

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 16 November 2005

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

DR THE HONOURABLE LUI MING-WAH, 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 LI FUNG-YING, B.B.S., 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 WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H.

DR THE HONOURABLE JOSEPH LEE KOK-LONG

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

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

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

PUBLIC OFFICERS ATTENDING:

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

THE FINANCIAL SECRETARY

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

SECRETARY FOR HOUSING, PLANNING AND LANDS

PROF THE HONOURABLE ARTHUR LI KWOK-CHEUNG, G.B.S., J.P.

SECRETARY FOR EDUCATION AND MANPOWER

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

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

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

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE 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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments*L.N. No.*

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| Securities and Futures Ordinance (Amendment of Schedule 5) Notice 2005..... | 197/2005 |
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Other Papers

- No. 28 — Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2005
- No. 29 — Report No. 45 of the Director of Audit on the results of value for money audits - October 2005
- No. 30 — Accounts of the Government for the year ended 31 March 2005
- No. 31 — Report on the Administration of the Immigration Service Welfare Fund prepared by the Director of Immigration Incorporated in accordance with Regulation 12(b) of the Immigration Service (Welfare Fund) Regulation

Report of the Bills Committee on Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill

PRESIDENT (in Cantonese): Clerk, the number of Members present now does not constitute a quorum, will you please ring the bell to summon Members.

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

PRESIDENT (in Cantonese): A quorum is now present.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Contract Medical Officers Scheme

1. **DR KWOK KA-KI** (in Cantonese): *Madam President, as the Hospital Authority (HA) has implemented the Contract Medical Officers Scheme and a progressive reduction of the remuneration for new recruits year by year, there is severe disparity in remuneration among junior medical practitioners who perform the same duties but joined the HA in different years. In addition, the contracts of those medical practitioners who have completed six years of training are due to expire at the end of June next year. I have learnt that quite a number of such medical practitioners intend to leave the HA upon the expiry of their contracts. Coupled with the wastage of senior medical practitioners in recent years, there will thus be a succession gap and shortage in experienced medical practitioners in public hospitals. In this connection, will the Government inform this Council whether it knows:*

- (a) *the current remuneration of the above front-line medical practitioners whose contracts are about to expire and, for comparison purposes, a list of the remuneration of those who had joined the HA earlier; and whether the HA will renew the contracts of such medical practitioners as Resident Specialists next year; if it will, of the details of the renewal arrangements, including their rank, remuneration and fringe benefits;*
- (b) *as the authorities have indicated that the HA is considering establishing a mechanism for converting some well-performing contract staff to permanent terms of employment, of the criteria to be adopted by the HA in deciding whether or not the employment terms of a contract medical practitioner will be so converted, and when such arrangement will be implemented; and*
- (c) *in addition to the arrangements on employment terms, of the specific training arrangements to be made by the HA to attract medical practitioners whose contracts are about to expire to continue to work and receive training in the HA; the results of the HA's*

assessment of the impact of failing to retain such medical practitioners on the future medical services of Hong Kong, and the number of existing medical practitioners of the HA who are willing to renew their contracts, and the reasons for those who are not?

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

- (a) The medical practitioners at the HA who will have completed six years of specialist training by June 2006 were recruited in the year 2000. The current total cash package for this group of doctors is \$57,975 per month, which is inclusive of a basic salary, all applicable allowances, provident fund contributions or end of contract gratuity. In comparison, the total monthly package in the 6th year of service for medical practitioners who joined the HA in 1998 and 1999 was \$96,979, and for those who joined before 1998 the package was \$113,252. The downward adjustments in the remuneration package can be largely attributed to the replacement of the cash allowance by a smaller monthly allowance from 1998 onwards and the introduction of a new Resident Pay Scale with a lower starting salary for doctors recruited in or after 2000.

Resident doctors who have successfully attained their specialist qualification may apply for Resident Specialist posts in the HA. According to existing practice, on appointment as Resident Specialists medical practitioners recruited in 2000 would be offered the same remuneration package that they currently enjoy, with continued progression on the Resident Pay Scale with yearly salary point increment subject to good performance. The term of the contract would normally be three years. The number of Resident Specialist posts that may be available in 2006 would depend on service needs of the HA. However, judging from current manpower situation and recent turnover trend of doctors of the HA, it is expected that there would be sufficient openings for the majority of Resident doctors who attain their specialist qualification next year.

The HA is fully aware of the effects of pay disparity on staff morale and is looking into the feasibility of enhancing the remuneration packages of Resident doctors within the confines of its budgetary situation. A working group comprising around 20 front-line doctors of various ranks and levels of seniority was commissioned a few months ago to review the existing contractual and training arrangements for contract doctors and make proposals on how the HA could be more effective in providing these doctors with the appropriate incentive and motivation for good performance and in retaining the high calibre doctors within the public medical sector. The options put forward by the working group are still being developed and are being considered by the HA. It is expected that a decision on the proposals would be made by early 2006.

- (b) Apart from the proposals put forward by the working group, the HA is also considering options to give well-performing contract doctors the prospect of upgrading to longer terms of employment subject to budgetary constraints. The objectives of this proposal are two-fold: First, to provide contract staff with the incentive to put in good performance and a means of attaining higher job security; and to enable the HA to retain a core group of staff, enhance stability in its manpower resources and foster staff loyalty. The HA management will work out the selection criteria in the coming months, with the participation of front-line staff. The criteria will need to be objective, fair, transparent, workable and affordable. In addition, to ensure that only genuinely good staff are offered longer employment terms, the selection criteria would be largely performance-based with particular emphasis on performance consistency over an extended period as well as being based on the HA's needs for the work to be done on an ongoing basis. The implications of the proposal will have to be considered carefully and hence the HA has not set a definitive timetable on the proposal at the moment.
- (c) In respect of impact assessment, there are 182 Resident doctors currently receiving training in the HA's specialist training programmes who were recruited in 2000, accounting for around 4% of the total strength of the HA doctors. Since this group of doctors was the first to be remunerated under the new Resident Pay Scale,

there is no historical basis to estimate the number of those who would depart upon successful completion of specialist training. However, as a matter of fact, of those 1 700 contract trainee doctors currently working in the HA, over the past 18 months, 61 (or 3.7%) of them declined the HA's offer of contract renewal, with another 89 (or 5.5%) resigning.

We believe that the HA should be able to attract and retain the necessary medical staff by providing Resident Trainees and Resident Specialists with a rewarding career, fair remuneration and good opportunities for continuous professional development. The HA would carefully consider the proposals put forward by the working group and make a decision with a view to ensuring that the HA would be well placed to maintain the high standard of its medical services within its financial parameters in the many years to come.

DR KWOK KA-KI (in Cantonese): *Madam President, Secretary, the situation now is acute. There are only 182 Resident doctors on continued training and 9% of the doctors have left in the past 18 months. It was reported in a newspaper a few days ago that certain Specialties in a large flagship hospital might run a shortage of specialists. However, I am rather disappointed that the Secretary, other than stating in his main reply that the HA will consider providing longer terms of employment and enhancing the remuneration, did not mention any concrete proposals. The allowance for this group of doctors is 50% less than that of those who joined the HA a year earlier; and their salaries are a further 50% less than that of those who joined the HA two years earlier. I believe it will be impossible to retain these doctors if the Secretary cannot provide a practical and fair remuneration package. Could the Secretary disclose a little more, in your mind, the actual amount of remuneration that the HA will offer to doctors and when the latter will be given a concrete reply?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have also mentioned just now that the HA will arrive at a decision on the remuneration adjustment proposals in early 2006. To cope with its manpower resources development, the HA will also need to decide on the establishment of each Specialty. I believe more time needs to be given to the HA to handle these issues. Actually, these issues have surfaced not recently but

existed for a long time. We also mentioned just now that disparity in remuneration is a major issue, having substantial impact on the Government and the community at large, in particular when we were facing fiscal deficit in the past. We thus cannot make a hasty decision on the solutions. I have also held discussions with the HA and we will invite the staff with the least delay to participate in the process, so as to come up with a strategy that is moving towards the principle of equal pay for equal work.

DR JOSEPH LEE (in Cantonese): *Madam President, other than doctors, there are also nurses employed under the HA. In fact, nurses also face the same situation. We observe that since 2000, some 2 000 nurses have been employed on contract terms, and they are remunerated differently despite they perform the same work. We can see from the statistics that the number of senior posts has dropped by 200 or more in the past three to four years. Would the Secretary please tell us, under this situation, other than implementing equal pay for equal work, how the HA would boost the morale of these contract staff and retain them in the HA, so as to prevent a drain of staff to the private medical sector?*

PRESIDENT (in Cantonese): Dr Joseph LEE, are you asking whether there will be doctors leaving for the private sector or about the nurses?

DR JOSEPH LEE (in Cantonese): *My supplementary question is: Since both doctors and nurses are facing the same situation, I would like the Secretary to tell us, other than the doctors, the situation of the nurses.*

PRESIDENT (in Cantonese): As this supplementary question is on the doctors, it will be up to the Secretary to decide whether he will answer the question on nurses.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have to clarify that we are not placing our concern in one profession and neglecting the other. The HA has to consider the overall problems that its staff have been facing and propose a solution. I agree with

Dr Joseph LEE that we also have to consider the various aspects of concern of the contract nurses such as their morale and work. I have to mention one point, that is, we are not entirely unwilling to see staff moving to the private medical sector, for the latter also needs talents. If the private medical sector can offer attractive remuneration to these health care staff, I think it is fair that we fight for them on a level playing field. However, if we want the public sector to develop sustainably and maintain its quality services, we also need to maintain a core group of staff and senior medical practitioners.

MR LI KWOK-YING (in Cantonese): *President, the Secretary mentioned in part (c) of the main reply that there are currently 182 doctors (or 4%) receiving training in hospitals and the wastage rate over the past 18 months is 9.2%, so there is a 5.2% shortfall. May I ask the Secretary whether the HA has any concrete measures to ensure that existing medical services will not be affected by this 5.2% shortfall?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I wish to clarify that what I mentioned just now is the wastage rate of doctors who were recruited in 2000. It is not the overall wastage rate. Over the past eight to 10 years, the wastage rate of HA doctors was about 2% to 3%. There was a 3.7% wastage rate for 2003-04 and 6% for 2004-05. This can be regarded as quite a healthy turnover trend in an organization. However, we expected that the wastage rate could have reached 8% or above for the year 2004-05. I told the HA that if we lose young doctors, we can still recruit 300 doctors every year to make up for the wastage. However, if we lose senior doctors, we will have to find ways to retain some core Specialists and to educate a new generation of doctors, for there is a high demand for experienced doctors. We are now considering whether there are other ways to retain senior doctors to continue to serve in public hospitals, one of which is to work on a sessional base, meaning that doctors only need to work for several sessions each week. The HA is currently looking into this.

MR LI KWOK-YING (in Cantonese): *President, the Secretary has not answered my supplementary question. My question is: Regardless of the doctor wastage each year, will the wastage affect existing medical services?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Judging from the present situation of the HA, we hold that the capacity and quality of existing services have not been affected. Of course, this is also a matter of concern to us. In case there is a sudden loss of a large number of senior doctors, we have to redeploy manpower to provide assistance.

MR ALBERT CHENG (in Cantonese): *President, the Secretary responded just now that the service quality has not been affected because there are 300 medical graduates every year to make up for the loss. However, my worry is that the wastage of senior and Specialist doctors has reached an alarming rate. A news article yesterday on Queen Mary Hospital, if I am correct, claimed that the shortfall of Specialist doctors in the hospital had deprived a breast cancer patient of the chance to receive appropriate medical treatment. The breast cancer operation was ultimately performed by a plastic surgeon. The patient was suffering from breast cancer, not having a plastic surgery. She needed to have the cancer cells excised. By service quality, does the Secretary mean that plastic surgery should be included in a breast cancer surgery?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, may I ask Mr Albert CHENG for clarification whether he wants me to answer the question at the end (*laughter*) or the question on doctors?

As far as I know, a breast cancer operation involves not only the excision of cancer cells and related tissue, but also needs to take care of the psychological well-being of the female and thus there is the necessity to carry out plastic surgery. The latter is therefore immensely related to breast cancer surgery. Many doctors who are trained to carry out breast cancer surgery are also required to receive training on plastic surgery.

MR HOWARD YOUNG (in Cantonese): *President, the thrust of this question, as stated in part (a) of the Secretary's main reply, is that medical practitioners who joined the HA in different years are remunerated differently. This also takes place in the business sector such as in airline companies. In relation to this problem, I hold that whether internal staff remunerations are standardized is not of the utmost importance, but rather the remunerations should be compared with that of the market. Would the Secretary please tell us, whether the HA has*

a tracking system in place like those in commercial organizations? As compared with the private medical sector, is the remuneration of HA staff employed in a certain year similar to their private counterparts in the same year? If they are not similar, the Secretary can adopt measures to minimize the wastage rate. Does the Secretary has such a mechanism?

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

Madam President, since the HA is the only public medical institution, it would be difficult to make a comparison with other organizations. I believe there may be a big difference in income between HA doctors and private sector doctors, so this may not be a good indicator. In fact, the most important indicator is the wastage rate. If HA doctors are attracted to the private medical sector, there will naturally be more doctors leaving. Based on historical analysis, we find that the wastage rate has a lot to do with the economy. In an economic upturn, there will be more HA doctors leaving for the private sector; and in an economic downturn, they will not leave their posts for the time being. Therefore, it is hard to make a comparison and equally hard to compare it with another profession.

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

MR WONG KWOK-HING (in Cantonese): *President, my supplementary question is that doctors who have bargaining power can of course choose to leave, for example, by not renewing the contract or by resigning, but doctors who are still receiving training and have not yet attained professional qualification are the most affected ones for they do not have bargaining power. What methods or plans does the Secretary have to solve the problem of unequal pay for equal work and to boost the morale of those doctors who are still receiving training and have not yet attained professional qualification?*

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

Madam President, I believe, for young professionals like doctors, the most important thing to them is knowing the career path of their profession. I hold that what is of the utmost importance is that, first of all, if the HA can explicitly

inform its staff of the long-term manpower resources plan and manpower structure, the staff can have a better idea of the opportunities available in the public medical sector, such as the status of a certain Specialty, their promotion prospects and opportunities to receive specialist training. Secondly, we need to have a good remuneration system in place, so as to provide an incentive for them to upgrade their professional standard and thereby receive better remuneration. This is an essential consideration. Currently, we hope to increase the remuneration of doctors who are more experienced and possess specialist qualification. If the HA has a long-term and clear remuneration plan in this respect, I believe it will be easier for young doctors to understand the opportunities available to them and thereby their morale can be boosted.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not answered the question on unequal pay for equal work which is of the utmost concern to doctors receiving training now.*

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

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have already mentioned just now that we have been working towards the target of equal pay for equal work, but I am afraid we may not be able to achieve this in the short run. We do have the determination to achieve this and we have informed our colleagues of this target. The HA's working group is now handling this issue.

PRESIDENT (in Cantonese): Second question.

Further Liberalization in Trade in Services

2. **MR LEE CHEUK-YAN** (in Cantonese): *President, regarding the new round of negotiations, to be conducted under the General Agreement on Trade in Services (GATS), on the issue of market access concerning trade in services, will the Government inform this Council of the details of:*

- (a) *the requests tendered by Hong Kong, China (HKC) for further liberalization in trade in services of other World Trade Organization (WTO) Members;*
- (b) *the requests tendered by other Members of WTO for further liberalization in trade in services of HKC and, among such requests, of those which are not covered by the initial and revised offers submitted by HKC in April 2003 and June 2005 respectively; and*
- (c) *the consultation conducted before the submission of the initial and revised offers, including the parties consulted and the form of consultation; and whether it has assessed the impacts of such offers on the local economy and labour market; if so, of the outcome of the assessment?*

FINANCIAL SECRETARY (in Cantonese): Madam President,

- (a) Hong Kong, China put forward requests for liberalization on trade in services to 20 WTO Members during the period of July 2002 to March 2003. In gist, our requests sought market access commitments in areas where Hong Kong's services industries have expressed interest or enjoy competitive advantage, such as logistics-related services, tourism, telecommunications, audio-visual services, professional services, financial services, and business services. We also requested these WTO Members to remove discriminatory measures that are inconsistent with the most-favoured-nation principle, and to ensure that their domestic regulations would not cause unnecessary barriers to trade. Our requests were drawn up on the basis of the inputs and feedback received during our public consultation exercises and the advice of the relevant Policy Bureaux.

To ensure Hong Kong's best interests are preserved, we have not made public the details of our requests, which are the subject matters of ongoing negotiations between Hong Kong and the concerned WTO Members. Given the delicate and sensitive nature

of the negotiations, disclosure of details of our requests to certain Members may prejudice the negotiation process and jeopardize the interests of Hong Kong, especially for those requests that sometimes involve commercial sensitivity.

- (b) We received requests for liberalization in trade in services from 16 WTO Members by March 2003. We further received seven sets of supplementary/revised requests, mostly from Members which have tendered requests to us in 2003. These requests seek Hong Kong's offer of commitments in a number of different services sectors in which the requesting Members have particular interest. Those sectors requested by our trading partners and which are not included in our initial and revised offers include: social welfare services, air transport services and legal services. Our initial and revised offers mainly cover sectors that Hong Kong enjoys a competitive edge, such as telecommunications, maritime transport services, logistics-related services, and business services.

A cardinal WTO principle is that Members are free to decide whether or not to open up certain services to foreign competition and, if so, the extent and timetable of such liberalization, and whether to make commitments on the relevant services in the WTO. Nothing in the WTO GATS obliges a WTO Member to offer commitments for those services sectors on which requests have been tendered by other Members.

WTO Members normally do not make public the details of the requests received from other Members. Given that these requests involve information tendered by other Members, Members generally consider that they are obliged to keep these requests confidential. Hong Kong has also followed this practice. We are thus not in a position to disclose such details.

- (c) Two public consultation exercises had been conducted: One from May to June 2002 before we tabled our initial offer to the WTO in April 2003 and another from February to March 2005 before we tabled our revised offer in June 2005. For both consultation

exercises, we invited, by way of letters, press releases and messages posted at the website of the Trade and Industry Department (TID), about 400 organizations — including chambers of commerce, major trade and industrial organizations in different sectors, academic institutions and civil society groups — and the general public to express views on the objectives of and priorities in the negotiations. In parallel, we consulted bureaux and departments responsible for different services sectors. Where appropriate, the relevant bureaux and departments also sought views from the major stakeholders in their respective sectors. The views collected formed, and will continue to form, the basis for drawing up Hong Kong's requests and offers as well as our negotiating positions.

The objective of our participation in the WTO trade in services negotiations is to safeguard and pursue the overall economic interest of Hong Kong, including to secure the best possible market access for Hong Kong services suppliers, and to provide the best possible environment for Hong Kong to attract foreign investment. These are conducive to further economic growth and local employment. The offers we have put forward fall fully within the parameters of the government policies in the concerned services sectors. Careful policy research and assessment has also been conducted by the relevant Policy Bureaux when they formulate such policies.

The Government has taken, and will continue to take, into account Hong Kong's economic and social conditions in formulating our offers under the WTO trade in services negotiations. We have also assessed the potential impacts of our offers to ensure that they would not adversely affect the local economy and employment.

MR LEE CHEUK-YAN (in Cantonese): *President, the WTO negotiations are in fact not as simple as depicted by the advertisements on television. Neither are they like buying oranges where bargaining for a cheaper price is possible, nor are they like mobile phones where different models are available for customers to choose. Very often, the Government is required by the GATS to liberalize services which are currently supplied by it. President, our greatest concern and*

my question to the Financial Secretary is: Given that the negotiations are very often confidential in nature, we are unable to learn of the details. Will the Government parcel out the public services currently supplied by it to foreign consortiums? In particular, it can be seen from part (b) of the main reply that some foreign governments have requested Hong Kong to liberalize its social welfare services. I have focused specifically on social welfare services simply because other countries have made such requests. The Financial Secretary mentioned the social welfare services in part (b) of the main reply, does it mean that the Government has plans to parcel out this service to foreign consortiums for supply in the new round of negotiations, which may undermine the services currently enjoyed by Hong Kong people?

FINANCIAL SECRETARY (in Cantonese): Madam President, Mr LEE Cheuk-yan mentioned certain service areas relating to public services. At this stage, Hong Kong has not made any commitment or offers of commitment in relation to the liberalization of the following areas relating to public services, which include postal, water supply, educational and social services. Liberalized service sectors of Hong Kong have been posted on the website of the TID, and Mr LEE Cheuk-yan is welcomed to visit the website for information about the current situation.

As regards the liberalization of services, we suggest that certain environmentally-related services should be included, for example, sewage, waste disposal, hygiene and noise mitigation, and so on. Public environmental services are, however, not included. Furthermore, the existing offers have not exceeded the regulation being exercised on the environmental services of Hong Kong. In other words, it is not necessary for the Government to introduce measures to liberalize environmental services in relation to the offers concerned. Nor do we have any plan to liberalize the service sectors mentioned by Mr LEE Cheuk-yan earlier.

MR CHAN KAM-LAM (in Cantonese): *The Financial Secretary mentioned in part (a) of the main reply that requests for liberalization in trade had been put forward to 20 WTO Members between 2002 and 2003. May I know: Does the Government know which countries have liberalized the services in question to Hong Kong?*

FINANCIAL SECRETARY (in Cantonese): Madam President, since the negotiations are ongoing and continuous, so the series of requests we put forward were followed by requests made to us by a number of WTO Members. Certainly, bilateral negotiations have to be carried out, and possibly multilateral negotiations under the WTO framework. Trade negotiations are also covered by the Sixth Ministerial Conference of the WTO (MC6). To date, the negotiations have yet to achieve any outcome.

MISS CHOY SO-YUK (in Cantonese): *President, Hong Kong opened a number of markets to foreign countries in accordance with the GATS at the end of the last century, which dealt serious blows to the employment opportunities of local workers. The Financial Secretary mentioned in part (c) of the main reply that he had discussed with and consulted the relevant sectors and different parties on the policy concerned, and drawn up Hong Kong's requests and negotiating positions on the basis of the views collected. May I ask the Financial Secretary what kind of requests he has received and whether there will be any change in the position of the Government in future WTO negotiations?*

FINANCIAL SECRETARY (in Cantonese): Madam President, I do not subscribe to the view of Miss CHOY So-yuk, that the opening of markets has undermined the employment opportunities of workers. We have all along been promoters of free trade, and strongly believe that free trade will bring about positive effects to the world in breaking away from poverty or creating wealth.

According to a recent estimate by the World Bank, if the objectives of the Doha Development Agenda (DDA) can be achieved, global poverty can be reduced by some 140 million people by 2010, accompanied by the creation of wealth that worth US\$300 billion per annum throughout the global economy by 2015. We are therefore convinced that all economies will be able to capitalize on their own advantages through free trade, and global economic growth can be further boosted under global competition, so that more people can break away from poverty. Of course, we will not underestimate the difficulty of the DDA of the MC6 because the objectives are very difficult to achieve. Every economy is required to eliminate some of their existing problems, including distortion in agriculture, trade grants or subsidies, or the liberalization of

markets. Nevertheless, we think that Hong Kong can still bring its advantages into play through free trade in the long run.

MISS CHOY SO-YUK (in Cantonese): *President, despite that the Financial Secretary has already given a very detailed reply, but he has not answered my supplementary at all. What kind of views did he actually gather and will there be any change in the negotiating position?*

FINANCIAL SECRETARY (in Cantonese): Madam President, I do not quite understand Miss CHOY So-yuk's question about whether or not our position will change because the objectives and strategies of negotiations were drawn up after consulting the sectors and a number of organizations. As such, the objectives concerning the opening of markets or the requests for others to open their markets were set following discussions with the sectors.

MISS CHAN YUEN-HAN (in Cantonese): *President, I think Miss CHOY So-yuk has entirely voiced our views. Originally, I was not so angry before the Financial Secretary said lots of wealth would be created. May I ask: Who will be the wealth given to? Let me cite the construction industry as an example. The Government Procurement Agreement (GPA)..... President, I am coming to the supplementary question very soon. I can make the Financial Secretary understand by only presenting it in this way, or else he will not understand my point. A sum of over \$50 million will be made available to the world market. All prefabricated components are produced elsewhere, and contractors have made a big fortune out of this. But will they spend the money on the unemployed Hong Kong people? The answer is in the negative.*

President, my supplementary is: The GPA has all along been criticized by the labour sector, while the future liberalization of the public services has always been our great concern. China was both aggressive and defensive in the WTO service negotiations, and had put forth protective measures for its own sake. So did the United States and the United Kingdom. However, during the discussions with the experts responsible for multilateral negotiations, I found that

the issue had not been taken into consideration. President, I did not fabricate all this. I have really discussed with the officials of the commerce and industry authorities concerned who are responsible for the multilateral negotiations.

The Financial Secretary mentioned in part (c) of the main reply that consultations had been carried out. Whenever the Government engages in negotiations, we will have different concerns, and yet we are unable to obtain the relevant information. But now, the Government tells us that consultation had been carried out. Has the labour sector been consulted? Did the Government consult me before signing the GPA? At that time, I was a Member from the labour sector of the then Legislative Council, together with Mr Edward HO, but both of us were not aware of this. May I ask when did the Government carry out such consultation? President, I feel very worried. When replying Miss CHOY So-yuk just now, the Financial Secretary pointed out that her criticisms were incorrect. Honestly, this really makes me very angry.

PRESIDENT (in Cantonese): If you want to express your views, you must find another right occasion. You have asked your supplementary, right?

MISS CHAN YUEN-HAN (in Cantonese): *I have asked my supplementary, and that is: Has the Government consulted us? As regards the 1995 GPA, we have not been consulted.*

PRESIDENT (in Cantonese): The Financial Secretary has heard your supplementary question. Please sit down first, so that the Financial Secretary can answer your question.

MISS CHAN YUEN-HAN: OK.

FINANCIAL SECRETARY (in Cantonese): Madam President, the labour sector has all along criticized the GPA, pointing out that the Government should

not just purchase locally manufactured products. In fact, this is related to the Government's procurement policy, instead of the signing of the GPA. The GPA is one of the WTO agreements that we signed in 1996. However, the principle of the Government's procurement policy is cost-effectiveness. In other words, it is our established approach to adopt the most cost-effective tender in an open manner. Recently, additional policy objectives have been included, for example, the requirement to use environmentally-friendly paper and recycled paper. Generally speaking, environmentally-friendly paper is more expensive than ordinary paper, but since the policy objectives have been set, these factors have also been taken into account. It has, however, nothing to do with the GPA of the WTO signed by the Government in 1996.

Besides, I think that we must look at external trade with a barrier-free view. Hong Kong is a tiny economy. In 2003, I was the Convenor of the Non-Agricultural Market Access Negotiating Group in Cancun, Mexico. At that time, I heard many global economies say that for markets not yet open, very high tariffs had been imposed. Being the Convenor, I had an opportunity to talk to the group members individually and listened to their problems. I found that in places where the markets were yet to be opened, there was a heavy reliance on import tariff as a result of the trade barrier policy, which had rendered the operation of the governments very ineffective. I think that neither should we take this path, nor turn back. I believe our success today is, to a large extent, attributed to the established approach of competing with the world, rather than competing as a small economy.

MISS CHAN YUEN-HAN (in Cantonese): *Having said so much, the Financial Secretary still has not given me an answer: Has he ever consulted us? I am a Legislative Council Member. When replying Mr LEE Cheuk-yan's main question, he said in part (c) of the main reply that consultation had been carried out, and yet he has not answered my supplementary question at last. I still wish to talk about cost-effectiveness.*

PRESIDENT (in Cantonese): This is not a debate session. If you enjoy debating, you can wait for your turn to move a motion debate. However, this is

the time for oral questions. The Financial Secretary has not answered this part of the supplementary question, right?

MISS CHAN YUEN-HAN (in Cantonese): *Has the labour sector, and in particular this group of Honourable colleagues, been consulted? I think that we have not been consulted.*

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

FINANCIAL SECRETARY (in Cantonese): Madam President, I have to check the records and provide supplementary information after the meeting. (Appendix I)

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

MR JEFFREY LAM (in Cantonese): *President, the purpose of the SAR Government engaging in negotiations outside Hong Kong is to pursue whatever favourable to people in all sectors of the Hong Kong community. However, the Financial Secretary reiterated earlier that he had all along refused to disclose the commitments made by Hong Kong or the requests made to other WTO Members in the WTO trade in services negotiations. He pointed out in the main reply that such disclosure might involve many sensitive details and would have adverse effects on Hong Kong. Yet, the details had been widely covered in newspapers and we all knew about them. May I ask the Financial Secretary if it is necessary for the Government to continue with this established approach which has been regarded by some as "black-box operation"?*

FINANCIAL SECRETARY (in Cantonese): Madam President, we have maintained a high degree of transparency in the process of WTO trade in services

negotiations which we participated, and updated the public on the latest developments of the negotiations through various channels, such as press releases and the website of the TID.

Under the WTO framework, details about the existing commitments in trade in services are publicized. While the consolidated schedule of specific commitments of Hong Kong can be downloaded from the website of the WTO, a summary of the existing service commitments and offers are available at the website of the TID. Since the WTO documents are very complicated and contained lots of technical terms, just as the terminologies I used earlier, so people who are not well versed in them may have no idea of their meaning, for example, what is "offer of commitment" or the "schedule of commitments", and so on. The summary is therefore prepared to help the general public to understand the existing commitments and offers. For this reason, the TID will be very pleased to provide further information to people who are interested in it.

As regards the objectives and priorities for negotiations, public consultation will be conducted to collect views from the general public and the sectors. So far, the TID has conducted two public consultation exercises and invited 400 organizations including the Oxfam, Friends of the Earth, World Wide Fund for Nature Hong Kong, Hong Kong People's Council for Sustainable Development and Hong Kong People's Alliance on World Trade Organization, as well as the general public to submit views on the objectives and priorities of negotiations. The TID has also consulted bureaux and departments responsible for the different service sectors on the topic, and the views collected reflect that of the service sectors and stakeholders concerned.

PRESIDENT (in Cantonese): Third question.

New Chip-distribution Arrangement at General Out-patient Clinics

3. **MR LI KWOK-YING** (in Cantonese): *President, it is learnt that the Hospital Authority (HA) has been trying out a new chip-distribution arrangement at the general out-patient clinics (GOPCs) on Hong Kong Island since October this year. Under the new arrangement, members of the public have to collect*

the consultation chips on a first-come-first-served basis in the afternoon prior to the day of consultation. As the demand for general out-patient (GOP) services is large, very few consultation chips are still available for distribution on the day of consultation. In this connection, will the Government inform this Council whether it knows:

- (a) the respective numbers of attendance quotas for the morning, afternoon and evening sessions at each of the clinics on each day of consultation, and the respective numbers of attendance quotas for the morning and afternoon sessions available for distribution on a queuing basis on each day of consultation when the new arrangement was being tried out between 4 October and 3 November this year;*
- (b) whether the HA has reviewed the above arrangement; if it has, of the review results, and whether it will consider reserving some consultation chips for distribution on the day of consultation for the benefit of those who need to seek consultation on that day or those who cannot spare the time to queue for collecting consultation chips on the previous afternoon; and*
- (c) whether the HA will gradually implement the new arrangement at clinics in other districts; if so, of the specific timetable, and whether additional resources will be allocated to improve the queuing problem with GOP services?*

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

- (a) GOPs can be grouped into two categories, namely patients with stable chronic diseases and those with episodic illnesses. To address the problem of long queuing time for GOP services, the HA has adopted a series of improvement measures since August this year. Measures for chronic patients include:
 - arranging follow-up appointments for patients with chronic diseases requiring regular follow-up subject to their consent.

Patients are encouraged to take up such appointments in less busy sessions, such as afternoon or evening sessions or sessions on public holidays.

- where appropriate, prescribing medication for 12 weeks or more for patients with chronic diseases according to attending doctors' clinical judgement.

The above two measures have already been implemented, for instance, in the GOPCs on Hong Kong Island earlier on, and have significantly reduced the need for patients to queue at the clinics in the early morning for a place in the day's quota.

Measures for patients with episodic illnesses include:

- posting up in the clinics the utilization information of other clinics in the same district to facilitate patients' choice of clinics/consultation sessions.
- rolling out a pilot next-day appointment scheme in 12 GOPCs on Hong Kong Island to allow patients who line up at the clinics in the afternoon to have clinical consultation on the same day (if slots are available) or the following day (in morning, afternoon or evening session). The objective of the scheme is to allow patients to obtain a consultation slot one day in advance without having to queue at the clinic in the early morning on the day of consultation. This will also facilitate the patient to make better plans for his personal schedule on the day of consultation.

The daily allocation of consultation slots under the new arrangement at the 12 GOPCs on Hong Kong Island from 10 October 2005 to 8 November 2005 is shown at the Annex for Members' reference. The distribution of the daily quota among different types of patients varied from clinic to clinic, but generally speaking, at least 40% of the slots were allocated to patients with episodic illnesses daily, with a higher percentage recorded by some clinics on certain dates.

- (b) The "next-day appointment scheme" for patients with episodic illnesses was introduced in October. The HA conducted a survey two weeks after the commencement of the scheme. Among the 7 635 respondents out of 17 012 questionnaires distributed to patients, over 90% of the respondents expressed approval of the concept and arrangement of the pre-booking scheme. In other words, patients' initial response was positive. They held that the scheme could dispense with the need for them to queue up for a place in the day's consultation quota in the early morning. The HA will continue to monitor the operation of the scheme closely.

After the allocation of places in the quota to patients with chronic diseases through the appointment system and other patients through the "next-day appointment system", the remaining places in the daily quota in each clinic, if any, is reserved for "walk-in" patients on the same day. In situations where quota places are used up, clinic staff will still ensure the provision of most appropriate service to patients with emergency symptoms, such as making arrangement for them to be attended to by doctors of the GOPC, despite the using up of all quota places or sending them to the accident and emergency department of a hospital if they were considered to be better taken care of in that manner in view of their symptoms.

- (c) Apart from Hong Kong Island, the HA has arranged to try out this pilot scheme in some smaller clinics in Kowloon and the trial run is still underway. The HA will consider whether to extend the arrangement to other districts in the light of the effectiveness of the trial scheme and the circumstances in other districts, such as the number of stable chronic patients in need of follow-up appointments in their respective districts.

The "next-day appointment system" is only a transitional arrangement. In the longer run, the HA will introduce a phone appointment system which will be tried out in the Hong Kong East Cluster by the end of this year. The practice that the next follow-up appointment will be arranged during the consultation for patients with chronic diseases requiring regular follow-up is to be

retained. For patients with episodic illnesses, the phone appointment system will allow them to make their next-day appointment by phone without having to attend the clinic in person the previous day. The automated phone appointment system can monitor the slots available in different sessions of different clinics in a district automatically. It can also search and arrange the next available slot for a number of patients simultaneously if all the slots of a certain session have been allocated. The system is linked up to the patients' database of various clinics. Through fine-tuned and human-error free procedures, it aims at enabling general patients, particularly the elderly, to make their consultation appointments by going through the least possible number of steps. The HA will extend this pilot system to other districts by the end of next year if it proves to be effective.

I would like to reiterate that our public health care services, particularly GOP services, are primarily targeted at the low-income and underprivileged groups, such as the chronically ill with low income or frail and vulnerable elders. Public and private GOP services have all along accounted for about 15% and 85% of the market share respectively. Substantial input of resources is required for our public health care system to develop and sustain other key services, such as geriatric services, psychiatric services, as well as services for chronic illnesses and various kinds of severe or emergency cases. At this stage, we do not think there is a need to substantially increase the resources devoted to public GOP services to achieve a larger market share, particularly when the supply of such services in the private market in recent years has been on the rise which has in turn led to price adjustments and greater transparency in the fees charged by private practitioners. Furthermore, increasing input of resources is not the only option available to improve our GOP services. We can address patients' needs through service restructuring and improvement. As for the problem of patients having to queue for a long time for consultation slots, the HA has responded positively by initiating a series of improvement measures. We will keep the situation under review and make flexible arrangements so that resources are effectively deployed to those who are most in need.

| Clinic | 10 October | | | | 11 October | 12 October | | | | 13 October | | | | 14 October | | | | 15 October | | | | 16 October |
|--------|-------------|-------------------|---------|------------------|----------------|-------------|-------------------|---------|------------------|-------------|-------------------|---------|------------------|-------------|-------------------|---------|------------------|-------------|-------------------|---------|------------------|------------|
| | Total Quota | Episodic patients | | Chronic patients | Public Holiday | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Sunday |
| | | By booking | Walk in | | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | |
| ALC | 134 | 1 | 55 | 78 | | 141 | 10 | 46 | 85 | 137 | 13 | 44 | 80 | 123 | 14 | 42 | 67 | 78 | 8 | 22 | 48 | |
| AD | 389 | 86 | 89 | 214 | | 405 | 120 | 75 | 210 | 334 | 114 | 27 | 193 | 337 | 144 | 32 | 161 | 162 | 70 | 15 | 77 | |
| KT | 70 | 0 | 35 | 35 | | 70 | 0 | 33 | 37 | 70 | 7 | 26 | 37 | 70 | 3 | 32 | 35 | 40 | 0 | 26 | 14 | |
| SYP | 474 | 13 | 370 | 91 | | 515 | 21 | 367 | 127 | 506 | 24 | 197 | 285 | 491 | 63 | 93 | 335 | 244 | 22 | 103 | 119 | |
| CD | 70 | 8 | 24 | 38 | | 70 | 9 | 26 | 35 | 70 | 20 | 21 | 29 | 70 | 29 | 26 | 15 | 40 | 3 | 14 | 23 | |
| VP | 413 | 25 | 157 | 231 | | 410 | 20 | 164 | 226 | 408 | 54 | 154 | 200 | 445 | 44 | 252 | 149 | 184 | 34 | 24 | 126 | |
| AB | 189 | 21 | 47 | 121 | | 194 | 35 | 17 | 142 | 148 | 37 | 0 | 111 | 228 | 70 | 40 | 118 | 133 | 53 | 14 | 66 | |
| SWH | 210 | 28 | 38 | 144 | | 208 | 55 | 15 | 138 | 180 | 59 | 17 | 104 | 210 | 55 | 47 | 108 | 96 | 40 | 0 | 56 | |
| SKW | 307 | 7 | 225 | 75 | | 330 | 4 | 226 | 100 | 330 | 13 | 173 | 144 | 330 | 29 | 151 | 150 | 136 | 39 | 19 | 78 | |
| CW | 129 | 27 | 10 | 92 | | 131 | 23 | 14 | 94 | 129 | 37 | 0 | 92 | 68 | 37 | 0 | 31 | 38 | 21 | 0 | 17 | |
| WT | 133 | 38 | 39 | 56 | | 136 | 49 | 25 | 62 | 133 | 77 | 21 | 35 | 134 | 34 | 58 | 42 | 73 | 25 | 17 | 31 | |
| ST | 30 | 0 | 15 | 15 | | 30 | 0 | 15 | 15 | 30 | 4 | 17 | 9 | 30 | 0 | 18 | 12 | 0 | 0 | 0 | 0 | |

| Clinic | 17 October | | | | 18 October | | | | 19 October | | | | 20 October | | | | 21 October | | | | 22 October | | | | 23 October |
|--------|-------------|-------------------|---------|------------------|-------------|-------------------|---------|------------------|-------------|-------------------|---------|------------------|-------------|-------------------|---------|------------------|-------------|-------------------|---------|------------------|-------------|-------------------|---------|------------------|------------|
| | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Sunday |
| | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | |
| ALC | 134 | 2 | 55 | 77 | 125 | 15 | 42 | 68 | 124 | 15 | 41 | 68 | 134 | 14 | 43 | 77 | 129 | 9 | 50 | 70 | 72 | 9 | 21 | 42 | |
| AD | 338 | 81 | 59 | 198 | 366 | 75 | 77 | 214 | 339 | 67 | 75 | 197 | 318 | 138 | 0 | 180 | 352 | 160 | 7 | 185 | 162 | 74 | 5 | 83 | |
| KT | 70 | 0 | 36 | 34 | 70 | 2 | 40 | 28 | 70 | 1 | 41 | 28 | 70 | 2 | 37 | 31 | 70 | 0 | 37 | 33 | 40 | 0 | 28 | 12 | |
| SYP | 463 | 42 | 139 | 282 | 473 | 36 | 170 | 267 | 509 | 36 | 181 | 292 | 495 | 19 | 220 | 256 | 510 | 23 | 221 | 266 | 216 | 4 | 115 | 97 | |
| CD | 70 | 31 | 14 | 15 | 70 | 38 | 17 | 15 | 70 | 34 | 21 | 15 | 70 | 33 | 22 | 15 | 70 | 33 | 22 | 15 | 40 | 26 | 4 | 10 | |
| VP | 460 | 10 | 261 | 189 | 401 | 25 | 152 | 224 | 406 | 44 | 158 | 204 | 398 | 36 | 161 | 201 | 399 | 44 | 145 | 210 | 184 | 37 | 34 | 113 | |
| AB | 106 | 23 | 75 | 8 | 212 | 41 | 40 | 131 | 194 | 55 | 5 | 134 | 148 | 35 | 0 | 113 | 228 | 63 | 39 | 126 | 133 | 37 | 14 | 82 | |
| SWH | 210 | 17 | 81 | 112 | 200 | 17 | 76 | 107 | 208 | 31 | 47 | 130 | 180 | 36 | 30 | 114 | 210 | 37 | 70 | 103 | 96 | 23 | 20 | 53 | |
| SKW | 375 | 1 | 286 | 88 | 250 | 6 | 157 | 87 | 330 | 41 | 183 | 106 | 378 | 14 | 207 | 157 | 368 | 22 | 204 | 142 | 136 | 13 | 30 | 93 | |
| CW | 124 | 16 | 21 | 87 | 128 | 37 | 0 | 91 | 123 | 26 | 11 | 86 | 134 | 35 | 2 | 97 | 54 | 35 | 2 | 17 | 37 | 21 | 0 | 16 | |
| WT | 130 | 14 | 72 | 44 | 132 | 25 | 49 | 58 | 129 | 30 | 34 | 65 | 125 | 48 | 17 | 60 | 137 | 45 | 27 | 65 | 75 | 38 | 0 | 37 | |
| ST | 30 | 0 | 18 | 12 | 30 | 3 | 18 | 9 | 30 | 4 | 15 | 11 | 30 | 2 | 16 | 12 | 30 | 5 | 16 | 9 | 0 | 0 | 0 | 0 | |

| Clinic | 24 October | | | | 25 October | | | | 26 October | | | | 27 October | | | | 28 October | | | | 29 October | | | | 30 October |
|--------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|------------|
| | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Sunday |
| | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | |
| ALC | 121 | 0 | 60 | 61 | 121 | 11 | 45 | 65 | 121 | 10 | 46 | 65 | 121 | 9 | 48 | 64 | 132 | 7 | 51 | 74 | 77 | 8 | 24 | 45 | |
| AD | 323 | 97 | 49 | 177 | 333 | 159 | 0 | 174 | 348 | 173 | 0 | 175 | 340 | 143 | 17 | 180 | 328 | 60 | 111 | 157 | 155 | 58 | 16 | 81 | |
| KT | 70 | 0 | 44 | 26 | 70 | 1 | 36 | 33 | 70 | 6 | 33 | 31 | 70 | 2 | 40 | 28 | 70 | 3 | 43 | 24 | 40 | 0 | 26 | 14 | |
| SYP | 576 | 35 | 167 | 374 | 488 | 30 | 252 | 206 | 490 | 45 | 211 | 234 | 444 | 32 | 203 | 209 | 474 | 27 | 225 | 222 | 169 | 9 | 137 | 23 | |
| CD | 70 | 38 | 17 | 15 | 70 | 33 | 22 | 15 | 70 | 36 | 19 | 15 | 70 | 38 | 17 | 15 | 70 | 40 | 30 | 0 | 40 | 24 | 19 | -3 | |
| VP | 414 | 11 | 180 | 223 | 454 | 55 | 172 | 227 | 403 | 68 | 115 | 220 | 408 | 71 | 111 | 226 | 397 | 53 | 139 | 205 | 184 | 40 | 29 | 115 | |
| AB | 228 | 18 | 68 | 142 | 212 | 50 | 44 | 118 | 194 | 49 | 30 | 115 | 148 | 51 | 19 | 78 | 228 | 51 | 84 | 93 | 133 | 19 | 74 | 40 | |
| SWH | 210 | 16 | 81 | 113 | 200 | 47 | 48 | 105 | 206 | 42 | 31 | 133 | 176 | 43 | 28 | 105 | 210 | 41 | 79 | 90 | 104 | 14 | 43 | 47 | |
| SKW | 327 | 5 | 233 | 89 | 250 | 15 | 147 | 88 | 327 | 33 | 183 | 111 | 330 | 25 | 192 | 113 | 330 | 27 | 163 | 140 | 136 | 19 | 31 | 86 | |
| CW | 110 | 18 | 35 | 57 | 127 | 37 | 20 | 70 | 113 | 34 | 8 | 71 | 120 | 39 | 16 | 64 | 55 | 31 | 6 | 18 | 33 | 21 | 0 | 12 | |
| WT | 135 | 25 | 37 | 73 | 132 | 57 | 4 | 71 | 131 | 59 | 0 | 72 | 123 | 66 | 0 | 57 | 125 | 57 | 7 | 61 | 73 | 30 | 0 | 43 | |
| ST | 30 | 0 | 14 | 16 | 30 | 6 | 14 | 10 | 30 | 3 | 14 | 13 | 30 | 7 | 13 | 10 | 30 | 3 | 17 | 10 | 0 | 0 | 0 | 0 | |

| Clinic | 31 October | | | | 1 November | | | | 2 November | | | | 3 November | | | | 4 November | | | | 5 November | | | | 6 November |
|--------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|------------|
| | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients | Sunday |
| | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | | By booking | Walk in | | |
| ALC | 128 | 2 | 50 | 76 | 128 | 14 | 51 | 63 | 125 | 1 | 59 | 65 | 87 | 4 | 32 | 51 | 134 | 8 | 50 | 76 | 77 | 5 | 28 | 44 | |
| AD | 324 | 22 | 143 | 159 | 372 | 153 | 50 | 169 | 347 | 101 | 75 | 171 | 321 | 105 | 42 | 174 | 372 | 150 | 58 | 164 | 162 | 22 | 54 | 86 | |
| KT | 70 | 0 | 33 | 37 | 70 | 1 | 31 | 38 | 70 | 2 | 27 | 41 | 70 | 3 | 29 | 38 | 70 | 0 | 35 | 35 | 40 | 0 | 17 | 23 | |
| SYP | 459 | 46 | 137 | 276 | 499 | 76 | 113 | 310 | 471 | 88 | 80 | 303 | 489 | 91 | 96 | 302 | 502 | 103 | 82 | 317 | 222 | 15 | 69 | 138 | |
| CD | 70 | 40 | 30 | 0 | 70 | 40 | 15 | 15 | 70 | 37 | 18 | 15 | 70 | 33 | 22 | 15 | 70 | 25 | 30 | 15 | 40 | 24 | 6 | 10 | |
| VP | 462 | 22 | 232 | 208 | 414 | 35 | 135 | 244 | 462 | 32 | 184 | 246 | 406 | 98 | 109 | 199 | 414 | 81 | 101 | 232 | 184 | 22 | 39 | 123 | |
| AB | 225 | 5 | 94 | 126 | 212 | 10 | 70 | 132 | 194 | 18 | 40 | 136 | 148 | 41 | 11 | 96 | 228 | 41 | 63 | 124 | 133 | 28 | 24 | 81 | |
| SWH | 210 | 6 | 100 | 104 | 200 | 9 | 89 | 102 | 208 | 13 | 66 | 129 | 190 | 9 | 73 | 108 | 210 | 19 | 74 | 117 | 104 | 17 | 31 | 56 | |
| SKW | 375 | 9 | 251 | 115 | 247 | 59 | 94 | 94 | 330 | 35 | 149 | 146 | 330 | 50 | 91 | 189 | 320 | 85 | 55 | 180 | 136 | 23 | 24 | 89 | |
| CW | 114 | 15 | 31 | 68 | 57 | 31 | 14 | 12 | 61 | 29 | 14 | 18 | 128 | 23 | 17 | 88 | 67 | 37 | 0 | 30 | 62 | 21 | 0 | 41 | |
| WT | 130 | 62 | 32 | 36 | 131 | 55 | 14 | 62 | 130 | 51 | 17 | 62 | 131 | 38 | 31 | 62 | 130 | 45 | 23 | 62 | 75 | 37 | 0 | 38 | |
| ST | 30 | 0 | 16 | 14 | 30 | 3 | 18 | 9 | 30 | 3 | 14 | 13 | 30 | 5 | 14 | 11 | 30 | 0 | 17 | 13 | 0 | 0 | 0 | 0 | |

| Clinic | 7 November | | | | 8 November | | | |
|--------|----------------|----------------------|------------|---------------------|----------------|----------------------|------------|---------------------|
| | Total Quota | Episodic patients | | Chronic patients | Total Quota | Episodic patients | | Chronic patients |
| | | By booking | Walk in | | | By booking | Walk in | |
| ALC | 134 | 1 | 65 | 68 | 117 | 17 | 33 | 67 |
| AD | 370 | 80 | 120 | 170 | 323 | 123 | 33 | 167 |
| KT | 70 | 3 | 32 | 35 | 70 | 9 | 27 | 34 |
| SYP | 516 | 48 | 169 | 299 | 466 | 68 | 99 | 299 |
| CD | 70 | 25 | 30 | 15 | 70 | 35 | 20 | 15 |
| VP | 414 | 76 | 102 | 236 | 416 | 115 | 78 | 223 |
| AB | 228 | 15 | 79 | 134 | 212 | 36 | 63 | 113 |
| SWH | 210 | 7 | 92 | 111 | 195 | 24 | 72 | 99 |
| SKW | 327 | 58 | 156 | 113 | 247 | 68 | 76 | 103 |
| CW | 127 | 25 | 25 | 77 | 96 | 44 | 1 | 51 |
| WT | 127 | 53 | 20 | 54 | 125 | 56 | 0 | 69 |
| ST | 30 | 0 | 15 | 15 | 30 | 0 | 16 | 14 |

Legend: ALC Ap Lei Chau AB Ann Black
AD Aberdeen SWH Sai Wan Ho
KT Kennedy Town SKW Shau Kei Wan
SYP Sai Ying Pun CW Chai Wan
CD Central District WT Wan Tsui
VP Violet Peel ST Stanley

Note: 1. Only Violet Peel and Shau Kei Wan GOPCs provide limited service on Sundays and Public Holidays.
2. Stanley GOPC provides service for afternnon sessions only.

MR LI KWOK-YING (in Cantonese): *President, in the second paragraph of part (b) of the main reply, the Secretary said that even if the quota places of a GOPC were used up, services would still be provided to patients with emergency symptoms. However, more often than not, patients arriving at hospitals only feel very sick but their conditions can yet be regarded as emergency cases. I was told that, under such circumstances, health care workers would suggest the patient to visit other clinics to see if remaining slots were available, and some health care workers might even suggest the patient to consult private practitioners. Is it fair if the elderly have to visit other clinics because they cannot get a slot in such unexpected situations? Is it fair to suggest people on Comprehensive Social Security Assistance (CSSA) to consult private practitioners? May I ask the Secretary whether special measures have been adopted by hospitals to fulfil the health care service performance pledge for the elderly, CSSA recipients or the low-income group? Have special measures been put in place by hospitals for this purpose?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we all know that the consultation and planning work on health care reform is now underway. Since resources of the Government are now limited, we can only place our resources on badly needed services. If we have to ensure that every citizen seeking consultation can get immediate service, I believe enormous resources have to be injected. Therefore, I hope Members will understand that the need to increase the input of resources must be considered for provision of services up to such a standard. Regarding how resources should be increased, it will be one of the issues to be covered by our consultation paper.

As to how we will maintain the current standard of service or make gradual enhancement, the HA has already made a promise. Firstly, full effort will be made to address the issue of long waiting time. Secondly, resources will be utilized flexibly. Thirdly, since the takeover of GOPCs by the HA, a lot of computerization work has been carried out over the past two years and will be completed by the end of next. On the other hand, more comprehensive arrangements have been made in respect of chips distribution and the interface with hospital or specialist out-patient services. Therefore, I believe, to the public, improvement has been made to a certain extent in this respect.

MR JASPER TSANG (in Cantonese): *President, I believe the Secretary may remember the case where the elderly seeking consultation at the clinic in Sham Shui Po had to wait for long hours to obtain consultation chips, for the case at that time had drawn the attention of the Chief Executive who then visited the clinic in person to understand the situation.*

The Secretary stated in his main reply that the "next-day appointment system" is only a transitional arrangement, and that a phone appointment system which would be tried out in Hong Kong East Cluster by the end of this year would be introduced ultimately. The Secretary also stated that if the pilot system was proved to be effective, it would be introduced to other districts by the end of next year. May I ask the Secretary how the effectiveness of the system will be assessed? Do the authorities have sufficient resources to ensure that the system can be introduced to various districts by the end of next year? Will the Secretary provide a timetable and a roadmap on the transition of the Sham Shui Po clinic to the achievement of this ultimate target?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, this issue is completely under our control, we can surely provide the relevant timetable and roadmap. At present, the greatest concern of the HA is the setting up of a telephone system that can connect all clinics and is supported by a well-developed computerized appointment system. The computerization plan will be introduced to all out-patient departments under the HA by the end of next year. This is the crucial factor. I myself strongly believe that the scheme can surely be introduced by the end of next year. Regarding the case of Sham Shui Po or other districts where a large number of elderly have to queue up for consultation chips, I believe the early introduction of the scheme to these districts may be considered.

However, if the "next-day appointment system" is well received by the public, we may, at the same time, introduce this transitional arrangement to other districts to enable patients to get used to the practice of booking appointment one day in advance instead of queuing up in person on the day of consultation. We have to develop this habit of making telephone appointment for consultation among our patients.

MR ANDREW CHENG (in Cantonese): *President, according to the detailed information provided in the Annex, I note that the number of chips distributed to "walk-in" patients in each clinic still accounts for a significant share, that is, about 70% to 80% of patients still obtain "walk-in" consultation chips by queuing up.*

Since the new arrangement mentioned by the Secretary is an automated telephone appointment system, many elders may find this kind of automated voice response system that allows no direct dialogue quite difficult to master. Moreover, if consultation chips are still made available to "walk-in" patients, the culture of queuing up late in the night for consultation chips among the elderly will not change after all. May I ask the Secretary whether the Government will, upon the full implementation of the automated telephone appointment system, formulate policies in all aspects to tie in with the new system; or, will it go all-out to change the culture of queuing up for "walk-in" consultation chips and completely abolish the distribution of "walk-in" consultation chips? I would like to put this supplementary question to the Secretary.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we certainly hope that patients are not required to queue up for consultation chips ultimately. After the telephone appointment system is implemented, I believe patients will be able to seek consultation immediately on the day they make advance appointment booking if unused consultation slots are still available on that day, which means they do not necessarily have to book their appointment one day in advance. Therefore, my greatest concern is that where unused slots are available in certain clinics, they should be fully utilized. When the telephone appointment system is linked up with the computer system, patients may know whether slots are available at nearby clinics on that day; even if consultation slots are not available on that day, they should be able to book appointments for the next day. I believe it will help greatly to address the need of patients, and I hope that the implementation of the telephone appointment system may alleviate as far as possible the problem of queuing up for consultation chips.

MR LEUNG YIU-CHUNG (in Cantonese): *President, regarding approaches requiring patients to queue up for consultation chips on the previous day or make advance appointment or telephone appointment, they are nothing but the same*

old stuff being stucked a different label. A case in point is our political reform. No matter how far the functional constituency is expanded, if the appointment system is retained, this undemocratic system will after all remain undemocratic. Therefore, the crux of the problem is whether the Government has provided adequate services. This is the most important point. Otherwise, despite the continuous attempt made by the Government to patch up, the problem cannot be solved.

The Secretary stated in the main reply that increasing input of resources was not the only option available to improve GOP services, and that patients' needs could be addressed through service restructuring and improvement. May I ask the Secretary, if out-patient services are not increased, in what way the deterioration of other services resulted from service restructuring will be addressed? In that case, the services provided will be unsatisfactory. With regard to the reply of the Secretary, may I ask the Secretary how service restructuring can be carried out without affecting the provision of other services but bringing improvement to the out-patient services now in demand?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, this is a question that requires quite some time to explain. First, health care reform is no easy task. Second, as we have said before, in the long run, the concept of family doctors must be introduced to the community, and that GOP service is only one of the modes of service provision. At present, we use public money as far as possible to assist people who are unable to use services provided by the private sector, those on CSSA or the chronically ill. However, we, at the same time, have to increase the capacity and quality of health care services provided by the private sector, and a balance must be struck between the development of the public and the private sector.

Moreover, if we can put in place a good preventive health care policy, so that patients will not seek consultation for minor health complaints, substantial savings on resources can be made. Since GOPCs were taken over by the HA two years ago, we see that many patients no longer need to attend follow-up consultations as frequent as they required in the past. On each consultation, medical practitioners will spend more time to understand the preventive treatment each patient required and will advise patients on their living quality or way of living, thereby reducing substantially the medical expenses incurred and the burden of patients.

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

(Mr LEUNG Yiu-chung indicated that his supplementary question had not been answered)

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

MR LEUNG YIU-CHUNG (in Cantonese): *Yes, President, the Secretary has not yet answered my supplementary question. The Secretary only said that the problem would be solved if the number of patients was reduced, but this is not my question. I asked the Secretary how service restructuring could be carried out without affecting the provision of other services but increasing the capacity of out-patient services, which is part of the main reply of the Secretary. As the Secretary stated that out-patient services could be enhanced without additional input of resources, may I thus ask the Secretary how this can be done?*

PRESIDENT (in Cantonese): You only need to state your follow-up question.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): First of all, I would like to point out that Mr LEUNG Yiu-chung still has some misunderstanding. He thinks we want to reduce the number of patients, but indeed we just want to reduce the number of consultations sought by each patient but not the number of patients. If the services we provided are good, patients will not need to seek consultations repeatedly.

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

MISS TAM HEUNG-MAN (in Cantonese): *Madam President, will the authorities consider the introduction of other pilot schemes on chips distribution? If it will, what are the details? If not, what are the reasons?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, at present, we are only considering the approach of supporting the telephone appointment system with the computer system. Surely, if there are any innovative ideas, we will be most willing to take them on board and try them out. That clients have to queue up for service is a problem faced by many service providers. For instance, visitors of Disneyland and many other places often need to queue up. However, we hope that our patients may be saved the trouble of queuing up for services as far as possible; this is our concern. If adequate services can be provided or that patients can make appointments in advance, in particular for the chronically ill to make follow-up appointments in advance, queuing up for consultations will become totally unnecessary. Therefore, we are not aiming to identify a good way for patients to queue up; we want to find a way that no queuing up for services is required.

PRESIDENT (in Cantonese): Fourth question.

Holding of WTO Ministerial Conference in Hong Kong

4. **MR FREDERICK FUNG** (in Cantonese): *President, regarding the Sixth Ministerial Conference of the World Trade Organization (the Conference) to be held in Hong Kong next month, will the Government inform this Council:*

- (a) *as there have been criticisms that the authorities' promotional messages are over-simplified and incomprehensive, how the authorities will assist Hong Kong people in understanding the agenda items of the Conference and encourage them to discuss these issues; of the current progress of the work and the estimated total expenditure incurred in this respect;*
- (b) *how it will enhance its communication with local and overseas non-governmental organizations (NGOs), and whether it will brief them daily during the Conference on the status of the negotiations and its position on the issues under negotiation; and*
- (c) *of the measures which Hong Kong, as the host of the Conference, will adopt in respect of the Conference arrangements, the*

appointment of Conference facilitators and the negotiations on agricultural subsidies and drug patents, to ensure that developing countries will be treated in a fair manner and their special needs given due consideration; and whether international human rights organizations will be invited to assess independently whether the consensus reached at the Conference is in violation of the principles of protection of human rights and freedoms enshrined in the international human rights treaties?

FINANCIAL SECRETARY (in Cantonese): Madam President,

- (a) To enhance our community's understanding of the World Trade Organization (WTO) and enlist public support for the Conference, the Government has been explaining to the public through various channels the importance of the WTO and free trade to global economic development, as well as the objectives of the Conference. The methods used differ having regard to the different target audience and characteristics of individual media. For instance, in the case of TV Announcements of Public Interest (APIs), we adopt a simple and more layman approach to explain to the general public the fundamental benefits of free trade to Hong Kong in 30 seconds. This however does not mean the end of the job and we supplement this publicity work by other means that can convey more comprehensive information, including electronic media interviews, media workshops, feature articles, seminar, the WTO Hong Kong Ministerial Conference website, and so on.

In addition, we also reach out to target audience by direct contact with them, for example, we have attended meetings of relevant District Councils to gauge their opinions; we have arranged briefings for various sectors (such as hotel, security, estate management, and so on) and residents in the most affected districts to give advance information and advice so that early preparation can be made. So far, we have already conducted more than 50 briefings.

In the coming few weeks, we will step up publicity to keep the public abreast of the security and transport arrangements during the

Conference period in order to minimize the inconveniences to the public. For instance, a publicity pamphlet will be widely distributed. Nearer the Conference, press conferences by various government departments will also be organized to explain to our public the arrangements in detail.

The Information Services Department estimates that up to now, the expenditure on public education and publicity is around \$4 million.

- (b) We pay high regard to the freedom of speech and right of assembly of NGOs and attach great importance to facilitating their peaceful and lawful public activities during the Conference. Starting from early 2005, the WTO Hong Kong Ministerial Conference Co-ordination Office (MCO) has been meeting with local and overseas NGOs with a view to facilitate their participation in the Ministerial Conference process. The Trade and Industry Department (TID) has also met with NGOs on many occasions to explain to them about the contents of various aspects of trade negotiations. In particular, we held a NGO Roundtable in October which was attended by Mr Pascal LAMY, Director-General of WTO (DGWTO). The Roundtable provided an opportunity for NGOs to have a direct dialogue with DGWTO and the Secretary for Commerce, Industry and Technology.

We will facilitate NGOs' participation in the Conference and the reporting on the negotiation progress by the media. We will set up a well-equipped NGO Centre and Press Centre in the Hong Kong Convention and Exhibition Centre (HKCEC). It is worthwhile to mention that the Conference is the first in the history of the WTO to house NGO Centre, Press Centre and negotiation venue under one roof. NGOs will find this setting more convenient and conducive to their direct communication with WTO members during the Conference. In addition, we are currently discussing with the WTO Secretariat on measures to disseminate information on the progress of negotiation to NGOs and the media on a daily basis in order to increase transparency of the Conference.

- (c) Part (c) of the main question comprises different components, and my reply to them is as follows. The first component part deals

with Conference arrangements to ensure the needs of developing countries will be given due consideration. As the host of the Conference, we aim to chair a Conference that is transparent, inclusive and effective. Towards this end, we will ensure that developing country groupings like the G20, G33 and G90 will have a strong representation in the Conference, and that co-ordinators of different groupings will be properly represented in the various small group meetings.

The second component deals with the appointment of Conference facilitators. A decision on the matter will be taken by the Secretary for Commerce, Industry and Technology as chair of the Conference, in consultation with the DGWTO, in the next two to three weeks. Our key consideration is who will be best placed to facilitate the forging of consensus among WTO members in accordance with the Doha Development Agenda (DDA) mandate, which has clearly provided for the proper address of development concerns in each and every negotiating area.

The third component deals with negotiations on trade in agriculture. Developing WTO members pressing for further liberalization are typically represented by the G20. They are demanding the early elimination of export subsidies, substantial reduction of domestic support measures and meaningful market access through sharp and genuine import tariff reduction by members such as the European Union, Japan and the United States. Developing WTO members' position on agriculture is not unanimous. For example, another group representing the interests of WTO members in the African, Caribbean and Pacific (ACP) Region, has put up a far more conservative proposal on market access.

We have been closely monitoring the agricultural negotiations as the state of these negotiations will facilitate negotiations in other areas under the DDA. We have made use, and will continue to make use, of suitable opportunities to identify possible bridges that will reduce differences between WTO members.

The fourth component part deals with patents on drugs. This issue is outside the DDA and will not be covered in the agenda of the

Hong Kong Ministerial Conference. The position on this issue is that a Declaration on the TRIPS Agreement and Public Health was reached at the Doha Ministerial Conference in 2001 and a decision was taken by the WTO General Council in August 2003. The gist of both the Declaration and the General Council decision is that the less well-off developing and least-developed WTO members facing public health problems like HIV/AIDS, tuberculosis, malaria and other epidemics should be allowed to grant compulsory licences (that is, governmental use of patents without the authorization of the patent owner) for the production and export of pharmaceutical products for such health problems.

The last component part deals with the compatibility of the consensus to be reached at the Hong Kong Ministerial Conference with the principles of protection of human rights and freedoms enshrined in the international human rights treaties. The coming Conference will not conclude the DDA negotiations. It is inconceivable that any consensus reached at the coming Conference will be in violation of the principles of protection of human rights and freedoms enshrined in the international human rights treaties.

MR FREDERICK FUNG (in Cantonese): *President, I wish to follow up a number of issues. However, as I can only ask one supplementary question, I have to follow up part (b) of the Secretary's main reply, in which the Secretary emphasized that he had discussed with various NGOs and the organizations concerned on this topic. As far as I know, discussions such as those with the District Councils were focused on the Conference's arrangements rather than the details. Actually, NGOs have all along wished to discuss with the Government. But it was not until last month, which is nearly one year later, that NGOs finally had a chance to discuss with the Government on agriculture-related issues. The next meeting between the Government and the NGOs to be held on 21 November will discuss the General Agreement on Trade in Services (GATS). Nevertheless, Secretary John TSANG has indicated that he will not attend the meeting. May I ask how the Hong Kong Government will show its genuine sincerity in listening to the views of NGOs during the consultation process? And is it possible to arrange for Secretary John TSANG to attend the meeting to be held on 21 November?*

FINANCIAL SECRETARY (in Cantonese): Madam President, just as I have said in the main reply, as the host of the Conference, we hope that the Conference can be inclusive, transparent and effective. It was on this premise that we have promoted inclusiveness. This is not only reflected in the specific meeting arrangements where all parties discussed at the same venue, but also in the briefings on the DDA where the TID had met with NGOs a number of times already. Therefore, in response to what Mr Frederick FUNG mentioned just now, that is, Secretary John TSANG has never met with NGOs or just once, and not knowing when the next meeting will be, I think that if some NGOs wish to discuss the agenda items, experts in the TID are prepared to offer assistance. For example, the TID colleague sitting behind me has many years of experience in multilateral negotiations, and I believe her knowledge in multilateral negotiations is better than any of us. The colleagues of the TID have in fact discussed with NGOs many times, and I consider this an appropriate channel.

MR FREDERICK FUNG (in Cantonese): *The Secretary has not answered my supplementary. My supplementary is very simple, that is: Secretary John TSANG has been invited by NGOs to attend the meeting on 21 November to discuss the GATS. Will the Secretary inform us whether or not Secretary John TSANG will accept the invitation? President, the Secretary has not answered this part of the supplementary question. He just has to answer "yes" or "no"?*

FINANCIAL SECRETARY (in Cantonese): Madam President, I am not Secretary John TSANG, and therefore I am not in a position to answer whether or not he will attend that meeting. However, I will certainly convey this message to Secretary John TSANG.

MR BERNARD CHAN (in Cantonese): *President, I would like to follow up the second part of part (c) of the Secretary's main reply concerning the appointment of Conference facilitators. May I ask the Secretary how the SAR Government ensures that the negotiations to be held next month will not further exploit poor countries and can fully reflect the concerns of developing countries and other members?*

FINANCIAL SECRETARY (in Cantonese): Madam President, as regards the WTO as a whole or the DDA, there have been criticisms that all WTO members are rich countries, and the poor countries are being exploited by the rich ones. As Chair of the Conference, we have attached great importance to the development agenda of the Doha Round negotiations. In fact, the needs and interests of the developing countries have all along been the core of the Doha Round negotiations, and this is why the negotiations is called the DDA. The main objective is to facilitate the integration of the developing countries into the world economy. For instance, while many developing economies have been dependent on the export of agricultural products as their main source of income, the objective of the Doha Round of agricultural trade negotiations is to eliminate the distorted trade measures of those developed countries like the United States and the European Union, with a view to achieving fair competition in the world market of agricultural products, thereby increasing the chances of the developing agricultural economies' access to the developed economies, and from which the former will benefit eventually. Furthermore, the least developed economies can be exempted from the commitment of tariff reduction in this round of negotiations as a protection of their sources of income. In other words, those least developed economies remain as the beneficiaries without having to make additional commitments on tax reduction measures, which is the so-called "free ride". This is one of the core items of the development agenda.

Just as I have said, the World Bank estimated that the Doha Round of negotiations, if a successful outcome can be achieved and relevant measures put in place, can reduce global poverty by 140 million people by 2015. As Chair of the Conference, we will work closely with other WTO members with a view to paving the way for the early and successful conclusion of this round of negotiations. In fact, the interests of all WTO members, whether developing or developed countries, have been well protected by the requirements under the agenda of the Conference, and in accordance with the requirements, all WTO members can make suggestions on the agenda items six weeks before the opening of the conference.

MR ANDREW LEUNG (in Cantonese): *President, what will be the benefits that may be brought to Hong Kong by hosting this WTO Conferene and related negotiations?*

FINANCIAL SECRETARY (in Cantonese): Madam President, the hosting of the Conference does not only underline the successful implementation of "one country, two systems" of Hong Kong, the founding member of the WTO, but also demonstrates our firm beliefs and support to free trade and multilateralism, as well as our commitment and contribution to the WTO. Moreover, we can take this opportunity to further reinforce the international image of Hong Kong as a bastion of free trade, and showcase Hong Kong as "Asia's World City". I think it is an excellent opportunity for Hong Kong to host this international event.

Hong Kong economy has been heavily dependent on international trade, and our total trade is three times that of our Gross Domestic Product. I believe that we can earn income by trading with the world market. Furthermore, the more liberalized world trade becomes, the more business opportunities Hong Kong traders, manufacturers and service suppliers will have, which will in turn accelerate Hong Kong's economic growth and thereby promote employment opportunities. Let me cite trade in goods as an example. If importing countries lifted the imposition of import duty on Hong Kong's top 10 — only the top 10 — exports, exporters can save HK\$7.6 billion in tariff expenditure, and we will also benefit from the elimination of different forms of trade barriers by our trade partners. It is precisely the objective of this round of negotiations to reduce trade barriers, with a view to facilitating Hong Kong manufacturers and the service industry in exploring new markets without any restrictions in trade.

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

MR LEE WING-TAT (in Cantonese): *President, I want to ask about the third paragraph of part (a) of the main reply concerning transport arrangements. Last Saturday, at two o'clock in the afternoon, while I was on my way from the International Financial Centre to the Legislative Council Building for a meeting, I saw that the "mounted police" was clearing the traffic for a car which drove past me with a plate reading AM 96. May I ask which level of officials can have traffic officers clearing the traffic for them under government policy? Do all foreign ministers coming to Hong Kong for meetings enjoy the same right of traffic clearance? I am gravely concerned as there will be a lot of ministers coming to Hong Kong for meetings — they are of course very much welcomed —*

If a clearance of traffic has to be arranged for all of them, I think traffic congestion will not only occur in Wan Chai, but the whole territory. Therefore, may I ask the sorts of foreign dignitaries who can enjoy the right of traffic clearance under government policy?

FINANCIAL SECRETARY (in Cantonese): Madam President, we will usually conduct a risk assessment before deciding whether or not "mounted police" will be deployed to protect any person. Generally speaking, there is a group of internationally protected persons (IPP) who belongs to the high-risk category, and when they come to Hong Kong, appropriate protection will be provided after a risk assessment.

PRESIDENT (in Cantonese): Fifth question.

Transfer of PRH Overcrowded Households

5. **MR LAU KONG-WAH** (in Cantonese): *President, at present, only public rental housing (PRH) households with a living density higher than 5.5 sq m internal floor area (IFA) per person will be categorized as overcrowded households, and hence eligible to apply for transfer to larger flats. However, the space allocation standard that the authorities currently adopt for new PRH tenants is a minimum area of 7 sq m IFA per person. In this connection, will the Government inform this Council:*

- (a) *whether it will consider relaxing the qualifying living space density for transfer applications from less than 5.5 sq m IFA per person to 7 sq m IFA per person, so as to bring it in line with the density standard adopted for new PRH tenants; if not, the justifications for that;*
- (b) *of the measures to enable more overcrowded households to be transferred to PRH flats in the same estates or districts, such as setting aside a number of flats in some PRH estates soon to be completed for local transfer application by the overcrowded households in the districts concerned; and*

- (c) *whether it will increase the annual transfer quota for overcrowded households?*

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

- (a) The current minimum space allocation standard for PRH is 5.5 sq m per person. Households with a living area below this standard may apply for transfer to larger flats through the territory-wide overcrowding relief exercises, which are held twice or thrice a year. Through the implementation of overcrowding relief and other transfer schemes, the number of overcrowded households has been reduced from about 20 000 in 2000 to around 5 800 at present. The overcrowding conditions in PRH have been significantly alleviated. In the light of the concerns expressed by tenants with a living density marginally above the benchmark of 5.5 sq m per person, the Housing Authority (HA) held a brainstorming session last week to review the existing transfer arrangements with a view to allowing more flexibility in the provision of transfer opportunities for tenants to improve their living space. Our current thinking is to allow households with living space of less than 7 sq m per person to apply for transfer to more spacious flats. The HA will consider details of the proposal later this month.
- (b) Every year, having regard to flat supply, the HA sets aside 5 000 to 7 000 PRH flats in new and old estates in various districts which are suitable for allocation to larger households through overcrowding relief exercises and other transfer schemes. Nonetheless, practically the HA could not accommodate all requests from overcrowded households for rehousing within the same estate or district. Since 2001, 10 territory-wide overcrowding relief exercises had been conducted by the HA. A total of 20 300 flats of various types in different districts were offered for selection by overcrowded households. Of these, about 60% were new flats and 70% were located in urban or extended urban areas. In each of the exercises, the number of flats offered exceeded the number of applicants.

- (c) A quota of about 5 000 flats a year was set aside by the HA in the past for the implementation of various transfer exercises. The quota would be adjusted flexibly having regard to actual flat supply and demand as well as tenants' needs so as to provide overcrowded households and families aspiring for more spacious flats with more opportunities for transfer. In the past five years, the HA has earmarked about 36 000 flats in total for these transfer arrangements. The HA will continue to review the quotas for various transfer exercises and other purposes annually taking into account the flat supply situation.

MR LAU KONG-WAH (in Cantonese): *President, at present, some of the overcrowded households have been living in their existing flats for 10 to 20 years in a very crowded environment, but new tenants who have just moved into their neighbouring flats are taking up much spacious living area. The different standards so applied may stir grievances among overcrowded households. Even if overcrowded households were transferred, in the past, they might have to move to some very remote districts, such as Tin Shui Wai. In part (a) of the main reply, Secretary Michael SUEN mentioned some of his new ideas, and I hope the Secretary can clarify whether the new thinking will allow overcrowded households to be transferred to larger flats in the same estates or districts, and whether the standard of 7 sq m per person will be applicable to both old and new tenants in future?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, Mr LAU Kong-wah has in fact pointed out straightly the crux of the problem. Actually, many tenants do have plenty of opportunities of transfer, for just as I have said earlier, many different schemes are offered every year. However, the flats offered may not necessarily be in the same estates or districts for which the applicants have applied. Therefore, more often than not, despite the opportunities offered, they are not willing to move, but will rather wait for flats offered in the same districts, or even in the same estates or the same blocks. Madam President, such opportunities only arise once in a blue moon.

Moreover, just as I have said earlier, we in fact attach great importance to problems in this respect. From 2000 onwards, the number of overcrowded households has been reduced from 20 000 originally to 5 800 at present. We

have put in much effort in this regard, which is palpable. However, if tenants insist to be extremely selective and refuse to make any compromise, their priority and time for transfer will certainly be affected. We do have some statistics showing that overcrowded households have really been offered many transfer opportunities. For instance, though about 23% of the applicants have successfully chosen and been allocated flats, they eventually give up the offer for various reasons. This indicates that, to a very large extent, overcrowded households will consider whether or not to accept our arrangements according to their personal preferences and individual situations. These factors have added difficulty to our work in this respect.

MR LAU KONG-WAH (in Cantonese): *President, the Secretary has not answered whether a consistent allocation standard would be applied? That means the benchmark will be increased from 5.5 sq m per person to 7 sq m per person and be applicable to both new and old tenants.*

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

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, the answer is in the affirmative. All households with a living space below 7 sq m per person will be regarded as overcrowded households.

MR ALBERT CHAN (in Cantonese): *President, I welcome the new proposal put forth by the Secretary, that is, households with a living area less than 7 sq m per person will be eligible for transfer application. This is good news to residents with a living density higher than 5.5 sq m per person. However, a number of PRH tenants, in particular those who have been living in PRH for over 20, 30 or even 40 years, may not necessarily be able to meet the 7 sq m requirement. These residents may be ineligible for transfer application indefinitely. They may never have the opportunity to do so but be forced to stay in the same flats for dozens of years. Will the Secretary, in response to changes in circumstances, consider offering a specific quota for tenants living in the same PRH flats for over 20 years to allow them to apply for transfer, in particular to relatively new flats — a proposal I have also put forth to the Permanent Secretary, Mr LEUNG Chin-man. Many residents have been living in old estates for*

dozens of years. Take the residents of Fuk Loi Estate as an example, they have been living in the old estate for 40 years, and they will never have the chance to live in new estates even if they want to. Will the Secretary consider doing justice to this group of residents so that they can improve their living environment?

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

President, we do understand that residents want to apply for transfer owing to many different circumstances and reasons, and the reason cited by Mr Albert CHAN earlier is only one of those.

However, we have to take into account that the objective of the primary scheme is to relieve tenants from overcrowded living conditions. We are now going to adopt an approach which will take into consideration a host of factors. In addition to overcrowdedness, the factor mentioned by Mr CHAN earlier is also included. Other factors such as the number of family members, period of occupation, priority of flat selection, and so on, will also be taken into account. We may also consider some special needs. If the tenant is disabled or chronically ill and certain life support equipment has to be installed at home, this factor may also be taken into consideration. However, a mechanism has to be put in place in this respect. Thus, just as I have said earlier, at the end of this month, the HA will consider a host of factors to identify a fairer approach to address problems of various nature in this respect.

PRESIDENT (in Cantonese): There are 11 Members waiting to ask supplementary questions. Those who have the chance to do so are therefore advised to be as concise as possible.

MR FRED LI (in Cantonese): *President, first of all, I have to declare that I am a member of the HA.*

A week ago, the Subsidized Housing Committee of the HA held a brainstorming session and agreed that households with a living area between 5.5 sq m to 7 sq m per person would be allowed to apply for transfer to improve their living environment. The question put forth by the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) today really chimes in well with the Government, and the effect will certainly be more desirable.

Just as Mr Albert CHAN has pointed out earlier, the problem with the existing arrangement of the HA is that for certain households with a living area less than 7 sq m per person but are not as crowded as other households eligible for transfer, they have been living in their existing PRH flats for a very long time and they also want to improve their living environment. As the person-in-charge of housing policy, will Secretary Michael SUEN give some extra marks for them instead of simply considering living density as the sole criterion? Will the Secretary consider this point?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, we will certainly consider this point. However, regarding the calculation of marks, it has to be discussed by the HA at their meetings after the brainstorming session. I hope a fairer approach acceptable to the public can be worked out. Having said that, owing to the different factors involved in each case, we cannot adopt an across-the-board approach by allotting the same marks to all applicants. As for the particulars of the relevant mechanism, consultation will be conducted after the meeting before any decision is made.

MR LEUNG KWOK-HUNG (in Cantonese): *President, Secretary Michael SUEN, the estate where I am now living is one of the hardest hit estates of this type. I think a marking scheme can be adopted, taking into consideration the period of occupation of the applicants, for this is a fairer approach. For example, if a household with 60 points will be eligible for application of transfer, a household which has been living in the same flat for 40 years will have 40 points and will be just about eligible for transfer automatically. Otherwise, there is no way to bring together different factors on the whole, just as the case for application of migration. I think this kind of system will be fairer. I wonder whether the Secretary will consider this kind of system.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, we will certainly consider this system. However, I hope Members will understand that all along, we have been working hard for a fair distribution of flats as far as possible. However, just as I have said earlier, in many cases, this is not because we fail to offer the flats for transfer. For instance, 23% of the applicants who have been allotted flats can actually have their living environment improved; however, owing to the locations of flats offered or other

reasons, they do not accept the offer. We will certainly consider the marking scheme, but will the introduction of the marking scheme in future be able to make everyone satisfied? I think we should not be too optimistic about this, thinking that all problems can be solved by just doing this.

MR LEUNG KWOK-HUNG (in Cantonese): *President, the Secretary has not answered whether the occupation period would be accepted as a marking criterion. I know that one of my neighbours had in actuality waited till his death but not being offered a transfer. My neighbours thus insist that I must ask Secretary Michael SUEN about this. Had occupation period been used as the basis of the marking scheme, he might have moved into a new flat several years ago.*

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

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, perhaps Members may listen to the recording, for the first thing I said in my earlier reply was that we would consider this suggestion.

MS EMILY LAU (in Cantonese): *President, a living area of 5.5 sq m is really very small. Even if the minimum living area is increased to 7 sq m, I think Hong Kong will be able to cope with it. I hope the HA will examine whether room for greater improvement in quality to the living environment of Hong Kong citizens can be made as far as possible.*

The Secretary said that the number of overcrowded households currently stood at 5 800. If the allocation standard is raised to 7 sq m, how many overcrowded households will there be? Has the Secretary calculated the increase of overcrowded households so brought? Besides, for applicants not being too selective, how long do they need to wait before they can be transferred?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, will you please allow me to give a written reply to this question? I do not have the information on this at hand. (Appendix II)

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, in the Secretary's reply to Mr LAU Kong-wah's question, he said that requests for transfer to flats in the same estates or districts will not be considered. I think that the issue of overcrowded households is now beset by a significant problem. Residents living in Lok Wah South Estate, Lok Wah North Estate and Chuk Yuen South Estate are also overcrowded households. However, when these residents apply for transfer, the Government declared that they have to wait until the list setting out the PRH estates with flats available is announced before they can apply for transfer to those estates. If they have to be rehoused to flats in remote areas, they naturally will not accept the offer.*

Just as I have said earlier, for cases like Lok Wah Estate, will it be possible for the Government to reserve some flats in Sau Mau Ping or new estates in the vicinity for these overcrowded households? Since the Government has now raised the space allocation standard for overcrowded households from 5.5 sq m to 7 sq m, I hope the Secretary can try to solve the problem of transfer through the allocation of resources. At present, in addressing the problem of transfer of overcrowded households, have resources been reserved to focus on the consideration of transfer applicants in the same districts or estates, making available some flats in new estates nearby for them to choose? It is a matter of resources. I think the Government should find a solution to it, for only this can

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, you need only to state your supplementary question but not your opinions. For Members do not need to state their opinions during Question Time.

MISS CHAN YUEN-HAN (in Cantonese): *Alright, Madam President. The reason why this problem, that is the transfer of applicants, cannot be solved all along or after all is that the authorities are not willing to allocate additional resources for them.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I have not said that requests in this respect would not be considered. I only said that the HA would not be able to make effective arrangement to satisfy all requests. Though we will make an effort in this respect, I cannot

guarantee that all requests can be satisfied. For instance, President, we all know that no new housing estates have been completed in New Territories East in recent years; new housing estates are built in other districts. Though we may reserve flats in new housing estates — we will do so if the conditions are suitable — no new housing estates have indeed been built in New Territories East. Therefore, I hope Members can appreciate the actual difficulties we are facing in this respect. Just as I have said earlier, we cannot satisfy all the requests, for we actually do not have the housing estates they requested. It is not a matter of whether or not we are willing to deploy resources. We have already provided tens of thousands of flats; we surely are willing to deploy resources for this purpose. Only if we are able to make it, we will certainly do so. However, PRH flats so requested are in actuality not available in some districts.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. He has not answered the question I raised in respect of the three housing estates. In fact, even in New Territories East, there is the Ching Ho Estate — Mr LAU Kong-wah has immediately added — it is only because the Government does not want to transfer overcrowded households to new estates that these residents have been kept waiting all along and cannot be transferred. The Secretary has not answered my question.*

PRESIDENT (in Cantonese): I know it, please be seated first. Secretary, please give your answer.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I have nothing to add. This is the spirit I have mentioned in the main reply. The estate cited by Miss CHAN is only a very small estate.

MISS CHOY SO-YUK (in Cantonese): *President, the Secretary said earlier that requests for transfer in the same districts could not be satisfied. I also appreciate that the Government may not be able to make arrangements for transfer in the same districts for all requests, but will it be possible for the Government to give priority to overcrowded households for transfer in the same*

districts; even if transfer in the same estates may not necessarily be possible, will transfer to nearby areas in the same districts be arranged? Since there are often new estates completed, will a certain number of flats be expressly reserved for transfer applications by overcrowded households? The Government surely knows in advance the number of overcrowded households in a certain districts; will it be possible to allow these overcrowded households to apply for transfer to these flats in an open manner?

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

President, perhaps I did not have the opportunity to explain clearly our new current thinking. The new approach is indeed very flexible, which allows PRH tenants with an occupation period of 10 years or more to freely select the flats located in different districts. They may choose according to their will the districts they intend to be transferred, provided that vacant flats are available. This approach indeed has provided them with great flexibility. However, if flats in the same districts are not available, we can hardly take any measures, but our scheme does allow these applicants to choose freely. Members have to understand that, from the perspective of utilization of resources, the transfer of overcrowded households is a win-win approach. Upon the moving out of each overcrowded household, a small unit is vacated. Though there are a large number of applicants on the Waiting List at present, the number of persons of each household is usually smaller. The problem of mismatch of resources is thus resulted. The proposed scheme may allow us to remedy the situation of mismatch and bring about a win-win situation. I hope Members will not think that we are in a rut in this respect, disallowing households to be transferred. We will surely arrange transfer for them if we can make it. We are being flexible in this respect.

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

MR WONG KWOK-HING (in Cantonese): *President, in respect of the applications for transfer made by overcrowded households at present, what measures have the Government put in place to ensure that transfer arrangements are made in an open, fair and impartial manner, so that applicants for transfer know clearly the priority of their applications and the flats for transfer*

offered? How can the three principles of openness, fairness and impartiality be upheld?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, all the relevant information is in fact open, and residents of PRH estates can easily learn about the relevant situation from any estate offices. So, there is no question of certain information not being published. Under the new scheme now in place, households are even allowed to choose the districts or units they intend to be transferred, so they indeed do not need to know where vacant flats are available. As to whether or not applicants are allocated the specified units, we will inform the applicants concerned.

PRESIDENT (in Cantonese): Last oral question.

Student Finance Schemes

6. **MR CHEUNG MAN-KWONG** (in Cantonese): *President, regarding the Local Student Finance Scheme (LSFC) and the Financial Assistance Scheme for Post-secondary Students (FASP), will the Government inform this Council of the following over the past five years:*

- (a) *whether it set upper limits and ratios for the grants, low-interest loans and non-means-tested loans for each year; if so, of the reasons and the ratios; if not, how it addressed the situation where the amounts of assistance and loans applied for exceeded the estimates;*
- (b) *the annual numbers of cases of repayment of low-interest loans and non-means-tested loans, the loan amounts and the amounts of interest arising from the loans involved; the respective numbers of cases where the loans amounted to \$100,000 or above, \$200,000 or above, and \$300,000 or above made through low-interest loans or non-means-tested loans or both, and the respective loan periods, and the average and highest loan amounts in each category; and*
- (c) *how the study and living expenses of the applicants in the above schemes were calculated; the average amount of subsidy for study*

and living expenses given to each student with a breakdown by academic level and discipline (for example, arts, science and medicine), and details and timetable of the authorities' review of the above grant and loan schemes?

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

- (a) It is the Government's policy to ensure that no students are deprived of education due to a lack of means. At present, the Student Financial Assistance Agency (SFAA) provides various financial assistance schemes for students at different levels on a non-cash-limiting basis.

Students enrolled on publicly-funded programmes are eligible for assistance under the LSFS and the Non-means-tested Loan Scheme (NLS), whereas students enrolled on self-financing programmes are eligible for assistance under the FASP and the Non-means-tested Loan Scheme for Post-secondary Students (NLSPS). At present, we have not set any ceiling or ratio for grants, means-tested loans and non-means-tested loans. The SFAA will provide assistance to all eligible students. If the total amounts of grants and loans payable exceed the approved estimates, we will seek supplementary provisions from the Financial Services and the Treasury Bureau or the Finance Committee of the Legislative Council as appropriate.

- (b) The interest rate applicable to loans under the LSFS is 2.5% per annum. In the 2004-05 academic year, there were 64 178 repayment accounts with a total repayment of about \$660 million, of which about \$620 million was for repayment of principal and about \$34 million for interest payment.

The interest rate applicable to loans under the FASP is 2.5% per annum. In the 2004-05 academic year, there were 1 965 repayment accounts with a total repayment of about \$8.1 million, of which about \$7.2 million was for repayment of principal and about \$0.96 million for interest payment.

The NLS and the NLSPS operate on a full-cost recovery basis. Interest is charged on a "no-gain-no-loss" basis, now at 6.275%. In the 2004-05 academic year, there were 15 843 repayment accounts under the NLS for students pursuing publicly-funded programmes, with a total repayment of about \$200 million, of which about \$160 million was for repayment of principal and about \$44 million for interest payment. On the NLSPS for students pursuing self-financing programmes, there were 3 429 repayment accounts with a total repayment of about \$49 million, of which about \$40 million was for repayment of principal and about \$9 million for interest payment.

Breakdown of statistics for the various schemes in the relevant academic years is at Annex 1.

In the past five academic years, the number of loan borrowers under the four schemes with a total accumulated loan amount ranging from \$100,000 to \$199,999, from \$200,000 to \$299,999, and at \$300,000 or above was 11 025, 489 and six respectively. Breakdown of the relevant statistics for the various schemes is at Annex 2.

The loans and interests under the LSFS are to be repaid within five years while the loans and interests under the FASP, NLS and NLSPS are to be repaid within 10 years.

For borrowers under the four schemes whose total accumulated loan amount was at \$100,000 or above, their average accumulated loan amount ranged from about \$110,000 to about \$149,000. The highest accumulated loan amount ranged from about \$155,000 to about \$308,000.

Breakdown of the relevant statistics for the various schemes is at Annex 3.

I wish to point out that it was not common for borrowers to take out large loans. Among all borrowers, about 12% took out an accumulated loan of \$100,000 or above, and only less than 0.6% had an accumulated loan of \$200,000 or above. On average, a

borrower took out an accumulated loan of about \$54,000. Taken on a monthly basis, the average amount of repayment ranged from about \$300 to about \$1,000, depending on the schemes concerned.

We recognize that students may have difficulties in loan repayment. The SFAA has put in place an effective mechanism to handle such cases. Borrowers with financial difficulties may seek assistance from the SFAA. The SFAA may, having regard to particular circumstances, approve their applications for deferment of repayment, reduction in the quarterly repayment or extension of the repayment period on a case-by-case basis. We encourage borrowers with financial difficulties to approach the SFAA for assistance.

- (c) Based on the survey findings of the consultant engaged by the SFAA, the Census and Statistics Department has drawn up a set of students' academic expenses and living expenses items. The maximum amounts of assistance for payment of these expenses are updated annually, based on the movement of the Consumer Price Index (A) and the input provided by the relevant tertiary institutions.

In the 2005-06 academic year, the maximum grants for payment of students' academic expenses for the respective disciplines of undergraduate programmes under the LSFS range from \$4,420 to \$25,100 depending on the applicant's academic discipline. These grants are not applicable to the FASP. In the past five academic years, the average amounts of grants disbursed for academic expenses were \$3,999, \$3,950, \$4,137, \$4,266 and \$4,362 respectively.

Regarding loans for living expenses in the 2005-06 academic year, the maximum loan payable under all relevant schemes is capped at \$33,850. In the past five academic years, the average amounts of loans disbursed for living expenses under all relevant schemes were \$21,561, \$21,350, \$22,171, \$22,648 and \$23,059 respectively.

The SFAA is conducting a review of the mechanism for adjusting the levels of grants and loans for academic and living expenses. We expect to complete the review in the coming year.

Annex 1

Number of repayment accounts, loan amount repaid and interest repaid under LSFS, NLS, FASP and NLSPS

| Financial Assistance/ Loan Scheme | Academic Year ^(Note 1) | | | | |
|---|-----------------------------------|-----------|-----------|-----------|-----------|
| | 2000-01 | 2001-02 | 2002-03 | 2003-04 | 2004-05 |
| LSFS | | | | | |
| No. of repayment accounts ^(Note 2) | 87 423 | 82 347 | 78 840 | 70 333 | 64 178 |
| Principal repaid ('000) | \$735,850 | \$831,795 | \$807,951 | \$714,211 | \$622,116 |
| Interest ('000) | \$55,105 | \$51,137 | \$44,236 | \$37,389 | \$33,699 |
| Total amount of repayment ('000) | \$790,955 | \$882,932 | \$852,187 | \$751,600 | \$655,815 |
| NLS | | | | | |
| No. of repayment accounts | (Note 3) | (Note 3) | 10 352 | 13 101 | 15 843 |
| Principal repaid ('000) | | | \$85,558 | \$108,223 | \$155,981 |
| Interest ('000) | | | \$29,220 | \$34,137 | \$44,008 |
| Total amount of repayment ('000) | | | \$114,778 | \$142,360 | \$199,989 |
| FASP | | | | | |
| No. of repayment accounts | (Note 4) | (Note 4) | 111 | 762 | 1 965 |
| Principal repaid ('000) | | | \$324 | \$3,456 | \$7,176 |
| Interest ('000) | | | \$22 | \$317 | \$959 |
| Total amount of repayment ('000) | | | \$346 | \$3,773 | \$8,135 |
| NLSPS | | | | | |
| No. of repayment accounts | (Note 4) | (Note 4) | 398 | 1 438 | 3 429 |
| Principal repaid ('000) | | | \$11,521 | \$15,406 | \$39,648 |
| Interest ('000) | | | \$1,234 | \$3,449 | \$9,117 |
| Total amount of repayment ('000) | | | \$12,755 | \$18,855 | \$48,765 |

Note 1: Academic year starts from 1 August and ends on 31 July the next year.

Note 2: The number of repayment accounts for each academic year represents the cumulative number of repayment accounts as at the last day of the academic year.

Note 3: The SFAA started collecting relevant figures from 2002-03. Hence, no figures before 2002-03 could be provided.

Note 4: The FASP and NLSPS were introduced in the 2001-02 academic year. As repayment only commenced upon graduation or termination of studies, there was no repayment account in or before 2001-02.

Annex 2

Number of borrowers with a total accumulated loan amount of \$100,000 or above under LSFS, NLS, FASP and NLSPS

| <i>Financial Assistance/ Loan Scheme</i> | <i>Number of borrowers in the past five academic years with a total accumulated loan amount of</i> | | |
|--|--|-----------------------------------|-------------------------------|
| | <i>\$100,000 to \$199,999</i> | <i>\$200,000 to \$299,999</i> | <i>\$300,000 or above</i> |
| LSFS loan | 3 452 | 1 | 0 |
| NLS loan | 1 793 | 14 | 0 |
| LSFS loan and NLS loan concurrently | 3 034 | 81 | 1 |
| FASP loan | 54 | 0 | 0 |
| NLSPS loan | 1 445 | 219 | 1 |
| FASP loan and NLSPS loan concurrently | 1 247 | 174 | 4 |
| Total | 11 025 | 489 | 6 |

Annex 3

Average and highest accumulated loan amounts for borrowers with a total accumulated loan amount of \$100,000 or above under LSFS, NLS, FASP and NLSPS

| <i>Financial Assistance/ Loan Scheme</i> | <i>For borrowers with an accumulated loan amount of \$100,000 or above</i> | |
|--|--|-----------------------|
| | <i>Average amount</i> | <i>Highest amount</i> |
| LSFS loan | \$110,158 | \$201,060 |
| NLS loan | \$128,729 | \$210,500 |
| LSFS loan and NLS loan concurrently | \$131,259 | \$302,190 |
| FASP loan | \$115,506 | \$154,560 |
| NLSPS loan | \$149,119 | \$300,490 |
| FASP loan and NLSPS loan concurrently | \$148,247 | \$308,005 |

MR CHEUNG MAN-KWONG (in Cantonese): *President, the Government said that it was not common for borrowers to take out large loans. This is not a full picture of the reality anymore because the borrowers who take out the largest*

loans are those who pursue the degree programmes after completing the associate degree programmes. These people have to borrow the loans for four or five years and their number is on the rise. According to the official statistics, the numbers of borrowers with a loan amount at \$100,000 or above and \$200,000 or above are more than 10 000 and almost 500 respectively. In addition, the prevailing interest rate is as high as 6.275% and interest is calculated on compound basis from the date of drawing down. According to the Government's formula, those who have borrowed \$150,000 will have to repay more than \$200,000 after graduation and those who have borrowed \$250,000 will have to repay more than \$300,000 five years later. This amount represents half of the purchase price of a flat in Tuen Mun. May I ask the Secretary whether such high-interest-bearing loans are too mean for the young students, most of them being full-time students aged below 25? Will the Government consider charging them interests after they have graduated or reducing the interests on those who are pursuing full-time programmes?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, under our current approach, students are only required to repay the loans after graduation. No repayment is demanded before graduation. This is the answer to Mr CHEUNG Man-kwong's first supplementary question.

Regarding whether it is common for borrowers to take out large loans and their ability to make repayments, I would like to cite some figures for Members' reference. In the 2004-05 financial year, the delinquency rate under the LSFS is 3.46%. In other words, 96% of the borrowers do not have any problem in making repayments. As regards the FASP, the delinquency rate is 1.34%. Apart from that, I would like to mention the NLS, the delinquency rate of which is around 5.91%. Under the NLSPS, the delinquency rate is 5.47%. So, on the whole, they are not unable to repay the loans. Moreover, they can approach the SFAA to explain their problems such as unemployment, illness or the need to pursue further studies if they really have difficulties in loan repayment after graduation. Such cases will be dealt with in a flexible manner.

MR CHEUNG MAN-KWONG (in Cantonese): *President, it seems you have also found that the Secretary has mistaken my supplementary question. My*

supplementary question did not say that the students should be required to repay the loan after graduation. Certainly they will be able to repay the loan after graduation. I ask, in view of the high interest rate charged by the Government and interests are calculated from the first day of the loan having been drawn down, they have to bear the interests in the whole period of their studies up to the day of their graduation. Can the Government consider my proposal on calculating interests only after they have graduated, or at least reducing the interests when they are still studying full-time degree programmes so that their burden will not be too heavy?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, firstly, interest is charged on a "no-gain-no-loss" basis. When the interest rate in the market is high, we have to follow it. Although the interest rate charged by the Government is 6.25%, it is still lower than the prevailing market rate. Secondly, we are now conducting a review of the whole scheme and will report to Members what approach to be adopted next year.

MR JAMES TIEN (in Cantonese): *President, Mr CHEUNG Man-kwong's supplementary question has assumed that the university students, after receiving the grants or loans, can graduate and find a job and then repay the loans. In the fourth paragraph of part (b) of the main reply, the Secretary said that in the past five years, the number of loan borrowers under the four schemes with a total accumulated loan amount ranging from \$100,000 to \$199,999 is around 11 000. May I ask whether all of them can graduate and find a job a few years later and then repay the loans? If many of them cannot graduate, what are their situations? Will they be given continuous exemption from paying the interests? Or in what ways will they repay their loans? In my opinion, they will not be able to earn a high income without a diploma.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we are very lucky because our universities are excellent in terms of quality. So, the graduates have no problem in seeking employment. Most of them can find a job and repay the loans. As I said earlier, the delinquency rate is only 3% to 6%, depending on the loan scheme they have chosen. So we do not think there is any problem in this aspect.

As regards how much loans they will repay and whether they really find it difficult to repay all the loans, I would like to point out that the monthly repayment ranges from \$300 to \$1,000. In general, fresh graduates can earn an average monthly income of \$10,000, or around \$8,000 to \$9,000. On the basis that they can earn \$10,000, I do not think a monthly repayment of \$1,000 is unreasonable.

MR JAMES TIEN (in Cantonese): *President, sorry, perhaps my supplementary question is not clear enough. My question is: Among the 11 025 students, how many of them are unable to graduate or complete the four-year programmes, thus failing to get the diploma? Are they able to repay the loans or required to repay the loans?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I do not have statistics on the 11 025 students showing whether or not they can graduate. However, I believe our university education is excellent and most of the students will not have any problem in graduation. They will certainly graduate.

DR YEUNG SUM (in Cantonese): *President, the Secretary pointed out in part (c) of the main reply that grants for payment of students' academic expenses are not applicable to applicants for the FASP or those who have enrolled in associated degree programmes on self-financing basis. May I ask the Secretary why students on self-financing associate degree programmes are not eligible for assistance for academic and living expenses, and low-interest-bearing loans? The Secretary opines that students on associate degree programmes with their own means should pay a higher tuition fees. But they are not entitled to any assistance. Is it fair to them? If they can manage to borrow a smaller amount of loans which bear a higher interest rate after having gone through a means test and being granted assistance to cover living and academic expenses, can this not better cater for their needs?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, this question is in fact very complicated because different

schemes were launched at different times. So, these schemes are different in many aspects. We are now conducting a review to see what should be done. I believe one of the difficulties is whether every student should be entitled to the same amount of assistance as this will certainly be the fairest and most equitable way. But in doing so, I think we have to reduce the current assistance in order to strike a balance. This is not feasible at all. So, we can only increase the assistance. But with limited financial resources, whom should be given assistance?

Last year, we informed the Legislative Council that subsidies for some associate degree programmes would be cancelled. However, our promise to commit the funds to assisting the students met strong opposition from Legislative Council Members. As a result, the plan has to be postponed until 2009.

DR YEUNG SUM (in Cantonese): *President, my supplementary question is very specific. I asked whether it is unfair to students on associate degree programmes if they are not entitled to assistance to cover the academic and living expenses.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, borrowers under the FASP are granted \$55,800 a year. So, it is not correct to say that they are not given assistance.

MR HOWARD YOUNG (in Cantonese): *President, in the first and second paragraphs of part (b) of the main reply, the Secretary listed the amounts of interest payment under the two loan schemes as examples. I notice that borrowers under the LSFS have repaid \$620 million as principal and \$34 million as interests in the past year, meaning that the amount of interest paid is about 5% of the principal. However, in the second paragraph, the figures then listed by the Secretary are very interesting. The borrowers under the FASP have repaid \$7.2 million as principal and \$0.9 million-odd as interest. The interest is about 7% of the principal which is different from what is stated in the first paragraph. I cannot understand the logic. Is it because the two loan schemes are fundamentally different, or is it because the two loan schemes were launched*

at different times, or is it because some borrowers have opted to repay the interest alone for the time being leading to the impression that the interest rate of one scheme is much higher than the other?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the problem is in fact very complicated. In respect of the LSFS, part of the loans is not required to be repaid. However, for students who cannot obtain full grants, they can apply for loans at the interest rate of 2.5%. Is the interest rate really at 2.5%? In fact, it is below 2.5% because students begin to repay the loans in January of the first year after graduation. On quarterly basis, the students start to repay the loans in March of the year. In other words, they are not required to repay the loans in the first six months after graduation. Overall speaking, the interest rate is only 1.4%. We have talked about this issue in the Legislative Council. This shows that it is difficult to specify on which day interest starts to accrue. Nevertheless, the interest is very low.

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

MR LEUNG KWOK-HUNG (in Cantonese): *President, how are you, Secretary? You do not play video games recently and so you have given us very good replies. I do not play video games either.*

PRESIDENT (in Cantonese): Mr LEUNG, please ask your supplementary question and do not say anything irrelevant to the question.

MR LEUNG KWOK-HUNG (in Cantonese): *Yes, President.*

Dr YEUNG Sum said earlier that students on associate degree programmes will get a subsidy which is less than that of students on formal tertiary education despite their expensive tuition fees. So, he asked the Secretary whether it was not fair. But the Secretary did not answer the question and just said that they would also get subsidies. May I ask the Secretary once again whether this is not

fair? Is it unfair for a student on associate degree programme at a higher tuition fee to receive a smaller amount of subsidy than a full-time student?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, every programme is different and every situation is unique. The price represents the value. Since the tuition fees are determined by the institutions, if the fees are too high, no one will submit applications for enrolment. But if the institution is a reputable one, some may apply for enrolment despite the high tuition fees. And tuition fees are not determined by the Government. Having said that, we consider that students must be provided with assistance. So, under the FASP and the NLSPS, assistance is provided to students on associate degree programmes.

MR LEUNG KWOK-HUNG (in Cantonese): *President, the Secretary has not answered my supplementary question. The Secretary only said that assistance has been provided and we also know that assistance is provided under the two schemes. But my supplementary question is about a student on associate degree programmes who has to pay a higher tuition fee but gets less assistance. Compared with a full-time student who pays a lower tuition fee but gets more assistance, is it fair? The Secretary only said that the tuition fees were determined by the institutions and the students decided on their own whether they should enrol or not. This is totally irrelevant.*

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

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I would like to add some more points. Different students enrol in different disciplines and students on associate degree programmes may get a maximum assistance of \$55,890. But some of them may get a lesser amount. Is it unfair to the latter? Should the Government provide the same assistance to every student in order to be fair? For those who have enrolled in programmes asking for a higher tuition fee such as medicine, is it unfair? So, we should not assert in such a manner.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Water Quality of Plover Cove Reservoir**

7. **MR KWONG CHI-KIN** (in Chinese): *President, it has been reported that Plover Cove Reservoir, the major recipient reservoir of water from Dongjiang, recently experienced an unusual algal bloom which caused low oxygen levels in the water, resulting in extensive deaths of fish. The scene of dead fish all over the place arouses much concern about the water quality there. In this regard, will the Government inform this Council:*

- (a) *whether the reasons for the deterioration in water quality of the Reservoir have any connection with the Dongjiang water; the types of pollutants in the water of the Reservoir and whether the existing filtering facilities of the Water Supplies Department (WSD) can filter out all the pollutants;*
- (b) *whether the existing facilities of the filter station and the "aerated system" to be installed can eliminate all the heavy metals and organic matter contained in the water of the Reservoir; if not, whether the authorities have other measures to improve the water quality of the Reservoir; and*
- (c) *of the estimated expenditure on improving the water quality of the Reservoir and whether it will exceed the budget; if so, whether such over-spending will become recurrent every year?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President, according to the monitoring records of the WSD, the water quality of the Plover Cove Reservoir for the past year generally remained stable and satisfactory. There was no pollution or deterioration in water quality, nor was there any unusual algal bloom. However, an upsurge in sand particles in the water resulting from continuous heavy downpour in June this year has caused the death of a small quantity of fish.

- (a) Since the commissioning of the Dongjiang-Shenzhen closed aqueduct in June 2003, there has been significant improvement in the quality of Dongjiang water on all fronts. The amount of heavy

metals or pollutants in Dongjiang water detected by the WSD, such as lead, mercury, cadmium and agricultural pesticide, and so on, continuously remains at a very low or even undetectable level. The WSD has been publishing on its website information on the examination of Dongjiang water quality at Muk Wu Pumping Stations as well as the monitoring results of local potable water for public information on a regular basis. Hong Kong's potable water has always complied with the Guidelines for Drinking Water Quality drawn up in 1993 by the World Health Organization (WHO) in chemical and bacteriological aspects and is safe for drinking.

A natural phenomenon called "thermal stratification" often occurs in the Plover Cove Reservoir. The phenomenon is not rare among all deep water lakes or reservoirs. In summer, the surface temperature of the reservoir increases with solar radiation while the bottom of the reservoir remains cool. The difference in density leads to stratification, which isolates the bottom layer water from the air at the surface and results in an anaerobic condition. When this phenomenon occurs, further resolution of chemicals takes place at the bottom sediment, and, with abundant sunshine, will promote the growth of algae on the water surface. As a result, the pH values of the water will rise while the amount of dissolved oxygen will drop. Therefore, controlling the growth of algae plays an important role in the management of reservoirs. However, when the water quality of a reservoir is affected by the growth of algae, the WSD can lower the water's pH values and filter out the algae by adjusting the water treatment process to ensure that the water quality meets WHO standards.

- (b) In order to eliminate the "thermal stratification" phenomenon in the Plover Cove Reservoir, the WSD plans to install the "aerated system", which can increase the dissolved oxygen in the water as well as control and manage the water quality of the reservoir effectively so as to alleviate any water quality problem in case of a huge algae bloom. Moreover, the WSD also takes other measures such as maintaining the ecological balance of the reservoir and preventing the water catchment areas from contamination in order to protect and improve the water quality of the Plover Cove Reservoir more effectively.

- (c) The estimated construction cost of the proposed "aerated system" is about \$4.5 million while the estimated annual recurrent operating cost is about \$300,000. The required costs do not exceed the budget. At present, the WSD is applying to the Environmental Protection Department for an environmental permit. If approved, the construction works can commence immediately and the project is expected to be commissioned in March 2006.

Apart from the "aerated system", the WSD draws up an annual estimate of about \$100,000 for the purchase of fish fry to be put in the Plover Cove Reservoir as an algae control measure to maintain the ecological balance and improve the water quality of the reservoir.

Shopping Centres and Carparks Under Housing Authority

8. **MR LEUNG KWOK-HUNG** (in Chinese): *President, will the Government provide this Council with a breakdown, by management modes (that is, direct in-house management and outsourced management), of the average per-square-metre rentals and percentages of rental adjustment of each of the shopping centres and carparks under the Hong Kong Housing Authority (HA), the respective numbers of cleaning workers and security staff employed for such premises, as well as the average monthly salaries of such employees, in each of the past five years?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese): President, information on the operation of the commercial premises and carparks under the HA is compiled on the basis of the commercial portfolio as a whole. We do not normally keep separate statistics on the rental levels and adjustments for individual shopping centres. The average rental levels and rental movements of the commercial facilities, including custom-built shopping centres and ground floor shops in housing estates, over the past five years are set out at Annex A.

The carparks under the HA are divided into four groups according to their location. The levels of monthly and hourly parking fees for each group are detailed at Annex B.

The cleansing and security services for all commercial facilities under the HA are outsourced. The numbers of cleansing workers and security guards employed by the contractors for the commercial facilities and carparks over the past five years are shown at Annex C. As some of the contracts awarded before May 2004 did not prescribe the wage levels, the average pay figures for the security guards and cleansing workers are not available.

Annex A

Rental Levels of the Commercial Facilities Under the HA

| <i>Year</i> | <i>Average monthly rental (per sq m of Internal Floor Area)^{Note}</i> | <i>Average year-on-year rental adjustment</i> |
|-------------|--|---|
| 2000-01 | \$305 | + 8.2% |
| 2001-02 | \$289 | -5.2% |
| 2002-03 | \$266 | -8.0% |
| 2003-04 | \$244 | -8.3% |
| 2004-05 | \$264 | + 8.2% |

^{Note} Internal Floor Area refers to the total area inside the flat measured to the internal face of external and/or party walls (that is, common walls between two units).

Annex B

Fee Levels of the Carparks under the HA over the Past Five Years

| Year | District ^{Note} | Parking fee (\$) | | | | | |
|------|--------------------------|------------------|------------|---------------|------------|-------------|------------|
| | | Private car | | Lorry | | Motorcycle | |
| | | Monthly fee | Hourly fee | Monthly fee | Hourly fee | Monthly fee | Hourly fee |
| 2001 | A | 1,870 - 2,200 | 14 | 2,300 - 2,700 | 18 | 270 - 315 | 3 |
| | B | 1,615 - 1,900 | | | | | |
| | C | 1,260 - 1,480 | 10 | | | | |
| | D | 1,060 - 1,250 | | | | | |
| 2002 | A | 1,640 - 2,060 | 13 | 2,090 - 2,450 | 17 | 240 - 280 | 3 |
| | B | 1,420 - 1,780 | | | | | |
| | C | 1,100 - 1,390 | 9 | | | | |
| | D | 930 - 1,170 | | | | | |

| Year | District ^{Note} | Parking fee (\$) | | | | | |
|------|--------------------------|------------------|------------|---------------|------------|-------------|------------|
| | | Private car | | Lorry | | Motorcycle | |
| | | Monthly fee | Hourly fee | Monthly fee | Hourly fee | Monthly fee | Hourly fee |
| 2003 | A | 1,480 - 1,850 | 12 | 1,880 - 2,210 | 16 | 210 - 250 | 2 |
| | B | 1,280 - 1,600 | | | | | |
| | C | 990 - 1,250 | 8 | | | | |
| | D | 840 - 1,050 | | | | | |
| 2004 | A | 1,480 - 1,850 | 12 | 1,880 - 2,210 | 16 | 210 - 250 | 2 |
| | B | 1,280 - 1,600 | | | | | |
| | C | 990 - 1,250 | 8 | | | | |
| | D | 840 - 1,050 | | | | | |
| 2005 | A | 1,480 - 1,850 | 12 | 1,880 - 2,210 | 16 | 210 - 250 | 2 |
| | B | 1,280 - 1,600 | | | | | |
| | C | 990 - 1,250 | 8 | | | | |
| | D | 840 - 1,050 | | | | | |

Note District A covers Hong Kong Island, Kowloon and New Kowloon.
District B covers Sha Tin, Ma On Shan, Tsuen Wan, Kwai Chung and Tseung Kwan O.
District C covers Tsing Yi, Tai Po, Fan Ling and Sheung Shui.
District D covers Tuen Mun, Yuen Long, Tin Shui Wai and Islands District.

Annex C

Numbers of Security Guards and Cleansing Workers Employed by Service Contractors of the Commercial Facilities and Carparks under the HA

| Year | Commercial facilities ^{Note 1} | | Carparks ^{Note 2} |
|------|---|-----------------------|----------------------------|
| | No. of security guards | No. cleansing workers | No. of security guards |
| 2001 | 1 220 | 1 250 | 2 730 |
| 2002 | 1 630 | 1 420 | 2 970 |
| 2003 | 1 800 | 1 550 | 3 000 |
| 2004 | 1 740 | 1 500 | 3 060 |
| 2005 | 1 770 | 1 700 | 3 030 |

Note 1 All of the commercial facilities under the HA, irrespective of whether they are covered by the divestment plan or not, are included.

Note 2 The outsourcing contracts for the carparks under the HA only specify the numbers of security guards required. There is no requirement on the numbers of cleansing workers. Contractors are required to deploy sufficient cleansing workers to ensure compliance with the cleanliness and hygiene standards stipulated in the contracts.

Heavy Metal Contents of Vegetables Imported from the Mainland

9. **DR JOSEPH LEE** (in Chinese): *President, it has been reported that the soil on almost 40% of the agricultural land in the Pearl River Delta Region in the Mainland has been contaminated by heavy metals. Thus, the vegetables from the Region for export to Hong Kong contain high levels of lead and cadmium. In this connection, will the Government inform this Council whether:*

- (a) *it has adopted international safety standards or formulated safety standards that are applicable to Hong Kong in order to monitor the level of heavy metal contents in vegetables imported from the Mainland; if it has, of the types of heavy metals, safety standards and the justifications for adopting the standards concerned;*
- (b) *the levels of heavy metal contents in various vegetables produced locally or imported from the Mainland or abroad exceeded local safety standards, and the highest, lowest and average levels of heavy metal contents in the vegetables produced in and imported from various regions, as shown in the findings of the sample tests conducted in the past year; and*
- (c) *it has formulated measures to reduce the import of vegetables the heavy metal contents of which are on the high side but do not exceed the safety standards, and whether it has collected analytical data on the levels of metal contents in the soil in which imported vegetables are grown, in order to reduce the risk of excessive intake of harmful substances by the public through vegetable consumption?*

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

- (a) The Food Adulteration (Metallic Contamination) Regulations (Sub. Leg. V) was made under the Public Health and Municipal Services Ordinance (Cap. 132) in 1983. The second schedule of the Regulations stipulates the maximum permitted concentration of metal (including antimony, arsenic, cadmium, chromium, lead, mercury and tin) in vegetables as follows:

| <i>Metal</i> | <i>Maximum Permitted Concentration in Parts Per Million</i> |
|---|---|
| Antimony (Sb) | 1 |
| Arsenic (As ₂ O ₃) | 1.4 |
| Cadmium (Cd) | 0.1 |
| Chromium (Cr) | 1 |
| Lead (Pb) | 6 |
| Mercury (Hg) | 0.5 |
| Tin (Sn) | 230 |

We will also review the existing legislations from time to time and will amend the legislation, where necessary, to enhance protection of public health having regard to international standards.

- (b) The Food and Environmental Hygiene Department (FEHD) implements a food surveillance programme collecting food samples, including randomly collected samples of vegetable for testing of chemicals at various levels including import, wholesale and retail to ensure food available in Hong Kong is safe and wholesome. Under the surveillance programme, the FEHD has sampled 114 samples of vegetables for testing of metal from July 2004 to June 2005. Two samples collected at import level and one sample collected at retail were found to contain 0.12, 0.14 and 0.16 parts per million of cadmium, which are slightly in excess of the maximum permitted level of 0.1 parts per million.
- (c) Vegetables, either imported or locally produced, are permissible for sale if they are in compliance with the requirements of the Hong Kong laws. According to recent studies by the FEHD, dietary exposures to these heavy metals are within the safe intake level. We do not have the data on the levels of metal contents in the soil in which imported vegetables are grown. We consider that testing the vegetables is a more direct and effective method.

Cycling Tracks

10. **MR LEE WING-TAT** (in Chinese): *President, as cycling is a form of exercise conducive to physical and mental health, will the Government inform this Council:*

- (a) *of the numbers, names and routes of cycling tracks provided in the urban and country park areas respectively;*
- (b) *whether there is any plan to provide more cycling tracks in the above areas; if so, of the details of the plan; if not, the reasons for that; and*
- (c) *whether there is any plan to step up publicity to the public, so as to encourage them to cycle to and from their workplaces and take it as a form of exercise?*

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

- (a) There are currently one cycling track in the urban area and nine cycling tracks within country parks. Their names and alignments are shown at Annex 1 and Annex 2 respectively.
- (b) As traffic flow within the urban area is high, we consider it unsuitable to expand the role of bicycles as a transport mode for road safety reasons. Therefore, we have no plan to provide more cycling tracks in the urban areas at the moment.

Since there are already a number of cycling tracks within country parks, we currently have no plan to provide more cycling tracks in country parks. However, we will continue to examine whether additional cycling tracks should be provided in country parks taking into consideration such factors as visitors' safety, environmental impact and the demand for cycling facilities.

- (c) For reasons of road safety, we do not encourage members of the public to commute to their places of work by cycling. Regarding promoting and encouraging cycling as a form of physical exercise, cycling associations have been making a great effort in promoting various cycling activities including organization of training courses on safe cycling for members of the public. For example, the Hong Kong Cycling Association has organized nearly 10 training courses for youngsters in the past two years. Moreover, the

Administration, through the Leisure and Cultural Services Department (LCSD), will continue to provide sponsorship to the organizations concerned for organizing different cycling activities for participation by the public. More than 300 events have been organized in the past two years.

Other than the provision of cycle tracks, the Administration, through the LCSD, also provides other cycling facilities at nine locations to promote safe cycling and provide a safe cycling environment for use by the public. The nine locations are: Morrison Hill Road Playground, Quarry Bay Park, Carpenter Road Park, Kung Lok Road Playground, Wu Shan Recreation Playground, Tsuen Wan Park, Siu Lek Yuen Road Playground, Lai Chi Kok Park and Sha Tin Road Safety Park.

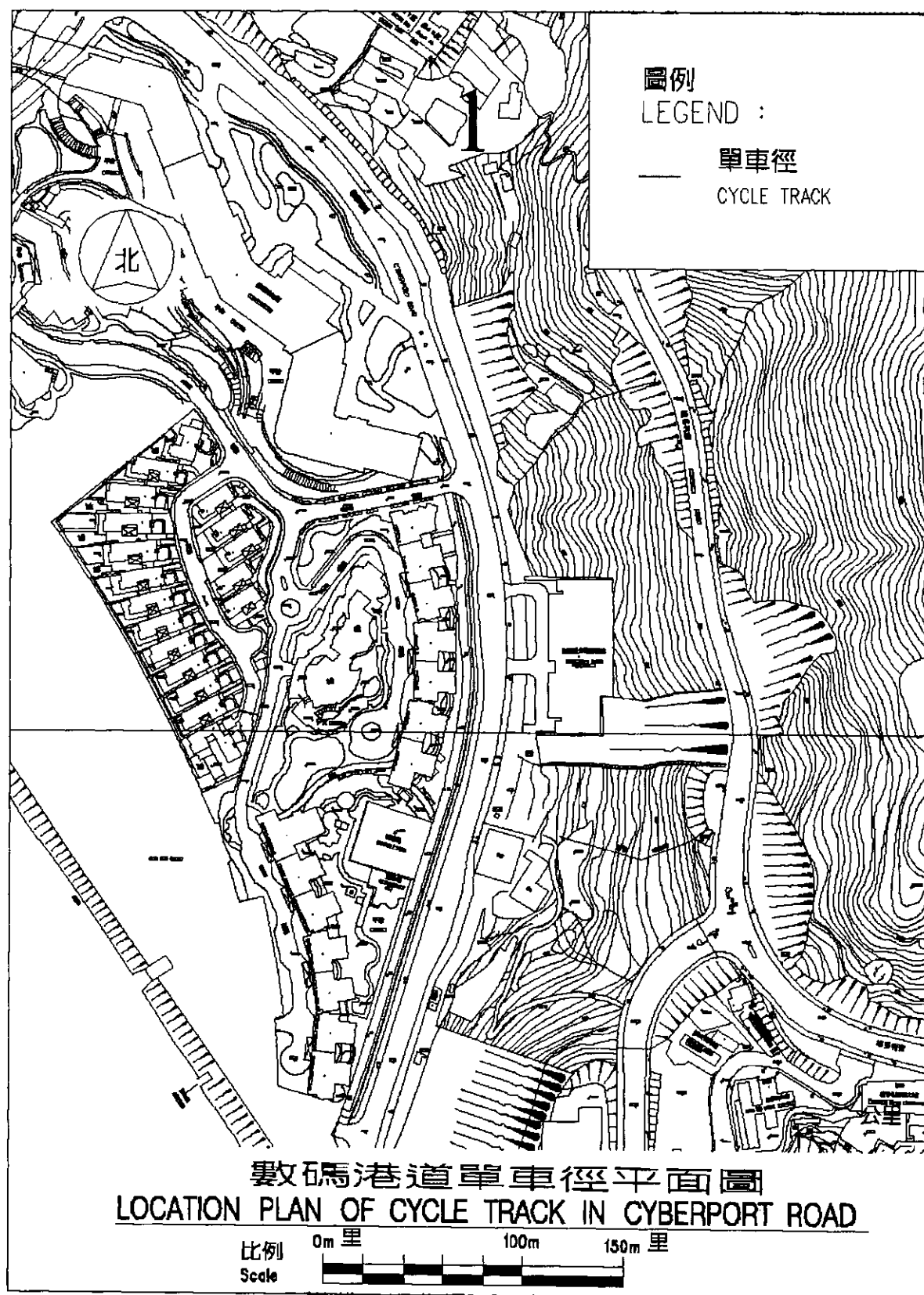
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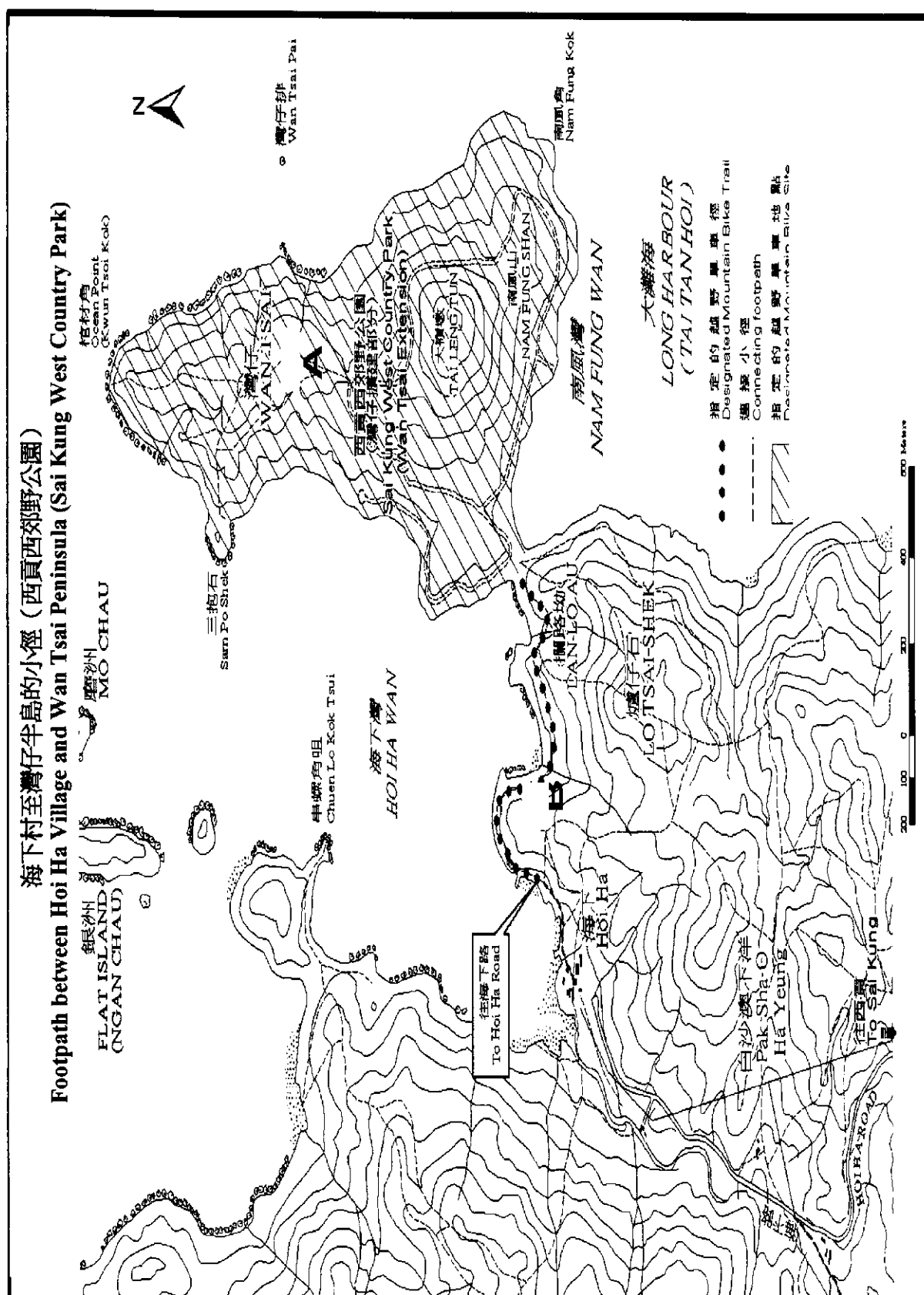
Cycling Tracks in Urban and Country Park Areas

| <i>Region</i> | <i>Name</i> |
|------------------|--|
| Urban areas | 1. Cyberport Road |
| Country areas | 2. Footpath between Hoi Ha Village and Wan Tsai Peninsula (Sai Kung West Country Park) |
| | 3. Tai Lam Mountain Bike Trail (Tai Lam Country Park) |
| | 4. Hong Kong Trail from Tai Tam Gap to To Tei Wan (Shek O Country Park) |
| | 5. Catchwater Road from Pui O to Kau Ling Chung (Lantau South Country Park) |
| | 6. Chi Ma Wan Country Trail (Lantau South Country Park) |
| | 7. Footpath on Chi Ma Wan Peninsula (Lantau South Country Park) |
| | 8. Coastal trail from Mui Wo to Pui O (Lantau South Country Park) |
| | 9. Pak Tam to Pak Sha O (Sai Kung West Country Park) |
| | 10. Ng Fai Tin to Ha Shen Tuk (Clear Water Bay Country Park) |

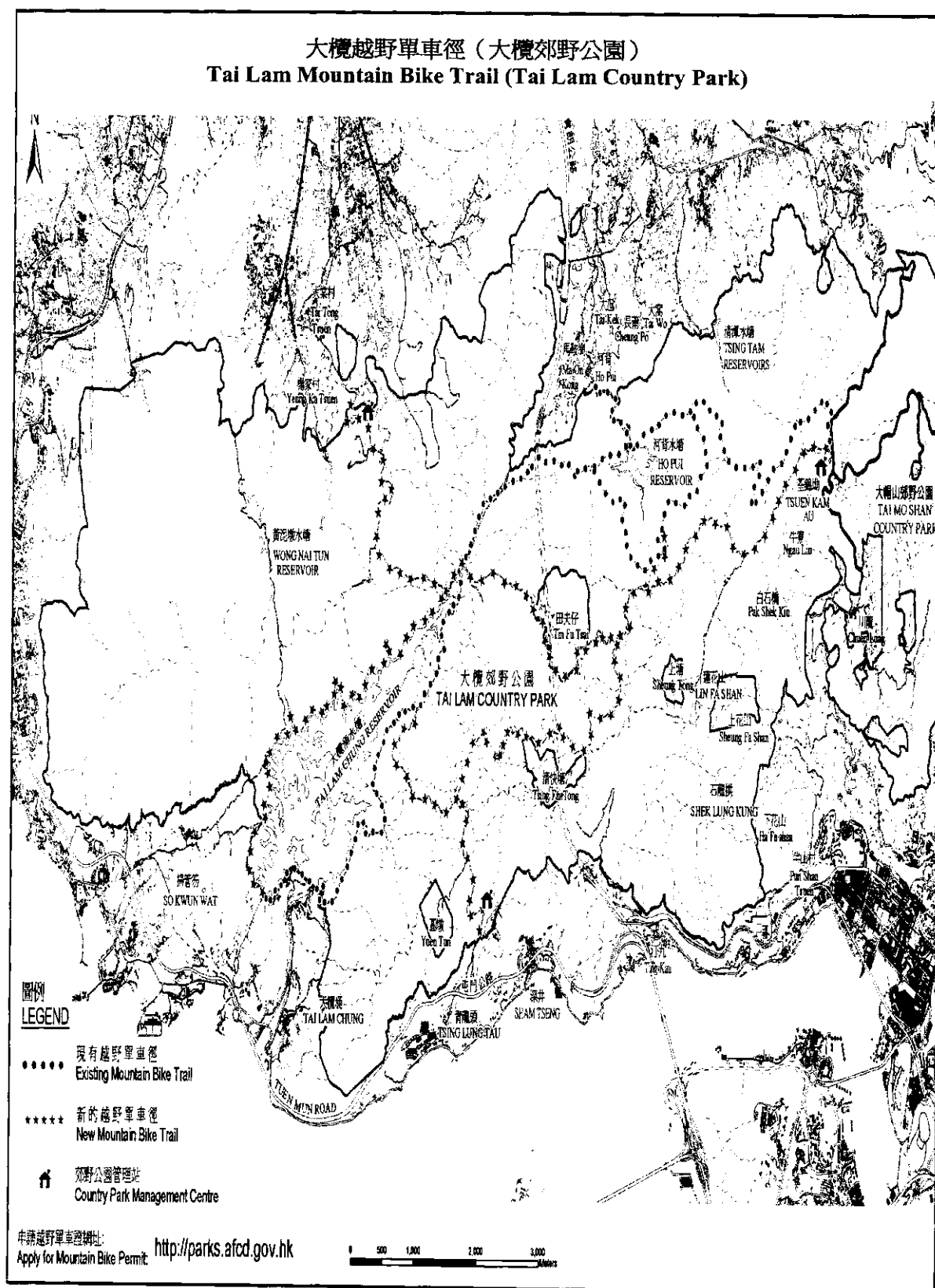
Annex 2

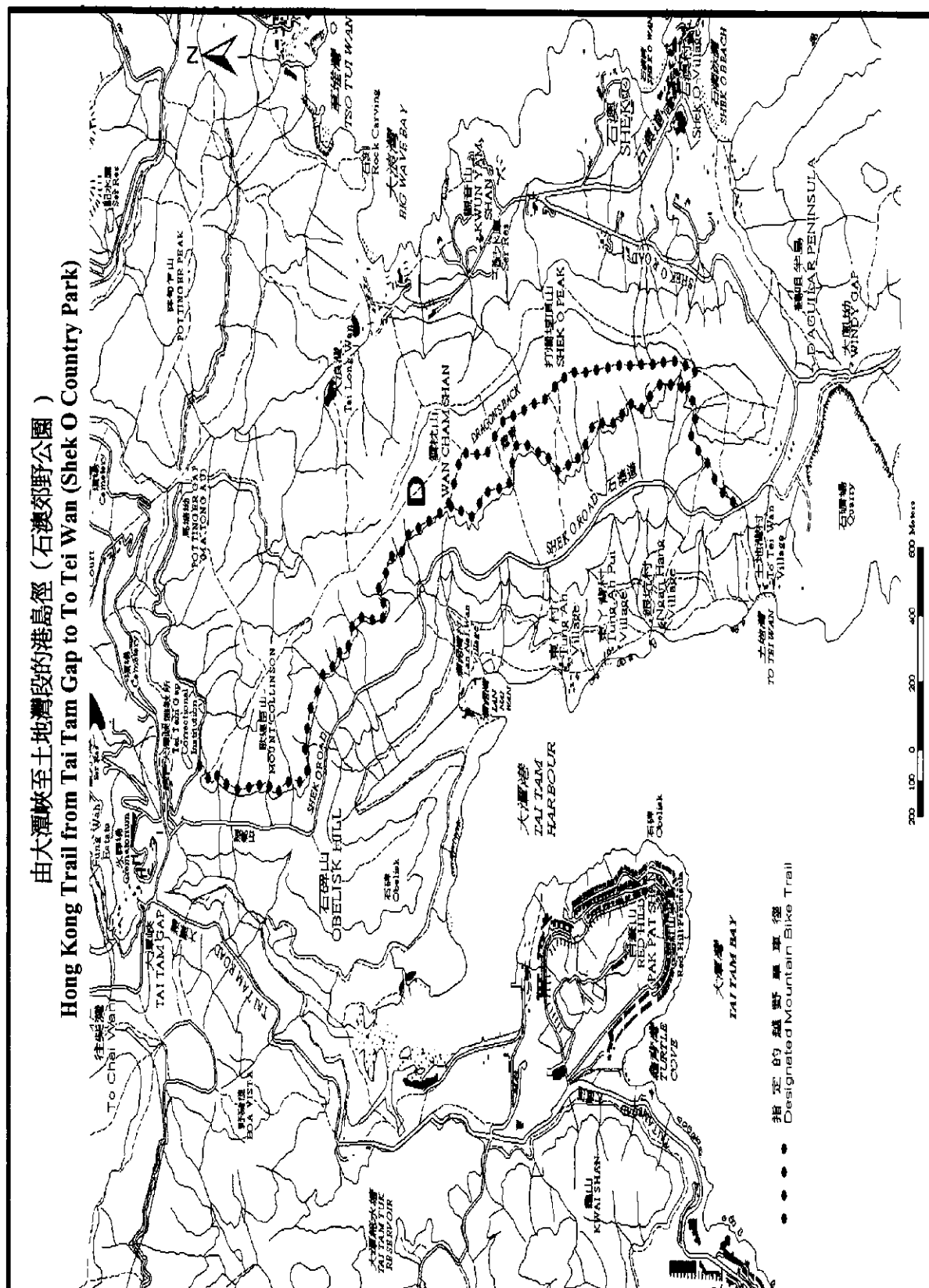
Route 1



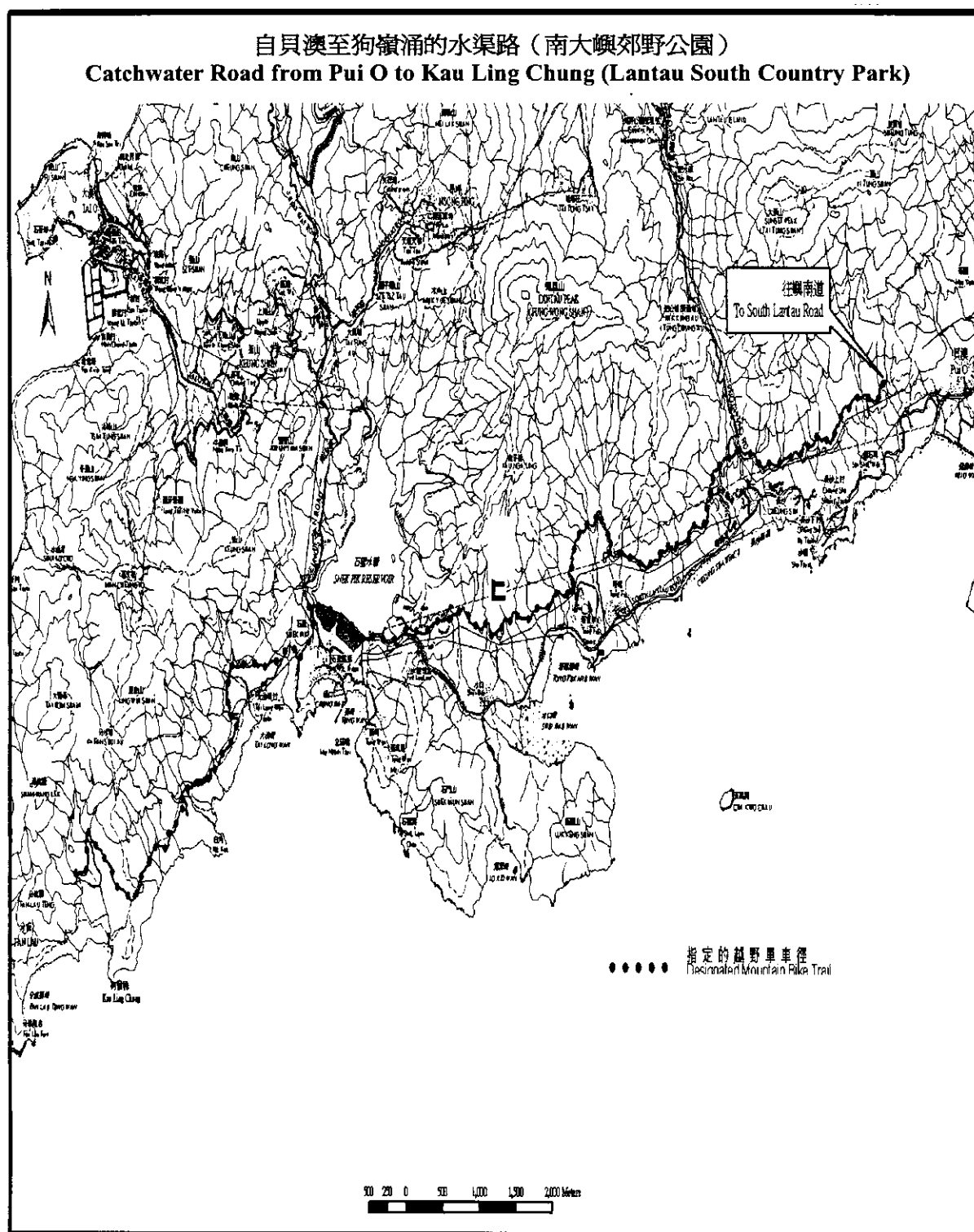


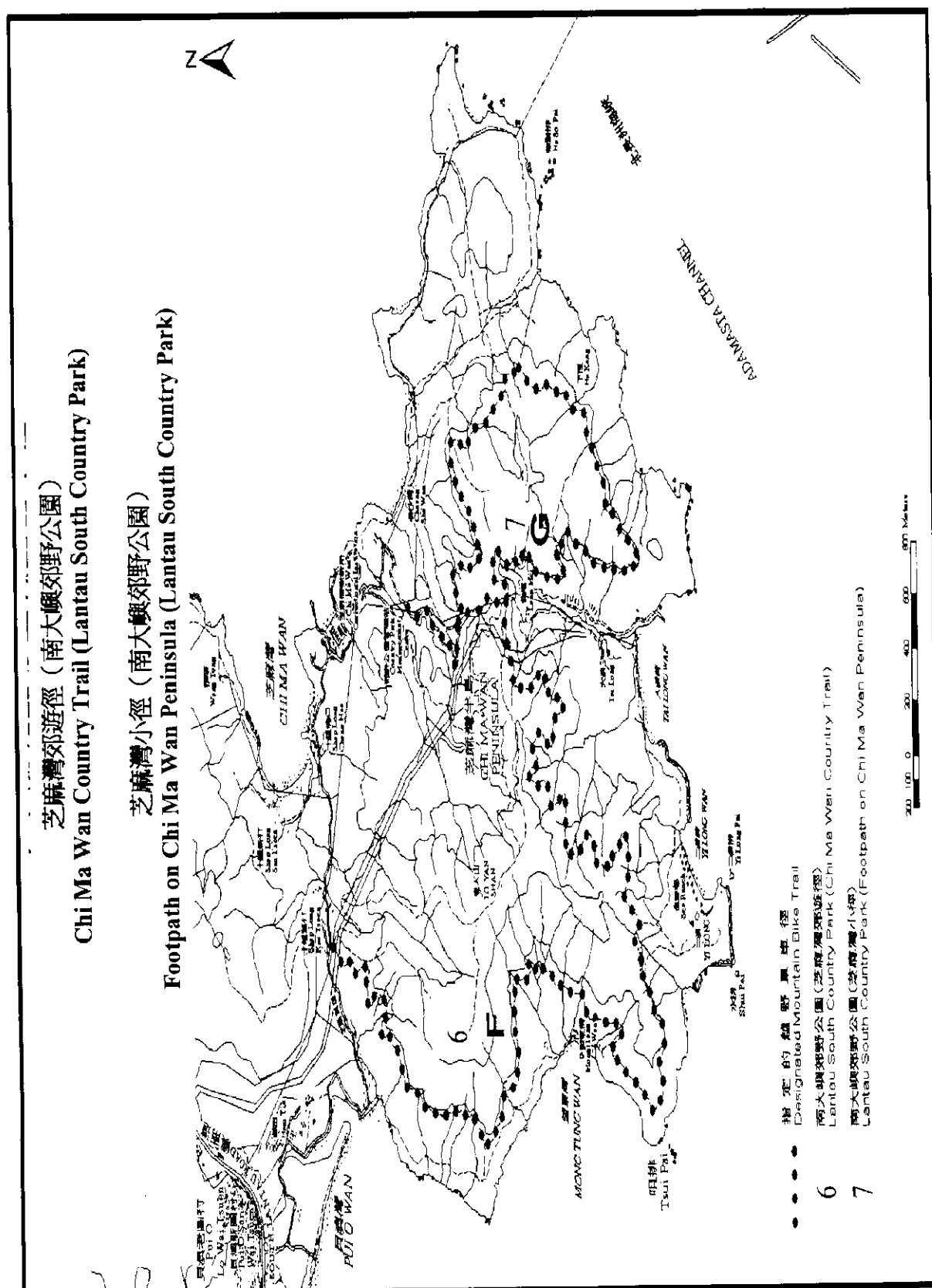
大欖越野單車徑 (大欖郊野公園)
Tai Lam Mountain Bike Trail (Tai Lam Country Park)



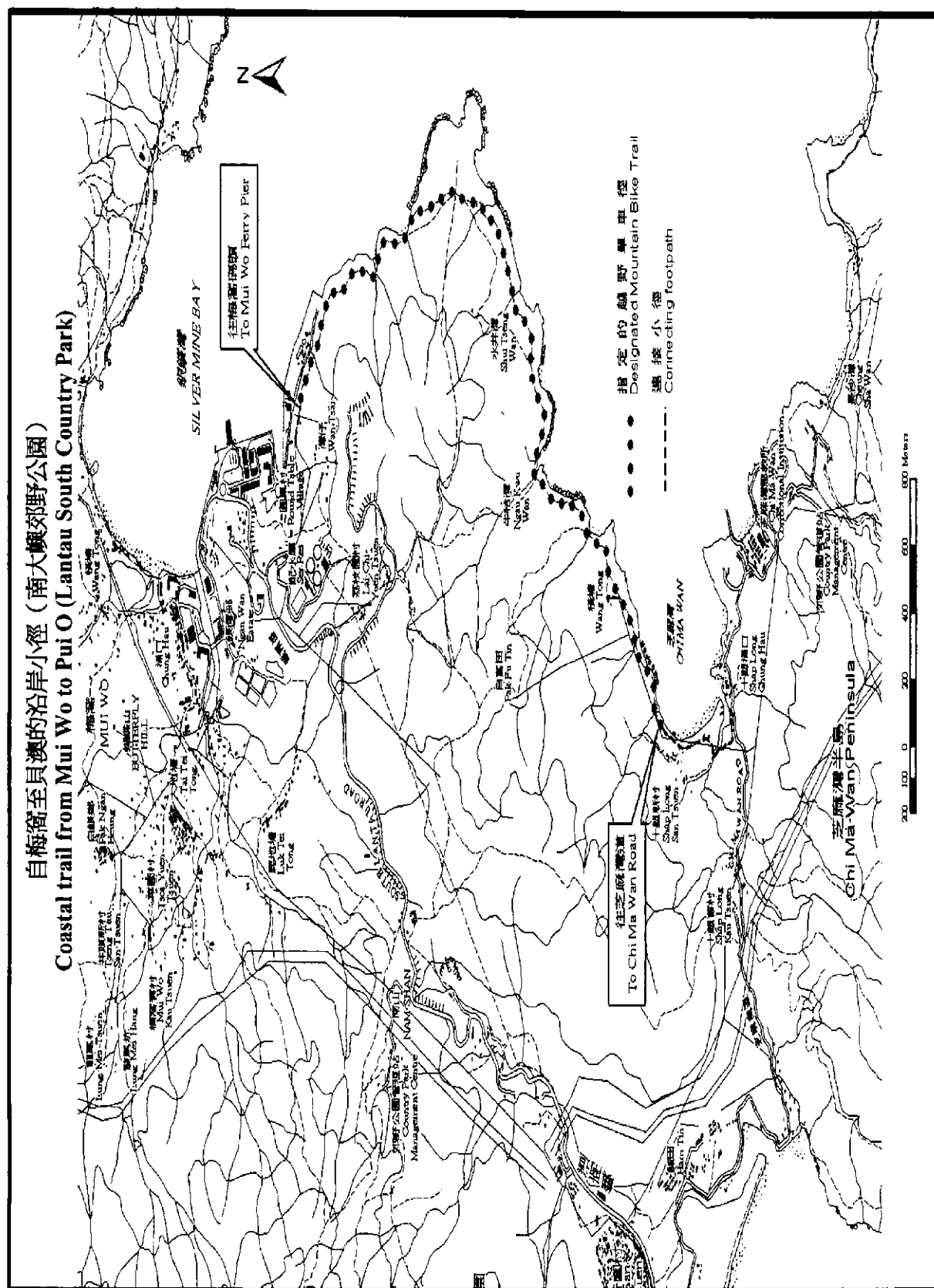


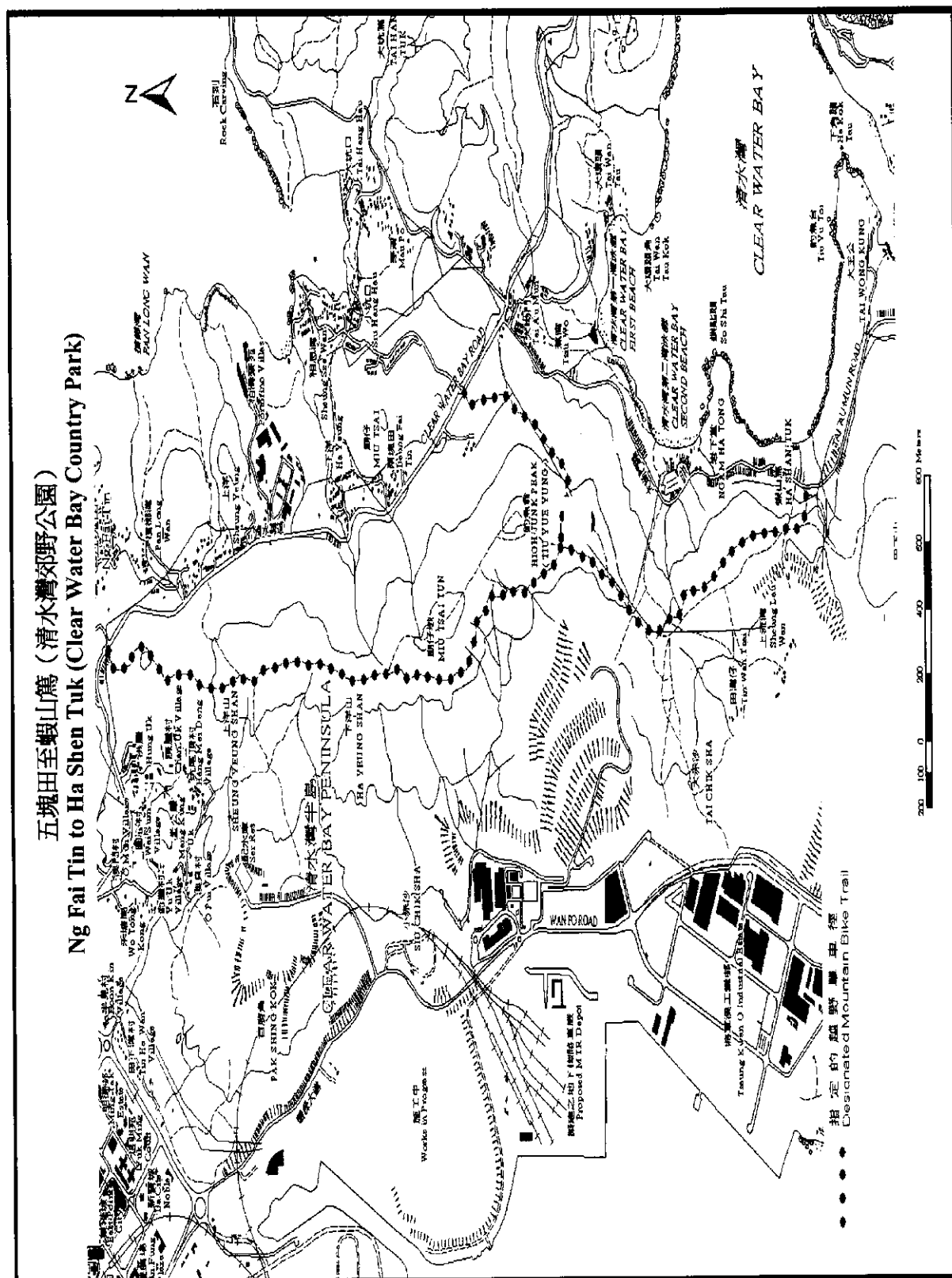
Route 5





Route 8





Mechanized Street Cleansing Services

11. **MR FRED LI** (in Chinese): *President, the Director of Audit's Report No. 37 published in October 2001 put forward a number of recommendations on the mechanized street cleansing services provided by the Food and Environmental Hygiene Department (FEHD), which included reducing the scheduled idle time for the street washing operation. The FEHD had responded that reviews and studies would be conducted on the issue. However, recently it has been reported in the press that the operation hours of some street washing vehicles are less than half of those prescribed by the FEHD. In this connection, will the Government inform this Council:*

- (a) *of the number of spot checks carried out by the FEHD on the mechanized street cleansing services each year since the publication of the above Report in 2001;*
- (b) *whether, in its spot checks conducted in the past year, the FEHD detected any cases of cleansing staff not working according to the time schedule prescribed by the FEHD; if so, of the details of the cases concerned, and the measures taken by the FEHD in handling such cases; and*
- (c) *whether the FEHD has enquired about the situation described in the above press report; if so, of the findings; if not, the reasons for that?*

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

- (a) In the past four years, the FEHD officers conducted 2 400 (2001-02), 2 205 (2002-03), 2 480 (2003-04) and 2 271 (2004-05) surprise checks on mechanized street cleansing services.
- (b) From October 2004 to September 2005, there are a total of 64 cases of non-compliance with prescribed work plans in the provision of

mechanized street cleansing services by contractor staff and FEHD staff, and most of which are related to the services provided by the contractors. The FEHD issued a total of seven verbal advice/warnings, 41 warning letters and 18 Default Notices to defaulting contractors and deducted about \$44,000 from the contract payment in accordance with the contract terms.

- (c) In response to the recent media report, the FEHD has completed the investigation into the street washing gang concerned.

The FEHD's in-house street washing process comprises three parts, including (a) travelling time; (b) travelling time of the street washing vehicles to and from the depot for water refilling (as the capacity of the water tank of the street washing vehicle may not be sufficient for performing the street washing for the whole morning shift or afternoon shift, the street washing vehicle may require to return to the depot for refilling. Hence the street washing vehicle sometimes may require to travel to and from certain spots several times); and (c) street washing time.

In general, within seven and a half hour's standard working time (that is, 450 minutes) for in-house street washing service, travelling time is about 90 minutes; travelling time to and from the depot for water refilling is 160 minutes whereas the remaining time of about 200 minutes is spent on street washing.

According to the investigation, the gang carried out their duties on 22 August generally in accordance with the scheduled time and locations. The gang spent 116 minutes in travelling; 148 minutes on water filling and travelling in and out of depot; and a total of 186 minutes on street washing. Due to the difference in traffic condition and state of cleanliness of street, there would naturally be some variance on time spent on each task each day. The media reported that the actual time spent on street washing on the said date

as observed was only half of the scheduled time but this might be due to a difference in the method of calculation.

The investigation has been completed and revealed no irregularity in the performance of the street washing gang on that day. The FEHD has instructed all staff concerned to strictly follow the operational procedures and guidelines in performing their duties and submit report at the end of each working day for inspection by their supervisor. Supervisors are also reminded to carry out surprise checks randomly and revise and adjust the work schedules when situation warrants.

Foreign Domestic Helpers Extending Stay in Hong Kong

12. **MR ALBERT CHAN** (in Chinese): *President, recently, I have received many complaints from members of the public that some foreign domestic helpers (FDHs) whose employment contracts had been terminated prematurely had stayed in Hong Kong for a long period of time on the grounds that they had disputes with their employers over the employment contracts. In this connection, will the Government inform this Council of:*

- (a) *the number of cases in which FDHs extended their stay in Hong Kong on the above grounds in each of the past three years and the duration of their stay; and*
- (b) *the measures to prevent the above situation?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) The statistics relating to FDHs applying for extension of stay in Hong Kong to deal with contractual disputes are as follows:

| | (A) | (B) |
|------------------------------|---|--|
| <i>Year</i> | <i>No. of applications for extension of stay for attending conciliation meeting arranged by the Labour Department</i> | <i>No. of applications for extension of stay for attending hearings of the Labour Tribunal or the Minor Employment Claims Adjudication Board</i> |
| 2003 | 1 835 | 2 431 |
| 2004 | 1 932 | 1 865 |
| 2005 (January to October) | 1 393 | 1 420 |

The above statistics only reflect the number of applications but not the actual number of applicants. An applicant may apply for extension of stay more than once (for example, he/she may apply for further extension of stay before his/her extended stay expires). Besides, if an applicant under Column (A) cannot have his/her case settled at the conciliation stage, he/she may subsequently submit his/her claim to the arbitral bodies under Column (B) and hence apply for extension of stay again.

Under the existing policy, if the employment contract of an FDH is terminated prematurely, the FDH is permitted to stay in Hong Kong for two weeks or the remainder of his/her limit of stay, whichever is earlier. In the event that an FDH is involved in a labour dispute and has to stay in Hong Kong for this purpose, he/she must apply to the Immigration Department (ImmD) for an extension of stay in Hong Kong. The ImmD will carefully consider the application and may allow, where appropriate, the FDH to continue to stay in Hong Kong as a visitor until the conclusion of the proceedings and the outcome is available. The period of extension granted depends on the nature and progress of the case and normally ranges from a few days to a few weeks. Under special circumstances, the ImmD may

consider granting an extension period of not more than two months to applicants who have genuine needs.

- (b) All applications for extension of stay must be supported by valid and sufficient reasons and related documentary proof. FDHs applying to stay in Hong Kong to pursue contractual disputes must produce documents issued by the competent authorities, for example, the Labour Department or the Labour Tribunal to prove that their cases are under processing. FDHs staying in Hong Kong as visitors are not allowed to take up any employment, whether paid or unpaid. If an FDH contravenes a condition of stay, he/she is guilty of an offence and is liable on conviction to a fine of level 5 (\$50,000) and to imprisonment for two years.

Reduction of Electricity Consumption by Government

13. **MS EMILY LAU** (in Chinese): *President, in his policy address delivered last month, the Chief Executive stated that the Government would take the lead in reducing power consumption. Starting from January 2006, power consumption in all government office buildings would be reduced by 1.5% annually. Also, the authorities had issued internal guidelines last year requiring government bureaux and departments to set the temperature of the air-conditioning systems in their offices at 25.5 degree Celsius during summer, so as to reduce electricity consumption. In this connection, will the executive authorities inform this Council:*

- (a) *of the annual average per-square-metre amount of electricity consumed by the offices of each bureau or departments under its purview set up in government-owned premises and the expenditure on electricity, and the average temperatures set for the air-conditioning systems in these offices in summer, in each of the past three financial years; as well as the corresponding figures for offices in leased premises; and*
- (b) *whether they plan to extend the electricity saving programme to offices in leased premises; if not, of the reasons for that?*

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

(a) and (b)

Offices of different government departments are often accommodated in the same building. They do not have separate electricity meters. As such, we are unable to provide the requested electricity consumption figures of each bureau and its departments. The figures for annual electricity consumption and expense per sq m of gross floor area for government office buildings with annual consumption greater than 1 million kWh¹ in 2002-03, 2003-04 and 2004-05 are shown in the Annex. The weighted average consumption has decreased from 262 kWh/sq m in 2002-03 to 261 kWh/sq m in 2003-04 and 255 kWh/sq m in 2004-05. These figures include consumption of air conditioning systems and lifts. However, we do not have the comparable figures for offices in leased premises.

Before October 2004, the guideline for setting air conditioned indoor temperature in government offices was 24 degree Celsius. In October 2004, the Environment, Transport and Works Bureau issued a circular requesting all bureaux and departments to maintain the indoor temperature at 25.5 degree Celsius in summer months, unless there were special operational needs.

This circular and other energy saving programmes are also applicable for accommodation in leased premises. User departments are encouraged to liaise with the respective management agents to explore measures to comply with energy saving requirements. However, on some occasions, adjusting the air-conditioned temperature may affect other tenants. As a result, the management agents may be reluctant to accede to the departments' requests. We will continue to actively promote the 25.5 degree Celsius guideline to the public. We believe that as the guideline becomes better accepted by the business sector and public at large, improvements will be seen in due course.

¹ Excluding new buildings for which full year consumption figures are not yet available.

Electricity consumption of major government office buildings (2002-03 to 2004-05)

| <i>Venue</i> | <i>2002-03</i> <i>(kWh/sq m/yr)</i> | <i>2002-03</i> <i>(\$/sq m/yr)</i> | <i>2003-04</i> <i>(kWh/sq m/yr)</i> | <i>2003-04</i> <i>(\$/sq m/yr)</i> | <i>2004-05</i> <i>(kWh/sq m/yr)</i> | <i>2004-05</i> <i>(\$/sq m/yr)</i> |
|--|--|---------------------------------------|--|---------------------------------------|--|---------------------------------------|
| WANG CHEONG BUILDING | 38.8 | 36.5 | 41.7 | 38.7 | 42.9 | 41.0 |
| CANTON ROAD GOVERNMENT OFFICES | 80.7 | 75.9 | 70.7 | 65.8 | 46.1 | 44.1 |
| GFS HEADQUARTERS | 53.3 | 41.6 | 49.4 | 37.8 | 48.0 | 38.0 |
| CUSTOM HOUSE, KWAI CHUNG | 96.3 | 97.2 | 75.1 | 69.1 | 78.1 | 71.9 |
| APB CENTRE | 94.9 | 91.5 | 93.1 | 89.7 | 89.1 | 86.0 |
| KWAI HING GOVERNMENT OFFICES | 101.3 | 86.2 | 96.1 | 81.4 | 101.0 | 88.8 |
| TUEN MUN GOVERNMENT STORAGE CENTRE | 156.4 | 147.0 | 120.1 | 112.8 | 108.5 | 108.4 |
| EX-EMSD HEADQUARTERS (CAROLINE HILL ROAD) | 119.0 | 128.0 | 117.7 | 127.2 | 111.2 | 120.5 |
| WEST KOWLOON REGIONAL POLICE HEADQUARTERS | 144.1 | 130.0 | 132.3 | 119.3 | 124.3 | 112.1 |
| TSUEN WAN M/S CAR PARK BUILDING | 187.7 | 176.7 | 182.3 | 168.9 | 133.6 | 127.7 |
| EX-EMSD KOWLOON WORKSHOP | 157.4 | 138.7 | 150.7 | 133.0 | 134.6 | 123.4 |
| POLICE HEADQUARTERS (CAINE HOUSE) | 226.5 | 238.0 | 229.8 | 241.5 | 157.5 | 165.5 |
| RUMSEY STREET MULTI-STOREY CAR PARK BUILDING | 178.4 | 185.2 | 178.4 | 186.2 | 177.0 | 187.0 |
| TAI PO GOVERNMENT OFFICES | 213.5 | 200.8 | 216.6 | 201.8 | 181.8 | 173.7 |
| NORTH POINT GOVERNMENT OFFICES | 187.8 | 199.6 | 192.9 | 205.1 | 194.0 | 212.5 |
| CENTRAL GOVERNMENT OFFICE | 241.8 | 253.5 | 200.4 | 210.1 | 202.2 | 211.9 |
| YUEN LONG DISTRICT OFFICE BUILDING | 196.3 | 184.6 | 209.1 | 194.4 | 206.1 | 196.9 |
| LCSD HEADQUARTERS | 223.2 | 193.4 | 213.8 | 186.6 | 212.5 | 184.0 |
| MURRAY BUILDING | 223.7 | 232.3 | 225.3 | 233.9 | 215.3 | 223.5 |

| <i>Venue</i> | <i>2002-03 (kWh/sq m/yr)</i> | <i>2002-03 (\$/sq m/yr)</i> | <i>2003-04 (kWh/sq m/yr)</i> | <i>2003-04 (\$/sq m/yr)</i> | <i>2004-05 (kWh/sq m/yr)</i> | <i>2004-05 (\$/sq m/yr)</i> |
|--|----------------------------------|---------------------------------|----------------------------------|---------------------------------|----------------------------------|---------------------------------|
| NEW TERRITORY NORTH REGIONAL POLICE HEADQUARTERS | 68.1 | 61.3 | 195.5 | 175.9 | 218.1 | 196.3 |
| WU CHUNG HOUSE | 227.3 | 242.9 | 226.9 | 238.8 | 231.6 | 255.6 |
| HARBOUR BUILDING | 236.4 | 254.3 | 233.6 | 251.3 | 232.8 | 259.0 |
| YAUMATEI CARPARK BUILDING | 251.3 | 237.0 | 254.8 | 247.1 | 237.1 | 239.2 |
| EASTERN LAW COURT BUILDING | 243.9 | 262.3 | 241.1 | 259.3 | 238.7 | 264.5 |
| SHATIN POLICE REGIONAL HEADQUARTERS AND STATION | 240.2 | 196.2 | 207.1 | 169.2 | 245.1 | 200.2 |
| SOUTHORN CENTRE | 256.3 | 274.1 | 259.2 | 276.8 | 252.0 | 276.9 |
| MONG KOK GOVERNMENT OFFICES | 276.8 | 260.2 | 276.0 | 254.5 | 265.0 | 253.2 |
| KOWLOON GOVERNMENT OFFICES | 263.1 | 229.5 | 267.4 | 226.4 | 266.4 | 229.0 |
| QUEENSWAY GOVERNMENT OFFICES | 283.0 | 298.0 | 282.2 | 298.1 | 275.2 | 298.5 |
| SHATIN GOVERNMENT OFFICES | 308.9 | 287.6 | 309.7 | 269.3 | 291.5 | 255.4 |
| TSUEN WAN GOVERNMENT OFFICE COMPLEX | 299.1 | 254.1 | 294.4 | 249.6 | 292.9 | 248.8 |
| CIVIL ENGINEERING AND DEVELOPMENT BUILDING | 377.1 | 332.6 | 333.6 | 303.0 | 309.0 | 272.5 |
| REVENUE TOWER | 330.8 | 349.8 | 322.1 | 341.1 | 317.3 | 348.0 |
| MURRAY ROAD MULTI-STOREY CAR PARK BUILDING | 286.1 | 293.2 | 290.9 | 297.0 | 322.0 | 338.0 |
| SAI KUNG GOVERNMENT OFFICES | 343.2 | 318.4 | 322.0 | 291.3 | 337.5 | 291.4 |
| TOKWAWAN MARKET AND GOVERNMENT OFFICES | 320.4 | 296.7 | 351.2 | 323.9 | 343.8 | 317.2 |
| WANCHAI TOWER | 353.8 | 368.8 | 355.2 | 371.0 | 344.9 | 371.2 |
| TRADE DEPARTMENT TOWER | 373.1 | 329.3 | 370.3 | 326.7 | 348.6 | 320.5 |
| KOWLOON EAST GOVERNMENT OFFICES | 339.2 | 296.4 | 356.8 | 310.7 | 353.7 | 315.8 |

| <i>Venue</i> | <i>2002-03 (kWh/sq m/yr)</i> | <i>2002-03 (\$/sq m/yr)</i> | <i>2003-04 (kWh/sq m/yr)</i> | <i>2003-04 (\$/sq m/yr)</i> | <i>2004-05 (kWh/sq m/yr)</i> | <i>2004-05 (\$/sq m/yr)</i> |
|--|----------------------------------|---------------------------------|----------------------------------|---------------------------------|----------------------------------|---------------------------------|
| GOVERNMENT LOGISTICS CENTRE | 385.5 | 397.1 | 352.7 | 363.3 | 355.6 | 366.3 |
| TV HOUSE | 374.1 | 295.6 | 377.6 | 299.4 | 363.9 | 287.5 |
| CHEUNG SHA WAN GOVERNMENT OFFICES | 404.1 | 380.0 | 391.3 | 338.0 | 378.3 | 329.3 |
| NORTH DISTRICT GOVERNMENT OFFICES, FAN LING | 268.3 | 252.5 | 350.2 | 328.0 | 390.9 | 373.3 |
| YUEN LONG GOVERNMENT OFFICE AND TAI KIU MARKET | 446.1 | 419.4 | 422.6 | 395.5 | 407.6 | 389.3 |
| CENTRAL GOVERNMENT PIER | 442.7 | 475.5 | 442.4 | 475.1 | 432.6 | 480.0 |
| TUEN MUN GOVERNMENT OFFICES | 459.0 | 389.9 | 444.8 | 377.6 | 440.0 | 381.3 |
| IMMIGRATION TOWER | 448.7 | 464.2 | 465.0 | 480.6 | 461.8 | 492.8 |
| HONG KONG OBSERVATORY HEADQUARTERS * | 496.9 | 402.1 | 483.7 | 391.3 | 499.5 | 404.1 |
| BROADCASTING HOUSE * | 522.2 | 409.9 | 545.2 | 423.0 | 500.2 | 392.6 |
| AIR TRAFFIC CONTROL COMPLEX AND TOWER * | 467.0 | 362.7 | 472.2 | 366.7 | 502.3 | 390.1 |
| FIRE SERVICES HEADQUARTERS BUILDING * | 483.4 | 408.1 | 620.0 | 502.8 | 539.2 | 427.7 |
| BACKUP AIR TRAFFIC CONTROL COMPLEX AND TOWER * | 624.1 | 474.6 | 652.1 | 495.9 | 593.7 | 451.5 |
| HOMANTIN GOVERNMENT OFFICES # | 943.0 | 747.3 | 950.3 | 750.3 | 836.5 | 689.7 |
| Average, weighed by gross floor area | 262 | 254 | 261 | 252 | 255 | 251 |

* equipment intensive and 24 hour operation

with energy consuming laboratory equipment and heavy air conditioning loading

Young Smokers

14. **MR LEUNG YIU-CHUNG** (in Chinese): *President, an organization recently sent four teenagers to 486 retail shops and news-stands throughout the territory to try to buy cigarettes, and the success rate was as high as 87%. In this connection, will the Government inform this Council:*

- (a) *whether, in the light of the above success rate, it has reviewed the effectiveness of the Tobacco Control Office's (TCO) enforcement efforts against the sale of tobacco products by shops to persons under the age of 18 years; if so, of the result of the review; if not, the reasons for that;*
- (b) *of the total number of complaints received by the authorities in the past three years about the sale of tobacco products by shops to persons under the age of 18 years, and the number of persons prosecuted as a result; as well as the new measures to curb this illegal activity; and*
- (c) *of its specific plans to prevent young people from picking up the habit of cigarette smoking?*

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

- (a) Section 15A(1) of the Smoking (Public Health) Ordinance (the Ordinance) provides that no person shall sell any cigarette, cigarette tobacco, cigar or pipe tobacco to any person under the age of 18 years. Under section 15C(1) of the Ordinance, any person who contravenes this section is liable on summary conviction to a fine at level 4 (that is, a maximum fine of \$25,000). In case of doubt, a tobacco retailer may ask a customer to produce his/her identification document and refuse to sell any tobacco products to any person under the age of 18 years.

Under the existing Ordinance, no statutory power is given to the staff of the TCO under the Department of Health (DH) to take enforcement action. To rectify this deficiency, we propose in

clause 18 of the Smoking (Public Health) (Amendment) Bill 2005 (the Bill) that the TCO's inspectors be granted general powers of enforcement including the power to enter premises and to collect and seize evidence.

The Bill is now under scrutiny by the Legislative Council. Its early enactment would be conducive to the prevention of youth smoking. We will keep the effectiveness of our enforcement efforts under review with a view to lowering the percentage of smokers among the youth.

- (b) Though not given the necessary powers to take enforcement action now, TCO officers will, upon receipt of complaints, conduct impromptu visits to the tobacco retail outlets concerned and keep them under surveillance to see whether they sell tobacco products to underage persons. In the course of their visits, if it is found that the retail outlets have sold tobacco products to underage persons or there are other contraventions in breach of the legislation such as failure to put up the signage "No Tobacco Product Shall Be Sold To Person Under 18 Or Given For Promotion To Any Person" as stipulated in Part VI of the Smoking (Public Health) (Notice) Order, the TCO will refer the cases to the police for follow-up investigation and action.

Between early 2003 and October this year, the TCO under the DH received a total of 28 complaints about the sale of tobacco products to underage persons.

As a result of these complaints, the police altogether issued seven summonses to the tobacco retailers involved. Among them, five of the cases were successfully prosecuted, resulting in conviction and a fine (the heaviest fine imposed was \$3,000 in one of the cases), and two other cases pending a trial date to be fixed. There is another case pending the issue of summons by the police to tobacco retailers who have breached the law.

- (c) The Government of the Hong Kong Special Administrative Region has adopted a multi-pronged approach to tobacco control. Measures include, among others, education and publicity to make

youths aware of nicotine addiction and the harmful effects of smoking; the provision of smoking cessation service to all smokers; the enactment of legislation to prohibit the sale of cigarettes to persons under the age of 18 years; and proposed amendment to the existing legislation to expand the statutory no smoking areas. All these serve to promote a smoke-free culture and protect the health of the general public, including that of youths.

With regard to publicity and education, the Education and Manpower Bureau has incorporated the message about health hazards posed by smoking and its other harmful effects into the generic curricula of primary and secondary schools to convey the message to school children as early as possible. The Education and Manpower Bureau also encourages schools to organize anti-smoking activities so as to educate primary and secondary students and their parents on how to stay away from smoking or quit smoking.

In addition, an Adolescent Health Programme is organized by the DH in secondary schools each year. Through interactive activities, this Programme provides training to secondary students on life skills and to enhance their capacity to cope with adversity. General knowledge about tobacco product abuse and the techniques to refuse such products are also covered in the training.

Furthermore, every year the Government will provide funding to non-government organizations such as the Hong Kong Council on Smoking and Health to organize activities on prevention of youth smoking. Other non-government organizations like the Life Education Activities Programme and the Action on Smoking or Health, also regularly organize activities on tobacco control targeting at adolescents.

The Government has been assisting young addicted smokers to quit smoking through various avenues. Besides the Nicotine Replacement Therapy introduced in the Education and Training Centre in Family Medicine under the DH, a Cessation Hotline (183 3183) has been set up by the DH to provide smoking counselling and relevant information. At the same time, the Hospital Authority has established Smoking Counselling and

Cessation Centres in a number of hospitals/clinics across the territory, where smoking cessation classes are organized and relevant information provided. Likewise, the Department of Nursing Studies under the Faculty of Medicine of the University of Hong Kong is operating a hotline service for smoking cessation targeting young people aged between 12 and 25 (2855 9557).

With regard to legislation, shopping malls, shopping centres, cinemas and amusement game centres, all of which are frequently visited by youths, have already been designated as statutory no smoking areas under the existing Ordinance. To further prevent youths from smoking, the Bill proposes that the statutory no smoking areas be extended to cover all schools, and the indoor areas of tertiary and specified educational institutions.

We believe that the above measures will help to raise the awareness among the youth of the hazards of smoking and keep them away from smoking. As mentioned above, the Bill is now under scrutiny by the Legislative Council. We would like to have Honourable Members' support to endorse the Bill as soon as possible so that we can step up our efforts on tobacco control.

Use of Recycled Water and Renewable Power by Government Departments

15. **MISS CHOY SO-YUK** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the respective annual quantities of water and electricity power consumed, and the expenses thus incurred, by various government bureaux and departments in each of the past three years; the respective percentages of recycled water and renewable power in the relevant quantities of water and electricity power consumed, and their scopes of application; and*
- (b) *whether it plans to increase the percentages in the use of recycled water and renewable power; if so, of the specific targets and timetables; if not, the reasons for that?*

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

- (a) As offices of different government departments are commonly accommodated in the same buildings, most do not have separate electricity and water meters. Hence, we do not have separate data on how much electricity and water individual departments have actually consumed. Nonetheless, the electricity and water consumption of the Government as a whole is shown below:

| | | <i>2002-03 (base year)</i> | <i>2003-04</i> | <i>2004-05</i> |
|--------------------------------|--------|--------------------------------|----------------|----------------|
| Electricity consumption | | | | |
| raw consumption | M kWh | 2 111 | 2 163 | 2 244 |
| % change (raw consumption)* | % | - | + 2.5 | + 6.3 |
| Expenditure | \$M | 1,939 | 1,911 | 1,936 |
| Water consumption | | | | |
| raw consumption | M cu m | 28.5 | 28.1 | 26.2 |
| % change (raw consumption) | % | - | -1.4% | -8.1% |
| Expenditure | \$M | 148.5 | 152.7 | 144.0 |

* Compared with the base year, the major drivers for electricity consumption (that is, gross floor area of office buildings, fresh water consumption and treated wastewater of the whole territory, and utilization rates of public sports and cultural facilities) increased in 2003-04 and 2004-05. Taking into account these factors, we estimate that the energy efficiency of the Government improved by about 1.4% in 2004-05, compared with 2002-03. That is, but for the increase in the drivers, the total electricity consumption would have decreased by about 1.4%.

Renewable energy has supplied about 1.2 million kWh equivalent to government facilities in 2003-04. With regard to effluent reuse, we are only at the exploratory stage of implementing the Total Water Management Programme. A list of government projects using renewable energy systems and effluent reuse systems is shown in Annex.

- (b) The Government is committed to promoting the greater use of energy from renewable sources in Hong Kong, including the wider adoption of renewable energy in public works projects. One of the

key initiatives in the "First Sustainable Development Strategy for Hong Kong" published in May this year is to establish a policy on the installation of renewable energy facilities as a component of new government buildings and major public sector projects by 2006. As one of the steps to be taken in connection with this initiative, we will issue a Technical Circular promoting the use of renewable energy in public works projects shortly. We expect a wider use of renewable energy in government projects in the future.

Implementation of the Total Water Management Programme is an ongoing initiative of this year's policy agenda. We are implementing two pilot reclaimed water (再造水) reuse schemes: one at Ngong Ping (昂坪) and the other at Shek Wu Hui (石湖墟). The Ngong Ping scheme, to be commissioned around early 2006, will provide reclaimed water mainly for flushing and controlled irrigation. The Shek Wu Hui scheme, to be in operation in mid-2006, will provide reclaimed water for flushing, irrigation and water features after further treatment.

Annex

Government Funded Renewable Energy Projects

| <i>Year of Installation</i> | <i>Solar water heating projects by the Government</i> | <i>Capacity (kW)</i> |
|-----------------------------|---|----------------------|
| 1981 | Hei Lei Chau Drug Addiction Treatment Centre | 119 |
| 1983 | Shek Pik Prison | 148 |
| 1990 | Hei Lei Chau Inmate Centre | 9 |
| 1998 | Shing Mun Valley Swimming Pool | 93 |
| 1999 | Sheung Shui Slaughter House | 262 |
| 2004 | Lung Cheung Road Water Supplies Department (WSD) Mechanical and Electrical Workshop | 5 |
| 2004 | Braemar Hill Fire Station cum Ambulance Depot | 24 |
| | Sub-total | 660 |

| <i>Year of Installation</i> | <i>Photovoltaic projects by government</i> | <i>Capacity (kW)</i> |
|-----------------------------|---|----------------------|
| 1985 | Weather stations of Hong Kong Observatory (HKO) | 1.5 |
| 1997 | Remote locations managed by the WSD | 3 |
| 1998 | Tai Mo Shan Weather radar station | 5.6 |
| 1999 | Public toilet at Tai Fung Au | 2.2 |
| 2000 | Public toilet at Victoria Park | 0.6 |
| 2001 | Government Flying Service's Headquarters | 1.6 |
| 2002 | Victoria Park | 0.5 |
| 2002 | Wanchai Tower | 55 |
| 2002-04 | Science Park (Bldg 1, 2, 4a, 4b, 5, 6, 7, 8 and 9) | 198 |
| 2003 | Kwong Wah Hospital | 0.6 |
| 2003 | Civil Engineering and Development Department's (CEDD) Slope irrigation system in Kau Shat Wan | 0.6 |
| 2003 | CEDD rain gauges in remote locations | 1.7 |
| 2003 | Sha Tau Kok Fire Station | 6 |
| 2003 | Police Dog Unit, Sha Ling | 2 |
| 2003 | Caste Peak Hospital Redevelopment Phase II | 30 |
| 2005 | Electrical and Mechanical Services Department's (EMSD) Headquarters | 350 |
| 2005 | Fire Station cum Ambulance Depot and Police Post at Penny's Bay | 85 |
| 2005 | Drainage Services Department's gauging stations in remote areas | 1.3 |
| 2005 | Immigration Service Training School | 7 |
| 2005 | Radiotherapy Centre, Princess Margaret Hospital | 18 |
| | Sub-total | 770 |

| <i>Year of Installation</i> | <i>Wind turbine projects by government</i> | <i>Capacity (kW)</i> |
|-----------------------------|--|----------------------|
| 2000 | HKO's weather stations | 1 |
| 2005 | EMSD Headquarters | 1 |
| | Sub-total | 2 |
| | Total | 1 432 kW |

Government Funded Effluent Reuse Projects

Reuse of treated effluent in sewage treatment works (STW)

| | | |
|-----------------|---|--|
| Sha Tin STW | - | cooling water for dual fuel engines and compressed methane gas. |
| | - | water supply for fire hydrants. |
| | - | general plant usage such as floor cleaning. |
| Tai Po STW | - | general plant usage, such as floor cleaning. |
| Sai Kung STW | - | general plant usage such as floor cleaning. |
| | - | irrigation of vegetation within the plant. |
| Stanley STW | - | general plant usage, such as floor cleaning. |
| Yuen Long STW | - | general plant usage such as floor cleaning. |
| Shek Wu Hui STW | - | general plant usage such as floor cleaning. |
| | - | supply to a nearby golf club for restricted irrigation after further treatment at the golf course. |
| | - | supply to the heat exchange system of the Sheung Shui Slaughterhouse in winter period. |

Reuse of grey water in government buildings

| | | |
|----------------------------------|---|----------------------|
| EMSD Headquarters | - | Flushing |
| Science Park (nine buildings) | - | Flushing |
| Satellite Building, Wetland Park | - | Flushing |
| Ma On Shan Sports Ground | - | Irrigation of plants |
| Tseng Kwan O Sports Ground | - | Irrigation of plants |
| Penny's Bay Fire Station | - | Irrigation of plants |

Position of Government at WTO Ministerial Conference

16. **MR LEE CHEUK-YAN:** *Madam President, will the Government inform this Council of the position it will take on the following issues at the Sixth Ministerial Conference of the World Trade Organization (WTO) to be held in Hong Kong next month:*

- (a) *the requests of the G20 and other developing countries for substantial reduction in domestic support by various WTO Members*

and elimination of all forms of export subsidies by the developed countries on agricultural products;

- (b) limiting the rights of owners of patents on pharmaceuticals in order to ensure access by the least developed countries to affordable medicines;*
- (c) establishing numerical targets and indicators on WTO Members' commitments for liberalization of services, as advocated by the developed countries; and*
- (d) the deliberation that basic public services, such as water, health care and education should be regarded as "services supplied in the exercise of governmental authority"?*

FINANCIAL SECRETARY: Madam President, the question covers three aspects of the ongoing negotiations in the WTO, namely agriculture, intellectual property rights and services. My reply is as follows:

(1) Agriculture

The prime objective of the WTO Doha Development Agenda (DDA) on agriculture is to remove trade-distorting barriers and subsidies, particularly those maintained by some developed countries, and to establish a fair and market-oriented trading system.

Developing WTO Members calling for further liberalization in trade in agriculture are led by a group of countries called the G20. They are demanding early elimination of export subsidies, substantial reduction of domestic support measures and meaningful market access through sharp and genuine reduction by developed WTO Members, such as the European Union, Japan and the United States.

Given Hong Kong's free trade policy, we fully support the eventual elimination of trade-distorting and restrictive measures in agricultural trade. Hong Kong, China monitors the agricultural negotiations closely since developments in these negotiations will

impinge on negotiations in other areas under the DDA. As host of the Hong Kong Ministerial Conference, we have made use, and will continue to make use, of suitable opportunities to identify possible bridges which may reduce the differences between WTO Members so that a credible package may be agreed by the WTO membership.

(2) *Intellectual Property Rights*

Access by developing and least developed countries to affordable medicines is outside the DDA. In recognition of the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics, a Ministerial Declaration on TRIPS¹ and Public Health was adopted at the Fourth WTO Ministerial Conference in Doha in 2001. Among other things, the Declaration confirms that each Member has the right to grant compulsory licences (that is, governmental use of patents without the authorization of the patent owner) for the production of pharmaceutical products for such health problems.

The current discussion in the WTO on TRIPS and Public Health relates to a technical problem. Article 31(f) of the TRIPS stipulates that the granting of compulsory licences "should be authorized predominantly for the supply of domestic market of the Member authorizing such use". This will constitute a problem for developing and least-developed country Members who are eligible to make effective use of compulsory licences but are unable to do so because of insufficient or a total absence of manufacturing capacity in the pharmaceutical sector. Under Article 31(f), they will have difficulty in authorizing a third country with the necessary manufacturing capacity to produce and export the pharmaceutical products to them, since the latter is required to supply the products predominantly for their domestic markets.

To address this problem, the WTO General Council adopted a decision in August 2003 to waive the obligations of an exporting Member under Article 31(f) of the TRIPS with respect to the grant

¹ TRIPS: Agreement on Trade-Related Aspects of Intellectual Property Rights.

by it of a compulsory licence for the production of a pharmaceutical product and its export to an eligible importing Member. The TRIPS Council is also required to initiate action to amend the TRIPS to replace this temporary waiver.

Hong Kong, China welcomes the adoption of the General Council decision. We recognize the importance of intellectual property protection for providing incentives for research into and development of new drugs. Meanwhile, we also fully recognize that this objective must be balanced with ensuring developing countries' adequate access to affordable drugs.

The TRIPS Council has been discussing how to amend the TRIPS to incorporate the General Council decision. Hong Kong will continue to participate actively in the discussions.

(3) *Services*

With a view to achieving a more substantive outcome for the services negotiations under the DDA, WTO Members have been deliberating on how to intensify the negotiation process. Some Members have suggested the establishment of "numerical targets" on services commitments as one of the means to help steer towards the common goal of achieving meaningful and progressive liberalization of international trade in services.

A number of interested Members (including both developed and developing country Members) have put forward specific proposals on possible "numerical targets" on the commitments to be undertaken in the services negotiations. However, this concept is rather controversial and there is not yet a consensus on any of the proposals. Members will continue to deliberate on whether "numerical targets" should be established and if so, the targets for individual Members.

Being an economy heavily dependent on trade in services, Hong Kong attaches great importance to the services negotiations. While we welcome the development of any means and targets which can help push forward the services negotiations and achieve a

substantive and balanced outcome, we consider that the need to allow sufficient flexibility for developing country Members should be duly respected. The Government will continue to participate actively in the deliberations and will scrutinize carefully and prudently all proposals so as to safeguard the overall interests of Hong Kong.

The issue of whether basic public services, such as the supply of water, medical and health, and education services should be regarded as "services supplied in the exercise of governmental authority" is not a subject for negotiations in the DDA. It will not be discussed at the coming Ministerial Conference.

As defined under Article I:3 of the WTO General Agreement on Trade in Services (GATS), "services supplied in the exercise of governmental authority" means any service which is neither supplied on a commercial basis nor in competition with one or more service suppliers. These services are excluded from the coverage of the GATS by virtue of the same article of the Agreement. In short, basic public services, such as water, health care and education provided by the Government are outside the ambit of the GATS.

Relaxing Restrictions on Advertising by Local Dentists

17. **MR LI KWOK-YING** (in Chinese): *President, some mainland dentists have recently placed in Hong Kong newspapers and magazines advertisements detailing their services and charges. However, Hong Kong dentists are not allowed to do the same. In this connection, will the Government inform this Council whether it:*

- (a) *has assessed the impact of advertisements of mainland health care services on the providers of medical services in Hong Kong; and*
- (b) *will discuss with the dental profession ways to further enhance the transparency of dental services and charges in Hong Kong, for example, relaxing the restrictions on advertising in Hong Kong by local dentists; if so; of the details; if not, the reasons for that?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): President, as in the case of many professionals in Hong Kong, a self-regulatory system is in place, governing our dental profession. The Dentists Registration Ordinance (the Ordinance) provides the legislative framework for the registration of dental practitioners in Hong Kong as well as the administration and governing of their professional practice and conduct. The Ordinance provides for the establishment of the Hong Kong Dental Council (HKDC), which is statutorily charged to register dental practitioners in Hong Kong and regulate the practice of the profession.

The HKDC has developed a Code of Professional Discipline, under which guidelines are promulgated to set out the professional behaviour expected of a dental practitioner, how they should conduct their business, including the provision of practice information, advertising and display of notice to inform patients about their right to know the treatment cost.

- (a) The HKDC has not conducted any assessment on the effect of advertising activities by dentists from outside Hong Kong on the providers of dental service in Hong Kong. We understand from the HKDC that it will however keep in view the situation and will consider undertaking such an assessment if the HKDC considers the situation so warrants.
- (b) As regards the transparency of dental services and fees, the HKDC has recently conducted an opinion survey targeting at registered dentists on whether the existing guidelines on display of fee schedule should be relaxed. The survey revealed that the majority of respondents (66.1%) considered that a dentist should be allowed to display in his clinic a price list of his consultation/treatment services. We understand that the HKDC is studying the result of the opinion survey and will consider the need to review the relevant guidelines.

In the opinion survey, respondents were also asked whether it is appropriate to relax the existing regulation on advertising by registered dentists in Hong Kong (and if so the extent of the relaxation), and whether the relaxation of the existing regulation on

advertising by registered dentists will be effective in counteracting the advertising activities by dentists from outside Hong Kong. The result showed that the majority of the respondents consider that the existing regulation should remain unchanged (69.1%) and that the relaxation of existing regulation will not be effective in counteracting advertising activities by dentists from outside Hong Kong (74.2%). In view of the result, the HKDC currently has no plan to further relax the regulation in respect of advertising.

Statistics on Unemployed CSSA Recipients

18. **MR LAU KONG-WAH** (in Chinese): *President, with regard to the unemployed persons aged between 14 and 30 who are receiving Comprehensive Social Security Assistance (CSSA) payments, will the Government inform this Council :*

- (a) *of the number of such recipients at the end of each of the past three years, broken down by age groups each covering five years; and among these recipients, the respective percentages of those who had been receiving CSSA payments for more than one year, as well as whether it has assessed if such percentages are on the high side;*
- (b) *of the percentage of such recipients in the unemployed population, and how it compares to the relevant figures in developed countries; and*
- (c) *whether it has looked into the causes of unemployment of these persons, and of the measures in place to assist and encourage them to seek employment?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): President, it is the Administration's policy to provide nine years of free and compulsory education. Generally speaking, children under 15 should be receiving education in schools and therefore should not be classified as

unemployed in the analysis of unemployed CSSA recipients even though their families are recipients of CSSA assistance under unemployed category. My answers to the questions are as follows:

- (a) A breakdown in accordance with the age groups of CSSA recipients in the unemployed category over the past three years and the respective percentage of those who had been receiving CSSA payments for more than one year are as follow:

| <i>Age</i> | <i>Year</i> | | | | | |
|------------|-------------|---|-------------|---|-------------|---|
| | <i>2002</i> | | <i>2003</i> | | <i>2004</i> | |
| | <i>No.</i> | <i>% of which on CSSA for > one year</i> | <i>No.</i> | <i>% of which on CSSA for > one year</i> | <i>No.</i> | <i>% of which on CSSA for > one year</i> |
| 15-20* | 2 822 | 76% | 2 916 | 78% | 2 462 | 86% |
| 21-25 | 1 691 | 48% | 2 011 | 55% | 1 535 | 72% |
| 26-30 | 1 931 | 38% | 2 219 | 49% | 1 679 | 58% |
| Total | 6 444 | 57% | 7 146 | 63% | 5 676 | 74% |

Note: * Figures include recipients who had been on CSSA during their period of school attendance.

We note that in percentage terms, the proportion of CSSA recipients aged 21 to 25 in the unemployed category who have been on the CSSA for more than one year has increased from 48% to 72% from the year 2002 to 2004. The corresponding ratio for the group of recipients aged 26 to 30 has also increased from 38% to 58%.

- (b) In 2004, the percentage of unemployed CSSA recipients aged 15 to 30 amounted to 2.5% of the total unemployed population. There are no directly comparable figures available for other developed countries. However, we can compare our youth unemployment figures with those of other developed countries. According to the definition adopted by the International Labour Organization, "youth" refers to those aged 15 to 24 and this is the definition adopted by most countries. The unemployment rates of youth in Hong Kong and other developed countries are set out in the following table:

| | <i>Youth Unemployment rates 2004 (Under 25) % of youth labour force</i> |
|---|---|
| Hong Kong | 12.2 |
| Australia | 11.7 |
| Canada | 13.4 |
| France | 22.7 |
| Germany | 11.7 |
| Italy | 23.5 |
| Japan | 9.5 |
| Spain | 22.0 |
| The United Kingdom | 10.9 |
| The United States | 11.8 |
| European Union 15 (before the enlargement in 2005) | 16.5 |
| Organization for Economic Co-operation and Development (OECD) Total | 13.5 |

Source : OECD (figure on Hong Kong is provided by the Census and Statistics Department)

- (c) We have adopted an active welfare-to-work policy under the CSSA Scheme to help those individuals (including those aged 15 to 30) who can work to enhance their capacity for self-reliance. Major measures include the following:

(i) Unemployed CSSA recipients in general

- In June 2003, the Social Welfare Department (SWD) intensified the Support for Self-reliance Scheme which provide personalized measures to help able-bodied unemployed CSSA recipients to regain self-reliance. Currently, long-term unemployed participants would need to perform Community Work (CW) three days a week. The SWD has commissioned non-government organizations to launch Intensive Employment Assistant Projects (IEAPs) for employable CSSA recipients and near CSSA recipients to assist them to

remove work barriers, enhance their employability and get back to work through a range of activities such as job matching, job skill training, employment counselling and post-employment support. Up to August 2005, 70 IEAP projects have been launched and over 13 450 CSSA recipients have participated in the IEAPs. During these first two years, most of the projects have proved able to meet the performance target that 40% of participants would secure employment. Out of the 13 450 CSSA participants, 2 700 (20%) were aged 15 to 30 and 1 400 (52%) of these could secure full-time employment so that their unemployment status was changed either to the "CSSA low-earnings" category or they are able to leave the CSSA net altogether. In October 2005, another 35 IEAP projects were launched, making a total of 105 projects.

- Since 2003, we have also raised the maximum level of monthly Disregarded Earnings under the CSSA Scheme to \$2,500 to provide recipients with more incentives to find and maintain employment.

(ii) Unemployed CSSA youths

- The SWD has implemented two special enhanced CW programmes tailor-made for unemployed CSSA youths. In September 2005, a pilot programme was launched for CSSA recipients aged 15 to 34 to work on a large-scale mosaic project. Another pilot programme will be launched in January 2006 for CSSA recipients aged 15 to 25 to develop dog training skills. A total of 100 youths would participate in these two programmes.
- The Commission on Poverty (CoP) has noted the trend of youths receiving CSSA, in particular those who have been on CSSA for a long period and have failed to be

motivated by the existing employment programmes. The CoP is consequently working with relevant departments to launch a pilot project "My STEP" to strengthen motivation and job matching elements of programmes for these hard-core cases among CSSA youths. As a first step, 50 CSSA youths would be selected from Tin Shui Wai to participate in this project.

(iii) Youth in general

- In September 1999, the Labour Department (LD) launched the Youth Pre-employment Training Programme to provide a wide range of employment-related training to school leavers aged 15 to 19 (including CSSA recipients) in order to enhance their employability. Over the past six years, more than 66 000 young persons have been trained under the programme and about 70% of them managed to secure employment.
- In July 2002, the LD launched the Youth Work Experience and Training Scheme to provide work experience and on-the-job training for young people aged 15 to 24 (including CSSA recipients) with educational attainment below degree level. As at the end of October 2005, more than 25 000 trainees were placed in training vacancies. In addition, some 13 000 trainees found jobs in the open market with the assistance of their case managers.

The CoP will undertake a study with the SWD on the factors underlying hard-core CSSA youth cases, including the reasons for their unemployment after participating in the existing employment programmes, in order to make policy recommendations as to how to better tackle the problem.

Transparency of Property Market of Hong Kong

19. **MR FREDERICK FUNG** (in Chinese): *President, it has been reported that a consultancy firm's has pointed out that the transparency in Hong Kong's property market is inadequate and property developers tend to exaggerate the floor areas of the properties put up for sale and vigorously create an impression that the market is in dire demand for properties. In this connection, will the Government inform this Council whether it:*

- (a) has studied and followed up the above claims; if so, of the results;*
- (b) has assessed if the self-regulatory mechanism currently adopted by the Real Estate Developers Association of Hong Kong (REDa) for governing the sale of uncompleted residential properties (URPs) by its members can ensure that the sales brochures provide comprehensive and accurate information about the properties put up for sale, such as the saleable floor areas calculated in a uniform way and the planned land uses of the adjacent sites; if so, of the assessment results; and*
- (c) will reconsider regulating the sales descriptions of URPs by way of legislation; if not, of the measures it will adopt to safeguard the interests of potential buyers?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese): President, in order to enable prospective property purchasers to get hold of adequate and accurate information, the REDA, at the request of the Administration, announced in June 2001 a self-regulatory regime which requires its members to comply with guidelines issued by the REDA when selling uncompleted residential units. The guidelines require developers to include in sales brochures a variety of information about the development offered for sale, including a location plan showing nearby communal facilities, an Outline Zoning Plan showing nearby existing and planned land use, saleable area and gross floor area of units, and so on. The guidelines also clearly set out standardized methods for calculation of the saleable area and gross floor area of residential properties. The Administration has been monitoring through different means the operation of the self-regulatory regime, assessing its effectiveness as well as keeping watch on public views towards the regime.

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

- (a) The Administration has expressed concerns to the REDA about recent allegations of developers providing exaggerated information to portray a buoyant market. The Administration agrees with some recent reports that there is room for improvements in the sale arrangements, and has conveyed to the REDA such concerns. The REDA has agreed to step up monitoring and remind its members of the need to comply with the guidelines to ensure that the regime can meet the changing needs of the market and consumers. All along, the Administration has conveyed the public's views on private sale arrangements to the REDA, and the REDA has responded positively. For instance, the REDA announced on June 24 this year a set of refined guidelines asking developers to enhance transparency in private sales and to release accurate sales figures.
- (b) Sale arrangements (including information provided in sales brochures) have improved noticeably since the promulgation of the new guidelines. We have received only one complaint about developers, in respect of which we have taken follow-up actions. The complainant has not made further enquiry thereafter. We believe the self-regulatory regime on the whole is working satisfactorily. The Administration, together with the Consumer Council and the Estate Agents Authority (EAA), meet regularly with the REDA to ensure the effective operation of the regime and to reflect public views on sale arrangements to the REDA, in order to make improvements on an ongoing basis.
- (c) The Administration adopts a three-pronged approach to monitor and assess the operation of the regime. Apart from reminding the REDA to enforce the guidelines strictly, the Administration has also invited the Consumer Council to step up consumer education on the protection of consumers' rights in property transactions and has requested the EAA to issue updated circulars, step up enforcement action and remind estate agents to conduct their business at sales offices in accordance with the law. The Consumer Council and

EAA are also jointly providing pamphlets at sales offices to remind prospective purchasers of information they should pay attention to. The Administration believes that the existing three-pronged approach, together with the general public's scrutiny, can on the one hand protect consumers' interest and would not fetter market operation on the other. Such arrangements offer greater flexibility than does regulation by way of legislation, and allow timely adjustments to cope with changes in market circumstances and consumers' expectations. In this regard, the Administration will not, at the moment, consider regulating sale arrangements by way of legislation, but will, together with the Consumer Council, EAA and REDA, continue to closely monitor the operation of the self-regulatory regime and assess its effectiveness so as to ensure that the REDA's guidelines can really meet the need of consumers and the real estate sector.

Transfer of Sentenced Persons

20. **MR LEUNG KWOK-HUNG** (in Chinese): *President, will the Government inform this Council of:*

- (a) *the number of persons from the Mainland currently serving sentences in Hong Kong, together with a breakdown by their terms of imprisonment (under two years, two to under seven years, seven to under 10 years, 10 years or longer); and*
- (b) *the progress and details of the discussions between the authorities in Hong Kong and the Mainland on the arrangements for the transfer of sentenced persons (TSP)?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) As at 11 November 2005, the total number of mainlanders serving sentences in Hong Kong, together with a breakdown by their terms of imprisonment, are as follows:

| <i>Terms of Imprisonment</i> | <i>Number of Persons</i> |
|------------------------------|--------------------------|
| Under two years | 2 686 |
| Two to under seven years | 471 |
| Seven to under 10 years | 52 |
| 10 years or longer | 51 |
| Total | 3 260 |

- (b) In March 2000, the Government of the Hong Kong Special Administrative Region and mainland experts started discussions on the arrangements for TSP by way of meetings and exchange of documents. Discussions have centred around the main principles and provisions enshrined in the Transfer of Sentenced Persons Ordinance (Cap. 513) and the agreements on TSP that we have signed with other jurisdictions, which include, for example, the conditions for transfer, procedures for transfer, retention of jurisdiction and continued enforcement of sentence. We will continue to work on the setting up of TSP arrangements with the Mainland. In the process, we will take full account of the significant differences between the legal systems of the two places and the complexities of the issues involved.

BILLS

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): Bill. We will resume the Second Reading debate on the Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill.

MARRIAGE (INTRODUCTION OF CIVIL CELEBRANTS OF MARRIAGES AND GENERAL AMENDMENTS) BILL

Resumption of debate on Second Reading which was moved on 1 June 2005

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

MS MARGARET NG (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill (the Bills Committee), I will now report the deliberations of the Bills Committee.

The Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill (the Bill) seeks to provide for a statutory framework for the appointment of civil celebrants to celebrate marriages, thereby providing more flexible marriage solemnization services to the public.

The Bills Committee has held seven meetings, including one meeting to gauge the views of The Law Society of Hong Kong (Law Society) and the Hong Kong Society of Notaries (the Society of Notaries).

The Bills Committee has examined in detail the eligibility criteria for appointment as civil celebrants, circumstances that a marriage may be regarded as invalid, the liability of civil celebrants and the provisions on penalty and defence stipulated in the ordinance.

The Bills Committee has enquired the Administration about the reasons for selecting solicitors and notaries public as eligible persons for appointment as civil celebrants, and the rationale for adopting seven-year post-qualification experience as a criterion for appointing a solicitor as civil celebrant. Mr Albert CHENG has suggested that Justices of the Peace (JPs), Legislative Council Members and competent ministers should also be considered for appointment as civil celebrants.

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

The Administration has explained to the Bills Committee that solicitors and notaries public who meet the specified criteria will provide an adequate pool of candidates for appointment at the initial stage. Their legal knowledge and familiarity with the administration of oaths and taking of declarations will enable them to perform competently the duties of a civil celebrant. The authorities have also expressed that the proposed seven-year post-qualification experience for solicitors to be eligible for appointment as civil celebrants has been set with reference to the post-qualification experience for notaries public, and to ensure

that only qualified persons with sufficient maturity and professional experience will be appointed as civil celebrants.

To address the queries of members, the Administration has agreed to propose Committee stage amendments to clearly spell out the arrangement for the counting of post-qualification experience. Law Society has agreed to provide the relevant certification service and will take into account the relevant experience of an in-house solicitor in counting the post-qualification experience.

On the suggestion of appointing JPs, Legislative Council Members and competent ministers as civil celebrants, the Administration is of the view that these persons may not possess the requisite professional training and support to accept and transmit marriage notices and verify the relevant documents. The Administration does not intend to extend the scheme to these persons at the initial stage. However, the Administration will review the arrangement in a year's time after implementation and will report to the panel the result of the review.

The Bills Committee noted that section 27(1) of the Marriage Ordinance (the Ordinance) stipulates that no marriage shall be valid which will be null and void on the ground of kindred or affinity in England or Wales. Some members have expressed concern that civil celebrants may not be well versed in the laws of England and Wales in advising marrying parties whether their proposed marriage would fall within the prohibited degrees of kindred or affinity. To assist the public and civil celebrants in better understanding such prohibitions, the Administration has agreed to move Committee stage amendments to include a new Schedule 5 to the Ordinance to set out the prohibited degrees of kindred or affinity.

Some members have expressed concern about the circumstances under which a marriage may be regarded as invalid, as stipulated in the amended section 27(2) under clause 13. Members have requested the Administration to clarify the duties and obligations of civil celebrants, and whether any negligence on the part of a civil celebrant will render a marriage invalid.

The Administration has explained that under section 27(2), a marriage will be null and void if both parties knowingly and wilfully acquiesce in its celebration under a false name, or by a person not being a competent minister or the Registrar or his deputy, or by a civil celebrant, or if either party to the marriage is under 16 years of age.

The Administration has advised that the amendment proposed in the Bill does not seek to impose any duty on the Registrar of Marriages, a minister or civil celebrant of marriages solemnizing a marriage to carry out an investigation into the status of the marrying parties. Nevertheless, it is envisaged that civil celebrants will take reasonable steps, for example, check the identity documents of the marrying parties to ensure that the marriage is not celebrated under a false name and that both the marrying parties are of or over the age of 16. They should also ensure that a certificate of the Registrar has been issued before solemnising a marriage.

In response to concerns raised by members, the Administration has agreed to introduce a Committee stage amendment to amend the proposed section 27(2) in clause 13 to refine the scope of "knowingly and wilfully acquiesce" in order to retain the original intent of section 27(2) of the Ordinance.

Some members of the Bills Committee have also asked about the possibility that a marriage being deemed invalid because of defects in the appointment of a civil celebrant. The Administration has advised that a new section 5F in clause 4 clearly stipulates, for the avoidance of doubt, that defects in the appointment process will not affect the validity of marriages.

Regarding the penalty provisions stipulated in the Bill, the Bills Committee considers that the penalty provisions proposed in the Bill have to maintain relativity and consistency with the existing penalty provisions in the principal Ordinance.

After reviewing the relevant provisions, the Administration, in consideration of the deliberate acts of fraud or deceit, which are of a serious nature, involved in certain offences, has proposed to raise the level of penalty of offences specified in sections 29, 30, 32, 33 and 39 to a fine at level 5 and two-year imprisonment. The Administration will for this purpose propose Committee stage amendments. The Administration has also agreed to add the element of "without reasonable excuse" to the offences created under proposed sections 31A(1), 31A(3) and 31A(5).

As to whether it is necessary to set a limit on the fees to be charged by civil celebrants, the Bills Committee has sought the views of the Administration, Law Society and the Society of Notaries, and requested the Administration to provide information on overseas practice.

The Administration has advised that in Australia and New Zealand, the fees for solemnising marriages are not prescribed in the legislation and are regulated by market force. In British Columbia of Canada, as the services rendered by civil celebrants are regarded as community services, the fees are prescribed in the legislation. The Administration has also advised that it remains open about the fees to be charged by civil celebrants.

The Hong Kong Bar Association considers that there should be a fixed fee to be charged by civil celebrants. Law Society and the Society of Notaries are of the view that it is more appropriate for the fees to be determined by market force.

Given the above views, the Bills Committee has not proposed the inclusion of a limit on the fees to be charged by civil celebrants in the Bill.

Proposed section 6A(2) in the Bill originally stipulates that a civil celebrant will not be allowed to charge any fee for acceptance, collection and transmission of the notice of marriage, the affidavit and written consent for marrying persons below 16 years of age. However, members consider that it is reasonable for civil celebrants to charge a fee for collection and transmission of these documents. In view of such concern, the Administration has agreed to move a Committee stage amendment to delete the proposed section 6A(2) from the Bill.

As the Administration has agreed to move Committee stage amendments to address the concerns of members and to refine the drafting of certain provisions in the Bill, the majority of members of the Bills Committee support the Bill and the Committee stage amendments to be moved by the authorities.

Madam Deputy, in my capacity as Chairman of the Bills Committee, I express my thanks to the representatives of the Government. In the course of scrutiny, representatives of the Government have responded to the questions of members, provided relevant information, made clarifications, and actively considered the views of members, thereby enabling the smooth completion of the scrutiny of the Bill. I would like to thank organizations that have expressed their views to the Bills Committee, particularly Law Society which will provide assistance related to the qualification of civil celebrants of marriages, enabling the successful launch of the scheme.

Madam Deputy, I would like to add a few words in my personal capacity. During the scrutiny of the Bill, I have discovered a very interesting phenomenon. First, male members and female members hold different views. Male members focus more on the sufficient degree of freedom allowed for the holding of all kinds of marriage ceremony and the lowering of the eligibility for civil celebrants of marriages. Female members, on the other hand, are very much concerned about the solemnity of marriage and the appropriateness of the course of the marriage ceremony, and they hold a very strict attitude towards the discipline of future civil celebrants. Madam Deputy, this is a possible reflection of the different views held by men and women on family. However, since male and female members of the Bills Committee can both have balanced participation, working together with one heart, a balance has been struck and a consensus has been reached finally. We are particularly satisfied with the provision of a timetable for review. A great majority of members support the Committee stage amendments to be moved this time.

Thank you, Madam Deputy.

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

MR LI KWOK-YING (in Cantonese): Madam Deputy, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill (the Bill). After rounds of deliberations and amendments by the Bills Committee on Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill, we consider that we can support the Bill. Male members, said Ms Margaret NG earlier in her personal capacity, held different views on the issue from female members. Perhaps let me talk about the Bill from a man's point of view.

(THE PRESIDENT resumed the Chair)

Marriage is the most memorable and sacred thing in a person's life. For the ladies, they certainly would like to have a solemn celebration when they get married. However, many people do look forward to a special celebration on

that day. Perhaps this is the difference between men and women in their views. Nevertheless, due to the restrictions under the Marriage Ordinance (the Ordinance), the ways in which one can celebrate his marriage in Hong Kong are limited. For the religious people, they can choose to undergo secular rituals. But for the others, they have to follow the old way that celebration of marriages can only be taken place at the marriage registries. For couples who wish to have a special celebration, this is something like a routine homework devoid of creativity and cannot satisfy their exciting mood on their wedding day. In the light of this, the DAB welcomes the Bill which authorizes the appointment of eligible persons as civil celebrants to celebrate marriages with a view to providing more flexible marriage solemnization services to the public.

In fact, the relaxation of marriage solemnization services by the Government will certainly bring much more convenience to the people. Young people, no matter how trendy and in they are, would like to get married on auspicious days due to traditional customs and their respect for their elders' wishes. In the past, we often saw couples staying overnight outside the marriage registries regardless of the weather in order to appoint an auspicious day for celebrating their marriages. Now it is no more necessary to queue up outside the marriage registries because dates can be selected on the Internet. But since the auspicious days are too few and demand is too high, couples still have great psychological pressure when they have to make sure that their marriages can be celebrated on an auspicious day at a designated place.

The relaxation of the Ordinance will help relieve the couples of troubles in seeking to celebrate their marriages on auspicious days. Flexibility is provided by the Bill so that the couples can choose the time, place and rituals for celebrating their marriages by a qualified civil celebrant.

Further, the relaxation of the Ordinance will be a win-win option. Apart from the fact that the couples will be benefited, the Government can also save a lot of manpower and facilities which are originally allocated for providing marriage solemnization services to the public, thus facilitating reallocation of resources. At present, marriage registries are managed by the Immigration Department. The former are required to handle more than 40 000 applications per year particularly in a leap year which is considered to be auspicious. As a result, a lot of resources will be needed for providing such a service. Meanwhile, the implementation of the Individual Visit Scheme has led to a

shortage of manpower at various border control points. So, after the implementation of the amended Ordinance, the demand for services provided by the marriage registries will certainly decrease and surplus manpower can be allocated to other government departments such as the border control points where more manpower are needed to deal with immigration matters.

Besides, the relaxation of the Ordinance will bring a lot of business opportunities to commercial firms and organizations. As I just said, young people nowadays would like to have unique celebrations of marriage. From the radio or television, some local theme parks or commercial organizations have already grasped such an opportunity by providing tailor-made grand celebrations of marriages to their clients. For instance, a hotel has revealed its plan to provide its clients with a full package of banquet services including the arrangement of marital rituals. Besides, some local theme parks have also prepared to provide marital celebration services with marine animals or cartoon figures as their theme. According to newspaper reports, a park will spend \$5 billion on a redevelopment project that will enable it to provide special marital celebration packages for couples who can, apart from making use of the park's facilities for holding their celebration, invite marine animals such as sharks and dolphins as their guests.

Should such celebrations be considered too commercialized, couples can choose to return to the nature by holding celebrations at walled villages and small fishing towns so as to enjoy a human touch of native soil and the view and scenery of the suburb. In the walled villages, for instance, we can see brides in Chinese bridal gowns carried by sedan chairs accompanied by a troop of escort blowing horns with "poon choi" served in their banquets. It is believed that these traditional customs can provide more choices and more originality to people celebrating their marriages. These Chinese traditional customs will attract overseas visitors to register their marriages in Hong Kong, thus giving a boost to the local economy, including both the tourism industry and the retail sector.

After the implementation of the Bill, the lawyers will stand to benefit direct. Here, I have to declare an interest that I am a lawyer. However, it is worth mentioning that the lawyers are now having a hard time. The Bill proposes that a solicitor with not less than seven years of post-qualification experience would be eligible for appointment as a civil celebrant. Such an

amendment has changed the previous practice that only the Registrar of Marriages or ministers can solemnize marriages. After the passage of the Bill, it will create more opportunities to the local legal profession and I am sure our lawyers are able to go up to the sky or down to the sea in order to provide special marriage solemnization services for couples.

When the Bill was being scrutinized, some members considered that the eligibility threshold of civil celebrants should be lowered so that solicitors with less than seven years of experience but have at least five years of experience can also be appointed as civil celebrants. In fact, solicitors in general can exercise the power to administer oaths presently. On the other hand, they can set up their own firms after acquiring two years of experience and take on pupils when having accumulated five years of experience. Why are they then required to have seven years of experience before being eligible as civil celebrants? I hope the Government, after implementation of the Bill, can comprehensively review the restrictions on the eligibility of civil celebrants and consider the feasibility of allowing solicitors with less than seven years of experience to be appointed as civil celebrants in future.

The DAB supports the relaxation of the Ordinance by the Government. This is a response to the public aspirations for more flexible marriage solemnization services. On the other hand, it will also bring us infinite business opportunities for all sectors as local and overseas visitors will be attracted to Hong Kong, thus giving a boost to the local market. President, I so submit.

MS MIRIAM LAU (in Cantonese): Madam President, before I speak on this Bill, I wish to make a declaration of interest. I am a practising lawyer, and as proposed in the Bill, I should be an eligible civil celebrant of marriages.

According to the existing Marriage Ordinance (Cap. 181), marriages can only be celebrated at marriage registries by the Registrar of Marriages or deputy registrars, or at licensed places of worship by competent ministers within designated time and at designated places. The Bill proposes a relaxation of the regulation in question to provide more flexible marriage solemnization services in Hong Kong, and the Liberal Party supports it.

The major feature of the Bill is to allow solicitors with seven years' post-qualification experience to serve as civil celebrants. Information on hand suggests that among the 6 000-odd solicitors in Hong Kong, about 3 000 of them are eligible for appointment as civil celebrants. Although it has been suggested that the eligibility criteria be relaxed to include solicitors with less than seven years' post-qualification experience, or even people such as Legislative Council Members and Justices of the Peace, the Liberal Party considers that marriage is an important life event and also a solemn occasion, any mistakes in the registration procedures may give rise to numerous problems and even the risk of litigation. Therefore, we consider it appropriate to require only solicitors with certain years of experience may be appointed as civil celebrants. This will provide prudent protection to the public.

On the other hand, I wish to point out that the main purpose of introducing this Bill is not to increase the solicitors' income. It is because the fee for this kind of service would not be too high and there are over 3 000 solicitors eligible for appointment as civil celebrants, therefore sufficient competition in the market will definitely not result in monopolization. Of course, we are pleased to see the solicitors providing a wide variety of services, and yet the main purpose of the Bill is to enhance the flexibility of the marriage registration system of Hong Kong.

The Bill proposed that the general public can celebrate their marriages at any time and any place in the future, provided that there is an eligible civil celebrant to solemnize the marriages. At present, due to the limited number of marriage registries, people are often required to make an advance booking if they plan to get married. Furthermore, since Hong Kong people generally prefer to have their marriage solemnization held on "auspicious days", the Government's marriage registration services have fallen short of demand. Upon commencement of the Bill, not only much convenience will be brought to the public in respect of the choice of wedding dates, the workload of different marriage registries can also be relieved.

Besides, as there will no longer be restriction in time and place under the new system, weddings can be held in a more interesting and unique way. We have seen from time to time newly-weds of other countries holding sky-diving and underwater diving weddings, and from now on, Hong Kong people can also celebrate their marriages in these unusual ways. Furthermore, the Hong Kong

tourism industry can also promote new services to dovetail with the new arrangement, which is after all not a bad idea.

With these remarks, Madam President, the Liberal Party supports the Bill.

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

MR WONG KWOK-HING (in Cantonese): President, I support this Bill. However, as a layman, I would like to share my view on the Bill because there is one point I wish to stress after hearing the views expressed by the three lawyer Members just now.

I received directly a request for assistance from a solicitor friend saying that I must voice his opinion for him if this Bill is passed in the Legislative Council. What I want to say is, under the current Bill, solicitors without seven years of practising experience are not eligible for appointment as civil celebrants of marriage. This is hardly fair to those solicitors without seven years of practising experience and there are not sufficient grounds for it either. Why must the requirement be seven years? Why can it not be six years or five years? What are the justifications for that? As Mr LI Kwok-ying has pointed out just now, a solicitor possessing five years of practising experience can already take on an apprentice. Why then must the Bill require seven years of practising experience? Can the Government give due consideration to this point? Otherwise, it may lead a phenomenon that after the Ordinance has taken effect, solicitors in society now who do not possess seven years of practising experience will be subject to some sort of discrimination. Some solicitors, when being asked whether they fulfil the seven-year practising requirement, may be discriminated against if the answer is negative. An incorporeal dividing line will naturally be formed among them. The original intent of the Bill is good, but it will constitute an unfair social image to solicitors without seven years of experience. I therefore urge the Government, after the passage of the Bill, to review, consider and reassess the status of the 3 000-odd solicitors who do not possess seven years of practising experience. They currently do not fulfil the requirement stipulated in the Bill. 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, I now call upon the Secretary for Security to reply.

SECRETARY FOR SECURITY (in Cantonese): Madam President, first of all, I wish to thank the Chairman of the Bills Committee on Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill, Ms Margaret NG, and members of the Bills Committee for having spent about five months scrutinizing the Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill (the Bill) in detail and expressing specific views on the contents and drafting of the Bill. In the course of scrutiny, we have also received quite a number of valuable views from many groups and individuals. The Committee stage amendments (CSAs) proposed by us have to a great extent taken on board the views of Members and relevant groups.

In the Bill, the Government proposes a number of amendments to the existing Marriage Ordinance (Cap. 181) (the Ordinance). The main aim of the Bill is to empower the Registrar of Marriages (the Registrar) to appoint eligible persons as civil celebrants to celebrate marriages and allow the civil celebrants to celebrate marriages for the marrying parties at any time and at any place in Hong Kong. The Government hopes that by introducing a Civil Celebrant of Marriages Scheme, more flexible marriage solemnization services can be provided to the public. At the same time, we also believe that the Scheme will enable the private sector to participate in organizing marriage ceremonies, so that the general public can have more options and enjoy greater convenience.

The Bill contains four parts. The coverage of each part is mainly as follows:

- Part 1 — provides for the arrangements for the commencement of the amended Ordinance;
- Part 2 — specifies the duties and eligibility of civil celebrants, regulates their practice and the offences relating to civil celebrants;

- Part 3 — specifies the consequential amendments to related legislation; and
- Part 4 — contains amendments intended to modernize the drafting style of certain provisions of the Ordinance and proposes miscellaneous amendments.

Insofar as the foregoing Parts 1 and 2 are concerned, I wish to give an account on the gist of the more important provisions in the Bill and the CSAs to be moved by the Government. Part 3 involves technical amendments and Part 4 mainly modernizes the drafting of certain existing provisions in the Ordinance, so as to facilitate civil celebrants and the public in understanding the contents of the Ordinance, therefore, I will not talk about them in detail.

If the Bill is supported and passed by the Legislative Council, I hope that we can gazette a commencement notice as soon as possible, draft the subsidiary legislation relating to the operation of the Civil Celebrant of Marriages Appointment Appeal Board and submit the notice and the subsidiary legislation to the Legislative Council for negative vetting. In view of the fact that it will take some time to complete these procedures and the relevant preparatory work, we estimate that the Registrar cannot accept applications from eligible persons and appoint the first batch of civil celebrants until the second quarter of 2006 at the earliest.

The Bill proposes that if marrying parties wish to use the services of a civil celebrant, they may give a notice of intended marriage (the notice) to the Registrar through a civil celebrant and make before a civil celebrant an affidavit of no impediment to the marriage. It also proposes that a civil celebrant has to witness a marrying party sign a declaration before a marriage is celebrated. Moreover, the Bill originally proposed that a civil celebrant would not be allowed to charge any fee for acceptance, collection and transmission of the notice or prescribe a list of specified service charges. However, the Bills Committee considers that this proposal is not fair to civil celebrants as administrative expenses will inevitably be incurred in providing such services. After consideration, we agreed to the deletion of this restriction and will move relevant amendments.

The Bill proposes that practising solicitors with not less than seven years of post-qualification experience and notaries public can apply for appointment as

civil celebrants. We believe that their legal knowledge and familiarity with the administration of oaths and taking of declarations will enable them to perform the duties of a civil celebrant competently. In the meetings of the Bills Committee, we had detailed discussions on this criterion and adopted the views of the Hong Kong Bar Association and The Law Society of Hong Kong. In view of the fact that marriage is an important life event, we hold that at the initial implementation of the Scheme, the arrangement of appointing practising solicitors with considerable experience and achievements and notaries public as civil celebrants is more prudent. Vigorous supervision on the part of The Law Society of Hong Kong and the Hong Kong Society of Notaries of their members will enhance the confidence of the marrying parties in the Scheme. Practising notaries public are one of the categories of eligible applicants and they have to be practising solicitors with not less than seven years of post-qualification experience, therefore, we propose that solicitors should have equivalent seniority in order to achieve consistency in eligibility. For the avoidance of doubt, we will spell out clearly in the CSAs that the relevant experience of an in-house solicitor will be counted towards the post-qualification experience required.

In addition to experience, I understand that some members of the Bills Committee have suggested appointing other categories of persons such as ministers, Justices of the Peace (JPs) or Members of the Legislative Council as civil celebrants. However, ministers can celebrate marriages at licensed places of worship according to religious rituals but civil celebrants celebrate secular marriages and since ministers, JPs and Members of the Legislative Council may not possess the requisite professional training and support to process and verify marriage notices and the relevant documents, and also to explain the provisions or provide relevant legal advice to the marrying parties. Having considered these factors, we do not intend to enlarge the scope of eligible candidates under the Scheme to these persons at the initial stage. However, we have already indicated to the Bills Committee that we will review this arrangement in a year's time after implementation. Here, I can assure Mr WONG Kwok-hing that we will review the so-called "seven-year experience" criterion one year after the Ordinance has come into operation.

In order to ensure that the services provided by civil celebrants reach a certain standard and are in compliance with the law, the Bill will empower the Registrar to issue a code of practice for civil celebrants for the purpose of providing guidance in respect of their professional conduct. The Registrar may

cancel the appointment of a civil celebrant if the civil celebrant ceases to meet any of the criteria prescribed in the Bill or is convicted of an offence under the Ordinance. The Registrar may cancel or suspend the appointment of a civil celebrant if the civil celebrant contravenes the code of practice. A civil celebrant can lodge an appeal against any decision to refuse, cancel or suspend an appointment with the newly-established Civil Celebrant of Marriages Appointment Appeal Board. In the CSAs, we propose to introduce provisions to spell out more clearly when the Registrar can cancel or suspend an appointment, including the period within which the civil celebrant concerned may lodge an appeal.

The current section 27(1) of the Ordinance stipulates that no marriage shall be valid which will be null and void on the ground of kindred or affinity in England or Wales. However, the Ordinance does not prescribe the relevant impediment of kindred or affinity. To assist civil celebrants and the public in better understanding such prohibitions, we will move CSAs to include a new Schedule 5 to the Ordinance to set out the prohibited degrees of kindred or affinity. The relationship prescribed in the Schedule reflects the criteria currently adopted by the Registrar and is drafted with reference to the kindred or affinity prescribed in England or Wales.

The Bill also prescribes various offences and penalties. Having considered the severity of individual offences, and in order to maintain consistency with offences of a similar nature in the principal Ordinance, we propose to revise the level of penalties for offences involving deliberate acts of fraud or deceit to a fine at level 5 and two years of imprisonment. These offences include provision of false information to the Registrar by a civil celebrant or falsely holding out to be a civil celebrant by any person who is not a civil celebrant, and so on. We will propose to specify the maximum term of imprisonment for the offences at two years and that the imposition of this penalty lies within the jurisdiction of a Magistrate. Therefore, in the interest of consistency, we also propose to make all the offences triable summarily instead of either summarily or upon indictment as in the existing sections. However, to retain the flexibility of having no time limit for prosecution of indictable offences in the existing provision, we will stipulate in the CSAs that the legal proceedings for the relevant offences may be brought within six months after the offences are discovered by or come to the notice of the prosecutor.

In conclusion, we trust the proposals made in the Bill and the CSAs can support the requirements of the Civil Celebrant of Marriages Scheme. I hereby thank the Bills Committee once again for supporting the resumption of Second Reading of the Bill. The support of members has made it possible for us to implement the Civil Celebrant of Marriages Scheme at an early date. Finally, I implore Members to support the CSAs in respect of the Bill that I shall move later on.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill 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): Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill.

Council went into Committee.

Committee Stage

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

MARRIAGE (INTRODUCTION OF CIVIL CELEBRANTS OF MARRIAGES AND GENERAL AMENDMENTS) BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill.

CLERK (in Cantonese): Clauses 1, 2, 3, 5, 8, 10, 11, 14, 15, 18, 19, 20, 25, 28 to 34, 36 to 49, 53 to 56 and 59.

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 4, 6, 7, 9, 12, 13, 16, 17, 21 to 24, 26, 27, 35, 50, 51, 52, 57 and 58.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move the amendments to clauses 4, 6, 9, 12, 13, 16, 17, 21 to 24, 26, 27, 35, 50, 51, 52, 57 and 58; and the deletion of clause 7. The details of the amendments have been set out in the paper circularized to Members. The amendments have all been scrutinized by the Bills Committee in detail and I will now explain the gist of the amendments.

The main purposes of the amendments to clause 4 are as follows:

- a. adding sections 5D(4A), 5D(4B), 5E(3A), and 5E(3B) to spell out more clearly the circumstances in which the Registrar may cancel or suspend the appointment of a civil celebrant and the period within which a person may submit his representation after the Registrar has issued a written notice of his intention to cancel or suspend a person's appointment as a civil celebrant;
- b. expressly providing that an appointment suspended under proposed section 5E shall not be regarded as valid during the period of suspension; and
- c. spelling out more clearly the purpose of the Registrar's power to request a civil celebrant to provide information under the proposed section 5H(1) is only for the purpose of investigating and obtaining evidence of any suspected offence under the Ordinance or any suspected breach of a code of practice.

The other amendments to the Ordinance are designed to take on board the suggestions made by the Bills Committee in relation to the drafting of certain provisions and to propose some consequential amendments.

The amendment to clause 6 deletes the proposed section 6A(2) so as to remove the proposed restriction that a civil celebrant shall not charge any fee for any acceptance, collection and transmission of a notice of intended marriage.

We also propose to delete clause 7 as section 8 of the Ordinance empowering the Registrar to provide forms of notice of marriage to persons applying for the same already covers civil celebrants.

The amendment to clause 9 refines the drafting of the proposed section 12(1)(b)(i) by deleting "not any impediment of kindred or alliance" and substituting with "no impediment of kindred or affinity".

The amendment to clause 12 expressly provides that a civil celebrant shall not act as a witness to a marriage celebrated by him.

The amendments to clause 13 make the proposed section 27(2) reflect the policy more clearly without changing the policy. For example, it clearly provides that a marriage shall be null and void if at the time of its celebration any party is under 16 years of age. Meanwhile, proposed section 27(1) also contains a new Schedule 5 that specifies that a marriage shall be null and void on the ground of kindred or affinity as provided in Schedule 5.

The amendment to clause 16 adds a reasonable excuse defence for the offences in the proposed sections 31A(1), 31A(3) and 31A(5) and reflects a consequential amendment following the amendment proposed in clause 6 by deleting the penalty provision for breaching section 6A(2).

The amendment to clause 17 amends the proposed sections 33A and 33B by raising the penalty for the offence of providing false information to the Registrar to procure appointment or falsely holding out as a civil celebrant to a fine at level 5 and two years of imprisonment.

The amendments to clauses 21, 22 and 23 rectify the typographical errors in the Chinese text and the English text of the Schedule concerned in the Bill.

Clause 24 clarifies the eligibility for appointment as a civil celebrant, including spelling out more expressly that relevant experience of an in-house solicitor will be counted towards the post-qualification experience required.

Clauses 26 and 27 propose a consequential amendment.

Clause 35 clarifies that the Registrar shall produce only Part I of a notice of intended marriage for inspection under section 7(4) of the Ordinance.

Clauses 50, 51, 52 and 57 amend the penalties for the offences under sections 29, 30, 32, 39(3)(a) and (b) to a fine at level 5 and two years of imprisonment;

Clause 58 refines the drafting of the Chinese text of the proposed Form 2.

Thank you, Madam Chairman.

*Proposed amendments***Clause 4 (see Annex)****Clause 6 (see Annex)****Clause 7 (see Annex)****Clause 9 (see Annex)****Clause 12 (see Annex)****Clause 13 (see Annex)****Clause 16 (see Annex)****Clause 17 (see Annex)****Clause 21 (see Annex)****Clause 22 (see Annex)****Clause 23 (see Annex)****Clause 24 (see Annex)****Clause 26 (see Annex)****Clause 27 (see Annex)****Clause 35 (see Annex)****Clause 50 (see Annex)****Clause 51 (see Annex)****Clause 52 (see Annex)****Clause 57 (see Annex)****Clause 58 (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 Security 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.

CHAIRMAN (in Cantonese): As the amendment to clause 7, which deals with deletion, has been passed, clause 7 is deleted from the Bill.

CLERK (in Cantonese): Clauses 4, 6, 9, 12, 13, 16, 17, 21 to 24, 26, 27, 35, 50, 51, 52, 57 and 58 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.

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| CLERK (in Cantonese): New clause 3A | Section added |
| New clause 17A | Section added |
| New clause 52A | Penalty on unauthorized person celebrating marriage |
| New clause 57A | Section added |
| New clause 60 | Schedule 5 added. |

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move that the new clauses read out just now, as set out in the paper circularized to Members, be read the Second time.

New clause 3A introduces a new section 2A to clarify that the notices mentioned in the Bill are not subsidiary legislation.

New clause 17A seeks to introduce a new section 34A to specify that proceedings for an offence against the provisions in the Bill may be brought within six months after the act or omission alleged to be constituting the offence is discovered by or comes to the notice of the prosecutor.

New clause 52A amends section 33 to include a fine at level 5 for the offence in that section.

New clause 57A introduces a new section 45 to introduce a saving provision.

New clause 60 introduces Schedule 5 to specify that a marriage shall be null and void on the ground of kindred or affinity as provided for in the Schedule. Thank you, Madam Chairman.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clauses 3A, 17A, 52A, 57A and 60.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move that the new clauses read out just now be added to the Bill.

Proposed additions

New clause 3A (see Annex)

New clause 17A (see Annex)

New clause 52A (see Annex)

New clause 57A (see Annex)

New clause 60 (see Annex)

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

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

MARRIAGE (INTRODUCTION OF CIVIL CELEBRANTS OF MARRIAGES AND GENERAL AMENDMENTS) BILL

SECRETARY FOR SECURITY (in Cantonese): Madam President, the

Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill

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 Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill 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): Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Bill.

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Construction Workers Registration (Fees) Regulation.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I move that the resolution contained in the Agenda be passed.

The purpose of the resolution is to amend the Construction Workers Registration (Fees) Regulation (the Regulation) laid on the table of the Legislative Council at the meeting of 19 October 2005.

It is the plan of the Construction Workers Registration Authority (the Authority) to commence registration for construction workers on 29 December this year. Prior to the commencement of registration, it is necessary for the Authority to prescribe, by regulation, various registration fees and other related arrangements in accordance with section 63 of the Construction Workers Registration Ordinance (Cap. 583). In consideration of the comments on the Regulation made by the Legal Service Division of the Legislative Council, we propose to amend the following provisions in the Regulation with a view to improving those provisions.

We propose to make the same amendments to sections 9 and 10, both of which prescribe the method of calculating the waiver of fees. The proposed amendment is to make such method applicable when an applicant makes two or more applications "at the same time". The proposed amendment also addresses the practical difficulties in determining the fee payable if an applicant makes a number of applications for registration or for renewal of registration at different times within the same day.

In order to set out in a clearer way the circumstances under which the prescribed fee is payable under sections 9(2)(b) and 10(2)(b), it is proposed to amend the lead clause of those paragraphs.

In order to facilitate users' comprehension that the date referred to in sections 11(1)(b) and (8)(b), and 13(1)(b) and 13(2) is indeed the expiry date of registration, it is proposed to add "expiry" before "date specified" whenever there is a reference to such expression.

I move that the resolution be passed. Thank you, Madam President.

The Secretary for the Environment, Transport and Works moved the following motion:

"RESOLVED that the Construction Workers Registration (Fees) Regulation, published in the Gazette as Legal Notice No. 166 of

2005 and laid on the table of the Legislative Council on 19 October 2005, be amended –

(a) in section 9 –

- (i) in subsection (1)(a), by repealing "on the same date" and substituting "at the same time";
- (ii) in subsection (2)(b), by repealing "in any other case" and substituting "in the case where the fee so prescribed for each application is not of the same amount";

(b) in section 10 –

- (i) in subsection (1)(a), by repealing "on the same date" and substituting "at the same time";
- (ii) in subsection (2)(b), by repealing "in any other case" and substituting "in the case where the fee so prescribed for each application is not of the same amount";

(c) in section 11(1)(b) and (8)(b), by adding "expiry" before "date specified";

(d) in section 13(1)(b) and (2), by adding "expiry" before "date specified". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for the Environment, Transport and Works 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. Two motions with no legislative effect. I have accepted the recommendations of the House Committee: the movers of these motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendment; the mover of an amendment will have up to 10 minutes to speak; other Members will each have up to seven minutes for their speeches.

First motion: Reducing and remitting the duty on ultra low sulphur diesel.

REDUCING AND REMITTING THE DUTY ON ULTRA LOW SULPHUR DIESEL

MS MIRIAM LAU (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed. Today's motion is proposed for all fuel-consuming sectors in the transport industry. Disregarding whether the fuel is dutiable or otherwise, those transport sectors that consume dutiable diesel are certainly the first to bear the brunt as a result of continued rises in oil prices. Not even those transport sectors using duty-free diesel and duty-free liquefied petroleum gas (LPG) can be spared, for the fuel prices have increased by too large a margin indeed.

At a special meeting of the Panel on Transport earlier, the representatives from 27 franchised bus, non-franchised bus, public light bus, ferry and taxi companies or organizations had expressed the hardships caused by the impact of persistently high oil prices on public transport services. Representatives of the public light bus trade pointed out that the monthly income of drivers had dropped \$2,500 to \$3,000. Representatives of franchised bus companies pointed out that the expenditure on fuel had drastically increased by 41% this year. Representatives of the ferry company pointed out that despite a fare increase early this year, the increase had been offset by the increase in oil prices and so, the company still suffered a serious loss and might have to apply for another fare increase. Representatives of non-franchised bus organizations hoped that the Government could consider implementing measures to assist the industry in controlling cost, so as to pre-empt the need to cut employees' salaries or to increase fares. Representatives of the taxi trade pointed out that even though taxis had converted to duty-free fuel, the prices of LPG had increased by 47% over the past few years, which has caused the operational cost to rise substantially. From this we can see that as oil prices increase continuously, the transport industry faces not only an increased diesel duty, but also increased operational cost.

Persistently high oil prices do not only affect the economy, but also the people's livelihood. The Panel on Transport has called on the Government to provide assistance to the transport industry as far as possible. That is why I propose a motion today to urge the Government to adopt effective measures to assist the transport industry in opening up new sources of income and cutting expenditure, and to consider reducing and remitting diesel duty. In fact, ultra low sulphur diesel (ULSD) now costs \$8.06 per litre, which has increased by 33% compared to \$6.07 per litre in early 2004. In less than two years, a major component of the operational cost of the transport industry has increased by more than 30%. As the cost is unlikely to be shifted under the present conditions in the market, drivers are put under heavier and heavier pressure from increasing oil prices.

Last year, I urged the Government to reduce the duty on ULSD by half for a period of one year. Mr Ronny TONG proposed an amendment, and the amendment was passed. He called on the Financial Secretary to thoroughly conduct a review of the problem of high oil prices, including the duty rate of diesel, faced by the transport industry within three months, and also propose solutions to address the problem, with a view to alleviating the hardships of the

transport industry. Regrettably, the transport industry has waited for three months after three months, and another three months after three months. Now that one year has gone by, and we have yet seen the Government conducting any review, let alone proposing solutions. Early this year, Mrs Selina CHOW proposed a motion calling for a fair competition law for the oil industries. The Government commissioned a consultancy study on the competition in the vehicular fuel market in Hong Kong only in June this year, and the consultancy study can be completed only at the end of the year the earliest. But after the completion of the study, in order to introduce a fair competition law for the oil industries, the legislative procedures may take several years more. In other words, I do not know for how many three months the transport industry would have to wait. Nor do I know if their hardships can be alleviated.

Last year, a majority of Members of this Council supported calling on the Government to conduct a review. It turns out that the transport industry is still facing the problem of high oil prices this year, and the problem has become more and more serious. Certainly, Mr TONG said that he appreciated the difficulties faced by drivers but it was necessary to first resolve the problem of monopolization by oil companies, in order not to benefit major oil companies at the expense of taxpayers. Last year, I told a story about a beggar begging for some bread from a wealthy man. The wealthy man was worried that the bread would be stolen by mice and so, he said that he had to catch the mice before giving bread to the beggar. But if the mice must be caught first before giving out the bread, the beggar will certainly be starved to death. So, since the Government has refused to conduct a comprehensive review and a fair competition law would unlikely be introduced for the oil industries in the near future, I hope that the Government can actively consider reducing and remitting diesel duty for one year until the end of next year, by which time the situation would be reviewed. I wish to reiterate that the transport industry is asking the Government to consider reducing and remitting diesel duty. The extent of its reduction or remission entirely rests with the Government in accordance with its affordability, and such reduction or remission of diesel duty is only for a period of one year, by which time the situation would be reviewed. Could it be that the transport industry, which is in hot water, is still unworthy of the Government's consideration of reducing and remitting diesel duty to a limited extent?

I believe a great majority of Members of the Legislative Council are sympathetic over the difficulties faced by the transport industry. But while

Members show great sympathy for them, I hope Members can also give concrete support to them and throw weight behind my motion. But during the debate last year, I noticed that some Members did not support reducing and remitting diesel duty for many reasons. They can be summed up into three reasons. The first is the "theory of mice and bread", that is, whether a review should be conducted before providing relief, or relief should be provided before conducting the review. It is not difficult indeed to understand the reasoning.

The second reason is the "theory of poor man and rich man". Members who are concerned about the people's livelihood are worried that after the reduction or remission of diesel duty, the Government would reduce other expenditure, such as that on welfare and medical services, following a decline in revenue. Members' concern is understandable. But I wish to point out that most drivers are not rich people. They are the grassroots, and an increase in oil prices has already caused their income to drop considerably. Meanwhile, increased oil prices have compelled public transport operators to apply for a fare increase. If the Government can reduce and remit diesel duty, it can definitely alleviate some of the pressure to increase fare, and this will benefit members of the public. All in all, a reduction and remission of diesel duty will benefit all members of the public, rather than just the drivers. For this reason, Members who are concerned about the people's livelihood should support all the more calling on the Government to consider reducing and remitting diesel duty.

The third reason comes from the "theory of enduring sufferings together". Members are concerned that reducing and remitting diesel duty may give people the wrong impression that the Government is biased towards the transport industry, because all trades and industries are also suffering from increased oil prices. But I wish to point out that the transport industry is definitely suffering more hardships than most other trades and industries, because diesel duty targets only at the transport industry, and the transport industry is the industry with huge or even the largest fuel consumption. Fuel accounts for 30% to 40% of their cost on average, and may even exceed 50% to some transport sectors. What is more, most transport sectors also have to pay diesel duty at \$1.11 per litre. If Members are concerned about the problem of increased oil prices faced by various trades and industries, they should support all the more reducing and remitting diesel duty, because these trades and industries all rely on transport. If the transport cost can be reduced, the cost of doing business for various trades and industries can also be reduced. To sum up, reducing and remitting diesel duty can benefit various trades and industries, rather than just one industry.

The Government already announced in end October the proposal to extend the concessionary duty rate for ULSD for one year, the seventh time the concessionary duty rate is extended by the Government. The Government has time and again extended the concessionary duty rate for ULSD because of the persistently high oil prices and so, the Government does understand the pressure on the transport industry. In this connection, I welcome and am thankful to this decision of the Government. However, the price of ULSD in June 1998 was \$6.58 per litre and at that time, the Government considered it necessary to reduce the diesel duty by \$0.89 per litre to \$5.69, in order to alleviate the people's difficulties. Now, the price of ULSD has increased to \$8.06 per litre. Why does the Government not think that it should consider a further reduction of diesel duty? With regard to the transport industry's call for a further reduction of diesel duty or even scrapping the duty for ULSD, the Government considers it neither feasible nor a solution to high oil prices. But I would like to ask the Government: If this is not a solution, what measure or plan does the Government have to effectively address the problem?

In the long run, I hope that the Government can review the basic policies on diesel duty. Although the Hong Kong economy is comparatively less reliant on petroleum products, the logistics industry, which is a major pillar of the Hong Kong economy, heavily relies on fuel. Increased oil prices will definitely affect the competitiveness of the logistics industry in Hong Kong. Recently, freight forwarders have charged shippers a fuel surcharge for land transport, and the surcharge accounts for 4% to 5% of the transport cost. Given increased shipment cost, the business cost of the shippers will naturally increase. The neighbouring ports where less expensive services are provided are, in comparison, more attractive, and this is not conducive to the development of the logistics industry in Hong Kong. I have pointed out repeatedly that in order to maintain the competitive edge of the local logistics industry, the freight cost must be reduced. Why does the Government not think about diesel duty and lend a helping hand, but just sit by idly watching the competitiveness of Hong Kong being undermined by the high oil prices?

The Government has stressed time and again that the extension of the concessionary duty rate has already caused the Government to suffer losses in hundreds of millions of dollars, and that a further reduction of diesel duty would lead to more losses incurred by the Government. But I would like to ask the Government whether it has thought about how many hundreds of millions of dollars will be generated to the Government if diesel duty can be maintained at a

low level or remitted? According to the statistics in 2004, of the working population in Hong Kong, 360 000 people are engaged in the transport, storage and communications industries, accounting for one tenth of the total working population in Hong Kong and one tenth of the Gross Domestic Product in Hong Kong. To put it simply, the transport industry is capable of generating economic benefits. If the operational cost of the transport industry can be lowered, the transport industry will be even more capable of creating economic benefits. Of course, this is just simple inference and so, I would call on the Government to conduct a review to study in detail how beneficial it will be and how many hundreds of millions of dollars can be generated to Hong Kong as a result of reducing or remitting diesel duty, rather than just stressing that a loss of hundreds of millions of dollars will be incurred.

Madam President, apart from urging the Government to actively consider reducing and remitting diesel duty to the benefit of the transport industry as a whole, another key point of my motion is to call on the Government to take effective measures to assist the transport industry in opening up new sources of revenue and cutting expenditure, so as to relieve public transport operators' pressure to increase fare. I pointed out earlier that 27 transport organizations had expressed their hardships to the Legislative Council. The Government made a response later, citing the measures taken for the assistance of the industry. For example, over the past two years, the prohibited zones and no-parking restriction at 15 locations have been relaxed for the public light bus trade. But I would like to ask: Are these 15 locations adequate, considering that there are 4 300 public light buses and about 2 000 km of roads in the territory? To public light buses, taxis, franchised buses, non-franchised buses, ferries and school buses, apart from sluggish business, increased operational cost has put pressure on them to increase fare, but the Government does not wish to see any increase in public transport fares. To truly assist the transport industry in opening up new sources of income and cutting expenditure, it is necessary for the Government to increase the strength of its measures, rather than just granting petty concessions and favour. For instance, there is a case in which a ferry company is still not allowed to put up an advertisement with commercial value above its pier despite four years of application. In another case, while a ferry company is permitted in principle to place a television screen above its pier for putting up advertisements after a year's application, the television screen is put up only after many years and after going through many departments. Can the Government streamline the vetting and approving procedures to enable these companies to open up new sources of revenue expeditiously? Can the

Government consider allowing the public light buses access to new housing estates, so as to extend the scope of their operation? Can the Government consider turning the temporary scheme of relaxing prohibited zone restrictions for taxis across the board into a permanent measure? Moreover, can the Government assist franchised buses to reorganize their routes and cut bus routes with low ridership, so as to reduce the number of empty buses on roads, which can facilitate environmental protection and the cutting down of expenditure.

Here, Madam President, I would like to briefly respond to Mr SIN Chung-kai's amendment first, and I will give a more detailed response later. Although the two measures proposed by Mr SIN are not entirely devoid of merits, they will be helpful only to the cross-boundary freight forwarding industry and the public light bus industry at most. What about the other transport sectors, such as franchised buses, non-franchised buses, ferries, taxis, container trucks, lorries, light goods vehicles, grab-mounted lorries, concrete mixer trucks, and the transport industry as a whole? On the contrary, my proposal of calling on the Government to reduce and remit diesel duty can benefit over 100 000 diesel-driven vehicles, and my proposal of calling on the Government to take effective measures to assist the industry in opening up new sources of revenue and cutting expenditure can cover the two measures proposed by Mr SIN and also benefit the transport industry as a whole. Mr SIN's amendment has nevertheless deleted the most important paragraph of my motion, that is, "adopt effective measures to assist the transport industry in opening up new sources of income and cutting expenditure, and to actively consider reducing and remitting the duty on ultra low sulphur diesel for one year until the end of 2006, by which time the situation should be reviewed". I wish to point out that supporting Mr SIN's amendment is tantamount to negating my motion, and this will be entirely useless to alleviating the hardships suffered by the transport industry as a whole due to high oil prices.

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

Ms Miriam LAU moved the following motion: (Translation)

"That, as the persistently high oil prices and high diesel prices have significantly increased the costs of doing business, and have hit various trades and industries, especially the public transport trade and the whole transport industry, weakened the competitiveness of Hong Kong's

logistics industry and seriously affected people's livelihood, this Council urges the Government to adopt effective measures to assist the transport industry in opening up new sources of income and cutting expenditure, and to actively consider reducing and remitting the duty on ultra low sulphur diesel for one year until the end of 2006, by which time the situation should be reviewed, so as to alleviate the hardship of the transport industry, relieve public transport operators' pressure to increase fare, and strengthen the position of Hong Kong's logistics industry."

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

PRESIDENT (in Cantonese): I now call upon Mr SIN Chung-kai to speak and move his amendment.

MR SIN CHUNG-KAI (in Cantonese): Madam President, the Democratic Party welcomes the Government's continued extension of the concessionary duty rate on ultra low sulphur diesel (ULSD) for we agree that the persistently high oil prices will aggravate the burden of the transport industry. However, the Democratic Party has reservations about the duty exemption on diesel.

First of all, I hope to remind Ms Miriam LAU that the current diesel duty rate of \$1.11 per litre is already a concessionary rate. When ULSD, a greener diesel, was first introduced into Hong Kong in 2000, the Government offered a concessionary duty rate of \$1.11, from the originally proposed \$2, for ULSD because of its higher import price in order to lure motorists to switch to this cleaner fuel. Compared with the previous diesel duty rate of \$2.89 per litre, the concessionary rate already represented a substantial reduction of more than 60%. This concession has been maintained since 2000. Ms Miriam LAU also pointed out earlier that seven years have lapsed if we start counting from 1998. Actually, history tells us that it is difficult for any price to rise once it has gone

down. I believe Members also expect this concession to be extended this year. This will cost the Government more than \$1 billion a year. Coupled with the extended concession announced by the Government in September this year, it will cost the coffers almost \$10 billion in revenue, which will have to be subsidized by other people in society.

Second, it is unjustifiable to exempt diesel duty because of high oil prices. This is because not only the transport industry is affected by high oil prices. All other industries using oil products, including such industries as printing, catering, services, retail, and even the garment industry, which uses synthetic fibre, are affected too. If diesel duty is slashed, should the Government treat other industries fairly by subsidizing them as well?

Furthermore, there have been dramatic fluctuations in oil prices. If duty is to be exempted when oil prices are high, does it mean that the duty can be raised when oil prices drop? In September this year, the crude oil price in the United States once reached US\$70 a barrel. This Monday, however, it fell to US\$57 per barrel, representing a fall of nearly 20% in two months. If diesel duty is to be exempted at present because of high oil prices, does it mean that the Government has to subsidize the transport industry according to its oil consumption when oil prices rise again? Or should a standard be set by this Council such that the Government can increase diesel duty when oil prices fall below a certain level? For instance, if the oil price falls to US\$40 a barrel six months later, will Ms LAU support the Government's readjustment of the diesel duty rate to \$2.98 per litre? Obviously, the answer is negative. This is because when crude oil price stood at approximately US\$30 a barrel in September 2000, Ms LAU already appealed to the Government for a duty concession. Obviously, regardless of the level of oil prices, the Government will still be asked to reduce and remit diesel duty. The Democratic Party thus has reservations about the proposal for a duty concession on diesel.

Third, Ms LAU pointed out in the motion that one of the justifications for the duty concession on diesel is to "relieve the public transport operators' pressure to increase fare". After slashing diesel duty, can the public transport operators' pressure to increase fare really be relieved?

I am doubtful of this argument because the public transport trade has never lowered fares even when oil prices are low. At present, all franchised buses are

exempted from diesel duty. In other words, all public buses (those operated by the two franchised bus companies) for the public's daily use are exempted from duty. Therefore, the burden of the bus companies will not lessen as a result of the duty concession on diesel.

At present, 99.98% of taxis have switched to liquefied petroleum gas (LPG), and LPG is duty free. At the same time, 42% of the remaining 4 300 public light buses (PLBs), having switched to LPG, are also exempted from duty. I therefore find Ms LAU's remark that remission of diesel duty can relieve the public transport operators' pressure to increase fare quite questionable.

As for the remaining 2 000 or so PLBs, their costs will certainly increase as a result of high oil prices. For this reason, the Democratic Party proposes that the Government — it is unfair that only representatives from the Financial Services and the Treasury Bureau, but not representatives from the Environment, Transport and Works Bureau, are present today, because this question is related to the transport industry — should allow PLB owners who are still using diesel to be subsidized and exempted from first registration tax under the LPG light bus scheme so as to encourage them to replace their diesel light buses with LPG light buses to minimize the impact of oil price fluctuations on them.

Furthermore, in order to ensure that the replacement of these light buses with LPG light buses will not lead to a shortage of refilling facilities, thus increasing the queuing time of drivers, the Democratic Party proposes that more refilling facilities be installed. In the opinion of the Democratic Party, allowing the replacement of existing diesel light buses with LPG light buses will not only alleviate the cost burden brought by high oil prices on some PLBs, but also reduce the number of diesel vehicles running on the roads, thereby alleviating air pollution.

Fourth, regarding the impact of diesel duty on the freight transport trade, we hope Members can refer to some data first. According to the information provided by the Government, an extension of the diesel duty concession will at least cost the coffers approximately \$1 billion a year. If we project on this basis, all diesel vehicles in Hong Kong except buses consume approximately

600 million litres of diesel per annum. As revealed by the information provided by the Transport Department, with the exception of buses, there are at present 120 000 or so diesel vehicles in the territory, of which 110 000 are light or medium goods vehicles or container tractors. This means that the average daily diesel consumption of each diesel vehicle is less than 14 litres, and the duty payable is \$15.3.

One of the reasons for the low fuel consumption by lorries may be the illegal consumption of marked oil by lorry drivers, though I do not see that the illegal consumption of marked oil has become so rampant. Another possibility is that lorry drivers commuting between the Mainland and Hong Kong on a long-term basis may opt to refill their vehicles on the Mainland because oil prices are lower on the Mainland than in Hong Kong. This explains why the average daily fuel consumption of each vehicle can be as low as 14 litres. I personally feel that this assumption is closer to the reality. Therefore, even if the Government decides to exempt diesel duty completely, diesel pump prices in Hong Kong will still be higher than those on the Mainland. Moreover, each driver can save only \$15.3 a day on average. So, how can the hardship of the transport industry be alleviated? This is incomprehensible to me.

However, the Democratic Party will still support the proposal raised by the transport industry of setting up duty-free petrol filling stations in frontier closed areas to allow vehicles commuting between the Mainland and Hong Kong to refill there. This proposal will help offer more incentives to mainland and Hong Kong drivers to refill their vehicles at these duty-free petrol filling stations. Owing to the high sulphur content of diesel on the Mainland, a large number of lorries will become one of the sources of pollution in Hong Kong should they refill on the Mainland before returning to Hong Kong. Therefore, I believe this proposal will help reduce air pollution caused to the territory by the higher sulphur content of diesel on the Mainland.

Madam President, it is not that I disagree that the operation of the transport industry in recent years is harder than before. What is more, I agree that they have been struggling extremely hard. However, in the opinion of the Democratic Party, it is simply because of the rapid development of container terminals on the Mainland and the lack of competitive edge of our container terminals owing to their exorbitant handling fees that mainland consignors have been deterred. For this reason, the Democratic Party proposes that the

Government improve the transport infrastructure of the two places by, for instance, expediting the implementation co-location of clearance at Lok Ma Chau, constructing Container Terminal No. 10, introducing new terminal operators, introducing fair competition legislation, and so on, to enhance the competitive edge of our container terminals and help alleviate the hardship of our transport industry. Therefore, here I would like to urge the Liberal Party to support the motion to be proposed on fair competition law by Mr LEE Wing-tat later.

Madam President, high oil prices certainly increase the pressure of rising costs on certain industries. To tackle this problem, the Government should consider promoting greener vehicle fuels not extracted from petroleum. In doing so, not only can the hardship faced by the transport industry resulting from oil price fluctuations be alleviated, the air pollution problem facing the territory can be ameliorated as well.

Madam President, it is indeed very difficult for the Democratic Party to debate this question. On the one hand, we have reservations about the exemption of vehicles running in the territory from diesel duty. On the other hand, as the fleece still comes from the sheep's back, all of us should share the responsibility, as we are users of the transport industry. As for the cross-boundary issue, we consider it a matter relating to the competitive edge of the two places. In brief, the idea of setting up duty-free petrol filling stations at boundary crossings is acceptable to us. This is because, from an objective point of view, vehicles commuting between China and Hong Kong will anyhow top up their tanks before returning to Hong Kong. In other words, even if the Government refuses to set up duty-free petrol filling stations at crossing points, it will still be impossible for the Government to collect diesel duty. Nonetheless, I consider it necessary for the Government to consider the overall matching facilities in this respect.

PRESIDENT (in Cantonese): Mr SIN Chung-kai, I did not hear you move your amendment.

MR SIN CHUNG-KAI (in Cantonese): Actually, I was looking up the script. Madam President, I move that Ms Miriam LAU's motion be amended.

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

"To add "welcomes the Government's extension of the concessionary duty rate on ultra low sulphur diesel, and" after "this Council"; to delete "adopt effective measures to assist the transport industry in opening up new sources of income and cutting expenditure, and to actively consider reducing and remitting the duty on ultra low sulphur diesel for one year until the end of 2006, by which time the situation should be reviewed" after "urges the Government to" and substitute with "further adopt the following measures: (a) setting up duty-free petrol filling stations in frontier closed areas so as to relieve the burden on the cross-boundary freight transport trade; and (b) re-allowing public light bus owners to apply for subsidies to replace their diesel light buses with liquefied petroleum gas ('LPG') light buses under the LPG light bus scheme, and increasing the number of LPG filling stations so as to shorten the queuing time for refilling LPG vehicles, with a view to encouraging public light bus owners to replace their diesel light buses with LPG light buses"; to delete "of" after "so as to alleviate the hardship" and substitute with "suffered by"; and to add "due to fluctuations in oil prices" after "the transport industry"."

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

MR LAU KONG-WAH (in Cantonese): Madam President, the issue of ULSD duty has been debated in this Chamber for more than four years. In November last year, Ms Miriam LAU's motion, as amended by Mr Ronny TONG, was eventually passed by this Council. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) also hopes that the authorities can expeditiously review the existing ULSD duty rate. Despite the Government's announcement that the concession will be extended to the end of next year, we still consider that not enough.

Regarding the announcement by several oil companies of their decision to lower their prices last week, we certainly welcome their adjustment of prices according to circumstances. To the transport industry, however, the adjustment

is merely like putting a teaspoon of sugar into a big cup of bitter tea. Only the transport industry understands its own hardship. The consistently high oil prices in the past have indeed constituted a major burden. The pump price of ULSD has risen more than 30% within two years, from \$6.07 in October 2003 to \$8.06 at present.

During the two discussions on oil prices conducted during the meetings held by the Panel on Transport, the industry reflected to us that rising oil prices had raised the operating costs of light buses by more than 20%. As most red minibuses are operated by self-employed persons, the bosses will deduct directly from the wages of drivers. This is precisely an example of "oil companies reaping profits at the expense of the masses". In order to maintain their profits, some vehicle types not required to make applications to the Transport Department before increasing fares, such as school buses and non-stop buses, have wasted no time in transferring their pressure onto the consumers. Their practice of raising fares and reducing concessions as far as possible will ultimately victimize the general public.

Madam President, given that Hong Kong's fiscal situation has already improved, the duty concession on ULSD is definitely a good idea. First, the industry can reduce its operating costs as if it has taken an instantly effective wonder drug. This will in turn enhance the competitive edge of the industry and stimulate its revival, and thus benefit our economy. Second, the transport operators' pressure to raise fares will be relieved, and regular commuters will ultimately be benefited. Lastly, social grievances will be reduced if the Government is really sincere in answering the industry's demands made over the years and dispelling their discontent with the Government.

Madam President, the DAB greatly supports the request made by Mr SIN Chung-kai in his amendment on the Government to re-allow light buses to apply for subsidies to switch to LPG light buses and increase the number of LPG filling stations. As the price of LPG is nearly 50% cheaper than that of diesel, the operating costs of the industry can then be directly reduced. At the same time, LPG is more environmentally-friendly than diesel.

I believe the proposal of setting up duty-free petrol filling stations in frontier closed areas as a concession for goods vehicles community between Hong Kong and the Mainland can help bring the drivers back to Hong Kong to refill their vehicles, thus reducing the chances of refilling cheap oil on the Mainland. However, we must pay attention to the point that only vehicles with

closed road permits are allowed to access the petrol filling stations set up in the areas. Other vehicles are disallowed from entering the areas. Such an unfair and double standard might even cause discontent from other transport trades. Furthermore, Mr SIN Chung-kai has, in his amendment, proposed to delete the wordings "to actively consider reducing and remitting the duty on ultra low sulphur diesel" from the original motion. However, we consider these wordings are the very essence of the entire motion. The motion will therefore lose its spirit and fail to answer the aspirations of the industry should the wordings be deleted. Therefore, the DAB will oppose Mr SIN Chung-kai's amendment.

Madam President, what measures have actually been taken by the Government to soften the impact of high oil prices on the industry? So far, the Government has merely allowed advertising on minibus bodies, relaxed the boundary of and time restriction on prohibited zones, and so on. Actually, all these measures cannot really help the industry broaden their sources of income and reduce expenditure. Some people in the industry have reflected to me that they will make fewer trips in order to economize on fuel. However, will the advertising agents still be willing to put advertisements on minibuses on seeing that the minibuses run less frequently on the roads? Given that the number of relaxed prohibited zones is not numerous, when a number of vehicles flocked to the same spot to "tout passengers", they will end up making more losses than gains by wasting both fuel and time. If the Government really wants to help people in the transport industry who are on "saline drip", it must stop handing out plasters to them. Instead, a dosage of wonder drug is what they really need.

Therefore, the DAB supports the original motion and oppose the amendment. Thank you, Madam President.

MR LEE CHEUK-YAN (in Cantonese): President, as with the one conducted last week, the motion debate today is also about taxes. During the debate last week on the Government's proposal of abolishing estate duty, the Bill was eventually passed, thus costing the coffers \$1.5 billion. I remember the Government would often argue in proposing to abolish estate duty that it hoped to converge with the world and Hong Kong must maintain its position as an international financial centre. Having justified the importance of maintaining Hong Kong's position as an international centre with a number of reasons, it has foregone \$1.5 billion. At that time, the Hong Kong Confederation of Trade

Unions indicated very clearly its opposition to the abolition of estate duty on the ground that it would cause an enormous impact on people's livelihood because, with less tax revenue, less money would be spent on the poor, society or investment.

However, today the Government has in turn stated that the diesel duty should continue. Despite its proposal for abolishing estate duty last week, the Government has proposed to maintain diesel duty today. Is the Government discriminating against the transport industry but biased in favour of the financial sector? Is the Government discriminating against Ms Miriam LAU but biased in favour of Mr CHIM Pui-chung? Nevertheless, I am not going to argue about the issue of functional constituencies today. The logistics industry is one of the four main pillars of Hong Kong. Attaching great importance to it, the Government has often said that the industry is vitally important. If the Government really believes so, does it realize that oil prices have become the most serious problem confronting the entire transport industry? There is nothing the Government can do about oil prices. At present, Hong Kong is still devoid of a fair competition law. Neither are there any tools available to deal with such problems as monopolization in oil markets and collusive pricing. This explains why Members can see that when oil prices continue to rise, oil companies will increase the pump prices of oil. When oil prices fall, however, they will not lower the pump prices immediately — the pump price was only slightly lowered last week. It is very obvious that the market is being monopolized by oil companies. Yet, the Government has taken no action at all.

Not only has the Government failed to take any action, it is even acting indifferently towards those who are suffering. It should be well aware of the grievances of the industry for the oil prices have risen by more than 30% within two years. Come to think about this. Oil is the major cost of the transport industry. With oil prices having risen by more than 30%, the Government is still refusing to help and acting indifferently. Now that a duty concession on diesel has been proposed, but to what extent should it be considered suitable? At present, the diesel duty stands at \$1.1 per litre. I consider it most preferable for the duty to be exempted altogether. In doing so, the Government will no longer need to deploy staff to arrest people selling marked oil as diesel will be duty-free. The workload of Customs may be reduced too. Actually, what loss will the Government suffer? Of course, it will cost the Government tax revenue. However, if the industry can thus make more money so that everyone can have

more to spend, the Government might end up having more instead of less revenue. So what is the sense of not doing that?

President, the transport industry is currently in dire straits. I would like to describe the present situation as the big unscrupulous employers forcing employers of the transport industry to be small unscrupulous employers. Who are the big unscrupulous employers? The answer is not the Government — I am a fair person. The oil companies are the big unscrupulous employers. I merely said that the Government was being indifferent. Being the big unscrupulous employers, the oil companies keep increasing oil prices, thus forcing the employers of the transport industry to become small unscrupulous employers by slashing workers' wages and forcing them to change to self-employed status in order to save Mandatory Provident Fund contributions and labour insurance. At present, all the workers in the transport industry have changed to self-employed status. Moreover, many of them have been forced to accept reduced wages. Under such circumstances, wage earners, the most miserable group, will eventually be made to bear the burden. The Government is actually creating poverty and making life miserable for the workers. Therefore, the first major problem with livelihood is that drivers in the whole transport industry are unable to make ends meet. In addition to accepting reduced wages, they have to change to self-employed status, thus losing all their benefits.

The second major impact on livelihood is that the burden will obviously be transferred onto consumers. Now, the public light buses are racing against one another in raising fares and passing the increased cost onto the consumers. Should the Government be able to give a helping hand to prevent the burden from being transferred onto the consumers, it is possible for the people's livelihood to be protected.

Insofar as this issue is concerned, President, I feel that the Government has let the industry and its own pledges down. The Government has pledged to review the duty rate. May I ask the Secretary what has been reviewed? Frankly speaking, the review is extremely vague. The Secretary will definitely say that it is found after the review that the diesel duty should continue. However, we should not just take a causal look during the review. Instead, we have to refer to the international trend. Now that diesel duty has already been waived in Singapore, why can Hong Kong not do the same? The Government has often talked about the global trend. Given that the global trend has started realizing this problem and learned that diesel duty has to be waived in order to

protect or promote the transport and logistics industries, why can diesel duty not be waived in Hong Kong?

Lastly, President, I hope Mr SIN Chung-kai can think about what he said just now. I do not entirely understand one of the points he raised earlier. He asked: Should the printing and garment industries be subsidized if the transport industry is to be subsidized? Actually, the printing and garment industries have already been subsidized because they are not required to pay tax. Otherwise, why is it necessary for the Government to tackle the issue of marked oil? Marked oil is duty-free. Why is it that the transport industry prefers marked oil? Despite our opposition, why are they allowed to use marked oil? This is because industrial diesel oil is duty-free. This explains why the industrial sector is already subsidized. How would the Government answer my question if I ask, "Why is the industrial sector but not the transport sector offered the subsidy? To a certain extent, the industrial sector can receive subsidy, but why can the transport sector not be treated in the same manner?" According to the existing policy, the Government is already subsidizing the industrial sector.

The Government has always maintained that the logistics industry is Hong Kong's future industry. At present, the industrial sector is on a gradual decline. If the Government refuses to help our future industry, does it mean that the Government will feel pleased only when the transport industry eventually goes into decline as well? President, I therefore hope that the Secretary can seriously consider today's proposals. Regarding the issue of whether diesel duty has to be reduced, I think that there is actually no need to do so. The best way is to waive this duty direct because there will then be no more problems with marked oil and Hong Kong's economy and livelihood will find better development too. Thank you, President.

MR WONG KWOK-HING (in Cantonese): President, international oil prices have persistently remained high over the past year, and this has dealt a serious blow to the transport industry. The Legislative Council has discussed this issue for many times at its meetings and also at meetings of the panel concerned, hoping that the operational difficulties currently encountered by the transport industry can be ameliorated. This Council has also repeatedly discussed motions suggesting the Government to reduce and remit the duty on ultra low sulphur diesel (ULSD). In this regard, the Hong Kong Federation of Trade Unions (FTU) hopes that the Government can abolish the duty on ULSD across the board to provide a better business environment to the industry.

Despite improvement in the economy in recent years, the transport industry and the grassroots have not been able to share the fruits of economic improvement. On the contrary, news about layoffs and pay cuts has never ceased. The grassroots are still living in straitened circumstances. To taxi drivers, public light bus drivers and coach drivers who serve the general public, it is downright impossible for them to charge passengers fares at a new rate. But the operational costs, such as oil prices, insurance and miscellaneous expenses, have increased substantially, and as passengers cannot afford expensive transport fares, the industry, in order not to affect passengers as far as possible, cannot help but bear the pressure brought by high oil prices. According to the Motor Transport Workers General Union, an affiliated organization of the FTU, apart from car rental, truck drivers and red minibus drivers also have to pay out of their own pocket exorbitant fuel costs, which account for more than one quarter of their income.

Apart from the various means of public transport, such as taxis and public light buses, another category of vehicles suffering greatly from the diesel duty is lorries and container trucks. According to the container truck industry, a container truck which operates 30 days a month, for instance, has to incur \$3,300 in fuel duty, which is a very heavy burden on container truck drivers. It is precisely because of the high fuel duty that some drivers are forced to use illegal fuel instead. As a result, the Government has to expend enormous manpower and resources to tackle and crack down on such activities. Is it reasonable for public coffers to be expended in such a way?

Besides, under the Government's policy of according priority to railway development, many railways have been completed or have commenced construction one after another in recent years. Following the rapid development of railway, the railway network now covers all parts of the territory, and this has virtually brought public transport sectors to face fierce competition. In order not to add to the heavy burden on the industry, the FTU hopes that the Government can further reduce and remit diesel duty. This will not only alleviate the pressure on the industry in operation, but will also be conducive to improving the business environment and sparing members of the general public from having to pay for expensive transport fares continuously.

Moreover, from the perspective of the Government's Treasury, we do not see that the duty on ULSD is important and essential. On the contrary, it is an essential and pressing issue to the transport industry. Now, I will explain from

three perspectives why ULSD is vitally important to the transport industry but not necessarily that important to the Treasury.

Firstly, the Government has time and again extended the concessionary duty rate for diesel. If we look up the information, we will find that the Government has since December 2000 extended the reduced duty rate on ULSD for six times, reducing the duty from \$2.89 to the present \$1.11 per litre. Together with this extension, the Government has extended the concessionary duty rate for diesel for seven times altogether. Since the Government can grant such duty concession for seven times in a row over the past five years, does it prove that diesel duty is an important revenue of the Government?

Secondly, according to statistics, the Treasury would receive about \$700 million less in revenue per annum after the abolition of the duty on ULSD. Certainly, the Government may emphasize that this revenue of \$700 million is utterly important, or it may say that this is taxpayers' money and so, it is necessary to ensure that public resources are utilized in a reasonable way. But has the Government ever considered that this \$700 million can be used to ease the pressure on the industry and also the burden on all Hong Kong people? The Government has no reason not to abolish this diesel duty. Since the Government can abolish the estate duty which can generate \$1.5 billion to the Treasury every year, why can this \$700 million not be scrapped?

Thirdly, the Financial Secretary has recently started extensive public consultation for formulating next year's budget. According to media reports, as the Government's financial income has gradually become stable and economic conditions improved, the Government will consider reducing tax next year. Since there is room for the Government to reduce tax, why does it not bring this piece of good news to the transport industry first?

Furthermore, consistency is lacking in the Government's policies. The FTU has also reflected the dissatisfaction generally felt by the transport industry before. Why can bus companies enjoy duty-free concession, whereas public light buses, taxis, lorries, container trucks, dump trucks, and so on, have to pay expensive duty? To these operators of business of a small to medium scale, the Government's policy appears to be biased in favour big enterprises. Insofar as creating a favourable business environment is concerned, is the Government not applying a double standard?

President, I support the original motion of Ms Miriam LAU. I do not support the amendment proposed by Mr SIN Chung-kai, because his amendment only mentions welcoming the Government's extension of the concessionary duty rate on ULSD, and this, in the view of FTU, is not adequate and may not be most practically helpful to the transport industry. Over the past five years, the Government has extended the concessionary duty rate many times, which has no doubt alleviated the pressure on the industry in operation. But this is not enough. We hope that the Government will reduce and remit..... *(The buzzer sounded)*

PRESIDENT (in Cantonese): Mr WONG, your speaking time is up.

MS LI FUNG-YING (in Cantonese): Madam President, the Federation of Hong Kong and Kowloon Labour Unions, together with eight of its affiliated transport trade unions, wrote to the Legislative Council Panel on Transport in mid-September this year calling on the Government to take practical actions to immediately reduce the duty rate on ultra low sulphur diesel (ULSD) from \$1.11 per litre at present to \$0.55 per litre in order to rescue the transport industry. Today, Ms Miriam LAU proposed a motion requesting the Government to "actively consider reducing and remitting the duty on ultra low sulphur diesel for one year until the end of 2006, by which time the situation should be reviewed". In the short run, I think this can help the transport and logistics industries ride out the hard times and prevent the industries from shifting onto members of the public the increase in cost and expenditure as a result of high oil prices and hence making the public shoulder hefty transport fares. In the long run, I think the Government must actively conduct studies and where necessary, enact legislation to set up an effective mechanism for fair competition, so as to stamp out continued anti-competitive business practices by the oil companies. This is the way to find the right cure to the problem, effectively alleviate the plights of the transport industry, ease the pressure of public transport to increase fares and consolidate the position of the logistics industry in Hong Kong.

Since 1998, the Government has extended the concessionary duty rate on ULSD for six times. The Government will propose a resolution to the Legislative Council early next month to extend for the seventh time the concessionary duty rate until end-2006, and the Government has stressed that its revenue would consequently drop about \$1.1 billion per annum. But the local

transport industry has still presented many statistics to show the operational difficulties encountered by the industry, hoping that the Government can address squarely the problems of the transport industry in their operation where high oil prices prevail. For instance, although international oil prices have come down by over 10%, the oil companies in Hong Kong have only adjusted the oil price slightly downwards by 2%, while the retail price of ULSD has even increased continuously from \$5.65 in November 2004 to \$8.26 at present, which means an increase of 46% within one year. Given that fuel expenses constitute a major component of the operational cost of the transport industry, which account for about 25% to 50% of the total operational cost, surging oil prices have even added to the burden of the transport industry which has already been operating with great difficulties, particularly the small operators and the self-employed. I believe the industry also hopes that the Government can address the problem squarely with a positive attitude and by implementing measures that can tackle the problem at root, rather than adopting an evasive attitude and a piecemeal approach, finding only temporary solutions to long-standing problems.

In fact, the existing Telecommunications Ordinance and the Broadcasting Ordinance carry provisions on "anti-competitive practices" and "abuse of position", with the objective of monitoring monopolistic practices in the market. It is provided in law that if a licensee "engaged in conduct which has prevented or substantially restricted competition in a telecommunications market", such as agreements to fix the price in a telecommunications market, an action preventing or restricting the supply of goods or services to competitors, agreements between licensees to share any telecommunications market between them on agreed geographic or customer lines, and so on, the licensee will be considered as having committed an offence.

The Government has long introduced anti-trust laws into the telecommunications market, which have effectively upheld equity in the operation of the telecommunications market, and Financial Secretary Henry TANG stated in December last year at a meeting of the Legislative Council Panel on Financial Affairs that if the investigation of the Competition Policy Advisory Group concluded that oil companies in Hong Kong are "quick in increasing oil prices but slow in reducing them" and that they have engaged in anti-competitive practices, the authorities will not rule out the possibility of enacting legislation to impose regulation, just as the regulation of the telecommunications and broadcasting markets. The Competition Policy Advisory Group will complete its report very soon. I hope that this report can draw a fair and just conclusion,

and I all the more hope that the Government can introduce amendments to the relevant ordinance to prohibit anti-competitive practices by oil companies.

Madam President, I so submit.

MR ANDREW LEUNG (in Cantonese): Madam President, before I discuss this motion today, I would like to recap the remarks made by the Financial Secretary the other day. The Financial Secretary said in a radio programme that the Hong Kong economy has picked up to a significant extent both in terms of its depth and width. But as there are still factors that give cause for concern, taxes may increase in some cases and in some other cases, taxes may be lowered next year in Hong Kong. He said that in general, it would depend on the economic recovery in Hong Kong as well as the external factors, including high oil prices.

I think these remarks of the Financial Secretary can match today's motion very well. They have precisely pointed to the adverse impact of high oil prices on the economy of Hong Kong. I hope that the Financial Secretary, having listened to my speech today, will go back and rethink about whether there is still room for the duty rate on ultra low sulphur diesel (ULSD) to be further adjusted downwards.

The prices for Brent Crude oil has surged and nearly doubled over the past two years. Just now Ms LI Fung-ying also mentioned that the price of ULSD in Hong Kong has risen by over 40%. Given the drastic increase in oil prices, the logistics industry, which is among the four major economic pillars, is naturally the first to bear the brunt. The transportation cost of various trades and industries has consequently increased substantially, and this has indirectly increased the cost of various types of products.

As we all know, competition has become fierce in the region insofar as the logistics industry is concerned. While Hong Kong has to make every effort to catch up with Singapore, we also face a vigorous challenge from the Mainland. In the first seven months of this year, Singapore handled 12.84 million TEUs in aggregate, showing a robust increase of 9.6% in the container throughput compared to last year. This number has already exceeded the 12.59 million TEUs handled by Hong Kong during the same period when the throughput of Hong Kong only recorded a slight increase of 1%. Such a trend is indeed worrying.

Besides, let us not forget that at present, it costs US\$300 more for a container to be exported by means of land transport from Hong Kong than from Shenzhen. The first and foremost task now is certainly to reduce the freight cost, apart from enhancing the efficiency of the logistics industry in Hong Kong.

In late August this year, owing to surging oil prices, a number of organizations in the transport industry had once proposed to charge shippers a fuel surcharge for land transport at a rate being 4% to 5% of the cost of container transportation. Subsequently, after discussion with the shippers, it was agreed that a mechanism be established whereby both parties will negotiate the amount of the surcharge in the light of the situation in each case. However, a surcharge still means an increase in cost, which will undermine the competitiveness of the freight forwarding industry in Hong Kong. For this reason, I agree that when the logistics industry is affected by high oil prices, the industrial and commercial sector will also be affected altogether. This somehow shows an inter-dependent relationship between them.

Apart from impacting on the transport industry and dealing a blow to the livelihood of professional drivers, high oil prices will also affect the people's livelihood. In view of increasing oil prices, 40-odd green minibus routes have earlier on applied to the Transport Department for fare increases, pending approval by the authorities. This shows that the increase in cost will eventually be shifted onto the public.

Take the catering industry as an example. Despite an increase in fuel prices, the price of "dim sum" cannot be increased substantially. So, the London Restaurant which has operated in Yau Ma Tei for 27 years will have to close down a week or so later on the 28th of this month due to operational difficulties. The Director and Deputy General Manager of the restaurant, Mr SO, told the media that one of the reasons for closure was that the expenditure on diesel, water charges, electricity tariffs and sewage charges has increased considerably by about 30%.

From this we can see that various trades and industries are under heavy pressure now. If, as suggested in the original motion, the duty on ULSD can be reduced and remitted for one year until the end of next year, by which time the situation will be reviewed, the pressure could be eased immediately. Certainly, the Government can still adopt various effective measures to assist the transport industry in opening up new sources of income and cutting expenditure. But the

proposal on setting up duty-free petrol filling stations in frontier closed areas, with due respect, is obviously not feasible in my opinion.

First, the environmental standards for diesel are different between the Mainland and Hong Kong, but the price of diesel in the Mainland is far cheaper than ours. If duty-free petrol filling stations are set up in frontier areas, even the \$1.11 diesel duty would be gone. Given that there is still a large gap in oil prices between Hong Kong and the Mainland, it is doubtful as to whether these petrol filling stations will be attractive to professional drivers. Even if drivers are successfully attracted to use USLD, the effect would be equivalent to the Government losing the \$1.79 billion revenue from ULSD for good, and this would virtually further narrow the tax base in Hong Kong. The consequence would be even more far-reaching than that of reducing and remitting diesel duty for one year as proposed in the original motion. Moreover, the two proposals mentioned in the amendment are narrower in scope than the original motion of Ms Miriam LAU, and cannot fully take care of the needs of the transport industry. For this reason, I have reservations about the amendment.

With these remarks, Madam President, I support Ms Miriam LAU's motion.

MRS SELINA CHOW (in Cantonese): President, I did not intend to speak in this debate in the first place because we all know that Ms Miriam LAU's viewpoint on the subject of diesel is very comprehensive. As such, she can completely speak on our behalf and reflect our viewpoints. However, after listening to the speech delivered by Mr SIN Chung-kai on his amendment, I feel really baffled and therefore compelled to say a few words in response.

Mr SIN Chung-kai mentioned one reason for not supporting this motion at the beginning of his speech, that is, a tax item that has been reduced cannot be increased again. He said that if we slash a certain tax item, then we cannot propose any increase to it in future. I am really baffled. If so, the Legislative Council can never request the Government to reduce any fees or charges. However, I have often heard of many Members of the Democratic Party demanding the Government to reduce various tax items. In my opinion, we, either the political parties or individual Members, simply cannot consider any issues from such a perspective. Insofar as tax items are concerned, their

increases or reductions should be supported or opposed on their own merits. Of course, the overall economic climate is very important, so is the affordability of the people, both of which must be taken into consideration. We cannot just demand tax reductions while ruling out all tax increases. In fact, this is not the case in reality. Even Ms Miriam LAU, the representative of the transport constituency, has told us that their sector was not blind to rational reasoning. If the situation has improved, for example, the economic climate has improved or the oil prices have dropped, then the industry does not mind seeing increases in certain tax items. However, insofar as the present situation is concerned, in fact people of the sector are at the brink of "struggling for their own survival". Therefore, they hope that the Government can make the corresponding adjustments. This is their common aspiration. I do not know whether Mr SIN Chung-kai has talked to them, but I am sure his theory that previously reduced tax items cannot be increased again absolutely does not reflect the industry thinking.

However, what we are discussing today is not the problem of an individual industry, nor is it a minor problem of a cross-boundary trade, as described by Mr SIN Chung-kai. What we are discussing now is how the overall economic climate of our society has been affected by this problem, instead of just fighting for the interests of an individual industry. Therefore, the speech delivered by Mr SIN Chung-kai in moving his amendment has been rather weird. This is because he has only mentioned the cross-boundary trade, while all other factors seem to have been ignored. Earlier on, Mr Andrew LEUNG has said very explicitly that this is not a problem of an individual industry, it also has an impact on other aspects of the commercial and industrial sectors as well as the overall economy. Therefore, Mr SIN Chung-kai's amendment seems to have given us the impression that he knows only the general idea, but does not care about the truth of the meticulous details.

I hope Mr SIN Chung-kai's speech does not reflect the Democratic Party's views on the economy. Yet, he is really the spokesman of the Party on economic issues. If they really think in this way, it does leave me with grave worries because we hope that all Honourable Members can consider this significant issue from a wider perspective. This is particularly so as it will have an impact on our overall economy as well as the people's affordability. Therefore, we should consider the issue in a more holistic angle. Thank you, President.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, diesel duty has a direct impact on many professional drivers. In particular, drivers of light goods vehicles are hit even harder. It is because under the current economic conditions, their business has been dropping continuously. This, coupled with the expensive fuel duty, is nothing short of a double blow to them. Under the current circumstances, if the Government does not lend them a helping hand, it will be very difficult for the relevant industries to develop.

Regrettably, government assistance only targets at some other industries or people, instead of these professional drivers. For instance, the Government considered it insignificant to receive \$1.5 billion less from estate duty and considered this unimportant, but it is so gravely concerned about receiving less revenue from diesel duty. I hope that the Government will look at this from a macroscopic perspective. Since the Government could be so generous, can it not also take care of these professional drivers? This is the first point that I wish to make.

Can the Government provide some leeway for public transport to generate income by, for example, allowing drivers to display advertisements on their vehicles as a means to increase their income and hence ease their burden? While I think this is a viable option, it may not be very effective given its passive nature. So, I hope that the Government can consider helping the drivers in more direct ways. One of these options may involve another Director of Bureau, rather than the Secretary for Financial Services and the Treasury. This option has been discussed for a long time before and that is, to allow drivers (particularly drivers of light goods vehicles) to convert to liquefied petroleum gas (LPG). Although this proposal has been discussed for quite some time, it is regrettable that no progress has been made so far, and the situation has remained unchanged. I think this will produce significant effects for the fleet of 5 000-odd light goods vehicles running on the roads every day.

I think the Government should come up with an effective measure to resolve economic pressure and mitigate environmental pollution. As we all know, the overall environment has improved a lot since taxis have converted to LPG. The issue of light goods vehicles converting to LPG has been discussed for many years. Why can the Government not do anything to improve the

situation? It is most regrettable that the Government is not even willing to try it out. Although the topic of our discussion today is diesel duty, this issue cannot be omitted. If the Government will consider adopting practical measures to address the problem, I think what I have just said is the most practical solution, which warrants consideration by the Government.

President, I so submit.

MR HOWARD YOUNG (in Cantonese): Madam President, surging fuel prices and high oil prices actually concern not only the logistics industry and the transport industry. They are also of concern to other industries, including the tourism industry. Some people said that the tourism industry seems to be booming now, so why should we in this industry be concerned about this, as we did not seem to have much opinion about this before? Although the number of in-bound visitors hit an all-time high of 21.8 million last year, and mainland visitors even accounted for 60% of the total number, it does not mean that the tourism industry is truly booming.

The tourism industry can easily be affected by external factors. For example, the avian flu incidents recently, terrorist attacks, and so on, have created uncertainties for the industry. Besides, when business has slightly improved, many landlords will increase the rents and this has also put pressure on the tourism industry.

Therefore, the persistently high oil prices in recent years have affected not only the transport industry but also the tourism industry. This has even worsened the plights of travel agencies which have already faced difficulties in their operation. The profit margin of travel agencies is meagre. Those travel agencies providing local sightseeing tours charge as low as tens of dollars for such tours which include sightseeing at tourist spots, tour guide services, transportation by coach and two meals. In some cases, the tour fee for Hong Kong Tour organized for mainland tourists is only a few hundred dollars, including round-trip transportation and hotel accommodation. Given fierce competition in the industry and as travel is not a necessity, the number of visitors may easily be affected by the rate of increase in tour fee. A slight increase in tour fee may dampen people's desire to join package tours. So, even though the cost has increased as a result of increasing oil prices, travel agencies will not hastily increase the tour fee to offset the increase in cost as a result of high oil

prices. As they cannot target actions at the visitors by shifting the increase in cost onto the visitors, travel agencies can only absorb such increase by themselves, cutting other expenses by all means in order to reduce the cost. But honestly speaking, under today's business environment, it is indeed quite unlikely for the cost to be further reduced. We can see that the operation of travel agencies has become more and more difficult.

But sometimes, it is simply impossible to cut expenditure. At some popular tourist spots, given insufficient parking spaces, after the tourists have got off the coach, the coach must go round and round on roads in the vicinity until it is time to pick up the tourists. This actually requires continuous consumption of fuel, and the coaches, in so doing, will have to shoulder additional fuel charges and will also add to the burden on roads.

Insofar as the spending pattern of in-bound visitors is concerned, shopping accounts for over 50%; accommodation takes up some 20%; and the remaining 10% to 20% goes to catering, entertainment, transportation and sightseeing. The industry always hopes that the proportion of sightseeing can be increased, because a shopping-based tourism industry is neither all-round nor healthy. Such an industry will not have sustained development and lacks the solid elements for sustainable development. But as oil prices continue to rise in recent years, travel agencies have reduced the number of sightseeing spots and shorten their tour programmes as far as possible, so as to lower the usage of coaches, hoping that the fuel cost can hence be reduced. If things go on like this, the situation would deviate farther and farther from the travel pattern of enhanced sightseeing elements that we have all along advocated. This will not be conducive to the long-term development of the tourism industry.

In fact, surging oil prices have added to the heavy burden on travel agencies, as they have to cope with the ever increasing fuel cost for the coaches. Since the Government is unable to control oil prices, and as the surging of oil prices is an indisputable fact, and the Government, in appreciation of the plights of the industry, has continued to extend the concessionary duty rate on ultra low sulphur diesel (ULSD) for one year, why can the Government not consider the proposal in the original motion of reducing and remitting the duty on ULSD for one year? The continued increase in fuel cost has indeed dealt a blow to the local tourism industry and launch trips to a certain extent. If the Government does not provide any assistance or introduce relief measures to ease the pressure

on the industry in operation, the tourism industry would not be the only industry to be affected. Other sectors of the economy would also be affected.

Certainly, it is after all a transitional measure to reduce and remit the duty on ULSD for one year. In the long term, the Government should adopt more measures to assist the transport industry and various other industries in opening up new sources of income and cutting expenditure, as suggested in the original motion, so that the industry can cope with high oil prices. I suggest that the Government should make reference to the practices adopted for taxis or minibuses, such as opening up some prohibited zones especially on Sundays and holidays for parking and picking up/setting down purposes by coaches, or allowing coaches to temporarily park or wait at sites that the Government has not yet developed. I believe these measures will help reduce the fuel cost incurred by coaches. I hope the Government can implement the relevant proposals, so as to ease the pressure of the industry in operation.

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

MR CHIM PUI-CHUNG (in Cantonese): President, I have originally intended not to speak for I support the original motion in principle. I have now changed my mind because Secretary Frederick MA is not going to reply in the next motion debate to be held soon. Therefore, I would like to take this opportunity to let the Secretary express his views.

I understand that diesel duty in Hong Kong is very often adjusted upward in line with external high oil price policies. In my personal opinion, the problem is mainly attributed to the poor regulation of oil suppliers that makes it possible for them to pursue their profiteering policies. Local oil prices will therefore go up whenever there is any slight increase in external oil prices. Yet, the Government has chosen to turn a blind eye to this phenomenon. Actually, fair competition legislation is also involved in this case.

I am not obliged to evaluate on behalf of the Government its tax revenue. The Government must have predicted that it will be able to generate higher revenue from other sources before allowing the coffers to give up approximately \$1.5 billion in estate duty every year. I know that the Government will not commit itself to tax concession easily. Mr LEE Cheuk-yan remarked earlier that the Government has acted in my interest. Therefore, I have to say a few

words for the constituency represented by me: our industry has not benefited at all from the Government's abolition of estate duty. In the debate to be held later on the motion on a fair competition law, I will criticize the Government on behalf of my industry that — the Secretary is in this Chamber at the moment — the Government has all along disregarded the interest and demands of the industry. Although I have said it many times before, the Government is still "practising Tai Chi". As Secretary Frederick MA will not be responsible for responding to the next motion, I earnestly hope to take this opportunity to request the Secretary to tell us the Government's position towards tax revenue.

Mr SIN Chung-kai stated earlier that it should be possible to abolish this tax item involving more than \$1 billion. I have already said that this is definitely the Government's own decision. Most importantly, insofar as the constituency I represent is concerned, particularly from my personal point of view, I have absolutely no interest involved in any policies implemented by the Government. I have once again come back to this Council not for the pursuit of fame, gain, power, and ideals. Although Mr LEE Cheuk-yan was merely joking just now, I still have to take this opportunity to clarify my position.

President, I support the original motion.

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

MS AUDREY EU (in Cantonese): President, I only wish to deliver a brief speech to explain the reasons and direction adopted by Members of the Article 45 Concern Group at the vote later.

President, insofar as this subject is concerned, Mr Ronny TONG once moved an amendment to a similar motion proposed by Ms Miriam LAU on the last occasion. As Mr TONG has expressed our views in his speech, I do not wish to repeat them. In my opinion, this issue basically involves the issues of oligopoly, profiteering by local oil traders and fair competition. Giving a certain trade tax concession on a permanent basis is not the solution to the problem. This is why Mr Ronny TONG moved an amendment last time. Under the present circumstances, we understand that high oil prices will deal a severe blow to certain industries. Therefore, when no other solutions are available, we think that, in the short term, Ms Miriam LAU's original motion is

more desirable. In particular, it is mentioned in the motion that this Council urges the Government to "adopt effective measures to assist the transport industry in opening up new sources of income and cutting expenditure, and to actively consider reducing and remitting the duty on ultra low sulphur diesel for one year until the end of 2006, by which time the situation should be reviewed". In the short term, this approach is more reasonable. Therefore, we support the original motion.

As Mr SIN Chung-kai proposes in his amendment to delete from the motion the part considered by us to be the most sensible, we cannot support his amendment. As for the remaining part of the amendment, we do not have reasons to object in principle. As the Article 45 Concern Group has all along followed the voting direction that, unless we believe in principle that there are major problems, we tend to give support. As the amendment proposes to delete from the original motion the part we support most, we can only abstain from voting on the amendment.

President, I so submit.

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

MR ALBERT CHAN (in Cantonese): President, I am glad to hear Mr CHIM Pui-chung say that there are four things he does not pursue. He must have a very happy life now since he is not insistent on pursuing anything. May I wish him great happiness in his life.

President, regarding the issue of diesel duty, this Council conducted a heated debate in November 2004. At that time, I pointed out that it was actually a ridiculous phenomenon for the Legislative Council to hold such a debate. The core issues reflect the ridiculous policy and logic of the Government, thereby contributing to the emergence of such a ridiculous phenomenon. Insofar as Hong Kong's present taxation is concerned, the collection of fuel duties (diesel duty is one of such duties) is part of the high taxation policy of the Government. Hong Kong impresses the world as a low tax city, especially for the rich people. The tax rate they are charged is the lowest in the world. However, with regard

to fuel duties, I believe Hong Kong is the city which charges one of the highest duty rates in the world. In fact, this is a very ridiculous phenomenon.

Why is the diesel duty in Hong Kong particularly high? Some public organizations, such as the bus companies, are exempted from paying diesel duty. Besides, the two railway corporations are also not required to pay a road tax. However, other modes of transport have to pay licence fees and exceptionally high fuel duties. This is in effect exploitation or it may well be described as double punishment. This is not just a punishment imposed on the drivers, but also a penalty on people using such vehicles, including small commercial and industrial organizations, public light bus passengers, people hiring vehicles and taxi drivers, and so on. This is entirely unreasonable. Why are public buses exempted from paying fuel duties, but drivers of taxis and public light buses are not? Why do rich and powerful bus companies enjoy special favours? Why are their buses allowed to take up the space on the roads and emit exhausts, with each of them carrying only a handful of passengers or even one or two passengers? Why does the Government allow the buses to do that? Why is duty exemption granted to bus companies? Why are other vehicles still required to pay high duties even though they are carrying full loads of passengers? On the whole, this is completely illogical. This example is sufficient to illustrate that the social and economic policies of the Government are extremely ridiculous. It is 100% ridiculous. In particular, the ever rising fuel duties in recent years have affected the people's livelihood. Under such a situation, the Government still looks on with folded arms. Such an indifferent attitude really makes us very angry.

President, I wrote a letter to the Chief Executive in September. I have to extend my gratitude to Mr LEE Cheuk-yan, Dr Joseph LEE and Ms LI Fung-ying for agreeing to put their signatures on this letter to the Chief Executive. I was disappointed at the apathetic response of other Members. I had written to 58 Members (excluding myself), but only three of them were willing to sign the letter to request the Government to reduce and remit the fuel duties, so as to lessen the pressure for increasing public utilities charges. At that time, Members of the Liberal Party were also unwilling to sign that letter. Yet, I will still lend my support to Ms Miriam LAU's motion. Maybe it was all attributable to the differences in our party affiliations, or my insignificant status as a Member. So even if they wish to support me, they still prefer to take up this issue with the Government on their own, without letting me raise this issue and enjoy the honour of championing the cause. Although only three Members

were willing to support me on that occasion, I still felt happy about it. I sent this letter out of consideration for the pressure on people's livelihood and this high tax item. Many Honourable Members have also mentioned this point earlier. Since the Government can easily give up \$1.5 billion of public revenue from estate duty, why can it not think of some ways of alleviating the pressure on people's livelihood, such as tax rebates or some other measures, thereby enabling the ordinary people, especially those engaged in small transport businesses and are paying expensive fuel costs, to reduce some of their pressure and take a good breath of free air? If the Government is unwilling to do this and would just respond to their difficult life in an indifferent manner, I will certainly feel disappointed. However, the Government still has not officially rejected my request. In its reply to me dated 12 October, the Government thanked me for my suggestion, and said that it would give me a detailed reply later. I do not know whether the Secretary for Financial Services and the Treasury would bring us some good news today.

What I want to say is, with regard to managing public finances, in particular, one of the duties of the Government in implementing public financial policies (as I have repeatedly mentioned before) is the distribution or the redistribution of public assets or social wealth through taxation. In formulating any policies, especially taxation policies, it is all about the distribution of wealth. Any levy of tax, exemption of tax or grant of tax rebates are all attempts to distribute or redistribute public assets, social wealth and resources. Therefore, in handling the issue of fuel duties, if the Government can act in the way as suggested by Ms Miriam LAU to reduce and remit the duty on ultra low sulphur diesel (ULSD), then it would have demonstrated a model of wealth distribution and redistribution. Of course, the environment is one of the factors; the remaining factors include whether the Government should impose the penalty on or give some special care to those paying the duties. If the Government remains completely indifferent, virtually doing nothing, then it is evident of the mindset of the Government. The Government can give up the revenue, amounting to billions of dollars, from estate duty chargeable to the rich people. On the other hand, it only charges major property developers 17% profits tax over their profits amounting to several billions dollars. However, it charges a full 100% duty over fuels, especially the duties for ordinary fuels. We can see this very clearly from any refilling receipts: On a refilling bill of \$800 or so, some \$400 is charged as fuel duty. Although ULSD has a lower duty rate, I still hope that the Government will not grant too much favour to the major consortia. The

newspapers today feature some reports on the Grand Promenade incident, alleging that the Government has continued channelling interests to major consortia. But the Government is indifferent to the plights of the ordinary people and professional drivers. I hope the Secretary for Financial Services and the Treasury can tell us some good news later on, so that the ordinary people can know that the Government is also concerned about their interests. Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, yesterday I went to see Financial Secretary Henry TANG to request him not to introduce the sales tax. I told the Financial Secretary that if he wanted to broaden the tax base, he might levy a progressive sales tax on the rich. For example, the rate of such a tax can be capped at 22% or 25%. He kept flipping through his documents, seemed not too interested in my words. He could be looking for some justifications. But eventually, he did not say anything, and for the majority of the time of our meeting, he appeared to be uninterested.

The duty on ultra low sulphur diesel (ULSD) is in fact a kind of consumption tax, in the sense that those who use it has to pay the tax, and those who do not are not required to pay anything at all. This is how our taxation system works. The sales tax is a heavy tax that has a high tax rate — the diesel duty or the duty on ULSD has such a high tax rate that it is one of the highest among similar types of duties. Public transport operators are exempted from paying such a duty under the beautiful pretext of preventing the duty from being transferred onto consumers. In fact, this is not true. It all depends on who is involved and what he has said and in which capacity. John CHAN Cho-chak is a former senior government official, and he is very tactful, and is now a member of the Commission on Strategic Development. If he is allowed to formulate policy proposals, then Hong Kong will definitely be out of luck. He will only act for his own company. The competition in the transport sector of Hong Kong is very messy and confusing. In such a congested city, so many buses are allowed to fill up the space on the busy streets. Instead of regulating the situation, the authorities allow the bus companies to run empty buses around the city, saying that it is better for them to make some income through making use of such buses on the roads as advertising boards. The bus companies are acting like, as a Chinese colloquial saying goes, "a man occupying the lot of his own grave well before he has actually died." Such a practice has caused considerable difficulties to other motorists.

Now, from such a policy, we can see that, first, this Government has never regretted its wrongdoings, and has refused to introduce a progressive tax. What is more, it goes ahead to implement the regressive tax and continue letting the consumption tax make the people suffer. And I shall attend a Court hearing for obstructing the traffic by staging a protest at the Eastern Harbour Crossing. Secondly, the Government has waived the ULSD duty on buses but increased the consumption tax on the beautiful pretext of preventing the bus companies from transferring the duty onto consumers. Operators of the three tunnels and other monopolistic modes of transport will still make the ordinary people pay expensive fares, will they not? In fact, even though those unscrupulous corporations are given tax exemptions, they will still make the ordinary people pay expensive fares. I can assert, I bet that the Eastern Harbour Crossing will propose a comprehensive fare increase within one or two years.

This Government is willing to waste money on unworthy causes, while it is by no means generous when it is asked to allocate money to good purposes. It has abolished the estate duty. In fact, it is most earnest to do whatever is beneficial to the rich people. The same has happened to the property market, the stock market, and in future the so-called Hong Kong-Shenzhen Special District involving some 2 800 hectares of land. Other examples include the West Kowloon project and Cyberport, and so on. Therefore, the Government's taxation policies can actually be compiled into a textbook. The main theme for discussion in this textbook is "If you do not make use of your power while you have it, it will simply expire and become void once the period of validity is over." Men are short-sighted. So when they are in power, they will definitely do something to bring themselves some benefits. The problem is, something like this will definitely occur under such an ugly system, that is, both the Government and the Legislative Council which is responsible for monitoring the Government are not directly elected. This is really a textbook which teaches us that power will corrupt, and absolute power will corrupt even more.

Every year the people will have to beg, much in the same way as Rafael HUI begged for votes. But they are begging for money. Those minibus drivers and taxi drivers who are being hard pressed by the stress of life are yelling for help. They are the people who are begging for assistance for slightly alleviating their burden. Why do they have to do that? The Government is levying capital gains tax, progressive profits tax, and estate duty (sic), anyway

all kinds of tax are involved. But what these people are begging for now is nothing but just some candies. However, our Government couldn't care less. It just makes attempts to gild the lily. The chestnut cake is attractive enough, but it still wants to add some cream to it. Some other people are fed by only some expired buns from the night before, being sold at \$1 or \$2 each. And then for these people, even their request for a piece of butter is denied. This is what our Government is doing.

All professional drivers are telling me that the Government is drumming up some ideas for increasing the price of LPG. It was the Government that had asked us to switch to use LPG. The Government has one shortcoming, namely, lack of consistence. How can we enjoy the supply of materials at low prices? This Government is implementing its policies in a way that it is not acting in accordance with the principles of "those who have the means pay more". Instead, it is bullying those disorganized groups or those who cannot take forceful actions by making them pay more. I find professional drivers in Hong Kong are excessively good-tempered. In the face of high prices of taxi licences, high taxi rentals and expensive fuels, they have to resort to speeding in order to get more business, thus resulting in accidents which cause losses of human life and sometimes even their own lives. What kind of government is it anyway?

The situation will never be improved as long as this Government is not toppled. However, if a "one-person, one-vote" election is held, I am sure this Government will definitely have to step down. Does the Government have the courage to give this a try? Of course not. So, it will always bring up old excuses such as Beijing does not think it is acceptable; the rich people do not agree; and the absence of balanced participation, and so on. Anyway, their conclusion is not allowing us to have universal suffrage. Dear professional drivers, dear petroleum users, if you do not take to the streets on 4 December, you are giving up your own chance. I can tell you, if you do not come forth to tell your painful experience, your pain will definitely continue. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Ms Miriam LAU, you may now speak on Mr SIN Chung-kai's amendment. You have up to five minutes to speak.

MS MIRIAM LAU (in Cantonese): Madam President, on the face of it, the two measures proposed by Mr SIN are not entirely undesirable, just as some Honourable colleagues have said. In fact, in order to support environmental protection, the trade had proposed the setting up of duty-free filling stations in frontier closed areas a few years ago. It was hoped that cross-boundary truck drivers would be encouraged to use more ultra low sulphur diesel (ULSD) while reducing the use of mainland diesel. However, the prevailing price of Hong Kong diesel was \$6 per litre, but it is \$8.06 per litre now. Furthermore, prolonging the incentive scheme for liquefied petroleum gas (LPG) light buses and increasing the number of LPG filling stations will, in principle, encourage more public light bus owners to switch to LPG light buses.

Nevertheless, I cannot see how the measures proposed by Mr SIN can effectively alleviate the hardship suffered by the cross-boundary freight forwarding trade and the public light bus trade due to fluctuations in oil prices. This is particularly so when Mr SIN hoped that the cross-boundary trucks would use more Hong Kong diesel while reducing the use of mainland diesel. While the pump price of diesel in Shenzhen is RMB 4.09 yuan per litre (HK\$3.9), the price of ULSD in Hong Kong is \$8.06 per litre. Even after remitting the duty on diesel which is \$1.11, diesel in Hong Kong still costs \$6.95 per litre, which is \$3 more than mainland diesel. How then can the setting up of duty-free filling stations in frontier closed areas relieve the burden of the cross-boundary freight forwarding trade? As for prolonging the incentive scheme of LPG light buses and increasing the number of LPG filling stations, it would have little effect on alleviating the hardship of the public light bus trade. There are currently 2 087 LPG light buses and 2 263 diesel light buses. The main reason for the diesel light bus owners not switching to LPG light buses is that LPG filling stations are either located far away from the public light bus routes or within the prohibited zones for public light buses. Actually, it would be very difficult to set up many LPG filling stations near the light bus routes. Although the Government has been actively identifying suitable sites for years, so far there are only 53 LPG filling stations, among which 12 are dedicated LPG filling stations. The number is far less than the 180 ordinary filling stations.

Mr SIN's proposed measures can neither alleviate the hardship of the cross-boundary freight forwarding trade and the public light bus trade, nor the hardship of the rest of the transport industry. I have to point out that there are about 150 000 vehicles in the whole transport industry, and the majority of them use diesel while only a small number use LPG. Among them, about 18 000 are cross-boundary trucks and about 2 200 are public light buses that have not switched to LPG. Obviously, the public transport sector and the whole transport industry will not benefit from the two measures proposed by Mr SIN at all.

Furthermore, I also do not see how Mr SIN's measures would relieve the public transport operators' pressure to increase fares. Apart from the cross-boundary freight forwarding trade and the public light bus trade, representatives from organizations or companies of franchised buses, non-franchised buses, ferries and taxis have briefed the Panel on Transport on their hardships caused by persistently high oil prices. This is no surprise at all that Mr SIN has not heard of their hardships as he is not a member of the Panel on Transport. If he were a member of the Panel, I believe he would not have proposed these two measures which can neither alleviate the hardships of the transport industry effectively nor relieve the public transport operators' pressure to increase fares. Mr SIN said that he is concerned about the transport industry. However, I do hope that he can gain a clear understanding of the information if he really cares. There are 150 000 vehicles in the whole transport industry and the majority of them use diesel. After deducting 118 000 LPG taxis, over 2 000 public light buses which have switched to LPG, 18 000 cross-boundary trucks which can, to a certain extent, use mainland diesel, as well as 6 000 franchised buses with their duty on fuel waived, there are currently approximately 100 000 diesel vehicles using duty-paid diesel, rather than 150 000 as cited by Mr SIN, and the majority of them are used in the logistics industry.

I wish to correct another argument advanced by Mr SIN. He is of the view that since the expensive terminal charges have weakened the competitiveness of the logistics industry, the setting up of duty-free petrol filling stations in frontier closed areas can help enhance their competitiveness. In fact, the difference in costs between containers exported via Hong Kong and those handled in the Mainland is US\$300, of which US\$200 is the charge for land transport. Land transport does not only involve cross-boundary trucks, but also trucks running within the territory.

I demand the Government to consider reducing and remitting the duty on diesel because this is helpful to drivers of duty-paid diesel vehicles. Do Members have to avoid doing such a single thing as requesting the Government to consider this proposal? I also demand the Government to adopt measures to assist the transport industry in opening up new sources of income and cutting expenditure, so as to relieve the public transport operators' pressure to increase fares. Do Members have to avoid making such a simple request to the Government? Maybe this is what the Democratic Party wants us to do.

However, I eagerly hope that Honourable Members will not be evasive about this but support my motion and oppose the amendment moved by Mr SIN.

Madam President, I so submit.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the Government is as concerned about the impact of the persistently high oil prices in recent months on various trades and industries, including the transport industry, as every Member here.

Ms Miriam LAU urged the Government to adopt effective measures to assist the industry in opening up new sources of income and cutting expenditure, and to actively consider reducing and remitting the duty on ultra low sulphur diesel (ULSD) for one year, so as to relieve public transport operators' pressure to increase fare. I will first state the Government's stance on the issue of ULSD.

ULSD was first introduced into Hong Kong in 2000. At that time, for the reason of environmental protection, the Government set the concessionary duty on ULSD at a relatively low rate of \$1.11 per litre, so as to encourage drivers to switch from ordinary diesel to the less polluting but more expensive ULSD, on the condition that the switch would not cost drivers more on motor fuels. Meanwhile, the Government planned to restore the duty rate on ULSD to \$2.89 per litre on 1 January 2002. However, in order to alleviate the impact of the economic downturn on the transport industry, the Government has, as Members have pointed out, deferred for six times the restoration of the duty rate on ULSD to \$2.89 per litre.

Despite oil prices having slightly dropped recently, everyone knows as well as I do that oil prices still stand at a high level. In order to make allowances for the impact of the surging international oil prices on various trades and industries, the transport industry in particular, and taking heed of the call from members of the transport industry for further reducing and remitting the duty on ULSD, the Financial Secretary has, after carefully evaluating various factors, including the pressure on transport industry, the overall economy of Hong Kong and the financial status of the Government, resolved to extend once again the concessionary duty rate on ULSD for one more year until the end of 2006, with a view to alleviating pressure on the transport industry. I shall move a motion on this in the Legislative Council within December and I hope Members will support it.

There are requests from Members and from the industry to further reduce or abolish altogether the duty on ULSD. We hold that such proposals are not feasible, neither are they the solution to high oil prices. I hope Members can appreciate that the prevailing \$1.11 concessionary duty rate is already some 60% lower than the original duty rate. We cannot make light of the pressure that will be exerted on government revenue if the duty is further reduced or abolished altogether. We hold that there is now no room for further reducing and remitting the \$1.11 concessionary duty rate.

I wish to stress that the duties on diesel and other motor fuels have been a very stable and vital source of recurrent revenue to the Government. The tax revenue from all types of hydrocarbon oils for the year 2004-05 was \$3.4 billion, of which 20% came from the duty on ULSD. Based on the original duty rate at \$2.89 per litre, the Government could obtain about \$1.8 billion a year from the duty on ULSD. However, as the prevailing concessionary duty rate is set at \$1.11 per litre, the Government can only obtain \$0.7 billion a year from the duty on ULSD. In other words, by extending the concessionary duty rate for one year, the Government will forego \$1.1 billion in revenue in the coming year. Some Members stated just now that the Government is indifferent to the transport and logistics industries, I however cannot see how this should be the case, for I think that a lot has been done by the Government if it is willing to forego \$1.1 billion in revenue to help the transport and logistics industries. Moreover, we have to look at the issue against the whole economy. The Government has not favoured anyone, for it has to give due consideration to each and every duty before the duty is levied. If a certain duty is to be reduced or remitted, it is done so for the overall interest of Hong Kong, not for the reason

that I am favouring Mr CHIM over Ms LAU, or *vice versa*. We should not look at the issue from this perspective, but rather, we should take the whole economy into account. The Government acts according to the interest of the people of Hong Kong. Therefore, with regard to Members' comment that Government is indifferent to the transport and logistics industries, I feel obliged to do justice to the Government.

As a matter of fact, levying duty on auto-fuels is an international practice. The duty rate on ULSD in Hong Kong is not high compared to that of other established economies which also make ULSD available. These economies also levy other duties on auto-fuels such as value-added tax, goods and services tax, and so on. For example, the duty rate on motor-fuel-related dutiable commodities in the United Kingdom, Germany and Australia ranges from HK\$2 to HK\$6 per litre. I thus believe Mr Albert CHAN has to do more homework before saying that the tax rate in Hong Kong is high.

Meanwhile, other than extending the validity period of the concessionary duty rate on ULSD, similar to the explanation given earlier by the Environment, Transport and Works Bureau to the Panel on Transport, the Government will continue to assist the transport industry in opening up new sources of income and cutting expenditure. The Government encourages public transport operators to adopt measures to lower their expenditure on fuels, with a view to mitigating the impact of the surging oil prices. Furthermore, the Environment, Transport and Works Bureau has implemented a series of measures conducive to the operation of various transport trades, in a bid to create more business opportunities for the industry and facilitate them in opening up new sources of income and cutting expenditure, thereby relieving public transport operators' pressure to increase fare. As far as I am aware, the measures being implemented include permitting the display of advertisements on the body of franchised buses, public light buses and taxis; permitting ferry operators to put up advertisements within the confines of, on the external wall and rooftop of ferry piers, and to lease out areas within the piers for commercial purposes; permitting the installation of mobile multimedia broadcasting systems on franchised buses and public light buses so as to generate non-fare box revenue; relaxing the limitation of prohibited zones; and permitting taxi and light bus operation in the Lok Ma Chau Control Point so as to increase opportunities for the industry to serve passengers. The Environment,

Transport and Works Bureau will continue to liaise closely with the industry to understand their needs, so as to mutually develop feasible measures to further improve their business environment.

With respect to issues relating to competition in the local fuel market, similar to the account given earlier by the Economic Development and Labour Bureau to the Panel on Transport, the former has been monitoring closely the movement of the international oil prices and the local pump prices of motor fuels; and has requested oil companies to explain their justifications for price adjustment every time when they plan to do so. The Economic Development and Labour Bureau will continue to remind oil companies to increase their transparency in setting oil prices. In order to facilitate new operators to enter the local fuel market and thereby encourage market competition, the Government has introduced new tender arrangements for petrol filling stations since June 2003. Two new operators have succeeded in entering the market under the new tender arrangements. On the other hand, the Competition Policy Advisory Group, headed by the Financial Secretary, has engaged consultants in July this year to conduct an independent and comprehensive study on the competition situation in Hong Kong's motor fuel market and to explore whether oil companies are involved in anti-competitive conduct. The study is expected to be completed at the end of 2005, after which the Government will make public the result of the study.

With regard to Mr SIN Chung-kai's amendment, the Government has the following responses. Unfortunately, Mr SIN is not present now, but I hope his colleagues will retail what I am going to say to him:

- (a) as we do not agree with the abolition of the duty on ULSD, we do not find the proposal of setting up duty-free petrol filling stations in frontier closed areas feasible;
- (b) with respect to the relaunching of the liquefied petroleum gas (LPG) light bus scheme, the Environment, Transport and Works Bureau has stated that this subsidy scheme was introduced in late August 2002 to encourage public light bus owners to replace their diesel light buses with LPG light buses at their earliest convenience. As the scheme will not come to an end until the end of this year, public light bus owners with an intention to receive the subsidy to convert

their diesel light buses into LPG light buses should expeditiously do so before the scheme ends; and

- (c) in relation to the proposal of increasing the number of motor LPG filling stations, the Environment, Transport and Works Bureau has stated that after more than four years of hard work, the coverage of LPG filling stations has been greatly increased from four temporary sites in the beginning to 53 sites at present, of which 12 of them are large dedicated sites. These sites are sufficient to provide LPG filling services to the whole taxi fleet and light bus fleet. In a bid to further facilitate LPG filling services for LPG taxis and LPG light buses, the Government has formulated a policy to set out in land disposal programmes in future the requirement of the provision of LPG filling services in the sale of petrol filling station sites so as to expand the LPG filling network, provided that these sites meet the necessary safety requirements. At present, there are at least four LPG filling stations being designed and constructed, with two of them in Tung Chung, one in Tai Po and another one in Kowloon Bay. They are expected to come on stream in 2006-07. When they are commissioned, the filling station network will be improved further.

Mr LEUNG Yiu-chung proposed just now that the Government should encourage owners of van-type light goods vehicles to switch to LPG, while other Members have also expressed their views on how the transport industry can be helped. Today, we have a colleague from the Environment, Transport and Works Bureau here to listen to Members' discussion, I believe he will certainly take these views back to Secretary Dr Sarah LIAO for consideration.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr SIN Chung-kai to Ms Miriam LAU's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Fred LI rose to claim a division.

PRESIDENT (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong and Mr SIN Chung-kai voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr Fernando CHEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Mr Patrick LAU and Mr KWONG Chi-kin voted against the amendment.

Dr KWOK Ka-ki abstained.

Geographical Constituencies:

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

Mr James TIEN, Mr LEE Cheuk-yan, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Frederick FUNG, Mr LI Kwok-ying, Mr MA Lik, Mr CHEUNG Hok-ming and Mr Albert CHENG voted against the amendment.

Ms Emily LAU, Mr Albert CHAN, Ms Audrey EU, Mr Alan LEONG and Mr LEUNG Kwok-hung abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, two were in favour of the amendment, 18 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, seven were in favour of the amendment, 15 against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Ms Miriam LAU, you may now reply and you still have one minute 16 seconds.

MS MIRIAM LAU (in Cantonese): Madam President, I am very grateful that 13 Honourable Members have participated in the debate, and the majority of them spoke in support of my motion. So, first of all, I would like to thank Honourable Members for their support on behalf of the whole transport industry, and I believe today's debate has certainly given them the feeling that there are caring people around them.

I strongly believe that the more the truth is debated, the clearer it becomes. We have just listened to the speech of the Secretary. Honourable colleagues who have paid attention to the speech I made earlier may think that the Secretary had spoken before me, then followed by my response, because he has not responded to the arguments I put forward in my speech moving the motion at all.

The Secretary said that the hardships of the industry could not be addressed through persuasion, so I asked whether the Government had any panacea. Yet, he has not given any answer but simply highlighted some main points and reiterated the hundreds of millions of dollars of loss incurred. I asked whether he had considered the possibility of recouping hundreds of millions of dollars rather than making a loss with a reduction of the duty. But he did not answer either. I think it is necessary for the Government to update its arguments, is it not?

I very much hope that Honourable colleagues will support my motion today and convey a very clear message to the Government that, in fact, it should do something in the face of high oil prices, and should not let the transport industry and the community suffer from high oil prices.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms Miriam LAU rose to claim a division.

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

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

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

Functional Constituencies:

Dr Raymond HO, Dr LUI Ming-wah, Ms Margaret NG, Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr Fernando CHEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Mr Patrick LAU and Mr KWONG Chi-kin voted for the motion.

Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Dr KWOK Ka-ki abstained.

Geographical Constituencies:

Mr James TIEN, Mr LEE Cheuk-yan, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LI Kwok-ying, Mr MA Lik, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr CHEUNG Hok-ming voted for the motion.

Mr Albert CHENG voted against the motion.

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 19 were in favour of the motion and three abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 19 were in favour of the motion, one

against it and seven abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

PRESIDENT (in Cantonese): Second motion: Fair competition law.

FAIR COMPETITION LAW

MR LEE WING-TAT (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. President, this legislature has debated the issues relating to a fair competition law several times. We have always maintained that sector-specific fair competition laws cannot promote fair competition, and that only a cross-sector and comprehensive law on fair competition can serve the purpose.

Fair competition laws are found in many other countries all over the world and Hong Kong is one of the few exceptions. Mr Fred LI will discuss the experience of other countries in this respect on behalf the Democratic Party later on.

What is the approach currently adopted by the Government? It may decide to adopt remedial measures depending on whether there is any anti-competitive conduct in the business environment of a certain sector. Currently, specific provisions on the protection of fair competition, enforced respectively by the Telecommunications Authority (TA) and the Broadcasting Authority, are available only in the telecommunications and broadcasting industries.

In his policy address this year, Chief Executive Donald TSANG says that in order to demonstrate Hong Kong's upholding of free trade and fair competition, the Government will study the possibility of enacting a fair competition law. Over the years, people have expressed many grievances about problems related to competition. One notable example is the pricing practice of "quick increases but slow reductions" adopted by oil companies. Oil companies often adjust their prices with one accord, which is a clear indication of the monopolistic nature of the sector. During the motion debate moved by Liberal Party Vice-Chairman Mrs Selina CHOW on the enactment of a fair competition

law for the oil industry, we already discussed this problem in great depth. And, the motion was passed in the end. Subsequently, the Government commissioned an independent consultant to study whether local oil companies were involved in any anti-competitive conduct. In the middle of this year, the Government also appointed a Competition Policy Review Committee chaired by a non-official with members drawn from different sectors. Its task is to review the effectiveness of the Government's existing competition policy.

President, as members are aware, there is the phenomenon of monopolization in Hong Kong. Franchised businesses, including public transport services, buses, tunnels and power supply, belong to the first type of monopolization. These businesses are protected by profit assurance and are at the same time subject to the regulation of licensing conditions. Very often, however, there is either no or inadequate control on their price increases. For this reason, members of the public are forced to accept exorbitant charges due to the lack of any alternatives. Power supply is currently monopolized by the two power companies. As a result, although there is surplus power supply and the absence of any price competition, the power companies are still able to charge exorbitant tariffs and reap unreasonably high returns.

The second type of monopolization is oligopoly. As I have pointed out, the pricing practice of quick increases but slow reductions adopted by oil companies is the subject of frequent complaints. Besides, large supermarket chains also charge very high "shelf fees". But the Government has been unable to do anything. Actually, many academics and the Democratic Party have pointed out that there is certainly an element of collusion in the pricing practices of oil companies, as indicated, for example, by their price adjustments with one accord. The market is monopolized by several multinational oil corporations, so they can easily manipulate the refinery, production and sale of oil and engage in anti-competitive conduct such as price-fixing.

Another thing that affects people's livelihood even more closely is connected with supermarkets, which everybody patronizes. The emergence of supermarkets in Hong Kong can be dated back to the 1970s. At that time, they were perhaps noted for a wider range of quality products at lower prices. However, with their rapid development and establishment of more and more branches in recent years, the two supermarket chains, namely, PARKnSHOP

and Wellcome, have come to attain a market share of over 80% and repeatedly beaten their rivals, such as Carrefour and AdMart.

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

Carrefour, a French international supermarket chain, entered the Hong Kong market in 1996, but in 2000, it ended its business here, after a short span of merely four years. In its closure announcement, Carrefour disclosed that one of the reasons for its failure was the difficulty in finding shop premises. Why was there such a difficulty? Shop premises have always been the main factor determining the success or otherwise of any supermarket because location and people flow are vital to their operation. However, in Hong Kong, most shop premises in major housing estates are controlled by property developers which are, as we all know, the owners of the two major supermarket chains in Hong Kong. It was this anti-competitive conduct that prevented Carrefour, a successful European supermarket chain, from developing a successful presence in Hong Kong. Carrefour also admitted that this was an important reason for its withdrawal from the Hong Kong market.

Several years ago, AdMart also attempted to enter the Hong Kong market. In August 2003, the Consumer Council received many complaints which alleged that suppliers were forced by supermarket chains to stop supplying goods to their rival (that is, AdMart). It was also alleged that these supermarket chains even joined hands to fix prices, in violation of the spirit of fair competition.

Owing to their huge financial strength, and also because they have connections with the property developers belonging to the same holding company, the two major supermarket chains are able to occupy the large shops in major private and government housing estates. They can therefore expand their market dominance incessantly. With their dominance, the two major supermarket chains can impose various requests on goods suppliers, such as higher discounts, exorbitant shelf fees and other promotion charges. They even forbid suppliers to sell their goods to ordinary retailers, thus reducing the choices of consumers. Such monopolization by two major market players has virtually driven groceries and stores of general provisions out of existence. And, even wet goods markets are under pressure. Over the past few years, Hong Kong has undergone a period of deflation, but instead of dropping, goods prices of

supermarkets have seen some slight increases. The reason is that people do not have any choices.

The third type is the selling of bundled services in Hong Kong. In October 2003, the TA received a complaint about the developer of Banyan Garden. The developer was accused of selling bundled services, forcing property owners and tenants to patronize the telecommunications service provider belonging to the same group. In August 2004, a property owner applied for support from the litigation fund of the Consumer Council in order to sue the management company for restricting the number of telecommunications services operators to one and for bundling telephone and broadband Internet charges into the monthly management fee. However, such sector-specific organizations are completely powerless to deal with the unfair practices outside their sectors. For instance, the TA has no authority to interfere with the management company's act of bundling broadband Internet charges into the management fee.

Madam Deputy, the Democratic Party conducted a survey in November and we also conducted a similar opinion poll in 2000. The findings of both surveys are similar. As many as 65% of the respondents maintain that the Hong Kong market is marked by monopolization, 59% view that the problem of monopolization and unfair competition is very acute in Hong Kong, 70% agree that there is a need for the enactment of a comprehensive fair competition law, and 65% support the establishment of an independent fair competition commission.

Madam Deputy, in November 1996, the Consumer Council published a report, in which it was pointed out that the formulation of a fair competition policy would be vital to the economic prosperity of Hong Kong. The necessity of a fair competition law and the establishment of a Competition Authority were stated clearly in this report. We have searched past records and found out that in 2000, the Hong Kong General Chamber of Commercial (HKGCC) once expressed opposition to the enactment of a fair competition law. But then, in July this year, the HKGCC seemed to have softened its position, because it submitted a report to the Government, recommending the enactment of a limited fair competition law and the establishment of a streamlined enforcement body.

In November this year, some members of the Hong Kong Stockbrokers Association voiced their support for a fair competition law, as they were of the view that the banking industry was engaged in unfair competition using its advantages. Some trade unions, such as the Motor Transport Workers General Union, hold that a state of oligopoly has emerged in oil supply in Hong Kong. They thus demand the Government to step up monitoring and improve the existing mechanism to tackle specific problems. They also demand the enactment of a fair competition law to ensure that oil prices can be restored to reasonable levels as soon as possible.

Exxon Mobil Corporation also issued a statement on 29 November this year, stressing its support for fair competition as an international corporation. In this statement, it expressed concern about the proposal on the enactment of a fair competition law put before the Legislative Council, pointing out that if any fair competition law was to be introduced, it must be applied to all sectors. In other words, it is of the view that the Government should not limit monitoring to oil companies but should extend supervision to all sectors. I strongly support its viewpoint. There is frankly no justification for the claim that monopolization is present only in the oil supply market. Monopolization is found in many other sectors. From the statement of this mammoth international oil corporation, we can see that what it supports is not any sector-specific monitoring but comprehensive regulation.

Another supermarket chain of a smaller scale, China Resources Holdings Company Limited, also issued a statement in August 2003, in which it was pointed out that the lack of evidence to substantiate the presence of monopolization in the Hong Kong supermarket industry was just due to the lack of any assessment benchmarks resulting from the absence of fair competition and anti-trust laws. It was therefore argued that there was a need for enacting these two types of laws. This was the content of the statement issued by China Resources in August 2003.

Madam Deputy, a fair competition law will only do good to the Hong Kong economy. The enactment of a cross-sector fair competition law and the establishment of a fair competition committee will certainly help prevent such existing market phenomena as price manipulation, market sharing, bid rigging, predatory pricing and bundled services.

It is not the intention of the Democratic Party to ask for investigations into all problems. But in case any conduct is deemed to be preventing, distorting or restricting market competition to any considerable extent, it must then be investigated because it may constitute contraventions of the law. Consequently, the Government needs not fear that such a law may pose too many unnecessary obstacles to market competition. Nor should it be worried that a fair competition committee may be given too much power.

Mr Fred LI and Mr SIN Chung-kai of the Democratic Party will explain in detail our views on the experience in other countries and the establishment of a fair competition committee. Thank you, Madam Deputy.

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

"That this Council supports the expeditious enactment of a cross-sector law on fair competition and the setting up of a fair competition commission with the powers of investigation and the privilege of confidentiality."

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

MR ALAN LEONG (in Cantonese): Madam Deputy, we may as well treat the motion topic today as a sequel to the motion debate on "a minimum wage and standard working hours" last week. Similar to what happened in the debate last week, the pro and con sides of this debate have also argued heatedly about whether the market should be left alone or regulated. For the motion last week, despite the support from 36 Members, the opposition of 17 Members could already lead to its being negated. Last year, a motion debate on fair competition was similarly negated when there were just 15 votes against but as many as 33 votes in favour. On the basis of this voting outcome, I reckon that what happened a week ago — the majority votes being overridden by the minority votes — will probably repeat itself in the motion debate today.

Madam Deputy, many people in Hong Kong have already grown increasingly dissatisfied with the distorted market order and the oppression of disadvantaged workers and small enterprises. Public opinion support for

further market regulation is unequivocal. But since no fair competition law, standard working hours and minimum wage have ever been implemented in Hong Kong regularly and comprehensively, the pro and con sides of the debate have just been citing foreign examples in their heated arguments. And, afterwards, with the help of a deformed voting system that allows the minority to override the majority, the industrial and commercial sector can always veto the market regulation demanded by the public.

Our experience over the past two weeks tells us clearly that as long as the political system is not made fully and equally accessible to all people, it will be impossible to ensure smooth policy implementation and harmony in society. All our efforts to fight for market regulation and the prevention of exploitation in the legislature will be in vain. Nor can small merchants and grass-roots workers ever expect to receive any reasonable protection. When compared with the regulation of working hours and wages or the enactment of a fair competition law, a democratic political system is a far more ultimate means of protecting people's rights and interests and preventing them from being exploited by large consortia.

Madam Deputy, coming back to the motion debate today, I must point out that since all efforts to fight for the enactment of a fair competition law in this legislature have been thwarted by Members belonging to the industrial and commercial sector over all these years, only a limited number of sectors in Hong Kong are subject to regulation and a cross-sector fair competition policy has remained nowhere in sight. In the absence of any local data and practical experience, both the pro and con sides have only been able to argue for their own cases by dwelling on foreign experience.

The quoting of foreign experience may, however, be rather embarrassing to Members who oppose the enactment of a fair competition law because, as a matter of fact, various kinds of fair competition policies are already found in more than 80 countries all over the world. As a result, these Members can only warn others that the implementation of any such regulation will lead to large numbers of anti-trust litigation, wasting lots of time and money. However, as rightly pointed out by Mr Ronny TONG, there is not just one single way to implement fair competition laws in this world. The practice adopted by Britain and the European Union, that is, the establishment of a competition commission, is precisely one of the ways that can beat monopolization at lower costs without entailing an over-reliance on the Court.

Madam Deputy, when such an argument cannot work, the opponents can only take one step back, claiming that they are not totally against the enactment of fair competition legislation. But they add that the specific circumstances of individual sectors must be taken into account, and that the enactment of a comprehensive fair competition law is not recommended. First, I must point out that if certain practices are deemed to be improper in one particular sector, it will be unfair of us to allow their widespread adoption in another sector. Second, such an approach will fail to prevent cross-sector monopolization, as when the management company of a housing estate forces property owners to patronize a broadband Internet service provider belonging to the same group. Besides, huge volumes of research findings have shown us that a sector-specific monitoring body is highly susceptible to regulatory capture, that is, being captured by the leading market players of the sector. Independent monitoring will then be reduced to a nominal existence.

Large numbers of foreign examples can prove that a cross-sector competition commission is the most effective means of implementing fair competition legislation — and, the least harmful to the business environment as well. Faced with this incontestable fact, the commercial sector can only go back to the basic concept, claiming that over-regulation will tamper with market operation and stifle Hong Kong's competitiveness in the end. But must we remove all regulation simply for the purpose of maximizing competitiveness? Does society of Hong Kong really wish to see a market completely devoid of any regulation and rules of the game? Is the sacrifice of the interests of workers, small merchants and consumers the only way to promote our competitiveness?

Madam Deputy, the commercial sector often fears that a fair competition law may end up like a visible hand which tampers with market operation. As a matter of fact, we should just perceive such a law as embodying a set of ball game rules. The enforcement agency will be like an umpire, whose job is to ensure that all can do the best they can to create wealth in a level playing field. The enforcement agency is not supposed to instruct an enterprise how to do its business, much in the same way as an umpire cannot tell any players when they should pass the ball or shoot. Much as we love to see talented soccer stars display their wonderful skills, we cannot possibly allow them to shoot with their hands. By the same token, the growth of enterprises is definitely no excuse for resisting a fair competition law.

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

MR LI KWOK-YING (in Cantonese): Madam Deputy, the discussions arising from the enactment of a fair competition law have continued for quite some time in Hong Kong. Mr TSANG has recently mentioned in the policy address that active consideration will be given to the necessity or otherwise of enacting a fair competition law in Hong Kong. The words of Mr TSANG certainly carry very great weight, so there have since been various speculations in society, with some thinking that Mr TSANG must have reached a conclusion on the enactment of a fair competition law. I believe and hope that this is only a misinterpretation of Mr TSANG's words by just a minority of people in society, and that the Government of the Hong Kong Special Administrative Region will still conduct comprehensive studies on the pros and cons and effectiveness of a fair competition law. I further hope that the Government will prudently consider whether there must be a sweeping fair competition law in Hong Kong.

Some of those supporters of the enactment of a fair competition law hold that Hong Kong must enact a fair competition law as early as possible because fair competition laws or anti-trust laws are already found in more than 80 countries and places in the world, including Singapore, Hong Kong's main rival. Besides, they also think that as a metropolis which has been rated as the freest economy in the world for 11 years in a row by the American Heritage Foundation in its "Index of Economic Freedom", Hong Kong should not lag behind others. Consequently, for fear of "losing out", advocates of a fair competition law all argue that Hong Kong must also enact such a law.

Subscribers to a fair competition law maintain that once such a law is enacted, there will be no more monopolization. But are things on earth really so simple? Not necessarily. In Singapore, for example, the fair competition law enacted last year has turned out to be a mere "toothless tiger" in practice because it is stipulated that some vital sectors, such as power and coal gas supply, telecommunications, public transport, and so on, shall be exempted from regulation. Besides, private-sector organizations are also allowed to apply for exemption on the ground of protecting public interest. The law has thus existed in name only. An economist of a Singapore research institute, GK GOH, once remarked that the Singapore Government's intention of enacting a fair competition law was to liberalize certain markets, such as hospital services, instead of clamping down on monopolization.

From this, we can see that the governments of different places will decide whether to introduce any fair competition laws and determine the contents in

accordance with their actual circumstances. There are no fixed standards to follow. Consequently, while supporting fair competition, we should carefully consider the problem of actual implementation before deciding whether we must enact a comprehensive and cross-sector law on fair competition for Hong Kong.

Some have also referred to the problem of monopolization in the telecommunications industry to justify their request for the enactment of a fair competition law. According to them, the presence of measures similar to fair competition regulations has enabled quite a number of telecommunications companies to enter the local telecommunications market, thus lowering prices to the benefit of consumers who can now enjoy almost the lowest mobile phone charges in the world. They therefore argue that besides introducing regulation in the telecommunications and broadcasting industries, the Government should accord equal treatment to other sectors by introducing fair competition laws for them.

The case of the telecommunications industry quoted by apologists can serve precisely to explain the advantages of enacting competition laws tailor-made for individual industries. In the case of the telecommunications industry, for example, the phenomenon of monopolization at its initial stage of development was due largely to the fact that the Government had awarded the franchise to the Hong Kong Telecom CSL Limited (Hong Kong Telecom). As a result, the Government had to adopt a series of administrative measures to recall the licence of Hong Kong Telecom for redistribution to other telecommunications companies. The act of the Government was similar in nature to fair competition laws. But it must be realized that the formulation of measures similar to fair competition regulations for the telecommunications industry is just meant to deal appropriately with the unique circumstances of the industry. This is very different from any cross-sector competition law, whereby the unique features of individual industries are largely ignored and all industries are subject to the same form of regulation.

Actually, is it at all reasonable and feasible to enact a sweeping cross-sector fair competition law in total disregard for the unique natures and circumstances of different industries? In the case of the power supply market, for example, a highly reliable power supply should be much more important than market liberalization, because the former is vital to the maintenance of Hong Kong's competitiveness. Is it worthwhile to sacrifice the long-standing

reliability of our power supply just for the sake of introducing competition and some hitherto unknown economic benefits?

We must be clear about the purpose of enacting a fair competition law. If what we want are just the enhancement of economic efficiency and better consumer protection, then we should realize that legislation is never the only means. Currently, even without any fair competition laws, the combination of sector-specific regulatory policies and the self-discipline of the industries concerned can already provide protection to consumer interests. In the telecommunications market that I have mentioned, for example, licence-holders are forbidden to commit any anti-competitive acts, and operators enjoying market dominance are also barred from abusing their dominant position. For all these reasons, instead of enacting any sweeping fair competition law that may affect the operation of the free market, we should explore the enactment of a fair competition law for individual industries where there is monopolization, such as the oil industry. In this way, we will be able to protect consumer interests and avoid any unnecessary disputes that may be caused by legislation.

If apologists of the enactment of a fair competition law are really so innocent as to think that they can do good to Hong Kong by rigidly copying all the relevant regulations of foreign countries, I must urge them to reconsider their position after this debate. They must reconsider whether we should blindly follow others' examples and force Hong Kong to enact a sweeping cross-sector fair competition law.

Madam Deputy, I so submit.

MR WONG KWOK-HING (in Cantonese): Madam Deputy, for 11 consecutive years, Hong Kong has been rated as the freest economy in the world by the Heritage Foundation. But little do people realize that in this freest economy of the world, many small merchants are denied a platform of free competition. They are being pushed out of the market by large consortia, with the result that many have been forced to close down the small businesses with which they supported their families. Is such a market a genuinely free market? When small business operators can no longer maintain any footing in the market, can we still claim that the business environment is fair?

In the 1960s and 1970s, the life of many ordinary Hong Kong people was indeed very difficult, but in spite of this, they still had many options of earning a living. There were many different kinds of factories offering such jobs as sewing, packaging, toy-making and even paint spraying. Even if one could not find a factory job, one could still sell various foreign commodities and clothes in the streets. If one possessed a skill of some kind, it would still be better because one could even make glutinous rice dumplings and fried bread sticks for sale. In brief, there were prospects everywhere for earning a living.

However, Madam Deputy, the grass-roots wage earners in Hong Kong can no longer have any options nowadays. The kinds of jobs available are very limited; they can only work as cashiers, cleaning workers, security guards, and so on. And, practically all these jobs are now offered solely by large corporations or chain stores. Cashiers and shelf stockers are two examples. Just five or six years ago, these jobs were still offered by some small-scale local supermarkets, and people could still have choices as a result. But nowadays, one wishing to work as a cashier or shelf stocker must approach PARKnSHOP, Wellcome, 7-Eleven or Circle K.

The case with security guards is exactly the same. Besides constructing and selling residential flats, property developers now also take over the management of the properties constructed by them. They now want to manage the buildings they have constructed, and they even want to take over newspaper delivery. Small-scale management companies are simply unable to enter the market however good their quality is. As a result, security guards do not have any choices and must work for these large consortia.

Instead of addressing these unreasonable conditions, the policies of the Government only serve to help the rich oppress the poor. One instance is the outsourcing policy. All along, the Hong Kong Federation of Trade Unions (FTU) has been advising the Government to revise its outsourcing procedures to allow unemployed workers to form co-operatives for bidding government cleaning and security services. The FTU has also been urging that when service quality is deemed to be identical, co-operatives formed by unemployed workers should be accorded priority in the award of contracts. This can prevent workers from being exploited and also create a platform of fair competition. Why not just do it? Unfortunately, simply for the sake of reducing

administrative work, for the sake of convenience and avoiding any troubles, departmental officials will only award outsourcing contracts to large contractors, in total disregard for the Chief Executive's concept on "strong governance for the people".

The urban renewal policy of the Government also serves to destroy small businesses. Many small businesses are now found in old districts because of low rents and heavy flows of people. However, once after the Urban Renewal Authority (URA) has acquired a lot, it will demolish all the old buildings there and erect blocks and blocks of shopping arcades in their place. Like large property developers, the URA will rent the shops in its shopping arcades to large chain stores, thus completely denying small businesses any room for survival. Any wage earner who wants to find a job will have to work for large chain stores or big consortia. Madam President, I have heard of a true joke. Someone says, "The mortgaged flat I am living in was constructed by Group L. The food I eat is bought from the supermarkets owned by Group L. My mobile phone was bought from Group L and the electricity I use is also supplied by it. For all my life, I am forced to work for Group L and I do not have any choices." Madam President, this true joke is mingled with bitterness.

In brief, for the simple lack of fair competition, all the markets in Hong Kong, whether the sales market or the labour market, are now heavily monopolized by large business groups. There is no more room for small businesses; and, since grass-roots workers no longer have any choices, their wages are depressed. For this reason, the proposed study on a fair competition law mentioned in the policy address this year is truly very good news to me. But we must still pay heed to the details of the proposed legislation to see if it can really promote the fair operation of the free market, or whether it will instead continue to allow large capitalists and large consortia to do whatever they like.

Is the legislation supposed to break the rule that "he who owns the greatest capital monopolizes the market"? Should the legislation create an environment that is truly marked by fair competition, so that all enterprises — large, medium and small ones alike can start competing from the same starting point, so that wage earners can have more choices?

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

MR CHIM PUI-CHUNG (in Cantonese): Madam Deputy, in the policy address this time around, the Chief Executive, Mr TSANG, stressed that he supported the introduction of a fair competition law in Hong Kong.

A few days ago, some representatives from my sector pointed out to me that many banks have placed advertisements in newspapers these days saying that no commission will be charged. This has put them under a great deal of pressure and they requested that I add my name to a notice to be published. In order to show my support for them and to express my concern and views on this matter, I agreed to their request. Originally, this matter does not involve the interests of my sector, however, it is incumbent upon me to give an account of the situation and what transpired.

In the securities business, it used to be the case that banks could not perform the functions of a brokerage and they could only do so by other means. In recent years, with the Government's emphasis on making the financial sector international, banks are given a free rein in becoming participants in the sector. In view of the principle of fair competition, it is not possible for the sector to oppose or do anything about this. However, since banks have the backing of the policies introduced by the Government, vast resources as well as other strengths, and since they have adopted unfair tactics and practices, members in the sector are now subjected to a great deal of pressure.

What are the Government's measures? Firstly, it implemented a measure called subjecting one industry to the supervision of two supervisory bodies, that is, members in the securities industry are subjected to different supervision. The formal members of the securities industry, that is, brokers, are under the supervision of the Securities and Futures Commission (SFC) but the securities departments of banks are under the supervision of the Banking Supervision Division (BSD). We do not intend to comment on the latitude or the stringency of the supervision by the BSD, however, since the capital and financial power of each bank is extremely deep, to the BSD, even if the funds handled by the securities departments of banks run into hundreds of millions of dollars, it does not consider them to be a big deal. However, to the SFC, even if the turnover of a brokerage involves only tens of millions of dollars or even less, the SFC will still scrutinize its operation very carefully.

Secondly, banks have many branches and there is no strict restriction on the number of security departments that banks can establish.

Thirdly, the conduct of members in the banking sector is not subject to the same rigorous regulation that the SFC imposes on brokers. They can look up the information of their customers and when they identify customers with plenty of funds who carry out securities transactions often, they will use all sorts of means to contact their customers and even use various methods to lure customers.

Fourthly, the SFC imposes very strict supervision on the ways stock brokers solicit business, so formal brokers working in the securities industry are having a miserable time. Of course, we can say that these brokers lack competitiveness, so it is natural that they will be forced out of business. However, we must bear in mind that there is still a type of legislation called anti-dumping laws in this world. The present practices adopted by banks cannot be considered fair competition, rather, they amount to malevolent monopolization. It is when formal members of the sector can no longer survive that banks will consider their ends to have been achieved. This is something that the Government must take particular note of.

Although our Secretary used to work in a senior position in the financial sector, nowadays, he can claim that this matter does not fall within his ambit. I believe that the Secretary will be able to hear me, even though he is now outside — these days, the Secretary will take particular note of my views in order to curry my vote in favour of the constitutional reform proposals, even though he may not act according to my advice.

Therefore, I dearly hope that the SAR Government, as a responsible Government, will take into consideration the interests of various parties. Although the members of various sectors in society may not have made contribution or done anything meritorious for society as a whole, at least, they deserve recognition for their hard work. In fact, I have to commend the Government on its fairly successful measures in ensuring fair competition in the telecommunications sector and its achievements are evident to all.

In addition, I hope that even as the Government looks at the issue of fair competition, it also has to pay attention to the many companies operating under franchises. As the exchange rate was rather high in the past, they could often maintain a profit margin of over 10%, so the Government should conduct a review in this regard. Meanwhile, we must also pay attention to and be concerned about all matters involving these corporations that have a bearing on the public's livelihood. Therefore, my sector and I both fully support enacting

a law on fair competition. However, an even fairer approach is to take care of the underprivileged in society, so that they will not have the impression that officials are conniving at one another and care only about protecting the interests of consortia.

Thank you, Madam Deputy.

MR ANDREW LEUNG (in Cantonese): Madam Deputy, Hong Kong has always upheld the principles of free trade and fair competition in its economy, and it is not restricted in any way by protectionism. Here, competition is free, open and fair. This is the characteristic and also the advantage of the economy of Hong Kong. Hong Kong has been rated as the world's freest economy by the American Heritage Foundation for 11 consecutive years. The Fraser Institute of Canada and the Cato Institute of the United States have also rated Hong Kong as the freest economy in the world for nine years in a row.

From the perspective of economic theories, the most valuable feature of the free market is its competition mechanism, so the survival of the fittest is a necessary outcome. By exercising their free choices, consumers can purchase the goods and services they like. The prosperous economic development of Hong Kong today is largely attributable to its emphasis on competition. Although the businessmen may find themselves under great pressure in such a fiercely competitive market, society is nonetheless driven to move forward incessantly by competition. Competition is indispensable to Hong Kong, which does not have any natural resources.

Advocates of a fair competition law may argue that given the very fierce market competition nowadays and the domination of large consortia, supermarket chains and chain stores, it is very difficult for small businesses to compete in the market. As such, they maintain that a fair competition law will enable small businesses to survive and give them a way out. But we must not forget that the enactment of a fair competition law is after all meant to promote market competition through the formulation of a set of fair and transparent rules applicable to all businesses, large and small. Therefore, a fair competition law should not be regarded as the shelter for small and medium enterprises (SMEs). If we enact a law that gives too much consideration to the size of SMEs and offers these enterprises too much protection, then we may achieve the opposite

result in terms of promoting market competition and operational efficiency, though our actions may have good intentions and are politically correct.

Therefore, as long as large consortia and small businesses can both operate under the same market conditions, the inability of the latter to survive should only be regarded as the natural result of fair competition. If a certain large corporation is accused of dominating the market simply because it has grown to its present size due to good business tactics, and if a fair competition law is enacted to restrict its development, then we are actually saying that an enterprise which has grown in size because of successful operation may invite commercial litigation and eventually sustain losses. In other words, a law that is basically intended to protect consumers may well become a mechanism for penalizing successful enterprises, in addition to being used as a means of attacking one's business rivals.

Alan GREENSPAN, Chairman of the American Federal Reserves Bureau, once remarked that the formulation of anti-trust laws will impede the production impetus of the commercial sector because businessmen all fear that their businesses may be deemed illegal and therefore destroyed by the government. Alan GREENSPAN's remark is true. Hong Kong is a very tiny economy which depends on free trade, a liberal market and a business-friendly environment for its survival. If too many strict and harsh laws are enacted to impose restrictions, international investors may be deterred from entering the market. In the end, Hong Kong will suffer heavy losses. A fair competition law may also lead to many litigations, resulting in wastage of money and time. All this will become a heavy burden on many enterprises and may even endanger the survival of SMEs.

Madam Deputy, fair competition monitoring for certain sectors, such as the telecommunications and power supply industries, is already in place in Hong Kong. Besides, the Government is also conducting active studies on the fuel market. Whenever the Government notices any imbalance in a certain industry, the Government will interfere and take appropriate actions to maintain market order.

The Competition Policy Review Committee (CPRC) is presently reviewing the effectiveness of the existing policy and conducting studies on whether Hong Kong needs to enact a comprehensive and cross-sector competition law. With an active and open attitude, the CPRC is also exploring

ways of enabling Hong Kong to develop towards *bona fide* fair competition, with a view to serving and supplementing the long-term and overall economic interests of Hong Kong. We should take the first step by reviewing the composition, functions and operation of the Competition Policy Advisory Group. Its mechanism and procedures for handling complaints against anti-competitive practices and also its investigation power should be reviewed, so as to ascertain whether it is necessary to further open up its membership and to give it greater powers of investigation. Madam Deputy, I think that it is still too early to talk about the enactment of any legislation for the time being. It is now a good time for us to decide on the major directions that can suit Hong Kong's development and enable it to achieve *bona fide* fair competition.

Madam Deputy, now I would like to discuss my views on the motion today. I can remember that when Mr Fred LI moved the motion on "Enacting a fair competition law" last year, Mr Ronny TONG moved a pragmatic amendment to his motion, urging "the Government to thoroughly review the function and effectiveness of the Competition Policy Advisory Group, so as to ensure that there is a fairer trading environment in Hong Kong." The Liberal Party supported this amendment, but Members belonging to the pro-democracy camp held a different view. The Democratic Party still maintains this position and, in the motion today, it demands again "the expeditious enactment of a cross-sector law on fair competition and the setting up of a fair competition commission with the powers of investigation and the privilege of confidentiality". In other words, even without conducting any surveys and studies, they can come to this conclusion: Anyway, such a commission must be set up.

I do not think that establishing an inter-departmental committee and enacting a fair competition law are the only two ways of promoting fair competition. Instead, I think all roads lead to Rome. We should consider whether there are some other more effective alternatives.

Thank you, Madam Deputy.

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

MISS CHAN YUEN-HAN (in Cantonese): Madam Deputy, today's motion debate is not moved by me, but I am puzzled by Mr Andrew LEUNG's earlier

remark of "All roads lead to Rome", so I feel that I must say a few words. How can we reach Rome? Basically, different persons have different starting points, how can they reach the destination of Rome at the same time?

Madam Deputy, as an advanced and civilized international city, Hong Kong should also be a fair, reasonable and just society. However, does Hong Kong actually have a level playing field? As I have said earlier, the answer is in the negative; definitely such an environment does not exist. Monopolization exists in different aspects of society such as energy, freight forwarding and supermarket. I shall focus my discussion on these three aspects later on. Of course, there are other aspects as well. If we really have to go into the details, there must be many other aspects. But I shall focus my discussion on these three aspects because such aspects have already aroused public concern.

In this Council, fair competition legislation is a motion subject that has been discussed for many years. Although the Government has introduced certain fair competition ordinances to the telecommunications and broadcasting industries, no explicit evidences of fair competition can be found in other industries. Certain consortia and enterprises still possess the monopolistic power in certain industries, thus affecting smaller enterprises with less capital. In fact, the monopolization issue is commonly faced by all Hong Kong people. When employees have only one or two employers in the entire industry, in fact, this means they have no chance of switching to another company due to the absence of choices. Under such circumstances, the consumers are subject to their exploitation without any other options.

All along, the Government has pursued a free market policy which means it does not interfere with any commercial competition, and allows free competition to run its own natural course according to the law of "survival of the fittest", as Mr Andrew LEUNG has said earlier. However, in the realistic situation in Hong Kong, we cannot sit back and relax and do nothing about this situation. The Government has actually overlooked the need of enacting a fair competition law in Hong Kong. In the market nowadays, most of our daily necessities are gradually controlled by some large consortia. As Mr WONG Kwok-hing said earlier, he had received complaints that many services such as residential, housing management and telephone services, and so on, have become parts of the business operations of the L family. In fact, this is the case in Hong Kong.

Last night, when I had a discussion with some small business operators on the issue of a minimum wage and standard working hours, they were very indignant as they mentioned the monopolization in the rental market by certain property developers. They said that, "Miss CHAN, you must rectify the situation. At the moment, the most expensive cost item is the rental, not the wages." As they found difficulties in operation, so a discussion on the issue of the minimum wage followed. If both the Government and the commercial sector ignore this problem, I think this is unfair. We cannot cover our own conscience. The major consortia have monopolized more and more industries in Hong Kong. If this situation is ignored time and again, frankly speaking, the Government will face even greater criticism than that launched at us in future.

Madam Deputy, with the assistance of the theme of environmental protection, bus companies and power companies in Hong Kong have repackaged themselves in recent years as organizations with social conscience. But in essence, we find these companies most unwilling to tell us that they still have room for reduction of fares even though they have reaped huge profits annually which range from several hundred million dollars to over \$1 billion. Madam Deputy, I believe you also remember the case of the tunnel companies which is a classic example. Therefore, if we still say that there is no problem with the situation, or that the Government does not intend to interfere with the free market, actually it does not have any justifications for supporting this position. As for the several oil companies, they are fixing prices themselves. I believe you, Madam Deputy must have felt strongly about this. Whenever international oil prices go up, the oil prices in Hong Kong will rise rapidly as well. But when international oil prices have dropped, local prices do not make downward adjustments accordingly. On the surface, these several oil companies are operating independently; yet in fact, they have acted as if they have made some prior agreements before fixing the prices. Very often, we feel very angry about such situations. How can these companies act like that? This is really a major problem.

Madam Deputy, what has brought about the greatest impact on people's livelihood is the monopolization of major supermarkets, which is very much attributable to their rapid development. In the past, low-income people could still buy their daily necessities from vendors in the market and housing estates. But after property developers have launched property development projects extensively, we now find that the room for survival of small vendors in markets

is diminishing. The people have been driven to do their shopping in several major malls. Tseung Kwan O is a typical example. So, if the people have to buy anything, they must go to the several major supermarkets. If you do not like the L family, how many other options do we have? In fact, the monopolized situation has become very evident.

Given such a situation, if the Government still says that there is no problem at all, then how can CHAN Yuen-han have any courage to urge people having completed a business-starter course to launch their own small business and to compete with the major consortia? These people will never be able to compete with the consortia, for they simply have no competitive edge at all. The malls are the properties of the consortia, so they can charge whatever rents as they wish. I do not wish to elaborate on this. However, I would like to point out that, the present monopolization of the supermarkets will eventually affect the markets managed by the Government. In the course of discussion in the panel meetings, I have frequently raised such problems. I told the Government that if it did not take any action, we could no longer have the luxury of talking about fair competition and free competition. How can we have any fair platform? How can we have any free platform?

In my opinion, it is all too nice to describe Hong Kong as a member of the worldwide free economy, but we had better invite the academics to make an assessment to see if the freedom we are enjoying is real freedom; and whether everyone is standing at the same starting point. As a matter of fact, this is not the case. It is not fair, and it is not free at all. They have the freedom, but the small vendors do not have such freedom. Major consortia with huge capital and strong competitiveness are allowed to act in whatever way they like. But for vendors with small capital — they may be the employers today, and may become the employees tomorrow; or they will be the employees tomorrow, but they may become the employers again the day after tomorrow — they are just some people struggling at the brink of employment. It is absolutely a mission impossible for them to compete against the major consortia. I am not a person who likes to indulge in nostalgia, but I do have a passion for the earlier generations. When workers became out of a job, they could always make a living by selling some home-made food such as deep fried glutinous dumplings, spring rolls, wrapped steamed dumplings and noodles. By doing this, they could even support the livelihood of others. Can the workers do this now? Worse still, the Government seems to work, deliberately or otherwise, in co-ordination with the developments by property developers. In short, the Government would proceed

to demolish certain places once some good economic activities are going on there. Therefore, I have once criticized the Urban Renewal Authority (URA) angrily for creating such cases. If even the URA has degraded itself to work for the benefit of the major property developers, and adopt such a bad attitude towards small business operators, it really comes as no surprise if I should raise my objection.

Madam Deputy, if the concept of the so-called free competition just aims at safeguarding the interests of the major consortia, and from an objective point of view, if we are given to see how the policies implemented are safeguarding these consortia and how the grassroots are being overlooked, then many people in society would denounce such a situation as collusion between business and the Government. By then, the Government will have lost all its credibility no matter how hard it tries to defend itself. Therefore, I hope the Government can really do a good job in this regard. In particular, the Government should provide a platform for competition policy-wise, so as to facilitate genuine free competition, instead of asking small business operators to compete with the major consortia which enjoy established advantages. If not, it is tantamount to subjecting these small business operators, who are employers today, but could become employees tomorrow, to repeated oppression. Eventually, they may become penniless after the last several tens of thousand dollars in their wallets are squeezed to pay for the rentals.

Madam Deputy, I so submit.

MR JEFFREY LAM (in Cantonese): Madam Deputy, as a representative of the business sector, I can speak on behalf of the local business sector that a business environment characterized by fair competition is extremely important to us, and that the business sector absolutely supports fair competition. I believe Chief Executive Donald TSANG also shares our view. Otherwise, he would not have devoted three whole paragraphs in the policy address this year to discussing ways of encouraging fair competition and proposing specific follow-up measures.

The Legislative Council has in fact debated many times before whether Hong Kong needs to enact a comprehensive fair competition law. I note that the Democratic Party this time around is proposing to enact legislation on five specific acts: price fixing, market sharing, bid rigging, predatory pricing and

bundled services. But the scope covered is so extensive that the proposal is not much different from a sweeping competition law.

The Democratic Party has always maintained that a fair competition law should be enacted to cover all sectors, as this will prevent the occurrence of such manipulative acts as monopolization, collusive pricing, and so on. Moreover, it also advocates the establishment of a statutory committee vested with the kind of investigation power that can make it "a tiger with bite", so that it can deal with what they consider as anti-competitive conduct. However, we must also bear in mind that the tiger may devour us!

We must honestly ask ourselves, "Will a fair competition law necessarily help enhance our competitiveness?" Advocates of a fair competition law often claim that Hong Kong is monopolized by large enterprises and corporations, but we also hear people from the business sector say that competition in Hong Kong is actually very fierce. And, we must not forget that Hong Kong has been rated as the freest economy of the world for 11 years in a row.

The Democratic Party has been emphasizing that a fair competition law must be enacted to deter bid rigging. As a businessman myself, I must remind them that the Prevention of Bribery Ordinance of Hong Kong is already noted internationally as one of the strictest laws against such acts of commercial collusion. We should have confidence in this Ordinance instead of doing anything unnecessary and resorting to any alternatives.

We are of course not saying that the market of Hong Kong absolutely does not need any improvement. I just wish to stress that we may not always need to follow others' examples. We must think carefully and ask ourselves what results we want to achieve by enacting a fair competition law. In fact, many economists have pointed out that from the perspective of promoting market competition and operational efficiency, introducing such a law may bring about the opposite result of making business difficult.

We may look at the situations in Europe and the United States and ask whether the enactment of fair competition laws has helped them enhance their competitiveness. What I have heard most frequently are the emergence of large numbers of litigation cases after the enactment of such laws. The costs of such litigations are often enormous, amounting to tens of million US dollars, or even hundreds of million. Even manufacturers can afford all these astronomical

legal costs, consumers may not get any benefits. I believe eventually only a handful of lawyers will be benefited.

If we really decide to enact a law, how are we going to define "abuse of market position" or produce concrete justifications that the law will not be reduced to a means of attacking one's rivals in the commercial arena? Special attention must be paid to all these. I am of course not saying that these problems will definitely happen, but they must not be ignored in our studies on whether a fair competition law should be enacted.

The Hong Kong General Chamber of Commerce is extremely concerned about the fair competition situation in Hong Kong. However, we also think that that a sweeping fair competition law is not the panacea for improving market economy. There are other ways of enhancing our market competitiveness. For instance, we may reform the Competition Policy Advisory Group and strengthen its monitoring authority. Alternatively, we may strengthen the role of the Consumer Council in championing consumer interest. However, the formulation of a sweeping fair competition law may achieve the opposite result, and it may impose unnecessary restrictions on the development of market economy.

I must reiterate that when the Government is studying whether it is necessary to enact a sweeping fair competition law, the Government must, most important of all, consider all the pros and cons and make the overall interests of Hong Kong its prime consideration.

Madam Deputy, I so submit.

MR LEE CHEUK-YAN (in Cantonese): Madam Deputy, basically, the proposal of enacting a fair competition law does have a significant bearing on the livelihood of the people. We often say that the wealth gap between the rich and the poor has become very severe in Hong Kong. But why should the poor become even poorer, and the rich even richer? It is all because the Government's policies are all tilted towards the large consortia.

If the Government allows the market to be monopolized, some obvious cases will emerge. Madam Deputy, in the previous debate on the motion of reducing and remitting the duty on ultra low sulphur diesel, you can see that the

oil prices have kept rising. This is a result of market monopolization and collusive price fixing. Once market monopolization has emerged, the prices will not be decided by the law of demand and supply, but by the consortia that have monopolized the market. If the prices are decided by the consortia that have monopolized the market, the prices will stay at a very high level, so the consortia may profiteer enormously. Very obviously, this has violated the principle of fair competition. We can never accept market monopolization as this will stop prices from making downward adjustment. Madam Deputy, this is what is happening in Hong Kong.

Why do the poor people find that the present prices cannot make any downward adjustment? One of the major reasons is certain products in the market have already been monopolized, so the prices can never drop. Fuel is one of such examples. Some other examples include the cases of certain major property developers who have monopolized some property developments and adopted certain anti-competitive measures, so that other products, such as telecommunication products cannot enter the scope of their development projects. Therefore, Madam Deputy, we demand the Government to enact a fair competition law, so as to make the market more competitive. By then, the prices can be adjusted downwards, thus making improvement to people's livelihood in society as a whole.

Madam Deputy, what has bewildered me most is, many Members of the Liberal Party have delivered speeches to oppose the enactment of a fair competition law. I do not know the origin of the name of the Liberal Party, yet if they do take pride in their "being liberal", then it must include the liberal market, which they have frequently claimed to safeguard. If monopolization emerges in the liberal market, then it is no longer liberal, and the "Liberal Party" will become the "Monopolization Party". If the Liberal Party does not support fair competition, then, what has happened to their "liberty"?

Mr Jeffrey LAM just said that enacting a fair competition law is like feeding a tiger that may devour us anytime. In fact, his logic should point in the opposite direction. We are really feeding the tiger that can endanger our lives if we allow the present situation to continue without doing anything. In Hong Kong, the really giant tigers are those large consortia that have monopolized the market, and by tolerating the present situation, we are exactly feeding the tigers that may devour us anytime; and the proposal on enacting a fair competition law

is meant to knock down such giant tigers. When the committee established by the Government conducts studies on this issue, I hope its members will not be afraid of these giant tigers. All these giant tigers are the voters of Donald TSANG as the 800-person Election Committee mainly comprises giant tigers. However, the Government needs not be afraid of them. Otherwise, Hong Kong will never be able to achieve anything. Therefore, I think the enactment of a fair competition law will in fact rationalize Hong Kong's investment environment.

I recall Mr Andrew LEUNG make the remark earlier that, if Hong Kong was to enact a fair competition law, it would deter overseas investors. At hearing this, I was at a loss. In fact, when overseas investors are interested in entering a particular market, and if they find that a fair competition law is already in place there, they will definitely see merits in this situation. For example, Carrefour had tried to tap the Hong Kong market but failed because it was of the opinion that the two major supermarkets here had already monopolized the market of Hong Kong. Therefore, if we want to attract international consortia to make investments in Hong Kong, a level playing field is in fact vitally important. As such, allow me to take a different stance, with regard to Mr Andrew LEUNG's view that the enactment of a fair competition law will affect the views of international investors, I absolutely disagree.

Besides, Mr Andrew LEUNG also said that small and medium enterprises (SMEs) should not take shelter behind a fair competition law; instead, they should come forward to engage in competition. However, such a comment is putting the cart before the horse. If a fair competition law is not in place, when the market is monopolized, how can the SMEs compete with the large consortia? The environment we strive so hard to create is meant to enable the SMEs to stand a chance to compete with the major consortia. Only in this way can we make progress. However, the Liberal Party has taken a very strange stance. They always seem to be safeguarding the interests of the SMEs, but once the discussion touches on a fair competition law, they would immediately take the side of the major consortia. For example, when we discussed the prescription of a minimum wage, they would say that the SMEs were having a hard time, omitting how the workers were being exploited by the large consortia. Fine, when we mention the SMEs now, the Liberal Party immediately adjusts its stance and says that the SMEs should not take shelter behind a fair competition

law. I do not know which side the Liberal Party is on? Even if they are taking the side of the commercial sector, there is still the differentiation among the large consortia, ordinary businesses or the SMEs. I hope the Liberal Party can have a clearer idea of its own positioning.

I feel that society as a whole should jointly support the enactment of a fair competition law because this will be good for the SMEs as well as the ordinary public. The only party that may oppose enacting a fair competition law is the large consortia because they are monopolizing the market now, and the enactment of a fair competition law is exactly challenging their monopolistic position. Therefore, if someone says that we are feeding the tiger that might devour us, the enactment of a fair competition law is just our attempt of knocking down such tigers. However, the Government must show its determination in pursuing this cause.

Thank you, Madam Deputy.

MR RONNY TONG (in Cantonese): Madam Deputy, this subject matter of enacting a law on fair competition has been discussed many times in this legislature. In fact, as far as I understand it, before I became a Member, this Council had also discussed this subject matter many, many times, so Members must all be very familiar with the arguments involved. However, there is one question that we still cannot sort out, that is, although many Honourable colleagues claim that they support maintaining an environment of fair competition, at the same time, they object to the enactment of a so-called sweeping law on fair competition. Why? As we all know, everyone is equal before the law and the rule of law is an important principle to which Hong Kong owes its success. The aim of enacting a fair competition law is to ensure that the free market can operate effectively according to the most fundamental principles, so it is not advisable to favour one group of people over another and to subject certain industries to regulation while exempting others. Moreover, based on what criteria should we make our decisions? If we look at the important legislation regulating fundamental commercial operations, such as the Sale of Goods Ordinance, the Supply of Services (Implied Terms) Ordinance or the Trade Descriptions Ordinance, may I ask in which of them is a so-called sweeping approach not adopted?

On the one hand, some people are claiming vocally that they support creating an environment conducive to fair competition, and yet on the other, they oppose steadfastly to the enactment of a cross-sector fair competition law. I really do not understand what sort of fair competition these so-called proponents are in favour of. Do they want a discriminatory business environment, that is, one in which some people have to compete fairly while others do not, as advocated by some Members returned by functional constituencies in this Council? Regarding enforcement, in fact, I have all along proposed that the mode adopted by the Office of the Telecommunications Authority and Britain or the European Union should be followed by establishing an independent Competition Commission responsible for investigation and law enforcement. In this way, it will be possible to avoid attracting a large number of litigations as the system of anti-trust laws in the United States does.

In fact, in Britain and Europe, and even in the telecommunications industry which has seen the introduction of a fair competition law in recent years, we can see that such a move has not triggered a large number of litigations in the past several years, as some people in the business sector maintained. In fact, as far as I know, there is not even one case of litigation in the telecommunications industry. However, after a fair competition law was enacted, the competition in the sector is definitely a lot keener and the Hong Kong public has benefited as a result. The independence of such a commission is very important. Why? Because it has to uphold justice. Not only must this commission be truly independent, it must also be seen to be truly independent because when enforcing the law, very often, the fundamental interests of consortia will be involved. In particular, since the Hong Kong Government is not popularly elected, nor is it formed by universal suffrage, the interests of consortia and the Chief Executive are intricately entwined and only a truly independent commission on fair competition will be able to enforce the law in a fair and impartial manner.

Furthermore, our Chief Executive, Mr TSANG, often says that a lot of criticisms charging that there is no fair competition law in Hong Kong are made purely from the cognitive level, that is, it is only a perception and does not reflect the actual situation. Precisely for this reason, there is all the more reason to ensure the independence of such a commission on fair competition to convince members of the public that it is possible for the Government of the Hong Kong Special Administrative Region to ensure fair competition impartially and that it is not subjected to the influence of any consortia lurking at the back, so that the law

on fair competition will not become a weapon in the overt or covert struggle of various parties in society.

(THE PRESIDENT resumed the Chair)

As regards whether enforcement can be truly independent, this is actually closely related to whether the law can be enforced successfully. Here, let me cite the example of Thailand. After the financial turmoil of 1999 in Thailand, the Thailand Trade Competition Act was enacted and a Competition Commission (the Commission) was established in Thailand. However, the Commission does not enjoy independence in terms of its organization, finance and even operation. Moreover, as is the case in Hong Kong, the Commission is headed by the Minister of Commerce and just as in Hong Kong, most of the members of the Commission are representatives from consortia. The Commission has only conducted four investigations over the past six years, and each investigation ended inconclusively without yielding any result. Moreover, in the six years since its establishment, no relevant subsidiary legislation has ever been drawn up. Since 2001, the Commission has in fact ceased to function. If a government is not popularly elected and it is not possible to replace it through universal suffrage, one risk associated with any commission under such a government is that enacting any legislation can be tantamount to having not enacted any legislation at all. Therefore, basically, we must have an independent mechanism.

In addition, in order to determine accurately if a certain business act contravenes the principle of fair competition, it is necessary to confer the statutory power of investigation on a commission, otherwise, it will not be able to prove or disprove that any anti-competitive conduct exists, just like the situation of the existing Competition Policy Advisory Group. If a commission is vested with the power of investigation, it means that the commission may perhaps obtain some sensitive commercial information in the course of investigation and such information must be kept confidential. Therefore, the power to maintain confidentiality and that of investigation should go hand in hand and a commission must have both.

Another area that must also be kept confidential is the identity of the complainant or the witness, since if the complainants are not given protection,

they may be subjected to the revenge by consortia when they do business in future. As a result, a lot of people will be deterred from lodging complaints. In that event, even though a fair competition law has been introduced, it will just be a useless piece of legislation. Therefore, it is necessary to confer both the power of investigation and the power of maintaining confidentiality on a commission. Apart from these two powers, it is also necessary for a commission to have the power to impose penalties. This is intended mainly to confer adequate power on a commission so that the parties concerned have to comply with the requests or orders of the commission. If a commission requests that a consortium being investigated provide information but is ignored by it, such a situation is just like that with the present investigation on oil companies and any legislation enacted will be useless. I believe that such a commission should at least have the power to impose penalties. In that event, if the consortium involved does not provide the requested information, the commission will have the power to initiate prosecutions. This is not intended to penalize consortia that refuse to provide information, or..... (*The buzzer sounded*)

MR WONG TING-KWONG (in Cantonese): Madam President, the DAB believes that any measure that promotes competition in the market and enhances protection for the consumer can be considered, including the conduct of a feasibility study on enacting a fair competition law. However, different industries are characterized by their different scales of investment and the different natures of their markets. It will be difficult to apply an all-encompassing fair competition law to various industries. Therefore, we oppose the proposal to enact a cross-sector fair competition law.

The scales of investment and natures of the market of various trades and industries are different. Some industries are facing regional competition rather than local competition. For example, in the air transport industry, the Hong Kong Air Cargo Terminals Limited can be considered to enjoy monopoly in Hong Kong, however, this industry also faces stiff competition and its competitors include those in Singapore, Taiwan, the Philippines and South China. Another example is the shipping industry and Hong Kong faces competition from the ports at Shekou and Yantian on the Mainland as well as nearby ports such as those in Taiwan, Thailand and Singapore. There are also industries with very special natures and market structures and the very general provisions of a cross-sector fair competition law may not be appropriate for

them. Another example is the accounting sector in Hong Kong. At present, the sector is dominated by four international accountancy firms known as "the four major firms". However, there are a considerable number of second line accountancy firms playing respective roles, with no observable signs of monopolization. A similar situation can also be observed in the legal and the medical sectors.

Some people claim that enacting a fair competition law applicable to all trades and industries can help remove the public perception that there is collusion between the Government and businesses in society, and protect consumer rights and members of various sectors. Moreover, an example akin to a fair competition law can be found in the telecommunications industry in Hong Kong and the results have been desirable. Consumers in Hong Kong are paying virtually the lowest mobile telephone charges in the world. Moreover, fair competition laws have been introduced in over 80 countries and regions, so they can serve as examples for Hong Kong.

However, I believe that enacting a fair competition law and introducing a host of regulatory measures will affect investor confidence. In this connection, an investor in the telecommunications industry pointed out that over-regulation and keen competition had made investment in the telecommunications market in Hong Kong no longer appealing. Major overseas telecommunications companies such as BT (Hong Kong) Limited and AT&T Corporation have withdrawn from the Hong Kong market, whereas KDDI has made it known that due to the excessively competitive environment in Hong Kong, it would not join the bid for a telecommunications licence in Hong Kong.

Although fair competition laws or anti-trust laws have been introduced in over 80 countries or regions throughout the world, in fact, insofar as the depth and scope of the coverage of such legislation and the definition of anti-competitive conduct is concerned, when regulation is carried out by means of legislation, the understanding and the yardsticks adopted are different at different places. Even though a number of regions in Asia have introduced fair competition laws, some of them are merely for show. A bill on fair competition was passed in Singapore last year and will be implemented in phases next year. Although this law regulates anti-competitive conduct, the abuse of market positions and anti-competitive mergers and acquisitions, almost all public utility services and "strategic sectors" as defined by the Singapore Government,

namely, electricity and gas, public transportation, telecommunications, postal services, media, cargo terminal operations, armed security services, potable water supply, waste water management services, activities of clearing houses and government units are excluded from regulation by this law and private companies can also be exempted on grounds of public interests, so the law seems to be totally useless and serves little real purpose.

Moreover, the word "fair" is most controversial. What does "fair competition" mean? Different people may have different definitions. As Dr CHAN Yan-chong, Associate Professor of the City University of Hong Kong, pointed out, after the accession of China to the World Trade Organization, normally, the European Union and the United States should open up their markets to Chinese textile products. However, the European Union and the United States have used "unfair competition" as the ground to restrict the import of Chinese textile products. It can be seen that the so-called fair competition is sometimes exploited by politicians as a political tool.

There are also different perceptions on whether unfair competition exists in an industry or market. We should not draw hasty conclusions based on our intuition, the number of participants in a market or the scales of companies. Instead, we should first conduct in-depth studies and analyses and cautiously explore the feasibility of enacting a law on fair competition law.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, in the motion debates held in this Council during these few years past, there would always be some topics which were repeated over and over again. A good example is the motion topic today. The responsibility for this state of affairs is not that Members like to dig up ancient stuff and debate on it, but that the Government is always deaf to the problems raised by us. So Members are always chasing the Government, like creditors chasing after their debtors. I hope therefore that the Government can handle these problems as soon as possible.

Today it is the seventh time that the topic of enacting a law on fair competition is discussed in this Council. Actually, as early as in 1996, the

Consumer Council had called for the enactment of a comprehensive fair competition law and to ask the Government to set up a Competition Authority. The Government did listen to this suggestion from the Consumer Council and set up the Competition Policy Advisory Group (COMPAG) in 1997. But the setting up of this COMPAG is in fact a waste of our resources, for I do not know if it is really merely an advisory body and just as Mr Ronny TONG has said earlier, it has not done anything at all. This COMPAG has not played any part to address the present situation, nor is it helping us solve the problems.

It is surprising to note that our new Chief Executive admits in his first policy address that there is monopolization in the Hong Kong market. He also says that the measures to be adopted by the Government on fair competition will aim to facilitate new ventures by individuals and help SMEs operate and develop. In addition, the Chief Executive says that the Government wants to actively uphold market order and fair competition. He also points out that we can take reference from the comprehensive competition laws enacted in scores of countries and regions.

After listening to these remarks, I was very happy, but our Chief Executive likes to play with anti-climaxes. He then says that as the so-called COMPAG is there, so what we should do now is to review and conduct studies in the hope that something can be done in future. President, when it comes to studies, we are very worried because in the past the Government had said that it would consider many laws. But what happened afterwards? Nothing had come out of these studies. So if the Government is saying again that it would review and conduct studies, I would be very worried as I have no idea when there can be any results after all these delays.

President, as the Government has really been slow and unresponsive in fair competition matters, this accounts for our lagging behind other developed economies. Ever since the passage of a fair competition law in Singapore last year, Hong Kong is the only place without a comprehensive fair competition law. In 2002 the World Trade Organization made a criticism on this. Likewise, the Trade Commissioner of the European Commission made a similar remark during a visit to Hong Kong in 2004. Therefore, I do not think we can afford to sit back and do nothing. Given criticisms from so many people, why are we still not paying attention to this problem?

President, the Government has enacted a fair competition law for the telecommunications market and thinks that the results have been particularly noteworthy. Given this, why is the Government not doing the same thing in other sectors like fuels, supermarkets, electricity and real property, and so on? We are very surprised to see that the Government is doing something in some sectors but it is doing nothing in others. Does the Government have a hidden agenda of favouring some at the expense of others? If this is the case, it would be much better if the Government would tell us honestly that it has really such a biased policy?

Many consortia have been saying that if a fair competition law is enacted, it is very likely to lead to many lawsuits which can otherwise be avoided and there will be very high administrative expenses and Hong Kong's competitive edge will be undermined, and so on. All these arguments are advanced by these consortia all the time. I hope that when they are to put up these arguments again, they can look at what is happening in other places like Taiwan, Australia, the United States, Japan, the Netherlands, Denmark and the Mainland. If they have examined the situation in these places closely enough, they will find out that their worries are unfounded and their arguments are groundless. This is because apart from enacting a comprehensive fair competition law, these places have also set up an independent enforcement agency with powers of investigation. Before any prosecution is initiated, there will always be investigations first. Apart from that, there are mechanisms for appeal and mediation and companies will not have to resort to bringing the case in question to Court all the time.

In addition, these places also attach great importance to educating the consumers and enterprises. If the enterprises worry that their measures will lead to monopolization, this enforcement agency will give them advice for their consideration. Therefore, this agency is very helpful to the enterprises, unlike the concern expressed by some of these consortia that a lot of constraints will be imposed and endless disputes will ensue. I think that if we are open-minded enough and if we are fair and impartial enough, then we can look at the examples in other countries and we should not put up the above as an excuse to reject and resist the enactment of a fair competition law.

President, I would like to mention one last point. We all know that there will be another listing attempt of The Link REIT which has attracted a lot of controversies. We are very concerned because tenants of shopping malls keep

voicing the concern that under the management of The Link REIT, the small operators will be forced to move out because the rentals will be increased drastically. This will make way for the large chain stores or big businesses to take over these shopping malls and so the small businesses will not be able to survive. If this is the case, this will not only deprive small businesses of their right to live but the choices available to the consumers will also be affected. I therefore think this is a most serious problem and I hope very much that the Government can enact a law on fair competition as soon as possible. In this way, monopolization can be eliminated and the right of the general public to make choices will be protected.

I so submit. Thank you, President.

MR FRED LI (in Cantonese): Madam President, Mr LEE Wing-tat has explained the significance of, and some arguments for, fair competition legislation. I will mainly talk about fair competition laws in other countries and respond to the arguments advanced by Members with dissenting views.

The bill proposed by the Government for the abolition of estate duty, passed by this Council last week, was supported by the Democratic Party. At the same time, many colleagues from the business sector — mainly from the Liberal Party — explained the benefits brought to various countries subsequent to the abolition of estate duty and cited other countries as examples to show that Hong Kong would lag behind if estate duty was not abolished. While we had no objection to these arguments, we also supported the bill. Actually, the abolition of estate duty involves only a relatively small number of people. We have also looked objectively at the experience of other countries for our own reference. Given that more than 80 countries worldwide have enacted fair competition laws, why have Members supporting the abolition of estate duty last time not referred to the experience of other countries this time? Instead of blindly following others or blindly supporting the abolition of estate duty, we have conducted discussions and careful research for years before coming up with these views.

I would like to say a few words on the current situation in our Asian neighbours. The anti-trust law, which came into effect in Japan in 1947, has, among other things, three goals, namely prohibiting unreasonable trade restrictions, prohibiting monopolization by private enterprises, and prohibiting unfair trade practices. The Fair Trade Commission of Japan is tasked with

enforcement of the relevant law. In Korea, the Monopoly Regulation and Fair Trade Act was enacted in 1980. The Korea Fair Trade Commission, a designated organ for enforcing competition legislation and policies, prohibits abuse of market influence, restrains concentration of economic power, and monitors improper acts of co-operation and unfair business practices. A more recent event was the commencement of the Fair Trade Law in Taiwan in 1991. This problematic piece of legislation has been debated in the Legislative Yuan for years.

During a recent trip to Taiwan, we had an opportunity to talk with the responsible person and were told that the contentious issues relating to the Fair Trade Law at that time were exactly the same as the problems confronting Hong Kong today — in addition to strong opposition to the enactment of a fair competition law from members of the Legislative Yuan representing business interests, major consortia also lobbied the Legislative Yuan to oppose the law. Nevertheless, the law was eventually passed after a decade of struggle, though it is still undergoing a continuous process of revision and amendment.

I would like to share with Members the information I have obtained. Let me cite the regulation of joint actions as an example. Friends from the Liberal Party and the DAB have very often accused us of blindly following others. They may probably argue that successful businessmen will be punished because of supervision and that we will only protect the weak. I would like to tell Members that fair competition legislation is like the rules governing soccer matches. How will anyone be punished if there is no foul play? A fair competition law is merely a set of rules. At present, except the telecommunications and broadcasting industries, all industries in Hong Kong, relying solely on self-discipline, are not governed by such rules. Come to think about this. Had there been no anti-trust and fair competition measures in the Telecommunications Ordinance, the PCCW, occupying 95% of the market share at the time, might have resorted to substantial or cut-throat price reduction. As a result, new rivals, such as the New World Telecommunications Limited, would have no chance at all to enter the market because consumers would definitely prefer an inexpensive telecommunications service provider. We are now seeking precisely to include new provisions to stipulate that price reduction must not be used as a weapon to deter new rivals from entering the market. This will offer new competitors room for market development and eventually give all parties fairer competition opportunities. To achieve this, how can the Government rely on the industry to exercise self-discipline? Without

government intervention or statutory provisions, how will the industry exercise self-discipline? Therefore, self-discipline is merely an excuse used by the powerful to avoid regulation.

I hope Secretary Stephen IP can draw reference from Taiwan, where there are plenty of such examples. First, Taiwan is a Chinese community; second, it has a modest population of 23 million, whereas Hong Kong has a population of 7 million or so. The system in Taiwan is comparatively well-developed because there are a number of precedents relating to investigation, punishment, and so on. Moreover, the system has been developed for more than a decade. I think we can refer to the example of Taiwan where the Fair Trade Commission is directly under the Executive Yuan. The anti-trust law of the United States is extremely harsh. Yet, we do not necessarily have to follow the American way. Colleagues should therefore avoid frequently quoting the country as an example. Given that more than 80 places worldwide having already enacted fair competition laws, we may quote various places as examples too. For instance, Thailand enacted its fair competition law in 1979. Singapore has also enacted a law relating to fair competition. Despite the Liberal Party's comparison of the fair competition law in Singapore to a "toothless tiger", the problem is not ours. We may just draw reference from the country and come up with our own fair competition legislation with bite by avoiding the problematic areas. There is no point copying wholesale. I really do not understand their arguments. I wonder whether they have conducted any research or engaged in any serious discussions. They just keep opposing the law and accusing others without conducting their own research. Even in our Motherland, the Anti-Unfair Competition Law of the People's Republic of China was promulgated in 1993. However, Hong Kong is apparently lagging behind.

Although there is still a lot of detailed information about the Mainland in my draft speech, I am not going to dwell on the details. I just want to point out that such a law has been enacted in the Mainland. Moreover, the fair competition law of Taiwan already has a history of 15 years, whereas fair competition laws in Japan and South Korea have been enforced for more than a decade. Despite the unsuccessful experience of some overseas countries, we can still draw lessons from it. I really cannot see what problems there are for us to draw reference from the situation of other places and choose the path we should follow.

I have never heard that foreign investors have been reluctant to invest in those 80 or so places where fair competition laws are in force. Have Members heard of any examples of foreign capital being scared away by fair competition laws? Have Members heard of relocation of capital from those countries to elsewhere? I guess no. Therefore, we must avoid being biased by enlarging the possible weaknesses of fair competition laws while forgetting all about their advantages and their ability to create a more level playing field in the market. To me, this attitude *per se* is tantamount to unfairness. So, Members should act fairly. Actually, fair competition is vital to economic development. I therefore hope that Hong Kong can introduce a comprehensive fair competition law. I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): President, despite our lengthy discussion on the fair competition law last year, many colleagues are still substituting concepts at the moment. The present discussion is on whether the concept of fair competition law should be introduced, that is, whether primary legislation should be enacted to confer on the Government regulatory powers, before proceeding naturally to the discussion of details. This is the way all fair competition laws have been enacted. Even though the law has yet to be enacted in Hong Kong, some people have exhausted all possible reasons to repudiate the arguments for this concept. Now we are discussing precisely the arguments on whether primary legislation on fair competition should be enacted.

In my opinion, such discussions are no different from those on democracy, right? Both Chief Secretary Rafael HUI and the Communist Party claim themselves to be democrats. The Liberal Party also claims that it longs for freedom. In my opinion, they treat democracy — to put it somewhat crudely — like a chamber pot. It is taken out for use when needed; when it is no longer needed, it will be put aside or under the bed.

Why is freedom important? If a certain group in society can monopolize resources, be them political, economic or social, it will definitely be able to do whatever it wants without being responsible to others. Neither does it have to compete with others in order to achieve results desired by it. This theory was not invented by me. Adam SMITH also said something like this. I simply hate talking about theories. I am a Marxist. I just wish to say a few words since every Member is talking about this. However, how can those people who

do not understand even the words of their ancestors claim themselves to be members of the Liberal Party?

We simply have to face the reality. Does monopolization exist in Hong Kong? Are there any groups monopolizing the market or dominating the market by way of agreement? Yes, indeed.

According to a report compiled by the Democratic Party, as I personally experienced it too, it cost more than \$10 per minute to make an international call when the international call service was operated by a sole consortium. When the franchise was bought back later, the Government was required to pay the full amount. Are we going to do the same thing to the fuel market by "buying back" its franchise and let the situation gradually turn into a state of mergers? Please look at the fierce mergers of the mobile phone service market. Would Members like to see this situation arise? Without government monitoring, this situation will eventually develop. By that time, the Government will definitely say that the state of affairs has become very serious. From the commercial angle, however, if the group allows the Government to buy back its franchise, should we follow this path? The Government's refusal to monitor the situation is like keeping a tiger. When the tiger grows up and we no longer feed it with meat, it will ask for a man as its supper. I wonder if Members will walk into the cage and let the tiger eat them. I will definitely not let it eat me. I shall give this chance to other people.

Our present discussion is on whether primary legislation on this should be enacted in Hong Kong. By the international standard, trust, cartel, and so on, actually exist. If Members purchase a flat from LI Ka-shing, they will find that all the subsequent procedures will be handled by his subsidiary after the signing of the sale and purchase agreement. There is simply no choice for the buyers. If this is not monopolization, what is it? Members who do not believe me may check out by buying a flat from Mr LI. He will provide the flat-buyers with a one-stop service, which is actually a one-stop payment service. There is no way for small owners to make their own arrangements. Let us take a look at the monopolization of supermarkets. Through liberalization, wet markets have even been allowed to operate in supermarkets. Let us also take a look at the monopolization of the newspaper industry — I am actually a bit scared in making this remark because those people will attack others with choppers.

As Members of this Council, and as we do have eyes, ears, mouths and noses, we must regulate those phenomena not considered to be open, fair and honest. This is why primary legislation on fair competition has to be enacted. After the enactment of legislation, any persons or sectors believing that, for instance, a 40% domination of the market should not be considered monopolization may even put forward their arguments for discussion because a complaint council can then be set up. The complainants may argue that only a 90% domination should be treated as monopolization. They may even provide information or advance arguments voluntarily to facilitate investigation.

However, this is not the case in reality now, for we have no such powers. If Mr LI Ka-shing is asked whether he is monopolistic, he will say no. So will the Secretary for Economic Development and Labour, Mr Stephen IP, if he is asked the same question. Mrs Rita FAN cannot ask him this question because she has no powers to do so. Neither can the Chief Executive, Mr TSANG, who has no such powers, ask him the question as the legislation has not been enacted yet. Why is it that Members do not understand what I am saying? It is like a platform must be laid before blocks of houses can be constructed, prisons be built to lock up the bad guys, or a look-out post be set up to provide a more distant view. Therefore, we simply cannot see why the Government can again refuse to legislate on this.

Despite our continued fierce criticism in this Council of the oil companies and lots of the monopolistic consortia, why do we not dare to look squarely at our home grown monopolistic consortia, such as Mr LI Ka-shing and the KWOK family? Honourable Members, the West Kowloon Cultural District has been awarded to three consortia. Despite the Government's original intention of adopting a single-tender approach, the three parties were later advised that the project would go ahead only if two winning bidders agreed to undertake it, or else the project would be discontinued. The three parties are then expected to come up with a decision by playing the game of Rock, Paper, Scissors, or by whatever means. They know that their refusal to undertake the project would mean the suspension of the payment of \$30 billion. Should that happen the Government will negotiate with them by suggesting, for instance, lowering the amount of payment from \$30 billion to \$15 billion. The Government will not raise the amount to \$40 million, right? This incident is tantamount to an open admission to Hong Kong people that cartel, trust, and so on, do exist in Hong Kong. If a single consortium is operating so many businesses while monopolizing all other property-related trades by taking advantage of its

monopolistic status in the market, especially in the property market, what exactly is it doing if it is not considered to be monopolizing the market?

I only wish to add that I hope the Liberal Party and other people opposing the enactment of legislation can give some thought to whether they can live up to the word "freedom". I hope Members will not scare Adam SMITH out of his grave to tell them the answer. Thank you, President.

MS AUDREY EU (in Cantonese): President, yesterday, according to a news report, in the open tender for stalls in this year's Lunar New Year Fair in the Victoria Park, a journalist on the spot had seen that a group of bidders were suspected to be engaged in "collusive bidding", in that they had distributed the stalls among themselves in private and advised other bidders to withdraw, reminding them that a particular stall had been reserved for someone else. Finally, under the tacit agreement among the bidders in the bidding, 82 of the 180 wet goods stalls were awarded at reserve prices. I remember a similar case during a land auction many years ago and at that time, the Government set up a review committee and appointed three members to it. I was one of these three members, and we made some recommendations at the time. The existing land sale procedures are drawn up according to the recommendations made by the committee back then.

Mr Jeffrey LAM said in his speech earlier that the enactment of a fair competition law is unnecessary in Hong Kong, for we have the ICAC and anti-corruption law. It is true that legislation is in place indeed to regulate auctions conducted by public bodies. For example, section 7 of the Prevention of Bribery Ordinance provided that "Any person who, without lawful authority or reasonable excuse, offers any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, shall be guilty of an offence." But if Members look at the example that I have just cited about bidding for stalls in the Lunar New Year Fair, they will find that some anti-competitive acts do not necessarily involve the provision of an inducement or reward and are, therefore, not subject to the regulation of the Prevention of Bribery Ordinance.

Some people may think that cheaper rents for the stalls may still have merits because the flowers and snacks to be sold in this year's Lunar New Year

Fair will then be cheaper too. But this is just wishful thinking. From the perspective of economics, the price of goods is determined by the supply and demand relation, rather than the cost of rental. If the goods cannot attract any buyer, the goods would have to be sold even at a price below cost. On the contrary, if the flowers are marketable and can be sold at good prices, no matter how cheap the rent is, consumers still may not benefit from it. Moreover, as the revenue from the rent of these stalls in the Lunar New Year Fair is public coffers, should government revenue drop as a result of monopolistic acts, the loser will be the people of Hong Kong as a whole.

Certainly, it is very difficult for us to judge whether bid rigging did really take place simply from some news reports. But this example has revealed that the concept of fair competition is still relatively weak in the community of Hong Kong. The Government should, through the enactment of a fair competition law, convey a clear message to the community: Any act, be it made by a major consortium or a small stall, which impedes fair competition will not be permitted.

President, I wish to mention in particular competition in the energy market, for competition is seriously lacking in the energy market in Hong Kong. A number of Members also mentioned this point during our discussion on the resolution earlier on. As oligopoly prevails, certain industries are forced to turn to the Government for tax concessions. We do understand the situation and we are not calling for the opening up of the energy market to the fullest extent, thus causing competition to become as fierce as that in, say, the United States, and resulting in cases of power cut or insufficient power supply. Having said that, however, we are aware that the Government is going to start the second stage of consultation on the development of the electricity market. I very much hope that the Government can include provisions that encourage competition between the two power companies, such as increasing interconnection and allowing the public to choose their power supplier.

As for the gas market, a number of academics have long advocated that slight adjustments be made to the existing Towngas network for converting to the supply of natural gas and setting up an interconnected gas supply system. This can introduce more competition on the one hand and help prevent and address air pollution in Hong Kong on the other since natural gas is more environmentally-friendly than gas because of lower exhaust emission levels in the production process.

Fair competition is an issue that has been discussed in the Legislative Council for many times. In this year's policy address, there are, at last, some eye-catching initiatives of setting up a committee to review the existing policy. Disregarding whether it involves a market as big as the energy market or one as small as the Lunar New Year Fair, a fair competition law concerns the rights and interest of all Hong Kong people. I hope that the Government will not only translate its words into actions and complete the review as soon as possible, but also embark on legislation and public education expeditiously.

With these remarks, President, I support the motion.

MR JAMES TIEN (in Cantonese): Madam President, actually in these few years the Legislative Council would have a motion debate on the topic of fair competition law almost every year. Views put forward by Members are in general like this: If a fair competition law is enacted in Hong Kong, prices will be cheaper because more people will be doing business. But will the enactment of a sweeping fair competition law certainly produce such a result?

All through these years both the Liberal Party and the business sector have reservations about this point of view. Does it mean that when there is a fair competition law, there will be five or six power companies in Hong Kong instead of just two? Even if there are five or six power companies and even if the situation is like the fuel market where there are five or six companies at present, there will not be any improvements. Then Members will demand that a fair competition law be enacted and they may ask how these five or six companies can be increased to a dozen or more. But will prices necessarily go down if there are a dozen companies in the market? Will consumers necessarily benefit? Mr LEE Wing-tat earlier cited the example of the supermarkets in Hong Kong and the example of Carrefour — a company from France which once came to Hong Kong. But will things be different if there is a fair competition law in Hong Kong?

Lane Crawford is a big department store and it belongs to the Kowloon Wharf Group. The store has leased huge premises in IFC and the owners of IFC are Sun Hung Kai and Henderson. The store has also leased huge premises in Pacific Place and it is a property of Swire Pacific. We cannot say that since the big developers own the shopping malls, they can do their business in these shopping malls and thus there is monopolization, hence overseas companies like

the French company Carrefour are driven out of business because they have to rent their premises from these developers. As a matter of fact, the example of Lane Crawford cited by me has most of its outlets in premises leased from others, though of course, some of its outlets are situated in properties owned by its group, like those in Times Square and Harbour City. However, the premises in the places mentioned by me earlier are all leased.

The big business groups will also look at things from the perspectives of a property owner as well as a tenant. They will consider the fact that if the commercial premises are leased to another company, the profits so derived may be greater than if the premises are used by the group itself. Then it may as well lease out the premises. On the other hand, if the group thinks that leasing premises in some place may bring in more profits than using its premises to run businesses, then it will lease the premises concerned. Therefore, with respect to supermarkets, shopping malls or department stores leasing commercial premises, I do not think that all the problems will be solved when there is a fair competition law.

Some Members have talked about outsourcing, but I do not think that outsourcing has anything to do with fair competition legislation. Actually, the entire construction industry in Hong Kong is run on a subcontracting system under which some of the work procedures can be done by the company itself while some of the work procedures are contracted out. When a fair competition law is in place, will these work procedures be increased or will there be less subcontracting? Or will the prices charged for subcontracted work become less expensive? After all, the contracting out of work procedures is only an option in business operation. I think companies will know that if their scale of operation will permit, they can decide to undertake all the work procedures by themselves. If they know that their scale of operation is not so large and they cannot handle all the work procedures, then they can consider briefing out some of the less complicated ones such as cleansing and security work. Therefore, I do not think that once a sweeping fair competition law is in place, the desired result will be achieved.

Mr LEE Cheuk-yan has referred to the view expressed by the Liberal Party last week on the motion about minimum wage and standard working hours on behalf of SMEs. As SMEs employ a lot of people, the imposition of a minimum wage would drive SMEs out of business. In this motion debate on a

fair competition law today, the Liberal Party is likewise speaking on behalf of SMEs. So please do not think that the Liberal Party is only representing the big business groups and that it is only concerned about the energy problem and nothing else. Having said that, we must note that a steady and reliable power supply is vital to the SMEs. The situation in California is an example which is known to everyone. The place has many power plants and competition is very keen and the result of vicious competition is so serious that very often power companies are incurring losses. When power companies are deep in the reds, they may even have to curtail the power supply. A blackout will have grave impact on both the SMEs and general public alike.

The Liberal Party is totally in favour of healthy competition. But if competition will deprive every businessman of the chance to make money and if they are forced to run their businesses at a loss, then competition will become vicious. This will certainly lead to a decline in service quality in some trades and industries. If this happens in the energy market, it will lead to an unreliable supply of electricity. There are many public transport operators overseas which have old and worn-out buses and trains. These are not acceptable to the passengers. Madam President, we think a balance must be struck in this. While we should not allow the businesses to monopolize the market or even to reap excessive profits, we must also not make them run operate at a loss. If it is because of the existence of a fair competition law that businessmen are unable to make any money, then who will come here to make investments? Who will then buy the shares of public utilities? Actually, among members of the public, there are many who own these shares and they do want to make money.

Madam President, this topic has been debated here for so many years, but our convictions remain unchanged. Everyone wants to see fair competition in Hong Kong and so do we. Our only difference from them is that we have to ask these questions: Will a sweeping fair competition law result in more fair competition in Hong Kong or will it make competition any fairer? Or do we think that once there is a fair competition law, all these desirable results can be achieved?

All through these many years, the Government has always been standing aloof and it will only begin to do something when problems appear. There are many such examples and every year we will quote some of them, such as when a debate was held on the telecommunications industry. Now there is one recent

addition to these examples. Last year, Mrs Selena CHOW of the Liberal Party moved a motion on gasoline, saying that prices of gasoline would rise very quickly but drop very slowly. We urged the Government to look into this situation. The Government agreed that it would take some follow-up actions. In our opinion, Members should talk about what are the problems that exist in which industries and propose how we should tackle them. Of course, some people may say that if a law is enacted across the board, then it would completely refute some criticisms from the international community asking, for example, why there is no such law in Hong Kong when it is already passed in some other places. It is true that such laws are found in other places. Just now many Members have cited Singapore as an example. But there are many exemptions in the Singaporean law on fair competition and this applies to almost all those trades mentioned by Members earlier about which they are most concerned. It is true that there is a fair competition law in Singapore. But it extends a waiver to almost all the trades. This is like having a toothless tiger. I would think that as members of a legislature, what we should do is not just legislating simply for the sake of doing so but what we do should be for the common good of all. If only some laws without bite are enacted, then we should not lend our support to them.

Therefore, Madam President, we will stick to our position as before and we think that the Government should undertake some studies on the enactment of a fair competition law. Mr LEE Wing-tat has said that the general chamber of commerce will support a government study on this. However, supporting the study does not necessarily mean that we will support the law, nor does it mean that Members' views are correct. As such, the matter should best be left until there are findings out of such a study. We do not think there is any need for changes to the *status quo*. Thank you, Madam President.

DR KWOK KA-KI (in Cantonese): Madam President, I support this motion. The contents of this motion are simple enough and the motion calls for the enactment of a cross-sector law on fair competition and the setting up of a fair competition commission with the powers of investigation and the privilege of confidentiality.

I think the motion moved by Mr LEE Wing-tat is very mild. Though it is a mild motion, it would be better than when there is no such a motion. The

motion this time is in fact the third one of its kind debated in this Council. Each time when the topic is debated, Members would not want to repeat the same arguments. The petroleum industry mentioned earlier is an interesting case. Mr James TIEN has said that there are two power companies in Hong Kong and he wonders if legislation can change this state of affairs. There are four or five petroleum companies in Hong Kong. Will legislation cause any change? Yes, of course. He has precisely touched on the problems there. All petroleum companies will fix the prices by themselves and so if there are 10 companies instead of four or five, if only they will adopt this monopolistic practice of fixing prices behind closed doors, it would not make any difference even if there are more such companies around. So what matters most is not the number of such type of companies but the enactment of laws to protect companies of various sizes, be they large, medium or small.

On the question of diesel duty mentioned earlier, I think there is one more thing that Ms Miriam LAU should do and, that is, if she thinks that the transport trade is being exploited, she should come forth and give her support to a fair competition law. This is because what is stifling the growth of the transport trade is not just an unfair tax regime but also the monopolistic practices of the oil traders. Such practices are imposing a great threat to the transport trade, all the trades and industries as well as many members of the public.

Mr James TIEN also pointed out that it would not matter where department stores which are subsidiaries of the developers will operate. We all know that this is just a game played among the developers themselves. Some may open some retail outlets in someone's property today while on the next day they may open some retail outlets in other people's property. This is possible because there is no fair competition law around and they are the ones who will gain from this situation. Estate developers in Hong Kong are placed in a most advantageous position, I must say. I have heard Mr James TIEN cite two examples earlier in the hope of convincing Members — including me — to support rather than to oppose this motion.

As a matter of fact, fair competition laws are nothing new. We know that presently over 80 countries in the world have enacted a comprehensive fair competition law. Places we like to draw reference from, such as Singapore and even mainland China, will all launch a law on that. It really baffles me as to

why the business sector will see it a great threat whenever mention is made of a fair competition law.

Two days ago, the sector to which Mr CHIM Pui-chung belongs — he is not here now — placed an advertisement for him in support of a fair competition law. Actually, I was surprised to see this. This is because we all think that things should be going on very well in the sector. So why are the people there so positive about this issue? It turns out that they think there is unfair competition in their sector as banks are making use of their advantages and they are closing in on and encroaching onto the securities trade. As a result, the 101 securities firms in the trade are finding it very hard to do business and the business environment for them is very unfavourable. So I believe Mr CHIM Pui-chung will certainly share the position of his voters and accede to their demand. He will have to propose that a fair competition law should be enacted because this trade which used to have no worries about business is now greatly affected.

This fair competition law has been discussed here for three times actually. Last week, I heard Financial Secretary Henry TANG seem to say that this proposal was positive and though the objective could not be achieved this time, he would propose some mid-way plans in the near future. I do not know if these remarks from the Financial Secretary have made Mr LEE Wing-tat feel so confident about the motion this time around. I do not know if this is true, but it seems not to be the case.

I think it is so tragic to see that the business sector in Hong Kong is so short-sighted. It is tragic to see them think only by monopolization and unfair competition that they can do business. In my opinion, if the businesses in Hong Kong can compete with the international community, then they should be able to engage in fair competition. If they can succeed in fair competition, then they should be able to do business everywhere in the world, instead of only grabbing and seizing by force and trickery money in a protected market. How can this be said to be really capable? They can never do business outside Hong Kong. Are we going to foster this kind of insular and isolated economy? No, of course not. We hope that people in the business sector can give in and accept this fair competition law. If they do, I am sure they will be greeted by vast horizons and bright prospects. If they can do business successfully given the existence of a fair competition law, then they can do well in the Mainland, Asia and even

globally. We must bear in mind that we do not just do business in Hong Kong alone and there are 80 countries in the world that have a fair competition law. If business operators want to find a footing in the world, they should never say that there should not be such a law in Hong Kong. It is precisely the enactment of such a law that the business sector in Hong Kong can be given a good chance to take on a challenge and that after they have overcome it, they can survive in a global business setting while observing the rules of the game.

There are two things to which I will object strongly. The first thing is a free lunch in politics and the second thing is a free lunch in economic terms and the latter would include tolerance for these monopolizing business practices. Under such circumstances, I wish to state that price manipulation, market sharing, bid rigging, predatory pricing and bundled sales and such like practices frequently used by big companies and business tycoons are really unacceptable to me.

As a representative of the medical constituency, I would also like to say why I support this motion. The case of the drug Tamiflu dawns on me that if there is no fair competition and no law to protect the public and the patients, many patients, including those we fear may be infected when an avian flu pandemic strikes, as well as millions of AIDS patients all over the world, will be denied medical treatment. I urge the Government not to be mindful of the interests of the business tycoons alone because these unfair laws have already contributed to the death of hundreds of thousands or even millions of patients each year for lack of adequate medical attention and want of medical care. I think it is already too late when Hong Kong wants to enact a fair competition law now, though we can find comfort in the fact that it is better than not to enact such a law at all. I also hope that this law can be enacted expeditiously.

I speak in support of the motion moved by Mr LEE Wing-tat. Thank you, Madam President.

MR ALBERT CHAN (in Cantonese): President, ever since I was elected a Member of this Council in 1991, this assembly has been discussing this topic of a fair competition law for more than a decade without a break. Why are there so many disputes and conflicts in Hong Kong? This is because the Government

does not listen to the voice of the people and it will not make decisions as appropriate and in tune with the times. It has done nothing to keep the territory abreast with developments in other places or countries.

One example of these is the prescription of a minimum wage and another example is the enactment of a fair competition law. Not only has our Government, but some Members of this Council like Mr James TIEN, and so on, have also been staunchly opposing the enactment of a fair competition law all through these years. He even asks what examples there are to illustrate the existence of cross-sector monopolization. As a Member of the Council returned by direct election, he should not have asked such questions. The fact that he has only serves to show that he has not been paying visits to the districts frequently enough. If only he had done so, he would surely notice a lot of unfair situations because of the existence of cross-sector monopolization.

Since Mr James TIEN wants some examples as proof, I would be glad to provide him with some such examples. However, I would like to talk about the importance of a fair competition law and why there are so many backward developments in the Hong Kong economy these days. These are mainly due to the emergence of monopolization which is found not just in a specific sector but across sectors. During the 1970s and 1980s, the Hong Kong economy was propelled by small and medium enterprises (SMEs) and this mode of economic activities vanished because of cross-sector monopolization. Some of these tycoons we have today started out as owners of SMEs. Can we say that manufacturing plastic flowers is a big enterprise? He made his first bucket of gold from the manufacturing industry as an SME. Then, with the political influence he has amassed, he began to monopolize all the trades and sectors in Hong Kong by virtue of his overbearing and high-handed business practices. This is the main reason for the existence of this yawning gap between the rich and the poor in Hong Kong, and it explains why the rich will only become richer while the poor only poorer. It is because these people are dominating the market that their wealth keeps on increasing.

Therefore, the Government should enact a fair competition law to enable the revival of SMEs in Hong Kong, and this prospect is what a fair competition law can hopefully bring to the people of Hong Kong. There is no reason why political parties which support the economic development of Hong Kong will not support a fair competition law. Let me now quote some examples for Mr James

TIEN, the Government and those Honourable colleagues who oppose a fair competition law.

The two biggest consortia in Hong Kong are the Hutchison Whampoa Group and Sun Hung Kai. Monopolization by Hutchison Whampoa takes the form of, for example, control over Container Terminal 4, Container Terminal 6, Container Terminal 7 and part of the 12 berths of Container Terminal 9. It also controls two berths in Container Terminal 8 through the COSCO (Hong Kong) Group. It controls the river trade piers of Hong Kong together with Sun Hung Kai, hence monopolizing the river trade business in Hong Kong. Sometime ago they even entered into a lawsuit with the Government. Fortunately, the Government won and I am pleased to see that the Government has not allowed these people to do what they like. They have really acted against the instructions of the Government and it is only after a few years that they are stopped. They are so arrogant that they do not listen to what the Government says.

In the telecommunications industry, the Hutchison Whampoa Group has set up the Hutchison Telecommunications and the company is monopolizing the 3G services. It is also controlling most of the broadband networks in Hong Kong through PCCW as many broadband service providers have to lease broadband networks from PCCW. It may be said, however, that PCCW is not a member of the Hutchison Whampoa Group as it is a major business undertaking in the hands of a son of that tycoon.

In addition, the Hutchison Whampoa Group has set up Metro Finance and Metro Showbiz — two radio channels which take up two FM channels and it has also set up Metro Plus and taken up an AM channel. Such things will not be permitted overseas. Business groups overseas are not permitted to run mass media organizations and this is not possible even in the United States. But the consortia in Hong Kong can do what they want and so in the radio stations they operate, one can never hear the voice of the democratic camp.

In the retail business, the PARKnSHOP supermarket chain was set up in 1993 and I think Members know very well how the PARKnSHOP chain dominates the market. Together with the Wellcome supermarket chain, these two chains are in complete control of the retail business in Hong Kong.

In 1996, the Cheung Kong Holdings acquired Fortress and now there are some 60 Fortress outlets in Hong Kong. It can be said that it is beginning to

dominate the retail market for telecommunications and electrical appliances. As for the numerous Watsons outlets in Hong Kong, I do not think I need to go into great details about them. They are slowly eating into the market for personal care products and drugs in Hong Kong. The consortium is not just trying to exert its control over the big markets, it also wants to grab a share in the small markets. The Big Box is formed to sell stationery and toner cartridges at low prices, hence inflicting grave damage on the stationery retailers.

Needless to say, the same thing happens in the energy sector. The Hongkong Electric Company Limited is controlled by the same group. As for property management, the situation is simply outrageous. All the housing estates built by Cheung Kong are managed by its own management company and there is no open tender whatsoever on estate management services. They control the access of other telecommunications companies into their housing estates by virtue of their right to manage the properties. Other services are provided by the group in the form of a basket of services. Take the example of the housing estate in Tin Shui Wai, a package of services is provided and all these services are controlled by the group. These include property management, supermarkets, telecommunications, and so on. Residents will have to pay at least some \$2,000 to \$3,000 a month. But the fact is that the residents have no choice but to use these services.

As for Sun Hung Kai, apart from monopolizing the telecommunications and logistics industries, the group also operates residents coach service, that is, it provides coach services for its own housing estates. These coaches are operated by a subsidiary of the group. Will such cases not constitute monopolization? Monopolization is a situation whereby the people do not have any choice. And what these consortia are doing is that they are exploiting their intricate networks of links and as the Government condones and connives, these consortia can exert their control over an entire area. In Tin Shui Wai, as much as half of the area is dominated by that consortium. One can see the shuttle buses of PARKnSHOP plying through the streets of the area and the stalls in the markets are deprived of business. It is only after years of complaints that the shuttle bus service of the PARKnSHOP is scrapped. But the shuttle buses of the shopping malls still give residents free rides to the PARKnSHOP. Such service can never be provided by the markets. It all boils down to who is financially more powerful.

If there is no fair competition law in Hong Kong, these mega tycoons will continue to tighten their grip on every trade and industry in Hong Kong and the people are left with no choice. If Members still support this, and if they still say that they cannot see the impact of monopolization on the people, then I am afraid these Members are just telling outright lies. It may be said that they have eyes that do not see. It is like a picture of three monkeys that we see often, with each one covering up the eyes, ears and mouth respectively. What the Liberal Party is doing is that it is covering up its eyes and ears but not the mouth. It pretends that it cannot see and hear. This being so, I think it is about time the Liberal Party should be renamed "Party of Monkeys".

MISS TAM HEUNG-MAN (in Cantonese): Madam President, a liberalized economic environment underlined by the policy of "big market, small government" has always been one of Hong Kong's attractions to foreign investors.

Whenever we talk about the enactment of a fair competition law, Members belonging to the industrial and commercial sector will invariably flaunt "the free market" as an excuse for refusing to set down any fair competition policy. I therefore must ask, "Must a fair competition law and the free market necessarily be mutually exclusive?"

According to economic theories, prices set by free market activities are the only reasonable prices. Turning this theory round, we can infer that unreasonable prices must be a reflection of market distortion. When there is such distortion, the market will fail to attain maximum efficiency, leading to an imbalance between the interests of goods suppliers and those of consumers. In that case, the Government, as the institution responsible for monitoring the entire economy, must enact appropriate laws to bring any distorted prices closer to free market levels. This is the only way to balance the interests of both buyers and suppliers. That way, the market will also be better able to attain maximum efficiency.

With this concept in mind, we will realize that a fair competition law is definitely not a means of punishing large businesses or business tycoons. Rather, it is just a means of ensuring reasonable market prices, of handling anti-competitive acts and price manipulation.

Madam President, the oil products market is an excellent example of anti-competitive acts. Under normal circumstances, when one oil company increases its prices, its competitors will maintain their prices at existing levels by all means, in the hope of getting a larger market share. But in reality, all the other oil companies will increase their prices one after another within a short time at roughly the same rates. Do Members think that this should be a normal phenomenon in a free market? Can they answer me whether there is any manipulation of prices?

The enactment of a fair competition law is meant to serve only one purpose: the prevention of price manipulation. It is certainly true that adjustments of oil prices are pure commercial decisions, but it is utterly unreasonable for several oil companies to forget all about competition, secretly join hands to play the role of the market dominator and even act as a wolf, so to speak, that attempts to eat up the interests of consumers under the guise of free competition.

Some in the industrial and commercial sector hold that a fair competition law is the same as an anti-trust law, for it will necessarily be targeted on larger businesses in the market. But I do not think that any fair competition laws and policies should be targeted on any individual enterprises. The market should be left to determine the number of participants and the market share of each of them. A fair competition law should not be regarded as a safety net for small market players.

Any attempt to protect small enterprises by enacting a fair competition law will be tantamount to protecting small animals by slaying large predators to reduce their number. The only result will be the severing of the food chain and the defiance of the Laws of Nature. Imbalanced development will result. In contrast, the enactment of a fair competition law to prevent price manipulation by enterprises will be something like slaughtering large beasts that have gone out of their mind. The normal Laws of Nature can then be preserved, thus enabling all participants to develop in a reasonable environment.

From this perspective, the enactment of a cross-sector fair competition law will not possibly pose any major problems. But, at the same time, we should also formulate sector-specific subsidiary legislation or administrative measures under the general principles of the relevant law, so as to monitor the competition and price levels within individual sectors. I am convinced that no enterprises, large or small, and no sectors will ever tolerate price manipulation. I also

believe everybody will agree that such acts are detrimental to the free market and must be restricted and monitored.

Madam President, I very much welcome the Chief Executive's decision on establishing an independent committee for conducting studies on formulating a fair competition policy for Hong Kong. I hope that this committee can complete its task as soon as possible and release a report on whether we should, and how we can, formulate a cross-sector fair competition law. I further hope that the SAR Government will not conduct the study just for the sake of conducting a study and brush the report aside without taking any follow-up actions. If it does so, all will be in vain no matter how satisfactory the study is. And, the efforts of all committee members will also be wasted.

I hope that all sectors, including the industrial and commercial sector and large businesses, can look at the enactment of a fair competition law from a much wider perspective and strive to create a better business environment in Hong Kong. That way, it will be possible to upgrade our competitiveness.

I so submit. Thank you, Madam President.

MR CHAN KAM-LAM (in Cantonese): President, at all times and in all countries, there are countless publications and studies on the enactment of a fair competition law, with both proponents and opponents engaging in a constant tug of war, and with no signs of any party gaining the upper hand in the course. Putting aside the sensitive issue of whether or not a fair competition law should be enacted, even on such fundamental questions as how should unfair competition be defined or what kinds of practices should be called anti-competitive, and so on, there is simply no clear-cut standard in existence both in Hong Kong and in the international community.

It is true that some 80 countries or places in the world have enacted a cross-sector law on fair competition and among them is our major rival Singapore. Last year, Singapore passed a law on that and some people then think that if Hong Kong does not follow suit, we are lagging behind others. By all appearances, since other countries have rich experience on this, so when Hong Kong is to contemplate on enacting a fair competition law, we can draw reference from these countries. But as we all know, as there are divergent

views on what constitutes anti-competitive conduct, so there are different legislative intents. Therefore, with respect to the depth and breadth of the relevant law and the criteria of its regulation, there are different requirements in every country. In some fair competition laws, the regulatory framework seems to be practically non-existent and there are no criteria to go by. Earlier on, Members from the DAB have already expounded on that point.

President, if a cross-sector law on fair competition is ever to be enacted, the first thing that should be made clear is how anti-competitive conduct should be understood. Apparently, there is no consensus reached in the international community. The next question is whether or not the business environment in Hong Kong is competitive enough. On the situation in specific trades, many people will cite the case of the supermarkets, saying that the two supermarket chains are driving small businesses like the market stalls and provision stores out of business and dominate the market simply because they are financially much more powerful. But on the other hand, and as pointed out by many economists, there are no restrictions on market entry and anyone can step in and invest. The Consumer Council has also said that that never have the two supermarket chains been found guilty of any monopolization or abuse of their market positions, such as restricting the supply of goods to small shops, and so on. As for the price reductions in the sales activities of these supermarkets, not only do they cause no adverse impact on the interest of consumers but the consumers are also able to obtain the greatest benefits.

Despite the Democratic Party's relentless attacks on the two supermarket chains, in a recent District Council by-election, Mr Fred LI was the first one to showcase his efforts in fighting on behalf of the residents so that the lease of the supermarket could be extended and service provided by the supermarket to the residents would not be disrupted. This is done in the name of election but in doing so, he has overturned his anti-supermarket stand and he is being deplorably inconsistent.

Mr WONG Kwok-hing has spoken earlier from the perspective of the wage earners. He says that the buildings in which the people live are those built by the so-called L group and the supermarkets where they shop, the mobile phone service and power supply they use are all those provided by the L group. Wage earners therefore toil all their life for it and there are blood, sweat and tears in the process. Despite his moving speech, this shows the greatest misunderstanding of fair competition. This is because there are still many

choices available to the people when they want to purchase a flat, go shopping or use mobile phone service. The fact that services from one and the same company are used only serves to illustrate the tremendous success of its goods and services supplied. Moreover, what is wrong when investors engage in diversified investment given the liberal economic environment we have? Should we impose restrictions on investors and tell them that they can only provide one kind of service and that they are not allowed to do other business? Would it be a good thing or a bad one to consumers if the efficiency of a group is harnessed to provide quality services?

The public has an impression that big business groups are oppressing the small businesses. This mentality is understandable. There is a need for the Government to restrict any acts resulting from an abuse of market position. But we should not label all big and successful companies as monopolies of certain trades and sectors. Only the fittest can survive and outlast the others. This kind of natural adjustment is the law of the market and it works very well. We must never allow ourselves to be ruled by our instincts, arrive at some hasty conclusions simply on the basis of the number of market participants and the scale of operation of the companies, or permit ourselves to be swept away by the tides and allege that there is no fair competition and so a cross-sector law on fair competition must be passed at the soonest.

What Mr LEE Cheuk-yan has been doing is to expand the scope of his attacks indefinitely. He attributes the disparity between the rich and the poor to the absence of a fair competition law. He says that the poor people are oppressed by the consortia and he is inciting hatred in the poor people against the consortia, hence causing conflicts between the social classes. He should bear in mind the fact that there exists a wealth gap in each and every country or society that has enacted a fair competition law.

In the days gone by, ordinary members of the public could set up a stall on the street and earn a living as a hawker. But should we go back to the days of the 1950s and 1960s when society was predominantly characterized by small businesses? If it is said that a wholesale introduction of a fair competition law is meant to protect the small businesses so that they can survive, this view is right from the start a violation of the spirit of fair competition. The legislative intent of a law on fair competition should be the promotion of competition among different trades and enhance efficiency by stipulating a set of fair and transparent rules. For if not, the result will only be a surge in the costs of living while the

competitive edge of Hong Kong against its overseas rivals will only be undermined. This will never do any good to the community.

Dr KWOK Ka-ki cited the example of the drug Tamiflu to back up his demand to enact a fair competition law. This shows that he does not have a good grasp of the issue of fair competition. He should know that the pharmaceutical company which produces Tamiflu owns the patent for the drug only after years of research and development. When other countries do not dare to reproduce the drug, they are acting in respect and defence of intellectual property rights. Does this have anything to do with fair competition at all?

Now we are debating on the enactment of a comprehensive law on fair competition and while some of us are in favour of it, some are not. I wish to stress that the DAB supports the maintaining of a fair and competitive market setting, but as for the enactment of a cross-sector law on fair competition, we are doubtful if it can serve to eliminate all anti-competitive conduct. Controversies are still found in our community on this issue and before there is any consensus and answer agreed by all, we think that after all, this is not yet the right moment to enact a cross-sector law on fair competition.

President, I so submit.

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

MR SIN CHUNG-KAI (in Cantonese): President, I am much moved after listening to the speech of our learned friend, Mr CHAN Kam-lam, and I am convinced that he is a staunch guardian of the giant consortia.

President, I have an impression that this motion debate has been going on for a very long time. The Government when compiling the budget suggested that a commission be set up with members from the major political parties. It can be seen that the Government has adopted a pragmatic approach to address this issue. But after listening to this debate, the Government when counting the number of votes in its hands and if the motion is urging for the enactment of a fair competition law, I do not think the motion can be passed. This is because at least Members from the Liberal Party and the DAB will oppose the motion.

When those votes from The Alliance are also counted, there is very little chance that this motion can be passed. If people are really asked to make their stand known on this issue of enacting a fair competition law, I think there will be many voices speaking out in the community in support of the Government.

Recently, there are some reports about the so-called midway plan and it is mentioned that the COMPAG, that is, the Competition Policy Advisory Group, would be changed into a body vested with powers of investigation. As for changing it into a body with powers of investigation, I think if it is to be changed into a body with statutory powers to conduct investigations and if a bill is to be drafted to this effect and introduced to this Council, despite the fact that such a bill is not yet a bill on a complete law on fair competition, but as a prologue — like the Prologue to Star Wars — I think that it is still a good thing after all. If after an investigation, the commission arrives at some conclusion, then people will ask the Government what it is going to do if after the investigation has found that there is unfair competition. If some unfair situations or if some anti-competitive practices are found, at the end of the day, the Government will have to think about how to penalize these practices and pre-empt them.

In my opinion, if the Government is really going to consider these so-called midway plans, then there should first be a comprehensive plan in place, as well as a roadmap and a timetable. That is to say, even if it is decided that the COMPAG be vested with statutory powers of investigation, this body can never take the place of a fair competition commission and a comprehensive fair competition law. I have always been supporting the idea that there should be a fair competition law and a fair competition commission. However, we have also to face the reality and honestly, the result of this motion today is likely to be very disappointing. This is because after considering the voting intention of Members, I do not think this motion moved by Mr LEE Wing-tat can be passed today. But as a first step, if the COMPAG can be set up, that would also be a good thing. Because this body currently headed by the Financial Secretary does not have a high degree of transparency. It would represent some progress if this body is changed into a statutory one and be vested with powers of investigation, and that no matter if the investigations are about the oil companies or the supermarkets or anything, the findings of the investigations conducted can be published to prove that they are justified and recommendation can even be made to commence inquiry proceedings. Anyway, I think all these cannot

replace the functions of a full-fledged fair competition commission and comprehensive law on fair competition.

Mr Jeffrey LAM has referred to our proposal earlier and actually, if Members care to look again at our proposal, they will find that it is indeed a very mild one and it focuses only on five or six practices that should be prohibited. They are price manipulation, market sharing, bid rigging, predatory pricing, and bundled sales, and so on. I think if we go into detailed discussions of these, especially bid rigging, I am sure Members will all object and they would not regard such practices as acceptable. On these practices, I do not know why other Members would not argue against these practices. Do Members support practices like manipulation of prices, collusive price fixing, market sharing, bid rigging, predatory pricing and bundled sales? If not, then why do they oppose the enactment of a law on fair competition? There are countries in the world which have set up a fair trade commission and in some countries this body is even vested with the powers to handle acts like monopolization, and mergers and acquisitions. What the Democratic Party is proposing is not a body of this dimension, that is, with a function of handling mergers and acquisitions. In Hong Kong, merger and acquisition matters are handled by the Office of the Telecommunications Authority and the Broadcasting Authority in accordance with relevant legislation such as the Telecommunications Ordinance.

For this reason, the motion moved by us is not only addressed to the issue of a fair competition law. What kinds of practices should be regulated by a fair competition law. We have suggested that five kinds of practices should be regulated and I wonder why Members from other political parties do not state whether or not they support these five practices. All that they have done is to state that they oppose this law and enacting such a fair competition law. Why then should a commission on fair competition be set up? This is because at the end of the day, there should be someone to conduct investigations. If the Government now says that the COMPAG should be transformed into a body with powers of investigation, this would be like conferring part of the functions of a fair competition commission on it. Though it can be said that that the body will function as a predecessor of the commission to come, in any case, the Government will have to solve the problem.

However, I think that there is still a very long way to go. Now it is the year 2005 and in the next couple of years, there may still be a need to debate on a

fair competition law and a fair competition commission. After the COMPAG has released its report of work, there may be another debate or a second wave of debates. However, I do not think debates will stop before the emergence of a fair competition law and a fair competition commission. I so submit.

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

MRS SELINA CHOW (in Cantonese): President, first of all, I wish to state in clear terms that the Liberal Party has for a number of times expressed its total support for upholding the principle of fair competition, however, it is definitely not in favour of enacting a fair competition law in the form of a cross-sector legislation to regulate all industries in an across-the-board fashion and portraying such a piece of legislation as the answer to achieving fair competition. We do not believe that doing so will be conducive to fostering such a situation.

The experience in the United States tells us that with regard to the oft-mentioned "Microsoft" case, economists have pointed out that it is purely out of the desire of large corporations to contest for the leading position in the industry and to defend the spirit of creativity that the law was used as a tool to take on other competitors. Such a piece of legislation is not a reliable piece of weapon that small and medium enterprises (SMEs) can rely on to counter the manipulation of large corporations. If we portray such a piece of legislation as capable of achieving such a result, a lot of people will be disappointed. As we have pointed out many times, SMEs do not actually have the capability or the means to do such a thing, whereas the legal profession will, as some Honourable colleagues have pointed out, welcome such a piece of legislation very much. However, large corporations will not be afraid of it at all.

Insofar as large corporations are concerned, Mr LEE Cheuk-yan often wrongly accuses us in the Liberal Party of being biased in favour of large corporations. He has forgotten about that, however, President, as you may recall, I have also made the demand in this Council that the Government investigate whether a situation of oligopoly had occurred with regard to oil companies, and if so, whether legislative proposals targeting such a situation should be introduced. Therefore, our intention is none other than to uphold the

principle of fairness and to protect consumers. We in the Liberal Party have suggested more than once that if truly necessary and if a serious imbalance has indeed emerged, we will not rule out the need to enact legislation. However, we very much believe in the free-market principle. This paramount principle should definitely be valued and defended in Hong Kong and we should not give it up easily. Just now, when some Members proposed the enactment of a cross-sector, sweeping law on fair competition, they painted a very rosy picture and held out the prospect that all problems can be solved in this way.

Take supermarkets as an example, we must not forget how many times more in rent it is necessary to pay for a supermarket than for a wet market. However, many people, including many people seated here, often shop in supermarkets instead of wet markets. Why? Because the environment and hence the competitiveness of wet markets are not that good, so people would rather pay more and shop in supermarkets. Why do they side with consortia? If we believe that the free market principle should be defended, moreover, since it has been already proven that a free market is most beneficial to consumers and the public and we can benefit from the competition between the two, we should not discourage operators that are competitive, rather, we should improve the environment and promote competition by all means.

The venues of most wet markets are rented from the Government. Due to the Government's poor management, wet markets lack competitiveness. In that case, should we not urge the Government, as the landlord, to make improvements, for example, by installing air-conditioners and improving management, so that people will be equally happy to shop in wet markets? In this way, more choices will become available and competition can also be promoted. It is definitely more desirable to compete with supermarkets in this way than to enact legislation to impose restrictions on some operators. Besides, doing so will ultimately be disadvantageous to consumers.

The most terrible thing about enacting a law on fair competition is that this will confer great powers on the Government or an official body, as a result, they can use their statutory powers to hamper some business operations. We must ponder over this situation carefully before deciding if we really want to take such a move. People who propose the enactment of legislation seem to have oversimplified the issue, believing that all problems can be solved with such a

course of action, that all problems will be resolved if such a piece of legislation and a commission are put in place. Will this really be the case?

Just now, Mr SIN Chung-kai also said — perhaps Mr Alan LEONG has put it in an even more interesting way, saying that a law on fair competition is just like the rules of a soccer game. I wish to remind Members that the market is not a soccer pitch. The market is just like a farm, with all farmers irrigating their crops and hoping that the crops they grow will become taller. If a restriction is imposed in such a way that only some people can use a certain fertilizer while others cannot, (*the buzzer sounded*)..... this will deal a heavy blow to the market

PRESIDENT (in Cantonese): Mrs CHOW, your speaking time is up, please sit down. Does any other Member wish to speak?

MR JASPER TSANG (in Cantonese): President, I am very delighted to see the moving of this motion by the Democratic Party, even more delighted to receive this set of information prepared by them. It is all so fantastic because we can thus find out what is really not feasible. Is fair competition desirable? Naturally yes. Is there really any unfair competition? Again yes. Then, is it correct to enact legislation to assure fair competition? Of course yes. However, President, I also learnt something from my lawyer friends two years ago — the devil is in the details. That is why I do think that this set of information is very wonderful, in the sense that it enables us to learn the findings of the Democratic Party on a so-called fair competition law. As we can see, they have made tremendous efforts, and many thanks to them, we now know what is really not feasible, or what is truly useless, or from where the devil will emerge to achieve the opposite results.

I have flipped through this set of information. At the very beginning, it explains why a fair competition law should be enacted. From the very start, the Democratic Party points out that several types of product markets in Hong Kong are less competitive, namely, the domestic gas fuel market, the power supply market, the supermarket industry and the vehicle fuel market. What they mean in other words is that to ensure competition in these markets, it will be necessary to enact a fair competition law. This sounds reasonable. Mr SIN Chung-kai

actually highlighted their point just now by saying, "What are we up to? Our proposal of enacting a fair competition law is not meant to clamp down on anything. We only aim to prohibit five or six types of practices." What are these five or six types of practices? On Page 18 of this set of information, it is pointed out that the following five practices should be prohibited: price manipulation, market sharing, bid rigging — bid rigging should of course be prohibited — predatory pricing and bundled services.

But which of these five types of practices have led to the current monopolization in the supermarket industry? Which of them have led to the monopolization in the oil market now? Can the prohibition of these five types of practices eliminate the monopolization in the supermarket industry? Can the prohibition of all these practices ensure fair competition in the entire oil market and lead to the entry of many more players, thus ridding us of all the worries about the lack of competition? I hope that the Democratic Party can offer further explanation on how the prohibition of these five types of practices can possibly eliminate the problem mentioned by them at the very beginning. As rightly pointed out by many Honourable colleagues, owing to monopolization and the absence of healthy competition, society and the people have suffered. But how can all these problems be solved?

These five types of practices are certainly wrong. As its name suggests, bundled services are of course undesirable. Incidentally, we have recently seen many bundling actions, but they are all wrong, right? They are of course wrong, I must say. But can the prohibition of all these practices ensure competition? Can there thus be a level playing field? This set of information is not convincing enough and this is exactly where the problem lies. From the beginning to the end, it fails to offer answers to these questions.

The several Members belonging to the DAB also maintain that studies should be conducted and no one will possibly object to our studies on how to ensure fair market competition. But should we just prohibit these five types of practices without doing anything else?

President, I now wish to say a few words on the metaphor used by Miss TAM Heung-man a moment ago. Frankly, I really cannot quite catch her point. She said that their point was not to slay a fierce beast just to save any small animals because this would sever the food chain of nature. But she added that

beasts that had gone out of their mind must be slaughtered. But I must say that only normal beasts will eat up small animals and abnormal ones will not. If all abnormal beasts are killed, how small animals will be protected? I frankly fail to see how there can be any moral behind this metaphor. Anyway, I still agree that it does highlight our divergent views on competition and how laws can be enacted to ensure competition

We must not forget the ancient Chinese wisdom that a new law will necessarily lead to a new problem. We must clarify all uncertainties before we can enact a law that can serve the desired purpose. Regarding the enactment of a cross-sector fair competition law, I think that there is still a long way to go before we can really formulate any law that can ensure fair competition in all sectors. Consequently, I do not think that it is feasible to implement the Democratic Party's present proposal on the immediate enactment of a cross-sector competition law.

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

(No Member indicated a wish to speak)

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, first of all, I would like to thank Mr LEE Wing-tat for moving today's motion on a fair competition law. I am also grateful to those Members who have spoken and offered a lot of valuable comments. I remember that we also held a debate on the same issue in the last Session. But Members can rest assured that I am not going to repeat what was said last year although Members may find my speech today similarly boring.

Madam President, I would like to point out that the Government, just like all Members, is committed to fair competition and hopes that through competition, economic efficiency and free trade can be enhanced, thereby benefiting consumers ultimately. As the Chief Executive has clearly pointed out in this year's policy address, a sound level playing field that allows enterprising people to start and run their own businesses is important for sustaining the vitality and harmony of society. This shows that the Government's commitment and determination in ensuring a level playing field is very clear.

In this year's policy address, the Chief Executive has also pointed out that as Hong Kong enterprises grow in strength, with some acquiring world-class status, coupled with an increased presence of multinational enterprises, it is possible that forces capable of cornering the market may emerge in Hong Kong. In the past, the Government has accumulated experience in formulating sector-based measures in its competition policy and has done well particularly in promoting competition in the telecommunications market. In order to ensure that our competition policy is in line with public interest and provides a favourable business environment, we appointed, having taken into consideration the views of Members and the community, a non-official Mr Christopher CHENG, whom I believe is known to Members in June this year as Chairman of the Competition Policy Review Committee (the Review Committee) which comprises members from various sectors of the community. The objective of the Review Committee is to review the efficiency of the existing competition policy, including issues such as whether the mode of operation of the present policy is appropriate to the times and whether the investigation powers are adequate. It will also draw reference from international experience, and proactively consider whether it is necessary to enact a cross-sector law on fair competition in Hong Kong, as well as the scope and applicability of relevant legislation.

Madam President, I would like to emphasize that the Government does not have the least intention to interfere with the market. What the Government should do is to actively uphold market order and fair competition in order to prevent such manipulative anti-competitive acts as collusive price fixing, bid rigging and market sharing. Any measures including legislation must be conducive to entrepreneurship, the operations and development of small and medium enterprises, and protect the consumer interest.

As we all know, there are views (including those espoused the motion proposed by Mr LEE Wing-tat today) that there is inadequacy in the Government's present approach in which different measures are adopted according to the situation and needs of different sectors. And there are structural constraints in the Competition Policy Advisory Group (COMPAG), such as a lack of statutory powers of investigation and sanction.

First of all, I would like to point out that in respect of ensuring a level playing field and the definition of anti-competitive conduct, the Government shares the views of many Members. For instance, anti-competitive conduct such as price manipulation, market sharing and bid rigging which should be

prohibited in the view of Members are more or less the same as the anti-competitive conduct set out in the Statement on Competition Policy published in 1998. Enterprises are advised not to engage in such conduct.

Views are diverse in society as to how to ensure fair competition. Some people, like Mr LEE Wing-tat, consider it necessary to enact a cross-sector law on fair competition and set up a fair competition commission with the powers of investigation and the privilege of confidentiality in order to ensure a level playing field. On the other hand, some opine that the proposal of an all-embracing competition law for regulating anti-competitive conduct will overlook the specific situation and needs of individual industries. It may bring about uncertainties to some enterprises, thus resulting in controversies and increased operating costs. In their opinion, this will do more harm than good to consumer interest instead of promoting fair competition.

The Government well understands that all approaches have their pros and cons. In order to ensure that our competition policy can keep abreast of the times, answer public interest and create a favourable business environment, the Review Committee appointed by the Government is now conducting a serious review of the efficiency of the existing policy, including whether or not its present mode of operation is appropriate to the times and whether or not the powers of investigation are sufficient, apart from making recommendations on the way forward for the policy.

In the past few months, the Review Committee has studied the historical background relating to the review, including the background, objective and implementation of our competition policy. It has also reviewed the work of the COMPAG in the past few years and the responses of the local and international communities. In July this year, the Review Committee invited more than 300 business and industrial organizations to give comments on issues covered by the review. After the Government has announced the review of its competition policy, a lot of comments have been offered by the public, the media, Members, academics and political parties. I hope more similar views will be offered which will then be conveyed to the Review Committee for reference in its review.

Besides, seminars will be held by the Review Committee whereby local and overseas experts on competition legislation will be invited to exchange views and experience with its members. This will enable its members to gain a better understanding of the competition policies, competition laws and relevant

experiences in other economies such as the United States, the European Union, Australia and Singapore. They will also discuss how far these policies, legislation and experience are relevant and applicable to Hong Kong. These seminars will greatly enhance members' understanding of the situation of other economies.

The Review Committee has also noted that the applicability of different competition laws in different places is different. For instance, exemptions are provided for individual industries or businesses in the competition laws in different places on the basis of public interest or public policy. But the criteria and scope of exemption are not the same. These differences reflect the unique characteristics of different economies including the scale of economy, structure and unique historical context. The Review Committee has also noticed that the competition laws, including the definition of anti-competitive conduct and remedies, in different places are also evolving. So, we must take into account the actual situation and people's needs when deciding on the way forward of Hong Kong's competition policy. For instance, speakers in the seminars advised that due to the relatively small market in Hong Kong, a higher market concentration is needed to achieve scale of economy and effectiveness in operation.

The Review Committee will also review the composition, terms of reference and operation of the COMPAG. It will also study in detail whether there is a need to introduce a cross-sector law on fair competition and the setting up of a fair competition commission with powers of investigation, privilege of confidentiality and powers to impose sanctions. It will complete the review by the middle of next year. I am sure all Members, just like me, are looking forward to the Review Committee's findings and report.

Apart from a comprehensive review of our competition policy as a whole, we, in the light of public concern over the competition situation in the motor fuel retail market in Hong Kong and the criticism that oil companies tend to be swift in price increase but slow in price cut with a simultaneous pace in price adjustment, invited by letter almost 100 local and overseas consultancies in January this year to submit proposals on a study of the competition situation in the motor fuel retail market in Hong Kong. After the tendering and vetting procedures, we commissioned a consultancy study in July this year. The study will assess the competition situation in the motor fuel retail market in Hong Kong, and examine whether the oil companies have engaged in any

anti-competitive conduct. It will also recommend whether it is necessary to formulate measures including legislation to ensure fair competition in the motor fuel retail market in Hong Kong. The consultancy study will be completed by next month and the Review Committee will also refer to the findings of this consultancy study.

Madam President, the Government is fully open as to whether it is necessary to enact an all-embracing law on fair competition. We have also taken the initiative to set up an independent committee to conduct a full review of this issue and the way forward for Hong Kong's competition policy. It will submit a proposal to the Government by the middle of next year and we look forward to this report. When the Review Committee has completed the task, we will report its findings to the Legislative Council and the community. We will also, in the light of the Review Committee's recommendations, pool our wisdom together in order to decide whether it is necessary to enact a cross-sector law on fair competition and whether we should set up a fair competition commission with powers of investigation, privilege of confidentiality and powers to impose sanctions.

Lastly, in today's debate, I found that many Members are fond of using the tiger as an analogy in their speeches on fair competition. I do not know whether the tiger is particularly keen on engaging in anti-competitive conduct. But this is not important. In my opinion, what is most important is that we act on our consensus and we will crack down on the anti-competitive tiger if all of us have come to the conclusion that we should do so.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr LEE Wing-tat, you may now reply and you have one minute 14 seconds.

MR LEE WING-TAT (in Cantonese): President, Mr Jasper TSANG remarked just now that he could not understand how we had reached the conclusion that a law must be enacted. I wish to give him an explanation by citing two examples. The first example is about what we regard as predatory or cut-throat pricing by supermarkets. Mr CHAN Kam-lam said that he would welcome such a

practice. But I must advise him that cut-throat prices are actually meant to drive small business operators out of business. In the long run, after achieving market monopolization, supermarkets will increase their prices.

Second, Mr Jasper TSANG should be aware that some of his constituents in Kowloon West — the residents of Banyan Garden — are now faced with the problem of bundled services. The charges of telecommunications facilities are bundled into the management fee of the housing estate and the residents do not have any choices at all. What else can this be if it is not an anti-competitive act? When I was listening to Mr CHAN Kam-lam just now, I almost thought that a representative of PARKnSHOP and Cheung Kong Holdings had joined the Legislative Council. I am really so surprised to find that even a political party approves of the acts of large businesses to oppress small business operators. I know that their ally, the Hong Kong Federation of Trade Unions, also supports the enactment of a fair competition law.

I hope that the DAB can reconsider on which side it should stand. Is it going to side with a handful of business tycoons? Or, is it going to side with all Hong Kong people? Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEE Wing-tat 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 LEE Wing-tat rose to claim a division.

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

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

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

Functional Constituencies:

Dr David LI, 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, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr Patrick LAU voted against the motion.

Mr CHIM Pui-chung abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the motion.

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr LI Kwong-ying and Mr CHEUNG Hok-ming voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 11 were in favour of the motion, 14 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 17 were in favour of the motion and seven against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 23 November 2005.

Adjourned accordingly at three minutes to Seven o'clock.

Annex

MARRIAGE (INTRODUCTION OF CIVIL CELEBRANTS
OF MARRIAGES AND GENERAL AMENDMENTS) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

| <u>Clause</u> | <u>Amendment Proposed</u> |
|---------------|--|
| New | By adding - "3A. Section added The following is added - "2A. Certain notices are not subsidiary legislation A notice under section 5, 5A(4)(c), 5C(3), 5D(6)(a), 5E(7) or 5J(5) is not subsidiary legislation."." |
| 4 | (a) In the proposed section 5A(4)(c), by deleting "general". (b) In the proposed section 5C(3), by deleting "general". (c) In the proposed section 5D(1)(a), in the English text, by deleting "at". (d) In the proposed section 5D(1)(a)(i) and (ii), in the English text, by adding "at" before "the time". (e) In the proposed section 5D(3)(a), in the English text, by deleting "at". |

- (f) In the proposed section 5D(3)(a)(i) and (ii), in the English text, by adding "at" before "the time".
- (g) In the proposed section 5D(4), by deleting everything after ", the" and substituting "Registrar shall give the person a written notice of the intention and the reason for the proposed cancellation."
- (h) In the proposed section 5D, by adding -
 - "(4A) If the Registrar gives a notice to a person under subsection (4), the person may, within 14 days after the date of the notice or such longer period as the Registrar may allow, make representation to the Registrar in the manner specified in the notice.
 - (4B) The Registrar shall not cancel the appointment of a person until -
 - (a) the 14-day period or longer period (if any) referred to in subsection (4A) has expired and the person has not made any representation; or
 - (b) the person has made representation and the Registrar has considered the representation."
- (i) In the proposed section 5D(6)(a), by deleting "general".

- (j) In the proposed section 5E(3), by deleting everything after “, the” and substituting -
- “Registrar shall give the person a written notice of -
- (a) the intention;
 - (b) the reason for the proposed suspension; and
 - (c) the length of the proposed suspension period.”.
- (k) In the proposed section 5E, by adding -
- “(3A) If the Registrar gives a notice to a person under subsection (3), the person may, within 14 days after the date of the notice or such longer period as the Registrar may allow, make representation to the Registrar in the manner specified in the notice.
- (3B) The Registrar shall not suspend the appointment of a person until -
- (a) the 14-day period or longer period (if any) referred to in subsection (3A) has expired and the person has not made any representation; or
 - (b) the person has made representation and the Registrar has considered the representation.”.

- (l) In the proposed section 5E(4)(a), by deleting "subsection (3)(a)(iii)" and substituting "subsection (3)(c)".
- (m) In the proposed section 5E(5)(a)(i), in the English text, by deleting "was" and substituting "is".
- (n) In the proposed section 5E(5)(a)(ii), by adding "subsequently" after "is".
- (o) In the proposed section 5E(5)(b)(i), in the English text, by deleting "was" and substituting "is".
- (p) In the proposed section 5E(5)(b)(ii), by adding "subsequently" after "is".
- (q) In the proposed section 5E(6), by adding ", during the suspension period," after "shall not".
- (r) In the proposed section 5E(7), by deleting "general".
- (s) In the proposed section 5F, by deleting "The" and substituting "Without prejudice to the generality of section 27(3), the".
- (t) By deleting the proposed section 5H(1) and substituting -

“(1) For the purpose of investigating and obtaining evidence of any suspected offence under this Ordinance or of any suspected contravention of a code of practice, the Registrar may request a civil celebrant to provide information in relation to the practice of the civil celebrant. The civil

celebrant shall provide such information as soon as practicable upon receiving the request of the Registrar."

(u) In the proposed section 5H(2), in the English text, by deleting "at".

(v) In the proposed section 5H(2)(a) and (b), in the English text, by adding "at" before "the time".

6 By deleting the proposed section 6A(2).

7 By deleting the clause.

9 In the proposed section 12(1)(b)(i), by deleting "not any impediment of kindred or alliance" and substituting "no impediment of kindred or affinity as provided in section 27(1)".

12(16) By adding after the proposed section 21(7) -

"(8) For the avoidance of doubt, if a marriage is celebrated by a civil celebrant, the civil celebrant shall not act as a witness to that marriage."

13 By deleting the clause and substituting -

"13. Invalid marriages

(1) Section 27(1) is repealed and the following substituted -

"(1) A marriage shall be null and void on the ground of kindred or affinity as provided in Schedule 5."

(2) Section 27(2) is repealed and the following substituted -

"(2) A marriage shall be null and void -

(a) if -

(i) it is not celebrated -

(A) by the Registrar in the office of the Registrar;

(B) by a competent minister in a licensed place of worship; or

(C) by a civil celebrant in accordance with section 21(3A),

and it is not -

(D) authorized by a special licence;

(E) celebrated under paragraph (b) of the proviso to section 21(3); or

(F) celebrated under section 39;

- (ii) it is celebrated under a false name; or
 - (iii) no certificate of the Registrar has been issued or no special licence has been granted in respect of the marriage,
- and both parties knowingly and wilfully acquiesce in its celebration in such circumstances; or
- (b) if at the time of its celebration any party is under 16 years of age."."

- 16
- (a) In the proposed section 31A(1), by adding "without reasonable excuse" after "who".
 - (b) In the proposed section 31A(3), by adding "without reasonable excuse" after "who".
 - (c) By deleting the proposed section 31A(4).
 - (d) In the proposed section 31A(5), by adding "without reasonable excuse" after "who".
- 17
- (a) In the proposed section 33A(1), by deleting "1 year" and substituting "2 years".
 - (b) In the proposed section 33B, by deleting "level 4" and substituting "level 5 and imprisonment for 2

- "Schedule 2 [ss. 2 & 36]"
and substituting -
"SCHEDULE 2 [ss. 2 & 36]".
- 23 (a) In the English text, by deleting -
"Third Schedule [ss. 14, 18A & 42]"
and substituting -
"THIRD SCHEDULE [ss. 14, 18A & 42]".
- (b) In the English text, by deleting -
"Schedule 3 [ss. 14, 18A & 42A]"
and substituting -
"SCHEDULE 3 [ss. 14, 18A & 42A]".
- 24 (a) In the proposed Schedule 4, in paragraph 1(a)(i),
by adding "and the Legal Practitioners (Risk
Management Education) Rules (Cap. 159 sub. leg. Z)"
before "; and".
- (b) In the proposed Schedule 4, by deleting paragraph
1(a)(ii) and substituting -
"(ii) holding a certificate issued by The Law
Society of Hong Kong -
(A) certifying that he has practised as
a solicitor; or
(B) upon a statutory declaration by him
in such form as the Council of The
Law Society of Hong Kong may
determine certifying that he has

been employed while his name is on the roll of solicitors within the meaning of the Legal Practitioners Ordinance (Cap. 159) to provide legal service to the employer, for a period or periods in aggregate of not less than 7 years; or".

26(2) By deleting -

"section 31A(4) civil celebrant charging prohibited fee".

27 (a) In subclause (1), by deleting "(zo)" and substituting "(zp)".

(b) In subclause (2), by deleting "(zp)" and substituting "(zq)".

(c) In subclause (3), by deleting "(zq)" and substituting "(zr)".

35 By deleting subclauses (3) and (4) and substituting -

"(3) Section 7(3) is amended by repealing "the notices filed in his office under this section and copies" and substituting "all notices of intended marriage filed in his office under this section and copies of Part I".

(4) Section 7(4) is amended by repealing "filed under this section, produce to such person for inspection a copy" and substituting "of

intended marriage filed under this section, produce to such person for inspection a copy of Part I".

50 By deleting the clause and substituting -

"50. Section substituted

Section 29 is repealed and the following substituted -

**"29. Marrying, etc., person under
21 without required consent**

Any person who, knowing that -

- (a) a written consent under section 14 is required in respect of the marriage of a party under 21 years of age; and
- (b) no such consent has been obtained,

marries or assists or procures any other person to marry the person referred to in paragraph (a) shall be guilty of an offence and shall be liable to a fine at level 5 and imprisonment for 2 years."

51 (a) By renumbering the clause as clause 51(1).

(b) By adding -

"(2) Section 30 is amended by repealing everything after "an offence" and substituting "and shall be liable to a fine at level 5 and

imprisonment for 2 years."."

52 By deleting everything after "amended by" and substituting "repealing everything after "shall be" and substituting "guilty of an offence and shall be liable to a fine at level 5 and imprisonment for 2 years."."

New By adding -

"52A. Penalty on unauthorized person celebrating marriage

Section 33 is amended by repealing everything after "an offence" and substituting "and shall be liable to a fine at level 5 and imprisonment for 2 years."."

57 (a) By adding -

"(1A) Section 39(1) is amended, in the proviso, in paragraph (c), by repealing ", in England or Wales" and substituting "as provided in section 27(1)"."

(b) By adding -

"(2A) Section 39(3) is amended by repealing everything after "an offence" and substituting "and shall be liable to a fine at level 5 and imprisonment for 2 years."."

New By adding after clause 57 -

"57A. Section added

The following is added -

"45. Saving

The amendments made to section 27 and paragraph (c) of the proviso to section 39(1) by the Marriage (Introduction of Civil Celebrants of Marriages and General Amendments) Ordinance (of 2005) shall not -

(a) validate a marriage which would have been invalid; or

(b) invalidate a marriage which would have been valid,

but for the enactment of that Ordinance."."

58(1) In the proposed Form 2, by deleting "就下述人士擬締結的婚姻已於 年 月 日" and substituting "於 年 月 日就下述人士擬締結的婚姻".

New By adding -

"60. Schedule 5 added

The following is added -

"SCHEDULE 5 [s. 27]

KINDRED AND AFFINITY

PART 1

1. In this Schedule -

"brother" (兄弟) includes a brother of the

half blood;

"child" (兒童) means a person under the
age of 18;

"child of the family" (家庭子女), in
relation to any person, means a
child who has lived in the same
household as that person and been
treated by that person as a child of
his family;

"sister" (姊妹) includes a sister of the
half blood.

2. A marriage -

- (a) solemnized between a man and
any person specified in the
first column of Part 2; or
- (b) solemnized between a woman and
any person specified in the
second column of Part 2,

shall be null and void.

3. Subject to paragraph 4, a marriage -

- (a) solemnized between a man and
any person specified in the
first column of Part 3; or
- (b) solemnized between a woman and
any person specified in the
second column of Part 3,

shall be null and void.

4. A marriage referred to in paragraph 3 shall not be null and void by reason only of affinity if -

- (a) both the parties to the marriage have attained the age of 21 at the time of the marriage; and
- (b) the younger party has not at any time before attaining the age of 18 been a child of the family in relation to the other party.

5. Subject to paragraph 6, a marriage -

- (a) solemnized between a man and any person specified in the first column of Part 4; or
- (b) solemnized between a woman and any person specified in the second column of Part 4,

shall be null and void.

6. A marriage referred to in paragraph 5 shall not be null and void by reason only of affinity if -

- (a) both the parties to the marriage have attained the age of 21 at the time of the

marriage; and

(b) the marriage is solemnized -

(i) in the case of a marriage between a man and the mother of a former wife of his, after the death of both the former wife and the father of the former wife;

(ii) in the case of a marriage between a man and the former wife of his son, after the death of both his son and the mother of his son;

(iii) in the case of a marriage between a woman and the father of a former husband of hers, after the death of both the former husband and the mother of the former husband; or

- (iv) in the case of a marriage between a woman and a former husband of her daughter, after the death of both her daughter and the father of her daughter.

PART 2

Prohibited degrees of relationship referred
to in paragraph 2 of Part 1

| For men | For women |
|---|--|
| Mother | Father |
| Adoptive mother or former adoptive mother | Adoptive father or former adoptive father |
| Daughter | Son |
| Adoptive daughter or former adoptive daughter | Adoptive son or former adoptive son |
| Father's mother | Father's father |
| Mother's mother | Mother's father |
| Son's daughter | Son's son |
| Daughter's daughter | Daughter's son |
| Sister | Brother |
| Father's sister | Father's brother |
| Mother's sister | Mother's brother |

| | |
|--------------------|---------------|
| Brother's daughter | Brother's son |
| Sister's daughter | Sister's son |

PART 3

Degrees of affinity referred to in
paragraphs 3 and 4 of Part 1

| For men | For women |
|--|--------------------------------------|
| Daughter of former wife | Son of former husband |
| Former wife of father | Former husband of mother |
| Former wife of father's father | Former husband of father's mother |
| Former wife of mother's father | Former husband of mother's mother |
| Daughter of son of former wife | Son of son of former husband |
| Daughter of daughter of former wife | Son of daughter of former husband |

PART 4

Degrees of affinity referred to in
paragraphs 5 and 6 of Part 1

| For men | For women |
|-----------------------|-----------------------------------|
| Mother of former wife | Father of former husband |
| Former wife of son | Former husband of daughter".". |

Appendix I**WRITTEN ANSWER****Written answer by the Financial Secretary to Miss CHAN Yuen-han's supplementary question to Question 2**

As regards whether the labour sector, in particular the Legislative Council Members, were consulted when the Government signed the World Trade Organization (WTO) Agreement on Government Procurement (GPA) in 1997, according to our records, the then Executive Council was consulted before the Government signed the WTO GPA. It was considered that the GPA is fully consistent with the long established principles and objectives of our government procurement policy. The assessment was that joining the GPA would not lead to any change in the government procurement policy, nor would it adversely affect the overall interest of Hong Kong. No public consultation was therefore conducted at the time.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Housing, Planning and Lands to Ms Emily LAU's supplementary question to Question 5**

As regards the number of public housing households whose living density is higher than 7 sq m per person, and how soon they can be rehoused, as at end September 2005, there are 40 174 households with living density higher than 7 sq m per person. Of them, about 10 000 are living in estates scheduled for redevelopment within the next three years. They will be rehoused to larger flats. For other eligible families, the Housing Authority normally sets aside about 5 000 flats a year for various transfer exercises, which are held two to three times a year. Eligible families who wish to move to more spacious flats are welcome to apply. In similar transfer schemes held in the past, the number of flats offered for selection exceeded the number of applicants.