established in 1978, plays an important role in urging the Government to provide quality public service in an efficient and cost-effective manner. To ensure the proper use of public expenditures for purposes specified in the funding allocation, the spending of the funds in an appropriate manner, and the proper handling of financial matters by the Government, the PAC has spent a lot of time and efforts over the years in studying the value-for-money audit reports submitted by the Director of Audit and putting recommendations and views to the Government. We have to express our greatest gratitude to the PAC for its valuable views and constructive comments, and will proactively implement follow-up measures, monitor the relevant progress and give regular reports to the PAC.

Looking back, all the recommendations made by the PAC in the past were useful in enhancing the operation and efficiency of the departments or organizations subject to audit. The Government highly respects the role of the PAC, and attaches great importance to its views and recommendations. It will also follow up the relevant recommendations seriously and actively. We will, as always, strictly adhere to our agreement with the Legislative Council on audit reports and work arrangements of the PAC. We will submit the Government Minute to the Legislative Council within the three-month period after the report of the PAC is submitted to the Legislative Council, and respond proactively to the recommendations of the PAC and give an account on the actions the Government plans to implement. The Secretaries and controlling officers concerned will continue to co-operate closely with the PAC and give detailed explanations on the relevant government policies as well as the handling and arrangement of the relevant cases.

On the incident of the Sai Wan Ho site development, the Government noted that the public was concerned about the possible uncertainties in the

exercise of discretionary power by the Building Authority (BA) on land development projects. The Government considered it necessary to conduct a detailed examination on the exercise of discretionary power by the former BA to be accountable to the public. The Government thus set up the ICI to conduct an in-depth inquiry. The terms of reference of the ICI is to examine the procedures in approving the site classification, GFA exemption for the PTT and bonus GFA for dedication of the reserved area of public passage in respect of the Sai Wan Ho building plans application, including how and under what circumstances the BA's discretionary power is exercised, and to review whether the discretionary power in question has been exercised properly.

At that time, the PAC was aware of this move of the Government, and members of the PAC generally considered that the work of the ICI set up by the Government and that of the PAC was of a different nature and not contradictory to each other. Later, the PAC started holding hearings on the Sai Wan Ho development project, while the ICI started its investigation into the exercise of discretionary power by the BA. On 19 April this year, the ICI submitted its inquiry report to the Chief Executive. The inquiry report was then released on 9 May and laid before the Legislative Council.

Last Wednesday, in this Chamber, I explained it clearly at the outset that in the examination of the Sai Wan Ho development project, the role and functions of the PAC of the Legislative Council and the ICI appointed by the Government were different. The focuses and areas of responsibilities of the two were also different. There was no subordinate relationship, no conflict between them, and no question that the Government must choose between the two.

Despite the different focuses of the two reports, the recommendations proposed to the Government are just different means for achieving the same goal. As to how the existing approval mechanism of land development projects can be improved, the PAC and the ICI have made several similar recommendations in their reports. The Secretary for Housing, Planning and Lands will shortly give a detailed account on the progress the Government has made in implementing various improvement measures.

Actually, there were precedents in the past where the Government and the Legislative Council conducted separate inquiries into matters of concern to the

Legislative Council and the Government as well as the public. I know some Members of the Legislative Council are concerned about the setting up of the ICI by the Government to study the case before the PAC has studied the report of the Director of Audit. The Chairman of the House Committee has also reflected to me this concern of Members. The Financial Services and the Treasury Bureau will follow up the issue with the PAC.

Today, the other part of Dr Philip WONG's motion states that the conclusions made by the ICI are not in total accord with those made by the PAC. I also notice that in a declaration made by the PAC last Thursday, the issues on the exercise of discretionary power by the former BA in approving the GFA exemption for the PTT and the likely fiscal impact caused by the exercise of the discretionary power were mentioned. I would like to take this opportunity to make a response.

The ICI considers the former BA is wrong in the decision to exclude the transport terminus from the calculation under regulation 23(3)(b) of the Building (Planning) Regulations. However, as the former BA had sought legal advice, examined past cases and considered arguments for and against the exemption put forth by relevant parties, the ICI thus considers the decision made by the former BA reasonable.

Why a decision can be regarded as wrong but reasonable at the same time? In this connection, the report of the ICI has indeed given a clear explanation. The reason is that the ICI considers that the transport terminus does not fall within the scope of exemption under regulation 23(3)(b) of the Building (Planning) Regulations, so the decision made by the former BA to exempt the transport terminus is wrong. The ICI is of the view that facilities not constructed for the benefit of the parent building or its occupants are outside the scope of exemption of the Regulation. However, since this so-called "wrong" decision was not made rashly, but was made after all possible procedures had been fulfilled, which included seeking legal advice, considering professional opinions and referring to past cases, of which exemption were granted in some cases, the ICI thus considers the decision made by the former BA reasonable.

The Government is deeply concerned about the ICI's interpretation of regulation 23(3)(b) of the Building (Planning) Regulations. It also notices that despite giving such an interpretation of the regulation, the ICI states in its report that any interpretation of legislation may differ widely and with good reason.

The ICI also states that no statements or arguments on the proper meaning of the Regulation in respect of this case have been presented to the Inquiry Committee.

On this question, the Government has specifically sought legal advice from the Department of Justice (D of J), while the D of J has also sought the independent advice from external counsels. After considering the legal advice, the D of J is of the view that the interpretation of regulation 23(3)(b) of the Building (Planning) Regulations by the ICI in a narrow sense is not consistent with the spirit of that regulation. The D of J considers that the regulation is applicable to transport terminus. In other words, the decision made by the former BA to exercise his discretionary power under the regulation to exempt the transport terminus cannot be regarded as without legal basis.

I have just spent several minutes trying to explain whether transport terminus can be exempted from the GFA calculation, and I hope Members will understand that it is not a question as simple as one plus one equals to two. Owing to the complexity of the question, the concerns of the public, and the need to avoid the recurrence of similar problems in the future, the Government has made improvement on this important issue related to the approval criteria for the exemption of transport terminus from GFA calculation. Last Wednesday, I explained to Members that the Buildings Department had already amended the relevant Practice Notes, stating that all public transport termini should be included in the calculation of GFA unless it was stipulated otherwise in the relevant outline zoning plan or that a planning approval had been obtained. Therefore, there should be no ambiguity in the handling of cases of this type in future. Moreover, the BA has issued to the trade the Practice Notes on various aspects, stating clearly the criteria for the BA to exercise his discretionary power. The BA has also drawn up internal guidelines, listing the factors to be considered in the exercise of discretionary power, serving as a general guide to the colleagues concerned.

Regarding financial implication, since the GFA is not capped under the lease conditions of the Sai Wan Ho development, the successful tenderer may plan the relevant development project as the legislation permitted and on the principle of full utilization. In an open market and with a mature property sector in Hong Kong, bidders should have taken all relevant factors into account, which should have been reflected in the prices they offered. However, we also appreciate that the public may not necessarily understand clearly that the price

proposed by the developer is indeed a reflection of the development potential of the lot of land, and doubt has thus aroused.

In view of this, we will actively consider whether the total GFA should be capped for cases where the outline zoning plan carries no such provision, so as to enhance the certainty of the lease provisions. In this connection, the departments concerned have already commenced the relevant studies. This proposal certainly has its pros and cons, and a decision has to be made between obtaining higher land revenue by full utilization and enhancing certainty of provisions. A proper balance must be struck. In deciding the way forward, the Government will surely hold adequate consultation with the Legislative Council, the trade, professionals and other relevant parties.

The PAC may not agree with the view of the ICI, that the decision made by the former BA in exercising his discretionary power is reasonable. But Hong Kong is governed by the rule of law, the PAC does not consider the former BA has acted *ultra vires* or abused his power in its report, and the ICI is also of the view that he should bear no blame. From the legal perspective, we cannot say that the former BA has extended beyond the power vested in him by law or not acted in accordance with the law in handling the Sai Wan Ho development. He has acted in accordance with the relevant legislation and the established procedures, and has made reference to previous cases in discharging his duties as the BA. The Civil Service Bureau is also of the view that there is no evidence to support taking disciplinary action against the former BA who is a civil servant. However, we admit that in the handling of land development projects and approval procedures of plans, there are surely areas where improvement is necessary and worthwhile. Therefore, the Government has fully accepted and will proactively implement the recommendations of the PAC. I earnestly hope that Members can take a forward-looking attitude in handling the matter. The Government will surely work closely with the Legislative Council to improve the transparency and fairness of the approval procedures of land development projects. Thank you, Deputy President.

MR ANDREW CHENG (in Cantonese): Deputy President, the Government published the report prepared by the three-member Independent Committee of Inquiry (ICI) concerning the Grand Promenade last Tuesday. Some of the contents in this report are in stark contrast with those in the investigation reports

of the PAC and the Audit Commission, consequently, this matter has evolved into a "Roshomon"-style affair. This made the public call into question the operation of the entire government audit system, so this matter has now exceeded the domain of the discretionary power of the Government in granting land. As a member of the PAC, I will focus on discussing the various problems in the audit system highlighted by this incident.

Yesterday, the Director of Audit also issued a statement pointing out that the angles of study and the powers of the ICI and the PAC are different. The PAC's investigation is related to the additional floor area in Grand Promenade granted by the BA and focused mainly on the problems and recommendations set out in the audit report, whereas the ICI's investigation was focused mainly on the procedural issues in the exercise of discretionary power, that is, whether any official had acted *ultra vires* or in dereliction of duty in the incident relating to Grand Promenade. The natures and angles of the two are different, so it is only natural that the conclusions in the report of the ICI are different from those found in the PAC's investigation report on the Audit Commission's report concerning the Grand Promenade incident.

However, Deputy President, can this Roshomon-style affair be glossed over and resolved by simply saying that this is a matter of "different angles"? The problem now does not lie in their different conclusions but in the considerable number of contradictions between the two reports. Now, on the one hand, the Government is saying that it accepts all the recommendations of the PAC, and on the other, it also accepts the report of the ICI, which is so starkly different. Not only is the Government's actions illogical, it will also undermine the authority and credibility of the PAC report. The Government must give a clear account to the public on how these contradictions can be reconciled. This issue also arouses in us the concern that the Government is trying to play down the conclusion reached from a value-for-money audit angle that there are negative financial implications for the Government.

The focus of the public is on the different evaluations of Mr LEUNG Chin-man in these two reports. The PAC report points out that when Mr LEUNG exercised his discretionary power to grant the additional floor area, he did not seriously consider the different understanding of other government departments of public interest, consequently, this led to negative implications for the Government. The PAC is alarmed by and strongly resents Mr LEUNG's decision. However, the report of the ICI maintains that it is appropriate and

reasonable for Mr LEUNG to exercise his discretionary power in granting the bonus plot ratio, only that he had invoked the wrong regulation in excluding the PTT from the site of Grand Promenade, so the blame should not be placed on him.

Deputy President, a wrong decision made by an official was at odds with public interest and even had financial implications, but it was described as reasonable. This is really incomprehensible and mystifying to the public.

In the 12th paragraph of the speech given by the Chief Secretary for Administration today — I have now obtained a copy of the speech — he explains, or attempts to explain, why the decision is wrong but reasonable. However, I must stress to Chief Secretary Rafael HUI here that in the course of gathering evidence, we found that many government departments had voiced views opposing that of Mr LEUNG. In the most important meetings, their views were not respected and they were not even invited to the meetings, so the impression of the PAC was that Mr LEUNG had only listened selectively to views favourable to his decision. Most importantly, the decision was at odds with public interest and may also have negative financial implications to the coffers. Since this decision was wrong and at odds with public interest, such a mistake should be wrong as well as unreasonable, so the ridiculous judgement of being "wrong but reasonable" should not be reached.

Deputy President, of course, the Audit Commission, the PAC and even the ICI all agreed that there is a great deal of room for improvement insofar as the system for exercising discretionary power is concerned. This incident reflects that at present, there are gaping loopholes in the system of processing building plans. However, we must know that no matter how we improve the processing system, it is still necessary to have some flexibility in the actual processing of building designs, so it is not possible to dispense with all discretionary powers.

Deputy President, the purpose of conferring discretionary power is to allow officials to take action in the light of the special circumstances in individual cases. If the exercise of power by an official departs from the usual practice, then he has to assume responsibility. Even if the official has complied with all procedures but his action is unreasonable or is even at odds with public interest, the official concerned still has to assume responsibility for the decision and the blame can by no means be shifted to the system. This incident shows that in

exercising his discretionary power to grant bonus areas, Mr LEUNG Chin-man adopted a very restrictive view of public interest, as a result, the negative financial implication on the Government is as much as \$125 million. Moreover, this may be unfair to other tenderers. In paragraph 9.49 of the report of the ICI, it is pointed out that "others in Mr Leung's position may have reached a different conclusion". Although the report believes that this adds nothing to the point, it once again shows that the decision made by Mr LEUNG Chin-man to exercise his discretionary power is to a large extent the result of his personal judgement and not purely a matter of the system or rules. Therefore, we believe that the evaluation of him in the PAC report is reasonable.

In the past, the Government would appoint independent committees of inquiry to investigate incidents such as the SARS, the Hong Kong Harbour Fest and the serious congestion in East Kowloon, and then submit reports to the Government. Some of these ICIs made quite a number of constructive proposals which won public approval. However, these ICIs were all appointed by the Chief Executive, who was not popularly elected. If the incidents under investigation only involve maladministration, there will not be any serious problem. However, in matters such as the Grand Promenade incident, not only is significant financial interest involved, the prestige of the Government is also at stake, so the impartiality of an ICI appointed by the Chief Executive will be called into question.

Furthermore, most of these ICIs investigated the issues from the angle of administrative law, so officials are deemed to have acted inappropriately only when they have made mistakes or acted *ultra vires* in very obvious ways, therefore, the benefit of doubt often goes to the officials concerned. Consequently, most of the reports published by these ICIs failed to meet the expectations of society for pursuing responsibility with the officials concerned.

Deputy President, we support the motion moved by Dr Philip WONG and hope that the composition, power, duties and roles of these ICIs can be clearly defined to avoid such Roshomon-style incidents.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR WONG KWOK-HING (in Cantonese): Deputy President, the *Da Vinci Code* will premiere this evening and the Grand Promenade incident is Hong Kong's "Da Vinci Code". There are two Da Vinci codes that I hope the Government will decipher for me.

The first code is that in the Grand Promenade incident, are there any collusion between the Government and business and transfer of benefits? The grant of bonus floor area involved an additional 280 units. If land premium were to be paid for it and on the basis of \$2,000 per sq ft, the sum will amount to more than \$400 million. Because of the improper exercise of discretionary power, the property developer does not have to pay a single cent in additional land premium. On this score, what is the judgement of the Government and how can it clarify and respond that this is not collusion between the Government and business and a transfer of benefits?

The Audit Commission made the criticism that the then BA, Mr LEUNG Chin-man, erred in exercising his discretionary power to exclude the PTT from the calculation of the GFA, thus resulting in losses to the public, and the PAC of the Legislative Council also levelled a similar criticism. The Director of Audit also issued a statement yesterday expressing his agreement. However, the three-member ICI is of the view that the procedure is correct, only that the decision made was wrong and the authorities did not suffer any actual financial loss as a result of the wrong decision made then, nor should Mr LEUNG Chin-man be criticized because of this decision.

However, on the one hand, the Administration gave the report of the Audit Commission its approval, saying that it totally accepts the recommendations of the PAC; yet on the other, it also accepts the illogical and contradictory conclusions of the ICI report. In view of this, may I ask which is right and which is wrong? I think this is really mind-boggling. The Government must not be equivocal and try to muddle through by saying such things as different emphases, different angles, different directions, different goals and hence the different conclusions. Otherwise, the prestige of the Government will be in tatters.

The second code in this Grand Promenade incident is that the Government has to decipher this code in the minds of the public: At present, the public thinks that officials can make different claims as they please and they are shielding one

another. In passing judgement on what is right and wrong in the Grand Promenade incident, is the rank of an official the basis for deciding what is right and wrong? Initially, the Audit Commission conducted an independent investigation, the PAC of the Legislative Council then followed up on it and on top of this, the ICI also prepared a report. In the end, the Government said that it accepts all three reports, however, the problem is that the conclusions in the three reports are not in total accord with one another and there are glaring contradictions. Moreover, they give each other a slap in the face. However, this does not matter because in the end, the Government set the tone by saying that it accepts all of them. In view of this, is the rank of the officials concerned the criteria adopted in judging what is right and wrong? If this is the case, little wonder that a lot of members of the public have said to me that "the character for official (官) has two 'mouths' (口) in it, the characters for senior official (高官) have four 'mouths' in them" and the phrase "senior officials of the SAR" (特區的高官) has "seven mouths" in it — that is what they told me — and if you write out the phrase in Chinese, you will find that there are indeed seven "mouths". Moreover, it is all about "one mouth defending another, one mouth supporting another, people with more say protect those with less say, those at the upper level rebut what those below them say." The final say rests with the person at the very top. This code has now actually taken root in the minds of the public, so the Government has to answer this question clearly.

Finally, I wish to cite a well-known passage from "The difficulty of being muddle-headed" by ZHENG Ban-qiao and share it with the Government. What did ZHENG Ban-qiao say? He said, "It is hard to be a man who is wise, it is even harder to play the fool and it is even more difficult to change from being wise to looking like a fool." How should we interpret his words? I think being intelligent is difficult because it was thought to be a smart move to establish an ICI, so that the Government could evade some embarrassment and accusations of maladministration. However, the more one tries to cover things up with this sort of petty wit, the more evident they become to people, so the controversy snowballs. How do I interpret "it is difficult to play the fool"? Due to the establishment of the ICI, even greater controversies were generated. The Government then pretends to be a fool, saying that all three reports are correct and it accepts them all, thinking that the public would also be fooled. In fact, the public is not foolish at all and they can see the muddy bureaucratic culture more and more clearly. Therefore, "it is even more difficult to change from being wise to appearing like a fool".

Today, Chief Secretary Rafael HUI asked us to accept his conclusion that the "decision was wrong but reasonable", however, how can we play the fool and accept it? Therefore, I hope the Government will clarify whether there are collusion between the Government and business and transfer of benefits in this Grand Promenade incident. This Da Vinci code relating to the Grand Promenade incident must be cracked. Secondly, the Government must answer whether, by creating so much trouble, officials are trying to defend one another. This Da Vinci code in the public's mind must also be cracked. I hope that the Government can use its wisdom to decipher these Da Vinci codes in the public's minds resulting from the Grand Promenade incident.

Thank you, Deputy President.

DR KWOK KA-KI (in Cantonese): Deputy President, I speak in support of Dr Philip WONG's motion.

First, I am grateful to Dr WONG for moving this motion at an opportune moment. As the President said earlier, this is an unusual incident and in a rare move, she waived the notice requirement stipulated by the rules in view of the unusual circumstances, so that we can discuss this issue today. The Legislative Council is also uncharacteristically united in agreeing to discuss this issue.

In fact, Dr Philip WONG is a nice guy, so the Chief Secretary for Administration said at the beginning of his speech that he supports this motion and will implement all recommendations. However, I remember that the Chairman of the PAC, Dr Philip WONG, once said that the Government should either accept the report of the PAC or the report of the three-member ICI and it could not be equivocal. I know that this is the point Dr WONG wanted to make. However, unfortunately, the Government thinks that it is clever, albeit in small ways — in his speech just now, the Chief Secretary also showed that he deserves the sobriquet of a resourceful man. He tried to manipulate his turns of phrases to substitute concepts and make us think that he has already done some work. Since when has the Government become reliant on the judicial system in judging whether an official has made mistakes? In fact, what the PAC and the Audit Commission want is to look at this incident from the angles of value for money and whether public interests have been jeopardized. However, the

Government has adopted another concept (I can say that this is a substitution of concepts) and a legal standard in determining whether any action has breached the law. Since when has determining whether mistakes are made been judged by whether the law has been breached? Why can the Government do such a thing?

Today, in a rare move, the Legislative Council stands united because it knows that on this incident, if we do not seek to do ourselves justice, the duties and scope of the Legislative Council in monitoring the Government and public expenditure will be at stake. If this issue is not dealt with properly, it is not just the Legislative Council that will be affected, even the governance by the SAR Government and the relationship between the executive and the legislature will be seriously harmed. I wonder if this incident will become an example of putting into practice the strong governance advocated by the Chief Executive, in other words, an important job he has to do in order to run in the election next year. Of course, the Chief Executive does not wish to see this incident become a heavy burden or a bomb when he runs in the election, so he appointed this ICI in an attempt to defuse this bomb. However, as several Members have put it, in handling this incident, it has become the victim of its wit, petty thus.

The investigations by the Audit Commission, the PAC and the ICI into the Grand Promenade incident have drawn completely contradictory conclusions. The PAC reached the conclusions of "alarmed", "unacceptable" and "grave dismay" after conducting cautious hearings in accordance with the procedures. This conclusion is approved of and accepted by the PAC and Members of this Council. However, not only did the Government fail to handle this incident with humbleness and impartiality, quite the contrary, it took the opposite move of establishing an ICI to set the tone on this incident and give the Government a way out, thus giving the Audit Commission a slap in the face. Then, the Government went one step further by writing to the Director of Audit, saying that he had not been slapped and he had done a good job, so on, and so forth. This is precisely what the Chinese call "making an admission unwittingly without solicitation".

If the work of the ICI had really served to enhance the credibility of the Audit Commission and even that of the PAC of this Council, this letter would not have been necessary. However, we all know that what the Government tasked

the ICI with has precisely violated the inherent rights of the Legislative Council and injured the relationship between the executive and the legislature. This is why the Chief Executive hastily issued this letter as a remedy. However, his destructive actions have caused irreparable damage to the PAC of this Council and the relationship between the executive and the legislature. This letter did not serve any purpose. Both the Audit Commission and the PAC have credibility, but what credibility does the ICI established on this occasion have? What has it done to make us think that it can handle this incident impartially? I do not wish to touch on the backgrounds of the members of the ICI, however, Members all know that someone therein has numerous intricate relationships with property developers.

I agree that in handling the whole incident, we have to look at the issue *per se* and refrain from making it personal. In fact, the Legislative Council and the PAC did not target any official in their work, nor did they say that in order to settle this matter, heads would have to roll. We only wish to be forward-looking and do not wish to see public assets and public interest being jeopardized again. In fact, the simplest and most essential response that the Government has to make is to plug the loopholes by improving the existing legislation. In this way, the problem would have been solved and it needed not behave like a mean guy by appointing, as it did, an ICI without the least bit of credibility, with the result that its own prestige is undermined, in order to give the Government a way out for the wrong decisions that it made.

This incident will have even more serious repercussions. If any official makes a similar mistake in the future, I have several suggestions for him: firstly, in no circumstances co-operate with the Audit Commission and he should just refuse to talk; secondly, he should not co-operate with the PAC either and he should also refuse to talk; thirdly, apply for a judicial review and fourthly, request the Chief Executive to establish an ICI and lastly, seek the support of relevant colleagues or members of his trade. In fact, the action that has now been taken cannot help the official concerned, nor can it serve to defuse the bomb for the Government. It will only leave a deadly time bomb that seriously impinge on the single most important and socially respected power of the PAC of this Council, thus damaging the most important imperial sword that we use to defend public interest. I do not wish to see the Government destroy the credibility of the Legislative Council in this way, I hope the Government can.....(*the buzzer sounded*)

MS EMILY LAU (in Cantonese): Deputy President, I rise to speak in support of Dr Philip WONG's motion.

I joined the Legislative Council in 1991, and thanks to Members' support, I had since been a member of the PAC. During the last term, I even served as its Deputy Chairman. But then, two years ago, Deputy President, I was unexpectedly elected Chairman of the Finance Committee, so I did not take part in the competition for membership in the PAC.

The PAC is an extremely important committee under the Legislative Council. Its prestige and significance should even transcend the Legislative Council. I hope that both the authorities and society at large can recognize its importance. Deputy President, there are, of course, two other equally important institutions, namely, the Audit Commission and the Independent Commission Against Corruption, often referred to as the two "gems" of the Government. I suppose some Members may also talk about them later in this meeting. But one of the "gems" may not be quite so alright recently. Why do I say so, Deputy President? The reason is that the Director of Audit — because he is unable to attend this debate today — issued a statement yesterday. What did he say in the statement, Deputy President? It is pointed out in the statement that both the public and the Administration attach great importance and value to the work of the Audit Commission. The Director went on to say that the credibility of the Audit Commission will not be affected by the report of the Independent Committee of Inquiry (ICI), and that the Audit Commission will continue to uphold professionalism and impartiality in carrying out its mission of providing quality public sector auditing services to Hong Kong.

Deputy President, frankly speaking, I have rarely heard anyone sing his own praises, saying that others attach great importance and value to his work. I have listened to the Chief Secretary for Administration's speech today, and I also listened to his speech at the meeting on Wednesday last week when he did not make such an evaluation. The statement issued by Dr Philip WONG on behalf of the PAC at the last press conference did not make any such evaluation either. I naturally hope that the Audit Commission can be really so assessed by others later, and I also hope that it can continue to be so assessed. But it will not be too good if the credibility of the Audit Commission is compromised, or if it even comes to be regarded by the public as a tool of attacking those government departments in disfavour.

Deputy President, what I am referring to is the report on Radio Television Hong Kong (RTHK), because before the publication of this report (I mean the report of the Director of Audit), I already heard something from the very top management of RTHK. They (that is, the Audit Commission) were told, "Go ahead and do all you can to dig out as much information as possible." This might be all hearsay and wrong, but the staff of RTHK still had such an impression. And, I do not know what gave them this impression. Besides, on the very day when the Audit Commission released its report on RTHK, Secretary Joseph WONG immediately hastened to come out and demand RTHK to submit a report within three months. Three months from now will also be the deadline for the PAC to submit its report. So, how are they going to look at the work of Dr Philip WONG and the other six Members on the PAC? The authorities may argue that no independent committee of inquiry has been set up this time around, and they are simply requested to conduct an internal investigation. But the fact is that the PAC is already conducting an investigation.

Therefore, Deputy President, why did I write you a letter last Friday? The letter was addressed to the House Committee, requesting the Chief Secretary for Administration not to lightly conduct any investigation in the future. I do note that when the Chief Secretary for Administration came to this Council on the last occasion, he promised that the establishment of independent committees of inquiry would not become a habitual practice of the Government. I hope he really meant what he said, and that he will stop taking any such actions in future. Actually, such actions will not only affect the PAC of the Legislative Council but will also compromise the prestige of the Audit Commission. If there had been no effect on credibility, the Director of Audit would not have issued a statement the night before this debate, singing its own praises that others attach great importance and value to its work. I believe that we are all equally good. But I hope the Director of Audit — even at this meeting, I will still say so — can really capitalize on his independence, do his job without any fear and show us that he is truly independent and will not yield to any pressure.

Deputy President, there is another point I wish to raise. Who were the members of this so-called ICI? Knowing that the public held Judges in high esteem, the authorities appointed a Non-permanent Judge of the Court of Final Appeal, Mr Barry MORTIMER, to the ICI and another member was a former Chairman of the Housing Authority (HA), Dr CHENG Hon-kwan. As far as I know, he used to work in the Buildings Department for more than a decade. And, who was the target of investigation? The previous Director of Buildings.

But then a person who had worked in the Buildings Department for more than a decade and who was once the Chairman of the HA was appointed to investigate the previous Director of Buildings (who is now the Director of Housing). Do people know how close their relationship was? And, they also had very close connections with the Buildings Department. The report even stated that since the ICI was not a statutory body, no public hearings were held. In that case, can the ICI command any credibility at all?

In contrast, the statement issued by the Audit Commission yesterday disclosed all the relevant information concerning the investigation of the PAC, including the holding of seven or so public hearings and the involvement of 17 witnesses. But the ICI did not even disclose the number of hearings it had held, giving us just the names of its members. I hope that the Chief Secretary for Administration can stop playing such a trick again. According to him, investigations of this nature have never been launched lightly. But do people know how many such investigations were conducted in the past? Independent Committees of Inquiry were set up to investigate the penny stock incident, the Tuen Mun Road traffic accident and the traffic chaos and standstill in East Kowloon resulting heavy rain. All these committees worked behind closed doors. As for those organizations commanding credibility, the authorities have been dealing blows to them, trying to strip them of their prestige.

Therefore, Chief Secretary for Administration, I hope that the debate today can make the authorities realize that they must stop dealing any more blows to the prestige of the Audit Commission and hindering the operation of the PAC. I am very pleased to learn that Secretary Frederick MA will soon conduct discussions with the PAC. I very much hope that such unfortunate incidents will never occur again.

With these remarks, I support the motion.

MR RONNY TONG (in Cantonese): Deputy President, the greatest difference in the conclusion reached by the ICI lies in its evaluation of the exercise of discretionary power by Mr LEUNG Chin-man.

The conclusion in the ICI report is that the decision "was reasonable and not open to sound adverse criticism". The speech given by the Chief Secretary earlier also concurs on this point. Generally speaking, the conclusions of the

entire report are actually founded on three arguments: firstly, "views can differ widely upon the interpretation of ordinances and regulations". Just now, the Chief Secretary has shown that his views are entirely different. Secondly, based on "previous cases and the legal advice", it was open to Mr LEUNG to apply regulation 23(3)(b) of the Building (Planning) Regulations in making the decision. That is to say, it is correct and reasonable for Mr LEUNG to invoke this piece of legislation and the Chief Secretary also said so just now and thirdly, the understanding of property developers when making their bids was that the public transport terminus (PTT) would be excluded from the gross floor area (GFA).

Let us first look at the legislation. President, is it true that views can differ widely in interpretation and there is a great deal of ambiguity? I do not think so. The power to grant exemptions is conferred by section 42(1) of the Buildings Ordinance (Cap. 123) and this Members can all see; however, it seems the Government and the ICI have both overlooked section 42(2). In fact, herein lies the crux of the matter. This section stipulates that "Every application for an exemption.....shall be considered on its own merits by the Building Authority who shall not be required to take account of exemptions granted in the past.". The wording of this provision is very clear, that is, the exercise of discretionary power need not and should not take into account precedents. Regulation 23(3)(b), on which Mr LEUNG relied, provides that the exemptions should relate purely to clauses on "The parking of motor vehicles, loading or unloading of motor vehicles" but the ICI held different views. Just now, the Chief Secretary mentioned that the Government also holds another view, however, this is not important because when the government official, Mr LEUNG, exercised his discretionary power, he overlooked the important section 42(2), which I have mentioned, and took into consideration factors that he should not have considered, so he overstepped the legal confines in exercising his discretionary power. Therefore, the decision was definitely without legal basis and illegal. However, the most important thing is that in a meeting held on 22 October 2001, the legal advice given to the Government was that "each case must be considered on its own merits and be decided as the public interest required at the time" by the Building Authority. This piece of legal advice is totally correct and does not differ from what I have said, that is, reference must be made to the stipulation in section 42(2). Regarding the exemption for the floor area of the PTT, how could the public possibly benefit from this move? Even now, I still do not understand this. I can only see that excluding the area would benefit the

property developer, so that the property developer could get an additional 19 937 sq m of floor area and an additional 280 units without cost. Based on the present market value, such a GFA can fetch hundreds of millions of dollars to the coffers.

Regarding the second reason, which mentions past cases, I have already pointed out clearly that the law provides that they do not constitute a ground for exemption. This important point is not discussed throughout the report of the ICI. On the contrary, the report of the ICI went to great lengths to deal with the major reason for Mr LEUNG exercising his discretionary power, which is his consideration of the outcome of past cases. Obviously, this is a manifestation of the bureaucratic mindset. The Government claims that what it does or did is always right, be it things in the past or in the future, so it is the safest to base decisions on precedents and it does not matter even if means a violation of the law. That the ICI had no views on this is indeed very puzzling.

As regards the third reason, that discretion was exercised after taking into consideration the intention or understanding of developers when they took part in the bidding, this is even more unconvincing. May I ask Members which developer will not strive to secure interests for themselves? The property developer of course hoped that the Government could exclude the floor area of the PTT as it could make more profits. However, the most important thing is that building the PTT is a basic requirement in the land lease and if any tenderer says that it did not occur to him that the floor area of the PTT may be included in the calculation of the GFA, I think this is unimaginable. This claim is totally at odds with property developers' principle of considering all clauses in a land lease carefully before making their bids.

Therefore, in view of the foregoing three reasons, to say that Mr LEUNG's exercise of discretionary power is reasonable is really unconvincing. True enough, his decision was controversial and there were also dissenting views within the Government. However, if we look at this from the viewpoint of public interest and if we adhere to the spirit of the legislation, his decision definitely did not comply with the requirements of the legislation and still less is it in public interest. More importantly, for years, the Audit Commission has prepared its reports according to the value-for-money principle and it has won the confidence of the public, whereas the Public Accounts Committee (PAC) is a statutory body representing public opinion. The reports prepared by them deserve the utmost respect by the SAR Government. If the Government wants

to go to the bottom of the matter to find out the truth, it should do so on condition that it respects the conclusions in their reports. If the scope of the thorough investigation includes overturning or questioning their reports, the credibility of the Audit Commission will be undermined, intentionally or unintentionally. Furthermore, if the arguments in the report of the ICI are dubious and as I said, if even a provision in the legislation was overlooked, the Government should waste no time in reiterating its full acceptance of the reports of the Audit Commission and the PAC, rather than accepting the independent report of the ICI with its contradictions and unconvincing arguments "at the same time". If not, this will create another dent in the confidence in what was an originally well-established system. The public do not wish to see the destruction of a time-tested bulwark at our own hands as a result of a single incident, nor will this be a boon to the SAR. Thank you, Deputy President.

MS LI FUNG-YING (in Cantonese): Deputy President, the Chairman of the Public Accounts Committee (PAC) has taken the unusual action of moving a motion to reiterate this Council's support for the conclusions and recommendations of its report relating to Grand Promenade and to urge the Government to fully implement the contents of the report. Of course, this is unusual in that the conclusions and recommendations of the three-member ICI are not in total accord with those of the PAC and they are even contradictory and conflicting. This cannot be resolved with the Government's remark that the foci of the two are different because what has happened now is that while both reports share the same concerns, such as whether the exercise of discretion was appropriate, whether there were negative financial implications to government revenue, and so on, their conclusions are poles apart.

I am not a member of the PAC, so it is more appropriate to leave it to a member of the PAC to explain these contradictory conclusions. What I find strange is that after the Audit Commission had published its audit report concerning Grande Promenade in November last year, the Government announced immediately that the ICI would be established to conduct an investigation, rather than wait until the PAC of the Legislative Council had drawn its conclusions and made its recommendations before taking follow-up actions. Be it the Secretary for Housing, Planning and Lands, who said that the Government only wanted to investigate in a more in-depth manner with a view to making improvements and allaying public suspicions, or the Chief Secretary for Administration, who said in making elucidations in this Council last Wednesday

that there was no major public reaction when the decision was made, they have both evaded the question.

Although in the past, the Government and the Legislative Council have also established their own select committees or groups to conduct their own investigations into major social events, the PAC of the Legislative Council has a "very robust" statutory power and legal basis, as the Chief Secretary for Administration put it, to follow up the Audit Commission's Audit Report. This indicates that, unlike the investigation committees established in response to specific social incidents, the Government, in not waiting for the PAC of the Legislative Council to complete its investigation report before taking follow-up action, has thrown the entire process of scrutinizing the Audit Report into chaos and disrupted the process, so it can hardly be said that it is being respectful to the Legislative Council.

Deputy President, I have no intention to speculate about the reason behind the Government's rush to establish the ICI, however, this approach of not doing things according to the procedure reminds me of another similar incident. In late March this year, the Financial Secretary, in order to enable the Budget to be passed with a high number of votes, also took the unusual step of making promises on measures to be taken in the coming year to various political parties. Originally, it is desirable if the Financial Secretary is willing to listen and agree to the demands of political parties in the Legislative Council, however, this has set an undesirable precedent and when Members vote, it is not the overall proposals in the Budget but what they will be able to get that dictates how they will vote. Such an approach is short-sighted. In order to make the Budget pass with a high number of votes, the Financial Secretary was behaving like the CEOs of some information technology companies who, in order to make the shares of their companies perform well in the market during the dot com shares bubble frenzy, tried to jack up the prices of their shares by all conceivable means to the detriment of the long-term interests of their companies.

(THE PRESIDENT resumed the Chair)

President, after coming into power, the Chief Executive, Mr TSANG, attaches great importance to the esteem of the Government among the public. It

is desirable for the Government to attach importance to its esteem. However, the political reality is that it is impossible to command esteem without making calculated political moves but such calculated political moves must be backed up by specific policies in order to win the support of the general public. I sincerely hope that the SAR Government will use its policies to win the approval of the public rather than achieve its goals through political calculations, otherwise, the whole thing will only be a political bubble and when the bubble bursts, Hong Kong as a whole will suffer.

MR LAU KONG-WAH (in Cantonese): Today's motion is unusual but important. Members of the PAC always observe discipline and it has always been the practice that only the Chairman will speak. However, since I am allowed to say all that I wish to say today, I will not be content until I have aired my views.

The Government said that it accepts all of our recommendations, however, the conclusions in these two reports are in fact diametrically opposite. Concerning the Government's claim that the conclusions are the same, I think it is an ostrich policy. The greatest differences between the two reports lie in: firstly, whether the exercise of discretionary power is appropriate and whether it was exercised in a reasonable manner. After the hearings, our conclusion is that the exercise is unacceptable, however, the report of the Independent Committee of Inquiry (ICI) believes that it was reasonable. Secondly, on whether the incident had any financial implications, our conclusion is that there were negative implications but the report of the ICI says that there was no implication, so the two are obviously diametrically opposite.

Therefore, concerning the contents of this report prepared by the ICI, I wish to examine three major points in detail. Firstly, the greatest oversight in this report of the ICI is that it completely ignores the fact that the exercise of discretionary power has to follow a set of guidelines. The guidelines spell out nine criteria, including the consideration of government policy, public interests, planning restrictions, the views of other government departments, fairness, and so on. However, after going through the entire report of the ICI, I found that no reference whatsoever was made to these criteria throughout the report. This is very crucial.

President, when conducting the hearing, we mentioned this set of guidelines on exercising discretionary power, furthermore, this set of guidelines was signed by Mr LEUNG Chin-man himself. When I asked him if any weight had been attached to it when he exercised his discretionary power, his answer was that "the weight was zero". President, just imagine: the policy and guidelines were formulated by him, but when they were eventually applied, the weight attached to them was zero. Will the public find this acceptable? Did the ICI find this acceptable? Can one say that this is reasonable? The Chief Secretary for Administration said just now that he had legal basis, had followed the procedures and made reference to past cases. This we understand. However, the one single point he omitted was that the criteria in the guidelines were not followed and this is very important.

President, secondly, the most misleading point in the report of the ICI is its claim that there was no financial implication and the coffers did not receive less revenue as a result. Since the tendering process had been completed, even though the property developer had built more flats, it was not possible to recover the money. Of course, it is true that the money cannot be recovered now. However, it is important to consider according to what criteria the Lands Department initially set its reserve price. The criteria adopted by the Lands Department had taken into account the fact that the area was included; had it not been included, the reserve price could have been set higher and the revenue for the coffers would have been higher. This is very obvious reasoning and the public can easily understand this. Therefore, if it is said that there was no implication at all, everyone will be able to see easily how very misleading such a claim is. The reply given by the Chief Secretary for Administration just now has also happened to omit this point.

The greatest discovery mentioned in the report of the ICI — to me, it is the greatest pitfall — is that it considers that all along, the legal basis on which the Buildings Authority exercises his discretionary power is wrong, that is, it is wrong to invoke regulation 23(3)(b). If the legal basis is wrong, that means the exercise of power is illegal. This is in fact an even more serious matter, is this not? That is to say, not only did Mr LEUNG Chin-man incorrectly invoke and illegally exercise his discretionary power, even the over a dozen cases in the past are all implicated. Therefore, in such circumstances, the Government had no choice but to step forward and it reiterated today that such an interpretation was wrong. If the interpretation of the ICI and such an important argument are wrong, how can the ensuing conclusions and deductions be reasonable?

Therefore, the ICI said that Mr LEUNG Chin-man was wrong but reasonable and the Government also said that the ICI was wrong but reasonable. Now, the water is even muddier than before and in my opinion, this is in fact making one mistake after another.

President, the conclusions of the ICI, which were reached behind closed doors, have a lot of pitfalls, misleading claims and oversights. Compared with the professional reports of the PAC and the Audit Commission, the better ones are most obvious. Concerning the Chief Secretary for Administration's comment that the mistake made by the ICI was reasonable, the public finds it most unacceptable. If the Government holds that the two conclusions are both acceptable, it is making the water even muddier. If the Government thinks that the exercise of discretionary power can be uncertain, this is to resort to one sleight of hand after another and society and the sector will be knocked into a total confusion. This will also deal a blow to the team of professional civil servants in the Government and even to the professional advice given by the Audit Commission. This will also erode the proven audit system. Therefore, I believe the Government should reflect carefully and speak out clearly, rather than acting as a mediator that obfuscates matters.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, as the Deputy Chairman of the PAC, I really do not wish to see the Legislative Council conduct this motion debate today. Because this debate is conducted today purely due to some differences in the report conclusions reached by the PAC and those by the ICI appointed by the Chief Executive. Originally, it is to some extent understandable that some differences would exist in the conclusions reached in the two reports. However, since the position of the Administration on these two reports and the one prepared by the Audit Commission is quite ambiguous, this has aroused speculations in society and made the public call into doubt the credibility of the Audit Commission, the PAC, the ICI and even the Administration. Therefore, we have no choice but to initiate this motion debate here today.

The Administration has said publicly that it accepts the reports of the Audit Commission, the PAC and the ICI. There are quite a number of similarities in the conclusions of the three reports, for example, the then Building Authority (BA) should not exempt the public transport terminus (PTT) from being included

in the calculation of the maximum gross floor area (GFA), and all three reports recommend that the authorities concerned should include the maximum GFA for a lot in the land lease, and so on.

However, there are some very obvious differences in some of the views expressed in these reports. For example, the Audit Commission and the PAC criticized the official concerned on the ground that the BA had exercised its discretionary power incorrectly and had to be held responsible. Even though such a move did not make the Government sustain actual losses, there were negative implications on public finance. Thus the relevant official was criticized and deemed necessary to be held responsible. However, the report of the ICI overlooks the negative implications on public finance and believes that since no actual loss was incurred to public finance, no one should be criticized or reprimanded. It is really unjustifiable for the Administration to accept such a conclusion at the same time. Therefore, the Administration should at least make clarifications on the parts in which the conclusions are different and state which views it is more inclined to accept as far as the aforementioned point is concerned, as well as giving its justifications. Only in this way will the Hong Kong public be convinced.

Unfortunately, the response given by the Administration is indeed a disappointment to us. When Secretary Michael SUEN made responses in public about the report of the ICI, he went so far as to say that there was no major problem with the land policy in Hong Kong and that the official concerned should not be subjected to disciplinary actions. The reports of the Audit Commission and the PAC spell out in black and white and very clearly the problems in land policy involved in the entire land development project, for example, unclear land lease clauses and the excessive discretionary power vested in the BA, and so on. How can the Administration turn a blind eye to all this?

In addition, the Administration will follow up this Sai Wan Ho development project internally to consider if disciplinary investigation or action on any official is warranted. The public has always been concerned about whether the former BA should assume responsibility for the incorrect use of discretionary power. Even before taking formal follow-up action, the Administration stated that procedurally, any comment on whether disciplinary action is called for is inappropriate. I hope the Administration will be more careful in future, otherwise, the credibility of the Administration will be

undermined. A Government practising by strong governance should not display such feeble behaviour as evading responsibility.

Madam President, it seems that the inclination of the Administration is to favour the conclusions of the ICI and relegate the reports of the PAC and Audit Commission to secondary importance. If the Administration does this, it is tantamount to showing disrespect for the PAC and the Audit Commission. Doing so will undermine their prestige, so how can they exercise their rightful influence in future? If their prestige is undermined, it will be difficult to monitor the operation of the Government. In that event, the risks of the Government misusing, abusing or misallocating public resources will increase. Is this what our Government, which advocates strong governance, wishes to see?

Meanwhile, the Administration, in attaching too much importance to the report of the ICI, may also give the public the wrong impression that through the ICI, the Government is trying to exonerate the official concerned, who may otherwise have to assume responsibility for his mistakes. If the public thinks this way, the impact on the prestige of the Government and the credibility of the ICI will be severe. In that case, it will not be beneficial to the Government in any way. The Administration really must not let this "all-lose" situation for the Government, the Audit Commission, the PAC and the ICI occur. Therefore, when the Administration takes follow-up action on various reports, it should be fair and strike a balance, so as to handle this matter in the fairest and most impartial way.

Madam President, finally, I hope that after this motion debate today, this incident will come to a close. However, I have to stress that the PAC, and the entire Legislative Council and the community as a whole, for that matter, will always monitor how the Government improves the land policy in Hong Kong. We will by no means allow the Administration to drag its feet over progress in this area.

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

MR CHIM PUI-CHUNG (in Cantonese): President, the motion debate today is very important to the future of Hong Kong. This incident has aroused unease in the minds of the people. The High Court heard a case of probate in 2001 and

the case dragged on until 2003 under appeal. In 2005, the final outcome was that even though the Court of First Instance and the Court of Appeal had ruled in favour of a certain party, the final judgement was that it lost its case completely. This arouses doubts among the general public about the political development and other developments nowadays in Hong Kong.

President, secondly, in debating this motion today, we may have fallen victim to the designs of a certain party. Why? The Government, in taking upon itself this burden, is employing the strategy number two of the 36 strategies: to besiege the Kingdom of Wei in order to save the Kingdom of Zhao. A lot of people involved in this case may have to be held accountable, however, if the buck is passed to the Government, they can then get away scot-free and get out of their bind. Of course, this is only my conjecture, however, this is a matter that makes one feel very dubious.

President, the third point is that our Chief Executive, Mr TSANG, has said a number of times in the Legislative Council that the executive and the legislature must co-operate properly, that co-operation would be mutually beneficial and confrontation would not be beneficial to Hong Kong, in particular, it will not be useful to the executive-led system. However, he is actually using all means possible to give the boot to the PAC of the Legislative Council, which is quite credible and authoritative. In view of this sort of policy, how possibly can we have confidence? Does the Chief Executive really want the executive and the Legislative Council to co-operate on good terms and set an example for various areas in the future of Hong Kong, such as constitutional reform and prestige in governance? I do not wish to delve into the details of this matter, but in any event, such a move will arouse enormous doubts in society.

Of course, all these have certainly been meticulously designed by a group of people with a flair for formulating strategies, thinking that if the Government takes upon itself the responsibility in this way, on the one hand, the Legislative Council can be sidelined; and on the other, the Government need not be bogged down in the wrangling anymore. However, that was not the actual outcome, rather, just like the proposals on constitutional reform last year, which the Government thought would definitely be passed, in reality, there were deep-rooted contradictions and high-level contradictions. If we do not seek to resolve them by facing up to the reality, we cannot possibly arrive at any good outcome. I take this opportunity to remind the Central Government that Hong Kong is not independent but a Special Administrative Region of China. In

taking such a step, do some people have the ulterior motive of pitching the executive against the legislature in Hong Kong, so that the public will get a bad impression and negative impacts will be created in various areas, such as the economy and the financial sector in Hong Kong in the future?

We hold no suspicions, however, if the Central Government wants to take up the responsibility for Hong Kong, it has to pay attention to and care about Hong Kong. We cannot rule out the possibility that there may be a Hong Kong-style LEE Teng-hui or CHEN Shui-bian. If things evolve like this, we as Legislative Council Members will only have our share of hard work but the due recognition. In particular, for the brothers in the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), they have no choice but to support a lot of policies under pressure. However, it is nakedly obvious to everyone that they are in a bind. Of course, I am not speaking in their defence. In fact, I myself am also subjected to a certain amount of pressure when the occasion calls for it. When something is beneficial to the Government, officials will come and lobby me, but when mistakes have been made, no action is taken to ascertain responsibility. How possibly can the state of affairs be like this? Therefore, there are some issues which a lot of Members dare not even raise, but in addressing the President, I hope that the Central Government and the representatives of the Central Government can listen and watch. Only in this way will it be fair.

Concerning the actions and measures in respect of this incident, it is worthwhile for the Government to conduct a comprehensive review. Members will all remember that several years ago, the Government owned 60% of the land on which the Cheung Kong Center is located and the Cheung Kong (Holdings) Limited owned 40% of it. After paying a land premium, that piece of land now belongs to the Cheung Kong (Holdings) Limited. However, recently, I learned from the newspaper that the land use of that piece of land had been changed. Although more than 15 years have passed since this happened, in any event, the public have a great sense of unease and displeasure, that is, they wonder if any collusion between the Government and business is involved. In fact, this may not necessarily be the case, but as the Government — as I said in making my second point — it has to review the retirement system for senior officials thoroughly.

Since Hong Kong is a very small place and people can come across all sorts of things in their daily lives, if the Government does not review the

retirement system for senior officials, suspicions about collusion between the Government and business will always exist and they will make Hong Kong people feel quite uneasy. As a senior official in the SAR Government, be it a Secretary of Department, Bureau Director or even high-level leaders, they all have a sense of mission for society. If they can leave the entire nexus of interests after retirement, this will be enormously helpful to the future governance of Hong Kong. Otherwise, since all of them have alumni who still work in government departments — although they may not have direct or indirect relationships with them — if they receive calls from the latter, will they not engage in this sort of communication with one another all the same?

Therefore, if the Government does respect the Legislative Council, all of us should face the reality in view of this incident and conduct a comprehensive review of the whole system. If someone behaves furtively and thinks that he can resort to stealthy means to achieve his ends, then Members of the Legislative Council should use their wisdom and fall back on the spirit of serving the Hong Kong public. This is another incident that has boosted the unity among Members in the wake of the incident over West Kowloon. It will make the Government conduct reviews of its internal operation and various aspects, so that it will act in a manner that is absolutely responsible to the Chinese Central Government and to the people of Hong Kong, as well as displaying absolute sincerity in working towards better co-operation between the executive and the legislature.

With these remarks, President, I support the motion.

MR TOMMY CHEUNG (in Cantonese): Madam President, ever since the Audit Commission published its Report No. 45 and made public its investigation report on the development of a site in Sai Wan Ho, the public are very concerned about its account of the situation, for example, whether it is true that Mr LEUNG Chin-man, who was both the BA and the Director of Buildings at that time, exercised his discretionary power incorrectly in not including the bus terminus in the gross floor area (GFA) and in granting bonus GFA, thus leading to a loss of public revenue.

The PAC of the Legislative Council, in line with its tradition, the Rules of Procedure and the agreement on its scope of work reached with the Government,

held six public hearings to hear the evidence given by 17 witnesses and had 19 internal discussions before establishing the conclusions and recommendations of the PAC. As a former member of the PAC, I fully trust that the PAC is fair and impartial and that its conclusions are founded on facts. In principle, the Liberal Party agrees with the conclusions and recommendations of the PAC and that the Government should fully implement the recommendations of the PAC.

In other words, in order to avoid the recurrence of the Grand Promenade incident as revealed by the Audit Commission, we support the recommendations of the PAC, namely, the BA has to ensure that, in exercising his discretionary power, he will include in his consideration of an application the factors listed in any applicable Practice Note issued by the Buildings Department, and the Administration has to review the criteria for deciding whether or not the maximum GFA of a site should be specified, with a view to removing any ambiguities about the development potential of the site.

However, the conclusions drawn by the three-member Independent Committee of Inquiry (ICI) are not in total accord with those of the Audit Commission and the PAC. This has greatly mystified the public and even triggered a debate on who is right and who is wrong, thus arousing concern about whether the credibility of the Audit Commission and the PAC has been eroded.

I am very pleased to see the Director of Audit issue a statement yesterday evening reiterating that the Audit Commission will adhere steadfastly to the principle of fairness and impartiality and carry out value-for-money audit independently and in a professional manner, and that the credibility of the Audit Commission will not be jeopardized by the report of the ICI. He also pointed out that the PAC had urged the Government to fully implement its recommendations and made it clear that the Audit Commission and the PAC were both of the view that the BA, in excluding the bus terminus from the GFA calculation, had brought about negative financial implications for the Government. Regarding the different opinions held by the government-appointed ICI on the financial implications of this incident, he said that it was the result of interpretations from different angles.

I believe this is precisely where the problem lies, that is, the Government established its own ICI in addition to the hearings conducted by the PAC. In fact, if we look up the history, it had not been the Government's practice in the past. However, in recent years, the situation has witnessed some changes.

The first such instance was the Hong Kong Harbour Fest. In addition to the PAC, the Government established its own ICI and together with this instance, there have already been two such instances. The situation is indeed a cause for concern. As regards a Member's criticism that the Government's move has violated the agreement reached between the PAC and the Government some years ago and described it as *ultra vires* on the part of the Government, I am afraid such a claim is a bit exaggerated.

This is because, according to the paper which the Chairman of the PAC submitted to the Provisional Legislative Council in its meeting on 11 February 1998, the agreement reached between the Government and the PAC deals only with procedure, that the Government has to submit a Government Minute within three months after the PAC has laid its report on the table of the Legislative Council, however, it does not say that the Government cannot appoint any ICI of its own.

However, the Liberal Party also agrees that in order to avoid further controversy and causing confusion among members of the public, the Government and the PAC should sort out the problem in this area, such as in what circumstances can the Government appoint an ICI and how it should co-ordinate with the Legislative Council when it decides to do so. Anyway, the public has been given the mistaken impression that one report is trying to discredit another. This is most undesirable and warrants the Government's concern.

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

DR RAYMOND HO (in Cantonese): Madam President, I still recall that on 27 June last year, the incumbent Chief Executive, Mr Donald TSANG, came to this Chamber to attend the Chief Executive's Question and Answer Session soon after his assumption of the office of the Chief Executive. He said in no implicit terms that he chose to meet with Members at the first possible time because he wanted to demonstrate with concrete actions the sincerity and determination of the Government in establishing a cordial relationship between the executive and the legislature and also to communicate with the Legislative Council. At the same time, he said that both the executive and the Legislative Council should make the well-being of the people the priority consideration and he also thought

that "unity brings mutual benefits and division mutual harm". However, from the circumstances surrounding the development of the Grand Promenade incident, I cannot see the Government having demonstrated any sincerity and determination as pledged by the Chief Executive, but his observation of "unity brings mutual benefits and division mutual harm" is indeed an apt description of the situation on this occasion.

Although the recently released independent report on the Grand Promenade incident is not in total accord with the conclusions drawn earlier by the Legislative Council's PAC, the Government still arbitrarily describes the two reports as "complementary", and says that the Administration will implement the recommendations of both reports. If the Government does not suffer a deficiency of logical thinking, then it must be oblivious of the two adverse effects caused by accepting both reports. This will make the public unable to understand the incident from a proper prospective, and it will also constitute disrespect to the PAC. Today in this Chamber, the Chief Secretary for Administration even stressed that the Independent Committee of Inquiry (ICI) had already explicitly clarified its "erroneous but also reasonable" conclusion. This is really arbitrary and illogical.

In fact, the Director of Audit and the PAC are truly "complementary" partners. With combined strengths, they play very strong functions in making the Government fulfil its financial accountability to the Legislative Council. The PAC relies on the findings of the audit report compiled by the Director of Audit to conduct open hearings and publish its PAC Report, whereas the effectiveness of the Director of Audit has also been enhanced through the conclusions and recommendations made by the PAC. The PAC has always functioned well and exercised its function of monitoring public expenditure according to the principles of fairness, impartiality and openness. On the contrary, due to such constraints as the time factor and the suitability of its members, the impartiality of the ICI appointed by the Chief Executive had been questioned, and it may not win the recognition of the public. In particular, in the Grand Promenade incident which involved huge financial interests, and in events that caused severely negative public opinions, the ICI had even become the subject of great controversies.

The way in which the Government has handled the two reports has definitely dealt a blow to the proven government audit system. In addition, it

has also undermined the credibility of the PAC and also further injured the relationship between the executive and the legislature, thereby prolonging the argument between the executive and the legislature which is detrimental to the governance of the Government. The most unfortunate victims are of course the general public of Hong Kong. Our Government has three gems, namely, the civil servants, the Independent Commission Against Corruption and the Audit Commission because they bring extremely strong confidence to foreign investors. I hope the Government would not damage them one after the other. Instead, the Government should treasure the three gems of the Hong Kong Government.

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

MR JEFFREY LAM (in Cantonese): Madam President, as a member of the PAC of the Legislative Council, I support this motion.

The PAC is independent from the establishment of the Government and at the same time has its own constitutional status. The PAC, in a fair, impartial and open manner, oversees the financial position of the Government and public sector organizations, and examines all government expenditures to check whether public money is used properly. Under our strict supervision, the Government must do its level best to work with the PAC to maintain this mechanism, establishing its image as an accountable and open Government.

The Rules of Procedure of the Legislative Council confers power on the PAC to study reports submitted by the Director of Audit, and summon government officials and persons concerned, such as Policy Secretaries, to attend public hearings to give an account on the details of incidents, or to provide to the PAC the required documents, information and records. Therefore, from the legal and constitutional perspective, the work of the PAC is recognized and its status is established. The past performance of the PAC has all along proved that the mechanism is effective and supported by the wider public. The legitimacy and credibility of the PAC have been proved long ago.

As the work of the PAC is always a great concern to members of the public, the PAC only arrives at the conclusions in its report through extremely cautious and stringent procedures. Take the Grand Promenade incident as an example, the PAC has held six hearings, summoned 17 witnesses and conducted

19 internal discussions before submitting its report to the Government in February. Each and every comment in the report and even the choice of words has gone most cautious consideration, and repeated discussions and examinations have been held before the conclusions were eventually drawn.

Madam President, I have spent so much time explaining the composition and work procedures of the PAC for I wish to emphasize that the credibility of the PAC is indisputable. Therefore, I hope the Government will, as it did in the past, respect the conclusions and recommendations made by the PAC in its report on the Grand Promenade incident. I hope that the Government will unequivocally express its support for the report of the PAC and fully implement the recommendations in the report, preventing the relationship between the executive and the legislature from deteriorating.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, credibility cannot be attained by one's will. Instead, it has to be built up by one's actual working performance, through which the public's approval and recognition is gained. Meanwhile, one has to be careful and prudent at all times, and upholds his own viewpoints and convictions. Only by doing so can one maintain his hard-earned credibility. Besides, credibility is very fragile. An inadvertent slip may make you lose all your credibility overnight. This time, the incident involving the Sai Wan Ho development has made me see clearly the problem of fragile confidence.

In fact, the report of the Audit Commission has already stated the issue in very explicit terms. It said, "Audit estimated that the financial implications of excluding the public transport terminus from the gross floor area calculation of the Site amounted to \$125 million." However, in the report of the ICI established by the Government, it said that as it deliberated its decision, there was hardly any financial implication to the Government. With two different versions of the incident, of course it would trigger off major queries in society. But this is not the most significant point. The most significant point lies in the unexpected statement made by the Director of Audit, Mr Benjamin TANG, when he responded to questions raised by the press. He said that the \$125 million mentioned in the report of the Audit Commission was purely a figure for the reference of the public. He also did not mention anything about the loss in revenue incurred by the Government.

President, suppose whenever the Audit Commission submits a thick report, all the figures in it are only for our reference, then I shall think that they have not lived up to our expectations. If this is really the case, how can it prevent its credibility from being rocked? As a matter of fact, now we have two reports with entirely different bearings: One suggests going East, and the other West. But our Director of Audit surprised us by saying that, regardless of going East or West, it does not matter at all; it is just a matter of different bearings adopted by different parties, thereby leading to different results. It does not matter at all. If this is the case, why should there be the Audit Commission? Basing on this logic, are all the comments or observations made by the Audit Commission in the past purely for our reference only? Are we suppose to forget them all after listening to them or reading them once? If so, why should we maintain such a sizeable Audit Commission to monitor the fiscal expenditures and operations of the entire Government?

All along, there has been a well established procedure that has proved to be effective between the Audit Commission and the PAC of the Legislative Council. If the PAC finds it necessary, it will conduct hearings in an open and impartial manner, and all the relevant persons will be invited to attend the meetings to make clarifications. This arrangement has proved to be effective. And we simply fail to understand why the Government decided to set up the ICI to deal with this issue. President, I think setting up this ICI will only place the Director of Audit in a most embarrassing situation.

President, why should I say so? It was because at the time of setting up the ICI, the Secretary said that the main purpose was for allaying the concern of the public as well as conducting investigations to confirm whether Mr LEUNG Chin-man had exercised his discretionary power conferred by law in an appropriate manner. The ICI had released its findings, which are completely different from those of the Audit Commission. Under such circumstances, how should the Audit Commission deal with the issue? As the Government stressed that the ICI was independent and impartial, how can the Director of Audit say that its findings are wrong? Can he do so? Of course not. Since he is on the pay roll of the Government, how can he say that the government-appointed ICI was wrong, inappropriate and its findings unacceptable? But on the other hand, if he has to accept it, he simply cannot explain his own stance with good justifications, nor does he know how to make clarifications for his own report. So under such a situation in which he can please neither party, all he can do is to

say something as ambiguous as possible. As I have said, regarding this issue, everyone may adopt a different point of view. I would like to ask the Government: Has it ever occurred to them that such a practice will only place the Director of Audit in a most embarrassing situation? Insofar as he is concerned, he has no choice. In the face of two conclusions, what should he do? Therefore, I think the present practice will only present a maze to everyone — the further we go into it, the more we feel at a loss as to what we should do. We certainly have no idea of how to deal with the situation now.

The Government says, "Do not worry; it does not matter at all. We shall accept all the reports, and we shall implement all of them proactively, and so on, and so forth." President, by making such remarks, the Government is deceiving itself as well as others. It is a cover-up attempt and the Government is being sly in making such remarks because in any issue, there must be a distinction between right and wrong. On this issue, who is right and who is wrong? If there is no conclusion, how can the Government implement any recommendations? Therefore, in my opinion, as the incident has evolved to the present stage, the Government should assume the full responsibility. The Government has spoiled the practice that has all along proved to be effective. Unilaterally the Government set up the ICI in the hope of absolving the departmental officials of their responsibility. But in the end, it has just done a disservice. In fact, in many past incidents, the PAC has managed to resolve problems by way of conducting its investigations into the matters, and usually the actual problems or the roots of the problems can be identified. The present approach would only make everyone feel that the whole incident is rather lousy. In fact, as of today, I still cannot see that the Secretary has adopted any explicit stance on this issue. He has been speaking in a most ambiguous manner. I would like to express my deepest regret and disappointment over this. President, I so submit.

MISS CHAN YUEN-HAN (in Cantonese): We in the Hong Kong Federation of Trade Unions support the motion moved by Dr Philip WONG of the PAC and accept the outcomes reached by the PAC.

Why is it that three different versions have now emerged? We know that because of the report published by the Audit Commission, we established an investigation committee, that is, the PAC, specifically to conduct an

investigation and make its conclusions. The Government also appointed a three-member Independent Committee of Inquiry (ICI) to conduct an investigation. I am not a member of the PAC, however, I take a keen interest in this matter, particularly because in the morning the other day, I heard an interview of Dr Philip WONG on the radio and I felt very angry after listening to him, so I decided that I had to speak today.

I think that, of course, there are grey areas in this world, however, generally speaking, there should also a distinction between black and white. Concerning discretionary powers, I do not rule out the possibility that there can be many different interpretations, however, some matters can still be clearly defined. Therefore, I believe that these matters cannot be as ambiguous as the Chief Secretary for Administration put it today. A group of young people are listening to our debate on the gallery and I really hope that they will not be taught a wrong lesson.

I wish to comment on the work of these three bodies. Madam President, you can see that I have been reading this report very attentively. Since I am not a member of the PAC, I have to read all its contents carefully because I do not want to give my speech today based purely on my personal impressions.

I find that the report of the ICI referred to regulation 23(3)(b) of the Buildings (Planning) Regulation. If I try to understand it using the logic that I have studied, I still cannot deduce the rationale that underlines the entire passage. What I understand is that, since Mr LEUNG Chin-man has invoked the wrong provision, this amounts to having committed misconduct, so it stands to reason that he should be arrested, yet this was not done. Then it is said that there are precedents in the past, therefore, doing so is permitted. What are they? I asked Mr LAU Kong-wah what they were. It turned out that in these cases, the criteria were very important, including public interest and a series of criteria derived from this criterion. Although he had sought legal advice in view of these criteria, he found that different people held different views, so it was difficult to decide to which party the benefits of doubt should be given.

Madam President, in the Panel on Welfare Services, we often have to deal with the issue of the discretionary power of the Social Welfare Department (SWD). In the last term, we had discussions specifically on the exercise of discretionary power by the SWD. We know that some difficulties are

encountered in the course of exercising it, however, the problem is that when some areas have already been clearly defined, I think the claim made by the ICI that "in the past, there were cases that invoked this regulation in excluding the floor area of the public transport terminus and before making the decision, Mr LEUNG had consulted public opinion" is unacceptable. I think that there is a problem here. On the one hand, the ICI believes that Mr LEUNG invoked a wrong provision (but we think he invoked the right one); on the other hand, it said that there are precedents. How should the benefit of the doubt be assigned between these two factors? I believe it should not be assigned to them.

Next, let us look at the issue of exemption under section 42 of the Buildings Ordinance. I have discussed with Mr KWONG Chi-kin the several points on exemptions mentioned by the ICI. From the legal point of view, Mr KWONG Chi-kin stressed that if there are areas in which the law has been complied with, they should be pointed out, however, if there are areas in which the law has been breached, they should be treated as instances of violations. However, it seems that they can say a certain aspect is reasonable, justifiable or legal as they please. In some aspects where the law is considered to have been violated, they can say that certain provisions in the legislation have conferred certain powers; and in areas where there is a lack of justification, it is said that the action on a certain point is correct. Who is correct actually? I wish to tell the students that if you have time, you can get hold the report of the ICI to have a look, and you can also go back and examine it together with your teachers as a subject of study in your Liberal Studies classes.

I have served in the Legislative Council for more than a decade and after reading this report, all I feel is that this is laughable. That morning, after listening to the interview of Dr Philip WONG, I told him on his return that I would speak in support of him. Why? Because the Government was so full of obfuscation when it talked about this issue and when it talked about public interest, it seemed it was too keen to shirk its responsibilities, so much so that I felt it was somehow teaching people a wrong lesson. Of course, Madam President, I have no intention of criticizing the ICI, particularly in view of the fact that one of its members is a Judge (in my mind, Judges are very just and impartial). However, the impression that this report gives me is that what is legal may not necessarily be reasonable and what is reasonable may not necessarily be legal. Therefore, it must be made clear as to on what criteria was this judgement based. If there is no criterion, how can this matter be judged?

Madam President, in addition, when talking about money matters, I was all the more puzzled. Madam President, it is very evident that the developer built 200 units more and it is evident that it received an additional several hundred million dollars in proceeds, yet the ICI went so far as to maintain that no loss had been incurred. This really left me scratching my head the whole morning. That day, when Dr Philip WONG was interviewed on the radio, he was also very angry in talking about this point. He said that even though he had no intention of triggering a controversy, this incident had obviously made the coffers lose over a hundred million dollars. How could one say that no loss had been incurred? As we all know, all along, Dr Philip WONG has not employed the tactic of "empowerment" like we do when it comes to government policies and he is the more moderate type. However, that day, he also sounded very angry.

That day, on coming back, I searched for some information for reference and I also requested colleagues to search some information for me. Subsequently, I felt that sure enough, the action taken then was not justified and it was not fair to the first tenderer — I did not ask further and cannot remember who the first tenderer and the second tenderer were and the Secretary does not have to frown — anyway, the bids made by the two tenderers were very close. However, the tenderer who had made enquiries with the Government got an answer in the negative whereas the developer who had not made any enquiries got an answer in the affirmative. Such an example should not be followed. Today, the Chief Secretary for Administration told us that in future, a maximum GFA would be imposed.

Madam President, for decades, I have devoted myself to working for the labour sector and I believe that the most important thing is that of positioning oneself. If something is right, one should say so; if it is wrong, one should also say so. One cannot sit on the fence, nor should one advance specious arguments. Among the criteria of being reasonable, justifiable or legal, which of them was adopted in making the judgement? I think it is necessary to ask how the ICI avoided the suspicion that it is defending the Government. A lot of people have said the same thing. How did it avoid the suspicion that it has given all the benefit of the doubt to Mr LEUNG? I think the Government should respond to these questions.

Madam President, I support the motion moved by the Chairman of the PAC today. Thank you.

DR YEUNG SUM (in Cantonese): Madam President, I rise to speak in support of the motion proposed by the Legislative Council Public Accounts Committee (PAC).

I have only one point to raise in my speech today. It is a point from the constitutional perspective. Basically, the Government has the administrative power of establishing independent committees of inquiry to look into incidents of public concern or incidents affecting public interest. But my speech today will focus on a query regarding constitutional convention. I am not questioning whether the Government has the power of doing so. My only point is that constitutionally speaking, we must also take account of constitutional convention in addition to the powers of the Government. This time around, before the PAC carried out its investigation into the report published by the Director of Audit, the Government suddenly announced the establishment of a three-man Independent Committee of Inquiry (ICI) to investigate whether Mr LEUNG Chin-man had exercised his discretion appropriately. This has dealt a heavy blow to the convention followed by the PAC.

Madam President, you are also well-versed in our constitutional convention. One of the major tasks of the Director of Audit is to carry out value-for-money audits of government expenditure, with a view to ascertaining whether public money is used appropriately. After the Director of Audit has published a report, the PAC will, in accordance with the Basic Law and our constitutional convention, conduct hearings if necessary. And, the merit of such hearings is that they are all conducted openly. Although there may sometimes be closed-door hearings, they are basically open. Therefore, generally speaking, the public tend to look at the hearings of the PAC

MR ALBERT CHENG (in Cantonese): President, I wish to clarify.

PRESIDENT (in Cantonese): You cannot clarify. You can only raise a point of order.

MR ALBERT CHENG (in Cantonese): Yes, it is a point of order.

PRESIDENT (in Cantonese): What point of order do you wish to raise?

MR ALBERT CHENG (in Cantonese): Dr YEUNG Sum said that there were closed-door meetings, however, we did not hold any closed-door meetings.

PRESIDENT (in Cantonese): You do not have to clarify, nor is this a point of order. What you are doing is to interrupt. If by interrupting, you hope Dr YEUNG Sum can clarify any part of his speech, you can ask Dr YEUNG Sum if he is willing to answer your question, however, if you want to clarify any part of your own speech, since you have not yet delivered your speech, you are not allowed to do so. You can deliver your speech later on but for now, please sit down. If you want to speak, please press the button to indicate your wish to do so.

MR ALBERT CHENG (in Cantonese): Now you are talking about clarification.

DR YEUNG SUM (in Cantonese): Madam President, I would like to thank "Tai Pan" for further elaborating my speech inadvertently. Although what he did was not in line with the Rules of Procedure, I still wish to extend my thanks to him.

Madam President, I feel that PAC's credibility remains unchanged in the minds of the people. This is mainly attributable to the fact that our meetings are conducted in open sessions, and members of the PAC come from various parties and groupings, with no particular party dominating it. This is a very good practice. It is against such a background that the PAC can effectively or, to a great extent, monitor the way in which the Government spends public funds in accordance with the Basic Law. Such a convention and such a historical background do have the support of a very clear foundation and certain legal basis. However, most unfortunately, the Government's practice this time has basically dealt a very heavy blow to our convention.

Madam President, before discussing this heavy blow, I wish to emphasize several points. There are several merits in our past convention. First, it implements the requirement in the Basic Law that the executive should be accountable to the legislature. Therefore, the PAC can independently and openly monitor the way in which the Government spends public funds. This is

a constitutional requirement of the Basic Law. Secondly, this convention has been proven and carries very great credibility, further demonstrating that the executive respects the role and operation of the legislature. Although the Government has the right to establish independent committees of inquiry from time to time, it simply would not do so in the past. We regret for the approach adopted by the Government this time, and feel that it would bring about bad consequences in several aspects. First, the Government violated the convention that had all along been observed. Although the Government does possess such administrative authority, the adoption of such an approach had basically violated the convention that had all along been observed. Second, in taking such a course of action, the Government had left the people or Honourable colleagues with the impression that the executive did not respect the independent and open role of the PAC in monitoring the Government. This makes us very dissatisfied. Third, Madam President, I feel that the people are most concerned about one point, that is, the Chief Executive had made use of his administrative authority to establish this Independent Committee of Inquiry (ICI) before the PAC had officially started its open hearings. In doing so, he had balanced the impact brought about by the conclusions of PAC's report — he had balanced it.

I have just gone through the Chief Secretary for Administration's speaking notes very carefully, and I have also marked up many points. Basically, the Government can accept all the three reports, that is, it can accept the Audit Commission's report, it can accept the PAC's report and it can also accept the ICI's report as well. With regard to the work of Mr LEUNG Chin-man, had he made a mistake in exercising his discretionary power? The Chief Secretary explains that the ICI found that he had made a mistake, but his action was also very reasonable. In the 11th paragraph of his speech, he says basically he finds it a wrong decision, but on the other hand, he feels that it was reasonable. In short, Mr LEUNG had "made a mistake in a reasonable manner".

I have been sitting in this Chamber for a long time. I find such a statement rather amusing. I dare not challenge the Judge from the Court of Final Appeal or the senior counsels, especially their legal judgements. But I really find this conclusion amusing. They said that the procedures were very reasonable because the law does confer on him the discretionary power, and he had sought professional advice and independent opinions, and he had considered past practices. Therefore, in terms of procedure, the decision was reasonable. I found this a rather fair statement. However, when they said in spite of the fact

that the decision was wrong, it was reasonable, then I found this somewhat "strange". I would find it all right if the procedure adopted is described as fair. However, if it is said that though the decision was wrong it was reasonable, then I would feel that there is a problem. This has also made the people feel that the Chief Executive has successfully attained his purpose through such work.....I must clarify this: I am not saying that this ICI has worked specifically to suit what the Chief Executive intends to achieve. I do not wish to challenge their independence in this aspect, but the ICI or the Chief Executive has achieved such an effect that it seems to have played the role of a fire services chief who has successfully extinguished the fire or disaster that challenged the prestige or credibility of civil servants. At least, it has confused the people's understanding of this incident.

Thank you, Madam President.

MR LEE WING-TAT (in Cantonese): President, I rise to speak in support of the motion moved by Dr Philip WONG, Chairman of the PAC. I am not going to repeat those issues already mentioned by some Honourable colleagues. I just wish to talk about my own viewpoints.

First, why are the Audit Commission and the PAC so important? In fact, there are authorities in different spheres of society. For example, with regard to the Rules of Procedure in the Chamber of the Legislative Council, President, you are the authority. The rulings of the President cannot be challenged. Earlier on, Mr Albert CHENG spoke at the wrong moment because he did not have a clear understanding of the Rules of Procedure, and interrupted the proceedings. He simply should not speak at that moment, that was all. With regard to the verdicts passed by the Court, the Court of Final Appeal is the authority, and its verdict cannot be appealed.

There are lots of decisions made by many authorities in society. Regarding the practice of examining whether our Government has spent money in the most appropriate manner, we have the value-for-money audits, in which the Audit Commission is the authority, and the PAC of the Legislative Council is the authority in examining such audit reports. Such authority has been established through our persistent efforts for many years, and everybody knows that this is an authority that cannot be challenged, that is, its decisions are nearly

equivalent to the final decisions. Regarding the verdicts passed by Judges of the Court of the Final Appeal, they cannot be appealed. Regarding the rulings made by the President in this Council, they also cannot be appealed. Although we may discuss the issues concerned at a later time, the rulings cannot be challenged. The value-for-money audits and studies conducted by the Audit Commission are authoritative, so are the hearings conducted by the PAC on such audit reports.

I think the greatest problem is that the Government has — I am not sure whether it has done it intentionally or unintentionally; I hope it is the latter case — reduced or even substantially affected the authority of both the Audit Commission and the PAC. This is detrimental to the community of Hong Kong as a whole. Due to the separation of powers between the executive and the legislature, the executive departments would make lots of decisions. And some other organizations independent of the executive departments should assume the role of auditing or supervising the executive departments. In other words, the Audit Commission is charged with the responsibility of conducting the value-for-money audits, and the PAC is responsible for supervising the Government. Such a framework has already been arranged constitutionally and implemented as a convention for years, and the people have also accepted it.

In certain places or countries (Britain is one of such countries, as far as I can remember), the public accounts committees in fact consist of mostly members of the opposition party. Why should it be so arranged? The reason is since the Government has to spend money, then the job of examining whether the money has been spent most appropriately should be left to those who do not have a part to play in spending the money. This is not a convention unique to Hong Kong, but common in many places. This is meant to ensure that, with the separation of powers, the different powers can check each other. And such checks and balances are defined very clearly.

President, it was unwise of the Government to establish an ICI soon after the Audit Commission had released its report, and it would bring about very bad consequences. From a positive perspective, the Government might have adopted the present course of action simply because of its thinking that the PAC was only responsible for the value-for-money audits, whereas the legislation and authorization issues were not relevant to the PAC. That was why it had to establish the ICI. This is a positive understanding the Government's move in this regard.

However, from another perspective and I believe this was the actual perspective adopted by the Government, the Government's approach was actually a precaution taken against the possible emergence of a "bomb". The ICI was designed as the "bomb disposal unit" for neutralizing the incident or for the production of another report. With the emergence of another report, lots of discussions and confusion will emerge in society and such an effect has already emerged. After Honourable colleagues had read through the entire report, the Government then told the people that its conclusion was wrong but reasonable. The people were baffled by this statement. Then the Government said that although the Audit Commission had pointed out that statistically there was a financial loss of \$120 million, and the PAC had also confirmed the accuracy of the figure, the ICI said that no losses had been incurred financially.

Regarding the three conclusions released, which one should the man in the street believe? The plain objective of this approach is to prevent the Hong Kong community from getting an authoritative conclusion on the Grand Promenade incident. It is the objective the Government has been trying to achieve. But this is detrimental to the authority of the Audit Commission and the PAC.

I hope the Executive Council can stop employing this kind of designs because it will undermine the executive-legislature relationship. I also find this totally unfair to the Director of Audit, Mr Benjamin TANG. With regard to the study and audit conducted by him, how can its conclusion be different from the one provided by the ICI? What kind of stance should he adopt? How can he assure his colleagues in the Audit Commission that their future value-for-money audits will still be authoritative and trusted in society? How can they believe that their work will not only gain the respect of their colleagues, but also that of the people of Hong Kong?

President, regarding such issues as authorization and the financial aspects, I think they can be dealt with at a later stage. But the overall arrangement should not make the people and the Legislative Council feel that the Government has messed up the whole incident and that it is becoming increasingly confusing. I have not made up this allegation. This is how one of the newspaper editorials reported the incident. Some facts appear to be reasonable after the Government has made some remarks about them, but everyone in society has been confused.

The Chief Secretary and the Secretary must realize this: How can the people finish reading all the reports? In fact, they would usually believe in authoritative conclusions, and that is all. Now, the conclusion is, there is no authoritative conclusion in society. I hope in future the Government can refrain from playing such tricks when value-for-money audits are conducted by either the Audit Commission or the PAC. This is not a desirable approach and it will also undermine the executive-legislature relationship.

With these remarks, President, I support the motion.

MR ALAN LEONG (in Cantonese): President, from a positive perspective, under the thorough investigation of the three reports, the Grand Promenade incident has become the most frequently investigated and the most thoroughly examined public administration incident in recent years. After the release of the Report No. 45 of the Director of Audit, Honourable colleagues of the PAC of the Legislative Council followed up the incident immediately. On the other hand, the Chief Executive appointed in the meantime a three-member ICI to investigate the way in which the Building Authority (BA) had exercised his discretionary power at that time. On the issue of whether the Government should conduct an investigation in parallel with that of the PAC, many Honourable colleagues have already made comments on them, so I do not wish to repeat them here. Instead, I would like to discuss the illogicality of the logic and the conclusion adopted by the ICI.

President, on the one hand, the ICI considers that, with the exception of exempting the public transport terminus (PTT) from GFA calculation, all the decisions made by the BA in exercising his discretionary power on four occasions were "reasonably and properly taken". With regard to the exemption of the PTT from GFA calculation, the ICI is of the opinion that, since there were similar previous cases in the past, together with the support from legal advice, though the decision was "wrong", it was "reasonable", so the BA should neither be blamed or criticized.

In fact, since the ICI has already considered that the BA had made a legal mistake in invoking regulation 23(3)(b) of the Building (Planning) Regulations, there was practically no legal basis for the BA to exercise his discretionary power.

More importantly, President, the ICI further considers that even if the BA had exercised his relevant discretionary power in accordance with section 42 of the Buildings Ordinance, the cumulative effect will also be inconsistent with the policies of the Buildings Department, the Lands Department and the Planning Department. The ICI points out in paragraphs 10.36 and 10.37 that had the control under the above regulation 23(3)(b) and section 42 of the Buildings Ordinance been enforced strictly, the bulk of the buildings in the development would have been substantially reduced. Otherwise, the height, bulk and density of the buildings would become too great. In short, the ICI thinks that the BA had not strictly enforced the legislation. In its letter to the Chief Executive, the ICI explicitly pointed out that the situation had aroused the concern of its members.

President, a mistake is a mistake, which will never become correct just because the BA had followed all the procedures. If we wish to adopt a highly technical and legal perspective to consider the issue, at best we can only say that the ICI is unwilling to use the effect of exercising the discretionary power to replace the effect of the BA's exercise of his discretionary power. However, the BA's discretionary power will not become properly exercised as a result of this.

Actually, as we further analyse the report, we can see that the ICI's report is quite similar to the investigation report conducted by our colleagues of the PAC when the latter expressed alarm, dismay and strong resentment over the BA's approval of changing the site classification, the BA's granting of the bonus areas and his decision of excluding the PTT from GFA calculation, and considered all this unacceptable. They are actually expressing the same ideas.

In fact, the ICI's report should really lash out at the way in which the BA exercised his discretionary powers, instead of apparently exonerate him.

However, all such self-contradictions cannot cover up one plain fact, that is, the developer of Grand Promenade has successfully built 280 additional flats, involving a total floor area of nearly 200 000 sq ft, which is really out of proportion when compared with the total floor area originally granted to the developer. The financial implication is estimated to be at about \$120 million. The Grand Promenade incident has exposed a serious flaw, that is, there are many loopholes under the current three-tier regulatory framework of planning, lands and construction. When the Planning Department has striven to impose

certain control for the sake of overall planning as well as the needs for the sustainable development of Hong Kong, the Lands Department, in its capacity as the landlord, will try to eliminate such control in order to enhance the revenue generated from land. In such a tug of war, the total GFA is capped in neither the outline zoning plan nor the lease conditions.

Finally, as the law-enforcement agent of the Buildings Ordinance, the BA has to single-handedly face the requests for maximizing the land use made by the rich and powerful developers. It is only after this incident that the public has started to realize that the BA is in possession of such great discretionary power that can grant floor area with a value of more than \$100 million, and that with a single signature, the public coffers can lose as much as over \$100 million.

President, in order to eliminate such shortcomings, there are some common points in the recommendations of the three reports. In particular, the Government must review from time to time the different aspects such as the legislation, the operating procedures of planning, lease conditions and the exercise of discretionary power, and so on, so that eventually the planning intentions and lease conditions can become more open, explicit and impartial. I believe, all these are the beliefs upheld by our PAC colleagues when they submitted the report, and the Government does have the responsibility to face these recommendations squarely, thereby further ensuring that the land use in Hong Kong can have a healthy development.

President, I support the PAC report without any reservations; and with these remarks, I support the motion.

MR JAMES TO (in Cantonese): President, I am not a member of the PAC. But after listening to Secretary Michael SUEN's response to the report released by the three-member ICI on that day, I think I must say something about certain arguments.

The first point is, on that day, Secretary Michael SUEN said that he supported the ICI's conclusions, saying that the public had not incurred any losses. Why? It was because all the bidders (including the second highest bidder) should have known all the relevant legal provisions as well as the Practice Note and should have taken all the factors into consideration before submitting their tenders. Why should it be so? The difference between the

final tendering prices submitted by the second highest bidder and the highest bidder was only 1%. The second highest bidder did ask the Government whether (that factor) would be included in the gross floor area (GFA) calculation, and the authorities did answer that it would be included in the calculation. If we quantify this factor, it would represent a value of over \$100 million. What must be presumed is that the second highest bidder had already known it (the way of calculation) and still submitted the tender at the present tendering price, and such a tender price was not higher than that of the highest bidder. However, if the second highest bidder's tender price was higher than that of the highest bidder, then the Government would have incurred some losses.

On this issue, I feel that there is a contradiction. Why? Even if I accept that the second highest bidder had known all the relevant conditions very well, but judging from the *prima facie* evidence, he did make an enquiry by telephone, and the Government's reply was that it had to be included in the GFA calculation. Therefore, the answer provided would have possibly caused some uncertainties to the second highest bidder, that is, whether that factor would be exempted from the calculation. Therefore, he had submitted a certain tender price, which should have reflected the result of his telephone enquiry as well as the uncertainties so generated. On this basis, I would reckon the situation in this way: the uncertainties could not be regarded as "zero" because he did make the enquiry and the Government had really given such a reply, and at the same time, we cannot consider the official as completely wrong, false or what had said would never happen. Therefore, on this issue, it would be unjustifiable if we insist that the Government has not suffered any losses in public revenue.

However, very unfortunately, not only did I hear Secretary Michael Suen say so the other day on the ICI's report, actually the Chief Secretary seemed to have said so in the beginning of his speech today. Please refer to the 16th paragraph of his speech. In fact, he said to this effect, "The bidders should have considered all the relevant factors, and their tender prices should have reflected these factors." In fact, such relevant factors should include that deliberate enquiry by telephone as well as the reply that such a factor would not be exempted. I feel that such factors must have made the second highest bidder reduce his tender price because the factor had generated some uncertainties. No matter how small such uncertainties are, they would still have the effect of slightly reducing his tender price.

Another point is, the PAC had asked the former Director of Buildings, Mr LEUNG Chin-man, what he would actually consider as public interest. Earlier on, some Honourable colleagues said that the benefits had actually gone to the developer because he can pocket an additional profit of over \$100 million, that is, the revenue he can generate from the sale of properties. Of course, the revenue he can generate may differ if properties are sold at the different prices. Calculating at the price at that time (that is, the amount of money that can be generated from the sale of each sq ft), the revenue so generated could amount to over \$100 million. The PAC asked him what kinds of public interest would be involved. As mentioned by some Honourable colleagues earlier on, he had not considered the nine items (or several items) of factors which he should have taken into account, and one of such factors is called public interest. Therefore, when certain colleagues in the PAC asked him what public interest was, he answered that public interest meant the provision of a public transport terminus (PTT).

However, I think this answer was actually most absurd. If Mr LEUNG should give such an answer in Court — I said "if" — I shall have difficulty in believing that the Judge would think that such an answer could reflect that he had exercised his discretionary power in good faith. Why? It was because it had already been explicitly specified in the tender document the provision of a PTT. If the provision of such a facility had already been specified in the tender document, and it was eventually provided, why should an additional amount of over \$100 million be paid to the developer? Can this be called "public interest"? Let me make one more assumption: At that time, someone might have proposed that, in view of the scarcity of trees there, if an exemption was granted, the developer will plant 50 additional trees there. Then at least there would be 50 additional trees on that piece of land, and you may say that the exemption was well justified. However, it was not the case in reality. The provision of something has already been specified explicitly in the tender document, and eventually it was provided, and still it was described as "public interest". If so, then the consideration must be irrelevant, and it must be a mistaken consideration.

Finally, if a disciplinary hearing has to be conducted, I think this point alone (the PAC cannot pursue this any further because no matter how we asked him, he always provided this answer) is sufficient justification for asking him in an internal disciplinary hearing conducted by the Government why he should

answer in such a manner. In a disciplinary hearing, he should be asked: Why should a facility that must be provided under any circumstances regarded as a factor of "public interest"? If he continues to answer the question with the same reply, then in fact we can only infer that he was not sincere and honest when he exercised his discretionary power in that case.

The third point I shall dwell on today will involve an even more significant issue, namely, the Government's action in seeking an additional legal opinion. This has been described in the 14th paragraph of the speech of the Chief Secretary. Originally the ICI said it (the decision) was wrong but reasonable, then it further explained what the mistake was and why it was reasonable — that is, considerations in the light of different scopes would produce different conclusions, and so on. However, after the Government has interpreted the incident in this way, it only reflected that the Government in fact did not accept that it (the decision) was wrong. In other words, the Government thinks that there was absolutely no mistake at all because the legal advice said that the ICI's interpretation of regulation 23(3)(b) of the Building (Planning) Regulations was too narrow, and that explains why the Government had sought another legal opinion. That additional legal advice adopts the view that the provision of the PTT can be considered as having complied with the spirit of that legislation, so it can be included in the scope of exemption. Under such circumstances, after going through the Government's final interpretation, the ICI is in fact saying that Mr LEUNG had been absolutely correct and reasonable. If so, it will create the contradiction. I hope the Government (*the buzzer sounded*)

PRESIDENT (in Cantonese): Mr James TO, the time is up.

MR ABRAHAM SHEK: Madam President, today, I shall not be talking about the details of the three reports, as many of my colleagues have eloquently spoken on. I shall somewhat be speaking on the constitutional crisis which this incident has brought about.

A public storm was raised with the release of the Independent Committee of Inquiry (ICI) report on the Grand Promenade. Why was such a public storm raised when normally, ICI reports are always welcomed? The answer is very simple: Even as late as this afternoon, the Chief Secretary for Administration said that the objectives of the three reports are more or less the same. This is

partially true. The results and the conclusions are more or less the same. This is for the public to decide.

Such a response by the Government totally surprises me. It speaks of the ICI and the Legislative Council as if in the same breath, even though the former was appointed by the Government and operated under closed door, while the latter operates under statutory powers and is guided by strict Rules of Procedure in open hearing, and by Members elected by the citizens of Hong Kong. It is beyond the comprehension of any reasonable man to accept such unreasonableness of the Chief Secretary for Administration's response.

The Basic Law stipulates that the Legislative Council's functions, among other things, include monitoring the work of the Government and examining the budgets. The Public Accounts Committee (PAC) is charged with the duties of examining the Audit Report. In examining this particular incident, the PAC has conducted detailed investigations and an open hearing. The PAC's conclusions and recommendations are conscientious, responsible and fair. However, it appears that the Government has adopted a defensive attitude and distrusted any investigation into this particular incident conducted by the Legislative Council, despite its repeated acceptance of PAC reports. This creates great confusion. Originally, the Audit Commission's Report and the PAC Report were presented to offer the true facts of this incident and provided clear and fair recommendations, as I said earlier. However, the Government then appointed its own ICI to conduct another investigation which it claimed would be "independent". "Independent" of what? Does it mean that the PAC is not independent? (*Laughter*) This has led to today's general debate, and that leads people to rightly or wrongly believe that the Government wants to establish a new monitoring system, when possible results of the PAC or the Legislative Council are not in its favour. Indirectly, this executive-led innovative way of creating new committees has violated the very system of separation of powers among the executive, the legislature and the Judiciary.

Madam President, with the said incident having progressed this far, I think it is essential for us to restate the Legislative Council's standpoint and review current executive-legislative relationship through today's debate.

The fact is, this issue is significant not only because of the contents of the reports, but also because of the Government's attitude towards the acceptance of separation of powers, which is one of the fundamental aspects of Hong Kong's

political system. The core questions are: Is the Government complying with this separation mechanism among the legislature, the executive and the Judiciary? Does the Government respect the Legislative Council, the responsibility of which is to monitor the Administration? And lastly, does the Government take the Legislative Council's recommendations seriously? In appointing the ICI, the Government directly and indirectly hints at the distrust and disrespect it feels towards the Legislative Council. This might not be true, but it gives us this feeling. Accepting the three reports with no preferential distinction, and equating the three-man ICI to the Legislative Council on the same basis show the Government's poor attitude towards the Legislative Council and its custodianship of the system of political system as enshrined in the Basic Law. We may not have universal suffrage for the election of the Legislative Council or the Chief Executive, but we do have a well-proven and established system of government and political system of the separation of powers among the executive, the legislature and the Judiciary. For this reason, Members of this Council zealously guard our powers for the good of Hong Kong.

Madam President, the divide which exists today between the Government and the Legislative Council can be attributed possibly to a mutual lack of trust. It also reveals that there has been little improvement in executive-legislative relationship and clearly, this incident is a case in point. Therefore, it is essential that this incident be handled properly to avoid any further deterioration of such important relationship.

To resolve this problem, we must resolve it at the root. The way to deal with this crisis hinges on the Government's attitude. If the Administration shows some respect towards the Members of the Legislative Council and is sincere in improving executive-legislative relationship, then it should take its actions in a practical manner and offer concrete responses.

With the experience gained in this particular incident, we should by all means enhance executive-legislative relationship with a rational and responsible attitude.

Thank you.

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

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

MR ALBERT HO (in Cantonese): Madam President, I seldom have this chance of supporting a motion moved by Dr Philip WONG, (*laughter*) so I must say a few words about it.

The most important spirit of today's motion is to uphold the constitutional authority of the Legislative Council; opinions in this regard are most significant. The three reports of course contain lots of viewpoints. We may conduct in-depth analyses, discuss and put forward all kinds of opinions, but Honourable colleagues who have spoken today, though they might belong to different parties/groupings and held widely divergent views on constitutional development in the past, are now all united in one voice to uphold the remaining, very limited and very little authority of the Legislative Council. In this regard, I am strongly in favour of this common stance. If such remaining authority is still being exploited and undermined, I really do not know what meaningful purposes does it serve for us, Members of the Legislative Council, to go on sitting here, doing so much work and holding so many meetings? How can we tell the people that we deserve to go on working here?

Madam President, I do not know what constitutes the essence of the spirit of "strong governance" advocated by Chief Executive Donald TSANG soon after he had assumed his present office. But I have witnessed two incidents: First, when the discussion on constitutional development was conducted in the Legislative Council, and when it progressed towards a point he considered no consensus could be reached, he established a new platform, the Commission on Strategic Development, saying that the views of its members could reflect the viewpoints of various sectors of society and the extensive views of society could be gauged; and that their conclusions could form the basis of discussion in the next stage. We feel most sorry about this. And the Secretary for Constitutional Affairs does not even wish to come to the Legislative Council to engage in dialogues with us.

Secondly, regarding this Grand Promenade incident, the Director of Audit had released his report and made his criticisms in it. Our tradition is very simple, the PAC conducts open hearings and invites officials to attend meetings to answer Members' questions and queries, so as to further follow up the opinions of the PAC. This mechanism has proven to be effective and widely

supported by the people and enjoys very high credibility. However, this time the Government had acted very abruptly by appointing a three-member Independent Committee of Inquiry (ICI). By establishing a new platform, the Government left people with the question whether it is adopting a confrontation stand against the PAC. Many Honourable colleagues have mentioned this point, so I do not wish to make any additional points.

Although (needless to say) the ICI's report arrived at very different analyses and conclusions from those of the PAC, Madam President, what surprises me most is a shocking point in the report, that is, the exclusion of the GFA of the PTT from calculation. The report considered that although it was a decision without any legal basis, the error was still reasonable because there had been some precedents and all the necessary procedures had been followed according to past practices. The Government immediately consulted the opinions of a senior counsel, and then said, oh sorry, such a practice is legal, so the opinions held by the Judge and the senior counsels in the ICI were wrong, and only that senior counsel consulted by the Government was correct. It means that the past exemptions did have legal backing, and that the ICI's interpretation was too narrow. The Government did not accept even this point. In other words, the Government intends to do some cut-and-past jobs with the three reports to produce a report that the Government thinks and finds acceptable. Why should it do this? Is it because the opinions of the Judge in the ICI are too authoritative, so the Government worries that the people may query whether the it had granted many exemptions to property developers through exercise of discretion with no legal basis, thereby causing a loss in public revenue amounting to over \$1 billion? Is this its fear? Madam President, if it has adopted such an attitude, I believe it is self-deceptive.

I know the Secretary is heavily loaded with his portfolio of duties. Though he is a Policy Secretary, he cannot be held responsible for each and every system that has been in use for decades. Likewise, the Chief Executive, Mr Donald TSANG, cannot be held completely responsible for the errors made by many officials in the past. It is all because they cannot have complete control over everything and conduct reviews of them and have all the mistakes rectified. We can hardly have such expectations, otherwise we must have an almighty person to take up the task before this can be done. However, at least we can demand the Government to be honest in addressing squarely the questions raised by us, facing the shortcomings of the system or mistakes caused by

shortcomings of the system. However, it has not been the case. The ICI appointed by the Government told it that such a problem did exist — certain parts of the ICI's report were already queried by the people, but this had become unimportant now — by pointing out that the discretion did not have any legal basis. In spite of this, such a mistake committed by him was still found to be understandable. That was the rough idea. However, even on this point alone, the Government refused to conduct an in-depth and comprehensive review of it and reflect upon what had gone wrong. Instead, it hastened to appoint another senior counsel to rectify this loophole. I do not know how many senior counsels the Government has consulted. A possible scenario could be: The Government might have consulted many senior counsels, but finally it could identify this senior counsel who put forward such an opinion. Is this what has actually happened? We have great doubts about such an attitude of the Government and feel most sorry about it. If we are unwilling to honestly face the problem uncovered and proceed to solve it, and instead just adopt a defensive attitude to protect ourselves — the officials just try their best to protect their posts, whereas the entire Government just tries to protect the overall reputation of the Government — refusing to review, reflect on and reform the shortcomings in the system, then as I witness the degradation of the "strong governance" to such an extent, I really feel pessimistic about our future.

I so submit.

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

DR FERNANDO CHEUNG (in Cantonese): President, frankly speaking, I am not at all versed in the property issues. I know more about the social welfare affairs. Therefore, I should learn more from Mr Abraham SHEK in this aspect. Regarding this Grand Promenade incident, I do not wish to repeat the arguments already mentioned by many Honourable colleagues earlier on. With regard to the relationship between the executive and the legislature, the approach adopted by the Government is somewhat self-deceptive. The PAC and the Audit Commission had conducted thorough examinations of the Grand Promenade incident, but the Government seemed reluctant to accept the conclusions made in their respective reports and instead set up an ICI. The conclusions of the ICI's report are very obvious. Although the report contains different information, the

Government accepts it in entirety. On this issue, I do not wish to repeat the arguments. But why am I so concerned about this issue? It is because social welfare entails public funds, but where do public resources come from? How should they be made use of? All these questions have a bearing on the overall public interest.

Let us take a look at the practice of exempting such so-called green facilities from gross floor area (GFA) calculation. This policy has been implemented since 2001. I found that the loss in public revenue resulting from such exempted GFA is rather stunning. I had raised a question to the Government in this regard. In mid-March, I submitted a written question and received a written reply from Secretary Michael SUEN on 26 April. My question explicitly requested the Government to provide information on each of the following items since the implementation of the policy: The amount of floor area exempted for green facilities; the additional floor area of each of these projects; the premium the developers had to pay for these additional floor areas and the current market value of such floor areas.

The Government replied that, given the time constraint, it was not possible to provide information on all the projects. However, the Government said that since the implementation of the policy, there had been 117 such relevant projects. Although the figure varies slightly from the 228 projects as reported earlier by the *South China Morning Post*, we still believe in the Government's reply that there had been 117 relevant projects; the total GFA exemption for green facilities amounts to 188 600 sq m, and a total premium of \$443 million had been paid in this regard. According to a rough calculation of the data derived from the additional floor areas and the amount of premiums paid, the average premium per sq ft is \$261.

Let us take a look at the current market price of the floor area, which is generally as high as \$3,000 to \$4,000 per sq ft. And such price is just the very ordinary price as far as the floor area of properties is concerned. However, Grand Promenade paid the premium for the additional floor area at the rate of \$261 per sq ft. We can see how much public revenue has been lost. And are those so-called green facilities really environmentally-friendly? We find that those so-called "sky gardens" are always so windy as if typhoon signal number three is hoisted. People standing in such places will become very shaky as if they are acrobats ready to perform in a flying trapeze show.

What benefits do such green projects bring to Hong Kong as a whole? What is their value? Their value is really spectacular — we find that the developers can get lots of exemptions, thereby generating tremendous additional proceeds. For Grand Promenade alone, the *South China Morning Post* estimates that the property developer can generate additional income amounting to over \$100 million. On the contrary, we have to fight to the best of our abilities to make the Government hand over five single-parent centres to us, so as to enable us to provide services to single-parent families. The five single-parent centres throughout Hong Kong only require a total expenditure of less than \$8 million in operating costs. According to my calculation, the Grand Promenade project alone can generate sufficient revenue to operate the five single-parent centres for 80 years.

President, for issues that I do not know too much, I do not wish to speak on them. However, while we have witnessed the generosity of the Government in this regard, it has completely ignored our requests for granting eye-glass allowances to the children, not reducing the CSSA substantially and providing slightly more allowances for the old, the weak and the handicapped. We now find how powerful the government officials are — as long as they like, they can put their signatures on the relevant papers, and over \$100 millions can go down the drain immediately.

President, I really have no clue as to what we should do about it. I can only hope that the Government can seriously examine the overall relationship between the executive and the legislature, and face positively the Legislative Council's findings arrived at open deliberations. In the meantime, the Government should really conduct a review seriously. Such so-called green facilities are nothing but excuses for massive transfer of interests, thereby preventing public revenue from serving the people adequately.

With these remarks, President, I support the motion.

MR ALBERT CHAN (in Cantonese): President, the final conclusion reached by the three-member ICI can be described as a rationalization of collusion between the Government and business, wastage of public money and bureaucratic incompetence.

President, the report of the ICI has come up with an astounding conclusion. In the first two sentences of page 2 in the ICI's letter to the Chief Executive, it is said that since Mr LEUNG made the decision after studying the relevant views, he should not be held responsible for any subsequent errors. This conclusion is indeed totally absurd. All bureaucrats will invariably study the relevant views in the course of policy-making. All policy decisions will invariably take account of the relevant views. But this time around, someone has decided the whole thing by himself, ignoring the importance of other opinions and making a decision which injures public interest and Treasury revenue and which funnels huge benefits, huge monetary benefits, to the real estate developer concerned. Actions must be taken to hold the decision-maker culpable. The conclusion reached by the report is truly incomprehensible.

I believe and am convinced that the Government has overtly or covertly indicated to the ICI that it should make a conclusion different from that of the Audit Commission. Why has the Government done so and made such an arrangement? It is indeed baffling. It seems that after noticing the disobedience of its left hand, the Government has instructed its right hand to cut off the left. In the end, the left hand has been cut off, but the right has also become largely crippled.

I believe that members of the public and most of those who have any knowledge of land planning will not accept the ICI's conclusion and recommendations. Criminal responsibility under the law and the responsibility associated with administrative blunders are two different matters. This committee of inquiry led by a Judge might have examined the issue from the perspective of the laws relating to corrupt and illegal practices and criminal responsibility. The Judge may not know anything about the basic operation of the bureaucratic administrative machinery. This may be a reason for the shameful and ridiculous conclusion. But then, to a certain extent, the Government has expressed its acceptance of the conclusion, thus highlighting the absurdity of the issue.

In quite a number of speeches, including his address in the Legislative Council today, the Chief Secretary for Administration has confirmed that the Government will totally accept and actively implement the recommendations of the Public Accounts Committee (PAC). But it has behaved like a person with split personality — when it sees something, it says it is superb, but later, when it comes across something else, something else that is opposed entirely to the

former, it also describes it as wonderful. This is absolutely not the kind of behaviour to be expected of a government advocating "strong governance".

I believe that the Secretary may feel aggrieved because the one who made the decision and gave the instruction might be higher in ranking than him. Of course, it is impossible for us to get any concrete proof. However, from the perspective of this theory and based on the Government's mode of operation, we can say that the recent series of events has definitely been not normal. Perhaps, some individual high-ranking government officials have been trying to harbour certain government officials under condemnation. They have thus been doing something secretly to protect these officials. That is why all these justifications have been advanced.

I very much hope that the Government can learn from Chinese history. I now wish to follow the example of "Uncle Wah" and talk about history. The story I wish to tell is about ZHUGE Liang executing MA Su in tears. MA Su was a highly capable government official who was thought of very highly by ZHUGE Liang. But MA Su committed a very serious blunder. And, for the sake of maintaining army discipline, ZHUGE Liang could not harbour and protect his trusted follower. Therefore, in the end, he had to behead MA Su in tears.

Our Government has not only ignored the sacred duty of the PAC but also turned a blind eye to public opinions. In order to meet the personal wish of individual high-ranking government officials, and influenced by personal sentiments, it appointed a committee of inquiry, thus ruining the relationship between the executive and the legislature and also the achievements of the PAC over the years. The Government has ignored the value of the existing system and the importance of public opinions. It has made the decision based on its subjective judgement. This cannot be called "strong governance" at all. This is only an act of harbouring one's subordinates and villains. Therefore, if the top echelons of the Government continue to act in this manner instead of conducting any review, the accountability of the entire Civil Service will be swept away. Also, other civil servants who were once aggrieved — especially those low-ranking civil servants who were either dismissed or disciplined due to some minor problems — will become even more furious. And, they may even make their own rulings to condemn the acts of top government officials harbouring their trusted subordinates and also the injustices done to other civil servants.

Therefore, I hope — the Chief Secretary for Administration and the Chief Executive are not here now and I will try to ask him again tomorrow — a review can be conducted. President, I support the motion.

MR ALBERT CHENG (in Cantonese): The debate today relates to the report of the three-member ICI. Many Members and public opinions all hold that the Government's appointment of the ICI is meant to uphold the Government's prestige in practising strong governance. I think differently.

In the past, whenever there were any controversies, such as the Antony LEUNG incident and the SARS outbreak, public opinions and Legislative Council Members would frequently demand the establishment of an independent committee of inquiry. This is actually a mechanism supported by Members all along. We all think that independent committees of inquiry can command both credibility and recognition. Concerning the ICI in this recent incident, I hope that Members can do some recollection with an objective and impartial attitude. When the ICI was first appointed by the Government, the whole idea was welcomed by both public opinions and Members. There was no disagreement at all.

But it has turned out that the report of the ICI is so very absurd. We must not be bad losers. We should not express welcome only when its report is to our liking and criticize it when it is not. Having said that, I must add that I do not support the ICI appointed by the Government. Why? President, we will usually demand the Government to set up an independent committee of inquiry when there is no investigation mechanism. But in the case of Grand Promenade, investigations could be conducted by the Public Accounts Committee (PAC) of the Legislative Council, and in fact, there was already an investigation report of the Government's Audit Commission. It was therefore unnecessary to set up an independent committee of inquiry. But why did Members (including me) support the idea? President, all was because the public knew that neither the Audit Commission nor the PAC had any power to examine or criticize government policies and hold any government officials accountable. At that time, the appointment of an independent committee of inquiry was welcomed widely in society because we all hoped that the committee could fulfil our expectation, whether or not it is reasonable and sound. We thought that the ICI would make a ruling on the government official who failed in

his duties. We even hoped that it would take actions or draw conclusions on his failure, so as to fill in the gaps left by the PAC and the Audit Commission. On this very basis, we accepted the proposal on setting up an independent committee of inquiry.

As I have pointed out, we must not behave like bad losers after the publication of the report. But I suppose the greatest failure of the Government or the most controversial point is the very furtive attitude it has adopted since the release of the report. As mentioned by the Secretary, the Government's attitude is obvious — all the three reports are correct. The Government's attitude is very infuriating.

Why did I say that the ICI is absurd? I have my justifications. In the fifth and sixth paragraphs of his speech today, the Chief Secretary for Administration outlines the terms of reference of the ICI. Quoted here is part of the fifth paragraph: "On the incident of the Sai Wan Ho site development, the Government noted that the public was concerned about the possible uncertainties in the exercise of discretionary power by the Building Authority (BA) on land development projects. The Government considered it necessary to conduct a detailed examination on the exercise of discretionary power by the former BA to be accountable to the public." I do not wish to waste any time, so here is part of the sixth paragraph: "At that time, the PAC was aware of this move of the Government, and members of the PAC generally considered that the work of the ICI set up by the Government and that of the PAC was of a different nature and not contradictory to each other." I will quote only these two paragraphs. The terms of reference of the ICI are very clear. It needs not consider the value-for-money factor, nor does it have to find out whether the Government has incurred any losses. This is the task of the Audit Commission, PAC members and Members of the Legislative Council (including me). As we understand from the fifth and sixth paragraphs, the ICI's investigation should be related to areas outside the terms of reference of the Audit Commission and the PAC. But the report stated that the Government had not suffered any losses and there were precedents.

President, in regard to precedents, we have had some arguments with the Secretary in the public hearings, and they are put on the record. By "precedent", it is meant that if the construction of government buildings is not

specified as a condition in the public auction or granting of a lot, the Government will have to grant extra floor area to the developer as compensation at a ratio of 1:5 in case it subsequently requires the developer to add public facilities to the project. This ratio is very attractive. This is the meaning of "precedent". But in the case of Grand Promenade, as early as at the grant of land, the developer already knew that a public transport terminus (PTT) must be constructed. Whether or not the Government would provide any benefits, the developer must still construct it. Why did the Government still provide additional floor area? It was a dereliction of duty of the Building Authority (BA) at that time. Mr LAU Kong-wah also pointed out that the Government had actually set down nine guidelines on the exercise of discretion, but the BA did not comply with them in giving his signature of approval. There was one more unacceptable thing which was not considered and even mentioned by the ICI. Before the bidding, a certain developer wrote to the Government (Contrary to what Mr James TO said, the developer did not telephone the Government). I must clarify this point. President, I now have the chance to make clarification. The developer wrote a letter to the Lands Department, enquiring whether the PTT would be included in the calculation of floor area. Having consulted the Director of Architectural Services, the Director of Lands replied that it must be included in the calculation. As a result, the developer included the PTT in its calculation and quoted a price that was 1% lower. In the end, it became the second successful bidder. But the ICI did not take account of this. I cannot understand why.

Moreover, the most infuriating thing about paragraph 9.51 of the report is its indirect criticism or condemnation of the PAC. Part of it reads: "Giving weight to the legal advice he considered.....Mr LEUNG's decision as BA was reasonable and not open to sound adverse criticism." Our report severely criticizes the BA, but the ICI's report indirectly criticizes us for partiality. I think this leads to freedom of speech implications.

Time is up. With these remarks, I support the motion. Goodbye.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Members wish to speak, I now call upon the Secretary for Housing, Planning and Lands to speak.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I thank Dr Philip WONG for moving the motion today. I am also grateful to Members for their valuable comments on this subject. I do not intend to repeat what the Chief Secretary for Administration has said in his speech. Instead, I would like to focus on giving an account of the progress and current position on the implementation of various improvement measures by the Government to address the recommendations put forward by the Audit Commission, the Public Accounts Committee of the Legislative Council (PAC) and the Independent Committee of Inquiry (ICI).

I wish to reiterate that we have all along been actively co-operating with the Audit Commission and the PAC and providing support to their work. We acknowledge their work and we will not change this in future. We are grateful to the PAC for examining in detail the report tabled last year by the Director of Audit on the value for money audits in respect of the development of site in Sai Wan Ho and for putting forth a number of constructive recommendations to the Government.

The Government has also been taking up this issue seriously. Following the Audit Report, we have been aware of the keen concerns of the public about the possible uncertainties in the Building Authority (BA)'s exercise of discretionary powers in the development project. In this connection, the ICI has been established to look further into the matter. The initiative was supported by the PAC and the public at the time. At that time, we have not received any comments that this action is not sensible, while we also have not heard any comments that this action would have any adverse impact on our constitutional framework. Moreover, the credibility of the ICI was well recognized.

In fact, the reports of the PAC and the ICI contain a number of similar recommendations on ways to improve the existing land development approval mechanism. In the motion moved by the Chairman of the PAC, the Government is urged to fully implement the recommendations of the PAC. I would like to take this opportunity to brief Members on the progress made by the Government in implementing the various improvement measures.

First of all, I shall speak on the pre-tender enquiries. In this connection, the PAC recommended that the Lands Department (LandsD) should, before the close of tendering of the land sale, publicize all enquiries received in relation to gross floor area (GFA) calculation and the answers given to the prospective tenderers; and in respect of the information to be publicized for the protection of prospective tenderers, a clear definition of "fundamental ambiguity" should be provided in the Lands Administration Office Instruction of the LandsD.

I wish to point out that it has always been our objective to enhance the transparency of the land sale procedures. For this reason, the LandsD has revised the relevant internal guidelines, clearly stating the circumstances under which the information provided to prospective land sale tenderers in response to their enquiries on uncertainties about the development parameters (such as GFA, carparking requirement, provision of government/institution/community (GIC) facilities) would be publicized on government websites and in newspapers.

In view of its concern over the development intensity of a site, the PAC recommended that the Planning Department (PD) should specify the maximum GFA for the site in the concerned outline zoning plan (OZP) and update the assessment made by the Department on the requirement of public facilities provision for the district before the land sale.

The Government fully recognizes the importance of having the planning intentions achieved. To meet the community's aspiration for a quality living environment, the Government is, together with the Town Planning Board (TPB), taking the initiative to progressively introduce restrictions on building heights and development intensity in the statutory town plans. Before the sale of a site, it is the normal practice of the PD to give advice to the LandsD on the maximum GFA of the proposed development project. To ensure that the district will be provided with sufficient public facilities for the community, the PD will also reassess the provision of public facilities in the district before the sale of a site, and inform the relevant departments accordingly.

The PAC also recommended that the LandsD should, where appropriate, incorporate into the lease conditions the site development requirements of the Hong Kong Planning Standards and Guidelines (HKPSG). In fact, it is the LandsD's current practice to incorporate into the lease conditions the site development requirements of the HKPSG. However, if the site development requirements relate to the provision of GIC facilities but the relevant user

departments cannot take up the facilities for maintenance and management due to the lack of a development programme or funding approval, after consultation with the user departments concerned, the LandsD will not require the provision of such facilities under the lease conditions. The Government will then require the facilities to be provided in another appropriate development site in future.

Regarding the provision of government accommodation, the PAC recommended that the Director of Architectural Services should draw up a set of accurate design requirements and that the relevant government departments should be notified if the Architectural Services Department (ASD) considers that the implementation of the original design parameters to be included in the lease conditions was not feasible. The PAC also recommended that the Director of Lands should pursue other feasible options with the relevant government departments to implement the GIC design requirements before the close of tendering if there are doubts about the original proposal.

In this connection, the ASD has reviewed the procedures for the preparation of the Technical Schedule to be included in the lease conditions. They will be adopted in the future provision of GIC facilities to ensure that the GIC design requirements are properly drawn to scale in the layout drawings for incorporation into the lease conditions of the site. If the ASD considers that the implementation of the original GIC design parameters to be included in the lease conditions is not feasible, it will notify the LandsD or the relevant government departments to make changes to and finalize the design parameters.

If doubts are raised by prospective tenderers on the feasibility of GIC design requirements, the LandsD will refer them to the user departments. The pursuit of any feasible alternative designs is a matter for consideration by the user departments. The LandsD will inform the prospective tenderers of the outcome of such relevant consideration and publish the relevant information before the sale of a site is successfully triggered, so that all prospective tenderers will be aware of the matters affecting the originally proposed GIC design requirements.

The PAC also recommended that the LandsD should, where appropriate, stipulate explicitly in the lease conditions of a site whether the government accommodation required would be included in the GFA calculation. If the lease conditions contain a maximum GFA clause, it is the LandsD's current practice to stipulate in the lease conditions whether the government accommodation required

would be GFA accountable in order that prospective tenderers can take this information into account when bidding for a site.

Insofar as site classification is concerned, the PAC recommended that the Buildings Department (BD) should fully consult other related government departments prior to the sale of a site before giving advice to them.

The BD has accepted the recommendation of the PAC and it will consult all relevant departments prior to the sale of a site on any factors affecting the site classification. The BD will also seek legal advice on any legal ambiguities about site classification. It has also put in place a mechanism which requires that advice on site classification provided to the LandsD prior to land sale will be subject to the decision of the Building Authority Conference only to ensure the consistency of relevant decisions.

The PAC also recommended clarifying the criteria of street for the purpose of site classification under the Building (Planning) (Amendment) Regulation 2005. We made amendments to the Building (Planning) Regulation to clarify the definition of "street" for site classification under the law to facilitate a clear classification of site so as to determine, beyond doubt, the development intensity of a site before sale. The amendment regulation came into effect on 31 December 2005.

As regards the granting of GFA exemption, the PAC recommended that the Director of Buildings should seek legal advice on unclear legal issues prior to the sale of land. In this connection, improvements have been made by the BD. For example, where there are any unclear legal issues concerning GFA exemption, the BD will seek legal advice before giving advice to other government departments. In order to clarify whether PTT needs to be included in GFA calculation, the BD has also revised the guidelines issued to the industry to make it clear that PTT has to be included in GFA calculation unless specified otherwise under the relevant statutory OZPs or there is a specific approval granted by the TPB for such exemption.

The PAC also recommended that improvement should be made on the arrangements for appointing external observers to attend the Building Authority Conference. In this regard, internal guidelines on the appointment of such external observers and their declaration of any conflict of interest have been

issued by the BD, and procedures and criteria for doing so have also been established.

On the question of granting of bonus GFA, the PAC recommended that the Director of Buildings should consult and reach a consensus with the relevant government departments before he grants any bonus areas in return for the dedication of areas for public use. We are happy to accept the recommendation made by the PAC in this regard.

As the BA may grant concessions not covered by lease conditions, to safeguard the Government's interest in this regard, the PAC recommended that the LandsD should stipulate, as appropriate, a maximum GFA clause in the lease conditions, and review the criteria for deciding whether or not the maximum GFA of a site should be specified. We will consider actively whether the maximum GFA should be stipulated. In the light of the PAC's views, the Housing, Planning and Lands Bureau (the Bureau) has initiated a review to study whether it is appropriate to include a maximum GFA clause in all the leases of Government land in the future.

As a matter of fact, if the development intensity of a site has been specified in the OZP, the lease should have normally spelt out the maximum GFA. If, from the planning point of view, there is no need to restrict the development intensity, laying down the maximum GFA in the lease, as we have said many times before, has both merits and demerits. I have clearly explained this at the hearing of the PAC. I have also made it clear that a delicate balance has to be struck between enhancing the certainty of lease conditions and obtaining the optimum sale price and this is not an easy task. The Government will carefully consider the recommendations made by the PAC and consult the Legislative Council, the industry, and the professionals concerned and stakeholders before determining the way forward.

The PAC is also concerned how the Bureau would improve the communication and co-ordination among the BD, the LandsD and the PD. The Government concurs with the PAC on the importance of effective communication and co-ordination among government departments in handling property development approval to achieve the planning intention.

The Bureau, PD, LandsD and BD are continuously working closely together in this aspect. The role of the Bureau is to formulate general policies

on matters relating to planning, land administration and buildings. In the process of land development, the three departments play their own roles according to the policies and the relevant legislation, and at the same time keep in close contact.

There are established mechanisms to discuss and resolve inter-departmental issues at various stages of the development process, including the District Lands Conference, Building Authority Conference and District Planning Conference. The departments will consult the Bureau for guidance on issues involving policy implications. The Bureau has also set up ad hoc groups and working groups, chaired by the representatives of the Bureau, to enhance co-ordination among the departments, in dealing with both ad hoc and individual matters, as well as systemic issues. The Government has undertaken to continue to seek improvements in this area.

The PAC has also stressed the importance for the BA to consider the factors listed in the relevant Practice Note in his exercise of discretionary powers. Indeed, to enhance accountability and transparency when exercising his discretionary powers granted to him under the Buildings Ordinance for processing various applications, the BA has issued Practice Notes on various subjects for reference by the industry. Internal guidelines have also been issued to serve as general guidance for relevant officers.

Applications will be submitted, depending on complexity, to the committees chaired by the Assistant Directors of the BD or the BA for consideration and approval. I would like to emphasize that the BA and officers authorized by him to exercise such discretion have to act in good faith, follow the law and the criteria promulgated in the Practice Notes and take into account all factors relevant to the issue under consideration in the exercise of discretion.

We also seek to further enhance transparency. The BD has published a summary of the matters considered at the Building Committee of the Department, and the decisions made, on the Department's website.

We also note the views of the PAC and the ICI on the different functions and duties of the BA and Director of Buildings. I would like to give a brief explanation here. The Director of Buildings is the head of a government department (that is, the BD). He is a civil servant responsible for the management of the department and its staff. He leads and directs the work of

the Department. He is also the Government's main advisor on all matters relating to the safety and health standards of private buildings. The BA is a statutory authority established under the Buildings Ordinance. He is responsible for the carrying out of the duties imposed on and the exercise of the powers granted to him under the Ordinance for controlling the safety and health standard of private buildings. These duties and powers include the approval of plans of new buildings, the regulation of the design and construction of building works, and the implementation of legislation by requiring owners to repair their buildings or slopes and to remove unauthorized building works.

Under the Ordinance, these duties are to be carried out and the powers exercised by the Director of Buildings. Therefore, when the Director of Buildings carries out such duties and exercises such powers, he is the BA. The actions that he takes and the decisions that he makes under the Buildings Ordinance are governed by the provisions of the Ordinance and the relevant legal principles.

From the above follow-up actions and improvement measures taken by the Government, it is clear that the Government has seriously considered the views of the Audit Commission and the PAC, and is determined to fully implement their recommendations.

Although the Government has accepted and is following up the above recommendations, the public still has an impression that the PAC and the ICI have made contradictory conclusions over the exercise of discretionary powers by the BA. I would like here to provide the following supplementary information.

The PAC has expressed alarm and strong dissatisfaction, and found it unacceptable that the BA exercised his discretionary power to exclude the PTT from the GFA calculation. The Government fully understands and appreciates that the PAC's conclusion was reached after a number of hearings. The ICI also conducted an in-depth study on the same issue and concluded that the discretion to exclude the GFA of the PTT from calculation was wrongly exercised. As far as the conclusions of both reports are concerned, instead of being contradictory as perceived by the public, they are similar.

The ICI further examined the issue that while the exercise of discretion was wrong, whether the BA has, before making the decision, endeavoured to

consider the issue carefully, made reference to previous cases, and consulted other parties at the Building Authority Conference and sought legal advice on the issue. The ICI concluded that the former BA should not be blamed. To prevent any recurrence of similar incidents in the future, the ICI put forward a number of recommendations to improve the inadequacy in the existing system. The recommendations mostly accord with those of the PAC. Therefore, on this basis, the Government accepts the ICI's conclusions on the BA's decision to exercise the discretion.

Another issue of public concern is the apparently different conclusions arrived at by the PAC and the ICI on the financial implications brought about by the BA decision to exercise the discretion. In the PAC report, it was pointed out that the BA's decision had negative financial implications. The tender price offered for the Site could have been higher if the PTT had been excluded from the GFA calculation. The Audit Report stated that the financial implications of excluding the PTT from the GFA calculation could amount to \$125 million, which means the value of the GFA concerned may be expressed in terms of \$125 million, and not that the Government has lost \$125 million in revenue. In this connection, I would like to explain the Government's understanding of the issue.

Firstly, I would like to cite some facts. The reserve price of the lot as assessed by the LandsD before the close of tendering was \$1,850 million. According to press reports which quoted the assessment made by members of the property and surveying sectors three to four days around the tender closing date, the value of the Site ranged from \$1,900 million to \$3,000 million. In the end, the actual tender price was \$2,430 million, almost \$600 million above our reserve price.

Why is there a considerable difference between the reserve price, the valuation and the actual price paid? The reason is that under the existing system, tenderers are aware that they can put forward different designs to the BA and apply for the exemption of certain facilities from GFA calculation. I am now quoting the part relevant to this point from ICI's report, "It is impossible to judge how the successful bid was calculated. However, the price paid was considerably more than the reserve price. In an open market situation in a highly sophisticated industry such as in Hong Kong, the assumption is that all the factors were taken into account and the best market price was obtained." (End of quote) On this basis, we agree and accept the ICI's conclusions.

We believe that in bidding for the Site, tenderers should have considered all the relevant factors, including the application they might make to the BA for exemption of various items from GFA calculation, the market price they might obtain for the development, and so on. Such factors should have been reflected in their bids.

Certainly, no other parties, except for the individual tenderers, could tell the exact extent to which their bids for the Sai Wan Ho development project were affected by their expectation that the BA would approve the exemption of the PTT from the GFA calculation. As such, we cannot assume that the Government has lost \$125 million in revenue because of the exemption.

However, as pointed out by the Chief Secretary for Administration earlier, the Government understands the public concern that they are not clear about the actual development potential as reflected by the price offered by the developer, and thus they may have some doubts about it. In view of this, the Government has accepted the recommendations of the PAC and the ICI, and revised the guidelines issued to the industry to state clearly that all PTT will account for GFA, unless the relevant OZP stipulates other requirements or a specific planning approval has been granted by the TPB. This will serve to remove the doubts of the public about the matter.

President, finally, I would like to emphasize the partnership between the Government and the PAC in promoting the efficiency and cost-effectiveness of government departments. The Government will continue to monitor the implementation of the improvement proposals put forward by the PAC and submit periodic reports to it.

Thank you, President.

MR LAU KONG-WAH (in Cantonese): Secretary, can you please clarify a certain part? May I request the Secretary to clarify a certain part of the speech he has just delivered?

PRESIDENT (in Cantonese): Mr LAU, you have missed the juncture at which you may interrupt. You should have immediately risen to ask the Secretary to

clarify when he came to that part of his speech. If he was willing to make the clarification, he might listen to your question. If he was unwilling to make the clarification, he might go on delivering his speech.

MR LAU KONG-WAH (in Cantonese): Does it mean that, at the present time, I can no longer ask the Secretary for a clarification?

PRESIDENT (in Cantonese): Yes.

PRESIDENT (in Cantonese): Dr Philip WONG, you may now reply. You have four minutes 29 seconds.

DR PHILIP WONG (in Cantonese): Madam President, I wish to thank all the 23 Members who have spoken in support of the motion as well as the conclusions and recommendations made by the Public Accounts Committee (PAC). And I would also like to thank the Chief Secretary for Administration for explicitly stating that the Government accepted all the recommendations made by the PAC and would proactively implement them. Madam President, though the major points of emphasis of Members may not be the same, this has exactly illustrated the characteristics of a democratic council, that is, the co-existence of diversified viewpoints and the tolerance of different voices. With the support from this Council, the PAC will work even harder in future in order to fulfil its responsibility of monitoring public expenditures as well as ensuring that all public expenditures are spent in a proper manner.

I would like to point out that the PAC does not oppose to the exercise of discretionary power by officials. Instead, the PAC is of the opinion that, when they exercise their discretionary power, they should take all relevant factors into consideration and attach appropriate weightings to such factors. However, there is a voice in society which holds that this motion moved by me will deter future Building Authority from exercising his discretionary power, and will have far-reaching negative impact on land development. I trust our senior civil servants would not harbour the mentality of "doing less means erring less".

Earlier on, some Members requested the Government to declare its stance, that is, choosing between these two reports. How the Government should act on the Independent Committee of Inquiry (ICI)'s report is an issue that it has to handle. The Secretary and the Chief Secretary are very important officials in high positions. They must have the capability to distinguish between right and wrong. I hereby call on them to really and sincerely support the PAC's conclusions and expeditiously implement its recommendations, so as to eliminate the misunderstanding in society caused by this incident to the effect that the public has been led to think that there is a deterioration of relationship between the executive and the legislature. Regarding the Government's action in establishing the ICI to study the Director of Audit's report before the PAC can do so, the PAC and the Financial Services and the Treasury Bureau will rectify this. I must state this explicitly, regarding the Government's decision to establish the ICI, the PAC did not have any knowledge of it beforehand and had not made any open comments in this regard.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr Philip WONG be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Ms Emily LAU rose to claim a division.

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

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

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

Functional Constituencies:

Dr Raymond HO, Dr LUI Ming-wah, Ms Margaret NG, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung and Miss TAM Heung-man voted for the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, 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, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr CHEUNG Hok-ming, Mr Ronny TONG and Mr Albert CHENG voted for 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 and 23 were in favour of the motion; while among the Members returned by geographical constituencies through direct elections, 22 were present and 21 were in favour of the motion. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

PRESIDENT (in Cantonese): Second motion: Financial assistance to patients of Severe Acute Respiratory Syndrome and their families.

FINANCIAL ASSISTANCE TO PATIENTS OF SEVERE ACUTE RESPIRATORY SYNDROME AND THEIR FAMILIES

DR FERNANDO CHEUNG (in Cantonese): President, in my capacity as Chairman of the Panel on Welfare Services, I move that the motion, as printed on the Agenda, be passed.

Subsequent to the outbreak of the Severe Acute Respiratory Syndrome, commonly known as "SARS", in Hong Kong between March and June 2003, out of the 1 755 sufferers, 299 have died and 1 456 recovered. There are also "suspected" SARS patients who were clinically diagnosed as having been inflicted by SARS in Hong Kong, treated with steroids as medication for SARS, but turned out subsequently not to have SARS. In order to provide more direct and concrete *ex gratia* assistance to the affected people or their families, the Finance Committee of the Legislative Council approved on 7 November 2003 a commitment of \$150 million for the setting up of the Trust Fund for Severe Acute Respiratory Syndrome (the Trust Fund) to grant special *ex gratia* relief payments to families with deceased SARS patients and special financial assistance to SARS patients suffering from longer-term effects due to the administration of steroids resulting from SARS or the effects of SARS.

A joint meeting was held on 9 March this year by the Panel on Manpower, Panel on Health Services and Panel on Welfare Services to discuss the assistance provided by the Government to SARS patients.

We still have 290 recovered or "suspected" SARS patients receiving assistance this year, three years since then. However, we see that the Trust Fund has discontinued the provision of assistance to nine recipients because the total cumulative financial assistance they have received has reached the upper ceiling of \$500,000. The financial assistance offered to another five recipients may also cease as they have already received from the Trust Fund *ex gratia* financial assistance of more than \$400,000.

According to the Government's explanation, the financial assistance was originally capped at \$500,000 mainly because the recipients suffering from physical dysfunction will gradually recover, and no more assistance will thus be required. Recovered SARS patients, if still having financial problems, may apply for assistance under the social security system. During the discussion on

this issue in the joint meeting, a number of Members shared the view that the Government was reluctant to deal with the problem with the Trust Fund, even though it was well aware that financial assistance will discontinue, as nine recipients have already had their cumulative financial assistance exceeding the ceiling and five others have received more than \$400,000 in financial assistance. We feel extremely regrettable and indignant that the Government, oblivious to their pressure of living, is going to discontinue their financial assistance.

My office has received a number of cases, with some of them having been reported by the media. Many of the clients used to be self-reliant and capable of supporting their basic living with their own hands. Let me cite a taxi driver, who used to work more than 10 hours a day, as an example. During the outbreak of SARS, he fell ill and was wrongfully diagnosed as having contracted SARS. Consequently, he was admitted to wards designated for SARS patients and administered Ribavirin and steroid. When he was finally discharged a month or so later, his health condition had become much poorer than before, with sequelae of the disease, such as depression, poor concentration, arrhythmia and avascular necrosis in the bones of his thighs, occurring successively. People having been wrongfully diagnosed as SARS patients are also suffering from many sequelae. The taxi driver, used to work exceedingly long hours of more than 10 hours a day, now manages to walk slowly for only half an hour daily with the help of a crutch. As the amount of financial assistance will reach the ceiling sooner or later, he feels extremely helpless, with no tomorrow to be seen and no hope at all.

The attitude adopted by the Government is that the victims may apply for Comprehensive Social Security Assistance (CSSA) if they are in difficulty. These victims, directly affected by SARS, are actually the sequelae of a social disaster. Furthermore, contracting SARS is not purely a personal misfortune; the Government must, to a certain extent, bear responsibility. Our society has indeed entrusted the Government to bear the responsibility. Actually, the problems, resulting from the Government's poor awareness of the contagious disease, numerous loopholes caused by its preventive and control work and its failure to adequately equip health care workers before sending them to the battlefield back in those years, are simply not purely personal misfortune.

Members may still recall that, during the initial outbreak of SARS, members of the public took the initiative to wear masks, though the authorities

still considered it unnecessary to do so. Although we did notice that other places (including Macao) had begun carrying out quarantine, with inspection measures implemented jointly with immigration clearance, we were still acting carelessly — only outbound travellers, but not inbound travellers, were inspected. Although members of the public were very concerned about the places where SARS cases had occurred and requested the Government to make known those places, the Government did not respond despite a long delay. Consequently, some information was distributed online within the community. Even when Amoy Gardens was hit by a series of tragic incidents, the Government still insisted that the incidents were attributed to the environment, despite the fact that residents there were already prohibited from going out. I still remember the extreme anxiety I felt the day I saw what had happened at Amoy Gardens. I immediately sent an email to the Department of Health (DH), but there was absolutely no response. Actually, during the entire process when Hong Kong was hit by SARS, the Government had responded only upon receipt of complaints from the public. I also recall Dr YEOH still insisted initially that there was no outbreak of SARS within the community. Today, some recovered SARS patients are still being affected by SARS. Is the Government totally not responsible? Can the problems be resolved by simply watering down the situation confronting the SARS victims as their personal problems and advising them to apply for CSSA if they are in financial straits again? I find this attitude entirely irresponsible.

According to the criteria governing the making of grants from the Trust Fund, *ex gratia* payments will not be made to families with deceased persons who have been wrongfully diagnosed because it cannot be scientifically proved that taking SARS drugs will result in death. However, can medical evidence completely deny any connection between the death of patients treated with large dosage of steroids and SARS? Furthermore, the patients were victimized by the epidemic; it was not their fault to be wrongfully diagnosed. Neither was it their decision to use the wrong medication. So, why should the Government make their families to bear responsibility alone? I consider it inhumane for the Government to withhold *ex gratia* relief payments for these families solely on the ground that the connection between the death of SARS patients and the medication cannot be scientifically proved.

President, despite the Government's saying that the Trust Fund is *ex gratia* in nature, the criteria adopted are apparently not at all compassionate. If a

person who has contracted SARS is old, jobless and contributes nothing to support his family, his children will not, according to the *ex gratia* criteria governing the Trust Fund, receive *ex gratia* payments because his economic value is zero.

It is inhumane to consider from an economic angle whether families with deceased SARS patients should be granted *ex gratia* payments. Although the Government said that *ex gratia* payments had been made to families with deceased elderly SARS patients, of the 319 applications lodged in connection with deceased SARS patients, 67 applications, many of whom lodged by families with "suspected" SARS patients and those of deceased elderly SARS patients, have been rejected.

Although the Government keeps saying that lifelong free health care will be offered to recovered SARS patients, various parties have still failed to come up with a clear conclusion for the definition of the sequelae of SARS. Commonly accepted sequelae of SARS include loss of lung function, avascular necrosis, and mental and psychological problems. However, the Government does not recognize the side-effects of steroids, such as heart problems, arrhythmia, hypertension, vision deterioration, and so on. Therefore, recovered SARS patients seeking hospital treatment will not be eligible for free treatment.

Recovered SARS patients are required to attend follow-up consultation once every six months to prove their need for continued financial assistance. For the recovered SARS patients, however, the follow-up consultations are indeed too frequent, as there will not be any obvious improvement in their health condition within six months. Actually, many patients have simply never seen any improvement in their health condition, and there is apparently no hope for a complete recovery. Furthermore, according to some patient organizations, it often takes months to complete the formalities for extending the assistance period. Sometimes, a vacuum will arise if the formalities are not successfully completed and yet the assistance has already been discontinued.

Furthermore, the problem of social discrimination against SARS patients has been very serious. I was told by a recovered SARS patient that when he revealed his identity during job interviews, the interviewers would instantly step back. Some residents living in Block E of Amoy Gardens also told me that

some tour groups had even arranged their tour members to visit Amoy Gardens and take photographs there. I think that the Government is duty-bound to promote the concept of anti-discrimination and educate the general public to treat recovered SARS patients with a positive and correct attitude.

The Government's attitude in handling the Trust Fund certainly affects how SARS patients should be treated by the general public. Should the Government ignore the patients' plight and needs by thinking that they are purely their personal problem or misfortune and refuse to bear any responsibility, this Government that seeks to achieve the so-called strong governance will merely lead the public to continue discriminating against the disadvantaged groups and forgetting the basic value of social care.

President, during the outbreak of SARS, many health care workers stood fast at their posts regardless of personal danger. Now, after three years, our Trust Fund is still unable to offer full protection to many recovered SARS patients. Besides, we are still facing the threat of avian flu. We really have no idea when Hong Kong will be attacked by another epidemic. It is disappointing that the Government, though having wasted three years, is still unable to come up with an arrangement to the satisfaction of the recovered patients and the families of deceased patients. I sincerely hope that the Government can seize the opportunity and act like a truly responsible and strong government.

President, I so submit.

Dr Fernando CHEUNG moved the following motion: (Translation)

"That, in view of the *ex gratia* nature and the anticipated shortfall of the Trust Fund for Severe Acute Respiratory Syndrome ("the Trust Fund"), this Council urges the Government to implement the following measures to assist the patients of Severe Acute Respiratory Syndrome ("SARS") and/or their families:

- (a) relaxing the Trust Fund's \$500,000 ceiling on special *ex gratia* financial assistance for each eligible recovered or "suspected" SARS patient;
- (b) extending the scope of the Trust Fund to cover also families of the deceased "suspected" SARS patients;

- (c) granting special *ex gratia* relief payments to families with deceased elderly SARS patients irrespective of whether the affected families had been relying on the deceased for financial support; and
- (d) injecting additional funds into the Trust Fund."

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

MR LEE CHEUK-YAN (in Cantonese): President, on behalf of the Hong Kong Confederation of Trade Unions, I speak in support of Dr Fernando CHEUNG's motion today.

I trust Hong Kong people will not forget, during the SARS outbreak in 2003, the days when people had to wear a mask, the courage demonstrated by health care workers and, what is more, the pains suffered by SARS patients. Has the Government forgotten all this? Has the Government of the Special Administrative Region (SAR) completely forgotten those people? Our discussion today seeks to express our hope that the entire community should be collectively responsible for the impact of the sequelae of SARS, an unprecedented disease, on members of the public, residents and recovered SARS patients. I very much hope that the SAR Government has not forgotten them.

However, the Secretary and the SAR Government have apparently forgotten them. Insofar as the cap of the Trust Fund at \$500,000 is concerned, nine recovered SARS patients have received more than \$500,000 each in assistance, and five others have received \$400,000 each, with the upper ceiling of \$500,000 to be reached shortly. Will the SAR Government not be too cold-blooded should the financial support for the recovered SARS patients be discontinued once their financial assistance payments reach the limit? If the recovered SARS patients are requested to apply for CSSA..... The Government can certainly shift its responsibility to CSSA forever, but giving them continuous support through the Trust Fund implies that the SAR Government is responsible to the patients. Should they be abandoned by the Secretary for such reasons?

It is my earnest hope today that the Secretary can bring us a more positive message, particularly as I am convinced that the motion will be passed today.

However, President, whenever a motion is passed, the Government will invariably prepare some reports by revisiting certain old topics and presenting outdated information, without making any improvement subsequently. The motion, if passed today, should be seen as a clear signal to the Secretary that the upper ceiling of \$500,000 should be raised. I hope the Secretary can really raise the ceiling, instead of turning a deaf ear to the comments made here in this Council, with nothing accomplished after the situation is settled. I very much hope that the Secretary can really abolish the \$500,000 upper ceiling on the financial assistance offered to SARS patients under the Trust Fund.

We find some of the provisions extremely unreasonable. For instance, elderly SARS patients are not protected by the Trust Fund. They may receive financial assistance only if they provide financial support to their families; if they do not, the SARS Trust Fund will simply ignore them. I find this arrangement extremely merciless. It seems to me that the Trust Fund seeks purely to offer compensation for deaths resulting from SARS or incapacity, with financial factors being the main consideration. There is no *ex gratia* or compassionate consideration that makes the people feel that they are being taken care of by the Government.

Therefore, it is simply unjustified for deceased elderly SARS patients and deceased patients wrongfully diagnosed as having SARS to be excluded. Similarly, the cause of death of deceased patients wrongfully diagnosed as having SARS is medication. It makes no difference whether the patients have died of medication or SARS. The exclusion of deceased elderly and patients wrongfully diagnosed as having SARS is simply over board.

Lastly, I would like to say a few words on the reasons for the abolition of the upper ceiling imposed on the Trust Fund. Another reason for abolishing the upper ceiling is that the SARS patients cannot find any jobs. If jobs can be offered to them, they will no longer require assistance. How does Trust Fund take care of these people? They are taken care of when they are incapacitated or cannot secure employment. The Secretary may act proactively by helping them through other means, such as securing employment for them.

Whenever employment assistance was mentioned during the previous joint meeting held by a number of panels of the Legislative Council, the Government said, on the one hand, special efforts had been made to cater for the needs of the

SARS patients and yet, on the other, assistance had also been rendered to every citizen. All this is nothing but replay of old tunes. The words of the Government are indeed meaningless for every citizen may approach the Labour Department for job-seeking or retraining programmes. Of course, the Government has organized some programmes through the Hospital Authority (HA) to specially cater to the needs of SARS patients. One of these programmes was, for instance, a rehabilitation programme launched in late January 2006 to help 149 SARS patients by offering them employment counselling. In the end, most of the former employees of the HA returned to their former posts. Another 15 non-HA SARS patients resumed their original work or secured new employment. Actually, only 15 out of the 149 SARS patients really secured a new job.

I have once raised the proposal that the Government should offer assistance to health care workers by arranging them to perform less demanding tasks in the HA. Why is it impossible for vacancies to be identified to accommodate them (the Government and the HA should collaborate instead of having the HA acting alone)? I believe the Government and the HA will not discriminate against SARS patients. Dr Fernando CHEUNG mentioned in his speech just now that SARS patients revealing their identity to their prospective employers would be rejected immediately. The Government and the HA may consider finding jobs to them — though they may not be able to work full-time as they have not recovered fully from their illness, less demanding part-time jobs are still practicable. If the Government is able to do so, they can at least have an income without having to rely purely on the Trust Fund. The Trust Fund can then also offer less financial assistance as a result. Consequently, the Trust Fund can reduce its expenditure, while SARS patients can rely on their efforts in exchange for their deserved dignity and living expenses. Is it feasible to do so? I hope the Government will not, as stated in its previous document, just provide some retraining or rehabilitation programmes without providing the patients with job opportunities in the end.

Lastly, I would like to say a few words on health care workers. After we have applauded health care workers for their immense courage, let us examine how they are treated by the HA. Work injury assistance offered to them was supposed to be terminated after three years, and no more assistance would be offered in the fourth year. It was only until recently that a consensus was reached. The Government has now promised that work injury assistance will

continue in the fourth year, though sick leave will have to be deducted. I hope the Secretary can consider whether it is necessary to deduct their sick leave. I believe it is unnecessary to do so. Thank you, President.

MR ALBERT HO (in Cantonese): Madam President, after the SARS epidemic in 2003, approval was given by this Council to the Government to provide funds for the establishment of the SARS Trust Fund to help families with deceased SARS patients and recovered SARS patients. We have originally hoped that the Trust Fund, given its *ex gratia* nature, can show solicitude to SARS victims by expressing the community's care and support for them. However, after listening to the views expressed by a number of patients and their families in several relevant panels and the Complaints Division of this Council, we find that the operation of the Trust Fund is plagued with a lot of problems and has caused great disturbance to the recipients.

Representatives of patients' organizations have repeatedly complained to this Council that the vetting requirements of the Trust Fund are too rigid and harsh. Families with deceased SARS patients and recovered SARS patients applying for assistance have to undergo a series of complicated formalities and various means tests. For instance, parents of deceased SARS patients are required to produce proof that their deceased children had supported them financially before their death. Furthermore, SARS patients or their families are required to return the assistance payments they have received under the Trust Fund should they succeed in their compensation claims through proceedings in future. Because of all these arrangements, the recipients can simply not feel the slightest solicitude or care. They even have the feeling that the objective of setting up the Trust Fund is to prevent, by all means, families with deceased SARS patients and recovered SARS patients from making claims against the Government or Hospital Authority through proceedings.

Madam President, in the joint meeting held by the Panel on Health Services, Panel on Welfare Services and Panel on Manpower, some representatives of recovered SARS patients reflected to us the plight of the patients. As the financial assistance for some of the recovered SARS patients will soon reach the \$500,000 ceiling, the financial assistance granted to them under the Trust Fund will probably cease shortly. As the recovered SARS patients have not yet recovered fully, they cannot join the workforce again, and yet they have to continue paying for their medical expenses. Therefore, they

will be in desperate financial straits at any time once the financial assistance is discontinued. We deeply appreciate that recovered SARS patients and their families are under tremendous mental stress as a result of the imposition of the \$500,000 ceiling on the *ex gratia* assistance for each recovered SARS patient.

According to the Government's current practice, it is anticipated that all recovered SARS patients who are receiving \$15,000 a month will reach the \$500,000 ceiling in six months' time. By then, the assistance payments under the Trust Fund will be discontinued.

One of the objectives of setting up the Trust Fund is to provide financial assistance to patients suffering from bodily dysfunction resulting from SARS in the hope that they will become self-reliant after tiding over their difficulties. However, the financial assistance is capped at \$500,000. This means that even if a recovered SARS patient is assessed by doctors that he has not fully recovered and requires continuous medical attention, his relief payment will still be discontinued, even though he is in need of assistance. This is inconsistent with the objective of setting up the Trust Fund.

When the Trust Fund was set up, we agreed to cap the *ex gratia* assistance at \$500,000 because we expected the patients to gradually recover without further need for assistance. Moreover, some of the SARS patients might claim compensation and rely on the compensation payments to maintain their living in future.

However, we see that the developments of events have not turned out to be optimistic as originally envisaged. With the passage of three years, many rehabilitated patients are still unable to recover or fully recover from their physical and psychological dysfunction. Besides, given the complexity of the sources of infection, many SARS victims are confronted with various hardships in taking legal action for compensation. As Members are aware, the legal proceedings are extremely complicated. After filing a claim for compensation, rehabilitated SARS patients may have to wait up to several years for the hearings, and they will still require assistance in the interim.

We hope that the authorities can re-examine the original policy and implement it with care in handling the many patients who have been left behind by the SARS epidemic and who need assistance. In order to provide SARS patients with more reasonable assistance, the restrictions on vetting and

approving Trust Fund applications should be abolished. As the Trust Fund will soon be exhausted with only \$23 million left now, additional funds should be injected. We believe the Finance Committee will agree relaxing the \$500,000 ceiling and support the relevant funding.

In view of the long-term physical and mental damage inflicted by SARS on the recovered patients, the Government should continue exploring long-term support initiatives by, for instance, setting up a fund similar to the one established for people who have become incapacitated because of pneumoconiosis, to provide sustained support to recovered SARS.

With these remarks, I support the motion.

MR RONNY TONG (in Cantonese): President, 1 755 people in Hong Kong fell ill and a total of 299 others unfortunately died during the outbreak of the epidemic, commonly known as SARS, between the spring and summer of 2003. I believe Hong Kong people will still tremble with fear on recalling the severe blow dealt to Hong Kong by SARS at that time.

Fortunately, SARS has not staged a comeback in Hong Kong over the past three years. I think credit should go to the joint efforts made by the SAR Government, relevant medical organizations, professionals and every member of the community in preventing a recurrence of SARS. Today, our anxiety has been dispelled and the economy has recovered; however, the damage inflicted by SARS upon, and its impact on, our community are not yet completely over. Now, three years after the SARS epidemic has left us, a number of SARS patients have not yet fully recovered. Some rehabilitated patients have even developed sequelae of the disease, such as avascular necrosis, heart deterioration, vision deterioration or lung failure, and even psychological sequelae. Their families and surviving family members have also been badly affected. Among the people aggrieved by SARS, several hundreds are health care workers who have been highly commended by the SAR Government and the whole community for their courage in combating the epidemic at the front line, and unfortunately infected with SARS. To date, many of these health care personnel are still unable to serve the community full-time again because they are still being affected by the sequelae of the disease. Their sacrifices and losses must not be forgotten. I believe all Members here will agree that their situation is extremely unfortunate. Both the Hong Kong community and the Government

must bear the responsibility and lend a helping hand to assist them in tiding over their difficulties.

As early as November 2003, a provision of \$150 million was made by the SAR Government for the establishment of the Trust Fund for Severe Acute Respiratory Syndrome (the Trust Fund). Since then, 632 applications have been approved, and special *ex gratia* financial assistance subsequently offered to infected SARS patients or eligible patients experiencing dysfunction or developing SARS sequelae after being treated with steroids, or "suspected" having contracted SARS. At the same time, the Hospital Authority has also offered lifelong, free medical services to patients suffering from sequelae of the disease. However, the assistance provided is inadequate, and the scope of assistance is too restricted. As a result, the assistance has been criticized by the aggrieved and the public over the past three years.

First of all, an upper ceiling of \$500,000 is imposed on the cumulative amount of financial assistance offered to rehabilitated SARS cases and "suspected" SARS patients. As at early March this year, nine of the nearly 300 recipients of the Trust Fund have already reached the \$500,000 assistance ceiling, and have been forced to cease receiving assistance. Have these nine aggrieved patients fully recovered from their sequelae? Are they properly leading a psychologically and physically sound life? Are their families in good shape without any livelihood problems? Should the authorities concerned fail to submit detailed reports to this Council to demonstrate to us that these nine aggrieved patients have already tidied over their difficulties, we cannot see why their assistance has to be terminated. President, as there is no upper ceiling on illnesses, why should there be one on *ex gratia* financial assistance? Can we ignore the SARS patients on the ground that they have reached the \$500,000 assistance ceiling? Is such a move consistent with the original intent of setting up the Trust Fund to provide assistance to patients aggrieved by SARS? Or is it because government officials, haunted by bureaucratism, have merely sought to act rigidly according to rules, without regard to reason and social responsibility?

In one of the cases back in those years, a patient with high fever was misdiagnosed as SARS patient. After receiving steroid treatment, he developed such sequelae of SARS as gastrorrhagia, arrhythmia and avascular necrosis, and became completely incapacitated. However, he was denied free medical treatment on the ground that he was neither a SARS patient nor being affected by the sequelae of SARS. As a result, he had to bear the relevant

medical expenses himself. How can an ordinary citizen like this patient bear such expenses, not to mention that he was originally the breadwinner of his family? The life stress he is suffering is thus imaginable. At present, some people aggrieved by SARS have even had to live on CSSA. It is thus evident that the scope of the Trust Fund has to be relaxed, so that people aggrieved by SARS and their families can receive more comprehensive assistance. In my opinion, doing so is fully consistent with natural justice, and it is also our social responsibility.

At present, the Trust Fund still has approximately \$23 million left. It is estimated that the Trust Fund can operate for at least one to two more years. Should this be the case, the Trust Fund will not face immediate financial pressure even if assistance continues to be provided to needy people aggrieved by SARS, though the assistance received by them has reached the assistance ceiling. Furthermore, as Members are aware, the Government recorded abundant surpluses in the previous fiscal year — our surpluses have actually exceeded \$10 billion. This issue is going to be discussed next week. Even if the sum involved this time amounts to \$150 million, being the same amount of funds injected when the Trust Fund was initially set up, it is still negligible, insofar as the SAR Government is concerned.

Actually, the previous establishment by the Government of two funds, namely the Pneumoconiosis Compensation Fund and the Occupational Deafness Compensation Fund, can be cited as forceful examples to illustrate the situation of the people aggrieved by SARS, as the Government did not refuse at that time to inject funds to support the Funds on the ground of tight finances. In these two cases, the Government admitted that it had the responsibility to make another injection of funds when required as a reasonable commitment. For the same reasons, injecting funds into the Trust Fund is consistent with social responsibility and justice. I also believe that all Hong Kong people and every Honourable Member of this Council will not object.

Lastly, President, I would like to thank Dr Fernando CHEUNG for proposing the relevant motion. I hereby express my support for the motion. I so submit. Thank you.

DR KWOK KA-KI (in Cantonese): Madam President, I speak in support of Dr Fernando CHEUNG's motion.

I believe Members will not forget the impact of SARS on all Hong Kong people. Neither will I. I have treated and attended SARS patients. Today, many recovered SARS patients are still in need of our contact and assistance. Among them, many are young health care workers or members of the community. SARS has left on them permanent disabilities. Actually, the sequelae of the disease, including the well-known avascular necrosis, suffered by many patients were attributed to the treatment administered at that time. One of the patients is a young nurse, who has to undergo joint replacement surgery because of avascular necrosis, even though she is very young. She is still unable to resume work, and has to rely on crutches to walk.

Regarding the performance of the Government in handling SARS in 2003, the public will naturally give its verdict. I believe the Secretary, as Cluster Chief Executive at that time, did witness the occurrence of numerous blunders made by the Government in handling the SARS incident. The original intent and objective of setting up the Trust Fund, unlike conventional funds (such as those established for the sake of compensation or something like insurance compensation), are to make *ex gratia* compensation in sympathy with the predicaments of patients or their families. This offer of assistance is definitely not tantamount to the handing out of alms. Many of the 1 800 patients and 299 or so deceased patients, and even their families, were innocently involved in the epidemic, with some sacrificing their lives, and some their health and youth.

It is still impossible for many of the sequelae of the epidemic to be tackled today, and even in the foreseeable future. From the very beginning, it has been understood that the provision of \$150 million, for the establishment of the Trust Fund, might not be able to cope with the needs. Today, the amount of assistance received by nine recovered SARS patients has reached the ceiling, with five others having received more than \$400,000, close to the ceiling. At present, only \$23 million is left in the Trust Fund. Without further injection of funds by the Government, I believe the Trust Fund can only dry up. That will be extremely unfair to the patients or families awaiting assistance.

At present, the scope of the Trust Fund does not cover families with "suspected" SARS patients. These families are basically no different from those of confirmed SARS patients. Because of the chaotic situation at that time, no one knew how to classify the patients, or confirm within a very short period of time whether "suspected" SARS patients had truly contracted SARS. Owing to policy blunders or mishandling, however, they were similarly sent to various

hospitals and defined clinically as "suspected" SARS patients. As they were treated in the same way as confirmed SARS patients, they would contract the same sequelae. But why should they be treated differently when *ex gratia* relief is offered? This is utterly unreasonable. Neither should a people-oriented, caring government adopt such a policy.

For years, these alternative rehabilitated patients and their families have been living in darkness, with no hope of recovery or employment in sight. Their families are also confronted with various hardships. Yet, the requirements laid down by the Trust Fund, like a miser, are actually quite similar to CSSA requirements: an applicant must be confirmed to have suffered financial losses, the people affected must be the breadwinners of families, and so on. This is actually in breach of the Government's initial commitment to the victims and their families. Under such circumstances, it is undesirable and unreasonable to cap the financial assistance at \$500,000 and offer *ex gratia* payments only to confirmed patients, with "suspected" patients and their families not covered by the Trust Fund being excluded.

Very often, "suspected" patients are treated differently from confirmed SARS patients, many of whom are required to return to the HA for follow-up. However, "suspected" patients are still denied *ex gratia* assistance or free medical consultation on the ground that they are not confirmed patients, or their doctors do not consider there is a direct connection between their condition and the sequelae of SARS. This is another most unreasonable point.

Actually, we have yet been able to confirm that there is absolutely no connection between many sequelae or diseases and SARS or its treatment. Given the uniqueness of SARS, there are no other cases in the world that can be used as reference for handling or treatment. I believe only few examples of using high dosage of Ribavirin and steroids can be found worldwide. Therefore, I think the Government or the Hospital Authority can treat this matter less stringently and with greater understanding, rather than frequently resorting to stringent measures, as it has been doing so far.

Anyhow, I hope after our discussion on the motion today, the Government can respond positively and provide concrete assistance to the affected families.

With these remarks, I support the original motion.

MR WONG KWOK-HING (in Cantonese): President, as a Member representing the labour sector, I speak in support of Dr Fernando CHEUNG's motion.

I have a lot of feelings in discussing this motion and the previous one. For the sake of SARS patients and their families, this motion is proposed to urge the Government to assist them with understanding and compassion. However, if we refer to the previous motion, and if Mr LEUNG Chin-man and Dr York CHOW assumed each other's role, our discussion will not be necessary. Why? Insofar as the previous motion is concerned, more than \$100 million was given out by the Government, without a blink of an eye, to developers in a mistaken and yet reasonable manner. Furthermore, no conclusion whatsoever has been heard. With regard to the specious follow-up action mentioned by the Government, I have no idea what conclusion has been drawn. Moreover, I can simply not distinguish between right and wrong.

Nevertheless, it is very clear to us that SARS patients and their families have not received proper care. The assistance and care offered by the Government can be compared to the "chopsticks used by a leper". I wonder if Dr Fernando CHEUNG knows what this Cantonese adage means. No? It simply means nothing remains. This is why I hope the Government will truly improve its attitude towards SARS patients and their families after Secretary Dr York CHOW has listened to Members' debate today.

I find the four points raised in Dr Fernando CHEUNG's motion entirely reasonable and sensible. The Government should be able, and fully obliged, to do so, with no difficulty at all, if it is determined to build up a harmonious society. I think the Government should immediately implement urgent measures to offer assistance to patients and their families who have reached or will soon reach the \$500,000 assistance ceiling. The Government should not be restrained by the \$500,000 ceiling; nor should it find any excuses to stop following-up the issue of offering assistance to the patients and their families.

The discussion about patients who have been wrongfully diagnosed as having SARS and elderly SARS patients has already lasted three years. When will the discussion end if the matter is not resolved now? It has already been three years since our battle against SARS. Today, we are still discussing this issue and talking about relaxation. Has the Government actually made inadequate efforts, and is it not the Government's shame? We should, on the

contrary, discuss the issue from this angle. Can Secretary Dr York CHOW give a positive response later on so that the issue can be resolved immediately?

I believe Members from various sides will not object to the injection of funds, and will give the Government their full support. The Government should not act over-cautiously because only \$23 million is left. If it is really necessary to do so, it may as well raise the matter with this Council. We will surely lend our full support. Whether this issue can be resolved actually hinges on the Government's attitude and initiatives, and whether the Government is determined to properly tackle this issue. We should make every effort to promote the spirit of love and care in our community to help the SARS victims wholeheartedly. The victims are part of our community. I hope Secretary Dr York CHOW can give us a clear and active response to the four points raised in Dr CHEUNG's motion.

Lastly, I would like to take this opportunity to appeal to all patients and their families to seek continuous self-improvement, and carry on with their lives with faith and resilience. I believe the whole community will not forget them; the whole community will support them in battling with their illness with resilience and courage, and leading a meaningful life. I hope the Government can be consistent in its words and deeds, and refrain from dwelling on social harmony on the one hand, and forgetting the socially disadvantaged groups most in need of our assistance, particularly patients fighting the epidemic, on the other.

It is very easy for Members to spend their days and time on discussions here in this Council. However, the sick are in desperate need of emergency relief. In particular, those who have already received more than \$500,000 in assistance can no longer receive assistance. Those who have received nearly \$400,000 are equally worried every day. Their pressure is tremendous. Nevertheless, all SARS patients must not lose faith. I trust all Members in this Council will definitely fully support them, care about them, and fight with them shoulder to shoulder.

I speak in support of Dr Fernando CHEUNG's motion. Thank you, President.

DR JOSEPH LEE (in Cantonese): President, three years has passed after the outbreak of Severe Acute Respiratory Syndrome (SARS). Over the past three

years, the medical sector has been making strenuous efforts to treat patients suffering from the sequelae of SARS. But it has so far failed to come up with any satisfactory cure. Consequently, we simply do not know when all these SARS patients can recover. Having to struggle with the sequelae of SARS every day, they must bear a very heavy psychological and financial burden.

The Trust Fund for Severe Acute Respiratory Syndrome (the Trust Fund) set up by the Government is meant to provide assistance to ex-SARS patients, so that in case they suffer from any bodily dysfunctions, they can apply for *ex gratia* payment. It is hoped that the provision of financial assistance can help them make up for their income losses or cope with the extra expenses resulting from their contraction of SARS.

However, according to government statistics, the Trust Fund is now left with a mere \$23 million. In the case of nine recipients, the financial assistance offered has already reached the ceiling of \$500,000, and five others have also received as much as \$400,000. In most other cases, the amount of assistance received is already nearing the ceiling. Since the treatment of the sequelae of SARS involves exorbitant expenses and it is impossible to predict the length of time required for recovery, the patients concerned are all subjected to considerable pressure. What is more, since the Trust Fund will soon be used up, they are worried about their inability to work on the one hand and the lack of means for medical treatment on the other. This has understandably exerted immense psychological pressure on them. The authorities should therefore conduct a review as soon as possible. The assumption that many patients are gradually recovering and do not need any further financial assistance can no longer be cited as a sound justification. The Government should also raise the ceiling of \$500,000 for each SARS patient in receipt of financial assistance from the Trust Fund, so as to help them cope with their financial difficulties as early as possible.

The Government has also said that it will try to provide free lifelong treatment to SARS patients as far as possible. But as pointed out by Dr Fernando CHEUNG, the Government recognizes only the sequelae approved by the Hospital Authority, such as reduced pulmonary function and avascular necrosis. No recognition is given to the sequelae caused by steroid, arrhythmia, hypertension and even dejection and sexual dysfunction. The patients must pay for the treatment of these conditions at their own expense, but the expenses involved are exorbitant. Besides, it is also impossible to assess the

trauma inflicted on them by SARS. The Government should consider the provision of integrated services to SARS patients, so as to give them full support in dealing with the physical and psychological problems affecting them.

Another problem is that the approval criteria of the Trust Fund, as pointed out by Members, are very harsh. The applicant must produce medical proof of his physical or psychological dysfunctions. And, the types of dysfunctions, their seriousness and duration must also be considered before approval is given. But will all these criteria help the patients in any way? Or, will they add to their psychological pressure instead?

Actually, the authorities should, in the course of determining eligibility, relax the requirements, so that patients can receive assistance more easily and the Trust Fund can provide genuine assistance to them. The Government has the responsibility and obligation to provide them with unconditional medical assistance, so as to improve their life. The financial assistance offered by the Trust Fund to ex-SARS patients should aim to enhance their livelihood protection and help them cope with other problems such as those connected with their social life. The Government should encourage and help ex-SARS patients to make good use of the Trust Fund to lead a normal social life and integrate into society.

It is promised that the Trust Fund will offer assistance to those who were "suspected" of contracting SARS and treated with steroid and other drugs due to wrong diagnosis. But the patients who died as a result of wrong diagnosis are not covered by any assistance. Those who died of SARS were of course unfortunate, but those who died as a result of wrong diagnosis were also the unfortunate and innocent victims of the epidemic outbreak. Their families also lost their dearest ones, so the authorities should appreciate their difficulties and provide them with appropriate care and help. They should do so by extending the scope of the Trust Fund, so that the family members of the deceased "suspected" SARS patients can also receive *ex gratia* payment.

Under the existing requirements of the Trust Fund, the family members of deceased SARS patients must produce proof that the deceased were the breadwinners of their families. In other words, financial assistance will be offered only if the deceased had to support their children, spouses and parents. This requirement is obviously inappropriate. For example, while a deceased patient did not provide any financial support to his family, he might be responsible for looking after the children of the family, thus helping it to save the

expenses on employing a domestic helper. In such cases, the deceased patients did not provide their families with tangible financial support. But since their family members were not covered by the Trust Fund, they will fail to get any assistance in looking after their children. Most of the 300 SARS patients who died were elderly people and chronic patients. Therefore, whether family members were financially dependent on deceased SARS patients should no longer be the only factor determining the granting or otherwise of *ex gratia* payment under the Trust Fund. It is more important for the Government to consider other factors. Therefore, I support the idea of granting *ex gratia* payment to the family members of deceased elderly SARS patients.

We will not forget the impacts brought about by the SARS outbreak. And, the Government is even duty-bound to provide ex-SARS patients with medical care. We think that the existing medical expenses are imposing a heavy burden on ex-SARS patients. Therefore, we hope that the Government can raise the ceiling of *ex gratia* payment, so as to provide assistance to those in genuine need. For this reason, we agree that the Finance Committee should inject extra funding into the Trust Fund, so that ex-SARS patients can improve their life and recover fully in all aspects, physical, psychological and social.

With these remarks, I support Dr Fernando CHEUNG's motion. Thank you, President.

MS LI FUNG-YING (in Cantonese): Madam President, during the past two months, Hong Kong seemed to have, all of a sudden, regained its past glory. In addition to the Government's announcement of a doubled surplus, the stock market has been buoyant, with a buying fever sparked by the public offering launched in Hong Kong by a number of mainland enterprises. The prosperity of the market contrasts sharply with the anxiety and bereavement felt across the territory three years ago when the territory was hit by the SARS epidemic. At that time, more than 1 000 people were infected by SARS, with 299 eventually had their precious lives claimed by the epidemic. While it is understandable that people not deeply hit by sorrow have slowly forgotten the anxiety and bereavement felt at that time, the Government's attempt to let recovered SARS patients and their families fade away from its memory is unforgivable. At present, both recovered SARS patients and families with deceased SARS patients are living in anxiety amid concerns that they will fade out from the memory of the Government.

The Government's intention to forget is reflected by its commitment to the recovered SARS patients. Most evidently, when the financial assistance received by the recovered patients reaches the \$500,000 ceiling, the patients will be required to tackle their problems in life on their own, despite the fact that they might have become incapacitated as a result of the epidemic. With the passage of time and changes in circumstances, the Government will no longer lend them a helping hand. The only offer by the Government is lifelong, free medical treatment provided by the Hospital Authority (HA) to SARS patients. The fact that the patients are still receiving treatment today does show that they are still being tortured by SARS. But why can they not continue to receive assistance for their hardship caused by SARS? Worse still, the scope of the free medical treatment targeting SARS is extremely restricted, for certain diseases indirectly caused by SARS are not covered. The Government has thus further kept recovered SARS patients away, and its intention to let the problem fade away from its memory is pretty obvious.

Madam President, some of the recovered SARS patients are employees of the HA. During the outbreak of the epidemic, they held fast to their posts, rescued the people at the front line while battling with the SARS epidemic. Not only has their conduct gained social respect, they have brought glory to the HA as well. The HA is indeed duty-bound to assist this group of recovered patients, both in terms of employment and living. The HA will be committing an unforgivable crime of conscience should it attempt to let this group of recovered patients fade from its memory in order to shirk its responsibility.

In November 2003, the Government applied to the Finance Committee for the establishment of the Trust Fund with emphasis that *ex gratia* relief payments or special financial assistance would be granted, on compassionate grounds, to eligible applicants. Looking back at the applications to the Trust Fund over the past three years, we find that the Trust Fund has failed to fully manifest care and compassion. One of most serious blunders made by the Trust Fund is that, during the vetting process, undue consideration is given to whether an applicant has been relying on his deceased family member for financial support. This criterion can be considered as an extra requirement, in addition to care and compassion. The nature of the Trust Fund in expressing care and compassion has thus been distorted. If the Government's policy is aimed at manifesting care and compassion for the unfortunate and their families hit by SARS, why were parents who lost their children or children who lost their parents during the

outbreak of SARS denied *ex gratia* payments just because they had failed to meet the financial support requirement? Today, the minds of these unfortunate people are not yet settled; they are still living in the bereavement of losing their beloved. Moreover, some "suspected" patients have still not received any assistance.

Madam President, as Members of this Council, we surely understand the importance of optimizing the utilization of public money. However, to do so is not tantamount to being mean. Confronted with the recovered patients and the families with deceased patients hit by an epidemic of the century with causes still unknown, the Government should make every possible effort to take care of them. To shirk responsibility is merely an act of being mean, not optimizing the utilization of public money. Though the recovered SARS patients and families with deceased SARS patients have been suffering the bereavement caused by SARS for three years, the bereavement will linger on if the problems confronting them cannot be resolved properly. I sincerely hope that the relevant government departments can expeditiously and properly address the needs of the recovered SARS patients and families with deceased SARS patients so that the deceased patients can rest in peace, the recovered SARS patients can stop worrying about their livelihood, and the families with deceased patients can pull through their bereavement.

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

MRS SOPHIE LEUNG (in Cantonese): Madam President, the question being discussed in this Chamber today must have brought back the anxiety and helplessness felt by Members three years ago when Hong Kong was hit by the epidemic of the century. Not knowing what was happening at that time, the entire city was in terror and panic. Furthermore, I recall that there was intense global concern over what happened to Hong Kong. I also recall that I could not help, after receiving emails many an evening, making numerous long-distance calls to some friends of mine, who were internationally renowned doctors I knew very well. They were also eager to find out what happened to us. Of course, I was not the only one who had experienced that much. Every one in Hong Kong at that time was filled with anxiety, not knowing what had actually happened. Later, the mysterious shroud of the epidemic was finally lifted by the medical sector. As a result, we were able to gain a better understanding of the

prevention and treatment of the disease. I believe the recollection in this Chamber of the circumstances at that time will still evoke a lot of feelings and sadness among Honourable Members.

Back then, as many as 1 755 people in Hong Kong were infected by SARS, with 299 of them unfortunately passing away. There were also some "suspected" SARS patients who, after being treated with high steroids dosage, are now suffering from avascular necrosis, one of the sequelae of SARS, and still receiving treatment. We have often asked ourselves this question: What better method can be used to treat avascular necrosis? Actually, we have great sympathy for the misfortune of these people. Therefore, shortly after the outbreak of SARS and prior to the establishment of the Trust Fund by the Government, the Liberal Party, in view of the acute situation, wasted no time in liaising with our friends in various sectors. We also got in touch, by every possible means, with people who could offer assistance and those with conscience, in a bid to launch the Business Community Relief Fund for Victims of SARS to appeal to friends of the business sector for donations. As far as I can remember, a number of friends who used to say they would not do anything in response to the appeal of this Council (because the business sector was often criticized by this Council) also made donations out of their strong sense of duty. Through liaison with numerous corporations and chambers of commerce, charity bazaars and donation of partial business turnover, a total of \$35 million was raised to provide instant assistance to local and mainland recovered SARS patients and families with deceased SARS patients to address their pressing needs.

In Hong Kong alone, a provision of more than \$17 million was made out of the Business Community Relief Fund for Victims of SARS to provide one-off payments ranging from \$50,000 to \$200,000 to needy families with deceased SARS patients. Emergency relief payments ranging from \$3,000 to \$8,000 monthly were also offered to infected patients and their families, for a period of three months. A total of 624 such applications were approved. Furthermore, a donation of \$11 million was made to mainland SARS sufferers through Hong Kong Red Cross.

Likewise, we also supported the SAR Government injecting \$105 million in November 2003 for the purpose of setting up the Trust Fund to provide short-term, capped financial assistance to families with deceased SARS patients and recovered SARS patients to help them tide over their difficulties.

Madam President, I merely want to point out, through my detailed description, that the epidemic has left all Hong Kong people, particularly the affected ones, with intense anxiety and a strong feeling of helplessness. But, what then can we do? I very much hope that the medical sector can abandon its concept of using Western medicine as the only cure for rescuing SARS patients, particularly for treating avascular necrosis patients, and examine if alternative treatment methods are available.

Now three years have passed. For recovered or "suspected" SARS patients, their predicament is not yet over. Their present predicament may probably be far more complicated than was envisaged when the Trust Fund was established. I am not going to repeat here as many colleagues have earlier mentioned the situation, particularly concerning avascular necrosis patients. With their bodily functions not yet fully recovered, their working ability is also affected and, what is more, they are under tremendous financial stress. They may probably find it even more intolerable to live than to die. I believe Members today will appreciate how they feel.

The amount of assistance received by nine of the Trust Fund recipients has already reached the upper ceiling of \$500,000. It has been predicted by organizations participating in assisting recovered patients that the number of such recipients will continue to rise. How can we continue to offer them assistance? I very much hope that, after listening to the views expressed by Members on various aspects, the Government can really seriously consider ways to offer assistance by adjusting the upper ceiling for approving applications for allowance. We do understand that not much is left in the Trust Fund, but we hope the Government can suitably make an additional injection of funds. It is very much hoped that more serious consideration and support can be given to sequelae resulting from the use of steroids, such as arrhythmia, hypertension, deteriorating vision, and so on.

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, your speaking time is up.

MRS SOPHIE LEUNG (in Cantonese): Thank you, Madam President.

MS AUDREY EU (in Cantonese): President, surely every Hong Kong citizen can still remember the serious blow dealt by the outbreak of SARS to us in 2003.

After the outbreak was over, just as Ms LI Fung-ying said earlier, we seemed to have rebounded and prospered, and the black shadow that had loomed over the economy and people's livelihood for years has now been dispelled. However, there is a group of SARS victims in the community who are still facing the mental and financial burden which the epidemic imposed upon them. Earlier, Mrs Sophie LEUNG mentioned in her speech that this motion has aroused the sense of anxiety and helplessness she experienced at that time. Instead, I feel very pleased when I was listening to the speeches given by Members on this motion, because as indicated in the speeches Honourable colleagues made today, the Legislative Council where consensus can seldom be reached has demonstrated unanimous support for this motion. I hope that the Government can heed this voice.

The Government established a trust fund in November 2003 to provide financial assistance to the recovered and "suspected" SARS patients to help them receive medical treatment, and provide special *ex gratia* relief payment to families with deceased SARS patients. According to the rules governing the Trust Fund, the total cumulative financial assistance is capped at \$500,000 for each recovered or "suspected" SARS patient. At the joint meeting of the Panel on Health Services, Panel on Manpower and Panel on Welfare Services held on 9 March this year, the Administration advised that the cap was set on the assumption that many patients would gradually recover and thereafter assistance would no longer be required. It is also pointed out that of the 632 approved applications, only 290 patients are still receiving assistance, and it demonstrates that many of them have gradually recovered.

President, while we feel glad that some patients have recovered, we should not, however, neglect the group of people who are still suffering from the sequelae attributable to SARS. Since the establishment of the Trust Fund, the cumulative financial assistance received by nine recipients has reached the \$500,000 ceiling and therefore the assistance to them has ceased; whereas five recipients have received relief payments of more than \$400,000 and will soon face financial difficulties. Given that the balance of the SARS Trust Fund is only \$23 million, it has therefore become a concern that whether or not it can continue to provide assistance to those 290 recipients. In face of all these problems, the Government has yet to propose active measures to deal with them.

When the Trust Fund was established, it was said to be provided on compassionate grounds. However, just as many colleagues have mentioned,

complicated hurdles have been imposed in the approval of applications, whereby recovered patients are required to apply for renewal every six months. But since the application process takes time, the recovered patients sometimes would fail to receive the next payment after the last assistance period had ended, and they would end up in a difficult financial situation. Furthermore, while assistance is currently provided to the recovered or suspected SARS patients, only special *ex gratia* relief payment is available for families with deceased SARS patients, and families with deceased "suspected" SARS patients are not eligible for such assistance. In addition, in deciding whether relief payment should be granted, consideration will also be given to whether or not the deceased patient is the breadwinner in the family. In fact, they are all immediate SARS victims. So if the Trust Fund was established on compassionate grounds, the Government should relax the requirement of giving out assistance.

In 2003, we paid a high price for SARS. The hardship we experienced has actually deepened our identification with our identity as Hong Kong people. We defeated the epidemic with our solidarity and gave play to the spirit of neighbourhood assistance by helping those people in need. Mrs Sophie LEUNG mentioned the donations from the business sector in her speech earlier on. But in fact, apart from the business sector, other sectors also participated actively in such activities as fund-raising and donations of materials. While health care staff fought bravely at the front line, the public also contributed either money or efforts to help. People from all walks of life together demonstrated the strength of a civil society. Now, this still remains fresh in our memory. Although bygones are bygones, I hope that the spirit of civic-mindedness with which we, as Hong Kong people, identified at that time will be preserved, and we will continue to extend our helping hand to people suffering from the sequelae attributable to SARS. Neglecting these victims is actually tantamount to forgetting the spirit of neighbourhood assistance that was evident during the outbreak of SARS. Therefore, on behalf of the Civic Party, I support this motion and hope that the Government will be amenable to good advice and expeditiously respond to the four points proposed in the original motion, especially inflating the Trust Fund, so that SARS victims in distress can soon feel the deep love of all Hong Kong people. Thank you, President.

MR TAM YIU-CHUNG (in Cantonese): President, Hong Kong people can never forget the outbreak of SARS in Hong Kong in 2003. In just a few weeks,

some 1 700 people contracted the SARS disease and nearly 300 people died. Under the attack of SARS, our prosperous world city was sagged and Hong Kong people were in constant worry. In the face of the threat of death, the 6.8 million Hong Kong people experienced a deep feeling of how vulnerable and unpredictable life is, but at the same time, we also witnessed its tenacity and perseverance. While the unfortunate patients resolutely accepted isolation treatment, the thick and heavy doors of the hospital wards could not block the blessings from their families and friends. Many health care personnel and cleaning workers did not only commit to the combat against the epidemic, they even devoted their valuable lives.

We and the SARS patients and their families shared common fears, sadness and anxieties. Today, three years later, while we are living happily, the recovered SARS patients are still suffering from serious sequelae attributable to SARs, such as bodily dysfunction and even incapacity, whereby the whole family has been placed in a difficult financial situation. On the other hand, the families of deceased patients are still trying hard to come to terms with the pain of losing their beloved ones. Three years ago, we boosted and encouraged each other. Today, after getting through fears and sadness together and realizing that life is priceless, we should all the more boost the morale of recovered SARS patients and give encouragement to the families of deceased patients. Therefore, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the provision of adequate financial assistance and *ex gratia* relief payments to SARS patients and their families.

Firstly, the Government should raise the ceiling of financial assistance for the recovered and "suspected" SARS patients. The purpose of providing financial assistance to recovered patients is to subsidize their living and medical expenses before they have fully recovered. But since the progress of rehabilitation varies among people, the duration and amount of subsidy payments are therefore different. As current operation has already proved that the \$500,000 ceiling set at that time underestimated the degree of difficulty of rehabilitation of patients, the Government should not maintain its original assumption. Otherwise, it will run counter to the original intent of establishing the Trust Fund to provide better assistance to the recovered patients. So long as the recovered and "suspected" SARS patients have not fully recovered, the provision of assistance to them should continue.

Secondly, as far as the families of deceased "suspected" SARS patients are concerned, the DAB opines that *ex gratia* relief payment must be made to them.

At present, the families of deceased "suspected" SARS patients are not eligible for *ex gratia* payment because the Government found it very difficult to ascertain whether the deaths of the deceased patients were caused by SARS-related treatment or the disease itself. Such an explanation is self-contradictory as "suspected" cases also undergone the necessary clinical confirmation process. The provision of financial assistance to the recovered "suspected" patients under the existing Fund has already demonstrated that even "suspected" cases are substantiated by confirmation procedures, and therefore *ex gratia* payment should be made to the families of deceased "suspected" SARS patients as well, otherwise, it will be doubtful whether double standard has been applied.

Thirdly, the DAB agrees that the families of elderly patients died of SARS should be given *ex gratia* relief payment regardless of their family condition. Since *ex gratia* relief payment is not only made to help the families of deceased patients to solve their immediate financial difficulties, but more importantly, it is made to extend the condolences and support of the Government and the whole community to them. Therefore, a light-handed approach should be adopted in approving the applications for assistance.

The Trust Fund currently has a balance of only \$23 million, which can merely sustain operation for another one to two years. If coupled with the implementation of the above improvement measures, there will certainly be a shortfall of funds. The DAB thus urges the Government to inject additional funds as early as possible to help the recovered SARS patients and families of deceased patients to live life better.

As regards the provision of financial assistance to SARS patients and their families, I think that the Government should make reference to the practice of the Hospital Authority (HA) in making compensation to the affected health care staff. At that time, negotiations had been held between medical associations, the DAB, the Hong Kong Federation of Trade Unions and the HA, which finally came up with a package of compensation and relief measures, including a fixed amount non-accountable payment, death gratuity, special recuperation grant, additional grants to the surviving families, additional insurance coverage, and so on. The fundamental spirit underlining the *ex gratia* relief payment is that, it will be made regardless of the patients' duration of stay in hospitals or severity of their conditions. The *ex gratia* grant is not only compensation made in recognition of the possible financial losses incurred by health care staff and their families, but more importantly, it is made for the physical trauma and psychological stress experienced by the staff concerned and their families.

The recovered SARS patients and families of deceased patients who live on courageously should deserve a higher degree of solicitude and support from society. So, on behalf of the DAB, I have spoken in support of the motion. Thank you, President.

MS EMILY LAU (in Cantonese): President, I speak in support of Dr Fernando CHEUNG's motion.

Actually, Dr CHEUNG is not only moving this motion on behalf of the Panel on Welfare Services, but also the Panels on Manpower and Health Services. President, despite the fact that I am not a member of these three panels, I attended their joint meeting held on 9 March this year. Besides, I had also met with patients of SARS and their families through the Complaints Division of the Legislative Council Secretariat. I find that the approach which the Administration adopted is hardly satisfactory.

Today is the second time in this Council that a motion with the unanimous support of Members is moved, and I hope all Members will give their unanimous support to it. President, it can also be seen that it is possible for Legislative Council Members to unite together. The unity shown this time is very significant because, as several Members have mentioned just now, the SARS incident has left indelible marks in the mind of Hong Kong people. If SARS stages a comeback, I believe it will definitely be considered a big issue and the Secretary should have no objection to this. And by that time, he may even be asked to step down. This problem is really very serious.

Many people lost their lives in this big event. Earlier on, a Member asked whether the deaths of nearly 300 people and the large number of people contracted the disease could be attributable to the mishandling of the Government at that time. Given that the Government has so much surplus this year, and two weeks later Mr KWONG Chi-kin will suggest ways to utilize the surplus, I think that the Secretary should be helped by that. More resources must be injected to help the families of SARS patients and the recovered patients as far as possible. It is actually not the right time to be excessively mean to them or to be calculating, for they are still enduring so much hardship after years of suffering. It is precisely because of this and as mentioned by Mr TAM Yiu-chung earlier, the Democratic Party, the Liberal Party, the DAB, the Federation of Trade Unions, Ms LI Fung-ying and other Members have all rendered their support to Dr Fernando CHEUNG's motion when he highlighted the points therein. We

all agreed that the provision of \$150 million in 1993 was far from adequate. Then, what is the reason of moving this motion? In fact, it is because the Secretary failed to answer our question on that day at the joint panel meeting. In spite of the numerous ideas suggested by Members, there was no response from the government officials, and so we came up with a proposal that the issue should be discussed at a Council meeting in view of the fact that the Secretary does not attend panel meeting so often.

The problem at hand is of grave importance, which concerns with how the whole society would treat those victims. Money is not everything, and yet it is essential, particularly to Hospital Authority staff. We may still want them to fight in case of a recurrence of similar incidents though we certainly do not want to see the recurrence of such incident, but after seeing how the Government has treated the staff who contracted the disease or their families, what more can the Government require them to do even once similar incidents recur in future? Therefore, looking from a practical perspective, as a matter of principle and considering our ability to take up the relevant responsibility, we should try our best to assist them. Therefore, I agree that the \$500,000 ceiling should be removed. For some people, \$500,000 is a significant sum of money, but for the rich businessmen, medical expenses on minor illnesses alone may amount to several million dollars.

Therefore, I hope that the Secretary will remove the \$500,000 ceiling on behalf of the Administration. In sum, that will enable the provision of free medical treatment to patients, so that the nine patients who have received payments exceeding the \$500,000 ceiling will again become eligible for assistance, whereas the other five patients who have received payment of more than \$400,000 will feel assured. I think it is very imperative to do so. As we have already gone into great details at the joint panel meeting on how the families of patients and other parties should be treated, I do not want to see the families of patients or recovered patients coming to the Complaints Division of the Legislative Council in the future, saying that no improvements have been made although this Council has debated on the issue in May and up till now, they are still enduring great hardship. I believe that this is totally intolerable to this Council, and we therefore fully support the idea that the Administration should be urged to exert its best effort to bring some good times to these people who suffer so much.

With these remarks, I support the motion.

MR ANDREW CHENG (in Cantonese): Madam President, time flew and three years have passed since the outbreak of SARS in 2003. Hong Kong has gone out of the shadow of the epidemic and that all sectors of the economy have revived. However, there is a group of SARS patients and their families who are still suffering from the sequelae attributable to SARS, and cannot resume their previous way of living, like most Hong Kong people have done. What is more miserable is that, some of the recovered patients are facing a possible cessation of the government subsidy which they have been receiving, and will soon have to encounter financial hardship; while others have yet to receive any assistance due to the various restrictions governing the SARS Trust Fund.

The Finance Committee approved the provision of \$150 million in November 2003 after the SARS outbreak for the establishment of the SARS Trust Fund, to provide special *ex gratia* relief payment to the families of deceased SARS patients and *ex gratia* financial assistance to recovered patients who have financial difficulties.

The purpose of establishing the Trust Fund is that the Government will hopefully give a compassionate kind of support and assistance, in the light of the different needs of people suffering from the SARS tragedy and their families. Unfortunately, once such an initiative of intention was handed over to the Government for implementation, it became numerous sets of rigid administrative procedures and conditions which had in turn exerted immense unnecessary pressure on the SARS patients and their families.

The most rigid condition governing the operation of the Trust Fund is that the total cumulative financial assistance for each recipient is capped at \$500,000. In fact, the recovered patients do not receive the financial assistance unconditionally because medical proof must be produced to substantiate their medical need as a result of contracting SARS. Furthermore, the total asset value must remain below the Government's prescribed limit, and a medical assessment will be conducted every six months before they are eligible for continuous financial assistance. Besides, the amount received is net of claims covered by other sources, for instance, by employers or medical insurance allowances. Therefore, even if the amount is not capped, the Government can still ensure that the recipients are only confined to recovered patients with financial need.

The Finance Committee decided to cap the total cumulative financial assistance at \$500,000 because SARS was a new disease at that time, and the

Government was thus unable to estimate how long the impact of the sequelae attributable to SARS would last on the recovered patients both physically and mentally. Three years have since passed, and among the 632 eligible applicants, 290 of them still have not fully recovered. The physical and mental damages caused by the sequelae attributable to SARS on patients may probably last for a very long period of time, and even forever. It is downright impossible to estimate the time and money required for full recovery. However, no long-term plan of assistance has been formulated by the Government, and it has even refused to relax the \$500,000 ceiling. So far, nine recovered patients have received an amount of financial assistance up to the \$500,000 ceiling and are therefore not eligible for further assistance. The financial assistance a recipient may receive will cease when the total amount received exceeds \$500,000, and the recipient concerned will be caught in financial difficulties without any help. Such an approach is indeed very apathetic.

Other criteria adopted by the Government in approving applications for assistance are administrative means of a very rigid kind. For instance, the surviving parents of the deceased SARS patients are required to provide medical proof that their deceased children had supported them financially before death, which has posed a hindrance to the provision of assistance to families in need.

Madam President, let us look at the current provision of financial assistance. Despite that it has all along been the Government's fiscal philosophy to expend resources in areas where resource allocation is due, but after the outbreak of SARS, it spent \$100 million to sponsor the Hong Kong Harbour Fest to relaunch the Hong Kong economy. And in order to prepare for the hosting of the East Asian Games, an additional provision of \$90 million or nearly \$100 million was approved for the building of venues for ball games to cater for the needs of the East Asian Games. These projects and provisions have given the public an impression that, while spending lavishly in times of economic boom, which is considered as "wastage", the Government's medical expenditure is, however, negligible and subject to many limitations. Why has the Government been so mean in the provision of financial assistance to the recovered and "suspected" SARS patients under the Trust Fund? We really hope that the Government will relax the \$500,000 ceiling of total cumulative financial assistance, and remove the requirement for families of the SARS patients to provide proof of "dependency" so as to avoid imposing additional pressure on and creating new troubles for patients and their families who have been tormented by the illness both physically and mentally.

As regards Dr CHEUNG's motion, the Democratic Party strongly supports the proposal of extending the scope of the Trust Fund to cover also families of "suspected" SARS patients. In other words, the families of deceased patients who were diagnosed as having SARS and received medical treatment during the epidemic but were subsequently classified as non-SARS should also be eligible for assistance under the Trust Fund.

Madam President, relaxing the restrictions governing the Trust Fund will enable more needy patients and families to benefit from it. Additional expenditure is therefore necessary. The Trust Fund, which has a current balance of only about \$23 million, is currently supporting 290 SARS patients and their families, and there is a serious shortfall. Therefore, the Government should inject additional resources into the Trust Fund so as to provide long-term assistance to the SARS patients and their families.

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

DR RAYMOND HO (in Cantonese): Madam President, the SARS incident in 2003 can hardly be forgotten. At that time, every member of society was under serious threat and I was saddened to see so many people, including the health care staff, being admitted to the hospital and subsequently died as a result of contracting the disease.

At that time, the Hong Kong Institution of Engineers also formed an emergency task force, the Ad-Hoc Task Force on SARS Matters, which I was a member. The Task Force had carried out detailed study of the incident from three perspectives, including: first, the air-conditioning system design of the infectious disease ward, and the relevant study was conducted in collaboration with the University of Hong Kong (HKU); second, the residential sewage system design, which was another important issue during the outbreak of SARS, and third, the body temperature-sensing equipment, and the relevant study was conducted in collaboration with a professor at the HKU. Unfortunately, he later suffered from another illness and is still in critical condition. The report was subsequently submitted to the Chief Secretary for Administration.

However, a very long time had passed, and it was more than one year ago when I received an electronic mail from a young engineer of a works department

of the Government. He said that he was one of the residents of Amoy Gardens who had contracted the disease at an early stage. After being admitted to the hospital for an exceptionally long period of medical treatment, he was lucky enough to be discharged. Although a long period of time had since passed, he was still suffering from some serious sequelae attributable to SARS. I immediately invited him to a meeting with me. When I saw him on that day, this young man of only 29 years of age was walking on crutches. I was told that he suffered from serious osteoporosis and had to live a very unusual life. Not only is he mobility-handicapped and having poor memory and frequent headaches, he is also short of breath as if his lung had disappeared. I told him that although he had obtained the professional qualifications, he might often be required to work on site, carry out site inspection or attend outside meetings, and I was concerned that he might trip easily. Therefore, I immediately talked to his supervisor to see if consideration could be given to another important issue which he would have to encounter. At that time, young engineers were usually employed by the Government on agreement terms, rather than on pensionable terms. In fact, I had been fighting for the issue over the past seven years and it was not until last year that it was resolved. His agreement was due to complete in two weeks. If he left the Civil Service at that time and attended job interviews, I think it would be very difficult for him to secure a job in view of his physical condition, because employers would hardly offer him an appointment. He was really in great difficulty as he could not work in a normal way to satisfy his employer. I asked his supervisor (the one in the works department concerned) whether or not his agreement could be renewed for another year, and thereafter his case would be revisited and deployment arrangement could also be made. For instance, he could be redeployed to do computer-related and desk-top jobs, instead of attending meetings or conducting site inspections. The supervisor concerned was very sympathetic and action was immediately taken in response to my request in two hours. I had also made another request, and that is, records should be kept to ensure that even if the supervisor concerned retired in future, special care would be given to this engineer in question and special arrangements would therefore be made for him. Not long ago, I received a lengthy email of thanks from this engineer. I called to tell him it was indeed unnecessary for him to do so, and I would ring him up or meet him from time to time to see how he gets along.

Apart from the aforementioned case, there are actually many other cases which I think Members may also know. This is only an example. The motion moved by Dr Fernando CHEUNG today is an excellent one, and it is a very rare

occasion for all Members to have apparently reached consensus on two motions in succession, thereby fostering a very good and harmonious atmosphere in the Chamber. I strongly support this motion, and I believe that my colleagues in The Alliance share the same view too. We strongly support the proposals in the motion on injecting additional funds with a view to removing the \$500,000 ceiling of *ex gratia* financial assistance. I think people of any sympathetic and progressing society would like to see that the applications for assistance under the Trust Fund will be handled with great generosity, and I hope that every single government official will be able to do this, so that we can all feel that our society is really progressing.

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

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no Member wishes to speak, I now call upon the Secretary for Health, Welfare and Food to speak.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): To start with, Madam President, I would like to thank Honourable Members for expressing their views on the question of providing financial assistance to SARS patients and their families.

The words of Members today brought me back to three years ago when I experienced the most unforgettable time in my life. During the period between March and June 2003, I assumed the major responsibility of taking personal charge of handling the SARS epidemic. At the same time, I witnessed the many acts of bravery of front-line workers, who brought the SARS epidemic in Hong Kong under control. Among those who died of SARS, there were six health care workers of the Hospital Authority (HA), as well as doctors in private practice. In particular, two of them were intimate friends of mine: Dr CHEUNG Sik-hin and Dr LAU Tai-kwan. Within a matter of a month, I attended a total of eight distressing funerals. I was aware that SARS would pose grave and long-term problems to the community. From its point of view,

the Government must, in addition to taking care of the people traumatized by SARS, draw lessons from the epidemic so that we will be able to tackle epidemics of a similar nature or other crises in the future.

We understand and sympathize with the hardship experienced by some of the SARS patients. However, it is most important for us to provide them with not just financial or material support, but also rehabilitation support, in the form of medical support, psychological counselling, employment support, and assistance in various aspects, to enable them to resume their normal life. For these reasons, the Government will support them in a holistic and comprehensive manner. In this connection, a more detailed account will be given by me later.

Secondly, I would like to emphasize that a number of SARS patients are still in their prime. I trust that they must lead a more positive life, and so they must pull themselves together expeditiously and face the future. Therefore, our paramount task is to map out ways to help them get back on the road and gradually resume their normal life.

Before responding to today's motion and Members' views, I would like to give a summary of the comprehensive support currently provided by the Government to SARS patients, including medical, psychological counselling, financial and employment support.

Insofar as health care is concerned, the HA has been actively following up the medical and health problems of SARS patients. The SARS patients are taken care of on a regular basis by the relevant specialists from the areas of orthopaedic and traumatology, clinical psychology, physiotherapy and occupational therapy. Besides consultations and treatment by doctors, the patients are also given assessments by the HA as necessary, such as pathological and radiological diagnoses.

To provide a more holistic care, since early 2004, besides the specialist clinics, the SARS patients may also be followed up by the HA's Family Medicine specialists in hospitals/clinics which are close to their home or workplace.

To address the long-term medical needs of SARS patients, the HA launched a fee waiver scheme for SARS patients in February 2005 to provide lifelong free medical services to SARS patients for potential SARS-related conditions.

As regards psychological counselling, SARS patients are also followed up by the Social Welfare Department (SWD) and HA as necessary to address their various possible welfare needs, including adjustment to illness, emotional problems, financial difficulties, and so on. Counselling service, supportive group and financial assistance have also been provided to these patients as required. During their follow-up sessions by their medical social workers, patients may also be referred to clinical psychologists of the SWD or HA for enhanced psychological support or treatment on a need basis.

Besides, the SWD has allocated funding to the Hong Kong SARS Mutual Help Association, a self-help organization for SARS patients, to support the development of self-help and mutual help among themselves and their families so as to promote their rehabilitation and integration into the community.

As for financial assistance, today's question also touches on the establishment of the Trust Fund for Severe Acute Respiratory Syndrome (the Trust Fund) in November 2003 to, besides providing special *ex gratia* relief payments to the families of deceased SARS patients, provide *ex gratia* financial assistance to SARS patients, recovered or "suspected" SARS patients who have developed some degree of bodily dysfunction as a result of the relevant treatment.

Over the past three years, a total of 252 applications involving deceased patients have been approved, and a total of \$81.6 million in assistance has been granted. We have supported a total of 634 recovered and "suspected" patients at a cost of \$46.1 million. As many of the patients have gradually recovered, I am pleased to tell Members that the number of people requiring support has dropped to 266. Moreover, more and more patients will recover every month. Taking into account deceased and recovered patients, our financial support offered to SARS patients has exceeded \$120 million.

The scope of financial assistance received by recovered or "suspected" patients, covering monthly financial assistance and medical expenses assistance, is quite extensive, so that the incomes of the patients are the same as what they made before the outbreak of SARS, and medical expenses for treating SARS-related conditions can be reimbursed. The relevant financial assistance should enable them to meet all their needs.

It is expected that the Trust Fund, with some \$20 million left, can continue to support the relevant patients till end 2007.

Employment assistance has been of particular concern to us, as many of the recovered SARS patients are very young people in their prime. The HA has, through its medical and rehabilitation care, monitored the recovery of the SARS patients with a view to helping them to gradually resume their normal life and jobs as far as possible. As pointed out by me earlier, our paramount task at present is to address their needs in this area.

The HA launched an integrated rehabilitation programme in September 2005 for HA staff to expedite their recovery and help them to resume work as far as possible. The HA would arrange jobs for their employees according to their health conditions. For example, a health care worker may first take up some simple non-clinical duties for a while, with his/her duties and responsibilities being gradually increased to a normal level in accordance with a rehabilitation plan agreed between the health care worker and his/her doctor.

As for non-HA staff, "Patient Retraining & Vocational Resettlement Service" is offered by the HA in two hospitals, in collaboration with the Employees Retraining Board, to provide work retraining to patients with chronic illness and disabilities, including SARS patients, and help patients, through an employers' network, to seek jobs. These services help the patients to learn basic work skills and adjust to work life.

By end January 2006, the HA has helped 149 recovered SARS patients under the two programmes. The majority of the HA staff have returned to work, and 15 non-HA SARS patients have resumed work.

Besides, SARS patients can obtain a comprehensive range of free employment training and assistance services provided by the Labour Department (LD), SWD and Skills Centres of the Vocational Training Council.

To start with, since March 2006, the LD has been according priority to SARS patients seeking help at its job centres by providing personalized job matching services through, for instance, setting up special counters, providing priority employment services and reducing their waiting time. Besides, a designated placement officer has been appointed in the job centres to help the

relevant patients to actively seek suitable jobs and introduce to them suitable training offered by the Employees Retraining Board where appropriate.

The LD has also launched the Work Trial Scheme to enable job-seekers who have difficulties in finding jobs (including SARS patients) to participate in a one-month work trial, with a view to helping them to grasp employment skills and acquire work experience. On satisfactory completion of the one-month work trial, the participant will be paid an allowance of \$5,000, of which \$500 is contributed by the participating organization. Should the participant demonstrate good performance during the work trial, the LD will encourage the participating organization to give the participant a formal offer.

The LD has also launched the "On the Job Training Programme" to enhance the employability of SARS patients and people with disabilities and enable them to receive job attachment, job trial and post-placement service. SARS patients aged between 15 and 24 can even participate in the "Sunnyway programme", under which they will receive an additional 180-hour employment training.

As some of the patients have reflected their poor knowledge of the relevant rehabilitation and employment support services, the HA and SWD, in collaboration with the relevant non-governmental organizations, will drum up publicity and take the initiative to get in touch with patients who have not yet resumed work and invite them to participate in the relevant programmes. It is most important for the recovered patients themselves to take the first step to participate in rehabilitation programmes and attempt different jobs, probably including those different from their previous jobs in nature, so as to enable them to gradually build up confidence and resume normal life.

Before responding to the major question of relaxing the upper ceiling of the Trust Fund, I shall express the Government's present views on the remaining two issues concerning bringing "suspected" SARS patients and all deceased elderly SARS patients under the Trust Fund.

Some Members consider it necessary to bring the families of deceased "suspected" SARS patients into the ambit of support under the Trust Fund.

It is understandable that, during the outbreak of SARS, "suspected" SARS patients were segregated, treated and taken care of like SARS patients, by the

HA for the sake of disease prevention and cautiousness. I still remember while I was at Queen Mary Hospital, more than 2 000 people in total were admitted to "suspected" SARS wards for a brief stay of not more than one or one-and-a-half day. Only 53 of them were confirmed to be SARS patients. These "suspected" SARS patients were treated according to their condition, and no misdiagnosis had been reported. In the end, the causes of death of the patients, whether according to doctors' or Coroner's professional opinion, were found not attributable to SARS, but to other diseases, such as lung cancer, emphysema, heart disease, pneumonia caused by bacterial infection or viruses, and so on. Furthermore, it has not been medically proved that their deaths are associated with SARS medication.

Based on the abovementioned principles, we consider it unjustifiable to alter professional opinion by administrative means. Therefore, it is inappropriate to bring the families of deceased patients under the Trust Fund.

Some Members hold the view that it is necessary to provide special *ex gratia* relief payments to the families of deceased elderly SARS patients, regardless of the affected families having been relying on the deceased for financial support.

Actually, 105 applications, involving 99 deceased elderly SARS patients, have been approved under the Trust Fund to provide relief to their surviving spouses, dependent parents, dependent children, and other family members.

I believe Members will understand that, in order to help the most needy persons with our limited resources, we will first consider the financial contribution of the deceased patients to the applicants before their death in determining whether or not special *ex gratia* payments should be granted. To ensure that assistance is given to cases warranting special consideration, all the relevant factors relating to the applicants were taken into account by the Trust Fund in vetting and approving the applications. The factors considered include the applicants' financial position, family and health conditions, their relationship with the elderly deceased patients before death, such as whether the deceased patients had assisted in taking care of the grandchildren at home, and so on. All cases requiring special consideration have now been approved. There are no more controversial cases as all applications lodged by the families of deceased patients have already been dealt with.

Lastly, I would like to give the following response to Members' proposal of relaxing the Trust Fund's \$500,000 ceiling.

When the Trust Fund was established in November 2003, the principal consideration was that many SARS patients had left behind dependent families and some recovering SARS patients might develop dysfunctions that would affect their work, thus some financial assistance was necessary to tide them over.

Given that patients have gradually recovered, as I stated earlier, we consider our prime task now is to help them resume normal life, forget the past, resume work slowly, and integrate into society. We understand that these are the wishes of the majority of the patients too. For these reasons, the HA, LD and SWD have been providing the required assistance in this area, including rehabilitation training, employment training and retraining, job-seeking assistance, and so on. Experts of the HA also believe that the patients are capable of gradually resuming work and leading a more positive life.

As regards whether it is necessary to give continued support to people who have received up to \$500,000 under the Trust Fund, I have listened attentively to the views expressed by Members earlier. The Government has adopted an open attitude. Personally, I also find it necessary to give extended support to some of the patients and address their needs. However, not every patient has such special need.

We understand that some needy patients may take a longer time to recover from their bodily dysfunction and receive retraining, as appropriate, before slowly resuming their normal life. We have provided support to SARS patients in many aspects. The establishment of the Trust Fund is just one of the means to help them gradually resume normal life. Some individual patients may need to make changes to their life or work. In this connection, we hope to assist them in various aspects in adjusting to their new life.

We have listened to the views expressed by Members earlier. I also believe today's question will be supported by the majority of or all Members. We will surely study and consider the matter in detail. As I stated earlier, we will adopt an open attitude in considering extending the assistance to needy patients. However, we must not forget three major principles in rehabilitation. First, we must support the patients in a positive manner, instead of pitying them,

so that they can face life themselves; second, we do not want to see any initiatives which will encourage reliance. Instead, they should be self-motivated to break through their views of facing their disabilities, depression and themselves; and third, assistance should be offered to them under various circumstances and forms of support. Therefore, we will not consider giving them pecuniary and material assistance on a long-term basis and conclude that we have done what is required of us.

For those SARS patients who have reached the ceiling, we will surely consider giving them further support. However, we must first understand their individual situation. As I stated earlier, the Trust Fund has adequate funds to meet expenses till the end of next year. We will decide on whether it is necessary to revise the operation of the Trust Fund sometime later. We will further review the matter with Members.

Thank you, Madam President.

PRESIDENT (in Cantonese): During the delivery of the Secretary's speech, Miss CHAN Yuen-han returned to the Chamber and pressed the button to request to speak. It was not in compliance with the general practice adopted by us during a motion debate. However, Members are not disallowed from speaking under such circumstances according to the Rules of Procedure, for the Secretary is not the last one to speak in this motion debate. After I give Miss CHAN permission to speak, I will ask the Secretary whether he has to make another response. However, I hope Miss CHAN will not leave the Chamber should she wish to speak in a motion debate in future.

MISS CHAN YUEN-HAN (in Cantonese): I am sorry. I was working on some cases upstairs and at the same time, watching the live broadcast of this meeting. I thought that I could manage to return in time, but I failed. I am really very sorry for being late.

Madam President, we heard the sincere and heartfelt speech given by the Secretary earlier, especially when he mentioned at the very beginning that some of the SARS patients or deceased patients were his friends. We all share his feeling because we had fought the battle together in Hong Kong.

Today, Dr Fernando CHEUNG moved this motion on behalf of the panel because there are words which we want to say eagerly. We were not saying that nothing had been done by the Government, nor our views had been totally neglected during the course. But the fact is that, problems do exist.

Madam President, I had also talked to some SARS patients and the Secretary on this issue sometime ago, and I recalled that the Secretary had just assumed office at that time. Of course, when we discussed the charges of public hospitals, he said he had to consider the issue. And yet, the problem was soon settled. We have not forgotten these things. Just as he mentioned earlier, concerning the \$500,000 ceiling set under the Trust Fund, he opined that an open attitude could be considered. I agree that this is a good approach, but I do have some personal views about the last part of his speech.

Like any other Hong Kong people, I think that the SARS patients or their families have never thought of asking for the pity of others. They simply want to talk about the difficulties they have encountered. For instance, the staff of the Hospital Authority (HA) whom I have met, were all committed to saving patients during the SARS outbreak, regardless of their rank and even their own lives. Some of them also contracted SARS during the course. Strictly speaking, they are the unsung heroes who fought against SARS at that time. However, the way in which the HA has treated them so far is rather questionable. The HA often told its staff, "You are our staff. Despite that you participated in the fight against SARS, we have to act according to the established terms and conditions." How discouraging this kind of attitude is. I have not seen any staff demanding government support for the rest of their life after winning the battle. None of them have done so. The fact is that they have encountered certain difficulties during the course of rehabilitation.

Let me cite an example. Despite that paid sick leave for HA staff suffering general employment-related injuries will cease upon assessment, this group of staff fought in the battle against SARS and contracted the disease during the course. If the same terms and conditions were applied to them, I personally find this rather questionable. For instance, one of the terms stipulates that the leave of staff can be accumulated only after four years' of service. Yes, all general staff of the HA are treated in this way. And yet, they are the ones whom Hong Kong people respect and love so dearly, so why should they deserve such treatment? I have to repeat that, I started off with the speech of the

Secretary earlier because I believe he should share the same feeling for he was also present at Queen Mary Hospital at that time. I hope that the whole Government will cherish this group of staff. They did not put the blame on anyone, nor want the Government to do anything. They simply want to have an opportunity to fully recover when they encounter any difficulties.

Furthermore, I also heard the Secretary mention "suspected" patients. People at different position may have different views on this matter, and from my personal experience, such cases are in fact not uncommon. They only had fever at first and had not contracted SARS. No one should be blamed in view of the tense situation in various hospitals. Some of them had passed away while others suffered from such problems as avascular necrosis or others. It was, however, most saddened for me to see that the families of the deceased had no say at all in asking for better treatment and support from the HA, which is most unfair to them. Despite that they did not blame the HA, some of them had sought legal clarification. But no matter how, should the Government not consider from their angle as well? I do not have the feeling that they wanted to get more compensation for being "suspected" patients, which is not true. They have merely stated their own problems in a practical manner.

Madam President, the Secretary also mentioned that the Government and other departments would help them integrate into society in all respects. I think it is a good step. I must, however, relay one point. In view of the prevailing labour market, it is extremely difficult for them to secure a job in the course of rehabilitation even if sufficient training is given to them. Of course, I welcome the Secretary's remark that certain posts in the HA would be made available to them. Besides, efforts should also be made to provide jobs to them because it is necessary for us to accommodate them. Some "suspected" patients may say, "Why is support only given to confirmed SARS patients but not us?" I think that this issue warrants discussion. I also eagerly hope that Secretary Stephen IP, who has a good grasp of the labour market, will take into account the group of people who is earning a very low income in Hong Kong. A recent study report shows that the unemployment rate of this group of people, which stands at 6%, is higher than the 5.2% general unemployment rate of Hong Kong, where the latter relates to people who are physically fit. It is actually extremely difficult for these chronically-ill people to secure jobs in the market. Despite the fact that training will be provided to them, the ultimate purpose of securing jobs for them is indeed very difficult to achieve unless certain posts are reserved for them, which is a different matter.

Madam President, the outbreak of SARS is a misfortune and tragedy to Hong Kong, and the victims are the most unfortunate ones. I eagerly hope that the Government will not look at them in this way, thinking that all they want is to get more compensation, but will address their plight squarely. I think it is equally important for them to be treated according to the spirit of humanity. I hope that the Government will treat them in a better way, especially those health care workers who were committed to saving the lives of SARS patients at the front line, regardless of their own lives, and will try to avoid the recurrence of similar incidents. Touch wood — I do not want it to happen again. It is no good to have the Government's attitude in mind as it will result in a loss of morale.

Madam President, I so submit and thanks for your indulgence and tolerance. Thank you.

PRESIDENT (in Cantonese): Secretary, would you like to reply again?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): President, the points raised by Miss CHAN earlier have been covered by other Members in their speeches. As I have already responded from four levels with respect to four major principles on rehabilitation, I have nothing more to add.

PRESIDENT (in Cantonese): Dr Fernando CHEUNG, you may now reply and you have two minutes 27 seconds.

DR FERNANDO CHEUNG (in Cantonese): On the whole, President, I am disappointed with the response given by Secretary Dr York CHOW just now. The Secretary still insisted that "suspected" patients have to be scientifically proved, while the families of deceased elderly SARS patients have to be considered from a financial angle: whether they had contributed to their families, or whether their families have financial needs now. Though we are very pleased to hear the Secretary say that the \$500,000 upper ceiling will be considered in an open-minded manner, there remain some restrictions or requirements. It has even been mentioned that we must not pity recovered patients, tolerate reliance and, what is more, create a situation in which pecuniary or material assistance is offered permanently.

I personally find the several requirements mentioned above quite distressing, not just a bit disappointing. I believe the Secretary might not truly understand how the recovered SARS patients feel at present. First, the Secretary has already pointed out earlier that the number of patients, now stands at 200 or so, has continued to drop. The fact that the patients are recovering demonstrates that they have no intention to entangle themselves with the Government or blame anyone. If they can lead an independent life after recovery, they will certainly do so. However, 20 of the 130 patients battered by avascular necrosis have not seen improvement in their conditions, and a few of them have even found their conditions worsening. These people — we are talking about very few of them — are losing hope in life as they see that the \$500,000 ceiling will be reached sooner or later. Secretary, can you give us an unequivocal and positive reply and a clear plan? I hope the relevant panel of the Legislative Council will continue following up this matter. I also hope to hear some more positive responses. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Fernando CHEUNG be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question has been agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Third motion: Review on Urban Renewal Strategy.

REVIEW ON URBAN RENEWAL STRATEGY

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

Over the year since last May, when I was appointed a Non-Executive Director of the Urban Renewal Authority (URA), I have had the opportunity to observe at close range how the management and all members of the staff strive to improve the efficiency of renewal in accordance with the guidance of the Urban Renewal Strategy (the Strategy).

Though the efforts put in have not gone unnoticed, my office has been receiving a lot of complaints and criticisms lodged by the public against the URA. There are those demanding *in situ* rehousing and yet being disappointed. There are those finding their conditions of living far worse than what they were before relocation. There are those being forced to wind up small businesses that they have been operating for decades under much hardship. There are those unable to realize their wish to move away. There are those desirous of staying behind and yet being forced to leave by the Government under the Lands Resumption Ordinance. There are also those becoming depressed and uncommunicative after being forced to part with their long-time friends. Madam President, earlier on Sham Shui Po District Council commissioned the University of Hong Kong to conduct a survey on property owners affected by redevelopment projects. It has been discovered that as high as 40% of the property owners have new homes in buildings more than 30 years old. And that more than 40% of the property owners can only get new residential units smaller than their old ones. Their situation can be said to be like this: "Feeling anxious about collecting money but regretting it afterwards." Some might say that such cases only account for a small proportion among those affected by redevelopment. Granting this to be true, the Government still should not ignore them. Moreover, this is likely to be just the tip of the iceberg.

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

While gorgeous new buildings are cropping up one after another, it has not been possible to fend off all the negative comments and accusations levelled

against the URA. When the vision and direction of urban renewal set out in the Strategy are put into practice, they often deviate greatly from the ideal. In addition, the Secretary for Housing, Planning and Lands for long has not reviewed and updated the Strategy at regular intervals of two or three years as stipulated in paragraph 39 of the Strategy. So, in order to properly address the aforesaid situation, the Bureau has got to sum up experience right away, change the mindset adopted for urban regeneration, and immediately review the Strategy that has been in force for five years.

One major obstacle created by the Strategy for the work of the URA is the requirement to achieve "self-financing" as set out in paragraph 35. As the URA has to be "responsible for its own profits and losses," it naturally has to "keep an eye on the books," and seek to make profits from every project. An indispensable way to gain greater profit is to maximize the floor area by enlarging the plot ratio. The payment of *ex gratia* allowance equal to a so-called "seven-year-old notional flat in the same locality" also fails to sufficiently reflect the development potential of the site on which the building stands. For this reason, tension emerges between the URA and the residents. Because of the need to seek profits, it is even more difficult to fully implement the "people-centred" approach stated in the Strategy.

On the other hand, paragraph 21 of the Strategy has given rise to a *modus operandi* of "planning before resumption of land", creating another obstacle for the mission of urban regeneration. It is required that (and I quote) "offers of purchase should be made after a project has been approved but before the land reverts to the Government". (End of quote) In order to increase profits so as to achieve "self-financing," the URA must put forward high-density construction plans featuring ultra high plot ratios to secure financing. However, at the same time, it also has to heed the needs of the environment and sustainable development of the community. As a result, it is caught in a dilemma. High-density construction plans are often vetoed by the Town Planning Board (TPB). On account of all the procedures required by law and the pressure arising from public opinions, the planning process has invariably been protracted.

So long as planning is held up, the URA cannot acquire the land and pay the compensations. Given such a pattern, one that goes against normal market practice in calling for "planning before resumption of land", redevelopment

remains something indefinitely far away and the residents can do nothing but grow anxious. By the time they get their compensations, they can ill-afford the seven-year-old units in the same locality or in the neighbouring area because the prices of properties in the vicinity have gone up in the wake of the development project.

The redevelopment project to be launched in Kwun Tong by the URA precisely reflects such an absurd situation. For 18 years, residents of Yue Man Square have been waiting anxiously in their buildings affected by salty water, constantly bearing with the corroded ironwork, wobbly concrete, leaky external walls, and mosquito-infected environment. To wait one more day is already too much. However, since the implementation of the Strategy in 2001, the Kwun Tong project has made no major substantial progress. The "people-centred" approach has hardly brought any immediate relief to their hardship.

Deputy President, to eradicate all these problems, it is necessary for the new strategy to adopt a more flexible and creative mindset that could better meet the needs of the local community. Having made reference to overseas experience, I put forward in the motion the suggestion that the Strategy should introduce six key elements to usher in a mindset of community regeneration and policy-making process on the basis of a bottom-up approach. Also, the URA should be set free from the constraint of "self-financing", and be tasked to play the role of a more forward-looking facilitator. Instead of single-handedly taking upon itself the duties of land resumption, redevelopment and investment, it has to take the sideline in helping and promoting urban regeneration projects.

Deputy President, the Government might as well set up a loan fund with the capital injection of \$10 billion made by the Government when establishing the URA so as to help the community conduct researches and carry out practicable community regeneration proposals. Also, in order to tie in with the latest course taken by the Government to give more weight to the District Councils (DCs) with regard to their role in the community, the DCs should be allowed to perform in the new strategy for community regeneration the function of consolidating local views on planning and community regeneration. The new strategy may even give encouragement to professional groups of planning, construction, engineering, surveying and law for them to take the initiative to assist at the district level, or even make arrangements for every two or three DCs to share their professional input so as to help the development and regeneration of each district.

Ideas in the community that are for the betterment of the community should first be sorted out at the DCs by professionals so as to produce practicable preliminary proposals, for which professional advice of a higher level should be sought with loans from the URA in order to attract developers to take part in the projects. Once there is a developer willing to participate, the URA should provide the project with a second loan or credit guarantee so that ideas on community regeneration originating from the community may come true.

In such a process, proposals all originate from residents' ideas. There can be active participation by the DCs. More business opportunities are also created for the professionals and developers. The URA is to pay full attention to guarding the loan fund, and play the role of co-ordinating and promoting community regeneration proposals. Such a course, one that allows adequate participation by different stakeholders, is definitely far better than the approach under which the URA first sets the proposals and later on inform the people through the district advisory committees of a nearly fixed plan.

Deputy President, the Urban Redevelopment Authority of Pittsburgh, the United States, is an example of community-led initiatives. There the community residents may apply to the Authority for loans or professional support to help them revamp streets or landscape the places so as to improve their community.

The Abandoibarra Project of Bilbao, Spain, has not only developed a cultural arts district, but also taken up the work of renewing old districts, such as fixing the rivers, streets, piazzas and buildings. The company in charge of the project is Ria-2000, which, formed by the central government, the local government and various public organizations, has pooled together the participation of departments from various policy areas and also effectively brought most of the stakeholders to accept each other mutually and to embrace the regeneration jointly.

Furthermore, community regeneration often involves policy areas and legislation of a higher level. It also has to tie in with developments taking place in neighbouring communities. To take urban renewal projects as separate items or sites is to ignore the fact that adjoining communities are closely related and mutually dependent. It also prevents any comprehensive consideration of the knock-on effects arising from changes in the community structure, such as population, economy and demands for social facilities.

The Government should not simply pass renewal projects to the URA and tell it to be self-financing. Instead, it should approach from a cross-bureaux level so as to co-ordinate the regeneration of all old areas in various districts, and actively meet the needs of redevelopment with reference to policies and legislation. In Britain, the Government entrusts to the office of the Deputy Prime Minister the task of co-ordinating and supervising the work of community regeneration. Some old districts have even been successfully developed and regenerated in the form of social enterprises.

Deputy President, it is hoped that the motion can serve as a bait to attract valuable comments. It provides the groundwork for Members to speak their minds. Different parties/groupings, different sectors or different stakeholders do not necessarily share the same views. However, it is believed that there is a general consensus that the Government should be urged to expeditiously review the Strategy. Procrastination can only force the URA to remain in the dilemma of having to seek profits and yet be people-centred at the same time, and oblige anxious property owners to quit by giving in to drastically suppressed acquisition prices. They are to see in the days to come how totally different their old communities may look. Given the sharp rise in property prices, they can hardly return to their former conditions of living with the compensations given.

Urban regeneration ought to bring fresh hope and new look to the residents instead of creating, one after another, new communities strange and cold to the people. It is with great reluctance that the people, after waiting day in and day out for a long time, bid farewell to the communities that they are familiar with. Deputy President, only by reviewing the Strategy expeditiously can members of the public again have confidence in the work of community regeneration. Unity is strength. Then there can be better efficiency in addressing the issue of urban ageing.

With these remarks, Deputy President, I call on Honourable colleagues to support the motion.

Mr Alan LEONG moved the following motion: (Translation)

"That, as the vision and direction of urban renewal set out in the Urban Renewal Strategy (the Strategy) often deviate greatly from the ideal when they are put in practice, which not only seriously jeopardizes the interests of the affected residents and shop operators who are deeply dissatisfied

and frustrated due to their being deprived of their rights to choose and their misery, and even impedes the efficacy of the Hong Kong community as a whole in dealing with the problem of urban ageing; and as the Urban Renewal Authority (URA) gives people the impression of focusing solely on commercial interests when launching redevelopment projects and also fails to observe the principles set out in the Strategy, such as the "people-centred" approach, this Council urges the Secretary for Housing, Planning and Lands to face up to the deficiencies and shortcomings of the existing Strategy, to immediately discharge his statutory duty to review the Strategy which has been in force for five years, after conducting public consultation, and to create conditions for URA to play the role of a more forward-looking pioneer to more effectively address the problem of urban ageing; the issues to which special attention should be paid in conducting the review should include:

- (a) devising a comprehensive urban regeneration strategy, and adopting a more flexible and creative mindset that could better meet the needs of the local community, in order to replace the existing strategy which is led under a demolition and redevelopment mode;
- (b) implementing a community planning regime whereby relevant professionals are encouraged to participate in the early stage of consultation to help consolidate the views of different sectors on urban regeneration, so as to enable the relevant parties to participate effectively and truly implement universal planning through a bottom-up approach; and striving to retain the cultural and economic activities which have local characteristics, with a view to preserving the original planning layout, social network and living style in the local communities;
- (c) not adopting a separatist attitude when devising updated blueprints and formulating reform strategies for local communities, but rather promoting co-ordination among the communities and making concerted efforts together with neighbouring communities in pursuing overall developments, so as to achieve the best synergy;
- (d) elevating to the cross-bureaux level the planning and decision-making in urban regeneration; removing unnecessary

bureaucratic restrictions so that different departments can all take part in planning new communities, thereby more effectively addressing the economic, social and cultural problems caused by changes in the local communities; and strengthening social impact assessments to fully reflect the implications of the projects on different groups in the local communities;

- (e) reviewing the legislation such as that which relates to buildings and town planning, etc, in order to better tie in with the different needs of the urban regeneration projects; and providing adequate choices for the affected residents; and
- (f) adopting more flexible financing and loan options to more effectively assist residents and shop operators in improving the community environment; and preventing URA from operating on a purely commercial model or even reducing itself to becoming a statutory real estate developer."

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

DEPUTY PRESIDENT (in Cantonese): Mr CHEUNG Hok-ming, Mr Frederick FUNG, Miss CHAN Yuen-han and Mr James TO will move amendments to this motion respectively. The motion and the amendments will now be debated together in a joint debate.

I will call upon Mr CHEUNG Hok-ming to speak first, to be followed by Mr Frederick FUNG, Miss CHAN Yuen-han and Mr James TO. No amendments are to be moved at this stage.

MR CHEUNG HOK-MING (in Cantonese): Deputy President, the Government set up the URA for the purpose of effecting urban regeneration through a statutory body. Over all these years, quite a few projects have already been completed by the URA. Recently, a housing project developed on land acquired by the former Land Development Corporation (LDC) was put on the market for sale, injecting fresh vitality into Tsuen Wan, an old district. Had

there been no LDC, or if the current URA was not given statutory power to resume land, would it be possible for such a substantial redevelopment project to be completed without difficulty by relying solely on the participation of private developers?

Surely, the URA is not perfect. There have been considerable dissatisfactions voiced against the URA. The "Invitation Cards Street" in Wan Chai and the "Trainers Street" in Mong Kok are examples. Do the current objectives and practices of the URA leave much to be desired? The URA has again and again come under criticism. What is wrong with the URA's current operation? Today, I am going to try to offer an explanation for the aforesaid phenomenon by using the "people-centred" approach. It is also hoped that the URA can learn from criticism so as to further improve the work of urban regeneration in the future.

Deputy President, the "people-centred" approach has always been a main objective in the URA's strategy. The "people-centred" approach specified in the Urban Renewal Strategy (the Strategy) consists of four key directions. Firstly, owners should be offered fair and reasonable compensation. Secondly, tenants should be provided with proper rehousing. Thirdly, the community at large should benefit from it. Finally, residents should be given an opportunity to express their views. For the general public, the "people-centred" approach is to let those affected by redevelopment projects move to new homes happily. Following the redevelopment of buildings, residents in the entire community will stand to benefit. However, an ideal is merely an ideal, there is always some distance from reality. Because of limitations in resources and other constraints, the URA has got to "stay alert and count the dishes when eating". So there are deviations from residents' expectations when redevelopment projects are being carried out. As a result, some are happy but some are sad. It also gives rise to conflicts between the residents and the URA.

Deputy President, having summed up the past experience of the URA, I can say that the main conflict between the residents and the URA lies primarily in the following areas.

Firstly, it is compensation for the owners. Residents naturally hope that their properties can be sold at good prices. When the Urban Renewal Authority Bill was under debate in this Council several years ago, there was already thorough discussion on the issue. At that time, the Democratic Alliance for the

Betterment of Hong Kong (DAB) held that compensation should be based on the value of a five-year-old building in the same locality. Regrettably, at that time the Legislative Council gave approval for the calculation to be based on the value of a seven-year-old building. Up to now, the URA cannot but operate according to the book.

From the standpoint of the URA, they have set the target of implementing 225 projects in 20 years. According to the assessment made by the Government in 2001, if there were no financial aid, the completion of these 225 projects would incur a loss of \$78 billion. In order that all projects of the URA could be completed smoothly, the Government had no choice but to make a capital injection of \$10 billion over a period of five years and give the URA waiver of land premium. However, there is one thing worth noting. Our economy was in recession in 2001 when the Government made the assessment. The rate of unemployment reached an all-time high. Property prices kept falling year after year, so the people just had not got the confidence to buy properties. We are now in the year 2006, and the situation is totally different. I earnestly hope that the financial position of the URA can improve as the property market further stabilizes, and that there can be room for us to review the compensation mechanism.

On the other hand, it is hoped that the URA can minimize the time gap between the determination of purchase prices and actual acquisition. If it is not so, when there comes a property boom leading to fluctuation in property prices, this issue will become the fuse triggering off disputes between the two sides. Surely, the most important point is that throughout the entire acquisition process, the URA should maintain a high degree of transparency so as to dispel people's doubts.

Secondly, it is compensation for the shop operators. In old districts, there are often many shop operators who have been quietly serving their long-time neighbours for years. They are usually long-established small businesses on good terms with their neighbours. But such family operations can hardly withstand the impacts inflicted by big chain-store enterprises. It is hoped that the URA can exercise greater flexibility in dealing with acquisition cases concerning certain unique trades of craft. For instance, consideration should be given to the idea of setting aside a particular corner for them to continue with their operations upon completion of the redevelopment.

Thirdly, it is the many conflicts arising from the different aspirations of residents with different interests. A most recent example is the dispute over "Trainers Street" in Mong Kok. Originally the URA proposed to clear the area for redevelopment. Some of the residents objected. The URA then made concession in response to that, proposing to carry out rehabilitation work for the area. Unfortunately, once such a proposal was put forward, another group of residents immediately voiced their objection, and demanded that redevelopment be expedited. As such, should there be clearance or not?

As a matter of fact, all urban renewal projects must go through a statutory process of town planning consultation. After the formal commencement of every project, the URA will conduct consultation for every project. However, the dispute over "Trainers Street" in Mong Kok seems to reflect the point that the current consultation work by the URA is still inadequate. It is, therefore, very much hoped that the URA can learn from experience. For future projects, efforts should be made, by all means, to let residents and professionals of different fields have active participation at an early stage of planning in order to tap the wisdom of all. This can really achieve universal planning with a bottom-up approach before a plan is finalized and announced.

Deputy President, the aforesaid three points are the areas for which I have deep feelings. In due course, my colleagues will discuss in greater detail the problem of timing in respect of projects undertaken by the URA. Next I would like to explain my amendment to the original motion as well as the stands taken by the DAB on the amendments proposed by three other Members.

First, I have made substantial changes to the preamble of the original motion. When I saw the original motion, my immediate reaction was: Is the URA a real estate developer bent solely on profits and oblivious to residents' interests? However, on second thoughts, I just wondered, if the URA was so unpardonably wicked, why among all the completed acquisitions, close to 90% are successful ones, and why residents of other old districts are earnestly looking forward to early redevelopment by the URA and then relocation from their old districts. It is, of course, impossible for every URA development project to satisfy the demands of everybody at one go. Every project is, more or less, bound to displease some people. However, I am of the view that, on the whole, the situation is not as bad as that stated in the original motion. I hold that my amendment is more to the point in assessing the work done by the URA in the past.

Second, the four business strategies adopted by the URA are redevelopment, rehabilitation, preservation and revitalization. It is, therefore, not quite accurate for the original motion to say that the URA adopts demolition and redevelopment as its leading mode of development.

Third, the original motion seeks to elevate urban regeneration programmes to the cross-bureaux level. As far as I know, the Housing, Planning and Lands Bureau so far still does consult other government departments on every redevelopment project. It appears to be a superfluous move to elevate every project to the cross-bureaux level. So I do not support that. Besides, I think that in addition to reviewing the legislation on buildings and town planning, the Government should also comprehensively review the existing land resumption policy.

Fourth, on the question as to whether or not the URA has reduced itself to a real estate developer, I would like to point out that the URA is not operating on a purely commercial model. The URA will launch projects capable of making profits as well as projects deemed to be financially not viable. If the market turns bad, there is every chance for the URA not to recoup its outlay. If the URA could indeed go for exorbitant profits, then there would be no need to make capital injections into the URA with public funds. For the above reasons, I have made the respective amendments.

Now the final point. The DAB holds that when implementing urban regeneration programmes, it is necessary to preserve not just the appearance of buildings. More important is the preservation of the spiritual outlook of the community, for example, things likely to kindle the memories or feelings of the local residents. In the past, many trees that grew up with the communities were felled or even relocated inappropriately. Though redevelopment may give a community a totally new look, yet it may "lose its roots" in the process. It has been repeatedly pointed out by the DAB that the policy on the protection of trees is inherently defective. There is not a piece of legislation specifically made for the protection of certain precious or particularly significant old and valuable trees. It is the DAB's hope that when community regeneration programmes are formulated in the future, special efforts can be made to preserve buildings of historical and cultural significance and to protect old and valuable trees.

I so submit. Thank you, Deputy President.

MR FREDERICK FUNG (in Cantonese): Deputy President, by virtue of experience gained over the years from active involvement in the regeneration of old districts and service to those affected by projects of redevelopment and rehabilitation, the Hong Kong Association for Democracy and People's Livelihood (ADPL) proposed an amendment to supplement the motion moved by Mr Alan LEONG. The purpose of my amendment is to add certain matters that are of special concern to residents of old districts and may enhance community involvement. Among them are: (1) in the area of strategy, the Administration should expedite the acquisition of buildings which are too dilapidated for rehabilitation; (2) the Administration should care for those living in properties covered by projects left behind by the Land Development Corporation (LDC) in order that their reasonable expectations can be materialized; (3) the role to be played by the District Councils in urban regeneration should be strengthened in the future; and (4) the existing compensation mechanism for redevelopment should be comprehensively reviewed so as to plug any loopholes.

Deputy President, when the Government drew up the Urban Renewal Strategy (the Strategy) in October 2001, it was stipulated that the Strategy should be regularly (that is, every two or three years) reviewed and updated. By now, five years have elapsed. There have been big changes in society too. The economy is bouncing up from recession. There was the ravage of SARS in 2003, but the storm is over now. Over the past few years, there have been several major political incidents, such as the misgovernance of the SAR Government, the legislation on Article 23 of the Basic Law, the 1 July rallies and the fight for universal suffrage. All these serve as catalysts for the rapid growth of a civil society. In addition to caring for their own needs, people also seek to have a say in the future political, cultural and economic developments of society. It goes without saying that there is the aspiration for active involvement in community planning and regeneration. It is a pity that there has been undue delay in reviewing the Strategy, which is indicative of the fact that the Government fails to feel the pulse of social development. So, the ADPL strongly calls upon the Government to conduct the review as soon as possible and extensively gauge public opinions so as to establish a set of urban regeneration strategy capable of meeting the aspirations of a civil society as well as protecting the rights and privileges of the affected residents.

Deputy President, when commenting on the issue of urban regeneration, many people will easily fall into some fallacies, one of which being the

polarization between rehabilitation and redevelopment — it is like "either one or the other". But, in fact, being mutually complementary, they really can co-exist. The problem is that in the past the Administration did not really listen to the voice of every stakeholder. In the past, the URA's policy on regeneration tended to be biased, giving excessive consideration to commercial benefits, often assigning to redevelopment the core role in the regeneration of old districts, and failing to give adequate consideration to the opinions of each stakeholder or enable their involvement. As a result, when urban renewal projects were launched, they failed to carry out the "people-oriented" approach, and also denied those affected choices, giving people the impression of an absolute necessity to demolish all old buildings.

The ADPL holds that when planning for the regeneration of old districts, the Administration should, first of all, start by using the overall community planning as the foundation for consideration. Stakeholders, including the District Councils, should be allowed to participate in the overall preparation and planning process so as to engage public opinions right at the outset, and identify through a bottom-up approach a plan that is suitable for the development of the district. While so doing will dovetail with the district's cultural heritage, the district's inherent merits can thus be brought into full play. Buildings with historical value or cultural characteristics should be preserved. There should also be plans to revitalize them so as to preserve established local features and customs.

Deputy President, as District Council (DC) is a body that best represents public opinions, the Administration must, for the purpose of urban regeneration and planning in the future, regularize and institutionalize the "involvement of DCs". A possible way is for the DCs to appoint their members to organizations like the Town Planning Board (TPB) and the URA so as to directly engage public opinions in community planning. By so doing, public opinions are given weight and put into effect. Also, the DCs' involvement in local affairs can thus be strengthened. What is more, residents of each district can develop for the future a community that really belongs to and suits them.

Besides, the ADPL must stress that with regard to buildings that are too dilapidated for rehabilitation, the URA should adopt the approach of expeditious acquisition so as to enable those living in these potentially risky old buildings to improve their poor living conditions as soon as possible. Furthermore, the work of acquisition in fact brooks no delay in the interest of protecting the

residents' possessions and personal safety. The fact is that the acquisition and demolition of buildings that are too dilapidated for rehabilitation can also have the effect of alleviating poverty. Particularly in the case of owners or tenants who are old and poor, compensation and resettlement can be provided to them through the URA making the acquisitions. Their existing living conditions can thus be improved right away. Upon the completion of redevelopment, there will be more community facilities. In future they are going to have easier access to new facilities, new assistance and new services available in the community, thus upgrading their living quality.

Deputy President, there are still six unfinished redevelopment projects left behind by the former LDC. The residents concerned have been waiting anxiously for eight years, inclusive of the time when the LDC announced those projects in early 1998 and the time when the URA took over. Much delayed though they are, the redevelopment projects have never been launched. What is more, according to recent rumours, it is said that for the purpose of disposing of these remaining projects, rehabilitation is to take the place of redevelopment. First of all, I have to make it clear that I have no wish to join the dispute over the polarization between rehabilitation and redevelopment. The most important issue about which I am most concerned is that of residents living in deplorable living conditions as their buildings are "in a state of utter dilapidation." Do we really appreciate their condition? They have been anxiously waiting for eight years for the Government to honour its promise. Is that not reasonable expectation? Should the Government not expeditiously acquire and demolish their areas? So far have we been able to appreciate their situation?

In fact, I have been to one of those areas, namely, Sai Yee Street, the so-called "Trainers Street" just mentioned by Mr CHEUNG. The buildings are pretty run-down. With everybody expecting redevelopment, there has been no maintenance. Most of the buildings have no elevators. Some elderly property owners who live on the upper floors have to walk up from the ground level to their upper floor units, and they have to pause three or four times on the way to catch their breath before they can continue the ascent.

Now another issue. Next to Sai Yee Street are the Macpherson Playground and the building of a voluntary organization. The URA has made the decision to go ahead with the redevelopment, to construct a 30 or 40 storey tall building there in the future. It is here that a problem crops up. The community will gain no additional space or facilities. On the contrary, more

people are going to move in. A building originally carrying eight or nine storeys is to be converted into a high-rise with 30 or 40 storeys. The congestion will thus become worse. Given all these, such a redevelopment project can be of no help to the community. According to my information, so far 70% of property owners at Sai Yee Street have put down signatures asking the URA to expeditiously honour its undertaking by carrying out the demolition and redevelopment. Recently, members of a working group of Yau Tsim Mong District Council unanimously objected to replacing redevelopment with rehabilitation. Under such circumstances, I cannot see how the URA can find another reason or pretext not to honour its undertaking. Redevelopment projects left over by the LDC should also be completed as soon as possible.

Furthermore, Deputy President, I would like to point out that the compensation and rehousing mechanism for redevelopment is another major issue. This is especially true of redevelopment zones outside the ambit of the LDC, that is, Tung Chau Street and Yee Kuk Street in Sham Shui Po. Having registered some tenants and property owners, the URA announced its redevelopment plan, and applied to the TPB for redevelopment. It is going to take half a year or even 18 months before the TPB can officially decide whether or not to let the URA go ahead with the redevelopment of the district. The problem is that current tenants, those occupying shop premises and those occupying the upper floors, are all subject to possible eviction by their landlords during the said period. Why? The reason is that, according to the URA, not until the TPB has approved the redevelopment project and a further registration has been carried out can there be rehousing and compensation for registered tenants. We often learn that some landlords are trying to evict their sitting tenants in order to raise rents. The reason is that if a tenant objects to his landlord's request for a rent raise, the tenant will have to forego the chance of rehousing and compensation in the future or the opportunity to be rehoused in a public housing estate. In the case of shop premises, refusal to accept a rent increase or move away will similarly cost one the compensation payable to shops by the URA at the time of the implementation of the redevelopment. Under such circumstances, it can be said that tenants of both shop premises and residential units are very vulnerable. On the other hand, because of this incentive, the landlords might evict their tenants, and then invite their friends or relatives to move in after having each of their units divided into three or four parts, thus providing an easy way to "jump the queue" for the purpose of moving into urban public housing estates. This is ruinous to the reasonable

arrangement of compensation duly payable for urban renewal. It is going to happen in Tung Chau Street and Yee Kuk Street in Sham Shui Po. This issue is just the tip of the iceberg. I hold that the Government should make use of the opportunity arising from the need to review the Strategy to also review the compensation mechanism for redevelopment, with special reference to enforcement and approval details. This is to make sure that the affected residents can benefit from the protection offered by redevelopment instead of being persecuted by the protection offered by redevelopment with the result of having to move to places unknown to them, but not getting any compensation or resettlement eventually. Landlords are taking advantage of a big loophole in the redevelopment process of the URA to let those "queue jumpers" usurp urban public housing units.

With these remarks, Deputy President, I call upon Members to support my amendment.

MISS CHAN YUEN-HAN (in Cantonese): In the past, the mode of our town planning was very much tilted towards real estate interests, with the Government using the URA, the Town Planning Board (TPB) and the Planning Department to level off old districts for sale to consortia for redevelopment. They were given a free hand to erect, by way of redevelopment, screen-like residential buildings of more than 50 storeys or gigantic shopping malls for the purpose of making profits, causing big impacts to the economy and local characteristics of the original communities. Such economy and characteristics might even vanish altogether. Such mode and direction of redevelopment ultimately will only lead to the disappearance of the human networks in the old communities of Hong Kong, thus ruining the links of life in the city as well as resources in the community. Therefore, I hold that in order that Hong Kong can have good town planning and healthy growth, it is most important to reverse the Government's "real estate-led" mindset. In order to change such a mindset, it is, first of all, necessary to comprehensively review the Urban Renewal Strategy (the Strategy).

Deputy President, a sensible redevelopment of an old district ought to be "people-centred". For instance, it should collect demands from residents of the district prior to redevelopment. In addition, residents and local figures should be brought in for them to get involved and join the planning. Redevelopment

may then be carried out phase by phase according to the needs and order of priority for development of the community so long as both the impact on the residents and the changes to be made are kept to the minimum. However, judging from the way in which the URA handles things, we regret to say that it always runs counter to the "people-centred" approach: There is no regard for the lifestyle of those original residents; and there is no co-ordination among the communities. They just do not fit together. As a result, our old neighbourhood, old community and old culture have been utterly uprooted.

Deputy President, many residents of old districts are sentimentally very much attached to the places where they live, and do wish to return and live there upon the completion of redevelopment. However, the fact is that once the URA has made known its redevelopment plan for a district, the residents will have to pack up and leave upon receipt of compensation. There are bound to be many unhappy events in the process. With regard to the future development and arrangement for their original place of residence, there is no venue for them to have any say or involvement. Take the redevelopment at Lee Tung Street as an example. H15, a residents' organization, did unremittingly put to the URA the demand that shop operators be given *in situ* rehousing. Their plan was also forwarded to the TPB for consideration. How did things work out? Their suggestions were all rejected.

Deputy President, stated by the Government in the Strategy are words like "people-centred approach" and "without sacrificing the lawful rights of any particular group". However, just by looking at the disputes between the Government and the people over each redevelopment project, we can see that all these are empty words. Nowadays the so-called urban renewal programme is, in reality, the seizure of more urban land by the Government in a grandiose manner for the use of private developers. If we go deeper, the Government's existing principles on land use are actually casting away local historic traces and cultural heritage, foregoing the economic diversification inherently associated with land use, and indulging in making profits very much under the lead of private developers and getting proceeds from land sales. Our town planning is sinking into depravity, and runs counter to logic. Deputy President, we, the people, cannot but submit meekly. For example, there have been important planning guidelines on preserving the ridge line and keeping the city well ventilated. In 2001 and 2002, the Government repeatedly made to this Council the promise to implement them. However, as there is no statutory requirement, the Government in fact has not observed them.

Deputy President, according to what I have learned from friends in the construction and planning sectors, in order for the development of a city to be "people-centred", it has got to have two levels, one "soft" and one "hard". The "hard" level refers to the "municipal" outlook resulting from architectural planning by the Government for buildings, roads, and so on. The "soft" level denotes the cultural style and spiritual outlook shaped by history and culture. So, in my amendment, I propose to add to the original motion a request to review legislation relating to antiquities and monuments. Also, the Government is being asked to keep those communities with cultural features from demolition pending the completion of the review. This is out of a wish for the Government to preserve the "soft" level.

Deputy President, some time ago I visited France. I noticed that foreign countries are far more progressive than us in preserving both communities with unique characteristics and the culture of old communities. When I was at Avignon (I was told that "Fatty Patten" also bought a nice house there as lodging after retirement. You can imagine how pretty a place it is!), a little town in Provence, I noticed that some church relics dated back to the time of the Roman invasion have been preserved. Also preserved are some areas with Italian-style cottages. I must say that if those relics and cottages were located in Hong Kong, they would have been torn down to give way to real estate development long ago. The reason is that the current Antiquities and Monuments Ordinance is so outdated that it can only protect individual ancient buildings on a point basis. That for the protection of communities with unique characteristics and objects of cultural interest from line to plane is woefully lacking. Lee Tung Street in Wan Chai is a good example. Nga Tsin Wai Village is another example worth discussion.

Some 10 years can be traced from the time of the URA back to the days of the Land Development Corporation. All the time I had been following up the redevelopment issue of Nga Tsin Wai Village. At that time, the entire village was very beautiful. There were long drawn-out dealings with the URA. I carried out a lot of advocacy work in the community, requesting the Government to have regard for the village's history and cultural heritage and preserve the whole village. On the other hand, I also helped the villagers with their aspirations, and assisted in solving issues concerning compensation and rehousing.

Unfortunately, after fighting for more than 10 years, the problem of Nga Tsin Wai Village still remains unsolved because of the "real estate-led" mindset

of the Government. For example, the residents want to have the village preserved but the Home Affairs Bureau has time and again cited the outdated antiquity ordinance as an excuse. Recently Secretary Dr Patrick HO even said something rather unacceptable in this Council. He refused to declare Nga Tsin Wai Village a statutory monument, and just let the village be unduly ruined. These buildings of historic value are bound to be destroyed overnight.

In the course of dealing with the URA, I gained a clearer picture about the URA. I find it as disgusting as a private developer: It has even tried to split up the residents by drawing in one faction and hitting out at another and incited villagers to go to the District Council to overturn the decision to preserve the whole village. How dare they! Furthermore, during these 10 years, the Government has allowed private developers to demolish Nga Tsin Wai Village freely. As a result, the village is in utterly bad shape. The living conditions of the residents are comparable to living among ruins. The situation is very bad. How about the outcome? This project, designated by the URA as K1, has been put on hold year after year. It was originally said that an outline for the development would be announced in late March this year. However, so far nothing has been heard. The Chairman of the District Council told me that I can give him two kicks if there is still no announcement by the end of May. It is, however, said that the redevelopment has yet to be completed. Further discussions have yet to be held with the private developer. The redevelopment project probably will have to be put on hold for another year. If it is so, given the fact that the residents are already living in an abyss of misery, what should they do if some of the buildings collapse during the typhoon season which is already here? Never has the URA cared if they live or die. Never has it taken the initiative to work out with them detailed arrangements for compensation and rehousing. All it cares is to draw in one faction and hit out at another.

Deputy President, the case of Nga Tsin Wai Village shows that the Government, for reason of according priority to real estate, totally disregards the protection of local culture and relics. All that the Government knows is the tactics of "demolition". What will come of that? That can only result in a situation in which upon the completion of redevelopment, all our 18 districts will just look alike, all identical, with no individual characteristics. Yet there is now talk about bringing in local characteristics for the 18 districts. It is sheer empty talk. With only tall buildings, shopping malls and luxurious apartments in the streets of Hong Kong, I wonder what local culture can be found, and what sort of cultural tourism we can promote.

Deputy President, the long-established lifestyle among old communities and long-time neighbours in fact epitomizes the Chief Executive's oft-mentioned Hong Kong spirit of mutual support, mutual understanding and persistent hard work. In addition to all that set by the Government, there are also the orderliness and characteristics of the community shaped by the residents as a matter of course in conformity with their life in an old community full of "human touches". For instance, in the park located in the street market in Wan Chai (for I live in Wan Chai), old people still pass their time chatting with each other in the street. Kids may run around among the shops that they know so well. Housewives care for each other, and also help each other. My family was poor when I was a child. Fortunately, there was help from many people. As they are long-time neighbours living in close proximity, they are able to live happily all along. There is help even for the poor. An old community can serve as a senior centre and a child care centre, and provide a venue for women to help each other, or for information to spread, or even for law and order to be maintained. How can the Government uproot all these characteristics for no good reason? Why rush to demolish it even before obtaining full support for that?

Deputy President, it is hoped that the Government can totally free itself from the mindset of serving the real estate market when carrying out urban renewal in the future, and make real efforts to give effect to implementing the ideas specifically stated in my amendment so as to really achieve "people-centred" regeneration for the communities on the premises of safeguarding the rights and privileges of those living in old districts, preserving objects with historic value or cultural features, and conforming to the sustainable development of each community.

Deputy President, I said so because even though I have raised questions many times, lamentably, the Government just does not listen. I really have the strong worry that if the Government keeps shilly-shallying for the next few years, then those living in old districts will have a hard time when a typhoon season or a heat season hits Hong Kong. However, the Government just does not care whether they live or die. The Government also does not heed their opinions, but will, in one blow, knock down all the buildings. I am really worried what will eventually become of Hong Kong.

The recent Golden Week gave Hong Kong a very significant warning. What tourist attractions can we offer to compete with others? Hong Kong, a place where Chinese culture and Western culture meet, is in a good position to

attract visitors, and there are many pretty or special places. An "invitation card" street can indeed attract many people. Nga Tsin Wai Village is also very special. Can Hong Kong develop something like Xintiandi in Shanghai? Why is Shanghai able to build a place like Xintiandi to merge the old with the new? Why does Hong Kong not give this a thought? Yue Man Square in Kwun Tong has got many small businesses. Why not listen to their views? Why just bargain with private developers? How come it is still necessary to hold talks with private developers over Nga Tsin Wai Village? Deputy President, it is hoped that the Government can indeed implement the "people-centred" approach. Listen more to the people's views instead of just letting us know at the end whether or not it is okay after all the talks between government officials and private developers. It is so for Kwun Tong; same for "Trainers Street". In my opinion, whether or not it can cover the capital costs should not be the sole consideration. In considering the capital costs, we might have to give up ventilation and many ingredients of health for our city. Why must we compel them to strive for a so-called high plot ratio? Deputy President, I find the URA very pitiable. Billy LAM is also very pitiable because he is being restrained by an "invisible hand" obliging him to cover capital costs. Therefore, I hope today that Members can calm down and have a full discussion. There should be no more senseless moves. However, with regard to projects already announced, efforts should be made to complete them as soon as possible.

Deputy President, I so submit.

MR JAMES TO (in Cantonese): Deputy President, ever since 1991, when I was elected a Member of the Legislative Council, I have so far moved 14 or 15 motions on redevelopment. For six years, I had been a Director of the Land Development Corporation (LDC). Of all the constituencies, West Kowloon is the one with the largest number of redevelopment projects. It is also the most active one in this respect.

Over these 10-odd years, the residents' mindset has indeed been changing. As far as I can recall, between 1990 and 1991 (or in 1989), when there was a plan to redevelop the former Sham Chun Street, I joined hands with the residents to object. Why? The reason was that property prices were then rocketing, but the compensation offered by the Government was too mean and harsh. In the end, there was no redevelopment. From 1991 to 1997 or 1998, there were many disputes over the amounts of compensation payable in respect of

redevelopment projects. On the whole, however, the residents were desirous of the implementation of redevelopment. Certainly, with regard to detailed arrangements, there were areas causing dissatisfaction or displeasure. However, the residents, generally speaking, were desirous of the implementation of redevelopment. What is the situation now? According to my observation, there have been some changes among the residents, but they are not major ones.

We have got to look at it carefully. Is what we said too idealistic? Among the residents there are indeed some thorny internal contradictions. For instance, most shop operators are not keen about redevelopment as they have already established a rather stable business environment and the values of shop premises are always rising. However, the situation of those upper floor residents is abject. So they ask us to press for early implementation of redevelopment. If someone suggests to those living on upper floors to preserve the special features of their community, probably only those not living in the community might find them special. The collection of night soil is an example. It is probably not bad to preserve night soil bucket as a special feature. Then, let it be preserved as Hong Kong no longer has such a special feature. However, for residents of those buildings, they may not "forgive" anyone who seeks to preserve that.

In order to preserve objects of cultural value, it is in fact necessary for the Government to allocate extra funding. Since the public have shared memories or feelings over something like the Victoria Harbour or cultural antiquities and semi-antiquities, it is therefore necessary to collectively pay for their preservation through the Government. In a situation where the whole job of preservation is assigned to the Urban Renewal Authority (URA) with a bottomline set, and the URA is diffidently told to get it done, then whenever the URA is "unable to balance the accounts", there will be serious conflicts. For example, when considering terms of compensation, the URA will be always "very calculating," saying this and that, being very harsh. Arrangements for rehousing will be poorly done, all things being subject to meticulous calculation. Architectural plans will definitely go for the maximum number of floor levels, which, as noted by Alan LEONG, may not get approval from the Town Planning Board (TPB). However, as far as I know, the TPB has never rejected projects proposed by the URA or LDC.

Therefore, generally speaking, there have been conflicts but I will not say that the former LDC or URA is good for nothing. The reason is that when

contacted afterwards, approximately 70% or even more of those residents (the majority are still living all over their old districts) are found to be satisfied. It is quite a pity that those who are unhappy, making up the other 20% to 30%, are mainly bickering over some particulars, such as compensation options and the calculation of floor area or shop space. These are areas of their main dissatisfaction.

However, how should we look forward? First of all, to be fair, I am to set a bottomline, namely, not to alter the existing formats of rehousing and compensation. Why? Because I, given all the experience gained over the years, have arrived at the notion that provided that things can work out on the existing basis, at least 60% to 70% of the people are satisfied. I just wonder what if a little adjustment is made to this line. (Today, a few Honourable colleagues even put forward the idea of preserving things like antiquities.) I cannot see the reason why we should jeopardize the usual practice unless we are confident that the Government will definitely make sizeable additional allocation. My biggest worry is that the baseline of the entitlement to reasonable compensation and rehousing for those living in those areas will be jeopardized. I, therefore, am not in favour of making so much ado. All in all, the first thing for setting the bottomline of the baseline is not to move that line.

Why am I so worried? In fact, it is not for no reason. The reason is that in November 2005, after the delivery of his policy address, the Chief Executive — it is, of course, this new Chief Executive — in response to a question put to him on a radio programme from a listener wishing to know why there had been no redevelopment for Kwun Tong so long, made an instant reply. I know not how well he at that time grasped matters about redevelopment as he had to answer many questions then. However, it appeared that he did understand the position of the said redevelopment project. What core information was in his grasp? It was that the delay was due to the excessive compensation required for the redevelopment. Given the fact that our Chief Executive replied right away that the compensation was excessive on hearing the question, I have every reason to believe that over the past year or two, informed sources, including those in the Government or even those in the URA, have been constantly saying that "compensation for redevelopment is too high", and that "(residents/property owners) are hitting the jackpot as each of them is getting several apartments for compensation." So this is the kind of information that the Chief Executive has received. If this kind of information is indeed in circulation, my main worry is

that when there comes a review (which is, of course, something good as improvement can then be made to defective areas discovered), those to get the first blows are going to be those residents and property owners. Therefore, I think it is necessary to set the baseline first.

Well, is there a way to make improvement? In my opinion, Mr Alan LEONG is much of "a newcomer", and he holds his position while cherishing some ideals. This is good. I have somehow accumulated years of experience. However, he may not share my views. Though I am younger in age, I have been a Member for a long time and I have worked in the LDC and URA. My line of thinking is probably already as antiquated as that of "Uncle SUEN". To be honest, I just wanted to speak from the bottom of my heart when studying those so-called new concepts, progress or directions. I think it is fine to try out the "bottom-up" approach. That is to say, the URA is to play only the role of a "loan provider", allowing the residents concerned to concoct the matters among themselves like co-operatives so as to let them "get things done" themselves. Let them hold discussions among themselves to concoct a proposal for further discussions with the participation of professionals. It is then presented to the URA together with an explanation about the merits of the proposal. To be honest, this concept is certainly another extreme when compared with the current practice. At present, it is totally under the planning of a group of URA directors. These directors, among whom Mr LEONG ranks, should speak more on the URA Board of Directors, and conduct as much consultation as possible when a proposal is found to be practicable. However, at present, there is really not enough input from the public.

Can the "bottom-up" approach just proposed solve the existing problem completely? I think a few points have to be considered first, the reason being that the "bottom-up" approach will ultimately result in unsolvable conflicts and contradictions. The acutest conflict will crop up if shop operators are very much against redevelopment whilst residents on the upper floors are very keen about it. It is, of course, possible to redevelop the upper portion and leave the shop premises untouched. But there is one problem: It is too bad that compensation has now been set, and it is set at a level which I, for the time being, find acceptable. So it is necessary to do the calculations again. If it "doesn't add up," there are only a few ways out. One way is to add height to the buildings. However, if the buildings are indeed built taller, there will be complaints about being too crowded or having too many units — Mr Frederick FUNG just said that three additional blocks of Langham Place could be built on

the site of Macpherson Playground, but that is going to be devastating as the district will become very congested. Anyway, it is still fine with Macpherson Playground because it involves less compensation. However, it is impossible to do so at Sai Yee Street.

If the buildings cannot be built taller, then what is the solution? Take Wan Chai as example. We have been talking about the need to preserve its characteristics. As a matter of fact, ever since 1991 I have been asking about the possibility of considering the offers of apartment for apartment and shop for shop. With regard to offering apartment for apartment, more options are now available. Also, the residents on the whole do accept cash compensation. With regard to offering shop for shop, I wonder if it is possible to consider the matter in line with the current concept of shopping malls. Nowadays, a shopping mall, instead of having only the ground floor, may have three to four, or four to five storeys. There are now even some shops occupying upper floors. Given this, I wonder if the idea of offering shop for shop is totally out of the question. The plot ratio is now bigger. There are more shops and more flats. It should be feasible to calculate along this line.

However, if we just attach weight to procedures and cause further delays to those long-delayed redevelopment projects, I very much fear, in the first place, that once I put forward the aforesaid ideas, the residents of Sai Yee Street will not forgive me. It is also my belief that in the event of further prolonged delay, Kwun Tong residents will not forgive Alan LEONG and Fred LI. So, we have got to handle it with care. In fact, the residents have already made known their aspirations quite explicitly. Kwun Tong District is not within my scope of responsibility, however, given my long involvement in the work of urban renewal, trust and views are still being fully demonstrated to me through other people such as social workers.

So, today I am speaking from the bottom of my heart. It is hoped that the Government can work on the existing foundation and find room for improvement. It is, however, essential to refrain from being too idealistic. It should be noted that it is not possible to start afresh.

MR HOWARD YOUNG (in Cantonese): Deputy President, first of all, I have to declare that I am a Non-Executive Director of the Urban Renewal Authority (URA).

With the urban area caught in a serious problem of ageing, it is estimated that in the next 10 years, the number of private buildings over 30 years old will sharply increase by 70% to reach a total of 22 000. It is, therefore, possible to forecast that the mission of the URA is going to grow tougher and last longer.

Today, I do not intend to comment on the URA's achievements and failures, but would like to take a broader view to see how best the role being played by the URA can be strengthened or improved.

In the first place, I am of the view that, when reviewing the Urban Renewal Strategy (the Strategy), the Government should dovetail with "Hong Kong 2030: Planning Vision and Strategy," a report issued by the Planning Department (PD), in order to further perfect redevelopment projects. According to working papers on urban renewal issued by the PD in 2002, if the Strategy is to be formulated from the perspective of 2030, then it is advisable to consider the following directions. For instance, in our entire built-up area, there are a total of 1 600 industrial buildings. Almost half of them, that is, 820, are at least 20 years old. By 2007, industrial buildings of this kind will grow further numerically, reaching a total of 1 200, that is, three quarters. Because of our economic restructuring, the role played by long-established industrial areas is declining. So, when it is time for the implementation of redevelopment, the URA may consider giving industrial areas close to residential buildings and of poorer conditions higher priority for incorporation into redevelopment projects. At the time of the last review, the issue of economic restructuring, I believe, probably was not as serious as it is now.

The current Strategy mainly targets the urban area, leaving matters concerning the new towns untouched. The planning of the initial batch of our new towns, such as Sha Tin, Tsuen Wan, and Tuen Mun was started way back in the 1970s. Planning done then was not as sound as it is now. Moreover, some parts of them already show signs of dilapidation. What is more, these new towns may also have the problem of ageing one of these days. To make sure that planning can be more thorough, we should, when reviewing the Strategy, consider incorporating new towns into the scope of urban renewal.

Besides, in the third place, attention should also be given to the community-oriented principle at the time of redevelopment to develop culture-based projects for redevelopment or regeneration so as to show that Hong

Kong is a pluralistic city. To this end, more people, including local residents, concerned organizations and professionals, must be allowed to put in joint efforts to establish for the district its unique culture. Then, there should be merging in the process of urban redevelopment or regeneration. In this way, each district will naturally show its own characteristics of local culture after regeneration.

In addition, in the fourth place, urban regeneration may begin with the "revitalization" of old districts too. Here are some examples. The URA, in association with the Hong Kong Housing Society, is putting in \$100 million to develop at Stone Nullah Lane, Hing Wan Street and King Sing Street in, Wan Chai preservation and revitalization projects with tea and medical care as their themes. They are also to serve as tourist attractions. At Stone Nullah Lane in Wan Chai is a four-storey Blue House. Formerly, it was the Wah To Hospital, a tenement building with balconies and constructed in the style of the 1920s. Just round the corner is the European-style Yellow House at 2-8 Hing Wan Street. It was erected by tea merchants for tea trading. Each has its own characteristics. From this it can be noted that in future, for the purpose of urban revitalization, the URA may put in more efforts to look for structures like the Blue House and the Yellow House so as to work on the preservation of culture. They can even be developed into tourist attractions for members of the public and visitors to jointly share collective memory of the past, and for the memory to come vividly before our eyes.

Finally, I think that when there is a review of the Strategy, it is also very important to look for ways to step up co-ordination with other government departments. For example, if arrangements for demolition and rehousing are involved, especially in cases involving extensive areas of the communities, there can be success only if there is close co-operation among government departments. Only by so doing can the residents' needs be fully taken care of and more proper co-ordination for the overall development in the district be made.

Doubtless redevelopment does not just involve the demolition and reconstruction of buildings. There should also be efforts to preserve, as far as possible, all local characteristics worthy of preservation. I support the URA's current key principles, according to which owners should be offered fair and reasonable compensation according to law, tenants should be provided with rehousing, the community at large should benefit from it, and the residents should be given an opportunity to express their views. It is absolutely necessary

to retain all these. At present, it is being carried on like this. According to what Mr James TO just said, most residents are looking forward to redevelopment, and find the work done by the URA satisfactory. So I think we should keep working and get it done better still.

Deputy President, a comparison between the original motion and the amendment proposed by Mr CHEUNG Hok-ming seems to give the impression that there are a lot of amendments. However, earlier on when I listened to the speeches of the two Members, I noticed that there was great similarity between them. I think it is because both of them want to press on with the policy of urban renewal. One not having heard their speeches and judging solely on the wording of the original motion is prone to have the misunderstanding that the URA is being criticized for its shortcomings. However, as we all know, it is not so. In fact, at a recent meeting of the URA, many members of the Board mentioned that they had done many good deeds but wondered why it was impossible to get the message across. It appears that even today we are giving others the impression that we are also criticizing them. So, having made a comparison, I will support the amendment proposed by Mr CHEUNG Hok-ming.

Thank you, Deputy President. I so submit.

MR RONNY TONG (in Cantonese): Deputy President, Mr Alan LEONG earlier on stated in his speech that the operation of the URA had deviated greatly from its ideal. I think this view is shared by many Honourable colleagues. According to what I gathered from the speeches delivered by quite a few Members, I think they do speak the same mind as Mr Alan LEONG's.

The fact is that the URA has neither a well-defined position nor a direction acceptable to the Hong Kong people. There is, in fact, a lot to be said. However, given just seven minutes of time, I would like to make good use of the seven minutes to speak on three areas. I do not know if I have enough time to finish it.

Firstly, on compensation; secondly, on the economic impact on neighbouring communities; and lastly, if there is time, I would like to speak on the role of the URA.

Briefly on compensation: In addressing the impact of its routine operation on the people, the URA should not just do it in terms of cash compensation. There are a lot of problems with regard to the amounts of compensation. However, the URA has in hand "an imperial sword" of supreme authority, known as the Lands Resumption Ordinance. Once the "imperial sword" is drawn out, the people will have to submit meekly. Seldom can the people gain the upper hand in respect of the amounts of compensation. In the case of compensation for shop premises, the problems that they face are even more complicated than those of the average residents.

In the first place, the location of a shop is, as far as business operation is concerned, unique. Relocation often has great impact on business. In the second place, it is often very difficult for a shop operator to find another shop space to start afresh. Ultimately, once the shop space is resumed, the business has no choice but to close down. The amount of compensation that the operator of a small business receives is totally not in proportion to the costs required for getting another shop space. Also, for reason of changes in the environment, it is just impossible for shop operators to find similar spaces nearby to start afresh. It is likely that they will have to switch over to other trades, and thus get caught in a very difficult situation in their life. I, therefore, am of the view that on this, we should not just consider the amounts to be awarded in compensation. This is a wrong starting point. I think we have got to acknowledge the fact that it is hard to measure in terms of market value the intangible financial losses suffered by shop operators told to move out. Take Lee Tung Street, where I once lived, as an example. Because of the redevelopment at Lee Tung Street, many shop operators lost the economic efficiency already accumulated.

At that time, the people of Lee Tung Street put to the URA the request that residents and shop operators be given priority to buy, by way of exchange of "apartment for apartment or shop for shop" units scheduled for completion in 2007. But, unfortunately, the URA claimed that the proposal was made too late. This is one point to be brought up later — also referred to by Mr Alan LEONG earlier on — namely, the question as to how soon we should let the people participate. For residents and shop operators, getting "apartment for apartment, shop for shop" is better than the grant of cash compensation, the reason being that they may stay in the district and also opt for living environment they consider more suitable and full of local characteristics. The following two points are deduced from the case of Lee Tung Street:

Firstly, we should conduct a fresh review to see if there are, apart from cash compensation, other more creative and flexible compensation and financing options so as to solve the problem of redevelopment. In fact, in some foreign countries it is quite common to offer compensation by way of barter. In the first place, it makes in situ resettlement possible. In the second place, it obviates the need to spend a lot on acquisition compensation. I can see no reason why we cannot do this in Hong Kong. In the case of Hong Kong, the economic advantage of government participation in urban renewal lies in the fact that it can undo one deadlock, namely, the reality that it is very difficult for private developers to launch redevelopment projects in Hong Kong because of the scattered titles to properties. Hence, the real value of land as a resource can be fully realized for promotion of economic development. We should not stubbornly stick to rules and regulations but should liberally embrace options offering better economic efficiency.

Secondly, from this proposal we can see that, as mentioned by me earlier on, the people should be allowed to participate earlier with regard to the mode of development in question. If they are allowed to participate as early as the stage of initial planning, then the problems experienced by the residents of Lee Tung Street as cited by me can probably be obviated.

Next, I would like to discuss the economic impact that urban renewal projects have on neighbouring communities.

Urban renewal projects have considerable impact on neighbouring communities. The reason is that, upon the completion of a redevelopment project, more people will be drawn in, its neighbourhood will prosper, and the ancillary transport network will also be improved. The neighbouring communities can thus stand to benefit. However, we also have to look at the negative impact that redevelopment may bring to neighbouring communities.

In the first place, a redevelopment project often takes several years. When it is in progress, fewer people will go to its vicinity because of the major engineering works. Because of the drop in business, many shops nearby will have to move elsewhere. That is to say, redevelopment projects may impact on areas outside its site. In this respect, we must take notice of the collateral impact.

Besides such economic impact, we also have to take into consideration the fact that people will have to suffer greatly from noise and air pollution because of the works. Compensation cannot make up for such negative impact. We, therefore, think that for every redevelopment project, it is necessary for the URA to make careful consideration when drafting the blueprints so as to make every effort not to hurt other people. In order to achieve all this, it is essential for the URA to put an end to its role as a statutory real estate developer..... (*the buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR PATRICK LAU (in Cantonese): Deputy President, judging from the motion and amendments proposed by various Members, there is, in my opinion, some misunderstanding or misapprehension about the issue of urban renewal. At present the trouble is not — let me repeat "not" — with the Urban Renewal Strategy (the Strategy). The Strategy itself has no deficiency. It is the leadership of the Urban Renewal Authority (URA) that calls for review. Have they let slip the opportunity to acquire properties for redevelopment and thus brought about a situation forcing them to blame the Strategy?

Hong Kong is an old district. This old district is a huge bomb. There are going to be a bunch of dangerous buildings unless prompt actions are now taken to acquire properties for redevelopment. Projects left behind by the leadership of the Land Development Corporation (LDC) were in fact fully ready, with the "East Wind" being the sole missing factor. So, immediate actions should have been taken to expeditiously complete those projects when the URA took over and the Government injected \$10 billion. Unfortunately, it has been delayed again and again. Because of such delay, five years have elapsed; so has a golden opportunity.

Why was the former LDC able to make it? Langham Place offers a good example. The fact is that real estate has a value cycle. Langham Place, bringing prosperity to the whole district, has become a new fashion hub. Previously many people did not consider Langham Place a good development project. Why can the URA never make it? When attending public meetings organized by Radio Television Hong Kong, I received complaints from many people not happy with the "exceedingly long" wait consequent upon the snail

pace of redevelopment. This is especially true of the projects in Kwun Tong and Sai Yee Street in Mong Kok. Earlier on, a few Members have mentioned this. Only recently has the URA announced a public consultation on the redevelopment blueprint of Kwun Tong. With regard to the Sai Yee Street project, there has been "balloons" spreading the message that it will not go ahead for fear that the compensation for acquisition is going to be too expensive. Consideration is therefore being given to the idea of replacing redevelopment with rehabilitation. This makes the residents angry, or "livid" because they have been waiting for years. To say now that it will not go ahead is to give them a great shock.

In fact, the URA had failed to act quickly when property prices were low, and now finds things too expensive following the upsurge in property prices. So it comes to a standstill, thus "obstructing the earth's rotation". There have been all sorts of consultations and reviews even before the problems are sorted out. This is most deplorable. As a matter of fact, unless there are effective implementation mechanism and reasonable compensation, it is just a waste of time to conduct a hundred extra consultations or reviews. They are just bogus consultations. In my opinion, the most important thing is to take immediate actions to expeditiously complete projects left behind by the LDC, which is precisely the purpose of establishing the URA in the first place.

These days, the URA inclines to replace redevelopment with rehabilitation. Such a line of thinking deviates from the objective of urban renewal. With the exception of buildings or places of historical value that must be preserved and arranged for new uses, all other out of date, ageing and dilapidated buildings should be demolished. Then, plans should be made for the construction of environmentally-friendly structures on the basis of sustainable development. Only in this way can the environment of the community be improved, and the safety of the residents' living safeguarded.

Urban renewal projects ought to have the effect of a catalyst, able to link up the developments of the entire district. Mr Ronny TONG has just said that. I went to Spain with Mr LEONG, and learned how they had done it. I also went to Tokyo sometime ago. Tokyo was then deep in recession. However, it can now be seen that the community redevelopment projects for places like Shinagawa, Roppongi, and Omote-Sando are quite well done. One can understand why there is a need to carry out redevelopment just at the sight of those green areas. They also had to demolish all old buildings, and those

projects also managed to speed up other developments in the districts. The key lies in good planning.

When I was Head of the Department of Architecture at the University of Hong Kong, I, together with my students, did a lot of planning with the LDC. Having taken part in that, I came to understand the importance of good planning for urban renewal. I was very grateful to members of the then LDC leadership, such as Mr Abraham SHEK and Mrs Selina CHOW. They took our views seriously and even gifted the University of Hong Kong a building for use as a foundation fund to enable us to get on with our research on urban renewal. That was to share the fruit of success with those participants, and give expression to the merits embedded in the "people-centred" approach and participation. To eliminate disputes over compensation and to quicken redevelopment, I support the suggestion that residents in districts to be redeveloped should join hands with private developers and the URA to implement the projects.

In fact, the significance of the "people-centred" lies in giving the people the opportunity to choose. Do they have the chance to take part in redevelopment projects as during the time of the LDC? As a matter of fact, in order to expedite urban renewal, the Government already delegated to the URA a lot of power at the time of its establishment. On them the Town Planning Board (TPB) also bestowed considerable liberty. Redevelopment projects can be designed for other uses. So long as the design is done, approval can be granted at any time for a special use. However, the URA always wants to "make big money", which results in excessive density of the designs. Trouble then starts to emerge. The URA is not a private developer. It should not bend on making money in total disregard of its social responsibility, namely, to improve the living of residents. With projects put on hold, many local workers are now jobless, which makes both unemployment rate and social problems worsen.

If Chief Executive Donald TSANG really wants to implement strong governance, then he should take a look at the URA to see if there are people who discuss without decision, and make decision without execution. I am of the view that it is necessary to step up supervision on the leadership to ensure that they will not just engage in empty talks without taking actual actions to help residents in districts to be redeveloped, people who are living in great misery in dilapidated buildings, so as to expeditiously improve their living conditions.

Thank you, Deputy President.

MR WONG KWOK-HING (in Cantonese): Deputy President, the regeneration of communities and the redevelopment of old buildings are topics to which local people have been paying more and more attention in recent years. They have also become an issue closely related to the people. Why are nowadays our lodgings so air-tight and blocking the passage of sunlight down to the street level? Why are old buildings and old culture originally found in our districts vanishing into thin air without being noticed? All these are attributable to the fact that our society only attaches weight to the material benefits of real estate to the neglect of overall planning. Those thinking along this line are well represented by the URA, which takes charge of the redevelopment of old buildings and planning of old districts for us.

Deputy President, if our town planning is compared to a human body, then the buildings and characteristics in different communities constitute different parts of the body. The basic function of the URA is to get rid of old and useless tissues and bring in new and vigorous cells, just like the process of metabolism in the human body. Judging from an overall view of the URA's current redevelopment format, we can see that it is simply like an out-of-order metabolism system, one that wantonly destroys old tissues that are still functioning and useful while rigidly putting in some odd cells. That has resulted in our overall town planning being turned into a deformity. It is just as horrible and eerie as having an eye ball growing in the palm or a mouth cropping up on the thigh.

Deputy President, in making such a terrifying analogy, I am not exaggerating things just to raise alarm. It is merely because many of the URA's redevelopment projects are utterly incongruous with the indigenous characteristics of the communities concerned, or even have the indigenous characteristics of the communities wiped out. I would like to quote an "oven-fresh" example, namely, a much publicized new housing project in Tsuen Wan. It was originally the Tsuen Wan Town Centre Project in the days of the Land Development Corporation (LDC), also known as K13. At that time, the purpose of the said development project was to demolish those old tenement buildings in the area around Wo Tik Street, Sha Tsui Road and Yeung Uk Road for redevelopment so as to improve the horrible living environment of the area and carry out community regeneration. It is a matter of fact that those old buildings were indeed demolished, but that piece of land was eventually

developed into luxurious apartments. The grassroots who originally lived there cannot move back to the place where they used to live. Moreover, because of these new skyscrapers, the environment and ambience of the old neighbourhood and streets nearby have been so drastically changed that they have become an oddity.

Deputy President, when I saw the advertisement of the said new housing project using "World-class Integrated City" as its selling point, I found it absurd and lamentable. The absurdity lies in the fact that Tsuen Wan has never been "world-class". On the contrary, its original characteristic is a place for the average men and close neighbours. Located near the new project are Chung On Street, Chuen Lung Street, Tai Pei Square and Yee Pei Square, places very much illustrative of the old Tsuen Wan. The area is teeming with small shops, for example, the street with gold and jewellery shops. Those living in tenement buildings keep watch and help each other. They are very close neighbours. The market on Yeung Uk Road is busy and bustling. All of these represent the true community characteristics and true community outlook of Tsuen Wan. It is lamentable that when carrying out redevelopment, the URA ventured to ruin utterly the average-men characteristics of the community, and even built there a so-called "World-class Integrated City". Moreover, according to information provided by the private developer, in due course, the Government will spend \$250 million to build a network of linking flyovers. Has the Government taken into consideration the impact that the construction of flyovers may cause on the small businesses operating at the ground level of this old area?

(THE PRESIDENT resumed the Chair)

President, whenever the Government redevelops old districts or old buildings, it often makes mention of the "people-centred" approach, saying time and again that the interests of those living in old communities are to be the focal point. However, it often runs counter to that in actual practice. It can still be recalled that in 2001, when the LDC started the clearance of the seven streets in Tsuen Wan Town Centre, a health hazard scare broke out because of a suspected case of asbestos dust. Though the incident eventually turned out to be a false alarm, it showed that the Government is careless and has no regard whatsoever

for residents nearby when carrying out urban renewal projects. Let me turn to a more direct issue, namely, the question of compensation for residents affected by redevelopment. As we all know, whenever the Housing Department (HD) or the URA redevelops a building or acquires a piece of land, there are bound to be disputes with the residents over compensation, relocation and rehousing. I am not going to talk about cases of the past. Recent cases of dispute between the Government and people over redevelopment projects include the demolition of Tai Wo Hau factory buildings and San Po Kong Factory Estate buildings by the HD, that of Castle Peak Road/Cheung Wah Street by the Housing Society, and that of Lee Tung Street and Nga Tsin Wai Village by the URA. If the Government's policy on urban renewal is really people-centred, then compensation and relocation have got to be right to suit time and location. If so, how can there still be so much friction and so many conflicts between the residents and the departments?

It is, therefore, my earnest hope that the Government can really review the current Urban Renewal Strategy and, on the issue of compensation, give consideration to the plight of affected residents.

President, I so submit.

MR CHAN KAM-LAM (in Cantonese): First of all, I have to declare that I am a member of the Board of Directors of the Urban Renewal Authority (URA).

The Urban Renewal Strategy (the Strategy) serves as a guideline for the URA's work. The Strategy has been in use for more than five years. It is time to bring it up for review and discussion. However, in addition to proposing to review the Strategy, the motion moved by Mr Alan LEONG also carries some adverse comments on the work done by the URA over the past five years. Given the fact that Mr LEONG is also a member of the URA Board of Directors, his remarks may easily be taken as the truth. The adverse comments give an unfair account of the URA. It is also an account not matching the truth.

Since its inception in 2001, the URA has taken over from the former Land Development Corporation (LDC) 10 redevelopment projects in progress, and also launched 30 new projects, among which 21 being part of the 25 ex-LDC

projects required to be given priority. That is to say, as many as 40 redevelopment projects are being handled by the URA. Of these, four have been completed. The remaining 36 are still in progress, at different stages ranging from planning to acquisition, clearance or construction. Please do not underestimate these 40 projects. Being a member of the URA, I deeply appreciate the difficulty and amount of time involved in launching a redevelopment project. All the processes, such as preliminary study, planning, investigation, district consultation, evaluation, acquisition proposal, financing and risk assessment, are very complicated. Even a small project will likely to take several years. This is no simple task. Mr LEONG has been with the URA for one year. How can him not be aware of that?

The 30 new projects launched by the URA involved 3 430 titles to properties, 384 buildings, and nearly 5 700 families. By the time these projects are completed, some 400 dilapidated buildings will have been demolished, more than 5 600 households will be given rehousing and compensation, and there will be over 8 100 new residential units, more than 7 000 sq m of open space and some 17 300 sq m of community facilities. After receiving compensation, many of those living in dilapidated buildings can improve their living conditions. There can be redevelopment of old districts too. With urban renewal there will be solutions to some long-standing problems, such as those concerning maintenance, management, sanitation, and public order. Because of urban renewal, society can get more modernized buildings. What is more, the community will be rejuvenated as a result of new planning. It can thus be seen that urban renewal can result in a situation beneficial to all. For instance, the redevelopment project of Langham Place in Mong Kok has not only rejuvenated the district, but also given a push to the development of neighbouring areas, even improving the district's environment, sanitation and public order. Langham Place is now the landmark of the district, well exemplifying the success of the URA.

President, the Strategy has made it clear that in respect of finance, the URA must: (1) ensure that the urban renewal programme achieves self-financing in the long run; (2) exercise due care and diligence in the handling of its finances; (3) make full use of the development potentials of projects; and (4) seek approval from the Financial Secretary before launching financially not viable projects. Though setting financial constraints for the URA, these rules still give the URA room to operate with flexibility. The URA implements every project

on the basis of a commercial model, the merit of which lies in the fact that whilst spending can be put under control, it also makes it possible to make good use of public money. Moreover, it is in line with the overall interests of the community. Why? The reason is that the cost of urban renewal is alarmingly high. It is believed that with support only from the Government, not many projects can be carried out unless there are careful control on spending and co-operation from the market. Although the Government will give the URA a capital injection of \$10 billion over a period of five years, and has bestowed on the URA the privilege of waiver of regrant premium, it is necessary for us to understand that it is not possible for the Government to commit a lot of resources to the work of urban regeneration for long. To depend totally on Government's capital injection will directly affect the sustainability of urban renewal. So, the URA's adherence to the principle of self-financing can help to reduce the Government's burden. It is also possible to achieve better efficiency in the use of resources for an early start of urban renewal by market financing. If we deviate from the principle of self-financing, then the Government will have to immediately give the URA a huge sum of capital injection to meet all the routine expenses. Given the fact that the total costs of the 30 redevelopment projects almost amount to \$25 billion, I wonder if all the political parties/groupings and members of the public are prepared to let the Government advance such a huge sum.

On the other hand, the original motion claims that the URA is focusing on commercial interests and describes the URA as a commercial body bent on making profits. We, however, have carefully looked up records. In 2003, the URA experimentally launched a rehabilitation scheme to encourage property owners to repair their buildings, thus benefiting 17 000 families. Furthermore, of the URA's four Rs, that on heritage preservation has achieved quite a lot for 22 tenement buildings with special characteristics have been preserved in co-operation with the Hong Kong Housing Society at a cost amounting to almost \$230 million. An out-and-out commercial body just will not do such socially desirable but financially non-viable business. On top of this, there are still all sorts of educational and promotional activities. It is a far too sweeping remark to say that the URA is all profit-seeking.

President, in sum, I hold that in order to review the URA's redevelopment strategy, it is necessary to, first of all, thoroughly understand and correctly judge the work of the URA. Only on such a basis is it possible to accurately identify

in the Strategy areas calling for modification as well as new courses. I so submit.

DR RAYMOND HO (in Cantonese): Madam President, the "people-centred" principle should be brought into effect in urban renewal. The purposes of urban renewal are to improve the environment of old districts, to upgrade the residents' quality of life, to solve the problem of urban decay, and to improve the living conditions of residents in old districts. The Government has to balance the interests and needs of every sector in the community without sacrificing the rights of any particular group. The aim of the policy is to reduce the number of people living in substandard housing. When carrying out urban renewal, the Government must make proper arrangements for tenants of residential units affected by redevelopment projects. Also, tenants of residential units affected by redevelopment projects should be offered fair and reasonable compensation. The Government should adopt a holistic and comprehensive approach to rejuvenate older urban areas by way of redevelopment, rehabilitation and heritage preservation.

Although the Administration already has a set of guiding principles for its Urban Renewal Strategy, a lot of difficulties and problems have cropped up in the course of actual implementation. Because of the principle of self-financing, the URA operates on a commercial model. It, adhering to the ultimate principle of economy, seeks to complete the acquisition of one whole street at the highest possible speed in order to turn it over to private developer for development. However, I believe that more public consultations and additional input from professionals can further reduce conflicts and help take forward the projects.

With regard to a comprehensive urban regeneration strategy, the URA must exercise extra care when planning or shaping it up. In addition to listening to the opinions and suggestions from members of the public, it should also position its course of development and set the mode of operation with flexibility in order that upon the completion of redevelopment, vitality in the urban area can be effectively maintained, and the needs of the community duly met.

As a matter of fact, every city that has been developing for some time will inevitably run into the need to undergo renewal upon the ageing of old districts. It is, however, not easy to properly address the issue of redevelopment.

Following the rapid growth in Hong Kong over the past 30 or 40 years, several old districts are showing signs of urban decay. Even though there have been the development and completion of new towns like Sha Tin, Tseung Kwan O and Tung Chung, and half of our people are living in these new towns of the first and second generations, many of our districts are facing the problem of serious urban decay. The Government should, therefore, expedite the redevelopment of those districts. At least, it should not go beyond the yardstick acceptable to the people, or affect their quality of living.

In fact, the Government may consider drawing reference from some foreign examples. Last year, four Members and I went to Bilbao, Spain, for a study tour. The place spent 15 years on improving its local environment and infrastructure and enhancing its image to the outside world. The most renowned designers and professionals were hired to work on many items of infrastructure, such as bridges, underground railway, tramway, art museum, and university. There were close co-ordination and co-operation among government departments. In the community, stakeholders of all sectors also teamed up to take part in that huge development project with "one heart". Bilbao is now a very modernized city, no longer an ageing city suffering from environmental pollution and a high unemployment rate running at 35% because of the decline of its shipbuilding and steel industries. The place has become a city with great appeal for tourists all over the world. Upon seeing the success of its development, many visitors there are much amazed by the efforts put in over the past 15 years.

Here in Hong Kong, the departments concerned may make reference to the successful model of Bilbao. By making concerted efforts to co-operate with each other and encouraging active involvement of capable private enterprises, all projects of urban renewal may be effectively launched and implemented so that the problem of old district regeneration may be solved expeditiously.

Madam President, I so submit. Thank you.

MS AUDREY EU (in Cantonese): Urban renewal is not just simply to demolish all buildings in old districts for redevelopment. It signifies community regeneration. It calls for, as mentioned by quite a few Honourable colleagues today, "people-centred" community regeneration. What does it mean? In my

hand now is a "flyer" on H15 issued by Wan Chai District Council (DC). It reads: "What is 'people-centred' community regeneration? There must be residents' participation, diversified options, preservation of social network, local rehousing, reasonable compensation and an understanding of the needs of the residents." So, community regeneration is not just the preservation of old buildings, history and culture. What matter most are respect for and the preservation of social network, social culture and scenery unique to the district. For a community to maintain its unique features and sustainable development so as to meet different needs of the people and provide a quality living environment for the people to stay and work in the community, it is important to have public participation in urban renewal. To ensure the continuation of local economy in the district, only residents who know the people and culture of the place well are qualified to determine what to keep and what to demolish on the premise of keeping a balance between economic growth and conservation.

Regrettably, no matter it is the common man being directly affected, the DCs representing public opinions in their respective districts, or non-governmental organizations, they all opine that currently they are not allowed to participate in the decision-making of urban renewal projects, and that there is just no way to reflect public opinions, to which no weight is in fact being attached.

Take as an example the Lee Tung Street redevelopment project. "Policy 21" of the University of Hong Kong (HKU) conducted a study on the redevelopment project in 2004. Wan Chai DC once asked the Urban Renewal Authority (URA) to give the HKU assistance so that it could collect qualitative information about affected residents so as to understand their worries and make it possible for the URA's forthcoming acquisition process to dovetail better with the needs of the residents. However, the URA refused to give any assistance, even rejecting the request to forward documents to the affected residents.

However, "Policy 21" of the HKU conducted a survey, according to which half of those interviewed said yes to cash compensation, but considered the amounts to be inadequate and sought to have them increased. I would like to say a few words on this too. Often these residents are "unable to spell out their grievances as if they were dumb". The reason is that outsiders often reproach them in saying that, by exchanging a 40-year-old property with a seven-year-old flat, they should be happy to have made a big fortune.

However, according to the residents concerned, the evaluations made by surveyors or evaluators hired by them are utterly different from those of URA. Whenever the URA was asked to produce the basis or data used by their own surveyors for comparison to find out the reason for the great disparity, the URA never agreed to produce the required data. Again and again Members have intervened in this connection, but to no avail. So, after collecting their sums of money, these property owners can never buy seven-year-old properties. In the meantime, 44% of them wanted to have non-cash compensation. Among them, some 80% of those surveyed wanted to exchange "an apartment for an apartment, a shop for a shop"; and more than 50% of them were prepared to pay for the price difference in order to get new units to be built there.

On the other hand, with the assistance of professionals such as architects and surveyors, the H15 Concern Group formed by residents of the redevelopment area in Wan Chai drew up a "Dumbbell Proposal". By "Dumbbell", it means that the middle section will retain the characteristics of Wan Chai in the 1950s or 1960s whilst the other two ends will be developed; hence the planning is in the shape of a dumbbell. A development in such sections could not only preserve old buildings of the 1960s, but also make it possible to achieve the goal of exchanging "an apartment for an apartment, a shop for a shop". Then the social network could be preserved and the "people-centred" approach be realized. However, in the revised planning outline, the URA only adopted some ancillary suggestions from the residents, such as the conversion of Lee Tung Street into a pedestrian walk as well as the heights, sizes and designs suggested for new buildings, but turned a deaf ear to some utterly important core suggestions, such as the major requests with regard to matters like local rehousing for residents and the preservation of social network.

At present, a review of DCs is in progress. This in fact has something to do with today's topic. The reason is that in projects of urban renewal, a DC fits well into the role of a facilitator, one who can take the initiative to find out the needs and worries of the residents; who can regularly make representations to the URA, government departments and the Legislative Council; and who can actively get all the parties concerned to maintain communication and dialogue in order not to let redevelopment projects, which are originally designed to improve the people's living conditions, become government policies conducive to class conflicts detrimental to social harmony. It is, however, lamentable that the

DCs often complain to this Council that they are not allowed to take part in the decision-making process of urban renewal projects and that the public opinions collected by them are not given attention. Let me again use Wan Chai DC for illustration. The Urban Regeneration Task Force under the Wan Chai DC urged the URA to conduct social impact assessment in connection with the development of Wan Chai's Lee Tung Street and McGregor Street, and made a number of recommendations which were unanimously adopted. The suggestions adopted include: (1) to extend by three months the deadline for residents' to decide whether or not to accept the acquisition; (2) to put into effect the "apartment for apartment , shop for shop" proposal; and (3) to remove the categories of "vacant premises", "non-owner occupancy" and "not being the sole residence" for compensation. However, none of the recommendations received any positive response from the URA. What is more, according to their spokesperson, there was no need to carry out the social impact assessment as the Wan Chai project was actually already announced by the former Land Development Corporation.

The fundamental purpose of urban renewal ought to be for the good of the general public and the development of the community. All along, however, those affected have great grievances. The case concerning the redevelopment project of "Invitation Cards Street" in Wan Chai is illustrative of the fact that those grievances do not purely relate to the amounts of compensation, unlike what some people say. It is the hope of the Civic Party that in the redevelopment project of Kwun Tong or that of "Trainers Street" in Mong Kok, the URA will accept the views of property owners.

Thank you, President.

MISS CHOY SO-YUK (in Cantonese): President, I originally did not intend to speak. But having heard the opinions and complaints from many citizens, I really have to speak out. I would like to speak mainly on two areas, namely, the handling of those affected and my view on the overall planning.

President, with regard to those affected, most people, as mentioned by quite a few Members earlier on, ask for local rehousing, or go for the "apartment for apartment" option. The Government often says no to that. I, however, would like to quote an example, which is by far the sole successful case of

redevelopment by a private developer. It is Lai Sing Court on Tai Hang Road. Lai Sing Court entered into a deal with a private developer, really making it possible for each property owner to have local rehousing. One originally living at Flat 1A is to move back to Flat 1A upon the completion of redevelopment. One occupying Flat 10B is going to take back Flat 10B in the future. The area will be the same. The private developer will get just the remaining units after the redevelopment. Unlike old buildings of just five to six storeys, Lai Sing Court is a building with some 20 storeys. There the private developer can erect a new building with dozens of storeys. The original Lai Sing Court is some 20 storeys high. At most a building of 40 to 50 storeys can be built there. However, the extra units on the higher floors will bring in profits to the private developer. However, a portion of the profits will have to be shared among the original property owners living in lower floor units on a pro rata basis of floor area. There is also provision for original property owners to rent their residences elsewhere for three years. This is the pact of co-operation between Lai Sing Court and the private developer.

President, given the fact that a private developer can manage to join hands with property owners of a building with so many flats, I just wonder why the Government cannot arrange for old buildings of six to seven storeys *in situ* rehousing — sorry, I mean local rehousing. We notice that some old people live in some units that are very small, each measuring just 100 to 200 sq ft. How can they be expected to buy such small units in the same district? They do not have the money to buy larger units. If they are asked to move elsewhere, then I wonder how they are to survive. President, with regard to property owners affected, the Government has got to review the compensation being offered.

Regarding compensation, the calculation of compensation on the basis of a seven-year-old notional flat is endorsed by this Council. I also voted in favour of adopting the value of a seven-year-old notional flat for the calculation of compensation. However, in the course of events, I notice that the Government is quite mean about compensation. It in fact ought to be more generous. The Government more or less feels that property owners receiving compensation are trying to cheat or are "brazen enough to rob." Here is an example. When the Government inspects an apartment and finds the property owner not there, the person who really lives there will be treated as not living there, and the compensation will not be calculated on the basis of self-occupation. Such

persons will even be looked upon as speculators on real estate. There are many such cases. I think that the Government, especially the Urban Renewal Authority (URA) and Hong Kong Housing Society, really ought to be more generous to the property owners affected.

President, next, I would like to speak on overall planning, which quite a few colleagues also mentioned earlier on. Redevelopment itself is a good thing. As it is actually a blank card, building high-rises can give us a good opportunity to turn Hong Kong into a more pleasing and attractive city. However, both the Government and URA have been under an illusion since time unknown that a big city should build some buildings with curtain walls, or very big and tall structures with air-conditioned mega shopping malls on the lower floors, where all the shops look alike. These shopping malls are just like those in Singapore or some other places, which have become the landmarks of a big city.

If the Government has ever arranged for visits to the districts to listen to the people, it should have known that in fact the people also want to have in Hong Kong the so-called "people-centred" approach — it is not really necessary to comply, but the point is to let people feel comfortable, and also it is not really necessary to go diversified. As remarked by Mr WONG Kwok-hing, if a five-star world-class restaurant is built in Tsuen Wan and one going there can easily run up a bill of several thousand dollars, how can the residents of Tsuen Wan afford to dine there? Similarly, there will be no more "Invitation Cards Street" following the completion of the redevelopment project in Wan Chai. How about the food establishments at Tai Wong Street East and Tai Wong Street West? The Government answered in the affirmative, saying that there will be a lot of food establishments upon the completion of the redevelopment project. However, the mode is going to be different. At present, they are really roadside food establishments, each operating in a different way. Upon the completion of the redevelopment project in the future, the place will probably be turned into a large restaurant or an air-conditioned mega shopping mall with many fast-food restaurants or food establishments. Gone will be the ambience and characteristics of the entire city.

I earnestly hope that when the Government is planning — President, I often refer to two examples, namely, North Wan Chai, which is like a dead city now with few people going there because it is so empty; and Xintiandi in Shanghai, a nice and diversified area where people may hang around.

With regard to overall planning, it is hoped that the URA can ensure the preservation of our own mode. Besides, President, there is also the issue of environmental protection. It is hoped that the URA can use fewer curtain walls, go for more landscaping, and preserve local flavours in planning. I hope the Government will conduct the review in a serious manner.

President, I so submit.

MS MIRIAM LAU (in Cantonese): Madam President, as the city continuously grows, we are bound to run into the problem of urban ageing. However, as mentioned by Mr Howard YOUNG earlier on, urban renewal does not simply mean the demolition of old buildings and their replacement by gorgeous skyscrapers. Also involved are matters ranging from rehabilitation of buildings to the consideration of strategy for the preservation of old districts.

In my opinion, what matters most is that we should set out from the "people-centred" perspective. That is to say, at the time of planning, there should be more participation by the residents and their wishes should be taken care of as far as possible. Also, the aim of redevelopment should be a primary pursuit of improvement in the quality of living of the residents. Take as an example Lee Tung Street in Wan Chai, also commonly known as the "Invitation Cards Street". The said redevelopment project was announced by the then Land Development Corporation (LDC) as early as 1998. Later it was taken over by the URA. The whole project has been boiling for eight years since day one.

The fact that it has taken so long is not merely because it was inherited from the LDC. It is also because there was great disagreement over the question of planning following the clearance of "Invitation Cards Street" by the URA. In fact I also find it a great pity for such a unique street to vanish in Hong Kong. I do understand that it is necessary to develop the area around Lee Tung Street. But it would have been satisfying to all if it had been possible to preserve the features of "Invitation Cards Street" while carrying out the development project.

As a matter of fact, after the Lee Tung Street project in Wan Chai, the URA apparently has been attaching more weight to residents' views than they did

before when implementing other redevelopment projects, for example, the redevelopment plan for Yue Man Square in Kwun Tong. There have been, for instance, large-scale community workshops, appointment of residents to the district advisory committee, community aspirations surveys, and roving exhibitions of the model design for consultation scheduled to take place later this year.

The fact is, if the URA can conduct genuine consultation by way of the aforesaid measures to fully grasp the views of stakeholders, including the residents and tenants concerned, and then arranges appropriate co-ordination, it will be much easier for the whole redevelopment project to be implemented. Furthermore, the planning for redevelopment can be much better, and more in line with the original characteristics of the community if there is input from affected residents or shop operators.

However, we are very concerned about a URA-financed district newspaper publishing fabricated stories of residents. Surely, it is noted that the URA has already made clarification to the effect that it has nothing to do with the matter. Anyway, it is absolutely unacceptable to fabricate public opinion.

On the other hand, urban renewal inevitably involves the issue of compensation. With regard to the compensation mechanism, the existing system basically does cater to the demands of both shop operators and residents. For instance, the compensation for an owner-occupier should be calculated on the basis of the value of a seven-year-old notional flat in a similar locality. Even if there is going to be a need to revise compensation particulars in the future, the bottomline is that there should be no impact on the aforesaid term of compensation.

Madam President, while discussing the URA projects, some comment that the URA gives top priority to "profits" and attaches weight only to the commercial mode of development to maximize profits. However, I would like to first present some facts for the reference of Members.

According to past experience, the URA projects are not necessarily profit-making. Since its establishment in 2001, the URA has so far announced 30 projects involving redevelopment. However, some of them incur losses, for example, the two projects at Mallory Street and Stone Nullah Lane, Wan Chai.

Turning now to the URA's 4R strategy of Redevelopment, Rehabilitation, Reservation and Revitalization, these are not bent on making money. For instance, the latter three basically incur losses, not making money at all.

Here is an example. Regarding Reservation, the URA, in conjunction with the Hong Kong Housing Society, has preserved 22 tenement buildings with special characteristics. Acquisition and compensation alone cost \$230 million. It is believed that the average private developers simply will not take up such losing propositions. How can we accuse the URA of being a money-minded real estate developer?

What is more, the \$6 billion net assets so far accumulated by the URA well represent the amount of capital injection made by the Government over the past few years. Besides, to get ready for the launch of large projects, such as the one in Kwun Tong, the URA has got to have enough cash. Although we do agree that the URA should not make profit-making its top objective, it is still advisable to achieve self-financing by trimming one part to supplement the other part. It is not right to ask the Government to make indefinite capital injections with public money.

In reality, urban renewal is a time-consuming and enormous mission. A successful completion of the mission hinges on making it possible for all parties, including residents affected by redevelopment, concerned groups and experts, to co-operate through team work. There will naturally be less resistance in the course of redevelopment. The materialization of redevelopment can also be made easier.

Madam President, I so submit.

MR ABRAHAM SHEK (in Cantonese): President, I have just rushed back from abroad, so I have not prepared to say anything. But if I just let this opportunity slip by, it would be a great pity.

First of all, I would like to thank Mr Alan LEONG. He is wearing two hats, as it were, for he is a member of the Board of Directors of the URA and he is a Member of the Legislative Council. I think it is a good thing for him to bring the perspective of the URA into this Council so that we can discuss this

topic from this perspective. Those who criticize him are expressing nothing but their personal opinions.

President, is urban renewal an easy task as some people would think? The URA professes to adopt a "people-centred" approach, but what is urban renewal actually? I have been involved in urban renewal for 14 years. A few years ago, Mr Fred LI made a comment that Abraham SHEK had left quite a few messes, such as in Tsuen Wan. This comment of Mr Fred LI at that time was actually very unfair to those residents living in old urban areas. I believe he should have seen the point now. Urban renewal is much more than simply tearing down buildings and erecting some others. Urban renewal touches on the question of how people should be rehoused. Why is it that some people have to live in dilapidated buildings in old urban areas? Why can their children not live in the public housing estates like other people? All these are problems associated with old urban areas.

President, Tsuen Wan is a good example. Tsuen Wan had waited 20 years for urban renewal. But the Housing Society did not want to carry out urban renewal. At that time, we carried out urban renewal in the district and the problems we ran into were more than just money matters but those concerned with vast amounts of financial and other resources. Apart from resources, there was also the problem of the residents. Mr TAM Yiu-chung is now in the Chamber, he has spent a lot of his time and efforts in Tsuen Wan. Mr Albert CHAN and Mr Albert HO also spent a lot of their time and efforts there to solve problems affecting the residents. So urban renewal is much more than a problem of money.

Currently the URA has \$10 billion. What has the URA achieved in recent years? Secretary Michael SUEN may say later that the URA has done a lot, for example, those with respect to projects left over by the Land Development Corporation (LDC). Actually, not all the projects left over by the LDC are LDC projects. They are urban renewal projects that should be carried out in the old urban areas. Hence these should not be seen as LDC projects. Why should those buildings be redeveloped? Because they are dilapidated and no longer acceptable by any standard of a modern society. An example is that many old people have to climb many flights of stairs to their flats on the seventh or eighth floor. A flat of 800 sq ft in Tsuen Wan housed 29 families, each with three persons. Have we ever seen such things? Do we get the point?

Members may suggest how this Urban Renewal Strategy is going to be put into practice and how a certain street should be preserved, and so on. But can these streets really be preserved? The stairs of these buildings are not just difficult to climb but they are jet-black and totally unlit. Just imagine living in such old urban areas.

We must therefore be careful about the problem of urban renewal. For if not, even if there is an excellent strategy in place, it would still be futile. Back in the days of Mr TUNG, the topic of urban renewal was brought up in this Council for discussion a number of times. It was said that urban renewal work should speed up, and so on. Why should urban renewal speed up? Up to now how many people have been rehoused? When we carried out urban renewal in the days of the LDC, not a single family became homeless. Most of these families were new arrivals to Hong Kong and they had to live here for seven years before they were eligible for public housing. But the LDC waived this seven-year residency requirement and they were rehoused. Provided that they were lawful residents of the old urban areas, they were rehoused. We had solved the problem faced by old folks as well. Now the URA is telling the Chief Executive that a compensation amount based on the value of a seven-year-old notional flat is too high. In my opinion, the standard being used is fair enough. When a flat in an old urban area is resumed, the residents there are forced to move out in order that the building can be redeveloped. Earlier on some Members said that this would incur losses. When accounts are not yet closed, how can we say that there are losses? Will they pay out a dividend to the residents when they make money? No, they will not. We are therefore discussing the matter from the point of fairness. Land in Hong Kong is highly valuable and urban renewal work is just a matter of whether it is done well or not. Of course, urban renewal work should be self-financing. Not every one of the urban renewal projects is aimed at making money. There are some projects which do not make profits their aim. What we should do is to relieve the miseries of these residents of old urban areas through urban renewal. This should be seen as the aim of urban renewal.

We cannot just talk about being "people-centred" or think that the task of urban renewal is complete after a residents' meeting has been called to listen to views from the residents. In my opinion, Secretary Michael SUEN should visit these old urban districts and see for himself the kind of living conditions these people are having, talk with them and learn about how they lead their life. Then he will know how lucky we are to sit here.

I think the work done in the 14 years I spent in urban renewal is most meaningful to me. I am not saying that working here in this Council is devoid of meaning. I am talking about the satisfaction I get when I see how an old lady is given a nice place to live. To me this is most meaningful. I told Mr Alan LEONG yesterday that I was not afraid of criticisms. I am not afraid even if Mr Fred LI made some criticism against me that he should not have made. Once I was flying on an airplane, a lady came up to me and said, "Mr SHEK, thank you so much." I asked her why she wanted to thank me. She told me that she had lived in Western District for many years and she had waited for urban renewal for many years. As a result of the redevelopment project carried out by the LDC, she was able to sell her flat at last. Then she bought a flat in a three-storey house in Tai Po. Her living conditions had been greatly improved. Her father made use of the remaining money to send her to study in Britain. For this family, apart from having some savings, now they also have a new and better dwelling. Such are the benefits brought about by urban renewal.

President, the key to urban renewal lies not in planning and strategies, but in understanding the problems faced by people. Hong Kong is a well-developed city, we cannot accept the fact that there are still people living in buildings erected in the 1950s and 1960s. Thank you, President.

MS MARGARET NG (in Cantonese): President, just now Mr Abraham SHEK thanked Mr Alan LEONG for moving this motion, but I do not think everyone would be thankful to Mr Alan LEONG. There are people who think that Mr Alan LEONG is a non-executive director of the URA and there may be a conflict of interest in his roles and he should not criticize the URA here. So I think Members should rethink why at that time Members of this Council were included in the URA. For this reason, I would like to dig up some old scores here and talk about what was in our mind then when the bill was passed on 26 June 2000.

Members who voted in favour of the passage of this bill were having a battle in their mind. Mr Jasper TSANG said, ".....we often had mixed feelings". This is because the bill gives the Government great powers. Mr James TO also said to the effect that the Government could resume property whenever it liked. He said, "The proposed mandatory resumption system will allow no bargaining at all. Immediately after 90 days from the date of gazettal, the Lands Resumption Ordinance can be invoked for the purpose of resumption."

He thought that it was a mandatory piece of legislation and hence the powers vested in it were enormous. Likewise, as Mr Jasper TSANG described it, "the URA can wield the 'imperial sword' and resume flats anytime it wants". All property owners would have to give way to urban renewal and they can do nothing to delay it. At that time the DAB was of the view that compensation should be based on the value of a five-year-old notional flat and it was fair that compensation of such value be offered because the Government was to resume other people's flats by force.

Why then was the bill passed? Why were there all these mixed feelings? Those of us who have been Members for so many years will see why. It was because it was the last debate of that term of the Council and if the bill could not be passed, then it would come to nothing. It would have to be introduced in the next term of the Council again. Members then thought that a lot of time would be wasted and so notwithstanding the conflicts in which they were caught, they passed the bill. Government officials did a lot of lobbying at that time and with reference to Members' concern, they undertook that it would be dealt with outside the legislation. As Members, we should learn a lesson from this. We should never think too easily that the Government would honour its words.

I would like to point out what the most important issue of the debate at that time was. The Chairman of the Bills Committee then was Mr Edward HO from the Liberal Party. He came from the construction industry. He put great stress on the word "renewal". In his opinion, renewal did not just mean redevelopment but the preservation of historical structures and even a whole street. His major concern was "excessive demolition and relocation will create great impacts" on the many residents in the district, especially the elderly. Since the Government did not have a comprehensive strategy on that, Miss Christine LOH opposed the Second Reading of that bill. She said that none of the series of desired outcomes proposed by the Government constituted a policy on urban renewal. Miss LOH was speaking in English at that time. She used the word "renewal" to refer to redevelopment and she thought that the Government had not done anything to facilitate urban renewal. She also feared that it would be very dangerous to give such powers to the Government.

What were the pledges made by government officials to us? The Government said, "The policy objective of urban renewal is to improve the quality of life in old urban areas." This is clear enough. This is the standard

we use today. Urban renewal does not mean turning an old area into a new one. Its importance does not lie in whether buildings in an old area are made better-looking or it is changed into a vibrant business area but in the fact that the quality of life of residents in the old area is improved. As Mr Abraham SHEK has said earlier, its aim should lie in the improvement of the quality of life of residents in the old urban areas. But now with so many complaints from the residents, can the Government say that the quality of life of residents in the old urban areas have been made better? It is true that many people may have accepted the arrangements from the Government. However, when so many people are still complaining, is it because they are all greedy or because they are all telling lies? If we look at the whole issue from this standard and from this policy objective, what is happening now is really against people's wishes and the contents in Mr Alan LEONG's motion are by no means exaggeration.

At that time, we heard these beautiful pledges and despite the conflicts in us, we passed the bill. Now the law is about to come into effect but we find out that it is different from our original expectations. Being Members of this Council, what should we do? The decision made at that time to include Members of this Council into the URA was not only because of better representation but also because Members could speak up in meetings of this Council. Since Members are included, should the Government fail to honour its pledges and when things go against our expectations, then Members can speak up in the Council. Although Mr Alan LEONG was not a Member of this Council back then, being a Member now, he can speak on behalf of the residents in the URA. Whenever the Government fails to honour its pledges or when it acts in any way in deviation from its pledges, as Members of this Council, we are obliged to speak up.

Irrespective of what the final outcome will be, every Member who has a sense of responsibility should take part in this motion debate. Thank you, President.

DR YEUNG SUM (in Cantonese): Madam President, I speak in support of the motion moved by Mr Alan LEONG.

I have been serving on Hong Kong Island for many years and I was involved in quite a number of redevelopment projects in the old urban areas. I would like to raise a few points on this topic. First, progress in urban renewal

is slow. Formerly the Land Development Corporation (LDC) undertook that works for 25 priority projects would commence, but progress in this respect has been slow. Even in places on Hong Kong Island, such as Wan Chai, Shau Kei Wan, and in Western District, that is, in particular First Street, Second Street, Gage Street, Catchick Street, and so on, progress there is very slow. This pledge to complete the 25 priority projects has not been honoured even to this day.

The second point is on compensation. Actually, over these few years past, quite many people thought that the compensation amount endorsed by this Council, that is, the value of a seven-year-old notional flat in the same locality, was too large an amount. There were people who even said that there would be losses for each redevelopment project undertaken. However, this compensation amount was arrived after protracted arguments. At that time, we tried to fight for the value of a five-year-old notional flat as the standard, and it was because we failed that we had to agree to the proposal to use the value of a seven-year-old notional flat as the compensation standard. Unless there is any policy change in this respect, I think that this seven-year-old notional flat standard should continue to apply.

But can this proposal to adopt the seven-year-old notional flat standard enable all those residents affected to get local rehousing? In other words, can these residents buy a flat in the same locality in a building of this age? Many tests have proved that the residents may not necessarily be able to do this. First, the number of seven-year-old flats in the same locality may not be sufficient. Wan Chai is a good example. Even in Western District, there may not be so many flats of this age. Second, even if there are such flats, the price of these flats would rise instantly when the Government announces redevelopment plans because there would be a shortage in supply of flats in that area. Local rehousing is a good idea, but in practice, many people are disappointed because it cannot be put into practice.

Even if the old urban areas are redeveloped, many social networks would be destroyed completely. I have seen many people who have moved to new buildings in another district but, as Mr Abraham SHEK has just said, once they have to leave their neighbourhood, they would miss it very much. This is because people's life is not just made up of buildings, not as simple as that, but there are also social links and sentimental attachment to the community, and so on.

With respect to the form of compensation, can a flexible approach be adopted? For example, can the idea of "a flat for a flat and a shop for a shop" be considered? Under this idea, residents can redevelop the place together with the LDC. For the Government, can it adopt a flexible approach as well so as to avoid leading to conflicts with the residents over the issue of compensation?

The third point is about rehousing. Redevelopment in the old urban areas would actually need the collaboration of the Housing Department or the Housing Society. But the Housing Department often requires residents to undergo a means test and if residents are found to possess assets with a value exceeding the ceiling, they will not be rehoused. This is a cause of great disappointment for many residents.

Many Honourable colleagues have mentioned the case of Lee Tung Street or "Invitation Card Street" in Wan Chai, local community economy, collective memory and heritage conservation, and so on. As reported in today's newspaper, the Lord Wilson Heritage Trust with members like Prof David LUNG and Dr Vincent CHENG was of the view that the historical buildings in Hong Kong were fast disappearing with demolitions being carried out. Our collective memory would likewise disappear with redevelopments in the old urban areas because we care little about heritage conservation. Therefore, with respect to historical buildings like the Hollywood Road Police Station and Married Quarters or the Central and Western Police Station, or even in the Tamar site development plan which has been a hot topic of discussions recently, the Democratic Party requests the Government to preserve these buildings and also those buildings on "Government Hill".

As to how the local community economy can be promoted or respected in planning, or how planning should be undertaken to conserve heritage so that buildings of historical value or articles of collective memory can be preserved, I think that greater attention should be paid to these issues. The Secretary may consider introducing suitable amendments to the laws on heritage conservation.

On the whole, we think that private ownership is very important and so the Government should not always contemplate redeveloping the old urban areas. It should instead make good use of the land or approach the issue from the overall interest of society. This would avoid jeopardizing the basic rights of property owners. Since the Government wants to resume property mandatorily,

it must be prepared to pay a good price. It must not try to amend the compensation standard of paying the value of a seven-year-old notional flat because it thinks that every redevelopment project that is undertaken would only incur losses. I therefore strongly oppose that.

Thank you, Madam President.

DR FERNANDO CHEUNG (in Cantonese): Earlier on, Mr Abraham SHEK made a moving speech in which he said that the main aim of urban renewal was to improve the quality of life of the people. With respect to this motion, my office has commissioned The Social and Economic Policy Institute to undertake a survey on the impact of urban renewal on the quality of life of the residents. The survey commenced two months ago and it is still in progress. We have interviewed some 80 households affected by urban redevelopment. They used to live in five districts, namely, Wan Chai, Western District, Shau Kei Wan, Sham Shui Po and Cheung Sha Wan. As they have been relocated to various places, it is very difficult to locate them. Has their quality of life really been made any better? We can see that there is in fact some improvement in their living conditions. The survey also finds out that the age of the building where they live is not as old as the ones they used to live. Before the redevelopment, they lived in buildings which are as a general rule, 41 years old. After the redevelopment, they have moved to buildings which are 22 years old. But these buildings are by no means the seven-year-old notional flats mentioned in urban redevelopment compensation.

Admittedly, there has been some improvement in their living conditions, but close to 80% of the interviewees point out that their living expenses have increased. This has caused a great problem to them. There is an average increase of 12.7% in the rents. Moreover, about 30% of the flat owners did not have to pay any management fees before the redevelopment, but now they have to do so. Even for those who had to pay management fees before the redevelopment, previously they paid an average \$35, but now this has been increased to \$605, representing an increase of as much as 16 times. This certainly has a great impact on their living expenses.

Many of the residents affected by redevelopment would prefer the arrangement of "a flat for a flat and a shop for a shop". They are not very keen

on settling the matter with a compensation payment. Many of these people have lived in the district for a very long time and the elderly people have formed their social networks. Research findings show that moving to another place would have a direct impact on the life expectancy of the elderly. We used to keep in close contact with people affected by redevelopment and we had social workers also forming special teams to help people affected by urban redevelopment. So it cannot be said that we do not understand the situation. Now one of the problems facing these teams of social workers is that despite the fact that the ordinance provides that these social worker teams should act independently, they are directly funded and supervised by the development authorities, that is, the URA, Housing Department, Housing Society or the Lands Department (LandsD). In other words, these teams should assist residents in fighting for their rights, but these teams have become instruments used by the development authorities to rationalize their redevelopment projects. Some of these social worker teams have even assumed a very passive role like helping residents to handle compensation and rehousing matters. In my opinion, to really improve the quality of life of the people, efforts must be made to see if any such improvements have been made. Apart from this, the social worker teams must work independently and in this regard I think the Home Affairs Bureau can assume the role of a third-party co-ordinating body in community development.

Another point is that these residents affected by redevelopment should have enjoyed the right to be equal before the law. But once the place they live is designated as a redevelopment area, they would lose their corresponding rights. The URA acts in the name of public interest and works through a distorted market mechanism to deprive owners of their private properties. As redevelopment projects are undertaken in a self-financing mode, priorities in redevelopment are based on commercial principles. Those which can make money will commence as soon as possible and social impact assessment may not be undertaken at all. An example of this is the H15 project in Wan Chai. According to a report in a weekly magazine, the URA demanded that works should commence in the redevelopment of the Nga Tsin Wai Village where 80% of the titles have been purchased by Cheung Kong Holdings. Threats are issued and money is used to tempt villagers to overturn decisions made on preserving some historical buildings. On the other hand, if it is expected that a redevelopment project would run into losses, then even if the residents are under the constant risk of living in an unsafe building, the authorities would not care at all. Despite a pledge from the authorities that priority will be given to those

projects left over from the LDC, including the 13 streets in To Kwa Wan, no one would care about them.

Residents are in fact placed in a very passive position in the redevelopment process. As most of the processes are not transparent and open, residents have very little right to know. Some residents have even complained to us that they were asked by the redevelopment authorities to sign a contract, the contents of which cannot be disclosed even to their wife and children. They are kept in the dark. As Ms Audrey EU has stated earlier, the redevelopment authorities never disclose the formula for calculation of compensation. As a result, the residents have to hire their own surveyor and confront the authorities. An example is that residents of Sham Shui Po have repeatedly urged the LandsD to disclose such information. But to everyone's outrage, officials from the LandsD said in the meeting that as the residents did not know how to read such materials, it would be futile for them to write letters to request for such materials. Many such examples abound. In many overseas countries, many redevelopment projects would stipulate that compensation in the form of local rehousing according to a certain proportion is offered to those affected. In other cases, there are arrangements in the form of "a flat for a flat and a shop for a shop".

Certainly, I very much support the original motion moved by Mr Alan LEONG. Of greater importance is that the motion says that the most important thing is that a review should be conducted of the roles played by the URA. It should not operate on a self-financing mode with duties in land resumption, redevelopment, investment and development all in itself. This is because such roles would inevitably lead to conflicts, including clashes with the interests of the residents.

President, I have spoken in support of the motion.

DR KWOK KA-KI (in Cantonese): First of all, I would like to thank Mr Alan LEONG. It is because Ms Margaret NG said earlier that not many people had thanked him. So I would like to thank him in public for introducing this motion topic into this Chamber. Another thing is that I seldom see Mr Abraham SHEK so overwhelmed by emotions as he made a passionate speech earlier. Why was he acting like that? President, it is precisely because he has spoken about a very important point and that is, how urban renewal can help those living in bad conditions to improve their lot.

Let us take a look at what the URA has done since 2001. Of the 40 projects, 10 are carried forward from the Land Development Corporation (LDC) and 30 are new projects. Only four projects have been completed to date. Thirty-six projects are under various stages such as drafting and discussion.

I have just returned from Japan. I paid a visit to inspect the urban renewal projects there among other things. I do not like imitating people in every way or ask the SAR Government to follow the practice in some other countries. However, there is one thing and that is, I can see that many countries and places have done a pretty good job in urban renewal projects or in urban renewal and new urban areas and indeed a new direction has been conceived out of all this.

But in Hong Kong, what has the URA done since its establishment five years ago in 2001? Many Honourable colleagues have mentioned that in many districts in Hong Kong, like Kwun Tong, Central and Western, Sham Shui Po, and so on, some areas there are waiting for redevelopment. Take the example of Central and Western which I am most familiar with, of the three redevelopment projects there, only the one in First Street and Second Street can be said to have completed in a rather smooth manner. The other ones such as H18 (concerning Graham Street and Gage Street) and H19 (concerning Staunton Street and Wing Lee Street), and so on, have been sitting there for eight and a half years since the LDC announced them in 1997. Just imagine nothing has been done about these projects for eight and a half years. No one knows why there is such a long wait.

Many Honourable colleagues have talked about these projects earlier and there is not much planning or design about these projects. One can notice two major directions: one is that they are to be self-financing and the other is that it would be best if they are carried out in collaboration with the developers as this will fetch more money. So in this regard there are some outstanding examples, such as in Waterloo Road where an old building was finally sold in 2004 at a price of \$6,700 per sq ft. Then the seven streets in Tsuen Wan were sold for a large sum of money. They will get very happy each time when money is made. They think it is another story of success for the URA.

The aim of setting up the URA is not to make money or make money together with the developers. The most important thing is to implement these

40 projects in the old urban areas. But how long do the residents in these old urban areas have to wait before any improvement is made to their life? What we can see is nothing other than a signboard at the site and it is uncertain when the people will collaborate with the Government or when the people will collaborate with the URA with one mind. What we hear are always suspicions and speculations. No one will trust the URA and no one will believe that the Government is really carrying out urban renewal as such. Why? It is because people can see in the URA lots of examples showing that it is acting more like a developer than helping the people when it engages in redevelopment. Why has it come to this? It may be due to those fetters in which it is bound, that is, the various points we have talked about. And so money is to be paid from its own pockets while the objective is never clear. It does not know what it is doing or how the situation of the residents can be improved.

I believe a review is necessary. But apart from that, it still has 36 projects in its hands. What in fact can it do? Recently, I got very upset after hearing some remarks made by residents living in the "Trainers Street" — an area in Mong Kok with many shops selling trainers. All along they had been expecting redevelopment, but in the end talks with the authorities fell through, mainly because owners of the shops on the ground floor were asking for outrageous sums of compensation. So it was decided that there would not be any redevelopment. Then what can be done? Those living in the flats upstairs have to start with renovation and refurbishment. This shows the inability of the Government to devise some new policy to cope with the situation.

Often there are cases where shop operators demand participation in the redevelopment. This happened formerly both during the days of the LDC and is going on at present. Some people have been making such a demand. What can be done to make the shop operators or the public think that they are playing a part in the redevelopment project? This can be done by letting them join in the project, give them shares or adopt the principle of "a shop for a shop" or any form of compensation which they will find it more readily acceptable. Have the authorities ever thought about these ideas? No.

All along the residents have been asking whether or not they can have a stake in the URA by owning some of its shares. They are willing to bear the risk of losses and share whatever results it may produce. But the URA will never say yes to these ideas. What it uses are always those methods which are not acceptable to the residents. Then it will say, these methods do not work but

it is none of its business. Since these methods do not work, they should be discarded. This is an example of failure. If the URA continues to use this policy, I think the old urban areas in Hong Kong will always remain as they are — devoid of vigour and vitality. And the residents there will have to go on bearing these extremely unfavourable living conditions. The most unfortunate people are the flat owners who live in areas where the Government has announced that redevelopment work will be undertaken. They can only sit there and wait. Worse still, they will not spend any money on repairs and maintenance. The tenants are even more miserable. Many tenants have complained to me that their landlords want to raise the rents. Or in some cases since the authorities will have a different compensation package for flats leased out, so the landlords just evict their tenants. Those tenants are really placed in a very miserable state. They would just shudder at the mention of urban renewal. When the Government does not make a decision to go ahead with redevelopment in the foreseeable future, it is like victimizing them.

The most unfortunate thing is that many of the people living in the old urban areas and who are waiting exasperatingly for redevelopment are in fact those from the lowest strata of society. They are the ones who are least capable to purchase a home or look for a home. But they are exactly those people who suffer the most under this policy. So, I can see why Mr SHEK — he is not in the Chamber now — was so overwhelmed by emotions just now. This is because he sees a plan which could have been full of vigour, full of a sense of direction and one which could transform the conditions in many old urban areas in Hong Kong — fall through. As a matter of fact, there are many such old areas in Hong Kong that have enormous potentials for development. But the situation now is like a hope dashed. There can be no more dreams about improving the quality of life in the old areas or stimulating further progress in downtown Hong Kong. When there is no planning, no goals, no plans and no acceptable and flexible direction, how can we make these projects a reality?

I hope very much that after these serious discussions on this occasion, we can have some new inspirations instead of just empty talks. However, when I think of the performance of Secretary Michael SUEN and the URA all through these many years, I would imagine that more often than not our hopes will be dashed once again. Anyway, I still hope that this motion can be passed so that urban renewal work can soon proceed.

With these remarks, I support the original motion.

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

MR ALBERT CHAN (in Cantonese): President, I have known Mr Abraham SHEK for a long time and the speech he has given on this occasion must be his masterpiece for all these years. His speech is full of passion, vision and commitment. What is more, he spoke in fluent Cantonese for seven minutes, without the help of a draft.

I joked with him earlier on today and said that when the residents of the seven streets in Tsuen Wan knew this motion would be debated today, they would surely miss him. Now they are selling flats in the seven streets area at a price of \$6,000 per sq ft. The URA should be able to make money from this project. A while ago when I chatted with Mr Billy LAM, I said that people should stop saying this project was a burden. This is because when the seven streets project is considered together with its link project, they would certainly bring in a substantial amount of profits to the URA. Previously the Housing Society acted with no sense of a social conscience and betrayed the interests of the Tsuen Wan residents when it abandoned the seven streets project. But the Land Development Corporation (LDC) took over the project, in full knowledge that heavy losses might be incurred. This shows that the LDC was driven by social conscience. That is why Mr Robert NG Chee-siong should erect a bronze stature of Abraham SHEK when the seven streets project is completed to express his gratitude.

President, on the URA some Members said earlier that the letter "R" in its acronym should mean four words all beginning with the letter R. But in my opinion, it should be more than four and these four words are not true. There is a fifth word for the URA and, that is, "retarded". This is because ever since the establishment of the URA, urban redevelopment projects have made very little progress. The URA is slow and unresponsive and it makes people furious. It makes people think that it is totally lacking in any motivation to improve the environment in the old urban areas. Previously when the LDC was formed, it was given a loan of \$30 million by the Government. But in the case of the URA, a sum of \$10 billion was injected into it once it was founded. But it is amazing to learn that there can be such a vast difference in performance between an organization with \$30 million and another with \$10 billion. Honourable Members have cited many examples earlier, saying that at that time there were

25 projects, together with some new ones. Only a tiny fraction of these projects are actually initiated by the URA under its auspices. I do not know what these people in the URA with an annual salary of a few million dollars are doing. If this situation is allowed to go on, a better option would be to repeal the relevant ordinance and sack the top management and let the developers take over. This is because I cannot see what it has done to benefit the residents of old urban areas. I fail to see that it has any commitment to projects left over by the LDC in carrying out urban renewal.

I have looked up the records of some debates held in the former Legislative Council in 1994. At that time, I made some criticisms on urban renewal, making an accusation that it was done merely to make money and emphasis was placed on returns and demolition. Now 12 years have passed quickly since the debate in the former Legislative Council on the subject in 1994. I checked the speeches made by many Honourable colleagues at that time and found that there is not much difference in their arguments then and now. In those days, the number of projects was large and this applied also to the number of activated projects as well. But what we find now is a large number of projects on paper, with only a tiny amount of work having been done.

The greatest problem confronting urban renewal now is this excessive stress on profits and money becomes the paramount concern. Often times it is because of this drive for profitable returns that too much emphasis is put on whether or not the developers would show any interest in a project. In the past the LDC had only \$30 million and it was only natural that it had to rely on the developers. But now in the case of the URA, the Government has pumped \$10 billion into it and doubtless it has the financial capabilities and necessary experience to launch urban renewal projects on its own. However, it has only been marching on the same spot and it has taken no action. This mindset of shirking responsibilities and slow response are totally unacceptable in Hong Kong. The URA must never harbour such an attitude especially when there are so many residents in old urban areas who hope that the URA can spearhead urban renewal and hence improve their life and the environment of their community.

With respect to launching work in urban renewal, it can be said that there is a total dereliction of duty on the part of the URA. The consequences are that many residents have been thrown into an abyss of despair and thousands made to

wait for urban renewal for so long that they have become dumb. Members can just see for themselves that many of these projects, including those projects which are supposed to be under study and the 25 projects being planned, are seeing no signs of ever being commenced after as many as 15 or 16 years, if not 20 years. One simply has no idea when compensation would be paid out and the people rehoused. I therefore hope that under the leadership of the Policy Bureau, the Director of Bureau can do something to take urban renewal projects forward and make some personnel reshuffle. These will enable actual work to be done in urban renewal and the living conditions of the residents can change for the better.

A great Canadian writer called Jane JACOBS published in 1961 a well-known book entitled *The Death and Life of Great American Cities*. The book has an enormous influence on many urban renewal projects in North America, including the concepts and approaches in town planning. One of the fiercest attacks she made is that urban renewal is actually a brutal destruction of the history and culture of a place. In response to this criticism, there are drastic revisions in the philosophy and approaches taken in redevelopment work in many cities in the United States. But in Hong Kong, all through these few decades there has been a complete indifference towards the history of the old urban areas, the life of the residents there and the unique colour of the locality. In Hong Kong, urban renewal is still an attempt to erase history, stamp out life and destroy unique cultural features of a place. If this goes on, urban renewal would only become a means for developers to seize ill-gotten gains and net exorbitant profits. Urban renewal would then be accused of being a means of the collusion between business and the Government. Therefore, if any change is to be made and if this kind of allegation is to be avoided, the Secretary should effect a shift in the focus of urban renewal to enable it to be truly serve the people of Hong Kong.

Thank you, President.

MR FRED LI (in Cantonese): President, I have listened to all the speeches made by Honourable Members on this motion today. I would like to declare my interest. I am also a non-executive director of the Urban Renewal Authority (URA). I think all the Honourable colleagues of this Council who serve on the URA have spoken. I wish to thank Mr LEONG for proposing this motion so that we can ponder over again and debate on the theme of urban renewal.

I joined the URA in 2001 and have served there ever since. Mr James TO of the Democratic Party has served as a member of the Land Development Corporation (LDC) for six years. Actually, he should be a more suitable candidate than me for appointment to the URA. But this is how things go with appointments by the Government. I do not know why I was appointed. With respect to the redevelopment of public housing estates though, I have worked for more than two decades. Insofar as the redevelopment of public housing estates is concerned, I do not think there is anyone who is more familiar with the subject than me when it comes to Kowloon East, including Kwun Tong and Wong Tai Sin. On this subject of the redevelopment of public housing estates, presently even in the Housing Department, there is nobody more familiar with the subject than me.

On this subject of urban renewal — Mr Abraham SHEK is not in the Chamber now — I have never thought that he is still so concerned about a remark I made jokingly about him a few years ago. When the URA was first formed, it was under tremendous pressure. At that time the Government had not yet agreed to any capital injection. The sum of \$10 billion mentioned earlier did not come as a one-off provision but in annual provisions of \$2 billion. This I have to clarify. That is why the URA has been under great financial pressure. As many Honourable colleagues have said, the URA is fettered for the reason that the Government has decreed that the URA would have to be self-financing in the long run. Of course, we are not asking that we must win and make money in every project that we undertake, but in the long run, we have to undertake 225 projects within 20 years. Of these projects, 25 are left over by the LDC and 200 are new projects. Even though I am a director, I do not know where the 200 projects are supposed to be, for this is confidential and such information cannot be disclosed prematurely, for fear that people would exploit the opportunity to strive to get an unreasonable amount of compensation. These 200 projects will be completed with collaboration of the Planning Department and the Home Affairs Department. These projects spread all over Hong Kong and we have no idea where they are, though most of them are redevelopment projects.

Is it necessary to update these projects? I think it is necessary. Is there any need to tear down buildings for redevelopment? I think this should be reviewed. So I fully support Mr LEONG's idea that a review should be conducted on the Urban Renewal Strategy. As to whether there should be demolitions and demolitions all the time in these 200 projects, this is something

that should also be taken up in a review. Besides, the public should be given an opportunity to debate on the terms of reference of the URA. With respect to the four "Rs" of the URA, many people just know about "redevelopment" which is demolition for redevelopment. There are three more and they are rehabilitation of dilapidated buildings, restoration of buildings of historical or architectural value and the revitalization of old urban areas. Work under these three "Rs" cannot be profit-making and money has to be spent on them. The expenses have to be subsidized by the redevelopment projects.

The URA is not a profit-making body but a non-profit-making body. It can also be considered as a non-profit-making developer. Indeed this is how some people have described it. Of course, the URA is different from companies like Cheung Kong, Sun Hung Kai, and so on. Though I am a non-executive director, I am not entitled to dividends and I have no money to earn. As for the salaries of the management, I think Members may comment on it if they so wish. I have been a non-executive director for five years. I have had grumbles in the board of directors. I am not sure if Secretary Michael SUEN knows about them. When I first joined the URA, due to its low level of transparency and the fact that we were to remain confidential in every matter, I grumbled on a number of occasions. I was asked to sign a declaration on secrecy but I refused for the reason that I did not think there was any justification to pull the zippers across my mouth. I have not signed it even to this day. This is because I think the public should be informed whenever the circumstances call for a high degree of transparency.

All along we have been keeping in touch with the residents' associations to listen to what they think. This applies not only to those in Kwun Tong. I also go to other districts to listen to the residents' views. I think when Honourable colleagues have made criticisms, of course we should review our work. But the greatest problem is what the URA should do in the long run. Should it strive to be financially self-sufficient and make money from the redevelopment projects to subsidize others? If this is the case, then Members' criticisms will still exist. There is nothing we can do about them. This is the reality. Of course, under the "six-six" rule, I would leave after working for another couple of years or so as a director. Most of us from the democratic camp will leave after serving as board members for six years. But other people may serve for a longer period of time. So in practice, we hope that during the remaining term of office, we would go on giving advice.

Members may have received many letters from residents living in areas designated for redevelopment. Residents demand that the K28 project in Sai Yee Street should commence early. Property owners in Nga Tsin Wai Village have jointly signed to urge that redevelopment should commence at the soonest. Those residents from Graham Street, Gage Street, Staunton Street and Wing Lee Street demand the same. Unfortunately, though the Staunton Street project has been under discussion for a long time, it is delayed because of a lawsuit. The developer, Henderson Land, has lodged an appeal with the Court of Final Appeal. I hope Members could place themselves in a better picture of the situation. If they have no idea of what is going on, I could tell them why delay is caused. The delay is not the fault of the URA, it is caused by a lawsuit. And the URA has to go to the Court of Final Appeal with Henderson Land. This is the situation now. As for Old Bailey Street, a workshop will be held in June and members of the Central and Western District Council plus all parties and groupings would be invited to full involvement in the development of Old Bailey Street. As for Kwun Tong, this is a district I know best. Talks on redevelopment have been going on for some 10 to 20 years. With respect to Kwun Tong, I wish Mr LEONG and friends from the Civic Party would know that in the redevelopment area, the owners want demolition as soon as possible. They are not so interested in the future developments in the district and how buildings should be constructed. Their greatest interest is that acquisition should proceed at the soonest so that the area can be redeveloped. They have waited for a very long time and they have put off their maintenance works. As a result, the buildings where they live are getting worn out and the environment is worsening. They do not want to talk about developments or redevelopments. All they want is that their flats would be acquired once and for all and they can move out. They would be happy if they can start to shop around for a home with cash in their hands.

I have been engaging in work at the district level for many years. I hope Members can support the residents in their demand for expeditious redevelopment. The government departments should also make matching efforts. They must not impose too many restraints on the URA in order that the redevelopment projects can commence.

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

MR FRED LI (in Cantonese): I so submit.

MR ALBERT CHENG (in Cantonese): The fact that Mr Alan LEONG has proposed the motion today has won my respect for Mr Alan LEONG and the Civic Party. As a matter of principle, besides improving the living conditions of the people, President, urban renewal may also beautify the urban areas. Low-density developments may provide more space to the public. No one would object to the idea that we should do away with those high-density residential developments with numerous apartment blocks.

But in reality, as Mr Fred LI and Mr James TO have said, people who live in those sleazy places where crimes are rampant are also leading their life in dire distress. They are not leading a life with dignity. They have been waiting for many years. Some of them could have moved out, but they keep on waiting in the hope that there is redevelopment. And this will mean a better life for them. Speaking from the residents' perspective and as Mr Fred LI has said, it would be meaningless regardless of how beautiful the place may become after redevelopment. Things like low-density development, parks or cultural life do not mean very much to them. May I ask Mr Alan LEONG to think about this, that is, if we were living in such conditions, I do not think Mr Alan LEONG would have said such things today. He would demand to know from the Government when redevelopment would commence and he would urge the Government to compensate him with a sum based on the value of a seven-year-old notional flat. For this would enable him to buy a flat and improve the living conditions of his family.

The Civic Party wants to become the ruling party, I hope very much that it can do so. If it becomes the ruling party, Mr Alan LEONG's ideal and principles would certainly be put into practice. However, given the present circumstances, the Government as it is does not think in the way we think with respect to redevelopment. What it cares most is to make such work self-financing, not things which Donald TSANG has said on the radio, like, "See, redevelopment projects always mean losses." Two months ago when Donald TSANG came here for the Question and Answer Session, I asked him when he would pay a visit to Kwun Tong. I do not know if he has done that and even if he has, I may not know. It appears that he has not done it. Has he been there? I am not sure. He is coming here again tomorrow. Originally, I

wanted to ask him whether or not he has been to Kwun Tong, but now since I know he has been there, I will not ask him this question.

Kwun Tong is presently being redeveloped. As Members of this Council from Kowloon East, we know that this is the focus of the people's attention. We know that conditions are terrible there. I am not sure if Mr Alan LEONG has inspected the place before, but I have done so. It seems that another residents' association will be formed tomorrow and I have been invited to attend as a guest of honour. I am not sure if Mr Alan LEONG has been invited as well. President, there are five directly-elected seats in Kowloon East and three Members, that is, Mr Alan LEONG, Mr CHAN Kam-lam and Mr Fred LI are directors of the URA. Only Miss CHAN Yuen-han and I are not. This is because the Government has not appointed us, not that we have refused to accept such appointment. However, the Government indeed appointed Miss CHAN Yuen-han and me as members of the Kwun Tong District Advisory Committee but I declined. This was because I did not see any point in window dressing for the URA. If we want to fight, it would be better for us to fight outside the URA.

For Mr Alan LEONG's motion, let me read from it, it says, residents ".....who are deeply dissatisfied and frustrated due to their being deprived of their rights to choose and their misery, and even impedes the efficacy of the Hong Kong community as a whole in dealing with the problem of urban ageing". If the URA has really made the people deeply dissatisfied and frustrated, if it has really impeded the efforts of the Hong Kong community as a whole in dealing with the problem of urban ageing, and if the people are made so miserable and their rights to choose are deprived, then may I ask Mr Alan LEONG what he has done in the URA? I think Mr LEONG must have done a lot of work there. I respect him. But since he has done so much but to no avail and in the end the residents are deprived of their rights, then why take the trouble of window dressing for the URA?

As I have said before, Members of this Council should not engage in any sidelines. Since this Council is already the highest advisory body in Hong Kong, with numerous panels and each one of these panels will monitor the enforcement of the policies of relevant government departments, including the portfolios of Secretary Michael SUEN, so what is the use of joining the URA? Does Mr LEONG have a lot of time to spare? If he really has a lot of free time,

he might as well take up more lawsuits, fight for the rights of the people and visit the districts more frequently. If what Mr Alan LEONG has said today is true — of course I believe it is and like I said, I respect him — then he should resign from the URA. What is the point of staying in the URA aiding and abetting the oppressors? This is only window dressing for other people and there is no point doing it. People who talk one thing and act the other way will only leave a bad impression on others. The CAPO incident has embarrassed him well enough. Now the URA is giving him more embarrassment. If I were him — let me say from the bottom of my heart that I am not jealous of him and I have no interest serving in committees, even the Commission on Strategic Development which Members love to join — I would be the first one to resign. I really hope that he would not help this Government. Since he thinks there are so many policy blunders by the Government, then please do not try to whitewash and window dress for it. In my opinion, resignation is an option that best fits the principles found in today's motion.

All the motion and amendments today are meant for the good of the people, therefore I cannot raise any objection. President, I support all the motion and amendments. I so submit.

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

MR LEE WING-TAT (in Cantonese): President, I know that many Members belonging to the Civic Party have already spoken. There are also some redevelopment projects of the URA in my constituency. I shall try to speak on this issue from a more balanced perspective.

To begin with, I do not think that the URA has done nothing. It has certainly done something. I agree with Mr Fred LI that it is a non-profit-making property developer. At the time of its inception years back, the URA did announce some projects. To the public, all these projects constitute a commitment. They therefore expect to see their satisfactory completion. If these projects cannot be completed, then, despite all the reasons mentioned by Mr Fred LI just now, the public may not necessarily understand why and they may not appreciate the difficulties faced by the Government, because they all think that the Government should be able to get the job done.

Therefore, when there are public grievances and criticisms, the Government should show greater commitment. What I mean is that even if the Government has made some efforts, it should still try to do better.

I am not going to discuss the details of these projects. Several years ago, when the property market was in poor shape, some projects must understandably be delayed. And, according to the URA, certain projects in the past incurred huge losses. In more colloquial language, it was "total loss", meaning that all the profits earned by the URA over the years were lost. However, the market conditions in Tsuen Wan have shown some signs of improvement. The property market there is in pretty good shape. A person who was once involved in the work of the URA has said that some projects in Tsuen Wan carry a profit sharing clause. Therefore, when the property market is doing so well now, the URA should be able to have more profits.

But in the case of those people living in dilapidated housing units or places, it is only fair for them to grumble when their expectations are not met. The reason is that it has been quite some years since the Government's announcement of these projects.

Besides, I also want to say a few words in defence of the Civic Party. "Tai Pan" has already spoken and Mr Alan LEONG wants to give his responses. Actually, he will have time to do so later on.

There is always one problem. What should a member of a certain committee do when he finds that despite all his efforts, he cannot achieve anything? The Legislative Council should in fact be the most powerful of all such committees because we are outside the establishment of the Government. But I do not quite buy the argument of "Tai Pan". According to him, if anyone fails to achieve anything in a certain committee, he must resign. Frankly speaking, I must tell "Tai Pan" that even the Legislative Council is not capable of achieving much. Therefore, he should not wait 29 months. Last time, on board a car, he told me that he would not run in the election 29 months later. He should actually resign right now. If he is true to his principle, he should resign this evening. He criticized Mr Alan LEONG so very severely just now, but the Legislative Council is likewise unable to achieve much. The Tamar site proposal will certainly be passed, right? It will certainly be passed because there are enough votes already. What is even worse is that even he himself has

expressed support for it. His logic sounds very grand, but it may easily lead to one conclusion: Whenever one is only just slightly unable to achieve anything, one must resign.

But he is different from Yuk-man. Yuk-man always wants to fight and struggle, so he does not want to join the Legislative Council. This reminds me of "Long Hair". His joining the Legislative Council is more or less a compromise, because he is sometimes required by the President to abide by the rules. He cannot speak on everything. He can only speak for seven minutes. Therefore — even the President is smiling in agreement — he cannot speak on everything. Even "Tai Pan" himself once told me that he was having a hard time here, because he could only speak for seven minutes, after which he must sit down and he could not contravene the Rules of Procedure. Actually, whether one calls it reality or compromise, this is a procedure we must follow in the campaign for democracy. So much for this. I must return to the debate question instead of straying too far.

Therefore, I think what the URA must now do is that when the market starts to improve..... But I do not want to see any over-improvement of the market to the state in 1997 and 1998. That will be terrible. The market is more stable now. I believe that in terms of overall finances, the URA's revenue will be more stable in the next five to 10 years, for there will be an additional source of revenue from non-distributable profits generated by property development.

I think that the Secretary should join hands with the URA to explore a strategy that is more progressive and aggressive than the present one. In our past discussions with him, he said that things had really been very bad in the past few years because the URA had incurred huge losses. But can it now make up for lost ground, so that the further waiting time of those being held up can be shortened and the many conflicts mentioned by Members alleviated? In the case of public rental housing, all applicants with the exception of singleton applicants can now be allocated a housing unit within three years as pledged. I think this is quite satisfactory. In contrast, the performance of the URA is in comparison less satisfactory than that of other organizations in charge of housing projects. But at the same time, I do not think that we should describe it as a "failure". What I mean is that while the Housing Authority has made marked progress in shortening the waiting time of applicants other than singleton

applicants over the past 10 years, the URA has made very slow, or even no, progress. People always know how to make comparisons. The Secretary is responsible for both areas. I suppose he will have his own yardstick of comparison. Which has done better — the HA or the URA? I think he should already have an answer in mind.

Therefore, speaking of time, should the Secretary not join hands with the directors of the URA to explore new and visionary strategies, so as to expedite the progress of those projects that were once delayed? Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, Mr Alan LEONG, you may now speak on the four amendments. You have up to five minutes to speak.

MR ALAN LEONG (in Cantonese): President, not every Member is like Mr Albert CHENG, who can just keep on talking without doing anything. Most Members must work hard, grasping every opportunity of serving the people. "To have work to do" is always better than being "idle". Nor should we ever ask any question like that of Mr LEE Wing-tat, wondering whether Members should resign if the Legislative Council fails to do its job well.

President, I must first thank the four Members concerned for proposing their amendments. As I said earlier on in my speech, my intention of moving this motion is just to "cast a brick in order to attract jade". Since I have succeeded in attracting four pieces of jade, I am naturally very delighted and must therefore extend my gratitude to these four Members. Actually, having looked at these four amendments, I find that I can support three of them without any difficulties and hesitation. And, after some consideration, I even realize that I should also support the remaining one without any hesitation.

Honestly speaking, I initially did have some reservations about Mr CHEUNG Hok-ming's amendment, mainly because, as I said earlier on, all

these are about things I have actually seen, the actual experiences narrated by the kaifongs and people I have talked to. They are thus true stories filled with tears. Naturally, having learned of all this, I must heed people's sentiments. Their feelings must not be ignored. According to Mr James TO, it may just be 30%, but I think this is already very substantial, so we must pay heed to all these feelings.

However, I think the most important things are actually the points to note concerning urban renewal listed in the original motion. In sum, I hold that Mr CHEUNG's amendment can basically preserve the spirit of the original motion. As a result, after consideration, I think I can support his amendment as well.

I also wish to talk about Mr CHEUNG's proposal to delete "; and preventing URA from operating on a purely commercial model or even reducing itself to becoming a statutory real estate developer" from item (f) of my original motion. I do not know whether this is caused by his suspicion that I may be indirectly accusing the URA of operating on a purely commercial mode at present. President, this is not what I mean. I am just looking into the future, hoping that the strategy review of the URA will not make it a statutory real estate developer. When he spoke earlier on, Mr CHEUNG also expressed the hope that the URA will not focus solely on profits and that locations in the districts can be reserved for small shop operators to carry on their business. This shows clearly that he does not want the URA to operate on a purely commercial mode. Consequently, even though he proposes to change the wording of my motion by deleting the part mentioned above, I still think that our opinions are not different in this particular regard.

As for the idea of elevating the whole thing to the cross-bureaux level, I do hope that there can be a government official of higher ranking to remove all the obstacles. This means that when one wants to get something done, one should not have to knock at 10, 20 doors, should not be kept waiting while arguments go on and on between the first department and the sixth and then between the sixth and the ninth. After listening to the speech of Mr CHEUNG, I do not think that there should be any problems with his proposal in principle.

Mr CHAN Kam-lam maintained emphatically that my opinions about the URA might not be fair enough. This is actually not the case. One can at most say that I am being harsh just because I want it to be good. I think cossetting

should be no solution because a recognition of the problems is the only first step towards progress.

Thank you, President.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, the heated discussion of Mr Alan LEONG and many other Members over the motion and amendments to the motion has demonstrated that urban renewal does not only concern the affected residents in old districts, but is also a subject of great public interest. The fact that Members have raised amendments to the motion from different perspectives has illustrated the complexity of urban renewal.

In 2001, the Government set up the Urban Renewal Authority (URA) to replace the former Land Development Corporation (LDC) to further advance the work of urban renewal. The Urban Renewal Authority Ordinance (URAO) was passed after thorough and in-depth discussions by the Legislative Council and society. It provides the URA with greater flexibility to implement a more comprehensive urban renewal programme. After extensive public consultation we have also formulated a "people-centred" Urban Renewal Strategy (the Strategy) which provides broad directions to guide the URA's work. Under the framework of the URAO and the Strategy, the Board of the URA, comprising independent members from different sectors, is tasked to carry out the urban renewal programme, to monitor the effectiveness of the work of the URA and to closely work with stakeholders in furthering its important mission of rejuvenating older districts.

Since urban renewal is a complex matter involving the interests of different stakeholders, coupled with rising public aspirations and expectations over urban renewal, the URA may not be able to fully satisfy the demand of every stakeholder and there may be room for further improvement. That said, under the guidance of the URA Board, the URA has been doing its best to discharge its statutory duties.

Mr Alan LEONG has pointed out that two guidelines stipulated in the Strategy (including the 21st and 35th paragraphs of the Strategy) have seriously constrained the work of the URA. I must first respond to this point. In 2002, when the Government sought approval of the Finance Committee of the Legislative Council over the capital injection of \$10 billion to the URA, we

already explained clearly to Members about the URA's long-term objective of being self-financing. During the public consultation on the draft Strategy, we have also clearly conveyed such policy direction to the public.

As a matter of fact, apart from the capital injection of \$10 billion to the URA, the Government has agreed to grant urban redevelopment sites to the URA at nominal premium. Taking the Kwun Tong Town Centre project as an example, the premium foregone of that project site will amount to thousands of millions of dollars. The opportunity costs of the Government's \$10 billion injection should not be disregarded. All this financial assistance to the URA has demonstrated that the Government and society as a whole have already put huge resources into the work of urban renewal. It is also totally unfounded to allege that the Government has required the URA to achieve financial balance for each of its projects. Many of the URA's 30 projects already commenced are financially non-viable but beneficial to the community at large, and thus should be carried out.

Given that the URA is operating on public coffers, and that it has been given a significant capital injection and free land for redevelopment, we believe that the community accepts that the URA be required to exercise financial discipline to achieve self-financing in the long run in order to ensure the sustainability of its urban renewal programme. It is also a discipline that the URA, being a statutory body, should abide by. We appreciate that it would be difficult to anticipate all the eventualities. As such, if for some reasons the URA is unable to achieve self-financing in the long run in future, the Government will be prepared to consider, in the light of the actual circumstances, the URA's financial arrangements.

As regards the 21st paragraph of the Strategy, the original motion suggested that the URA could consider adopting the private sector's redevelopment practice, such as acquiring properties first and then working out the design and planning options afterwards. We consider this approach inappropriate. As a public organization, the URA should be fair, open and transparent when handling acquisitions, to safeguard the rights and interests of the residents affected by redevelopment. The URA currently carries out property acquisition upon completion of all statutory planning procedures. This is to ensure that the community generally agrees that commencement of a project is in line with public interest before it is further taken forward. I think this is an important understanding.

In fact, the focus of the 21st paragraph is to require the URA to adopt a "people-centred" approach to acquire properties through negotiation with owners concerned before seeking the Government's approval over land resumption. This arrangement allows room for the URA to provide various types of assistance to owners in need, and to minimize the social impact arising from redevelopment projects.

Regarding the proposal that the URA should act as a facilitator in urban renewal, I would like to point out that the *modus operandi* of the URA, as stipulated under the URAO, was endorsed by the Legislative Council after thorough consideration and discussion. While the feasibility of Mr Alan LEONG's proposal is subject to discussion, the fundamental concept of ultimately relying on private developers to carry out urban renewal appears to be contradictory to his proposed direction that urban renewal should focus on financially non-viable but socially desirable projects. It is impracticable to expect private sector participation in non-profit-making projects. As a result, people living in dilapidated areas, with living conditions that warrant immediate improvement, cannot benefit from the proposal, and the pace of urban renewal cannot be expedited.

The motion mentions various issues that the Government should pay attention to when carrying out the review of the Strategy. Most of these issues are already part of the URA's ongoing policy direction. Over the past few years, the URA has also achieved some results. I would like to highlight the salient points.

A number of Members have stressed that a comprehensive approach to urban renewal, instead of redevelopment dominant, should be adopted. It is exactly for this reason the URA has adopted a holistic "4R" approach which covers not only redevelopment, but also rehabilitation, preservation of buildings of historical value, and revitalization. I thus strongly agree with Mr CHEUNG Hok-ming's proposal that the "4R" strategy should be fully implemented.

Let me give some examples to illustrate the experience and achievements of the URA's work in these four aspects:

- (1) rehabilitation — since the URA in 2003 started promoting building rehabilitation to encourage building owners to properly upkeep their buildings, various rehabilitation schemes have been put in place,

including the provision of financial and technical assistance to owners. Owners assisted by the URA have in general indicated that apart from the improvement to building conditions, the rehabilitation efforts have helped to increase the value of their properties and secure more favourable mortgage terms with the banks. The schemes have been well received by the public and have so far provided assistance to some 17 000 property owners;

- (2) preservation — by way of consulting the Antiquities Advisory Board, the URA will propose to preserve buildings of historical value within its urban renewal projects. The URA has so far preserved more than 20 historic buildings. The tenement buildings in Mallory Street, Wan Chai, are one example. Regarding tree protection as raised by Mr CHEUNG Hok-ming in his amendment, the URA will take fully into account the need to protect old and valuable trees when implementing its projects. The Government also supports the preservation of local communities with unique cultural characteristics as proposed by Miss CHAN Yuen-han;
- (3) revitalization — to enhance the vibrancy of local community, the URA will carry out tailor-made improvement works to the local environment, for example, repaving roads and greening. The URA will also organize street activities jointly with District Councils (DCs) and other organizations to strengthen the local economic vitality. The Sheung Wan Fong revitalization project is one of the successful examples;
- (4) redevelopment — as already mentioned by Members earlier, the URA has commenced 30 redevelopment projects. Out of the 25 LDC projects, 21 have been started. As regards Mr Frederick FUNG's concern about the remaining LDC projects, the URA has indicated that it will commence these projects as soon as possible, taking into account the local community's aspirations and other pertinent factors. The 30 redevelopment projects commenced so far will provide about 7 000 sq m open space and about 17 000 sq m of community facilities upon completion.

I understand that the URA has from time to time explained its work to Members of this Council and listened to their views.

A number of Members have considered that the URA should enhance its consultation with the stakeholders of urban renewal, particularly the professionals. I fully agree with this point. In recent years there has been a growing community demand to take part in city planning. The DCs, as the representatives of the local community, are indispensable partners of the URA. The URA has been actively collecting views of the public and different stakeholders through various channels. Taking Mr Frederick FUNG's Sham Shui Po District as an example, the URA has already consulted the Sham Shui Po DC or its committees three times on the Kweilin Street project. The URA also carries out community aspiration surveys, gauging the concerns and expectations of the local community affected by redevelopment projects and its neighbourhood. The URA has also set up in various districts District Advisory Committees (DACs) comprising local personalities from different sectors. The DACs advise the URA on urban renewal work in the respective districts.

Take the preparation work for commencement of the Kwun Tong Town Centre project as an example. The URA has worked out a consultation plan at the outset, adopting a bottom-up approach and engaging the community in its project planning process. Apart from the community aspirations survey conducted in the Kwun Tong Town Centre and its neighbourhood, the URA has invited residents, professionals, academics, Members of the Legislative Council, and so on, to attend workshops to gauge the views of different parties on the future development of Kwun Tong. The URA will later consult the public on the development concepts of Kwun Tong Town Centre. I firmly believe that in order to work out a project that is practicable and in line with the public interest, the URA will consider all the views received in the consultation, and balance different interests when assessing various options.

Concerning the Sai Yee Street (the so-called "Trainers Street" mentioned by Members just now) project in Mong Kok, the local community has diverse views on whether redevelopment should be pursued or rehabilitation should be carried out. The URA needs to widely consult local residents and shop owners on their preferred approach. It is appropriate for the URA to now conduct an opinion survey. In any case, the URA's determination to preserve the local characteristics and the existing vibrant economic activities in that community remains unchanged.

To make our urban renewal efforts successful, we cannot perceive urban renewal as different separate entities. A holistic planning and consistency within and outside a district are very important, as show-cased by the URA's integrated approach to rejuvenate old districts. The Wan Chai Master Thinking

is a case in point. It is in line with what Mr Alan LEONG has proposed, "not adopting a separatist attitude when devising updated blueprints and formulating reform strategies for local communities, but rather promoting co-ordination among the communities and making concerted efforts together with neighbouring communities in pursuing overall developments, so as to achieve the best synergy".

On the co-operation between the Government and the URA, as I have pointed out earlier, the URA Board has its own statutory role and authority. It will be against the legislative intent of the URAO if the Government is also tasked to undertake the planning and decision-making for urban renewal. On this point, the amendment proposed by Mr CHEUNG Hok-ming is more practical and realistic. Government departments will continue to closely liaise with the URA to support its work.

Mr Alan LEONG has requested the strengthening of social impact assessments. The Strategy has already required the URA to conduct comprehensive social impact assessments and the URA has complied. Reports of the social impact assessments on individual projects are also available for public inspection.

Moreover, the Government will review from time to time the implementation of various ordinances, including those relating to buildings, town planning, land resumption, and antiquities and monuments. One of the considerations of the review is how to complement the work of urban renewal. The amended Town Planning Ordinance has made the town planning process more comprehensive and open, which is also applicable to the URA's development schemes. The Government will also review from time to time the statutory land-use plans in order to meet the community aspirations and the needs of urban renewal. The Buildings Department will also adopt a performance-based approach to handle those rehabilitated or preserved buildings which, limited by their actual environment, cannot fully meet the requirements of the Buildings Ordinance.

Members have suggested that the URA should roll out more flexible financial and loan options to assist residents and shop operators. At present, the URA has been providing residents with various kinds of support to undertake building rehabilitation. Apart from providing loans and subsidies to owners, the URA has reached agreement with a number of banks to provide preferential mortgage or longer repayment period to residential units that have been rehabilitated under the URA's schemes.

Regarding Members' concerns on the compensation for redevelopment projects, the relevant compensation policy and implementation details are formulated by the URA Board. The URA's existing *ex gratia* payment policy is based on the Government's *ex gratia* compensation package as approved by the Finance Committee of the Legislative Council, with appropriate top-ups. The then Finance Committee of the Legislative Council approved the compensation arrangement having considered that the arrangement was reasonable and could balance the interests of the community. Such an *ex gratia* arrangement should not be mixed up with the URA's principle of achieving self-financing in the long run. The URA will adopt a flexible approach to offering *ex gratia* compensation having regard to the actual situation and the needs of individual residents. In response to residents' request for greater transparency in the valuation for the Home Purchase Allowance, the URA, through open lot-drawing, engages independent surveying firms to undertake property valuation. Other than providing financial assistance, the URA has also engaged social worker teams to help residents affected by redevelopment to resolve rehousing, relocation and individual problems.

Nonetheless, the URA must exercise due care and diligence in handling its finance in accordance with the URAO. While trying to meet the needs of residents as far as practicable, the URA must be prudent in ensuring public funds are used properly. The URA should also have a comprehensive master of its financial position and commitments so that it can sustain its urban renewal work. I believe Members agree to this point.

I would like to take this opportunity to clarify some misconceptions about the URA. Given its mission and social responsibilities, the URA is entirely different from private developers. While financial return is the sole performance indicator for private developers, the URA is not for profit making. As I have mentioned earlier, the URA has undertaken projects which could bring benefits to the community but have no financial return, including the launching of some financially non-viable redevelopment projects as well as undertaking building rehabilitation and revitalization of old districts. It is unfair to allege that the URA has become a "statutory developer".

Finally, I would like to speak on the review of the Strategy. In view of the request of Legislative Council and the community, the URA has accorded priority to launching the remaining projects of the former LDC. As a result, the URA has only launched redevelopment projects under the new legal framework of the URAO in the past one to two years. As redevelopment

projects involve complex procedures, including an interactive planning consultation process, property acquisition, rehousing, land resumption and so on, it normally takes time to complete the whole process. Besides, the URA's rehabilitation and revitalization programmes have been launched only for a relatively short period. We therefore consider that more time is needed for the URA to accumulate adequate operational experience. Urban renewal is a very complex subject. Not only does it involve a need to balance the interests of the affected residents and shop operators with that of the overall community, it also involves social, economic, planning, land use, environmental and even resource management issues which are closely interrelated. There is a need to review the Strategy so that we can learn from experience and seek improvements. This will allow us to achieve the objectives of urban renewal, to provide a comfortable living environment for the community and to facilitate the continual development of Hong Kong.

I look forward to working hand in hand with the URA, Members and the public in striving for urban renewal.

Thank you, President.

PRESIDENT (in Cantonese): I now call upon Mr CHEUNG Hok-ming to move his amendment to the motion.

MR CHEUNG HOK-MING (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

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

"To delete "greatly" after "often deviate"; to delete "ideal" before "when they are put in practice" and substitute with "expectation of the affected residents and shop operators"; to delete "which not only seriously jeopardizes the interests of the affected residents and shop operators who are deeply dissatisfied and frustrated due to their being deprived of their rights to choose and their misery, and even impedes" after "put in practice," and substitute with "causing many social conflicts, thereby impeding"; to delete "; and as the Urban Renewal Authority ('URA') gives people the impression of focusing solely on commercial interests when launching redevelopment projects and also fails to observe the

principles set out in the Strategy, such as the 'people-centred' approach" after "urban ageing", to delete "to face up to the deficiencies and shortcomings of the existing Strategy, to immediately discharge his statutory duty" after "Secretary for Housing, Planning and Lands"; to delete "after conducting public consultation," after "five years,"; to delete "URA" after "create conditions for" and substitute with "the Urban Renewal Authority"; to delete "replace the existing strategy which is led under a demolition and redevelopment mode" after "meet the needs of the local community, in order to" and substitute with "take forward fully the four major directions of urban regeneration, namely redevelopment, rehabilitation, preservation and revitalization"; to add ", on the premise of giving due consideration to social needs and the residents' interests," after "bottom-up approach; and"; to delete "elevating to the cross-bureaux level the planning and decision-making in urban regeneration;" after "(d)"; to delete "so that different departments can all take part in planning new communities" after "bureaucratic restrictions" and substitute with "when implementing urban regeneration programmes, and enhancing communication among various departments to take in different views"; to add "and policies" after "reviewing the legislation"; to delete "that which relates" before "to buildings" and substitute with "those which relate"; to delete "and" after "to buildings" and substitute with ", "; to add "and land resumption" after "town planning"; to delete "and" after "affected residents;"; and to delete "; and preventing URA from operating on a purely commercial model or even reducing itself to becoming a statutory real estate develop" after "improving the community environment" and substitute with "; and (g) actively preserving buildings of historical and cultural significance and ensuring the protection for old and valuable trees when implementing urban regeneration programmes".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHEUNG Hok-ming to Mr Alan LEONG'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, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying, Mr Vincent FANG, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr Fernando CHEUNG and Mr WONG Ting-kwong voted for the amendment.

Dr Raymond HO, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr Abraham SHEK and Mr Patrick LAU voted against the amendment.

Mr WONG Kwok-hing, Dr KWOK Ka-ki and Mr KWONG Chi-kin abstained.

Geographical Constituencies:

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Ms Audrey EU, Mr Alan LEONG, Mr CHEUNG Hok-ming and Mr Ronny TONG voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG and Mr LEE Wing-tat voted against the amendment.

Miss CHAN Yuen-han 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, 14 were in favour of the amendment, six against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 21 were present, nine were in favour of the amendment, 10 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 negated.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion "Review on Urban Renewal Strategy" or any amendments thereto, this Council do proceed to each of these 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 of the Members present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion "Review on Urban Renewal Strategy" or any amendments thereto, this Council do proceed to each of these divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Frederick FUNG, you may now move your amendment.

MR FREDERICK FUNG (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Mr Frederick FUNG moved the following amendment: (Translation)

"To add "; furthermore, URA did not duly consult the district councils concerned when it planned and implemented the urban regeneration projects whereas the existing compensation mechanism for redevelopment fails to give the affected residents adequate protection" after "'people-centred' approach"; to add "(b) on the premise of safeguarding the interests of residents in old districts as well as protecting buildings of historical value and cultural features, expediting by URA the demolition of buildings which are too dilapidated for rehabilitation so as to protect the personal safety and improve the living quality of the residents; (c) honouring by URA its undertakings to complete the unfinished redevelopment projects of the Land Development Corporation as soon as possible;" after "under a demolition and redevelopment mode;"; to delete the original "(b)" and substitute with "(d)"; to add "the statutory involvement of district councils is specified and" after "implementing a community planning regime whereby"; to add "to join hands" after "in the early stage of consultation"; to delete the original "(c)" and substitute with "(e)"; to delete the original "(d)" and substitute with "(f)"; to add "(g) comprehensively reviewing the existing

compensation mechanism for redevelopment, such as the enforcing and approving details etc, and duly consulting the affected residents for making relevant improvements, so as to plug the loopholes in the existing mechanism;" after "different groups in the local communities;"; to delete the original "(e)" and substitute with "(h)"; and to delete the original "(f)" and substitute with "(i)".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Frederick FUNG's amendment to Mr Alan LEONG'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 CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Mr Bernard CHAN, Mr Abraham SHEK and Mr Patrick LAU voted against the amendment.

Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr Ronny TONG voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr CHEUNG Hok-ming 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, nine were in favour of the amendment, four against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 21 were present, 14 were in favour of the amendment and six 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 negated.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, you may now move your amendment.

MISS CHAN YUEN-HAN (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Miss CHAN Yuen-han moved the following amendment: (Translation)

"To add "antiquities and monuments" after "which relates to buildings, town planning,"; to add "reserving space for sustainable development of

the communities" after "etc,"; and to add "; and prior to amending legislation, adopting special measures to save those communities with cultural features from demolition" after "adequate choices for the affected residents". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Miss CHAN Yuen-han's amendment to Mr Alan LEUNG'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)

Miss CHAN Yuen-han rose to claim a division.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Mr Bernard CHAN, Mr Abraham SHEK and Mr Patrick LAU voted against the amendment.

Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr Ronny TONG voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr CHEUNG Hok-ming 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, nine were in favour of the amendment, four against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 21 were present, 14 were in favour of the amendment and six 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 negated.

PRESIDENT (in Cantonese): Mr James TO, you may now move your amendment.

MR JAMES TO (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

Mr James TO moved the following amendment: (Translation)

"To add "; and this Council considers that the substance of the above review should not affect the entitlement of the residents of the properties

which are being purchased in respect of reasonable rehousing, which is aimed at in-situ rehousing as far as possible, and reasonable compensation, i.e. the amount payable to an owner-occupier should be no less than the value of a seven-year-old notional flat in the same locality, as stipulated in the law" after "a statutory real estate developer".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to Mr Alan LEONG'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 CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Mr Bernard CHAN, Mr Abraham SHEK and Mr Patrick LAU voted against the amendment.

Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr Ronny TONG voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr CHEUNG Hok-ming 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, nine were in favour of the amendment, four against it and 10 abstained, while among the Members returned by geographical constituencies through direct elections, 21 were present, 14 were in favour of the amendment and six 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.

PRESIDENT (in Cantonese): Mr Alan LEONG, you may speak in reply, you have two minutes.

MR ALAN LEONG (in Cantonese): President, to begin with, let me extend my gratitude to all the 22 Members who have spoken, including the four Members who proposed their amendments. Our greatest gain in the debate today is the

sincere compassion demonstrated by Mr Abraham SHEK. Little did we realize that he could be so sincere and compassionate when he spoke from his heart. He should actually be followed as an example by all those who are still working in the Urban Renewal Authority (URA). All of them should learn from Mr Abraham SHEK — they should do things from their heart and show compassionate understanding. Unfortunately, however, he may not necessarily vote from his heart later on.

President, the Secretary disclosed just now that profit was not necessarily the aim of all projects, and that there was no need for all development to be of a high-density nature. In other words, there can be room. This may be very useful to the future work of the URA, especially the planning for Kwun Tong. I do appreciate the sentiments of the residents in the substandard buildings located at Yan Oi Court, Fu Yan Street (sic) and Yue Man Square, who have to sleep in danger every night. But, as I pointed out just now, one of the conditions is that planning must be finalized before compensation is paid. In the process of planning, there have been many arguments over the density of development, so the project has been delayed. Since there is such a clear disclosure today, I hope that the URA can come to a quick agreement with the Town Planning Board, so that people can get the money and go.

Lastly, I also wish to make a last-ditch attempt to persuade Members to support my motion. Why did I say I would support Mr CHEUNG Hok-ming's amendment? The reason is that his amendment is basically not much different from my motion.

President, thank you. Thank you, Members.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Alan LEONG 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 CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the motion.

Dr Raymond HO, Mr Bernard CHAN, Mr Abraham SHEK and Mr Patrick LAU voted against the motion.

Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr Ronny TONG voted for the motion.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr CHEUNG Hok-ming 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, nine were in favour of the motion, four against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 21 were present, 14 were in favour of the motion and six abstained. 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.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 3.00 pm tomorrow.

Adjourned accordingly at ten minutes to Eleven o'clock.

Annex

DENTISTS REGISTRATION (AMENDMENT) BILL 2005

COMMITTEE STAGE

Amendments to be moved by the Secretary for Health, Welfare and Food

<u>Clause</u>	<u>Amendment Proposed</u>
3	<p>(a) The following is added after paragraph (a) –</p> <p>“(aa) in subsection (3), by adding “and (2A)” after “22(2)”;</p> <p>(b) In paragraph (b), by renumbering the proposed section 2(3) and (4) as section 2(5) and (6) respectively.</p> <p>(c) In paragraph (b), in the proposed section 2(6), by deleting everything after “Register” where it first appears and substituting a full stop.</p>
6(c)	In the proposed section 7(4), by adding “registered” before “addresses”.
10	In the proposed section 12B(3)(b), by deleting “of good character” and substituting “competent in the specialty”.
12	In the proposed section 13A(1) and (2), by adding “registered” before “addresses”.
14	<p>(a) By deleting paragraph (a) and substituting –</p> <p>“(a) in subsection (1) –</p> <p>(i) by repealing “register” and substituting “General Register”;</p> <p>(ii) by adding “registered” before “addresses”;</p>

- (b) In paragraph (b), in the proposed section 15(1A), by adding “registered” before “addresses”.

- 17(c) In the proposed section 22(2A), by deleting everything after “concerned” and substituting “or, in the case of an appeal made to the Court of Appeal against the order under section 23, before the appeal is finally determined.”.

- 18 By deleting the clause and substituting –

“18. Appeals

Section 23 is amended –

- (a) by repealing subsection (1) and substituting –

“(1) The following person may appeal to the Court of Appeal –

- (a) any person whose name has been ordered not to be entered in the General Register under section 9(3);

- (b) any registered dentist whose application under section 12B(1) to have his name included in the Specialist Register is rejected by the Council;

- (c) any registered dentist who is aggrieved by an order made in respect of him under section 15, 15A(2) or 18,

and the Court of Appeal may affirm, reverse or vary the order or decision appealed against.”;

- (b) in subsection (3), by repealing everything after “(Cap. 4)” and substituting a full stop;

(c) by adding –

“(3A) Despite subsection (3), the Court of Appeal has no power to –

(a) hear any appeal against an order made under section 9, 15A(2) or 18 unless notice of the appeal was given within 1 month of the order being served in accordance with section 22(1);

(b) hear any appeal against a decision made by the Council to reject an application under section 12B(1) unless notice of the appeal was given within 1 month of the notice of the rejection being given under section 12B(11).”.

22(b)

By deleting subparagraph (i) and substituting –

“(i) by adding –

“(ba) the ascertainment by the chairman of the Preliminary Investigation Committee as to whether a complaint or information about any registered dentist involves a suitability issue and the referral of such a complaint or information involving a suitability issue to the Education and Accreditation Committee;”.

34(d)

(a) In subparagraph (ii), by deleting the full stop and substituting a semicolon.

(b) By adding –

“(iii) in the English text, by repealing –

“I have the honour to be,

Sir/Madam,

Your obedient servant.”.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Economic Development and Labour to Mr SIN Chung-kai's supplementary question to Question 4**

Among those visitors' shopping related complaints handled by the Travel Industry Council of Hong Kong (TIC), and those related to sales practice handled by the Consumer Council (CC), information on cases which involved criminal offences is at Annex.

Annex

Shopping Complaints Lodged by Visitors

The shopping-related complaints received by the TIC and the CC are mainly on product prices and quality. According to the TIC, among the complaints received between 2004 and April 2006, only one case has been referred to the Police and the Customs and Excise Department on the visitor's request. After investigation, the Police considered that the case did not involve any criminal offence. As for the CC, on receipt of visitors' complaints relating to sales practice, apart from acting as mediator to resolve the disputes between the merchants and complainants, the CC will also pass these cases to the Police for reference. The Police will then monitor or follow up accordingly, for example, stepping up patrol in the vicinity of black spots in tourist shopping districts during peak seasons and providing assistance to visitors as necessary.

Appendix III**WRITTEN ANSWER****Written answer by the Secretary for Housing, Planning and Lands to Mr CHEUNG Hok-ming's supplementary question to Question 5**

The Administration has always been concerned about the impact on the traffic condition in Hong Kong upon the commissioning of the Hong-Shenzhen Western Corridor and is committed to improving the existing road network to cater for the transport needs of the public. As for the area around Ping Ha Road and Tin Wah Road, the Civil Engineering and Development Department plans to carry out improvement works to Ping Ha Road to enhance its traffic flow. The project also includes the widening of the junction of Tin Wah Road near Ping Ha Road to further improve the traffic in Tin Shui Wai area. It is expected that the above project will commence in late 2006 or early 2007 for completion in phases between late 2009 and late 2010.

Regarding the traffic condition after the opening of Hong Kong Wetland Park, the Transport Department observed that the traffic in the vicinity of Tin Shui Wai had not been adversely affected since the Park's opening on 20 May 2006. Nevertheless, we will continue to monitor closely the traffic situation in the area and implement improvement measures as and when necessary to ensure a smooth traffic flow.

Appendix IV

WRITTEN ANSWER**Written answer by the Secretary for Housing, Planning and Lands to Mr SIN Chung-kai's supplementary question to Question 5**

The Government of the Hong Kong Special Administrative Region (SAR) has been closely monitoring the figures on our trade with the Mainland and the Association of South East Asian Nations (ASEAN). Since the implementation of the agreement on tariff reduction or elimination between China and ASEAN in July 2005, no significant changes have been observed in relation to Hong Kong's re-export trade with the Mainland and ASEAN. Notwithstanding this, the SAR Government has been actively examining the content of the agreement and keeping a close watch to find out its long-term impact, if any, on our trade and economy. On that basis, we will also closely monitor the industry demand for logistics back-up sites.

Appendix V**WRITTEN ANSWER****Written answer by the Secretary for Housing, Planning and Lands to Dr KWOK Ka-ki's supplementary question to Question 5**

In the past two years, the Central Enforcement and Prosecution Section of the Planning Department received 50 complaints concerning open storage and port back-up sites within the Category 1 areas. Most of the complaints are not related to any particular nuisance.