

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 7 March 2007

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.S.,  
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, G.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

THE HONOURABLE WONG YUNG-KAN, 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 ABRAHAM SHEK LAI-HIM, J.P.

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H., J.P.

DR THE HONOURABLE JOSEPH LEE KOK-LONG, J.P.

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

THE HONOURABLE CHIM PUI-CHUNG

PROF 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 CHAN KAM-LAM, S.B.S., J.P.

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

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

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

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

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

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

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

### **PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE WONG YAN-LUNG, S.C., J.P.  
THE SECRETARY FOR JUSTICE

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

THE HONOURABLE 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 VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

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

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

**PRESIDENT** (in Cantonese): A quorum is present, and the meeting starts now.

### **TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Public Revenue Protection (Revenue) Order 2007.....	32/2007
Rating (Exemption) Order 2007 .....	33/2007
Dutiable Commodities (Exempted Quantities) (Amendment) Notice 2007.....	34/2007
Tax Reserve Certificates (Rate of Interest) (No. 2) Notice 2007.....	35/2007

### **Other Papers**

- No. 73 — Report by the Commissioner of Correctional Services of Hong Kong Incorporated on the Administration of the Correctional Services Department Welfare Fund for the year ended 31 March 2006
- No. 74 — Audited Financial Statements and Report on Activities of the Hong Kong Examinations and Assessment Authority for the year ending 31 August 2006
- No. 75 — Consolidated Summary of Estimates and Revenue Analysis by Head,  
General Revenue Account,  
Estimates for the year ending 31 March 2008

**ORAL ANSWERS TO QUESTIONS**

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

**Supply and Demand of University Student Hostel Places**

1. **MR ABRAHAM SHEK:** *President, it is learnt that in its report submitted to the Chief Executive in January this year, the Focus Group on Trade and Business (the Focus Group) of the Economic Summit on "China's 11th Five-Year Plan and the Development of Hong Kong" proposed that in order to attract more non-local students to study in the universities in Hong Kong, more hostel facilities should be constructed. Regarding the supply and demand of student hostel places at various universities, will the Government inform this Council:*

- (a) *whether it has assessed the feasibility of the aforesaid proposal put forward by the Focus Group;*
- (b) *given that funding has already been earmarked for the hostel construction projects of the University of Hong Kong (HKU), the City University of Hong Kong (CityU) and The Chinese University of Hong Kong (CUHK), of the timetable for the implementation of such projects; and*
- (c) *of the specific plan to meet the additional demand for hostel places arising from the increase in the number of university students after the implementation of the four-year undergraduate curriculum from the 2012-2013 academic year onwards?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President,

- (a) In the Report on Economic Summit on "China's 11th Five-Year Plan and the Development of Hong Kong", the Focus Group proposed that the Government should make "helping nurture talents and enlarge our talent pool, thereby raising the quality of our human capital" a policy direction at the national level for Hong Kong's development. The report pointed out that through attracting mainland students to study and work in Hong Kong, not only can

our education system help nurture mainland talents, but our local students and workforce will also benefit from the intellectual stimulation and healthy competition brought about by mainland students, thereby enhancing the quality of our talent pool as well as supporting and sustaining Hong Kong's competitiveness and long-term economic development.

The Focus Group has invited the Steering Committee chaired by the Chief Secretary for Administration to examine a number of proposals for developing Hong Kong into a regional education hub. One of the proposals is to provide non-local and exchange students with adequate boarding facilities. The Administration agrees that adequate facilities should be in place to support Hong Kong's development as a regional education hub. In fact, on top of what is being provided under the established policy, the Administration has earlier taken the initiative to provide the University Grants Committee (UGC)-funded sector with an additional 1 840 publicly-funded student hostel places to meet the accommodation needs of non-local and exchange students. The UGC has already allocated these places to the institutions, and the institutions are in the process of planning for the construction of these student hostels. The Steering Committee will certainly carefully consider the proposals made by the Focus Group when it examines the relevant issues.

- (b) The Administration has earmarked funding for the following plans to build student hostels:
- (1) the HKU's plan to build 1 800 publicly-funded hostel places at Lung Wah Street;
  - (2) the CityU's plan to build 700 publicly-funded hostel places within its campus; and
  - (3) CUHK's plan to build 1 500 hostel places within its campus.

The HKU's and CUHK's proposals are expected to be submitted to the Public Works Subcommittee and the Finance Committee of the Legislative Council for funding approval in 2007, while the CityU is

still working on its proposal. Subject to funding approval of the Finance Committee, the new hostels of CUHK, the CityU and the HKU are expected to be completed and ready for occupation in 2009, 2010 and 2011 respectively.

- (c) It is estimated that the whole UGC-funded sector will require some 2 200 additional hostel places as a result of the implementation of the new "3-3-4" academic structure. Individual institutions have been planning actively with a view to meeting the additional hostel requirements. Indeed, some institutions have already submitted hostel project proposals which are supported by the UGC, and funding has been earmarked by the Administration.

We are mindful of the keen demand for hostels. In view of the lead time required for planning and executing hostel projects, the Administration has been encouraging the UGC-funded institutions to make the best use of their existing stock of student hostels and explore all possible options in order to meet the increasing needs for boarding facilities. The UGC and the Administration will continue to discuss with the institutions their hostel requirements, consider their capital works proposals and funding requests, and render assistance to the institutions in identifying suitable sites for building new hostels if necessary. Some institutions are also considering short-term relief measures, such as temporary conversion of existing student hostel units to accommodate more students.

**MR ABRAHAM SHEK** (in Cantonese): *I am very pleased to see the Secretary give us such a positive reply. President, in the last sentence of the main reply, the Secretary stated that a number of universities would consider the temporary provision of additional hostel places. I would like to follow up this issue. Will the Government consider converting the currently vacant school buildings due to school closures into temporary hostels?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, this is a very good suggestion. Yet, it is by no means easy to convert school buildings into hostels because, while bathrooms are not provided for students to take baths, it is nonetheless a necessary facility for hostels.



However, is it possible to demolish the old school buildings for conversion? This is well worth consideration. We will further follow up this issue with the institutions.

**MR CHEUNG MAN-KWONG** (in Cantonese): *President, apart from funding, the availability of sufficient land near the universities is also essential. At present, the shortage of land has hindered the development of some universities. Will the Government consider expanding the campuses of these universities to enable the construction of hostels within the campus confines straightaway? If yes, may I ask what consideration will be given by the Government to the campus expansion plans of the eight universities? If not, will the university campuses become overcrowded as a result of the construction of hostels and even teaching complexes?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the situation differs between different universities. While land is available near some universities like CUHK, there is none for others like the HKU. Therefore, their cases are different. While land has been earmarked for the development of these universities, they are required to submit to us good development proposals, for example, the centenary plan of the HKU has won our support.

**MR CHEUNG MAN-KWONG** (in Cantonese): *President, I asked the Government whether it would draw up campus expansion plans for the eight universities when such a need arises; if yes, which universities have been included in these plans.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Each university has its own development blueprint. The HKU, for example, has developed a blueprint. I believe CUHK should have one too, so do The Hong Kong University of Science and Technology, the CityU and the Hong Kong Baptist University. In other words, all universities have their own development blueprints. Should any development blueprint indicate a need for additional land, we will help the institution concerned in its development.

**DR RAYMOND HO** (in Cantonese): *In recent years, I have suggested the Government to increase the intake of non-local students to universities. In the past, the relevant ratio was 4%, but subsequently the Secretary undertook in this Chamber to increase it to 8%. As far as I understand it, it is now approximately 10%. In fact, the ratio is even much higher in overseas countries, which may range from 20% to over 30%. Will the Secretary inform us whether the Government has any long-term plans to increase the ratio of non-local students? If yes, is there any long-term planning in respect of hostels?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, we wish to increase the number of non-local students studying in Hong Kong. And yet, we have no intention of denying Hong Kong students of their opportunity for further studies as a result of an increase in non-local students. It is therefore necessary to balance the interests of the two parties in this respect. Also, insofar as Hong Kong's institutions are concerned, we are very pleased to see that nearly 4 800 non-local students have enrolled on their courses. With regard to hostels, there are currently 5 400 non-local students living in our hostels. Though it is our wish to increase the intake of non-local students, there must be comprehensive planning rather than simply increasing the number of non-local students. For example, we must consider such supporting facilities as hostels, and take forward the plan as an integrated package.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Secretary Prof Arthur LI, how are you? Do not issue me any letter, buddy.*

*According to your reply, there is a keen demand for hostels from local students and I have received numerous complaints about the very high hostel fee. In response to Mr Abraham SHEK's question concerning the planning on hostels for non-local students, you said that there should be comprehensive planning. May I ask whether you have considered the demand for hostels of local students and their affordability?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, hostel fees are determined by the institutions themselves, and the Government will not in any way decide on it.

**MR LEUNG KWOK-HUNG** (in Cantonese): *May I ask Secretary Prof Arthur LI whether he has any intention of discussing with those presidents — it is precisely because you will engage in dialogue with the university presidents that a fierce row has erupted lately — nothing but this issue?*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, would you please point out the unanswered part of the supplementary question raised by you earlier because this is the rule of raising follow-up questions. Which part has not been answered by the Secretary?

**MR LEUNG KWOK-HUNG** (in Cantonese): *I see, but I was just giving the Secretary an answer. The Secretary said that it was all about autonomy, and I have obtained some information.....*

**PRESIDENT** (in Cantonese): You cannot give an answer to the Secretary because you are not a Secretary. It is now time for the public officer to answer our questions.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I explained to him why I should raise this supplementary question.*

**PRESIDENT** (in Cantonese): You need not explain either. Has the Secretary answered the supplementary question raised by you earlier?

**MR LEUNG KWOK-HUNG** (in Cantonese): *No, he has not.*

**PRESIDENT** (in Cantonese): Which part has not been answered by him? You may repeat that part.

**MR LEUNG KWOK-HUNG** (in Cantonese): *He said, he said.....*

**PRESIDENT** (in Cantonese): What he said does not matter. Which part of your supplementary question has not been answered?

**MR LEUNG KWOK-HUNG** (in Cantonese): *I was trying to explain it to you. He said that the universities had autonomy over hostel places, but I do not think this is the case.....*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please sit down because you are not raising a follow-up question. It is now the Question Time.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Now I am asking him whether the university presidents will be requested to lower the hostel fee.....*

**PRESIDENT** (in Cantonese): That is not part of the supplementary question raised by you earlier.

**MR LEUNG KWOK-HUNG** (in Cantonese): *It is.*

**PRESIDENT** (in Cantonese): What is your follow-up question then?

**MR LEUNG KWOK-HUNG** (in Cantonese): *That is the follow-up question.*

**PRESIDENT** (in Cantonese): There was no mention of "presidents" in your initial supplementary question. You must repeat the relevant part of the supplementary question you asked just now. Failing which, never mind, you may press the button and wait for another turn.

**MR LEUNG KWOK-HUNG** (in Cantonese): *No, I did mention that. He said it was all about institutional administration, so I asked him why he had not raised the issue with them in spite of the frequent dialogues between them.*

**PRESIDENT** (in Cantonese): You may refer to the verbatim record of the Legislative Council to ascertain if this is part of the supplementary question you asked earlier. Please sit down.

**MR LEUNG KWOK-HUNG** (in Cantonese): *He has said so much to Bernard LUK, and MORRIS too.....*

**PRESIDENT** (in Cantonese): Please sit down. What you are saying has no relevance to this question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Nothing can be done then. Justice is in the hearts of the people.*

**PRESIDENT** (in Cantonese): True, justice is in the hearts of the people. So, will Members please read the verbatim records carefully. If Members do not ask questions in accordance with the Rules of Procedure, I can do nothing but to stop you. In this Chamber, all Members have equal power. Since the follow-up question you raised earlier is not relevant to your supplementary question just now, you were simply wasting the time of other Members who may have the opportunity to raise supplementaries. Yet, I am not going to argue with you anymore. If you still wish to argue with me, please come to my office after the meeting. I am not dwelling on it further now. But, I have to remind you that the rules must be followed. Mr Howard YOUNG.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, you are now criticizing me in public. Why do you not allow me to speak?*

**PRESIDENT** (in Cantonese): Please sit down.

**MR LEUNG KWOK-HUNG** (in Cantonese): *This is not fair at all.*

**MR HOWARD YOUNG**: *Madam President, in paragraph (b) of his main reply, the Secretary listed three student hostel plans, totalling 4 000 extra places, but in*

*paragraph (c), he said that the academic structure change itself would need 2 200. Does that mean that in fact, the real net increase is only 4 000 minus 2 200, producing an extra 1 800 hostel spaces, which is far short of the demand?*

**SECRETARY FOR EDUCATION AND MANPOWER:** This is actually a very good question. In fact, under the current situation, at present, we already have a shortfall in student hostel places, and the shortfall is somewhere around 6 000 places that we owe the institutions, if I could use that term. So, by making up these three, we are meeting that demand, but nonetheless, we will still have a shortfall, particularly when "3-3-4" comes in, there will be an additional requirement of another 2 200 places. So, we are still behind in those terms.

**MS AUDREY EU** (in Cantonese): *President, I wish to raise a question in the light of the Secretary's reply to Mr Howard YOUNG's supplementary question. According to the information of the Legislative Council, the UGC-funded institutions will actually have a shortfall of 6 300 publicly-funded hostel places by the 2007-2008 academic year, and coupled with the implementation of the "3-3-4" academic structure, will the Secretary inform us what the total shortfall in hostel places in respect of undergraduate education programmes is? In particular, what is the shortfall in hostel places after the implementation of the "3-3-4" academic structure, and what methods are there to make up for this shortfall in hostel places in a timely manner?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): I have replied earlier that there is currently a shortfall of 6 000-odd hostel places, and a total of 4 000 to 5 000 hostel places will be offered by three institutions. However, despite the provision of additional hostel places by these three institutions, we still owe these institutions 1 000-odd hostel places. Coupled with the requirement of an additional 2 200 hostel places arising from the intake of students in 2012 under the "3-3-4" academic structure, we will still have a shortfall of 3 000-odd hostel places until 2012 according to the plan.

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

**MS AUDREY EU** (in Cantonese): *President, the Secretary has not answered another part of my supplementary question, and that is, what methods there are*

*to make up for the shortfall. He has only answered the first part of it, pointing out that there is a shortfall of 3 000-odd places.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): In fact, all institutions are seeking eagerly an increase in hostel places. We are considering with the institutions their respective plans to see how hostel places can be increased.

**PRESIDENT** (in Cantonese): Last supplementary question now.

**MISS TAM HEUNG-MAN** (in Cantonese): *The Administration explained just now that there was a shortfall of 3 000-odd hostel places at some universities, and they were exploring possible solutions with the relevant authorities. Before coming up with an overall plan, has the Secretary figured out some so-called transitional plans to relieve the shortage of hostel places?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Yes, we have. The institutions have been encouraged to explore different options for implementing the plans shortly, for example, improving the facilities of hostel places so as to make more room for students. In this respect, we are pursuing co-operation from various perspectives.

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

### **Business Registration Certificate Levy Rate**

2. **MR JAMES TIEN** (in Cantonese): *Madam President, in May 2002, the Government raised the Business Registration Certificate (BRC) levy rate from \$250 per annum to \$600 per annum, in order to address the financial difficulties of the Protection of Wages on Insolvency Fund (the Fund). The then Commissioner for Labour — not the incumbent Commissioner for Labour but the former Commissioner for Labour — advised at that time that the Labour Advisory Board (LAB) would review in one year's time whether the financial position of the Fund permitted the lowering of the BRC levy rate. The then*

*Commissioner for Labour advised that the financial position of the Fund would be considered healthy if its reserves reached a level of \$200 million — it is \$200 million — less all expenses to be paid. Recent data indicate that the accumulated surplus and reserves of the Fund exceeded \$400 million in total by the end of March last year. In this connection, will the Government inform this Council:*

- (a) whether the LAB conducted the review in 2003 as scheduled; if it did, of the outcome, and why the BRC levy rate has so far not been lowered; if it did not, the reasons for that; and*
- (b) of the projected financial position of the Fund for the next few years, and whether it will consider restoring the BRC levy rate to the level of \$250 per annum; if not, of the reasons for that?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, under the Fund set up in 1985, employees may apply for *ex gratia* payment if they are owed wages, wages in lieu of notice and severance payment by their insolvent employers. The maximum payment that an employee can receive from the Fund is \$278,500, comprising \$36,000 for wages, \$22,500 for wages in lieu of notice, and severance payment up to \$50,000 plus 50% of the remainder of the entitlement. The Labour Department (LD) is responsible for processing the applications and the operation of the Fund.

The Fund is mainly financed by an annual levy of \$600 on each BRC. Other sources of income include money recovered from the remaining assets of insolvent employers through subrogation as well as bank deposit returns. In its nearly 22 years of operation, the levy rate was raised only in 1991 and 2002.

The following is my reply to Mr TIEN's question:

- (a) The Protection of Wages on Insolvency Fund Board (Fund Board), established under the Protection of Wages on Insolvency Ordinance, has the statutory functions of administering the Fund and making recommendations to the Chief Executive with respect to the rate of levy.

In 2002, after the Fund Board considered that the levy had to be increased to \$600, the LAB was consulted. The proposed increase



was endorsed by the LAB and it was agreed that a review of the new levy rate be conducted in the following year. The LD, together with the Fund Board, have been closely monitoring the Fund's financial position and the levy rate. The Fund Board reviewed the levy rate in February 2003 and February 2004 and considered that it should remain unchanged. The LD and the Fund Board have continued to monitor the financial position of the Fund and the levy rate thereafter.

- (b) The financial position of the Fund is subject to the amount of levy income and *ex gratia* payment. For the next few years, the financial position of the Fund would continue to be linked to the state of Hong Kong's economy as well as the number of major insolvency cases. Indeed, notwithstanding a record accumulated surplus of over \$930 million in October 1997, the upsurge in claims for *ex gratia* payment after the Asian financial crisis drove the Fund into continued depletion and resulted in the levy rise in 2002. An accumulated deficit of \$18.4 million was registered in March 2004. Experience suggests that the Fund has to shoulder hefty sums of *ex gratia* payment in large insolvency cases. It is therefore necessary for the Fund to have sufficient reserve and cash flow to cope with any sudden outbreak of major insolvency cases as well as any economic downturn.

By providing a safety net for employees affected by business closures, the Fund plays an important role in maintaining harmonious labour relations and social stability. The Fund had annual surpluses during the first 12 years of operation since 1985, whereas it only regained the first surplus in 2004-2005 following seven years of deficits after the Asian financial crisis. Therefore, it is important that the Fund should build up sufficient reserve to prepare for the rainy days. The LD together with the Fund Board would continue to monitor the financial position of the Fund closely and would review the level of the levy rate at an appropriate time.

**MR JAMES TIEN** (in Cantonese): *Madam President, in respect of the levy rate, The Hongkong and Shanghai Banking Corporation Limited will have to pay*

*\$600, so will the small and medium enterprises. To the latter, however, \$600 is quite a burden.*

*Madam President, the Government will surely say that a sufficient accumulated surplus has to be maintained to cope with large insolvency cases but, Madam President, it has not answered my main question. The then Commissioner for Labour said that \$200 million would suffice. My question now is, notwithstanding the current \$400 million, the Government still says that a sufficient reserve has to be built up for the rainy days and that the matter has to be looked into carefully. Then, will the Government inform us how much money is considered sufficient?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Thank you, Mr TIEN. The then Commissioner for Labour advised at that time — that is 2002 — that the financial position of the Fund would be considered rather healthy if its surplus reached \$200 million, but that was a statement he made in 2002. We may well be aware that the most important thing is to judge the time and size up the situation. It is impossible that what was said as healthy in 2002 will remain valid forever. Members can see that the data have proved that a surplus of over \$900 million could turn into a negative figure, that is, a deficit of over \$18 million within seven years' time. In other words, Madam President, referring back to the data, for example, for 2002-2003, in just one single year, the payment amounted to more than \$500 million; while for 2003-2004 and 2004-2005, the payment amounted to more than \$400 million and \$300 million respectively. Members can see that the payment was enormous. We cannot, of course, estimate the number of large insolvency cases in future. This is unpredictable. It is thus important to have in place sufficient money to cope with future needs.

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

**MR JAMES TIEN** (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. I asked the Secretary to estimate how much money is considered sufficient. I did not ask him to estimate the number of large insolvency cases.*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, actually, I have used another approach to answer Mr James TIEN. What I was saying is, the Fund may have to expend, say \$500 million in a certain year — which is a fact based on actual data. That is, \$500 million was expended for 2003, and then \$400 million and \$300 million. If the levy rate is restored to \$250, we can immediately derive that the revenue will be cut by more than 50% with possibly only \$200 million left each year, but now it is \$500 million.

The data I quoted just now are meant to illustrate to Mr James TIEN that the Fund can expend more than \$500 million in just one year, so a levy reduction may not be prudent. I do not wish to come back here soon after a levy reduction and ask Members for a levy rise. I would rather opt for a safer approach, that is, in times of surplus, as of now, we will review — this we have done — and keep watch on the situation, and the Fund Board has also discussed this problem. I know that they will discuss the issue of a levy review in the coming meeting in May.

**PRESIDENT** (in Cantonese): There are altogether 11 Members waiting for their turns to ask supplementary questions, so will Members who have the opportunity to do so please raise their questions direct.

**MR JEFFREY LAM** (in Cantonese): *The \$600 levy rate is more than double of \$250. May I ask the Secretary what impacts a downward adjustment of the levy rate to \$250 will have on the financial position of the Fund?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I believe Mr Jeffrey LAM must have heard my answer to Mr James TIEN's supplementary question, that the calculation is simple. As I have pointed out just now, if the levy rate is lowered from \$600 to \$250, the annual income will be reduced to \$200 million, but currently the Fund has \$500 million. Of course, the payment for one single year, as I have already explained, might be over \$300 million or \$400 million. This is unpredictable. Therefore, a prudent approach is to maintain the existing levy rate. However, the Fund Board will, as I have said just now, review the levy rate shortly.

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

**MR JEFFREY LAM** (in Cantonese): *No, President. If the levy rate is reduced, when the rate was raised previously, he said that.....*

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

**MR JEFFREY LAM** (in Cantonese): *The part relating to the impacts. At present, the financial position can still be considered sufficient and healthy, but will it become unhealthy if the levy rate is lowered?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I have already said that whether the financial position is healthy or not is determined by payments actually made, that is, the number of insolvency cases at a certain time. If the number of cases is small, the financial position will certainly be healthy, and *vice versa*. We thus need to be prudent and accumulate sufficient money to prepare for the rainy days, that is, the times when there is a sudden outbreak of insolvency cases.

**MR ANDREW LEUNG** (in Cantonese): *In fact, the Fund has all along been criticized of making the good employers to subsidize the unscrupulous employers. However, under the brilliant leadership of the Secretary, a lot has been done in the past 10-odd months to prevent the Fund from being abused by unscrupulous employers. As a matter of fact, the number of claims to the Fund has now reduced.*

*The Secretary said in the last part of the main reply that reviews will be conducted at an appropriate time. What is meant by an "appropriate time"? I hope the Secretary can review the levy rate expeditiously so as to return wealth to the people.*

**PRESIDENT** (in Cantonese): Are you just hoping? Are you not asking the Secretary a question?

**MR ANDREW LEUNG** (in Cantonese): *Yes. I am asking the Secretary what is meant by an "appropriate time".*

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

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Thank you, Mr LEUNG. I have only led the Bureau for a few years, but I can confirm that the current situation has indeed improved. I believe I have already pointed out in my reply to Mr TIEN just now that we will soon review the situation, as soon as in May.

**MR TOMMY CHEUNG** (in Cantonese): *President, in the past, the construction and catering industries very often had to resort to the Fund. In the past two years, the businesses of these two industries have brightened up, including the construction industry, and their prospects are promising.*

*I wish to be more down-to-earth and ask the Secretary this question. As the prospects of these two industries, which have been resorting to the Fund most frequently, are promising, will the Secretary, in response to these concerns, consider if it is necessary to expeditiously reduce the levy rate in the meeting next month?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): I think Mr CHEUNG's supplementary question is actually the same question as others. He was still asking me whether we will consider a levy reduction. My answer is that we will hand this over to the Fund Board for consideration in May.

**MS LI FUNG-YING** (in Cantonese): *The Fund currently has a little surplus and the employers thus request a levy reduction. May I ask the Secretary, in view of the surplus, whether he will consider expanding the scope of protection for employees to other areas? Because the items covered by the Fund are limited.*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): I have to thank Ms LI Fung-ying for her question. I believe the scope of protection under the Fund has been continually revised. Thus, as far as I understand it, some members of the Fund Board have voiced this concern and made such a proposal. Madam President, I know that, for example, in the meeting of the Fund Board in May, the issue of levy rate adjustment which is Members' concern as expressed just now, and the expansion of the scope of protection, as asked by Ms LI Fung-ying just now, will be discussed. The Fund Board will discuss these issues in May.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the supplementary I originally intended to ask has been put by Ms LI Fung-ying. However, I wish to supplement by asking that, when this issue is discussed in May in the LAB meeting, what kind of attitude the LD will adopt. Will the LD really suggest the LAB to change the payment cap? Because the payment cap will prevent many workers from truly getting their hard-earned wages or severance payment they deserve.*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): First, I wish to clarify with Mr LEUNG Yiu-chung that we are talking about the Fund Board which will discuss this issue in May because this falls mainly under its ambit, especially relating to the operation and levy rate of the Fund. This issue will thus be discussed by the Fund Board first.

In fact, over the years, the scope of protection has been revised a number of times to expand its coverage. Now, the most important thing is to let the Fund Board deliberate this issue and then submit its suggestions to the LD. We can also discuss this within the LAB if necessary.

**MR WONG TING-KWONG** (in Cantonese): *In the past, the number of claims to the Fund differed from sectors to sectors, with some making claims to it particularly frequently. President, may I ask the Secretary what the situation is now? What strategies are there?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): The situation now has improved. Members can see that the Fund

has started to show a surplus. The improvement is attributable to the concerted efforts of the LD and various government departments in increasing the penalties for defaulting wages. Retired police officers have been employed to assist in the inspections. All of these efforts have helped to improve the present situation. The same is true of restaurants and the catering industries. Their situations have also improved. We will continue to keep watch on this.

**MRS SELINA CHOW** (in Cantonese): *President, I am glad to hear the Secretary say that the Fund Board will discuss this issue in its meeting in May. What worries me is that the Secretary's remark just now that the grounds on which the then Commissioner for Labour based his comment about a healthy financial position of the Fund in 2002 might be different, as the Secretary said just now that although the then Commissioner for Labour said \$200 million at that time, it might no longer be \$200 million now. His remark seems to imply this meaning.*

*I wish to clarify a point with the Secretary. The line was drawn at \$200 million in 2002, but a series of studies had been done at that time before the then Commissioner for Labour made the remark that a \$200 million surplus should be considered healthy. In other words, he considered that the amount would suffice. If so, why does the Fund need so much money? Can the Secretary assure us that the same base will be used and that it will not be changed with the times — as he said that the Fund sometimes needs \$300 million or \$400 million — thereby making reviews useless? Can the Secretary assure us that the long-standing base — that is, \$200 million is sufficient — will be adopted? With respect to the surplus, given that the economy is prosperous now, the surplus should not be kept in the Fund. This is not at all appropriate.*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I believe Members keep abreast of the times like we do. In other words, we need to size up the time and the situation and then define whether the financial position is healthy. Simply put, although the then Commissioner for Labour said that a \$200 million surplus was considered healthy, the reality had it that the payment for 2002-2003 already reached more than \$570 million. If \$200 million was sufficient, the levy rate did not need to be raised in the first place. I am not, however, saying that the levy rate cannot be adjusted and what matters is that we are glad to see the situation has continued to improve. We agree that now is the high time for review and the best way of

doing it, I believe, is to let the Fund Board carry out the discussion as they will be conducting a review in May. I believe they will hear the views expressed by Members just now.

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

**MR LEE CHEUK-YAN** (in Cantonese): *I believe the business sector and Members have raised this point not so much for the reason that they care about the \$400, but that they do not want to submit to the Government's view. Perhaps the surplus the Government has accumulated is so large that they find it inappropriate. Thus, the solution to this problem may not necessarily be a levy reduction. The Government should review the scope of protection instead. Let me put it more specifically. Paid leave is not covered by the Fund at all. President, can this at least be done immediately?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): I believe Mr LEE's question is just mentioned an example and many Members will have different and new requests. If we keep expanding the scope, the surplus, I believe, will soon be depleted. A prudent approach will thus be taking account of the present income and payment before deciding whether an expansion of the scope is necessary. If so, how should it be expanded? Does the levy rate need to be lowered? Madam President, my answer to these questions would be the same as I have said before, which is to let the Fund Board consider it in May before all else.

**PRESIDENT** (in Cantonese): Third oral question. This oral question should originally be put by Mr CHAN Kam-lam, but since Mr CHAN is not here, the question will be put by Mr WONG Ting-kwong.

### **Protecting People who Book Air Tickets or Overseas Accommodation Through Travel Agents**

3. **MR WONG TING-KWONG** (in Cantonese): *At present, people who, through travel agents, only book air tickets or overseas accommodation are not*



*covered by the Travel Industry Compensation Fund (TICF). As it often happens that travel agents are closed down after a festival, will the Government inform this Council whether it will consider establishing a mechanism similar to that of the TICF to protect the interests of these people?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): President, according to the Travel Agents Ordinance (the Ordinance), the TICF may make an *ex gratia* payment to a traveller who has obtained the outbound travel service arranged by a travel agent and has suffered loss in terms of outbound fare due to the default of the travel agent. In accordance with the definition of "outbound travel service" under section 32A(2) of the Ordinance, the TICF *ex gratia* payment only covers "outbound travel service" which includes at least two of the following three items of services:

- (i) carriage on a journey which is to commence in Hong Kong to a place outside Hong Kong;
- (ii) accommodation at a place outside Hong Kong; and
- (iii) an activity arranged by travel agents which is to take place outside Hong Kong.

If a consumer purchases only one of the above service items, for example, purchasing air ticket(s) through a travel agent, he will not be entitled to the TICF *ex gratia* payment since the service falls outside the definition of "outbound travel service" under the Ordinance. This is similar to the case where a consumer purchases an air ticket direct from an airline or accommodation from an overseas hotel and such purchases will not be covered by the TICF.

As to whether we should extend the coverage of the TICF to include those consumers who purchase air tickets or overseas accommodation through travel agents, we have to consider a number of issues, including possible increase in risk exposure of the TICF upon extension of the coverage and the potential pressure on the existing level of levy.

Recently, the Travel Industry Council of Hong Kong (TIC) has re-examined whether it is necessary to extend the coverage of the TICF to the air ticketing service of travel agents having considered the travel trade's mode of

operation, liabilities of the parties involved, risk exposure, cost and consumer protection. As consumers who purchase only air tickets through travel agents are exposed to lower risks than those who join group tours or package tours, the TIC considers that at present, there is no need to extend the coverage of the TICF to cover the air ticketing service provided by travel agents.

The TIC is drawing up a directive for its members to clearly set out the responsibilities of travel agents (including consolidators and selling agents) selling air tickets. Under the directive, consumers who have completed the transactions and obtained confirmed air tickets before the default of the selling agent should have their air tickets honoured by the consolidators and should not be affected by default of the selling agents. The TIC will consider drawing up a directive of similar nature in respect of the sale of hotel accommodation by travel agents. This directive will also set out clearly the responsibilities of the travel agents (including the wholesalers and the selling agents) to protect consumer rights.

In addition, if consumers purchase air tickets and hotel accommodation services for the same trip through the same travel agent at different times, the travel agent should combine these two service items in a single receipt and pay the relevant levy. The Government has requested the TIC to issue a circular to all travel agents, reminding them to issue a single receipt to a consumer who purchases both air tickets and hotel accommodation for the same trip to enable the consumer to enjoy protection by the TICF. The TIC and the Consumer Council will continue to step up publicity and public education in this regard. They will also remind consumers that if the latter purchase air tickets or hotel accommodation services from the travel agent, they should ensure that when they pay for the services, they should obtain the air tickets or hotel vouchers immediately in order to minimize their loss in case of default of the travel agent.

**MR WONG TING-KWONG** (in Cantonese): *Since Mr CHAN Kam-lam did not tell me his supplementary, this is my own supplementary.*

*In the past three years, what are the numbers of cases involving people who purchased only air tickets or overseas accommodation through travel agents and who subsequently suffered losses as a result of the default of these travel agents and what were the amounts of money involved?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): President, the number of travel agents who defaulted in the past was in fact not that many. For example, there were three in 2006, six in 2005 and none in 2004.

Throughout so many years, 24 travel agents in total have closed down. Among them, nine specialized in providing outbound travel service and the amount of *ex gratia* payment involved was about \$11 million. The other 15 travel agents mainly offered package tours, that is, they were the type that sells only air tickets or hotel service which Mr WONG is most concerned about. In more than a decade, the total amount of *ex gratia* payment made as a result of the closure of these 15 travel agents selling only air tickets and hotel accommodation was about \$4.1 million.

**DR KWOK KA-KI** (in Cantonese): *President, I wish to ask a question about cases in which no ex gratia payment will be made, as pointed out by the Secretary in his main reply. How many cases in the past five years involved the sale of only air tickets and hence were not covered by the relevant provision and not eligible for ex gratia payment?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): I do not quite understand Dr KWOK Ka-ki's question. Can he clarify a little bit?

**DR KWOK KA-KI** (in Cantonese): *President, I wish to clarify.*

*According to the existing legislation, people who want to travel overseas have to, say, purchase air tickets as well as accommodation to be eligible for ex gratia payment. However, our concern is those people who purchased air tickets but could not get them, as they are actually not protected. In the past several years, say, in the past five years, what was the amount of money involved in cases that were not eligible for ex gratia payment, that is, instances of failure to issue air tickets? What I mean are those cases in which no ex gratia payment was made.*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): President, we do not have the figures in this regard. I have said

that such instances are just the same as Dr KWOK purchasing air tickets from airlines on his own or reserving accommodation in hotels direct but, for some reason, the services cannot be provided. However, you are also not eligible for *ex gratia* payment under this piece of legislation.

In other words, my reply is that if you have purchased only an air ticket or hotel accommodation through a travel agent, in these circumstances, you are not eligible for *ex gratia* payment. Therefore, we do not have the figures in this regard.

**MR LAU KONG-WAH** (in Cantonese): *President, in the second last paragraph of the main reply, the Secretary says that the TIC is drawing up a directive to state clearly that the air tickets concerned will be honoured by the consolidator in the event of default of the travel agent. I do not know when the drafting of this directive will be completed, but this is rather urgent. However, it is not enough to just state clearly the responsibility of travel agents. Will the consolidators really be willing to undertake and assume all responsibilities? If the selling agent concerned has not yet paid the consolidator, will the consolidator still be willing to undertake to definitely honour all the air tickets purchased by consumers?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): I believe Mr LAU has asked a very good question. The most important thing is that these consolidators and selling agents are in fact all travel agents, that is, they are all registered travel agents.

I believe Mr LAU is perhaps also aware that the mainstream practice at present is that airlines will sell air tickets to selling agents through the so-called consolidators and these consolidators will make a profit from the process. Judging from past instances, consolidators will honour such undertakings. However, Members should know that with the introduction of electronic tickets nowadays, the situation has changed. What we hope to do now is to ensure that, regardless of whether consumers hold air tickets or electronic air tickets, the most important thing is that the air ticket has been confirmed. What we hope to do now is to say clearly to all consolidators that, just as in the past, if air tickets have been issued, they have the responsibility, that is, if the air tickets have really been issued but subsequently, the selling agent or travel agent

concerned closes down, the consolidator still has the responsibility to honour and assume responsibility for the tickets that it has sold wholesale to selling agents. In other words, the outbound traveller concerned will still be able to take the airplane.

On this matter, the TIC is now holding discussions with consolidators and the response has been quite good. They have all expressed the willingness to do so. Therefore, it will be possible to issue a directive shortly, perhaps in the next couple of months to specify the arrangement in this regard. I trust this will be very helpful.

**MISS TAM HEUNG-MAN** (in Cantonese): *Madam President, the Secretary said in the main reply that publicity and education would be stepped up. Can the Secretary talk about the specifics in this regard? Will any member of the public still be unaware of the protection even after education has been stepped up, since when they purchase air tickets, the travel agents may not always inform them of such protection? May I know how you are going to carry out supervision?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): In fact, the TIC has been reminding the public that when they patronize travel agents, they also have the duty to look at their past records to see if their reputation is good and we will also launch more publicity drives together with the Consumer Council.

I have already said in the main reply and I wish to tell the public that if they purchase air tickets and hotel accommodation through the same travel agent, they should ensure that the travel agent combines these two service items in a single receipt. In other words, since there are two service items, the travel agent concerned has to pay the relevant levy.

In addition, in the near future, the Consumer Council will also launch a publicity drive, for example, through its magazine and webpage, to tell the public that when they pay all the charges, they should get their air tickets at the same time as they pay the money. As I said in my reply to Mr LAU Kong-wah's supplementary, in this way, it will be possible to seek compensation because their air tickets have been confirmed.

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

**MISS TAM HEUNG-MAN** (in Cantonese): *No. The latter part of my supplementary is about a mechanism for supervision, that is, whether there is a mechanism for supervision to ensure that the public are aware of the information that they should know.*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): The task of supervision is mainly the responsibility of the TIC. I have said that, for example, we will issue a directive to consolidators stating that they have the responsibility to make an undertaking and if a consolidator is unwilling to make an undertaking, it has already violated the regulations and the TIC will take punitive action. In this regard, we will carry out supervision.

**DR KWOK KA-KI** (in Cantonese): *President, I do not quite understand it. Just now, I asked the Secretary about the cases in the past several years involving only air tickets, that is, cases in which air tickets were not issued and which were not eligible for ex gratia payment. He said he did not know the amount of money involved. However, he said in the main reply that if the coverage was extended to include such cases, a number of issues had to be considered, including possible increase in risk exposure of the TICF upon extension of the coverage and the potential pressure on the existing level of levy. What sort of risk or pressure was he actually referring to? However, since the Government does not even have any idea of the estimated amount, how does it know where the risk and pressure come from?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): I cannot see the problem pointed out by Dr KWOK and there is also no contradiction in my reply.

In this regard, if we only talk about the amount of money involved in the purchase of air tickets and by that I mean the amount of money spent on buying air tickets only, the total amount of transactions handled by travel agents was about \$16 billion last year. However, if cases of purchasing air tickets only are

also included in the coverage of the TICF, of course, someone will have to pay the levy. In that case, who should pay it? Should travel agents pay the levy? If there is no need to pay the levy but such cases are also eligible for *ex gratia* payment, will this make some travel agents sell air tickets at very cheap prices and then take off afterwards? In that event, who should assume responsibility for compensation? Ultimately, of course, the TICF will have to make the *ex gratia* payment. In that case, is it necessary to reconsider the level of levy? All these have to be considered by the TIC and the Travel Industry Compensation Fund Management Board. In fact, they have already conducted a study in the light of such circumstances and considered this matter. I have already said in the main reply that in view of the existing risks and other factors, they hold that there is no need now to extend the coverage to cover cases involving the purchase of air tickets only.

**DR KWOK KA-KI** (in Cantonese): *President, the Secretary has not answered my supplementary.*

*My query is that the Secretary does not know the amount of money involved. I am not asking about the total amount of all the air tickets purchased but about the amounts of money involved in default cases in which air tickets were not issued in the past several years. Only this will really cause pressure, however, since the Secretary does not know the figures in this regard, how can he assess this kind of pressure?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): I believe I have already answered this many times, President.

Concerning this figure, I have already said in my reply to Mr WONG's question that in the past 10-odd years, more than a dozen or 15 travel agents specializing in selling air tickets have closed down and they are all small-scale travel agents. The amount of *ex gratia* payment involved was about \$4 million. I believe that from this, the general picture is evident. If we then look at the amount of money involved in the sale of air tickets only each year, I believe the situation should be very clear.

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

**MR LAU KONG-WAH** (in Cantonese): *President, this matter cropped up because earlier on, a travel agent closed down but some consumers could not get any protection, but the Government made it very clear that it believed there was no need to use the TICF to make any ex gratia payment. The Secretary said when replying to my supplementary that it would take two more months to draw up the directive. However, the Secretary also said in his reply that even without any directive, the consolidators concerned should in fact also offer ex gratia payment. Insofar as the above-said case is concerned, were all the customers given ex gratia payment and if in these two months, another travel agent unfortunately closes down and the same situation occurs again, would the customers involved also be given ex gratia payment? Have the consolidators already made such an undertaking?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): I believe I have already answered this. In fact, it is after electronic air tickets are available that the situation has become complicated, whereas in the past, this was very clear. Precisely because of this reason, the TIC has to sort things out to ensure that all consolidators know about the situation and are willing to make the undertaking.

It is not the case that it takes two months to draw up the directive. What I said was that the directive will be issued within two months and they are now drawing it up.

Besides, in respect of *ex gratia* payment, in the particular case mentioned by the Member, in fact, it is not true that the customers concerned were not given any *ex gratia* payment, only that their applications are being processed.

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

**MR LAU KONG-WAH** (in Cantonese): *Sorry, President. The Secretary did not answer the last part of my supplementary, that is, if another travel agent closes down in these two months, are the customers concerned also eligible for ex gratia payment?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): I believe, of course, it depends on individual circumstances such as



whether the air ticket concerned has been confirmed and whether the consolidator has received the money. I believe it depends on individual circumstances. If the answer is in the affirmative, of course, the consolidator has the responsibility to honour the undertaking.

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

### **Open-air Bazaars**

4. **MR VINCENT FANG** (in Cantonese): *Most of the cities in the world have bazaars with special characteristics which can offer various types of jobs and boost spending of tourists and local residents. However, the open-air bazaars in Hong Kong have incessantly been affected by town planning and have to be relocated, reduced in area or even scrapped. In this connection, will the Government inform this Council?*

- (a) *whether it has formulated any long-term policy on the retention or otherwise of open-air bazaars; of the numbers of existing open-air bazaars and shop operators and hawkers involved, as well as the estimated number of employees working in these bazaars;*
- (b) *whether it knows if the authorities concerned, apart from relocating some of the stall hawkers in the open-air bazaars in Tai Yuen Street and Cross Street of Wan Chai this year, have any similar relocation plans in the future; if they have, of the bazaars involved and the details of such relocation plans; and*
- (c) *given that the reasons for relocating some stall hawkers in the open-air bazaars in Tai Yuen Street and Cross Street are to enable refuse collection vehicles to access the Urban Renewal Authority (URA)'s new development project in that area to collect refuse and to solve the problem of increased traffic brought by that development project, whether the Government will consider following the arrangement in Tai Yuen Street (south), and shorten the duration during which Cross Street (east) is designated as pedestrian zone to between 10 am and 6 pm daily, thereby allowing refuse collection vehicles and other vehicles to use Cross Street (east) during other*

*time of the day and at the same time completely retaining the open-air bazaars in Tai Yuen Street and Cross Street?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, there are different forms of open-air bazaars in Hong Kong. Apart from bazaars comprising of licensed fixed hawkers pitches, there are also open-air bazaars for celebrating festivals or featuring special themes (such as the Temporary New Year Market Fair beside Lam Tsuen, Tai Po), temporary open-air bazaars held by government departments (for example, District Offices) and various organizations (for example, District Councils (DCs)). While the Government understands that the public wishes to conserve customs and facilities with local colour, we must accept that every city inevitably undergoes an evolutionary process where new developments replace old ones. The Government will strive to strike a balance between public concerns and the needs for urban development. Provided that an open-air bazaar does not affect environmental hygiene, causes nuisance or obstruction and has the support of the DC and the local community concerned, the Government will endeavour to retain the open-air bazaar. We will answer the questions raised by Mr Vincent FANG as follows:

- (a) The Government does not have the statistics of all open-air bazaars in the territory. Of the open-air bazaars comprising of Hawker Permitted Places for licensed fixed pitch hawkers under the supervision of the Food and Environmental Hygiene Department (FEHD), 49 of them comprises of 10 or more fixed hawker pitches and 13 of them are large open-air bazaars that have 100 or more licensed fixed hawker pitches. They are scattered around the districts of Eastern, Wan Chai, Central and Western on Hong Kong Island, Yau Tsim Mong and Sham Shui Po.

If individual redevelopment projects undertaken by the URA involve the relocation of fixed stall hawkers in the FEHD's hawker areas, the FEHD will co-operate with the URA, and discuss with the relevant DCs and affected hawkers with a view to rendering assistance as appropriate, including the relocation of the affected hawkers. As regards the hawkers affected by other redevelopments and development projects, the FEHD will also work

with the relevant government departments and bodies and make the appropriate arrangements.

- (b) The redevelopment plan for Graham Street in Central unveiled by the URA recently shows that licensed fixed hawker pitches within the draft plan area may also be affected. As for the relocation plan for the open-air bazaar at Tai Yuen Street and Cross Street at Wan Chai, 80-odd fixed hawker pitches at Tai Yuen Street (north) and Cross Street (west) can stay put, which means the open-air bazaar will be conserved to some extent. The plan is intended to conserve the old open-air bazaar as far as possible while making room for new developments to improve the life and activities of the local community.
- (c) The Government considers it necessary to relocate the fixed hawker pitches at Tai Yuen Street (south) and Cross Street (east) mainly because the roads are not adequate to meet the needs of rising population and pedestrian traffic generated by new residential and commercial development in the area. The relocation is not intended to resolve the access problem of refuse collection vehicles going to the refuse collection point at Cross Street. According to the traffic assessment analysis of the Transport Department, it is necessary to open up the road sections concerned for one way traffic to allow vehicles entering Tai Yuen Street (south) to access Queen's Road East by way of Cross Street (east) and Wan Chai Road. If these road sections are not opened for vehicular traffic, the traffic problems cannot be resolved and the situation of insufficient road capacity for meeting the needs of pedestrians and drivers will enhance the risk of traffic accident. Moreover, reducing the number of fixed pitch hawker will also help raising the standard of environmental hygiene, thereby improving the living environment of the neighbourhood. The relocation arrangement has balanced the interests of various parties and has been endorsed by the Wan Chai DC.

**MR VINCENT FANG** (in Cantonese): *President, the Secretary said that one of the major reasons for relocating street hawkers to the Government's multi-storey market complexes or eliminating the open-air bazaars is to keep streets clean and*

*maintain environmental hygiene. However, open-air bazaars in many cities over the world are instead conserved as their characteristics, and to provide a different environment for consumption. As a city characterized by tourism and shopping, why is it not possible for Hong Kong to conserve bazaars with similar characteristics?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I mentioned in the main reply earlier that we will endeavour to retain these open-air bazaars as far as possible, provided that: firstly, they will not give rise to any environmental or food hygiene problem; secondly, they will not cause nuisance to the neighbourhood; and thirdly, they will not cause disruption to traffic. If these three main objectives are all met, they will be retained by all means. Nonetheless, many of the views on relocation or the relevant policies can be traced back to the era of the former Municipal Councils, and the case in question, namely the Wan Chai Market, was built long ago. In relation to this issue, I paid a site visit to Wan Chai last year (that is, 2006) and concluded an agreement with Wan Chai DC members. The existing arrangement can therefore address the concern of both parties, whereby a certain portion of the open-air bazaar can be conserved on the one hand, and another indoor air-conditioned bazaar in the vicinity can be provided on the other. People who wish to do shopping there will not be affected because they can still move from one place to another. I believe the same view applies to anywhere else, and the URA is contemplating to retain these bazaars by all means.

**MR WONG KWOK-HING** (in Cantonese): *In replying to the main question raised by Mr Vincent FANG, the Secretary completely evaded part (a) of it, which asks "whether it has formulated any long-term policy on the retention or otherwise of open-air bazaars". The main reply of the Secretary has not answered this question at all. Therefore, may I ask the Secretary via the President what the content of the existing government policy is? Will the Government formulate any long-term policy on the retention or otherwise of bazaars? If yes, when will it be formulated and submitted to the Legislative Council to consult Members' views? If not, what are the reasons for that?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, just as I said earlier, the evolution of a society cannot be

dictated by the Government alone, in respect of community affairs in particular. Whether the local residents like doing shopping at the market concerned, whether they like the bazaar, whether there is any business or whether it can survive, are indeed decisions that rest solely with the residents. It is therefore our existing policy to conserve as far as possible places that are considered to be of value or interesting in the light of the development need of individual districts, with a view to preserving local culture. We cannot specify the bazaars to be abandoned or retained, but I believe this is an avoidable phenomenon that will occur in every district in time. So, I hope Members will understand that our decision to retain bazaars in a certain district while eliminating those in other places by other means was made in the light of public needs and preferences as far as possible.

**MR WONG KWOK-HING** (in Cantonese): *President, the Secretary has not answered the supplementary question raised by me just now. What is the content of the existing policy and whether a long-term policy will be formulated? If not, what is it going to do? If yes, will the policy concerned be submitted to the Legislative Council? The Secretary has not responded to these few questions at all.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, just now I said that relevant policies have been formulated, particularly in respect of environmental hygiene, such as the various initiatives to cap the number of cooked food stalls. Insofar as hawkers are concerned, however, I said earlier that it would be determined by the development of individual districts. This is our existing policy.

As to the question of whether any long-term or comprehensive review will be conducted, it is certainly for the public to decide whether there is such a need. If yes, we will be very pleased to conduct consultation on it. Yet, given the rapid development of individual districts, we can see that bazaars found at the foot of high-rise buildings in particular would not necessarily survive in most cases. Since many new buildings have their own shopping arcades, competition is inevitable between the shopping arcades and the bazaars. In the case of some old areas, the bazaars may be able to survive in most cases because local residents are accustomed to do shopping there. As such, I believe the existing policy will remain in force.

**MR WONG KWOK-HING** (in Cantonese): *President, since the Secretary has not submitted a copy of the existing policy, is it possible to request him to submit the document after the meeting?*

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

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): I do not need to add anything.

**DR YEUNG SUM** (in Cantonese): *Madam President, the Secretary advised earlier that the relocation of bazaars was basically determined by such considerations as the implications on environmental hygiene, nuisances caused to the public or disruption to traffic. In fact, these three considerations have all along been taken into account in the past. While there were repeated discussions on local community economy and heritage conservation in Hong Kong in these few years or even a decade, it is evident that the bazaars in Singapore and Japan are actually major tourist attractions. Will the Secretary review again the policy on the relocation of bazaars so as to tie in with the changes of the new era?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, just as I said earlier, there has been no new policy on the relocation of bazaars in these few years and the existing bazaars will be conserved by all means. Should any member of the public requests an establishment of a new bazaar at a new place, the corresponding approach will be adopted. The Gala Point in Central and Western District is a case where such an approach had been tested, so is the Dragon Market in Wong Tai Sin. Nonetheless, whether or not these bazaars can survive and sustain in the long run is, of course, determined by the local residents' level of acceptance.

**DR YEUNG SUM** (in Cantonese): *Will the Secretary seriously review this policy?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Just as I said earlier, no consideration has been made to the closure of any bazaar for

the time being. Yet, we will definitely consider what should be done if Members consider that proactive actions by the Government are necessary.

**MR WONG YUNG-KAN** (in Cantonese): *At present, there are several more famous street bazaars in Temple Street and Women's Street, for example, which have a very long history and are considered by me as successful bazaars. Has the Government contemplated the retention or establishment of similar bazaars in other places?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, while these bazaars generally took shape as a result of some long-standing habits, they can also be attributed to the enormous size of the hawker population at that time. I have analysed the reasons for the failure of certain bazaars to continue operation in the past few years, with particular reference to the Gala Point or Dragon Market mentioned by me earlier on. It is believed that bazaars which only open for business during festive days or holidays can be run more easily, whereas those which were established permanently at a certain location and opened all year round might bear a higher risk. We are waiting for the views of local residents or DC members for a further analysis, and if it is considered feasible, I believe the necessary co-ordination work should be enhanced or bring in government assistance.

**MISS CHOY SO-YUK** (in Cantonese): *President, the reply given by the Secretary just now was really very pleasant to the ear. He said that the bazaars would not be relocated for those three reasons. Having said that, however, citing Tai Yuen Street and Cross Street which the Secretary mentioned in the main reply as examples, coupled with the three reasons stated by the Secretary earlier on, is the Secretary aware of the following? First, just as what he said earlier, the bazaar in question was made up of more than 100 pitches and it had taken shape even before any building was constructed there, so it did not cause any nuisance to the residents. Second, regarding the environmental hygiene problem raised by the Secretary, since the bazaar sells only dry goods, it should not affect environmental hygiene either. Finally, insofar as the traffic problem raised by the Secretary is concerned, he said in the main reply that as a result of the development being undertaken in the district in question — which only involves a building with 80-odd parking spaces.....*

**PRESIDENT** (in Cantonese): Miss CHOY So-yuk, we are not having a debate now. Please make your supplementary question simpler and put it direct.

**MISS CHOY SO-YUK** (in Cantonese): *President, I am asking whether the Secretary is aware of that.*

**PRESIDENT** (in Cantonese): I know that you are asking whether he is aware of that, but you have mentioned a number of issues.

**MISS CHOY SO-YUK** (in Cantonese): *I asked him whether he is aware of the fact that there are only 80-odd parking spaces where both entry and exit are possible. In that case, if he is aware that the bazaar with a history of several decades or even a century and having more than 100 pitches, is only retained after strenuous effort and with the support of the Government, why would the bazaar be forcibly relocated simply to make way for the access of a couple of vehicles — when an alternative access is actually available?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): I must correct, in the first place, the figures quoted by Miss CHOY So-yuk. First, policy in respect of the conversion and relocation of the Wan Chai Market, and the relocation of hawkers from the bazaar in question to the new market was decided by the Wan Chai DC in 2003, and endorsed by the Administration at the same time. However, it can be seen that Members do wish to retain part of the bazaar in the street, and this is why an L-shaped section at the crossroads with over 80 pitches is retained. The relocation of the pitches in the two remaining streets is, however, mainly attributable to traffic problem. We understand that environmental hygiene should not be a big problem. Even though such food as mushroom and dried shrimp is being sold in some of the pitches, it has not caused any great impact.

However, we also see that the new building in question has 650 flats, where a large number of people will move in, and 140 parking spaces, where hourly parking is also available. We do not expect to see only a couple of vehicles entering and leaving that building, along with them is a large number of people. As Members all know, Wan Chai Road (that is, the Wan Chai Market)



has heavy pedestrian flow, especially when people go to the market and during festive days. Given that the residents there will enter and leave from time to time, the absence of parking spaces, waiting bays as well as loading and unloading areas may have great impact. It is therefore not possible to retain the pitches in that L-shaped section as the streets are too narrow. The present proposal was presented to the Wan Chai DC and endorsed in May last year, which enables us to put it into practice.

**MISS CHOY SO-YUK** (in Cantonese): *President, the Secretary has not answered why the bazaar had to be relocated in the end when he said relocation might not be necessary. Actually, all vehicles enter and leave in the same street. So, why is the bazaar being forcibly relocated if it is not his policy to relocate it?*

**PRESIDENT** (in Cantonese): Secretary, do you get it?

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): President, I do not quite get it. Will she please explain once again, okay?

**PRESIDENT** (in Cantonese): Miss CHOY So-yuk, I find that your supplementary question was put rather clearly when you raised it just now. Perhaps you may repeat the part that has not been answered by the Secretary, please?

**MISS CHOY SO-YUK** (in Cantonese): *Fine, President. Thank you.*

*In fact, both the entrance and exit of the car park at grade have access to Queen's Road East, and there is no need to drive through the street where the proposed relocation by the Government is concerned. Why does the Government not adopt such an approach but has to forcibly relocate the pitches in that street? Furthermore, the Secretary stated that it was his policy to avoid relocation as far as possible, coupled with the fact that traffic problem can be resolved easily and thoroughly, and should not constitute a reason, why.....*

**PRESIDENT** (in Cantonese): Miss CHOY So-yuk, you only need to state the part that was not answered by the Secretary earlier.

**MISS CHOY SO-YUK** (in Cantonese): *Yes, thank you, President.*

*The Government informed us earlier that, apart from the abovementioned three reasons, its policy was to avoid relocation as far as possible. Will the Secretary explain to us why the bazaar has to be forcibly relocated when local traffic does not constitute a reason?*

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

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I do not wish to give an irrelevant answer. But I can say that, while Miss CHOY So-yuk just now stated that traffic is not a problem, the result of our assessment instead shows that it is a serious problem. I hope that this can be a clear explanation to her.

**PRESIDENT** (in Cantonese): This Council has spent more than 20 minutes on this question. We will now proceed to the fifth oral question.

### **Safeguarding Rights and Interests of Part-time Employees**

5. **MR LEE CHEUK-YAN** (in Cantonese): *President, under the Employment Ordinance, an employee shall be entitled to employment benefits such as rest days, paid statutory holidays, paid annual leave, paid maternity leave, paid sickness days, severance payment and long service payment only if he or she is employed under a continuous contract (that is, he or she has been employed under a contract of employment for four or more weeks and has worked for 18 hours or more in each week). The Court in the United Kingdom has ruled, in the case of "Regina v. Secretary of State for Employment ex parte Equal Opportunities Commission and another", that some legal provisions in the United Kingdom, which are similar to those relating to the above requirement for employment under a continuous contract, discriminate against women, on the*

*ground that most of the part-time employees who work lesser hours weekly are female. In this connection, will the Government inform this Council:*

- (a) of the number of employees in each of the past three years, broken down by gender, who had worked less than 18 hours within seven days before data collection due to reasons other than slack work or their being on leave;*
- (b) whether it has studied if the ruling on the above United Kingdom case and its ground are applicable to Hong Kong; and*
- (c) whether it will amend the provisions relating to employment under a continuous contract in the Employment Ordinance to safeguard the rights and interests of part-time employees?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): President, all employees, regardless of whether they are employed under a continuous contract, are entitled to protection for wage payment, statutory holidays, protection against anti-union discrimination, employment protection in respect of unreasonable and unlawful dismissal under the Employment Ordinance. Employees who have been employed under a continuous contract for four weeks or more with at least 18 hours worked in each week are entitled to other employment benefits under the Employment Ordinance such as rest days, pay for statutory holidays, paid annual leave, paid maternity leave, paid sickness days, severance payment and long service payment, subject to their fulfilling other qualifying requirements as specified under the law.

As regards the statistical figures requested by Mr LEE, given that the General Household Survey regularly conducted by the Census and Statistics Department (C&SD) does not collect statistics or provide data analysis exclusively on employees who come under the protection of the Employment Ordinance, we are unable to provide the statistics as requested.

In order to obtain updated information on the characteristics of employees who are not working under a continuous contract, the Labour Department commissioned the C&SD to conduct a special topic enquiry in 2006 for this purpose. The data collected is being processed and analysed. We will report to the Labour Advisory Board (LAB) upon completion of the survey report.

As for the United Kingdom court case quoted by Mr LEE, a direct comparison with Hong Kong would not be appropriate, given the difference between the provisions under the Employment Ordinance and the legislation of the United Kingdom, and the different circumstances of employees undertaking part-time employment in the two places. We will seek the advice of the Department of Justice on whether the judgement of the United Kingdom court case and the justifications of the judgement are applicable to Hong Kong.

We will consider whether there is a need to amend the continuous contract provisions under the Employment Ordinance. In assessing the need to revise or relax the relevant requirements, we will make reference to the laws of other economies. However, as the socio-economic environment and labour market situation amongst different jurisdictions may not be the same, in reviewing the relevant requirements under our law, we have to consider the actual circumstances in Hong Kong with a view to ensuring that the relevant legislative provisions strike a balance between the reasonable demands of employers and employees and are in line with the overall development and needs of Hong Kong.

**MR LEE CHEUK-YAN** (in Cantonese): *President, first of all, may I wish you all a happy International Women's Day. Tomorrow is the International Women's Day, but the Secretary's reply today does not make women happy at all because the trend of women working and doing part-time jobs has intensified and most women are part-time workers who, working less than 18 hours weekly, are not protected by the Employment Ordinance. However, from the Secretary's main reply we can see that government policies intended to protect women can be considered apathetic, for not one point in the main reply can clearly tell women that the Government will implement policies for them, except that it keeps saying it will "examine" the matter. President, may I ask the Secretary when work — such as the statistical figures, requesting the Department of Justice to examine the United Kingdom legislation and whether the Employment Ordinance will ultimately be amended — will be completed? How many International Women's Days do we have to wait before something will be done?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): President, we are as concerned about the matter as Mr LEE is and we are not apathetic. As a matter of fact, Members can see that in response to concerns over the matter, we requested the C&SD last year to conduct a special topic enquiry among employees who are not working under a continuous

contract. Preliminary data are now available and being processed and fine-tuning of some data in the population by-census is under progress. I believe, however, such work will not take too much time to complete. President, these data will become available within a couple of months and a comprehensive review of the need to relax or revise the relevant requirements and to improve the current situation will be conducted on the basis of the updated data. These are what we will do.

**MR LEE CHEUK-YAN** (in Cantonese): *President, the Secretary did not specify how long he will examine the issue. The Secretary stated just now that a review will be conducted after the data are available, but is there a deadline for completion such as by the end of this year or within this summer holiday?*

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

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Yes, President. We certainly will complete the review expeditiously. After data processing is completed within these two months, we will proceed with the relevant work. Of course, we hope to expeditiously complete the review as much as Mr LEE does and then submit the report to the LAB for discussion. Our target is to have the review completed within the coming few months.

**MR KWONG CHI-KIN** (in Cantonese): *President, many employees, such as hourly-rated domestic helpers, supermarket or fast-food shop employees, are working more than 18 hours each week, but they are not protected by the Employment Ordinance if they are working three to four part-time jobs at the same time, instead of being employed by a single employer and working 18 hours each week. I wish to ask a follow-up question on the point that the review would be completed expeditiously, as mentioned by the Secretary just now. Specifically, when will the report of the review be submitted to the LAB for discussion?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): President, the answer is the same. We will submit the report within the coming few months.

**MR LAU CHIN-SHEK** (in Cantonese): *President, I have handled an actual case recently. A worker has been working in a company as a saleswoman for 16 consecutive years but she is not employed under a continuous contract and thus not protected. As a result, for the past 16 years, she has not enjoyed any annual leave, rest day, paid sick leave and long service payment. Does the Secretary find this situation fair? Can the Secretary tell this Council what can be done insofar as this case is concerned?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): *President, I believe Mr LAU is aware that we would not comment on individual cases, but I can answer a question on a common problem. In relation to employees not working under a continuous contract, we appreciate that Members are concerned about this problem and feel that there are deficiencies and protection for part-time workers needs to be stepped up. I have thus specified in my main reply just now that a special topic enquiry was conducted to collect data, and promised that a comprehensive review will be conducted, on the basis of these data, within the coming few months. It is anticipated that the review can be completed in a few months.*

**MR ANDREW CHENG** (in Cantonese): *President, other than collecting data, the direction of government policies is, in fact, also very important. May I ask the Secretary, in face of the economic restructuring and unscrupulous employers evading the responsibility of providing employment benefits by taking advantage of loopholes in law relating to the continuous contract provisions, coupled with the lack of a minimum wage policy and the social trend of a widening wealth gap, whether the Secretary finds the need to amend the continuous contract provisions, that is, the need to relax the outdated protection of only employees working 18 hours each week and being employed for four or more weeks are entitled to employment benefits? Should the Government not expeditiously adopt a two-pronged approach, that is, by collecting data on the one hand and revising the relevant policies on the other, so as to enable more workers to enjoy the relevant employment benefits and provide assistance to poverty-stricken low-income earners?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): *President, this is exactly the reason why we want to collect data by conducting a special topic enquiry among employees who are not working under*

a continuous contract. These data are very important, Mr CHENG, from which we can gain a better understanding of the number of employees who are enjoying these employment benefits since some good employers would also provide some such benefits to employees who are not working under a continuous contract. Through this survey we can collect the relevant data, thereby learning whether they have these benefits. Of course, we will also make reference to practices adopted in other places. For instance, part-time workers in Singapore are entitled to employment benefits provided that they meet certain requirements such as having worked at least 30 hours each week. I believe due consideration will be given to these issues in the review and thus the data are very important. The next few months will fully demonstrate our sincerity and determination in expeditiously completing the review.

**MR ANDREW CHENG** (in Cantonese): *President, the Secretary has not answered my supplementary question, that is, the two-pronged approach. Does the Government admit that the continuous contract provisions are outdated and unable to cope with the situation of an increasing number of poverty-stricken low-income earners? If so, the Government will have to revise the policies on the one hand and collect data on the other, and then complete the review as soon as possible.*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): President, my answer is that we are walking forward right now and I have also explained why we have attached so much importance to this review. I hope that some result can be achieved out of the review.

**MR RONNY TONG** (in Cantonese): *President, many Members have mentioned over the years that the labour legislation in Hong Kong is very backward, to such an extent that it lags behind other jurisdictions by a few decades. The Secretary mentioned in the last paragraph of the main reply that he would amend the relevant provisions of the labour legislation. May I ask whether a comprehensive review will be conducted after making reference to relevant legislation of other economies? If not, what are the reasons?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): President, the answer is we will conduct a comprehensive review

and thus I said I would make reference to practices adopted by other places or economies. Some places have already repealed the continuous contract provisions. I mentioned just now the example of Singapore where part-time employees are entitled to some employment benefits provided that they meet certain requirements such as having worked at least 30 hours each week. This is different from the requirements stipulated in the laws of Hong Kong. In other words, in conducting the review, the relevant practices adopted by other economies will be given due consideration, including the number of workers in Hong Kong who are affected by the continuous contract provisions and the employment benefits they are enjoying. This is a comprehensive review.

**MR RONNY TONG** (in Cantonese): *President, the Secretary has misunderstood my supplementary question. I was asking about a comprehensive review that is even more extensive, involving, for example, other labour rights and interests, which include the proceedings of a labour court. In fact, we have discussed this in the Legislative Council debates. My follow-up question is: Other than reviewing the continuous contract provisions, will the Government conduct a more comprehensive review? If not, does the Government have any grounds to support it not doing so? I hope the Secretary understand my follow-up question.*

**PRESIDENT** (in Cantonese): Mr Ronny TONG, I may have misunderstood it too.

**MR RONNY TONG** (in Cantonese): Sorry, President, maybe I have not made it clear enough.

**PRESIDENT** (in Cantonese): The main question is about employees working under a continuous contract, if your supplementary question is outside the ambit of the main question, I may not be able to let you put your question. However, as I have already done so, let me see if the Secretary has anything to add?

**MR RONNY TONG** (in Cantonese): *President, the Secretary seemed to have given me a wrong impression in his reply.*



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

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): President, I think we often have wrong impressions, but I wish to point out that today's main question is about employees working under a continuous contract, and I have mentioned that in making reference to other economies, we are mainly examining practices relating to employees working under a continuous contract because we regard this as a more pressing issue which should be examined first.

**MS LI FUNG-YING** (in Cantonese): *President, the Secretary mentioned in the last part of the main reply that the actual circumstances in Hong Kong had to be considered. Many Members mentioned that the actual circumstances in Hong Kong now are that employees are employed on an hourly basis, and some are even employed to work 17.5 hours each week. We are all aware of these actual circumstances. The Secretary said a balance has to be struck between the reasonable demands of employers and employees when deciding whether the current legislation has to be amended. In this connection, the reasonable demand of the employees is more than clear, that is, they should be covered by the law once they are employed. May I ask the Secretary what the reasonable demands of the employers are?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): President, I cannot say on behalf of the employers what is "reasonable". I think we should know fairly well what is meant by reasonable. As an intermediary, it is important for us to strike a balance between the two parties, just as Ms LI has said just now, which is mainly determined by the actual circumstances. I believe the data in this respect are most important and thus updated data are needed before conducting a comprehensive review. If things turn out to be just as Ms LI has said, that is, substantial data in the survey result show that the majority of employees are working 17.5 hours each week, or that large corporations are requiring their employees to take one-week leave after working for three consecutive weeks and then resume work, then, I think this will be most revealing. President, when I said that the actual circumstances had to be considered, I meant making reference to such information. If it is found that the overwhelming majority of the employees are working like this, we will have to review whether the continuous contract provisions should be maintained. We will also review these issues.

**DR FERNANDO CHEUNG** (in Cantonese): *President, in respect of this issue, in fact, on an international level, it has clearly been stated that all workers are entitled to fundamental protection including the protection of right to holidays. The labour legislation in Hong Kong is most backward. The Secretary said in his reply just now that the Government is the intermediary. May I ask the Government, in relation to the continuous contract provisions, whether the Government has a stance or is adhering to a spirit that this ordinance is meant to provide fundamental protection to the entire working population?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): *President, I was once the Commissioner for Labour, Dr CHEUNG; we are playing the role of an intermediary. Just as the International Labour Organization (ILO) has said, we need to have a tripartite discussion, that is, among the employees, employers and the Government. We hope that in the end both the employees and employers can be benefited, and we certainly hope to find the solution to the problem. In the light of the present social situation and the actual circumstances mentioned just now, how can the labour rights and interests be better protected? This is exactly why we conducted a special topic enquiry which seeks to collect all data required and gain a better understanding of the situation, so that we can make reference to practices concerning employees working under a continuous contract in other places before conducting a comprehensive review. I hope we can move forward with the review.*

**DR FERNANDO CHEUNG** (in Cantonese): *President, I asked the Secretary just now whether the Government has a stance, but he only replied that the Government is the intermediary. He has not answered the question of whether there is a stance.*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): *President, this is my stance.*

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

**MR WONG KWOK-HING** (in Cantonese): *President, I wish to ask the Secretary through you whether the Equal Opportunities Commission (EOC) has*

*examined, in the light of this court case, if the continuous contract provisions have violated the Sex Discrimination Ordinance? If the EOC has not done so, will the Secretary request the EOC to carry out a study and then submit a report to the Legislative Council?*

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, your supplementary question should be directed to the Secretary, but you have asked whether the EOC has done any work in this respect, and hoped that it can do something. As your supplementary question has strayed beyond the ambit of the main question, may I ask the Secretary to relay your request to the EOC?

**MR WONG KWOK-HING** (in Cantonese): *President, in the last part of my supplementary question I mentioned that if the EOC had not examined this issue, whether the Secretary, that is, the Government would request the EOC to carry out a study. This is the last part of my supplementary question.*

**PRESIDENT** (in Cantonese): You are asking whether the Government's stance will support requesting another commission to examine the issue. Am I correct?

**MR WONG KWOK-HING** (in Cantonese): *Yes, President. If the commission concerned has not examined the issue, then, whether the Government will request it to do so?*

**PRESIDENT** (in Cantonese): This is the last supplementary question. Will the Secretary please try to reply.

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Yes. Thank you, President. I can certainly do so, but the most straightforward approach that Mr WONG can take is to ask the EOC direct, though I will be pleased to relay his request to the EOC if he wants me to do so. We will also consider issues in this respect in our comprehensive review.

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

**Criminal Cases Involving Taxis and Red Public Light Buses**

6. **MR ANDREW CHENG** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *in each of the past three years, of the respective numbers of criminal cases and requests for assistance received by the police involving taxis and red public light buses (RMBs), the number of relevant cases solved and the number of persons prosecuted, broken down by offences (including robbing, assaulting and intimidating drivers as well as damaging vehicles) and whether triad activities were involved in such cases, and whether the Government has measures to ensure the personal safety of drivers of taxis and RMBs; if it has, of the details of such measures; if not, the reasons for that; and*
- (b) *in each of the past three years, of the number of complaints, received by the police, involving triad activities at the taxi stands in the Hong Kong International Airport and the number of persons prosecuted as a result, broken down by offences or misbehaviour involved (such as intimidating drivers, cutting in line (commonly known as "queue jumping") and extorting money from taxis waiting in line, and so on), and whether there are measures to punish those taxi drivers engaging in the above misbehaviour (such as queue jumping) (including adopting a similar measure implemented in the former Kai Tak Airport to put such drivers on a "list of undesirable drivers", and prohibiting them from entering the Airport's taxi stands); if so, of the details of such measures; if not, the reasons for that?*

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

- (a) For cases of public light buses (PLBs), the Administration does not have breakdown figures into red mini-buses and green mini-buses. The number of reported cases involving taxis and PLBs, number of cases detected, number of those cases involving triads and number of persons prosecuted over the past three years are set out at the Annex distributed to Members. The numbers are under 100 per

year, which are not high compared to the overall number of cases of the same categories. Triad-related cases are also at low level.

The Administration has always been very concerned about the safety of taxi and PLB drivers. The police also often take proactive measures to combat violent crimes involving taxis and PLBs, as well as triad-related activities.

In respect of PLBs, officers of the anti-triad unit of each Police Region and District regularly patrol PLB stands in their respective area, meet with persons in charge of the routes and PLB drivers who participate in the route operation to collect intelligence with regard to the operation of PLB routes. If intelligence reveals that there may be triad members attempting to control the operation of any PLB route by illegal means, the police will take proactive action to conduct investigation, and arrest and prosecute the persons concerned.

On prevention, the police, from time to time, hold meetings with PLB drivers' groups and taxi-drivers' groups of the territory to offer advice on means and measures to prevent crime and ensure personal safety, for example, how to respond when robbed, the need to avoid carrying valuables at work, and storing the fares received in separate places.

- (b) All drivers (including taxi drivers) must comply with the Airport Authority Bylaw (Cap. 438A) and Road Traffic Ordinance (Cap. 374), or they may be prosecuted. The Airport Authority (AA) is responsible for the daily operation of the taxi stand at the airport. The AA does not put law-breaching drivers into a "list of undesirable drivers". According to its records, this measure did not exist in the days of Kai Tak Airport either.

According to the police's records, of the cases which occurred at the airport taxi stand between 2004 and 2006, there were two cases in 2005 and one case in 2006 involving triad activities. The two cases in 2005 involved people claiming to be members of a triad society as well as criminal intimidation, while the case in 2006 involved criminal intimidation. The police arrested a total of three persons concerned in these three cases.

## Breakdown of cases involving taxis/taxi drivers and PLBs/PLB drivers in 2004 to 2006

## (1) Cases involving taxis or taxi drivers

Offences	2004				2005				2006			
	Number of cases reported	Number of cases detected (% of number of reported cases)	Number of triad-related cases (% of number of reported cases)	Number of persons prosecuted <sup>(1)</sup>	Number of cases reported	Number of cases detected (% of number of reported cases)	Number of triad-related cases (% of number of reported cases)	Number of persons prosecuted <sup>(1)</sup>	Number of cases reported	Number of cases detected (% of number of reported cases)	Number of triad-related cases (% of number of reported cases)	Number of persons prosecuted <sup>(1) (2)</sup>
Robbery	55	24 (43.6%)	-	21	31	13 (41.9%)	-	12	36	22 (61.1%)	1 (2.8%)	22 <sup>(3)</sup>
Wounding and Serious Assault	11	7 (63.6%)	1 (9.1%)	4	16	12 (75%)	-	6	13	11 (84.6%)	-	7
Criminal Intimidation	1	-	-	-	-	-	-	-	2	2 (100%)	-	-
Criminal Damage	4	3 (75%)	-	2	8	4 (50%)	-	2	1	1 (100%)	-	1
Blackmail	-	-	-	-	-	-	-	-	-	-	-	-
Total	71	34 (47.9%)	1 (1.4%)	27	55	29 (52.7%)	-	20	52	36 (69.2%)	1 (1.9%)	30

## (2) Cases involving PLBs or PLB drivers

Offences	2004				2005				2006			
	Number of cases reported	Number of cases detected (% of number of reported cases)	Number of triad-related cases (% of number of reported cases)	Number of persons prosecuted <sup>(1)</sup>	Number of cases reported	Number of cases detected (% of number of reported cases)	Number of triad-related cases (% of number of reported cases)	Number of persons prosecuted <sup>(1)</sup>	Number of cases reported	Number of cases detected (% of number of reported cases)	Number of triad-related cases (% of number of reported cases)	Number of persons prosecuted <sup>(1) (2)</sup>
Robbery	2	-	-	-	-	-	-	-	-	-	-	-
Wounding and Serious Assault	7	5 (71.4%)	3 (42.9%)	2	8	5 (62.5%)	1 (12.5%)	-	9	2 (22.2%)	-	2
Criminal Intimidation	1	1 (100%)	-	1	1	-	-	-	4	3 (75%)	-	4
Criminal Damage	2	2 (100%)	-	-	-	-	-	-	2	1 (50%)	-	-
Blackmail	-	-	-	-	-	-	-	-	-	-	-	-
Total	12	8 (66.7%)	3 (25%)	3	9	5 (55.6%)	1 (11.1%)	-	15	6 (40%)	-	6

## Footnote:

- (1) Breakdown according to the year of arrest and the crime for which the arrest was made; the actual prosecution might be conducted in subsequent years, and the crime for which the person concerned was prosecuted might be different from the crime for which the arrest was made.
- (2) The prosecution figures for 2006 are provisional figures.
- (3) Among which the charge of one defendant involved triad activities.

**MR ANDREW CHENG** (in Cantonese): *Madam President, please permit me to seek clarification on one figure before asking a supplementary question. It is mentioned in part (b) on Page 2 of the main reply that in 2006, there were three cases of criminal intimidation involving taxis. But in the Annex, it is stated that in 2006, there were two cases of criminal intimidation involving taxis and taxi drivers. What is the reason for this discrepancy?*

*My follow-up question, Madam President, is about the fact that although the cases of criminal intimidation which I have just mentioned were already detected, there is no statistic on the number of persons prosecuted. This is also the case with those cases involving PLBs. For example, it is stated that in 2005, there were eight reported cases of wounding and serious assault. Five of these cases were detected, but no one was prosecuted. In 2006, there were two reported cases of criminal damage. One of these cases was detected, but, once again, no one was prosecuted. Although the numbers of criminal damage or criminal intimidation cases were not very large, I still hope that the Secretary can offer an explanation. Such cases of criminal intimidation or damage often involve large triad syndicates. If such cases are simply detected without arresting any suspects, the problem may still exist and continue to occur repeatedly. How can this problem be solved?*

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, according to the Rules of Procedure, everything raised during Question Time is regarded as a question, whether it is a request for clarification or a straightforward question. And, you should know only too well that you have asked two supplementary questions. I guess you want the Secretary to answer the second supplementary question. However, how the Secretary is going to answer it is beyond my control. Secretary for Security, please answer this supplementary question.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I shall try my best to answer Mr Andrew CHENG's question.

As I mentioned in the main reply, there were three cases of criminal intimidation in 2006. After investigation, we found that only one of these cases involved triad activities. Cases of criminal intimidation often involve exchanges of rude language between both sides. The use of certain expressions in the process will constitute criminal intimidation, but not all such cases will involve triad activities. I hope Mr CHENG can understand this point.

About the statistics, it is indeed true that there is a discrepancy between the number of detected cases and the number of prosecutions. However, as a lawyer himself, Mr Andrew CHENG should know that when it comes to prosecution, we must have sufficient evidence before we can bring any suspect before the Court. Our threshold for prosecution is very high. We must be sure that there is reasonable prospect of conviction. We must seek advice from the Department of Justice and we must have sufficient evidence before staging any prosecution. All this is an apt reflection of our prudent approach.

**MR ANDREW CHENG** (in Cantonese): *Madam President, the Secretary has not answered my question.*

*I can actually understand this point, and I have asked this question precisely because I know the fundamental cause of the discrepancy. The figure concerned is just the starting point of my question. The main reply does not seem to suggest a very serious problem. But the truth is that it is difficult to press any charges due to the very high threshold for prosecution. In addition, there may be the problem of triad control, so taxi drivers and PLB drivers must still live in panic. The only focus of my question is how this problem can be solved.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the number of prosecutions was small, but frankly speaking, even the number of reported cases was not very great either. There were just several dozen such cases in total a year in the whole of Hong Kong. When compared with other types of cases also involving criminal intimidation, wounding and serious assault, this number was certainly not very big. As for Mr CHENG's question on whether or not triad control was the cause of the low detection rate and small number of prosecutions, I can say that according to police intelligence, there was no evidence of any large-scale or organized triad control behind the operation of PLB stands and taxi ranks. We do not have any such evidence at all. However, we do not rule out the possible presence of individual triad elements at some PLB stands. The police are presently conducting an investigation.

**MR ALBERT CHAN** (in Cantonese): *President, it is already an open secret, that is, a well-known fact, that there is triad control behind the operation of PLBs and taxis, especially in respect of their stands and "free quarry" of RMB drivers.*



*Everybody knows clearly that the small number of reported cases is largely attributable to people's fear of triad intimidation. This long-standing problem is still bothering many Hong Kong people and causing certain impacts on society. Will the Secretary consider setting up an ad hoc group in conjunction with the transport authorities for the purpose of conducting a comprehensive review of the problem, so as to prevent triad societies from continuing to threaten law-abiding drivers and members of the public involved in the RMB and taxi trades?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as I pointed out when replying to Mr CHENG's question, we do not have any evidence to substantiate the claim that RMB and taxi operation is under organized triad control. As for whether or not we must conduct a large-scale review, that is, whether or not we must conduct an investigation in conjunction with the Environment, Transport and Works Bureau, I think there is no such need under the present circumstances. I have actually appealed to the public on different occasions that if any Hong Kong citizen, including RMB drivers or operators, are intimidated or assaulted by triad elements, they must report to the authorities, or the police will be unable to take any actions.

**MR ALBERT CHAN** (in Cantonese): *President, I hope the Secretary can make a clarification here. He said that he did not know of the existence of triad control. When he said so, did he mean that he had never heard of the problem? Or, did he mean that it was the official position of the Government to deny this phenomenon?*

**PRESIDENT** (in Cantonese): Mr Albert CHAN, although I know that your concern is shared by many other people, I cannot permit you to ask the Secretary to make a clarification in this way.

**MR JAMES TO** (in Cantonese): *President, in that case, let me follow up this point in my supplementary question. The situation may vary from place to place. But the situation in the airport is very much unlike those in other places, because many taxis can line up there, forming something like a taxi rank. The taxi journeys from other places often involve lower fare amounts, and since*

*destinations are not known, taxi drivers will not be willing to pay any fees even upon request, right? I therefore wonder if the Government can tell us whether the situation in the airport is very serious according to police intelligence. Will they take any proactive actions and seek to gain a deeper understanding of the problem, so as to bring the culprits concerned to justice?*

**SECRETARY FOR SECURITY** (in Cantonese): As I mentioned in the main reply just now, airport taxi ranks are under the management of the AA. But, of course, the police will render assistance in law enforcement. In case there are any violations of the laws of Hong Kong, the police will definitely take enforcement actions. To deal with illegal transportation services to and from the airport, the AA formed a special task force in conjunction with the police and the Transport Department in July 2005. The task force meets once every two months to discuss strategies, improvement measures and their effectiveness. In addition, the AA will also brief the taxi trade on the work progress of the special task force in its regular meetings with the trade.

**MR JAMES TO** (in Cantonese): *President, I think the Secretary has not answered my question. I hope the President can make a ruling, because the special task force he has mentioned is supposed to deal with seven-seater vans or light goods vehicles only. As far as my understanding goes, it has nothing whatsoever to do with my question. May I ask the Secretary whether the problem mentioned by me is very serious? Does he have any information which can show the magnitude of the problem? Will he adopt a more proactive approach, so as to understand the problem better and step up enforcement actions?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as far as my understanding goes ..... This is outside my portfolio, but taxis are also included in the terms of reference of the special task force. The vans and light goods vehicles mentioned by him just now are of course also covered. But in any case, touting activities of taxis are covered. As I mentioned just now, according to the evidence gathered by the police so far, no illegal organizations have been conducting any illicit activities there. As for the discipline of taxis waiting at the airport, it is under the management of the AA. If the AA encounters any problems and needs help from the police, we will certainly render assistance.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, it is mentioned in part (a) of the main reply that the police will, from time to time, hold meetings with public light bus drivers' groups and taxi drivers' groups of the territory to offer advice on means and measures to prevent crime and ensure personal safety. This suggests that they do not think there is any organized or triad control. May I ask the Secretary when the authorities meet with these organizations? How are these organizations identified? How many meetings are held every year? And, how many organizations are invited?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, in regard to the taxi trade, the Crime Prevention Bureau of the police will issue monthly notices to taxi radio centres, taxi associations and taxi drivers and operators associations, clearly listing the taxi robbery black spots, crime trend and common crime patterns of the month. Besides, in September and October last year, officers of the Crime Prevention Bureau also met with various associations of taxi owners, drivers and operators, offering them advice on crime prevention measures and actions to take in case of taxi robbery. Concerning the question on how many meetings are held annually, I do not have the relevant information to hand.

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, is your supplementary question not answered?

**MR LEUNG KWOK-HUNG** (in Cantonese): *No, not answered. President, during the meetings with the relevant organizations mentioned by the Secretary, was the problem of triad control ever discussed? In other words, has this problem ever been put on the agendas of these meetings?*

**PRESIDENT** (in Cantonese): Mr LEUNG, is the point you have just raised part of your supplementary question just now?

**MR LEUNG KWOK-HUNG** (in Cantonese): *My question is on the contents of the meetings.*

**PRESIDENT** (in Cantonese): I see. Secretary for Security, please reply.

**SECRETARY FOR SECURITY** (in Cantonese): I am sorry, Madam President, I do not have any information on the contents of these meetings at the present moment.

**MISS CHOY SO-YUK** (in Cantonese): *President, the international airport aside, may I ask the Secretary whether similar complaints connected with triad societies are also received in other boundary control points or elsewhere?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I do not have the required information to hand. Please allow me to give Miss CHOY a reply in writing at a later time. (Appendix I)

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

**MR ALBERT CHAN** (in Cantonese): *President, I was surprised to hear the Secretary say that he did not know of any triad control. This is already an open secret. If the Secretary cares to talk with the various District Commanders, they will certainly tell him very clearly which taxi ranks and PLB stands are controlled by which triad societies. Besides, such information is also found in many cases of prosecutions. Will the Secretary join hands with the transport authorities to conduct a review of triad control over the operation of PLBs, especially RMBs, and also the situation at taxi stands, both legal and illegal? If not, will the Secretary personally conduct a study and then reply to the Council? Will the Security Bureau offer a clear and detailed account on the illegal activities of triad societies and the Government's handling of the problem?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, when giving my replies just now, I never said that I had not heard of such a problem. Like the general public, I also follow media reports very closely. However, Members and government officials like us are different in one respect. Members may believe whatever rumours they hear in society, and they can then say whatever they like. But when we government officials give any replies, we must base them on evidence and investigation findings. As I replied just now,

the police are extremely concerned about triad activities and give weight to them. We will never allow them to interfere with the normal functioning and operation of society. The police have therefore spent huge manpower and resources on various investigations to find out whether there is any organized triad control over the PLB industry. But I can answer that so far, there has been no evidence to prove that the operation of PLBs, especially RMBs, is under any organized triad control.

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

## WRITTEN ANSWERS TO QUESTIONS

### Control of Light Pollution

7. **PROF PATRICK LAU** (in Chinese): *President, given the recent complaints lodged by a number of residents about the nuisance caused by the fibre-optic external walls of a newly completed residential development, and there is no legislation controlling the various types of light pollution (such as light trespass and glare, and so on), will the Government inform this Council:*

- (a) *of the number of complaints about light pollution received by government departments in each of the past five years, broken down by sources of pollution (such as advertisement signboards, street lamps and vessels, and so on); and*
- (b) *whether it plans to review and amend the relevant legislation to subject light pollution to statutory control; if so, of the details of such plans; if not, the reasons for that?*

### SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President,

- (a) The Government does not have overall statistics on complaints about light pollution received by relevant departments. Based on available information, the Environmental Protection Department received the following complaints on light nuisance in the past five years:

	2002	2003	2004	2005	2006
Advertisement Light Boxes (ALBs)	0	2	3	15	15
Spot Light	0	6	9	15	15
Others	0	1	1	3	5

- (b) Light nuisance that may result from ALBs on the external face of buildings for the purpose of advertisement is not subject to control under the existing environmental legislations. However, these facilities are subject to control by various government departments including the Buildings Department, the Fire Services Department, the Marine Department, the Hong Kong Police Force, the Civil Aviation Department and the Food and Environmental Hygiene Department. The Government has to ensure that these facilities are structurally safe; will not become a serious risk of fire; will not interfere with road, marine and aviation traffic; will not disfigure the natural beauty of any scenery or affect injuriously the amenities of any locality. However, the light intensity of these facilities and whether they cause nuisance to nearby residents falls outside the current scope of control. The Government does not have any plan to broaden the existing legislative control to cover this area.

### **Airport Express Train Services**

8. **MR HOWARD YOUNG** (in Chinese): *President, the original intention of constructing the Airport Express is to provide direct and efficient transport services for people travelling to and from the airport. However, since the opening of the AsiaWorld-Expo (AWE) adjacent to the airport, the patronage of the Airport Express has increased, especially when exhibitions or other activities are held in the AWE. As the Airport Express trains are often already fully packed with passengers when they leave the AWE Station, this causes inconvenience to people who intend to leave the airport by Airport Express trains at the next station (that is, the Airport Station (AIR)). In this connection, will the Government inform this Council whether it knows if the MTR Corporation Limited (MTRCL) has any measures to ensure providing adequate Airport Express train services for the priority use of people travelling to and from the airport?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**  
(in Chinese): President, the Airport Express Line (AEL) has been extended to the AWE in the Hong Kong International Airport from December 2005 to serve passengers patronizing the exhibition centre.

With the anticipated increase in AEL patronage arising from the operation of AWE, AEL trains (including one baggage car) have been converted from seven-car to eight-car trains, enhancing the maximum carrying capacity from 3 000 to 3 500 passengers per hour per direction. The MTRCL has also put in place the following measures to meet the additional passenger demand generated when various events are held at AWE to ensure that passengers that need to board the trains at the AIR will not be affected.

When major events, such as exhibitions and shows, and so on, are held at AWE, AEL services will be enhanced by deploying additional AEL trains and, if situation requires, MTR Tung Chung Line trains of larger capacity, to serve passengers to and from AWE, thus enabling train frequency to be enhanced from 12-minute to seven-minute to meet passenger demand. This will provide a maximum carrying capacity up to 11 700 passengers per hour per direction, which is nearly triple that of the capacity of normal AEL services.

In addition, in order to ensure that AIR passengers can board trains at AIR when major events are held at AWE, two to three cars of each AEL train will be reserved at the AWE Station for AIR passengers. Station staff will also closely monitor the actual situation at AIR and more cars can be reserved at the AWE Station in order to cope with any high passenger demand at AIR.

According to the MTRCL's observation, the above measures have been operating well in coping with the maximum passenger flow of AWE Station. For example, on 17 January 2007, over 5 700 passengers entered AWE Station after a full house concert in AWE. Most passengers were able to board the first arriving AEL train at AIR, except for a few who wished to take a preferred seat in the AEL trains. According to the MTRCL, since the opening of the AWE Station they have received a total of four complaints by AEL passengers regarding the slight adjustment in the train schedule of the AEL because of the activities at AWE.

The MTRCL will continue to closely monitor the passenger flow at AIR and AWE Station to ensure the provision of efficient AEL service for all passengers.

**Composition of Council of The Hong Kong Institute of Education**

9. **MR CHEUNG MAN-KWONG** (in Chinese): *President, The Hong Kong Institute of Education Ordinance (Cap. 444) stipulates that the composition of the Council of The Hong Kong Institute of Education (HKIED) shall include at least one but not more than three public officers appointed by the Chief Executive. In this connection, will the Government inform this Council:*

- (a) *of the reasons for enacting the aforesaid provision, and whether it has assessed if the provision contravenes the principle of autonomy of tertiary institutions;*
- (b) *in the form of a table, whether there are similar provisions in the relevant legislation of other tertiary institutions and whether public officers have in fact been appointed to the Council concerned; if the Government has allowed any of the Council seats of other institutions for public officers to be left vacant, of the reasons for the inconsistent practice in respect of HKIED and other institutions, and whether it has assessed if this practice constitutes discrimination against HKIED; and*
- (c) *whether it will repeal the aforesaid provision by way of legislation or cease to make such appointment; if it will, when it will be implemented; if not, of the reasons for that?*

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

- (a) and (c)

In view of the objective and historical background of its establishment, and the future development needs of HKIED, the Hong Kong Institute of Education Ordinance provides that the HKIED Council shall consist of at least one but not more than three public officers appointed by the Chief Executive. However, as HKIED develops, the Chief Executive now appoints one instead of three public officers to serve on the Council, namely, the Secretary for Education and Manpower or his representative. As HKIED is the major teacher education institution, and the education policies



and measures implemented by the Government are closely related to the development of HKIEd, we consider that the Education and Manpower Bureau should have a representative serving as a member of the HKIEd Council, so that the Council and the Bureau can have appropriate communication on the education policies launched by the Government. In view of the above, and that the public officer only occupies a single seat in the Council, the Government believes that the principle of institution autonomy will not be affected, and that there is no question of discrimination against HKIEd.

- (b) Regarding other tertiary institutions, the City University of Hong Kong, The Hong Kong Polytechnic University, The Hong Kong University of Science and Technology and The Open University of Hong Kong also have similar provisions in their respective ordinances which empower the Chief Executive to appoint public officers as members of their Councils. Other than The Open University of Hong Kong, the Government has not appointed public officers as members of the Councils of the other three universities.

### **Building of Permanent Aviation Fuel Facility**

10. **MR ALBERT HO** (in Chinese): *President, regarding the Airport Authority Hong Kong (AA)'s proposal to build a permanent aviation fuel facility (AFF) in Tuen Mun, will the Government inform this Council:*

- (a) *of the respective maximum permissible and current average numbers of flights taking off and landing at the Hong Kong International Airport (HKIA) each hour;*
- (b) *whether it knows:*
  - (i) *the total capacity of the existing AFF, as well as the storage level of aviation fuel at the AFF at the end of each month and its consumption level of that month since January 2003;*
  - (ii) *the AA's specific justifications for the conclusion that the existing AFF will only be able to support the demand for aviation fuel to 2009; and*

- (iii) *if there have been cases of the supply of aviation fuel falling short of its demand since January 2003; if so, of the details; if not, of the AA's justifications for its view that there is an urgent need to build a new AFF;*
- (c) *given that a report submitted to the Court of Final Appeal last year points out that in case of a catastrophic incident occurring at the new AFF, the lives of the more than 200 staff in the steel mill adjacent to the new AFF will be in jeopardy, how the Government ensures the safety of these staff;*
- (d) *given that high temperature and combustion work processes (such as cutting disused tyres) will be carried out in the EcoPark next to the new AFF, how the Government can ensure that the safety of the staff in the EcoPark will not be threatened as a result of a incident occurring at the new AFF; and*
- (e) *given that the relevant Environmental Impact Assessment Report acknowledges that lightning is a relatively common ignition source for tank fires and a tanker was struck by lightning after unloading at Tsing Yi Island in 1997, and that a large amount of steel which can conduct electricity is stored in the steel mill adjacent to the new AFF, whether the Government has information on the average frequency of lightning occurring in each month in New Territories West, and whether it has assessed the risks posed by lightning to the new AFF?*

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

- (a) The current maximum number of aircraft movements at the HKIA is about 54 per hour. The total number of aircraft movements in a typical day is about 780, that is, an average of about 33 movements per hour.
- (b) (i) The current capacity of the fuel tanks at the HKIA is 172 000 cb m. The inventory and consumption at the HKIA since January 2003 are as follows:

<i>Month</i>	<i>Average Inventory (cb m)</i>	<i>Total Consumption (cb m)</i>	<i>Month</i>	<i>Average Inventory (cb m)</i>	<i>Total Consumption (cb m)</i>
January 2003	162 666	379 064	January 2005	162 295	430 606
February 2003	154 907	333 239	February 2005	152 084	381 139
March 2003	158 476	373 866	March 2005	140 774	443 802
April 2003	171 057	257 402	April 2005	140 005	437 153
May 2003	173 850	199 814	May 2005	132 189	440 206
June 2003	167 632	212 936	June 2005	149 489	431 910
July 2003	155 837	301 490	July 2005	144 025	471 389
August 2003	113 540	353 724	August 2005	141 805	467 817
September 2003	115 541	355 531	September 2005	128 102	457 072
October 2003	128 303	392 560	October 2005	136 326	481 278
November 2003	136 285	391 922	November 2005	138 509	475 807
December 2003	142 364	393 747	December 2005	137 005	475 911
January 2004	156 974	392 504	January 2006	168 508	472 811
February 2004	164 445	356 919	February 2006	170 892	400 551
March 2004	145 661	395 508	March 2006	156 425	476 311
April 2004	131 028	389 867	April 2006	160 517	472 368
May 2004	141 452	396 851	May 2006	165 737	461 423
June 2004	150 029	396 087	June 2006	169 028	456 393
July 2004	155 663	418 682	July 2006	169 932	480 142
August 2004	151 142	430 417	August 2006	168 984	482 273
September 2004	142 700	423 401	September 2006	156 263	482 289
October 2004	142 689	442 091	October 2006	158 180	511 121
November 2004	146 254	431 512	November 2006	165 456	511 749
December 2004	157 306	440 736	December 2006	153 799	516 319
			January 2007	159 059	498 572

Source: AA

(ii) and (iii)

The supply of aviation fuel to Hong Kong relies on sea transport, and is susceptible to interruptions by factors such as inclement weather. To ensure its smooth operation, the HKIA must have a sufficient fuel reserve, supported by a fuel receiving facility with enough capacity to meet the basic demand of day-to-day airport operation and to replenish any depletion of reserve promptly in the event that supply disruption does take place.

The existing receiving facility at Sha Chau<sup>1</sup> has a capacity of 16 800 cb m per day or about 510 000 cb m per month. As

<sup>1</sup> This receiving facility is intended to be a temporary one because it is located within the Sha Chau and Lung Kwu Chau Marine Park, and the shallow water depth limits access to small tankers only. Expansion of the receiving capacity of this facility is not possible.

shown in the table above, the fuel consumption for the last three months of 2006 has already reached that level. The existing fuel reserve capacity (172 000 cb m, equivalent to just over 10 days of consumption in peak seasons) also falls short of providing a sufficient cushion against supply disruption.

Given the forecast robust growth in air traffic, the AA has already implemented all possible stop-gap measures, including the enhancement of backup receiving facility to provide additional capacity of 3 000 cb m per day, and construction of new fuel tanks to provide additional storage capacity of 51 000 cb m on the airport island<sup>2</sup>. Despite these stop-gap measures, the AA estimates that from around 2009 the capacity of available fuel receiving and storage facilities would not be able to provide the cushion required to ensure continual operation of the HKIA in the event of fuel supply disruption. As the construction of the Permanent Aviation Fuel Facility (PAFF) takes about three years, there is therefore an urgent need to begin construction work as soon as possible.

(c), (d) and (e)

The AA is committed to maintaining a high level of safety for the PAFF. According to information provided by the AA, the design and construction of the PAFF will comply with all applicable local statutory requirements and international standards. Quantitative Risk Assessments (QRAs) commissioned by the AA, the results of which have been included in the Environmental Impact Assessment (EIA) Report, show that the risk of catastrophic failure of the fuel tanks is extremely low and all risks associated with the PAFF are well within the acceptable level specified in the Technical Memorandum under the Environmental Impact Assessment Ordinance (Cap. 499).

The aviation fuel to be stored at the PAFF (namely Jet A1 fuel) is far less hazardous than other types of fuel such as gasoline because Jet A1 fuel does not generally produce flammable vapour which is a

<sup>2</sup> Building more fuel tanks on the airport island would not be useful as fuel supply is still constrained by the limited receiving capacity and shallow water surrounding the airport island.

major source of fire or explosion risks. Historical records also show that catastrophic tank failures were mostly related to the use of tank construction materials that could become brittle (hence increasing the risk of rupture) at very low ambient temperatures. The PAFF tanks do not use such materials and the temperature in Hong Kong is much higher.

Furthermore, the PAFF tanks will be surrounded by a sunken bund with containment capacity well exceeding applicable international standards to contain fuel spillage. Compared with the common worldwide practice of using a single bund wall and fence, the PAFF will have two additional impervious security walls and a landscape bund to further reduce any risk to parties outside its perimeter.

Taking into account the effects of potential ignition sources outside the PAFF, including those in the adjacent steel mill and the neighbouring EcoPark, the QRAs estimate that in the worst case scenario<sup>3</sup> the risks to individual employees of the steel mill and the EcoPark would be approximately  $10^{-9}$  incident per year<sup>4</sup>. The residual risks to people off-site are extremely small and well controlled by the design of the PAFF.

According to the data of the Hong Kong Observatory, the monthly average frequency of lightning in the New Territory West region in 2006 is about 160 per 100 sq km per month, which is comparable to that of the New Territory East.

The possibility of ignition due to lightning strike is included in the assessed tank fire frequencies and addressed in the EIA process. The PAFF tanks will be designed against static, stray currents and lightning according to the relevant international standard. Given the distance between the steel mill and the PAFF, the existence of the steel mill is expected to have very little effect on the frequency of lightning strikes on a PAFF tank. Furthermore, the small effect arising from the presence of the steel mill is expected to reduce, not increase, the frequency of lightning strikes on a PAFF tank because the steel mill building, like a lightning rod, will attract lightning that might otherwise strike other structures in the vicinity.

<sup>3</sup> Instantaneous loss of 100% of the tank's content.

<sup>4</sup> For comparison, an individual's risk of death in a traffic accident is about  $10^{-4}$  incident per year, which is 100 000 times higher.

Other key safety measures of the PAFF include:

- spacing between the tanks and the PAFF site boundary (minimum 28.5 m) significantly exceeding the requirement under the relevant Hong Kong standard (10 m) and also the requirements of the relevant international standards (varying from 7.25 m to 21.75 m);
- state of the art fire fighting systems, such as fixed base foam injection, shell cooling systems on the tanks and remotely operated foam monitors;
- emergency shut down valves with multiple means of actuation including both manual and automatic systems; and
- double security fencing, CCTVs and security guards on 24 hours duty.

The EIA report prepared by the AA is available for public inspection under the Environmental Impact Assessment Ordinance from 23 February to 24 March 2007. It will also be presented to the Advisory Council on the Environment for advice before 26 April 2007.

### **Support for Patients with Glaucoma**

11. **MR LEUNG KWOK-HUNG** (in Chinese): *President, with regard to the support provided for patients with glaucoma, will the Government inform this Council of:*

- (a) *the existing number of patients with glaucoma;*
- (b) *the respective numbers of patients diagnosed with glaucoma, diagnosed with glaucoma and cataract at the same time, and those who turned blind as a result of glaucoma-induced disorders in each of the past five years, with a breakdown by gender, age and district of residence;*
- (c) *the medical, financial and daily living support currently provided by the Government and the Hospital Authority (HA) for patients with glaucoma, whether more proactive types of support such as*

*psychological counselling, low-vision training and medical subsidy will be provided to such patients; and*

- (d) *the respective amounts of funds spent by the Government and the HA on the prevention, early diagnosis and treatment of glaucoma in each of the past three years, as well as the details of the work in this regard?*

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

- (a) and (b)

According to the data provided by the Department of Health (DH), the numbers of glaucoma-related in-patient admissions between 2001 and 2005 are as follows:

<i>Year</i>	<i>2001</i>	<i>2002</i>	<i>2003<sup>Note</sup></i>	<i>2004</i>	<i>2005</i>
No. of Admissions	1 967	1 795	1 480	1 814	2 068

(Note: In 2003, the number of elective in-patient admissions (such as glaucoma cases) decreased as a result of the outbreak of severe acute respiratory syndrome (SARS).)

According to the statistics last compiled by the HA in 2001 on visual impairment cases in public hospitals, there were a total of 92 cases in which glaucoma patients lost their eyesight permanently, accounting for 23% of the total number of permanent blindness cases. The HA does not maintain a breakdown of the glaucoma-induced cases by patients' gender, age and district of residence.

- (c) Regarding the provision of medical support, the HA regards all new glaucoma cases as urgent cases and will arrange for the patients to be examined and treated as early as possible. The HA will also regularly follow up patients in initial stage of glaucoma and with minor visual impairment in order to monitor their eye pressure, eyesight and vision. Generally speaking, the majority of glaucoma patients are able to keep their eye pressure in check with long-term use of eye-drops. Where the treatment is found to be ineffective, the HA will arrange laser or glaucoma surgery for the patients as appropriate.

As for financial assistance, Hong Kong residents who are severely disabled (for example, total loss of eyesight) may apply for Disability Allowance under the Social Security Allowance Scheme to meet their special needs arising from disability. The Disability Allowance is non-contributory and non-means tested. Patients who have financial difficulty in paying the medical charges of public hospitals or clinics may apply for medical waivers from the HA.

Regarding support and care for their daily living, the Social Welfare Department provides rehabilitation services for persons with glaucoma-induced visual impairment and helps them rebuild their capacity to lead an independent life, regain their confidence, reintegrate into society and achieve self-reliance. Services on this front include the setting up of parents/relatives resource centre and the provision of occupational rehabilitation and psychological counselling.

- (d) Since glaucoma is a disease more commonly found among elders, the DH's Visiting Health Teams provide health education on common eye diseases of the elderly and eye care for elders and their carers. The activities aim to achieve eye disease prevention through the promotion of eye care among elders and their carers by enhancing their awareness. The DH also introduces to them the warning signs of various eye diseases to heighten their alertness to any early symptoms so as to facilitate prompt identification and medical intervention. In 2006, the Visiting Health Teams delivered more than 140 health talks on common eye diseases of the elderly and proper eye care for the elders, with a total of some 5 000 attendances. The costs of the above activities have been absorbed by the existing resources of the Elderly Health Services under the DH and hence cannot be separately identified. Likewise, as many of the glaucoma patients may also have other health problems, the medical costs for the treatment of glaucoma cannot be separately identified.

### **Hong Kong Youth Taking or Trafficking Drugs on the Mainland**

12. **MR JAMES TO** (in Chinese): *President, regarding the problem of Hong Kong children and youth taking or trafficking drugs in the Mainland, will the Government inform this Council:*



- (a) *whether it knows the number and age distribution of Hong Kong children and youth under the age of 18 who were convicted in the Mainland in each of the past three years of taking and trafficking drugs, together with a breakdown by gender and the penalties imposed on them;*
- (b) *whether the relevant mainland departments have notified the Government of the Hong Kong Special Administrative Region (SAR Government) of information on the above cases involving Hong Kong children and youth being sentenced in the Mainland; if so, whether the Government has followed up such cases; if the SAR Government has not been notified, whether the Government will consider requesting the setting up of a notification mechanism with the relevant mainland government departments to facilitate follow-up actions;*
- (c) *whether it knows the current number of Hong Kong organizations providing counselling services targeted at children and youth taking drugs in places of entertainment in the Mainland, and the types of services provided by such organizations; and*
- (d) *whether exchange activities have been organized with the mainland enforcement departments or organizations providing counselling services for drug-addicted children and youth, with a view to ameliorating the situation of Hong Kong children and youth taking drugs in the Mainland?*

**SECRETARY FOR SECURITY** (in Chinese): President, the Administration maintains a close watch over the cross-boundary drug abuse problem, and has taken measures in consultation with the Action Committee Against Narcotics. We have produced a series of docu-drama "Anti-Drug Files" featuring real cases, and launched the "Sponsorship Scheme on Anti-Cross-boundary Drug Abuse Projects", which provides funding to 18 projects on anti-drug educational and publicity activities targeting young people. We are producing an education kit for primary and secondary schools to disseminate anti-drug messages and consequences of cross-boundary drug abuse. The Beat Drugs Fund provides funding to organizations to hold anti-drug activities, including those targeting cross-boundary drug abuse. We will continue to step up publicity and educational activities, including the broadcast of APIs at KCR trains and holding anti-drug activities at border control points in collaboration with non-governmental organizations.

- (a) In the past three years, the number of persons arrested for abusing drugs in Guangdong Province and the penalties imposed are set out below:

	2004	2005	2006
Administrative detention	179	290	269
Addiction treatment	12	60	64
Fine	0	0	3
Total	191	350	336

\* Figures in relation to drug trafficking cases, and further breakdown figures by age and gender are not available.

- (b) We have agreed with the mainland authorities on a mechanism for handling the return of Hong Kong residents (including youngsters) arrested in the Mainland for abusing drugs. When notified by the mainland authorities, the police will liaise with social workers, where necessary and practicable, to offer to provide service to these people. Social workers will follow up cases of those who are willing to receive service.
- (c) The Administration has not compiled relevant information or statistics on Hong Kong organizations providing counselling services for children and youth taking drugs in entertainment venues in the Mainland.
- (d) The Administration has all along maintained close liaison with our mainland counterparts on strategies and measures to tackle the cross-boundary drug abuse problem. Hong Kong and mainland law-enforcement agencies exchange information and intelligence on cross-boundary crimes including cross-boundary drug abuse and take joint actions to interdict drug trafficking activities. Law-enforcement officers also visit and hold regular meetings with their counterparts to update each other on the latest drug abuse and drug trafficking situation in the region.

In addition, we have developed a tripartite co-operation framework with our Guangdong and Macao counterparts to promote exchanges and co-operation in anti-drug efforts among the three places. Starting from 2001, tripartite conferences or functions to tackle drug abuse and trafficking have been held regularly. Information is exchanged and experience shared on various fronts covering law-enforcement, research, treatment and rehabilitation as well as preventive education.

## Outsourcing of Information Technology Jobs

13. **MR JASPER TSANG** (in Chinese): *President, it has been reported that some local enterprises intend to outsource information technology jobs to low-cost places, which may involve the transfer of personal data of Hong Kong people to such places. Moreover, section 33 of the Personal Data (Privacy) Ordinance (PDPO) (Cap. 486) regarding "prohibition against transfer of personal data to place outside Hong Kong except in specified circumstances" is not yet in operation. According to the information from the Office of the Privacy Commissioner for Personal Data (PCO), one of the reasons for not putting the provision into operation was to prepare and issue a suitable model contract and relevant guidelines, and it was expected that the relevant provision would come into operation soon after the issuance of the model contract. The PCO had prepared a reference model contract in 1997 and submitted to the Home Affairs Bureau (the Bureau), in June 2005, the investigation report on trans-border dataflow practices in the banking sector in Hong Kong with a range of policy options. In this connection, will the Government inform this Council:*

- (a) *whether it knows the number of model contracts entered into by data users and data transferees in Hong Kong in the past three years, broken down by the trades of the data transferees;*
- (b) *of the reasons why the above provision is not yet in operation and the estimated timing of its coming into operation;*
- (c) *whether the Bureau has discussed with the PCO the various options relating to section 33 in the above investigation report;*
- (d) *of the measures the authorities have in place to prevent the transfer of personal data of Hong Kong people to places outside Hong Kong before the above provision coming into operation, and how they can ensure the protection of personal data of Hong Kong people in places outside Hong Kong (other than encouraging data users and data transferees to enter into the model contracts); and*
- (e) *whether it has studied the legal provisions concerning the protection of personal data in places (for example, India and the Mainland) where contractors of outsourced information technology jobs operate?*

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

- (a) We do not have the statistics on the number of model contracts entered into by data users and data transferees in Hong Kong.
- (b) Section 33 of the PDPO prohibits the transfer of personal data from Hong Kong to places that do not have adequate data protection legislation. Commencement of the operation of section 33 would have significant implications on trans-border data transfer activities of various business sectors, notably the banking and telecommunications sectors. We need to have a thorough understanding of the pervasiveness of trans-border data flows, as well as the processes involved in the transfer of personal data and the issues pertaining to its protection that organizations may encounter when engaging in offshore outsourcing. The Privacy Commissioner for Personal Data (the Commissioner) is undertaking a comprehensive review of the entire Ordinance, including section 33. We shall examine the Commissioner's recommendations and then map out the best way forward taking into account the interests of relevant stakeholders.
- (c) The Bureau has been in discussion with the Commissioner on the policy options put forward in the investigation report on trans-border dataflow practices in the banking sector in Hong Kong. We pointed out to the Commissioner, amongst other things, that the commencement of the operation of section 33 would hinge on two key factors, namely his readiness to specify in a gazette notice places with legislation substantially similar to, or serving the same purposes as the PDPO, as stipulated in subsection 33(3), and his readiness to repeal or amend such notice as stipulated in subsection 33(4). The practicality of the existing section 33 will also be looked into in the comprehensive study currently conducted by the Commissioner. Separately, the Commissioner has joined the APEC Cross-Border Rules Study Group which is tasked to develop cross-border privacy rules to facilitate responsible and accountable cross-border information flows without creating unnecessary barriers. Participation in the Study Group could provide insights for Hong Kong in tackling the issues relating to regulation of trans-border data flow under section 33 of the PDPO.
- (d) Use of personal data, including transfer, is regulated by Data Protection Principle 3 of the PDPO. Unless the transfer of personal data is for a purpose same as or directly related to the original purpose of collection of such data, a data user is not allowed

to transfer such personal data to a place outside Hong Kong without the consent of the data subject. A data user who has transferred personal data to a place outside Hong Kong must comply with the requirements of the PDPO if the data user can control the holding, processing or use of the data. According to section 65 of the PDPO, any act done or practice engaged in by a person as agent for another person with the authority (whether express or implied, and whether precedent or subsequent) of that other person shall be deemed under the PDPO as done or engaged in by that other person as well as by him. As such, the data user shall be accountable for any contravention of the Ordinance committed by its offshore agent (for example, a bank which commissions an offshore agent to process the personal data of its customers on its behalf is accountable for any contravention of the PDPO committed by the agent). A data user who has contravened a data protection principle of the PDPO may be served an enforcement notice by the Commissioner. Contravention of an enforcement notice is an offence and is liable on conviction to a fine at level 5 (up to \$50,000) and to imprisonment for two years, and in the case of a continuing offence, to a daily penalty of \$1,000. A data user who contravenes any requirement (other than a data protection principle) under the PDPO is liable on conviction to a fine at level 3 (up to \$10,000), and depending on the nature of offence, an imprisonment for six months also.

- (e) To our knowledge, there is no law regulating the protection of personal data privacy in the Mainland and India.

### **Prosecutions Against Local Newspapers and Magazines**

14. **MR LI KWOK-YING** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the respective numbers, in each of the past five years, of prosecutions instituted against, convictions handed down against, acquittals won by and appeals against conviction lodged by each of the local newspapers and magazines over alleged contraventions of the Control of Obscene and Indecent Articles Ordinance (COIAO) (Cap. 390) and the Undesirable Medical Advertisements Ordinance (UMAO) (Cap. 231) respectively;*

- (b) *of the grounds usually cited by the Court for acquitting the newspapers and magazines concerned in the aforesaid cases; and*
- (c) *how the authorities ensure that press freedom will not be undermined when deciding whether prosecution should be instituted?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): President, I reply to parts (a), (b) and (c) of the question respectively as follows:

Part (a)

*COIAO*

The COIAO is enforced by the Television and Entertainment Licensing Authority (TELA), the Hong Kong Police Force (HKPF) and the Customs and Excise Department (C&ED).

Among them, the TELA is mainly responsible for monitoring publications (including newspapers and magazines) and inspecting retail outlets such as bookshops and newspaper stalls. The TELA submits published articles suspected of breaching the COIAO to the Obscene Articles Tribunals (the Tribunals) for classification and prosecutes persons publishing indecent and obscene articles in breach of the COIAO.

In the past five years, pursuant to the COIAO, the TELA has made a total of 217 prosecutions against local newspapers and magazines, resulting in 192 convictions. The prosecution and trial of the remaining 25 cases are underway. Details are tabulated below:

<i>Year</i>	<i>Newspapers/ Magazines</i>	<i>Prosecutions</i>	<i>Convictions</i>	<i>Acquittals</i>	<i>Appeals against Conviction</i>
2006	Annex 1	44	23	0	0
2005	Annex 2	18	16	0	0
2004	Annex 3	32	32	0	0
2003	Annex 4	22	20	0	0
2002	Annex 5	101	101	0	0
Total:		217	192	0	0

(Note: Some magazines at Annexes 1 to 5 do not have an English title.)

As for the other two departments, namely the HKPF and C&ED, their enforcement activities normally do not involve local newspapers and magazines. They thus do not have the information about the prosecutions against local newspapers and magazines. The HKPF mainly deals with the sale activities at wholesale and retail outlets such as video and computer shops, while the C&ED seizes suspicious articles at border checkpoints and inspects articles in the course of copyrights enforcement work, and so on.

### UMAO

The UMAO is enforced by the Department of Health and the HKPF. The information about prosecutions made under the UMAO against local newspapers and magazines is tabulated below:

<i>Year</i>	<i>Newspapers/ Magazines</i>	<i>Prosecutions</i>	<i>Convictions</i>	<i>Acquittals</i>	<i>Appeals against Conviction</i>
2006	HK Economic Times	1	1	0	0
	Healthplus	1	1	0	0
	TVB Weekly	1	1	0	0
	HK Daily News	1	1	0	0
	Oriental Daily News	1	(applied for review of the decision)		
	Apple Daily	1	1	0	0
2005	Oriental Daily News	1	1	0	0
	The Sun	4	3	1	0
	HK Daily News	1	1	0	0
	Sing Tao Daily	1	1	0	0
	HK Commercial Daily	2	2	0	0
	Apple Daily	1	1	0	0
	Sing Pao Daily News	1	1	0	0
	Three Weekly	2	2	0	0
2004	Easy Finder	1	1	0	0
	Oriental Daily News	2	2	0	0
	The Sun	2	2	0	0
	East Touch	1	1	0	0
2003	The Sun	2	2	0	0
	Sing Pao Daily News	1	1	0	0
2002	The Sun	1	1	0	0
	Total:	29	27	1	0

### Part (b)

Out of the above 246 prosecutions, there are 25 ongoing cases; 219 convictions; one acquittal due to dismissal of the case by the Presiding Magistrate on technical grounds; and another case being listed for review.

## Part (c)

Hong Kong people enjoy freedom of speech, of the press and of publication, which is guaranteed by the Basic Law. The Government is committed to upholding such freedom.

Under the COIAO, the Tribunals responsible for classifying submitted articles are part of the Judiciary and not the executive authorities. In the above prosecutions against newspapers and magazines in breach of the COIAO, the TELA instituted all these prosecutions only after the Tribunals classified the articles. In addition, section 28 of the COIAO stipulates that it shall be a defence to a charge for the public good on the ground that such publication or display is in the interests of science, literature, art or learning, or any other object of general concern. The mechanism above has struck a balance between protecting public morals and minors and upholding freedom of speech, of the press and of publication.

As regards the enforcement of the UMAO, the Department of Health monitors newspapers and publications on the market regularly and, where necessary, refers any advertisements suspected of breaching the UMAO to the HKPF for investigation and follow-up, including seeking legal advice from the Department of Justice and instituting prosecutions. In this enforcement process, the relevant departments act in accordance with the law, which has nothing to do with press freedom.

## Annex 1

Information about Prosecutions made by the TELA  
against Newspapers and Magazines under the COIAO in 2006

<i>Newspapers and Magazines</i>	<i>Prosecutions</i>	<i>Convictions</i>	<i>Acquittals</i>	<i>Appeals against Conviction</i>
Apple Daily	7	0	0	0
Three Weekly	4	1	0	0
Yes!	4	4	0	0
Easy Finder	4	0	0	0
Hong Kong Daily News	4	3	0	0
Capital HMC	3	3	0	0
Next Magazine	3	0	0	0
Milk	2	2	0	0



<i>Newspapers and Magazines</i>	<i>Prosecutions</i>	<i>Convictions</i>	<i>Acquittals</i>	<i>Appeals against Conviction</i>
Night Girls	2	2	0	0
PlayHard	2	2	0	0
Friday	1	1	0	0
MAXIM (HK Edition)	1	1	0	0
The Sun	1	0	0	0
Sing Pao	1	0	0	0
Oriental Daily News	1	0	0	0
Oriental Sunday	1	1	0	0
Hong Kong Commercial Daily	1	1	0	0
CUP	1	1	0	0
Weekend Weekly	1	1	0	0
Total	44	23 <sup>Note</sup>	0	0

Note: Prosecutions and trials of the remaining 21 cases have not yet been completed.

## Annex 2

### Information about Prosecutions made by the TELA against Newspapers and Magazines under the COIAO in 2005

<i>Newspapers and Magazines</i>	<i>Prosecutions</i>	<i>Convictions</i>	<i>Acquittals</i>	<i>Appeals against Conviction</i>
Milk	4	4	0	0
Oriental Sunday	3	3	0	0
Express Weekly	2	2	0	0
New Monday Magazine	2	2	0	0
Three Weekly	1	1	0	0
Sing Pao	1	1	0	0
Sudden Weekly	1	0	0	0
East Touch	1	1	0	0
Next Magazine	1	0	0	0
Hong Kong Daily News	1	1	0	0
Apple Daily	1	1	0	0
Total	18	16 <sup>Note</sup>	0	0

Note: Prosecutions and trials of the remaining two cases have not yet been completed.

## Annex 3

Information about Prosecutions made by the TELA  
against Newspapers and Magazines under the COIAO in 2004

<i>Newspapers and Magazines</i>	<i>Prosecutions</i>	<i>Convictions</i>	<i>Acquittals</i>	<i>Appeals against Conviction</i>
Milkie	4	4	0	0
Milk	3	3	0	0
Night Girls	3	3	0	0
Penthouse Hong Kong	3	3	0	0
夜遊人	2	2	0	0
East Week	2	2	0	0
Girls	2	2	0	0
BEST	1	1	0	0
Yes!	1	1	0	0
日和 Girls — 無裳天使 3P	1	1	0	0
Sensual Unicorn	1	1	0	0
Night CAT	1	1	0	0
East Touch	1	1	0	0
Easy Finder	1	1	0	0
One Night Stand	1	1	0	0
Next Magazine (Taiwan Edition)	1	1	0	0
Escort Magazine	1	1	0	0
New Monday Magazine	1	1	0	0
電擊 HOBBY MAGAZINE 香港中文版	1	1	0	0
Lung Fu Pao	1	1	0	0
Total	32	32	0	0

## Annex 4

Information about Prosecutions made by the TELA  
against Newspapers and Magazines under the COIAO in 2003

<i>Newspapers and Magazines</i>	<i>Prosecutions</i>	<i>Convictions</i>	<i>Acquittals</i>	<i>Appeals against Conviction</i>
Next Magazine	3	2	0	0
夜遊人	2	2	0	0

<i>Newspapers and Magazines</i>	<i>Prosecutions</i>	<i>Convictions</i>	<i>Acquittals</i>	<i>Appeals against Conviction</i>
Easy Finder	2	2	0	0
Hong Kong Daily News	2	2	0	0
Hong Kong Night Life	2	2	0	0
HIM	1	1	0	0
Milk	1	1	0	0
The Sun	1	1	0	0
Night Girls	1	1	0	0
Beauty Express	1	1	0	0
One Night Stand	1	1	0	0
Next Magazine (Taiwan Edition)	1	1	0	0
Channel G	1	1	0	0
Open Magazine	1	1	0	0
Penthouse Hong Kong	1	1	0	0
Apple Daily	1	0	0	0
Total	22	20 <sup>Note</sup>	0	0

Note: Prosecutions and trials of the remaining two cases have not yet been completed.

## Annex 5

Information about Prosecutions made by the TELA  
against Newspapers and Magazines under the COIAO in 2002

<i>Newspapers and Magazines</i>	<i>Prosecutions</i>	<i>Convictions</i>	<i>Acquittals</i>	<i>Appeals against Conviction</i>
Apple Daily	10	10	0	0
夜遊人	10	10	0	0
Next Magazine (Taiwan Edition)	8	8	0	0
The Portland News	8	8	0	0
Cable Guide Weekly	8	8	0	0
My SexWalker	7	7	0	0
Penthouse Hong Kong	5	5	0	0
Easy Finder	4	4	0	0
Next Magazine	3	3	0	0

<i>Newspapers and Magazines</i>	<i>Prosecutions</i>	<i>Convictions</i>	<i>Acquittals</i>	<i>Appeals against Conviction</i>
Oriental Sunday	3	3	0	0
Lan Kwai Fong	2	2	0	0
Eat & Travel Weekly	2	2	0	0
One Night Stand	2	2	0	0
香港 97 美女攝影	2	2	0	0
指壓王	2	2	0	0
My SexWalker Special	2	2	0	0
全職蟹后	2	2	0	0
Sensual Unicorn	2	2	0	0
The Sun	2	2	0	0
Mini Girls	2	2	0	0
Hong Kong 97	2	2	0	0
爆漿娘	1	1	0	0
PC Game Weekly	1	1	0	0
Cover Girls	1	1	0	0
香港 97 夢幻女郎	1	1	0	0
Beauty Express	1	1	0	0
美女小便圖鑑大全	1	1	0	0
East Week	1	1	0	0
Oriental Daily News	1	1	0	0
East Touch	1	1	0	0
Sudden Weekly	1	1	0	0
大窄門	1	1	0	0
Teens Weekly	1	1	0	0
Three Weekly	1	1	0	0
Total	101	101	0	0

### **Appointment and Dismissal of President or Vice President of The Hong Kong Institute of Education**

15. **MS EMILY LAU** (in Chinese): *President, among the 25 incumbent members of the Council of The Hong Kong Institute of Education (HKIED), there are a total of seven "staff/student members": three were nominated by the Academic Board from among its number and appointed by the Council, three were elected from among their number by full-time teaching staff and administrative staff of equivalent rank or grade, and the remaining one is a full-time student of HKIED appointed by the Council. Under The Hong Kong*

*Institute of Education Ordinance (Cap. 444) (the Ordinance), HKIEd's appointment or dismissal of the President or a Vice President shall be effected by a resolution passed by not less than 2/3 of the members of the Council who are present at a meeting of the Council and competent to vote on the matter, and staff/student members shall not participate in any deliberation or vote on such matters. In this connection, will the executive authorities inform this Council:*

- (a) *whether the Ordinance will be amended to:*
  - (i) *avoid the situation where a candidate for the office of the President or a Vice President who is supported by a majority of the staff and students is not appointed because a few Council members from outside HKIEd do not support that candidate;*
  - (ii) *increase the number of Council members who are not appointed by the Chief Executive, so as to enhance the independence of the Council and improve the current situation that the majority of the Council members are appointed by the Chief Executive; and*
  - (iii) *allow staff/student members to participate in deliberation or vote on matters related to the appointment or dismissal of the President or a Vice President, or require the Council to take staff/student members' views into account when making a decision in this regard; and*
- (b) *whether they will consider requiring the Council of HKIEd to set more objective criteria for the appointment or dismissal of the President or a Vice President?*

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

- (a) HKIEd is an autonomous body governed by its own ordinance. The Council is empowered by law to appoint and remove the President and Vice Presidents. The institute can draw up its own procedures for the appointment of the President and Vice Presidents in accordance with the Ordinance. All Council members carry out their duties, including the appointment matters of the President and

Vice Presidents, in accordance with the ordinance and on the basis of the long-term needs and interests of the institution.

HKIED has ensured that students and staff have ample opportunities to express their views in the process of appointing the President and Vice Presidents. These include various forms of consultations, allowing candidates to meet with students and staff members, and presenting views of student and staff members to the Council for consideration. The Government has no intention to revise the Ordinance in this connection.

- (b) As a matter of principle, the Government respects the autonomy of HKIED, and will not interfere with HKIED's internal appointment matters. We trust that the Council will make appropriate decisions on the appointment or dismissal of the President and Vice Presidents, having regard to the long-term development and needs of HKIED.

### **Installation of Vapour Recovery Systems in Petrol Dispensers of Petrol Filling Stations**

16. **MISS CHOY SO-YUK** (in Chinese): *President, the Air Pollution Control (Petrol Filling Stations) (Vapour Recovery) Regulation (Cap. 311S) (the Regulation) requires petrol filling stations (PFSs) in existence on 31 March 2005 to install, by 31 March 2008, vapour recovery systems (recovery systems) in their petrol dispensers (including modifying the nozzles) to recover the petrol vapour displaced from the fuel tanks of vehicles when they are being refuelled and return it to the petrol storage tanks in the stations, so as to reduce the release of volatile organic compounds and carcinogenic benzene into the environment. The Government has recently requested the oil companies to accelerate the installation of the aforesaid recovery systems as far as possible. However, it has been reported that while one third of the 189 private PFSs have completed the installation works, only about 10% of the 85 government PFSs have done so. In this connection, will the Government inform this Council:*

- (a) *of the respective progress targets for installing the recovery systems in private and government PFSs, and whether there is any difference between the two; if so, of the reasons for that; if not, why the installation progress of government PFSs has lagged behind that of private PFSs;*

- (b) *whether it will speed up the pace of the installation projects in government PFSs; if so, of the relevant details and timetable; if not, the reasons for that; and*
- (c) *as it has been reported that the modified nozzles mentioned above are incompatible with the design of the fuel tanks of some old-model "parallel-imported" vehicles, whether the authorities will provide support to the vehicle owners concerned, such as providing guidelines on modification of fuel tanks; if so, of the details; if not, the reasons for that?*

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

(in Chinese): President, the Regulation requires all PFSs to complete the installation of recovery systems in their petrol dispensers by 31 March 2008. The retrofitting works for government PFSs are in steady progress. It is expected that at least about 30% of the government PFSs will have completed installing recovery systems by March this year and all government PFSs will complete the installation within the statutory deadline. The progress is, in fact, comparable to that of the private PFSs.

The neck of fuel tank of a very small number of old-model "parallel-imported" vehicles, which are not intended for importation into Hong Kong, may need to be modified to meet the local statutory requirements. Some reports show that the petrol pumps cannot be inserted completely into the fuel tank of certain modified "parallel-imported" vehicles and push open the valve inside the tank for refuelling. We have approached the oil companies and the vapour recovery system suppliers on this issue and learnt that staff of the PFSs can complete the refuelling process smoothly by making use of some simple methods, such as using simple tools to push open the valve. To spare new "parallel-imported" vehicles from the same problem, the Environmental Protection Department has informed motor trade associations and asked them to notify members to ensure that new "parallel-imported" vehicles are compatible with the new petrol pumps.

### **Safety of Systems Employing Electromagnetic Radiation**

17. **MR SIN CHUNG-KAI** (in Chinese): *President, given that a trade union has recently raised concerns about the impact of a system employing radio frequency identification technology on human health, will the Government inform this Council whether:*

- (a) *individual government departments and public organizations have assessed the possible impact on human health of various systems which employ electromagnetic radiation such as the e-Passport system, X-ray vehicle scanning systems before introducing such systems; if they have, of the assessment standards adopted; if they have not, the reasons for that;*
- (b) *safety standards or best practices have been formulated in respect of the working environment for systems which employ electromagnetic radiation to safeguard the health of workers; if so, of the relevant details; if not, the reasons for that; and*
- (c) *employers are required to provide sufficient training and issue working guidelines to the employees to ensure that they operate systems which employ electromagnetic radiation in a proper and safe manner; if so, of the relevant details; if not, the reasons for that?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): President, electromagnetic radiation systems are systems that employ electromagnetic waves as medium of operation. They are widely used in a number of areas such as communications, data transmission, security check and medical care. Electromagnetic radiation produced by these systems can be categorized as either ionizing radiation (such as X-ray systems) or non-ionizing radiation (such as radiocommunications systems, radio frequency identification systems, and so on).

At present, the import, export, possession and use of ionizing radiation systems are subject to licensing by the Radiation Board established under the Radiation Ordinance (Cap. 303), and the systems must comply with the safety standards prescribed in the Radiation Ordinance. Those safety standards are made with reference to the guidelines issued by the International Commission on Radiological Protection (ICRP) and the World Health Organization (WHO). Apart from serving as the licensing officer of the Radiation Board, the Department of Health (DH) also provides occupational and environmental radiation monitoring services. For non-ionizing radiation systems, the Office of the Telecommunications Authority (OFTA) has issued the Code of Practice for the Protection of Workers and Members of Public Against Non-Ionizing Radiation Hazards from Radio Transmitting Equipment (the CoP), developed with reference to the standards set by the International Commission on



Non-Ionizing Radiation Protection (ICNIRP), to provide safety guidelines for those who design and operate radio transmitting equipment.

Regarding the question asked by Mr SIN Chung-kai, my reply is as follows:

- (a) Before procuring systems which employ ionizing radiation, government departments will stipulate in the procurement contract that such systems should comply with the latest standards and recommendations on radiation protection laid down in the Radiation Ordinance and by the ICRP and the WHO. Upon installation, relevant departments will ensure that the radiation produced by such systems is within safety limits. We understand that public sector organizations (for example, the Hospital Authority, the Airport Authority, and so on) have adopted similar requirements. For non-ionizing radiation systems, government departments will draw reference to the safety standards laid down by the OFTA in its CoP or relevant reports or the relevant recommendations of international organizations when procuring such systems.
- (b) According to the Radiation Ordinance, the limit of the whole body radiation dose for a person undertaking radiation work is 20 mSv per year. The DH has drawn up a series of safety guidelines for reference by the officers-in-charge and personnel who actually use or operate the ionizing radiation systems. The OFTA has also prepared a CoP for those who design or operate radio transmitting equipment, giving them advice on safety management, performance specifications of radio equipment, design of radio sites, operation protection measures, and so on.
- (c) In accordance with the Occupational Safety and Health Ordinance (Cap. 509), employers who employ electromagnetic radiation systems in their workplaces must, so far as reasonably practicable, ensure the safety and health at work of their employees. To this end, employers must take appropriate safety measures, including the provision of the necessary information, instructions, training and supervision of their employees; the provision and maintenance of safe equipment and systems in workplace; the implementation of arrangements for ensuring the safe use of equipment; and the provision and maintenance of a safe working environment.

## Obstetrics and Gynaecology Services in Public Hospitals in Tseung Kwan O

18. **MR LAU KONG-WAH** (in Chinese): *President, regarding the obstetrics and gynaecology (O&G) services in public hospitals in Tseung Kwan O, will the Government inform this Council whether it knows:*

- (a) *the respective numbers, in each of the past three years, of babies born in Hong Kong whose parents' residential addresses were in Tseung Kwan O or other parts of Sai Kung;*
- (b) *which of the public hospitals in other districts are required to undertake extra work in providing O&G services for women residing in Tseung Kwan O, and the workload involved;*
- (c) *how the Hospital Authority (HA) assesses the need for additional O&G services in Tseung Kwan O, and the assessment criteria adopted; and*
- (d) *the costs of providing additional O&G services in Tseung Kwan O?*

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

- (a) According to the Census and Statistics Department (C&SD), the numbers of local new-born babies residing in Tseung Kwan O or Sai Kung between 2003 and 2005 are as follows:

	2003	2004	2005
Born in public hospitals	1 610	1 689	1 783
Born in private hospitals	798	780	859
Total:	2 408	2 469	2 642

Note: The relevant statistics for 2006 are being compiled.

- (b) The services of the HA are provided on a cluster basis. At present, hospitals under the Kowloon East Hospital Cluster (KE Cluster), namely United Christian Hospital (UCH), Tseung Kwan O Hospital (TKOH) and Haven of Hope Hospital (HHH), provide services for residents in East Kowloon, Tseung Kwan O and Sai Kung. The

scope of TKOH's services includes out-patient and in-patient services in gynaecology and out-patient antenatal care for pregnant women. In-patient obstetric services and neonatal intensive care services of the KE Cluster are converged in UCH, which is the largest hospital in the Cluster. The above organization of services is in line with the practice of other hospital clusters under the HA.

According to the HA's records, amongst the local new-born babies residing in Tseung Kwan O or Sai Kung who were delivered in public hospitals, about half of them (that is, between 850 and 900 per year) were delivered by UCH in the KE Cluster. The workload for the delivery of the remaining half was shared mainly by the Kowloon Central and Kowloon West Hospital Clusters. In fact, the Obstetric Department of UCH has sufficient capacity to handle all delivery cases of Tseung Kwan O and Sai Kung residents who choose to utilize the services of public hospitals. However, a fairly sizable number of residents have opted to make use of public hospitals in other clusters in recent years. The KE Cluster will continue to honour the HA's pledge that all local residents who make a booking for obstetric services with public hospitals would be arranged to receive the necessary antenatal care and in-patient services within their own hospital cluster.

As for gynaecological services, on the basis of statistics on the number of bed-days occupied, about 28% of women residing within the catchment area of the KE Cluster and making use of the HA's gynaecological services are utilizing such services from public hospitals outside the KE Cluster. This figure is similar to the overall ratio of cross-cluster utilization of gynaecological services by the HA's patients.

- (c) Pursuant to the benchmark laid down by the HA's internal expert committee, the HA should only consider the establishment of obstetric services at hospitals with at least 3 000 childbirths per year, so as to ensure that their health care personnel are sufficiently experienced to handle complications that may emerge in the labour process (such as dystocia). The HA has been closely monitoring the number of childbirths in Tseung Kwan O in its consideration of

the need to provide obstetric services in TKOH. However, considering that the number of new-born babies residing in Tseung Kwan O and Sai Kung and delivered in public hospitals has yet to reach the aforementioned benchmark, the HA does not have any plan at the present moment to establish obstetric services in TKOH.

To meet the service needs of the residents in its catchment area, the KE Cluster has already planned to open 20 more obstetric beds in UCH in the near future. The KE Cluster will closely monitor the situation of Tseung Kwan O and will make appropriate adjustments to its services, if necessary.

- (d) Since the HA does not have any plan to establish obstetric services in TKOH, it has not made any assessment on the resources that may be required.

### **Assistance to Hong Kong Permanent Residents Holding BN(O) Passports in Overseas Countries**

19. **MR ALBERT CHAN** (in Chinese): *President, recently, a member of the public told me that while on a business trip in Pakistan holding a British National (Overseas) passport (BN(O) passport), he was treated with violence and kidnapped by the local police. After several failed attempts to seek help from the local Chinese diplomatic and consular mission (CDCM), he sought help from the Government of the Hong Kong Special Administrative Region (SAR). However, the SAR Government only referred his case back to that CDCM, and no assistance was offered to him in the end. In this connection, will the Government inform this Council:*

- (a) *given that in her reply to a Member's question at the Council meeting on 25 October 2000, the then Secretary for Security said that Hong Kong residents of Chinese nationality holding BN(O) passports might approach the local CDCMs for assistance if they needed help when travelling abroad, and if the Immigration Department (ImmD) of the SAR received any request for assistance from BN(O) passport holders when travelling abroad or from their relatives in Hong Kong, the ImmD of the SAR would immediately liaise with the Office of the Commissioner of the Ministry of Foreign*

*Affairs of the People's Republic of China in the SAR (OCMFA) and the local CDCM for assistance, whether these arrangements still apply at present; if not, how the SAR Government will assist those Hong Kong permanent residents holding BN(O) passports who seek its help while they are abroad; and*

- (b) *how the SAR Government will assist Hong Kong permanent residents holding BN(O) passports who get into trouble when travelling abroad for pleasure or business, but are denied assistance by the CDCMs there?*

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

- (a) As pointed out by the Government in the reply to a Member's question at the Council meeting on 25 October 2000, Hong Kong residents of Chinese nationality holding BN(O) passports might approach the local Chinese Embassies/Consulates for assistance if they needed help when travelling abroad, and if the ImmD of the SAR received any request for assistance from BN(O) passport holders when travelling abroad or from their relatives in Hong Kong, the Department would immediately liaise with the OCMFA and the local Chinese Embassies/Consulates for assistance. These arrangements still apply today; and
- (b) Hong Kong residents of Chinese nationality if in distress when travelling abroad, whether they are holding travel documents issued by the SAR Government or BN(O) passports, may approach the local Chinese Embassies/Consulates for assistance. The Chinese Embassies/Consulates will not refuse to process such requests for assistance and will provide all practicable assistance according to the situation of individual cases.

The Government attaches great importance to the provision of assistance to Hong Kong residents in distress when they are travelling abroad, including those using BN(O) passports as travel documents. In this respect, the Government closely liaises and co-operates with the OCMFA, overseas Chinese Embassies/Consulates, Consulates-General of foreign countries in

Hong Kong and other relevant government departments and organizations, with a view to providing early and practicable assistance to the Hong Kong residents, such as contacting their relatives, assisting their return to Hong Kong, liaising with the local authorities, and so on.

### **Providing Employment Assistance to Local Women**

20. **MR FREDERICK FUNG** (in Chinese): *President, regarding the employment situation of women in Hong Kong and the assistance provided to them by the Government, will the Government inform this Council:*

- (a) *of the respective current average monthly and hourly wages for male and female employees, the number of women who have not taken up employment due to childbirth or the need to take care of their children and the percentage of the female workforce that number equals to, the number of full-time or part-time female employees in managerial positions and its percentage in the total number of managerial employees, the trades and industries in which the jobs are mostly taken up by men, the number of female employees in such trades and industries and its percentage in the total number of employees therein;*
- (b) *given that in its research report published last year, the Women and Work Commission in the United Kingdom pointed out that helping women participate in the labour market could bring an additional £15 billion to £23 billion a year to the United Kingdom economy, and the report also pointed out that unequal treatment for men and women continued to exist at work and analysed the reasons behind that, whether the Government has conducted a similar research; if so, of the details and findings of the research (including the economic benefits for Hong Kong of helping women participate in the labour market); if not, the reasons for that; and*
- (c) *given that in response to the above research report, the United Kingdom Government has implemented a number of measures, such as providing women with job sharing information through online registers, recruiting women for managerial positions through*

*mentoring schemes, offering female apprenticeship schemes in engineering and construction industries, establishing a fund to help employers recruit consultants to create more senior part-time posts for women, as well as allocating funds to train women for jobs traditionally undertaken by men, whether the Government will follow the United Kingdom's example by launching similar measures to encourage women who are willing to take up employment after childbirth to return to the labour market, taking the lead in recruiting women for managerial positions and creating more part-time senior posts for women, as well as encouraging and assisting women to join those trades and industries which are currently dominated by men (for example, by requesting the Vocational Training Council (VTC) or the Employees Retraining Board to organize apprenticeship programmes or retraining courses tailor-made for women in these sectors and trades); if it will, of the details of the relevant measures?*

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

- (a) According to the results of the General Household Survey (GHS) conducted by the Census and Statistics Department (C&SD), statistics on median monthly employment earnings of employees (excluding foreign domestic helpers), female employees in managerial positions and participation of female employees in various industries are as follows:

	<i>Median monthly employment earnings of employees (excluding foreign domestic helpers), Fourth Quarter (Q4) 2006</i>
Male	\$11,000
Female	\$9,000
Total	\$10,500

(Note: Figures presented in the above table are statistics which involve the use of the population figures in the compilation process. They have been revised to take into account the recent enhancements in the estimation method and the results of the 2006 Population By-census which provided a benchmark for revising the population figures compiled since the 2001 Population Census.)

Number of employees (excluding foreign domestic helpers) by occupation, sex and working hours, Q4 2006

Occupation	Male						Female						Both sexes					
	Whether working less than 35 hours				Total		Whether working less than 35 hours				Total		Whether working less than 35 hours				Total	
	Yes		No				Yes		No				Yes		No			
	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%
Managers and administrators	7.2	2.9	146.5	59.9	153.8	62.8	5.7	2.3	85.3	34.9	91.1	37.2	12.9	5.3	231.9	94.7	244.8	100.0
Professionals	10.8	5.2	122.6	58.6	133.4	63.8	7.5	3.6	68.4	32.7	75.8	36.2	18.2	8.7	191.0	91.3	209.2	100.0
Associate professionals	20.7	3.7	279.5	49.6	300.1	53.6	29.1	5.2	230.3	41.2	259.4	46.6	49.7	8.9	509.8	91.1	559.5	100.0
Other occupations	94.8	5.2	878.3	47.8	973.1	53.0	137.1	7.5	727.5	39.6	864.6	47.0	231.9	12.6	1 605.8	87.4	1 837.7	100.0
Total	133.4	4.7	1 426.9	50.0	1 560.3	54.7	179.4	6.3	1 111.6	39.0	1 290.9	45.3	312.8	11.0	2 538.5	89.0	2 851.3	100.0

(Note: Figure in the % column indicates the percentage out of the total of the corresponding occupation. Figures may not add up to total due to rounding. Figures presented in the above table are statistics which involve the use of the population figures in the compilation process. They have been revised to take into account the recent enhancements in the estimation method and the results of the 2006 Population By-census. Other occupations include clerks, service workers and shop sales workers, craft and related workers, plant and machine operators and assemblers as well as elementary occupations, and so on.)



Number of employees (excluding foreign domestic helpers) by industry, sex and working hours, Q4 2006

Industry	Male						Female						Both sexes					
	Whether working less than 35 hours				Total		Whether working less than 35 hours				Total		Whether working less than 35 hours				Total	
	Yes		No				Yes		No				Yes		No			
	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%	Number ('000)	%		
Manufacturing	5.8	3.0	116.8	60.1	122.6	63.1	11.6	5.9	60.2	31.0	71.8	36.9	17.4	8.9	177.0	91.1	194.4	100.0
Construction	38.4	16.4	179.4	76.4	217.8	92.8	3.5	1.5	13.4	5.7	16.9	7.2	41.9	17.9	192.8	82.1	234.7	100.0
Wholesale, retail and import/export trades, restaurants and hotels	28.8	3.0	413.9	42.5	442.6	45.4	63.1	6.5	468.4	48.1	531.5	54.6	91.9	9.4	882.3	90.6	974.2	100.0
Transport, storage and communications	18.1	6.0	204.7	67.6	222.8	73.6	10.7	3.5	69.2	22.9	79.9	26.4	28.8	9.5	273.9	90.5	302.7	100.0
Financing, insurance, real estate and business services	16.6	3.4	263.3	53.6	279.8	56.9	22.0	4.5	189.6	38.6	211.6	43.1	38.6	7.9	452.8	92.1	491.4	100.0
Community, social and personal services	24.9	3.9	236.5	37.1	261.4	41.0	68.2	10.7	307.9	48.3	376.1	59.0	93.1	14.6	544.4	85.4	637.5	100.0
Other industries	*	*	12.4	75.0	13.3	80.7	*	*	2.9	17.3	3.2	19.3	*	*	15.2	92.4	16.5	100.0
Total	133.4	4.7	1 426.9	50.0	1 560.3	54.7	179.4	6.3	1 111.6	39.0	1 290.9	45.3	312.8	11.0	2 538.5	89.0	2 851.3	100.0

(Note: Figure in the % column indicates the percentage out of the total of the corresponding industry. Figures may not add up to total due to rounding. The cells marked with \* mean that the figures involved are compiled based on a small number of observations and are not released due to large sampling error. Figures presented in the above table are statistics which involve the use of the population figures in the compilation process. They have been revised to take into account the recent enhancements in the estimation method and the results of the 2006 Population By-census.)

The GHS could not provide statistical information on the average hourly wages of male and female employees. With respect to females not joining the labour market due to childbirth or the need to take care of children, please refer to part (b) of this reply.

- (b) An enquiry on the desire of economically inactive persons for taking up jobs if being offered suitable employment was conducted via the GHS by the C&SD in Q4 2004. The purpose was to collect information on persons aged 15 and over who were economically inactive<sup>1</sup> at the time of enumeration but were willing to take up jobs if being offered suitable employment. Information on their past working experience and their expectations in respect of the desired job was collected so as to assess the likelihood of their entering/re-entering the labour force as a source of the potential labour supply, even though they were economically inactive at the time of enumeration for one reason or another. Detailed survey findings were published in the "Special Topics Report No. 41".

In Q4 2004, some 214 900 persons aged 15 and over were economically inactive at the time of enumeration but were willing to take up jobs if being offered suitable employment. They represented around 10% of the total economically inactive population aged 15 and over. Of those 214 900 economically inactive persons, three quarters (or 161 400 persons) were females. The most commonly cited reason for these 160 000 females being economically inactive was "took care of housework/took care of children, elderly, disabled or sick members at home" (cited by 68.0%). This was followed by "wanted to take rest/no motive to work/no financial need" (8.7%) and "retirement/old age" (8.1%). Although these 160 000 females had work desire, they were willing to take up work only if certain conditions were fulfilled. The three main considerations of these 160 000 females in taking up jobs were, in descending order of popularity, "flexible/convenient working hours" (cited by 41%), "high/reasonable salary" (20%) and "work place near home" (14%).

In respect of the economic benefits brought by assisting women in joining the labour market, the Government has always been aware

<sup>1</sup> Referred to persons who have not had a job and have not been at work during the seven days before enumeration, excluding persons who have been on leave/holiday during the seven-day period and persons who are unemployed. Persons such as home-makers, and retired persons are thus included.

of the general rise in education level of women as a result of social progress and increasing equality between the sexes. The role played by women in the labour market has also become increasingly important. Despite the lack of detailed assessment of such relevant economic benefits, figures do clearly show that the contribution of women to the local labour market has been on the increase. Among the female labour force (excluding foreign domestic helpers) in Q4 2006, 21.9% of women were degree-holders (19.6% for males), markedly up from that of 11.2% 10 years ago (12.4% for males), and also exceeding the corresponding proportion of male labour. Coupled with sustained economic growth and the increase in employment opportunities, the labour force participation rate of women has increased notably from 45.0% to 49.7%, and the proportion of women in the total labour force has also risen from 36.6% to 42.3%. In terms of occupation categories, the proportion of female employed persons engaged as managers and administrators has also significantly increased from 19.5% to 31.0%.

Since Hong Kong is facing the challenge of an ageing population, with more women entering the labour market, the pressure on local human resources caused by the ageing population in future can be partly alleviated. In the long run, this is also conducive to sustaining Hong Kong's growth impetus and reinforcing the overall economic benefits.

- (c) The Social Welfare Department (SWD) provides, through non-governmental organizations (NGOs), a wide range of child care services and Occasional Child Care Service, as well as Extended Hours Service, to needy families with children under the age of six. To provide more flexible day child care services to needy families, the SWD is now actively considering extending the day foster care service, launching the day small group home service and subsidizing Mutual Help Child Care Centre services in 2007-2008. Separately, NGOs also operate half-day supportive After School Care Programme for children aged six to 12, whose parents are unable to provide care for them after school as a result of work or other reasons. Families in financial difficulties and with social needs, such as dual working families, may apply for fee waiving from the Government. These services will help women re-enter the labour market after childbirth.

As an equal opportunities employer, the Government is committed to eliminating all forms of discrimination in employment, including discrimination in terms of sex, marital status, pregnancy and family status. As regards the employment of women to take up supervisory positions in the Government, promotion is the usual means for filling vacancies in higher ranks, that is, by selecting officers in the same grade on the criteria of character, ability, experience and any qualifications prescribed for the higher rank. Female officers now constitute around 30% of the directorate in the Civil Service.

Besides, the Labour Department (LD) has been promoting "employee-oriented" good people management practices among employers. Apart from discharging their duties at work, employees, regardless of gender or post, have to perform various family roles and responsibilities. As such, the LD actively encourages employers to care for the family needs of their employees through frank and direct communication, thereby devising and implementing suitable family-friendly employment practices that can help employees balance their work commitment and family responsibilities.

The LD is also committed to helping job-seekers, including women seeking to take up employment after giving births, find suitable jobs. Through a network of 12 Job Centres, the LD provides a comprehensive range of employment assistance and counselling services for job-seekers. Job-seekers, including women who need to take care of their families, may also make use of the Interactive Employment Service (iES) website to register for employment services and browse up-to-date information on employment and vacancies. Job referrals can also be secured through the Telephone Employment Service hotline.

The Government has been actively promoting the concept of lifelong learning in the community and has launched a wide range of education and training schemes or programmes aiming at enhancing the employability and competitiveness of the local workforce. Female applicants may enrol in the various programmes provided by the VTC and the Employees Retraining Board which offer equal access and opportunities. As a matter of fact, some courses offered by the abovementioned training institutions are relatively

better received by female learners (for example, courses in child education and community services, design, hospitality and tourism, domestic helping services and health care massage). Female learners may also apply for the Apprenticeship Scheme run by the VTC (among which the Jewellery and Printing trades are more popular among female learners). As regards some of the courses which are traditionally better received by male learners (for example, courses in security and property management as well as mechanical, manufacturing and industrial engineering), there is a trend of increase in the percentage of female learners.

## **BILLS**

### **First Reading of Bills**

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

### **MAINLAND JUDGMENTS (RECIPROCAL ENFORCEMENT) BILL**

**CLERK** (in Cantonese): Mainland Judgments (Reciprocal Enforcement) Bill.

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

### **Second Reading of Bills**

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

### **MAINLAND JUDGMENTS (RECIPROCAL ENFORCEMENT) BILL**

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, I move that the Mainland Judgments (Reciprocal Enforcement) Bill (the Bill) be read a Second time.

The Bill is to implement the Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region Pursuant to

Choice of Court Agreements between Parties Concerned (hereafter referred to as "the Arrangement" in view of long name) signed between the Department of Justice and the Supreme People's Court in the Mainland on 14 July 2006.

It has always been the case that judgements given by mainland Courts requiring payment of money could only be recognized and enforced in Hong Kong by beginning a new action in debt at common law. Since Hong Kong and the Mainland each has its own legal system and adopts different legal principles, such proceedings are often time-consuming and involve high legal costs. Due to the increased volume of economic activities between Hong Kong and the Mainland, the Administration conducted a consultation exercise in 2002 on the need for reciprocal enforcement of court judgements with the Mainland. Having consulted the Panel on Administration of Justice and Legal Services of this Council, the legal professional bodies, chambers of commerce and trade associations, and after detailed discussion with the mainland authorities, the Arrangement was signed.

Pursuant to the Arrangement, the Bill establishes a new mechanism for the enforcement in a summary way in Hong Kong of judgements given by mainland Courts. I trust that the implementation of the new mechanism will benefit members of the business community who are doing business with the Mainland, and will be conducive to Hong Kong's development as a centre for the resolution of commercial disputes involving mainland parties.

When discussing the details of the Arrangement with the mainland authorities, reference have been made to the existing Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap. 319), which provides for the reciprocal enforcement of judgements between Hong Kong and certain specified foreign jurisdictions. The drafting of the Bill is modelled on the Ordinance.

The Bill is based on the relevant provisions of the Arrangement. It is only applicable to money judgements on disputes arising from commercial contracts where the parties concerned, on the basis of freedom of contract, have made an agreement in writing in which a Court of the Mainland or a Court of Hong Kong is expressly designated as the Court to have sole jurisdiction for resolving the relevant dispute. The Bill provides that a "choice of Hong Kong court agreement" or a "choice of mainland court agreement" is one in connection with a contract other than an employment contract or a contract to which a natural person acting for personal consumption, family or other non-commercial purposes is a party. A choice of court agreement refers to an agreement made on or after the date of commencement of the Bill.

Moreover, the mainland judgements to which this Bill applies are restricted to those made by a "designated Court", namely the Supreme People's Court, a Higher People's Court, an Intermediate People's Court or a Basic People's Court which has been authorized to exercise jurisdiction in civil and commercial cases involving foreign parties.

Registration of a mainland judgement is conditional upon proof, to the satisfaction of the Court of First Instance of Hong Kong, that the judgement satisfies certain specified conditions. One condition is that the mainland judgement is final and conclusive. In view of the retrial system in the Mainland, the Bill also provides that a judgement given in a retrial is final and conclusive only if it is given in a retrial by a People's Court of a level higher than the original Court (unless the original Court is the Supreme People's Court).

Application to the Court of First Instance of Hong Kong for the registration of a mainland judgement must be supported by a certificate issued by the original mainland Court certifying that the judgement is final and enforceable in the Mainland. It is believed that the issues concerning the finality and enforceability of mainland judgements will be effectively dealt with under these provisions.

In addition, provisions are included in the Bill to deal with cases where only some provisions in a mainland judgement are registrable, where the judgement is partly satisfied or where the mainland judgement is required to be performed in stages.

The Bill provides that a registered mainland judgement shall have the same force and effect as if the judgement had been originally given in the Court of First Instance of Hong Kong. It prohibits any action to be taken to enforce a registered judgement until the time limit for application to set aside the registration has expired or the application to set aside has been disposed of.

For cases in which the Court of First Instance shall set aside the registration of a mainland judgement, the provisions are generally modelled on the grounds for setting aside the registration of a foreign judgement under the Foreign Judgments (Reciprocal Enforcement) Ordinance.

The Bill also provides for cases in which the Court of First Instance may, at its discretion, order that the registration be set aside on certain grounds,

including that a party has proved that an appeal against the judgement is pending or the case is ordered to be retried by a competent mainland Court.

In order to facilitate the application for the enforcement of Hong Kong judgements in the Mainland by judgement creditors, the Bill provides for the powers of the High Court to issue a certified copy of the judgements given by the Court of Final Appeal or the High Court and further for the powers of the District Court to issue a certified copy of its judgements.

The Bill also proposes to amend the Rules of the High Court (Cap. 4 sub. leg. A) to provide for the procedures relating to an application for registration of mainland judgements. Technical amendments to the Rules of the District Court (Cap. 336 sub. leg. H) are also proposed accordingly.

In the course of drafting the Bill, the Administration has given due consideration to the similarities and differences in the legislation and legal systems of the two jurisdictions. Except for those relating to the laws and legal procedures of the Mainland, the wording used in the Bill to express legal notions is generally consistent with that in the existing legislation of Hong Kong. For instance, the grounds of refusal to register a mainland judgement is expressed as "grounds to set aside" a registration in the Bill for the reason that, following the registration scheme in the Foreign Judgments (Reciprocal Enforcement) Ordinance, a mainland judgement shall first be registered in the Court of First Instance but with the right reserved for a judgement debtor to apply to have the registration set aside.

Madam President, the Bill will set a milestone in the mutual legal assistance in civil and commercial matters between the Mainland and Hong Kong and will be conducive to Hong Kong's development as a centre for commercial dispute resolution in the Asia-Pacific Region. I commend the Bill to Honourable Members for early passage into law so that the Arrangement can be implemented at an early date.

I commend the Bill to the Legislative Council. Thank you.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Mainland Judgments (Reciprocal Enforcement) Bill be read the Second time.

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



**MOTIONS**

**PRESIDENT** (in Cantonese): Motions. Proposed resolution under the Public Finance Ordinance.

**PROPOSED RESOLUTION UNDER THE PUBLIC FINANCE ORDINANCE**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I move that the motion standing in my name on the Agenda be passed.

The purpose of this motion is to seek funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 2007 and the enactment of the Appropriation Ordinance 2007. This follows the procedure long established in this Council.

We have determined the funds on account sought under each subhead in accordance with the fourth paragraph of the resolution, by reference to percentages of the provision shown in the 2007-2008 Estimates of Expenditure. If, prior to the enactment of the Appropriation Ordinance 2007, the Estimates are changed by the Finance Committee or officers under delegated authority, the funds on account for the relevant heads will also change accordingly. In any case, the aggregate total under all heads is \$55,269,264,000 and cannot be exceeded without the approval of this Council. The initial amount of funds on account under each head is provided in the form of a footnote to this speech.

The resolution also enables the Financial Secretary to vary the funds on account in respect of any subhead, provided that these variations do not cause an excess over the amount of provision entered for that subhead in the 2007-2008 Estimates of Expenditure or the amount of funds on account for the relevant head.

The vote on account will be subsumed upon the enactment of the Appropriation Ordinance 2007.

Madam President, I beg to move.

## Footnote

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of funds on account \$'000</i>
21 Chief Executive's Office .....	74,629	14,926
22 Agriculture, Fisheries and Conservation Department .....	1,439,358	804,455
25 Architectural Services Department .....	1,361,087	272,218
24 Audit Commission .....	113,092	22,619
23 Auxiliary Medical Service .....	59,227	11,846
82 Buildings Department.....	775,737	158,153
26 Census and Statistics Department.....	475,211	95,043
27 Civil Aid Service .....	73,739	14,748
28 Civil Aviation Department.....	626,432	125,287
33 Civil Engineering and Development Department ....	1,306,412	261,956
30 Correctional Services Department.....	2,415,644	505,407
31 Customs and Excise Department.....	2,127,362	435,723
37 Department of Health.....	3,077,573	714,507
92 Department of Justice.....	906,630	188,876
39 Drainage Services Department .....	1,585,648	335,275
42 Electrical and Mechanical Services Department .....	287,276	118,364
44 Environmental Protection Department.....	2,757,857	1,122,893
45 Fire Services Department .....	3,118,259	719,172
49 Food and Environmental Hygiene Department .....	4,077,004	843,105
46 General Expenses of the Civil Service.....	3,690,660	935,959
166 Government Flying Service.....	235,108	113,204
48 Government Laboratory .....	286,282	91,535
59 Government Logistics Department .....	419,644	159,129
51 Government Property Agency.....	1,795,517	374,126
35 Government Secretariat: Beijing Office .....	53,029	11,064
143 Government Secretariat: Civil Service Bureau .....	396,685	83,655
152 Government Secretariat: Commerce, Industry and Technology Bureau (Commerce and Industry Branch).....	523,923	117,156
55 Government Secretariat: Commerce, Industry and Technology Bureau (Communications and Technology Branch) .....	63,594	12,978

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of funds on account \$'000</i>
144 Government Secretariat: Constitutional Affairs Bureau .....	123,349	24,670
145 Government Secretariat: Economic Development and Labour Bureau (Economic Development Branch) ...	729,662	161,068
156 Government Secretariat: Education and Manpower Bureau .....	35,799,128	8,217,064
158 Government Secretariat: Environment, Transport and Works Bureau (Transport Branch) .....	71,832	14,876
159 Government Secretariat: Environment, Transport and Works Bureau (Works Branch).....	190,984	39,056
148 Government Secretariat: Financial Services and the Treasury Bureau (Financial Services Branch).....	123,757	27,513
147 Government Secretariat: Financial Services and the Treasury Bureau (The Treasury Branch).....	184,560	36,912
139 Government Secretariat: Health, Welfare and Food Bureau (Food and Environmental Hygiene Branch) ..	89,934	17,987
140 Government Secretariat: Health, Welfare and Food Bureau (Health and Welfare Branch) .....	29,124,646	6,413,140
53 Government Secretariat: Home Affairs Bureau .....	1,057,019	228,897
138 Government Secretariat: Housing, Planning and Lands Bureau (Planning and Lands Branch).....	85,417	17,084
155 Government Secretariat: Innovation and Technology Commission.....	464,046	135,554
47 Government Secretariat: Office of the Government Chief Information Officer .....	564,033	113,807
142 Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary .....	595,274	133,058
96 Government Secretariat: Overseas Economic and Trade Offices .....	302,090	68,482
151 Government Secretariat: Security Bureau.....	131,732	26,347
60 Highways Department.....	2,007,163	401,673
63 Home Affairs Department .....	1,355,286	320,734
168 Hong Kong Observatory .....	195,204	40,801
122 Hong Kong Police Force .....	11,353,238	2,476,522

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of funds on account \$'000</i>
62 Housing Department .....	116,736	23,348
70 Immigration Department .....	2,601,182	529,696
72 Independent Commission Against Corruption .....	701,247	140,250
121 Independent Police Complaints Council .....	13,557	2,712
74 Information Services Department.....	347,918	69,584
76 Inland Revenue Department .....	1,179,031	235,807
78 Intellectual Property Department .....	86,951	17,915
79 Invest Hong Kong .....	107,151	55,431
174 Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service .....	13,446	2,690
80 Judiciary .....	995,591	217,617
90 Labour Department .....	972,442	278,617
91 Lands Department .....	1,635,797	333,178
94 Legal Aid Department .....	722,540	144,508
112 Legislative Council Commission.....	351,893	75,609
95 Leisure and Cultural Services Department .....	4,914,196	1,072,860
100 Marine Department .....	896,832	201,266
106 Miscellaneous Services .....	9,625,442	6,207,544
114 Office of The Ombudsman.....	81,612	16,355
116 Official Receiver's Office .....	132,287	30,243
120 Pensions.....	15,040,411	3,026,496
118 Planning Department .....	436,336	103,720
136 Public Service Commission.....	15,216	3,044
160 Radio Television Hong Kong.....	456,081	110,073
162 Rating and Valuation Department .....	361,433	72,927
163 Registration and Electoral Office .....	230,058	46,012
169 Secretariat, Commissioner on Interception of Communications and Surveillance.....	11,092	2,219
170 Social Welfare Department .....	34,089,366	8,058,608
173 Student Financial Assistance Agency .....	3,758,681	1,141,079
180 Television and Entertainment Licensing Authority ..	95,428	26,141
181 Trade and Industry Department .....	490,627	286,147
186 Transport Department .....	947,050	223,326

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of funds on account \$'000</i>
188 Treasury .....	322,808	64,928
190 University Grants Committee .....	11,170,250	2,237,990
194 Water Supplies Department .....	5,079,074	1,015,900
	<hr/>	<hr/>
	216,670,735	53,652,464
184 Transfers to Funds .....	1,616,800	1,616,800
	<hr/>	<hr/>
Total .....	218,287,535	55,269,264
	=====	=====

**The Secretary for Financial Services and the Treasury moved the following motion:**

"RESOLVED that —

1. Authority is hereby given for a sum not exceeding \$55,269,264,000 to be charged on the general revenue for expenditure on the services of the Government in respect of the financial year commencing on 1 April 2007.
2. Subject to this Resolution, the sum so charged may be expended against the heads of expenditure as shown in the Estimates of Expenditure 2007-08 laid before the Legislative Council on 28 February 2007 or, where the Estimates are changed under the provisions of the Public Finance Ordinance (Cap. 2) as applied by section 7(2) of that Ordinance, as shown in the Estimates as so changed.
3. Expenditure in respect of any head of expenditure shall not exceed the aggregate of the amounts authorized by paragraph 4 to be expended in respect of the subheads in that head of expenditure.
4. Expenditure in respect of each subhead in a head of expenditure shall not exceed —

- (a) in the case of an Operating Account Recurrent subhead of expenditure, an amount equivalent to —
- (i) except where the subhead is listed in the Schedule to this Resolution, 20% of the provision shown in the Estimates in respect of that subhead;
- (ii) where the subhead is listed in the Schedule to this Resolution, the percentage of the provision shown in the Estimates in respect of that subhead that is specified in the Schedule in relation to that subhead; and
- (b) in the case of an Operating Account Non-Recurrent subhead of expenditure or Capital Account subhead of expenditure, an amount equivalent to 100% of the provision shown in the Estimates in respect of that subhead,

or such other amount, not exceeding an amount equivalent to 100% of the provision shown in the Estimates in respect of that subhead, as may in any case be approved by the Financial Secretary.

## SCHEDULE

[para. 4]

	<i>Head of Expenditure</i>		<i>Subhead</i>	<i>Percentage of provision shown in Estimates</i>
46	General Expenses of the Civil Service	013	Personal allowances	40
90	Labour Department	280	Contribution to the Occupational Safety and Health Council	30
		295	Contribution to the Occupational Deafness Compensation Board	30
92	Department of Justice	234	Court costs	25

	<i>Head of Expenditure</i>		<i>Subhead</i>	<i>Percentage of provision shown in Estimates</i>
106	Miscellaneous Services	163	Write-offs	50
		192	Refunds of revenue	100
		284	Compensation	30
120	Pensions	021	Ex gratia pensions, awards and allowances	50
		026	Employees' compensation, injury, incapacity and death related payments and expenses	50
170	Social Welfare Department	157	Assistance for patients and their families	100
		176	Criminal and law enforcement injuries compensation	25
		177	Emergency relief	100
		179	Comprehensive social security assistance scheme	25
		180	Social security allowance scheme	25"

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury 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 and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) Regulation 2007 and the Poisons List (Amendment) Regulation 2007.

### **PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE**

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I move that the motion under my name, as printed on the Agenda, be passed.

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

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, dentist or a veterinary surgeon.

Arising from nine applications for registration of pharmaceutical products, the Pharmacy and Poisons Board (the Board) proposes to add nine substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations. Pharmaceutical products containing any of these



substances must then be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

We propose that these Amendment Regulations take immediate effect upon gazettal on 9 March 2007 to allow early control and sale of the relevant medicines.

The two Amendment Regulations are made by the Board, which is a statutory authority established under the Ordinance to regulate the registration and control of pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side effects of the medicines concerned.

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

Poisons List (Amendment) Regulation 2007  
Pharmacy and Poisons (Amendment) Regulation 2007  
Supplementary Information to the Legislative Council

<i>Drug Name</i>	<i>Proposed Classification</i>	<i>Reason</i>
In the item relating to "Antisera, antitoxins, immunoglobulins and vaccines" by adding "Herpes zoster"	Part I, First and Third Schedules poison	Indicated for the prevention of herpes zoster (shingles), for prevention of postherpetic neuralgia (PHN) and for reduction of acute and chronic zoster-associated pain in individuals not less than 60 years old.  The use should be decided by a doctor.
Azacitidine; its salts	Part I, First and Third Schedules poison	Indicated for treatment of patients with the following myelodysplastic syndrome subtypes: refractory anemia or refractory anemia with ringed sideroblasts (if accompanied by neutropenia or thrombocytopenia or requiring transfusions), refractory anemia with excess blasts, refractory

<i>Drug Name</i>	<i>Proposed Classification</i>	<i>Reason</i>
		<p>anemia with excess blasts in transformation, and chronic myelomonocytic leukemia.</p> <p>The use should be decided and monitored by a doctor.</p>
Darifenacin; its salts	Part I, First and Third Schedules poison	<p>Indicated for the symptomatic treatment of urge incontinence and/or increased urinary frequency and urgency as may occur in patients with overactive bladder syndrome.</p> <p>Its use should be decided by a doctor when the need is confirmed.</p>
Ivabradine; its salts	Part I, First and Third Schedules poison	<p>Symptomatic treatment of chronic stable angina pectoris in patients with normal sinus rhythm, who have a contra-indication or intolerance for beta-blockers.</p> <p>The use should be decided and monitored by a doctor.</p>
Rimonabant; its salts	Part I, First and Third Schedules poison	<p>As an adjunct to diet and exercise for the treatment of obese patients (BMI <math>\geq 30</math> kg/m<sup>2</sup>), or overweight patients (BMI <math>&gt; 27</math> kg/m<sup>2</sup>) with associated risk factor(s), such as type 2 diabetes or dyslipidaemia.</p> <p>Its use should be decided by a doctor when the need is confirmed.</p>
Rotigotine; its salts	Part I, First and Third Schedules poison	<p>Indicated for the treatment of the signs and symptoms of early-stage idiopathic Parkinson's disease as monotherapy (that is, without levodopa). The use should be decided by a doctor.</p>

<i>Drug Name</i>	<i>Proposed Classification</i>	<i>Reason</i>
Sorafenib; its salts	Part I, First and Third Schedules poison	Indicated for the treatment of patients with advanced renal cell carcinoma. The use should be decided and monitored by a doctor.
Sunitinib; its salts; their salts	Part I, First and Third Schedules poison	<p>It is indicated for the treatment of gastrointestinal stromal tumour (GIST) after disease progression on or intolerance to imatinib mesylate.</p> <p>It is also indicated for the treatment of advanced renal cell carcinoma (RCC). Approval for advanced renal cell carcinoma is based on partial response rates or duration of responses. There are no randomized trials of Sunitinib demonstrating clinical benefit such as increased survival or improvement in disease-related symptoms in renal carcinoma.</p> <p>The use should be decided and monitored by a doctor.</p>
Varenicline; its salts	Part I, First and Third Schedules poison	Indicated as aids to smoking cessation treatment. The use should be decided by a doctor.

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

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 9 February 2007, be approved —

- (a) the Pharmacy and Poisons (Amendment) Regulation 2007; and
- (b) the Poisons List (Amendment) Regulation 2007."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance in relation to extending the period for amending the Road Traffic (Traffic Control) (Amendment) Regulation 2007.

## **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

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

At the House Committee meeting on 23 February 2007, Members agreed to set up a Subcommittee for the purpose of studying the Road Traffic (Traffic

Control) (Amendment) Regulation 2007. To allow sufficient time for the Subcommittee to work and to report the outcome of its deliberations to the House Committee, I in my capacity as Chairman of the Subcommittee move that the period for scrutinizing the subsidiary legislation be extended to 28 March.

Madam President, I urge Members to support the motion.

**Mr WONG Kwok-hing moved the following motion:**

"RESOLVED that in relation to the Road Traffic (Traffic Control) (Amendment) Regulation 2007, published in the Gazette as Legal Notice No. 16 of 2007 and laid on the table of the Legislative Council on 7 February 2007, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 28 March 2007."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by

functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

**PRESIDENT** (in Cantonese): Two motions with no legislative effect.

First motion: Creating job opportunities and improving the income of elementary workers.

### **CREATING JOB OPPORTUNITIES AND IMPROVING THE INCOME OF ELEMENTARY WORKERS**

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, I noticed that you had to use a cane when you came in. Are you able to stand when delivering your speech? If you find it impossible .....

**MISS CHAN YUEN-HAN** (in Cantonese): Thank you, President. I have put on a girdle, so I can stand while I speak. Thanks.

**PRESIDENT** (in Cantonese): Good. Miss CHAN Yuen-han, please proceed.

**MISS CHAN YUEN-HAN** (in Cantonese): Thank you for your concern, Madam President.

I am moving this motion today on behalf of hundreds of thousands of "wage earners" who, though working hard, receive meagre incomes.

In Hong Kong, there are indeed more than 300 000 elementary workers each earning a few thousand dollars a month. The Gini Coefficient in Hong Kong keeps rising. Even though the Gini Coefficient to be revealed by the 2006 Population By-census has yet to be released, many people's forecast is that it will keep on rising.

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

In the face of such a situation, we have been asking the Government to face up to the issue that the polarization of workers' income has led to the widening of the disparity between the rich and the poor. However, the grassroots' concern and aspiration receive no acknowledgement from the Government. Apart from making no efforts to find ways to help the poor, the Government, paradoxically, tries very hard to prove that there are not too many working poor in a bid to cover up the issue. The Government Economist recently wrote a lengthy article of several thousand words to explain why the Gini Coefficient should not be used as the yardstick to gauge the disparity between the rich and the poor in Hong Kong. I felt very angry after reading the article. Why is our Government spending so much effort and time to cover up the fact that there are in Hong Kong workers earning meagre incomes and should be considered the working poor? I really would like to put this question to the Government. The Administration must give me a reply.

While our SAR Government is making every effort to deny this disparity between the rich and the poor, the Singaporean Government in its 2007 budget forthrightly acknowledged that globalization had aggravated its wealth gap, and took a hard look at the issue in a practical and realistic manner. In its 2007 budget, the Singaporean Government specifically formulated a series of measures to improve the condition of elementary workers.

On the one hand, the Singaporean Government lowered profits tax to 18% in order to vie with Hong Kong for investors and attract enterprises to set up factories and shops — Deputy President, the Clerk pointed out that I have yet to move my motion, I now do so here — On the other hand, a wage supplement scheme was for the first time introduced to give full-time workers or self-employed persons who are aged over 45 and who are each earning less than SG\$1,000 a month a wage supplement of not more than SG\$100 each. At the same time, the Singaporean Government also modified the Central Provident Fund contributions, increasing employers' contributions but lowering low-income persons' contributions so as to let them have more money for themselves.

Deputy President, in citing Singapore as an example here, I am not saying that Hong Kong should follow Singapore wholesale. For example, Singapore's wage supplement is made possible by a hike in the goods and services tax (GST) from 2% to 7%. In Hong Kong, it is just hard to implement GST. However, we have a fiscal surplus amounting to tens of billion dollars. Our fiscal

reserves almost amount to a thousand billion dollars too. Is there indeed no way for us to solve the problem of the working poor? In our Budget for the year 2007-2008, there is hardly any mention of this by the Government.

In fact, elementary workers are not asking for "hand-outs". They just want to have a ray of hope and a way out. However, neither the Government nor society has given them a way out. When I browsed through Comprehensive Social Security Assistance (CSSA) statistics of recent years, I noticed that the number of applicants for unemployment CSSA has decreased from the figure of more than 50 000 in 2003 to the latest figure of 37 000. There is a drop of 14 000 persons. However, the number of persons applying for low-income CSSA has been rising steadily year after year. In the year 2000-2001, only some 8 000 persons applied for low-income CSSA. The figure, however, increased by more than one fold by the end of 2006, amounting to more than 18 000 cases. Being unable to earn basic income, these workers have to apply for CSSA to get some supplement in order to make ends meet. However, I have to stress that there are still 300 000 people whose income is below CSSA, but they have not applied for it. They are having a hard time every day, clenching their teeth.

Why are workers getting such harsh treatment? Surely, it is due to the structural problem of not enough jobs. There is an oversupply of workers in the elementary labour market. Given the impact of globalization, capital is free to go anywhere in the world, and jobs are unreservedly mobile. However, there is no exit for elementary workers. Hong Kong is not unique in this respect. Countries or places at a level similar to ours, such as the United States and Europe, have also run into the same situation. However, every place (including the United Kingdom) has adopted some counter-measures.

However, our SAR Government all along holds that a recovery in the economy is bound to have a trickle-down effect. However, over the 10 years since the reunification, it has been proved that it is impossible to have gains trickled down to elementary workers by those on the top. This fact was a slap in the face to the former Chief Executive as well as the present Chief Executive. What we have witnessed is an ever-growing gap between the rich and the poor.

In the face of such a predicament, for years the Hong Kong Federation of Trade Unions has been advocating the creation of job opportunities by developing a diversified economy. To develop a diversified economy means to



develop some other industries in addition to those high knowledge input industries such as finance and professional services, so as to absorb the labour force. Proposals put forward by us in this Chamber include an economy featuring local community culture, creative industries, recovery and recycling industries, and value-added manufacturing industries propelled by CEPA. We have also submitted many written proposals to the Government. However, we have not seen much change as a result.

Deputy President, recently I again raised the issue of temple fair culture or bazaar culture. I must thank Mr Stephen IP, the Secretary for Economic Development and Labour, for paying a visit to Wong Tai Sin Temple with us last Sunday. The piece of land in front of the temple apparently holds enormous potential. On the two sides are Wong Tai Sin Temple and Chi Lin Nunnery. Fronting it are a number of religious institutions, including Catholic and Protestant ones. We definitely can turn that place into a cultural hub with special features, something like Shanghai's Town God's Temple or Tokyo's Sensoji Temple. It is not that we put forward the proposal only today. We organized the Wong Tai Sin Dragon Market in 2002 and 2003 to make the Government realize that it was feasible. There has been nothing thenceforth. What about that piece of land? Deputy President, most of the time it is just left "to bask in the sun." I also spoke with the Secretary, asking him to give it a thought as nothing was being done there. To be honest, with regard to similar proposals, it is our wish that there can be a good outcome this time, especially because we noticed that the Secretary was relatively more positive that day. It is hoped that the Government can rake some brains and do not shelve the matter.

The economy has turned for the better during the past two years. However, elementary workers' livelihood has yet to show improvement. It is time for the Government to make a sharp U-turn in thinking and examine whether or not its old strategy, one with neither economic development blueprint, nor manpower planning, nor a policy to increase job opportunities, is still applicable to Hong Kong, where the disparity between the rich and the poor is getting more and more polarized. I wonder if the Government has paid due attention to the fact that with local jobs being gradually taken away, wage earners at the elementary level are facing a situation of having no way out.

Finally, I would like to say a few words on the point that so far the Government still has not enacted legislation on minimum wage. It has been said that because of an oversupply of elementary workers in the market, wages are being held down. So, many workers can only get a meagre income. Given the

fact that the Government is unwilling to develop a diversified economy, there can be no solution to the disparity between the rich and the poor. If there is a wish to prevent workers' income from getting too low, then legislation on minimum wage can at least ensure that there is a specified level of income for workers. At the same time, the pressure requiring the Government to pay for low-income CSSA with public money can also be somewhat relieved. The Government has recently introduced a transport subsidy for four districts, which in fact is a fairly good idea. However, this is just a short-term measure intended for a duration of half a year. According to the Government, if an applicant is earning less than \$5,600 and living in Tin Shui Wai, then he may collect a transport subsidy of \$600. This is a very good idea. However, the grant is only for six months, for the Government has no intention to do so on a long-term basis. Let us refer to the situation on the Mainland, where a wage supplement is used as an alternative other than the implementation of minimum wage. As a matter of fact, the Government is definitely in a position to use the sum of \$5,600 as a benchmark, and then give consideration to the amount of \$600 on a territory-wide basis and mandate that so long as one is earning less than \$5,600, one may get a transport subsidy of \$600. The Government is in a position to do so, but it gives no consideration to that.

Deputy President, there are still a lot of things I want to say. However, I would like to leave them till later. Let me first take a break. With these remarks, I beg to move. Thank you.

**Miss CHAN Yuen-han moved the following motion: (Translation)**

"That, despite the revival of Hong Kong's economy for a considerable period of time, the job market still suffers from serious structural imbalance and, without minimum wage protection, the income of workers is polarized, which has led to the widening of the disparity between the rich and the poor and the worsening of inter-generational poverty, this Council urges the Government to develop a diversified economy, such as promoting local community culture and creative industries, etc; at the same time, the Government should make changes to the relevant policies to facilitate the promotion of social enterprises, thereby increasing job opportunities and easing the oversupply of workers in the elementary labour market; in addition, the Government should provide more training opportunities to working youths and middle-aged people to enhance their competitiveness."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Miss CHAN Yuen-han be passed.

**DEPUTY PRESIDENT** (in Cantonese): Three Members will move amendments to this motion. The motion and the amendments will now be debated together in a joint debate.

I will call upon Mr Andrew CHENG to speak first, to be followed by Mr Alan LEONG and Mr Andrew LEUNG; but no amendments are to be moved at this stage.

**MR ANDREW CHENG** (in Cantonese): Deputy President, I propose that Miss CHAN Yuen-han's motion be amended.

Deputy President, ever since "Chief Executive Donald TSANG" announced his election slogan "I will get the job done", people in the streets, the mass media, websites and even a lot of advertisements have quoted this line "I will get the job done". The entire community has been abuzz with discussion. In Hong Kong, some wage earners are not so lucky for they do not even have a job. Even if one is lucky enough to have a job and able to "get the job done", he is still unable to receive reasonable pay. This is exactly the social problem exemplified by the social conflict arising from the current disparity between the rich and the poor. It appears that those on low income have become a sector neglected by the community. They clench their teeth and work hard instead of applying for CSSA. However, in exchange for long hours of work, they probably only receive meagre wages. They cannot even get the hand-outs provided by the Budget. The first reason is that they are not collecting CSSA. So, it is certain that they are not entitled to extra CSSA payments. Secondly, they can receive no tax rebate as they, being on low income, pay no tax. I hope the Secretary can understand that, with today's motion, it is our hope that there can be both justice and prosperity in society. Also, before us are people who serve Hong Kong with their labour. How are we going to fight for their legitimate justice? Deputy President, it is especially so in the case of workers in the construction industry. It can be seen that the unemployment rate of the construction industry is still high and that the unemployment rate among young people still stands at a certain level.

Data from the 2006 Population By-census recently released by the Census and Statistics Department have aroused much discussion among members of the public. The polarization of income among Hong Kong people is indeed worrying. According to the data, because of economic restructuring, not only low-income households who are more vulnerable, but also middle-class households who constitute the mainstay of our economy and society, have been hard hit. The proportion of households earning less than \$10,000 has grown to 27.9% from 23.9% in 10 years. In the case of middle-income households, those earning \$10,000 to \$40,000 a month, their proportion has been shrinking, dropping to 55% from 61.2%. Furthermore, household income has remained stagnant for 10 years. An "M-shape Society" is quickly emerging in Hong Kong. So, many Hong Kong people find the Chief Executive's statement that "Hong Kong is enjoying its best economic moment in 20 years" particularly offensive. There is still another observation to the effect that our society with an up-climbing trend is gradually becoming a so-called "downshifting society". "Downshifting" means that households once classified as middle-class are gradually turning into low-income households. I have just cited the relevant figures.

Unfortunately, given that "Hong Kong is enjoying its best economic moment in 20 years" as stated by the Chief Executive, the Government seems to be paying no attention to the low-income group in the current Budget. Also, in Hong Kong, there are quite a few infrastructural projects which are sought by us and which ought to be launched expeditiously at a time when we have a fiscal surplus. As the Government is now financially sound, it is only reasonable to further expedite the implementation of all major infrastructural projects, for example, Route 10 Northern Section, Container Terminal No. 10, the logistics park, the Hong Kong-Zhuhai-Macao Bridge, MTR South Hong Kong Island Line and West Hong Kong Island Line, the Guangzhou-Shenzhen-Hong Kong Express Rail Link, and the Shatin to Central Link. All these can create a lot of job opportunities for workers in the construction industry.

As several major projects have yet to be launched, even though this year's Budget undertakes to reserve \$29 billion for infrastructural projects over the next few years, the forecast is that spending on infrastructure in the next two years at the least will only amount to \$20 billion, way below the target of \$29 billion. There is still a long way to go before there can be a solution to the predicament of construction workers who are suffering from unemployment or underemployment.

Although it is impossible to launch major projects right away, there are still many medium- or small-scale projects at the district level, such as the cultural and recreational facilities under the Leisure and Cultural Services Department, and minor improvement works under the District Councils. These should be able to provide immediate job opportunities to workers in the construction industry.

I hope the Government will understand, and it is also our recommendation, that the Government can still work in other areas, such as making improvement to the wealth gap, doing what we have often mentioned such as promoting the recycling industry, increasing the number of places in residential care homes, setting up "seed funds" for social enterprises, and supporting the film industry. It is particularly important in the case of the film industry.

In the past, the film industry was one of our major creative industries, churning out many legends and providing a lot of job opportunities. The fact that recently a Hollywood movie "The Departed", which was adapted from a Hong Kong movie "Infernal Affairs", dazzled this year's Oscar with radiant splendour and won several awards, can prove that Hong Kong has been constantly making movies that are commendable, popular and profound. Once the Government made an appropriation of \$100 million to set up the Film Development Fund, covering the establishment of a Film Guarantee Fund, and was thus indirectly involved in the financing and rejuvenation of film-making. However, the result has been less than evident. This year, the Government's appropriation for supporting the development of the film industry has gone up to \$300 million. What is more, earlier on the Film Development Committee made the recommendation that the said appropriation should be directly invested in film-making, an abrupt change from the old policy of no direct involvement in film-making investment. Whether this will turn out to be good or bad remains to be seen. However, I hope the Secretary can understand that it is not enough just to give financial support to film-making. In areas like training for film-making talents, opening up markets and film promotion, it is also necessary for the Government to put in more efforts.

Deputy President, with regard to the environmental protection industry, the Government should lease sites to the recovery industry at low costs for long tenures so as to lower the production costs of the environmental protection industry and encourage more enterprises to invest in the environmental

protection industry. At present, on average it takes three years for the elderly to wait for residential places in care and attention homes or subsidized nursing homes. Apparently, there is an insufficient supply of residential places. The Budget only made an additional grant of \$16 million to make more residential places available. This is just like a drop in an ocean, which can hardly help to solve the problem. So, our suggestion is that the Government should increase considerably the number of places in residential care homes. The measure not only can beef up the support for the elderly and provide the considerable manpower required for taking care of them, but also create for members of the workforce plenty job opportunities, no matter they are the care attendants with relatively low skill or people who are more professional, such as nurses and social workers. This can meet the needs of an ageing population. In addition, the Government should also set up seed funds for social enterprises and accept applications from people with disabilities and those of the disadvantaged groups so as to increase their job opportunities and foster in Hong Kong the social enterprise culture.

Deputy President, "Beautiful flowers and good times are not long-lasting". Our economy made a quick rebound after the SARS epidemic of 2003. By now, almost four years have passed. Nobody can guarantee that the good time can continue. So, it is advisable for the Government to get prepared for the rainy days when the good time is still around. To make the best preparation for a sudden economic downturn, efforts should be made to improve the employment opportunities of workers with low skill and low educational attainment.

With these remarks, Deputy President, I propose my amendment.

**MR ALAN LEONG** (in Cantonese): Deputy President, the Government's surplus disclosed in the Budget released last week is so huge that it is beyond everybody's expectation. It is as high as \$55.1 billion. According to Financial Secretary Henry TANG, the great improvement in government finance is primarily a favourable outcome of an upbeat economy, with enterprises making profits, and salaries rising. Revenue from profits tax saw a sharp increase of \$4.3 billion. Revenue from stamp duty also went up by \$5.5 billion. Public funds are ever growing in opulence. Behind this is a steady economic revival. This is already an indisputable fact.

The Government has all along believed in the so-called "Trickle-down Theory" and maintained that members of the lower stratum should be able to share the fruits of economic prosperity gradually so long as the economy keeps growing. Indeed there should have been marked improvement in the livelihood of the grassroots if the theory were valid. However, facts speak louder than words. Households with a monthly income under \$6,000 now number 320 000, representing an increase of 68% over what it was 10 years ago. The median household monthly income is also lower than what it was 10 years ago. Though the economy is making a strong rebound, it has not lifted many people out of poverty at the same time. Paradoxically, more people have fallen into the whirlpool of poverty.

Deputy President, we must not indulge in superficial glory in total disregard of the essence of the issue or the long-term development of the community. It is surely necessary for Hong Kong to reinforce its strengths in finance and other value-added industries. It is, however, still necessary to put in efforts to develop a diversified economy so as to bring back the scene of the 1970s and 1980s, in which every trade prospered, and create job opportunities for workers of different levels or skills. The Civic Party thanks Miss CHAN Yuen-han for moving this motion today, and giving all political parties in this Council an opportunity to put our heads together so as to find possible ways to improve the employment situation of the grassroots.

According to Financial Secretary Henry TANG, a sum of \$29 billion will continue to be earmarked annually for use by infrastructural projects, which will generate 37 000 new jobs. However, it is also said that, as some of the major projects require public consultation, the wish is for all sectors to come to a consensus on those projects as soon as possible so that an early start can be made. Apparently, the Government continues to put long-term conservation and development of infrastructure in confrontation, and keeps on reminding us: "In order that a project can get started as soon as possible, there must not be too much consideration. One more query is enough to cause great obstruction to the development."

My sincere wish is for the SAR Government to get rid of such mentality which is seriously out of keeping with the times. The trend of environmental protection has become every nation's main theme in developing their economies, reforming society and reviving national strength. Being a cosmopolitan city,

Hong Kong must immediately discard the archaic concept that "development is the guiding principle", integrate the idea of sustainable development into economic planning, and adopt it as the strategy for creating more jobs for the grassroots.

Deputy President, Hong Kong has very little land but is densely populated. So, it is in a position to follow the example of other populous cosmopolitan cities in establishing full-scale waste separation, environmental protection industries, and a recycling and processing system for green products. Furthermore, given the fact that our lodgings are closely-packed together and small, it is more difficult to put into practice the house-by-house self-separation waste recovery system currently in use in the United States and Europe. On the contrary, we may adopt a roadside or estate-by-estate system of separation and collection. In this way, more low-skill workers can be hired to give support or assistance. Also, as waste can be collected at source, it is possible for workers to separate them before they are contaminated. There is thus safeguard for their health.

Researches by environmental protection organizations show that if Hong Kong produces 600 000 tonnes of household waste paper annually, the recovery of waste paper can yield an economic return of over \$400 million, a figure based on the calculation that about 75% of waste paper can normally be recovered in any country with a proper waste recovery system. Even if only half of the said sum is used to hire workers doing the work of collection or separation, it is enough to create more than 2 500 jobs. What is more, if waste separation systems are set up at prime garbage bins and refuse collection points, transport teams are established, and community waste reduction networks formed, together with the reprocessing, export and marketing of the recycled products, a total of 16 000 jobs can be created.

As municipal waste can only be reduced but not totally eliminated, and the demand for recycled products is likely to grow with the heightened awareness of environmental protection, a substantial portion of the jobs generated by the environmental protection industries can probably stay on. On the contrary, jobs generated by infrastructural projects often vanish upon the completion of the projects.

Coupled with environmental protection industry is a concept of infrastructure development that is more in line with the idea of sustainable



development. Infrastructure ought to be for the physical and spiritual enhancement of people's living, not for the creation of more social problems. Speeding up infrastructure development definitely is not equivalent to launching building projects lavishly. On the contrary, infrastructural projects should be carried out in tandem with democratization of community planning. Residents of the community should take part jointly to determine the community's overall appearance as well as the facilities required. In fact, if the Government is prepared to focus all efforts on first expeditiously launching the 70-odd projects left behind by the former Municipal Councils, some 5 000 job opportunities can be created. Moreover, these projects are precisely those urgently needed by the communities. Also, they can considerably enhance the residents' quality of living.

None the less, over the last few months, the Government has suddenly come to realize its "stupidity", and started to understand people's demand to preserve collective memory. In order that more heritage buildings richly endowed with local colours can be preserved or present fresh looks after improvement or maintenance, and that other projects may continue while causing no harm to heritage buildings, the Government should take immediate steps to improve the processes of town planning and antiquity consultation. Such works of repair and maintenance, while creating more jobs, can give our city greater charm and preserve the precious and priceless assets for our children.

Deputy President, in order to enhance elementary workers' competitiveness, we, in addition to strengthening the training and retraining of working youths and middle-aged people, must reform our education policy in such a way as to make parents, students and students' prospective employers feel assured. Macao, a place separated from us only by a stretch of water, has long realized the need to strengthen education and is bringing in, step by step, 15 years of free education from kindergarten to senior secondary. If in a few years Macao achieves the target of raising all its young workers up to senior secondary level, what is going to happen to us if we keep on faltering?

Also, many young people are earnestly seeking self-improvement by enrolling in associate degree or degree programmes. However, having gone through several years of budget cuts, our universities have already had much of their vitality drained. Only in recent years have they been able to gasp for breath thanks to a flooded treasury. But there has been no increase in the number of undergraduate places, as a result of which those holding associate

degrees are caught in a bottleneck on their way out. There is also no clear acknowledgment of their qualifications for job placement. Tertiary education fails to be an effective support for young persons' self-enhancement.

I call upon the Government to immediately change its thinking in making decisions on education policy, and expeditiously make it possible for associate degrees to really become an effective avenue for young persons to enhance their competitiveness by approaching the matter from various aspects, such as further education, job placement, and quality of the curriculum. Also, with improvement in the Government's finance, arrangements should immediately be made to offer small-class teaching and 15 years of free education for the long-term planning for Hong Kong.

The Civic Party holds that amelioration of the disparity between the rich and the poor hinges on whether or not the Government has persistent determination to bring the grassroots a better environment of employment, education and daily living through measures designed to make long-term improvement to the structure of society. Now, with the economy reviving and government revenue improving, what the people ask for is a government with the ability to put public resources to good use and a far vision, not a "Scrooge".

Deputy President, I so submit.

**MR ANDREW LEUNG** (in Cantonese): Deputy President, creating job opportunities and increasing the income of elementary workers has persistently been one of this Council's popular topics over the last two years. Proposing an amendment on behalf of the Liberal Party today, I aim to create in the job market more job opportunities compatible with the current economic development with a positive approach, and, at the same time, provide the elementary workforce opportunities of training and even retraining so as to enable them to cope with the development of knowledge-based economy nowadays.

In recent years, the Hong Kong economy has revived. Small and medium enterprises (SMEs) are beginning to catch a glimpse of the economic dawn. There is also a drop in the unemployment rate from the peak of 8.5% in 2003 to 4.4%. People in employment total about 3.5 million. However, many elementary workers still cannot find employment, or are only able to earn

lower wages. On the other hand, employers have run into difficulties in getting suitable workers. The Government has looked into the matter for the reasons. We have discussed it here too. It is a problem of job mismatch. Members of the elementary workforce fail to keep up with the economic restructuring and go along with the knowledge-based economic development. According to government projection made last year, this year Hong Kong is going to face a shortage of over 100 000 people with high educational attainment and also an excess of 230 000 workers with low educational attainment and low skills. It was pointed out by multinational human resources agencies late last October that 70% of the employers surveyed believed that it would be more difficult to hire additional staff in the coming year and that they would have to compete for employees with huge pay hikes. 32% of the employers considered huge pay hikes to be the only solution to the problem, and nearly 20% of them agreed that the offer of bonuses could attract excellent talents.

It has always been stressed by the Liberal Party that if the economy revives and all the trades prosper, then the various enterprises will, as a matter of course, hire additional staff. Under this simple economic theory of supply and demand, workers' wages will rise when demand grows faster than supply. Hence, so long as the SAR Government maintains sustained growth in the economy, keeps it on the ascending track and make the economic "pie" larger, then the level of wages will naturally go up, and workers are naturally going to have good times.

While making sure that everybody gets a job, we must see to it that wage earners are able to support their families and improve their living so as to move upward. However, as stated by me earlier on, there is now in society a problem of job mismatch. There is a considerable demand for high-skill or managerial level staff. However, there is a surplus of low-skill elementary workers whose pay increases are, consequently, lagging behind the overall level.

Many people have been persistently asking the Government to bring in minimum wage to raise elementary workers' pay. However, the Liberal Party has more than once explained why we disagree. We are not alone in saying so. Even well-known scholar like Edmund PHELPS, the most recent winner of the Nobel Prize in Economics, who has studied wages and unemployment rate for 40 years, also pointed out that the pay for low-skill workers would get worse upon the introduction of minimum wage. Another scholar, Economics Prof D. NEUMARK of the University of California, also pointed out that minimum wage

would make employers turn to use machines and workers with higher skills, or change modes of production so as to use less low-skill workers. Even scholars well-versed in our local economy, such as Dr CHAN Yan-chong of the City University of Hong Kong, also pointed out that minimum wage would just lead to higher labour cost on the part of employers, which means higher operation cost. We must bear in mind that Hong Kong is an externally-oriented economy. Jobs are free to drift in and out. To deal with the matter arbitrarily can only hasten the exodus of jobs.

Even though the economy has turned for the better, many SMEs still have to struggle hard for survival. For these SMEs, once the operation cost goes up, it will mean further hardship with no breaks for breath. Legislation on minimum wage will also gravely affect our competitiveness globally, which is not conducive to our long-term development. However, in order to help them, what we ought to do is not just to give them the "fish". Instead, they should be taught to fish so as to effect a permanent cure to enhance their skills or expertise in order that they can be trained into the talents required by the market. This is most important. Therefore, an approach targeting both education and creation of jobs for the grassroots should be the best and most effective solution.

The original motion advocates the need to develop a diversified economy, such as promoting local community culture and creative industries. We support that, especially creative industries such as film-making and design. These have long been the value-added industries promoted by us in the industrial sector, and they do merit vigorous development. However, in order to develop new economic strengths to effectively boost the economy and create long-lasting job opportunities, it is necessary to adopt more diversified measures. For instance, the Government must remove restrictions in the business environment, streamline the licensing system, or even reduce profits tax. This is to create a more business-friendly environment so as to attract foreign investments. Colleagues from the Liberal Party will speak on this in due course.

Next, I would like to speak on training in particular. When we talk about retraining for employees, we naturally think of the Employees Retraining Board (ERB). I have looked up the ERB's past records, according to which the Board has provided some 900 000 retraining places over the last 10 years. In recent years, the placement rate of their retrainees has reached 80%. Why are so many people still on low income or even out of employment? Why cannot some retrainees find employment even after completing several retraining courses? Is

such a situation attributable to the mismatch between the skills learned by retrainees and the market because the courses fail to keep up with the needs of the market, and, consequently, employees are often unable to find permanent jobs? If it is so, then is it necessary to review the contents of the courses?

Likewise, it is said in a Government's publicity footage, "Such service attitude is now not good enough". Training, retraining and on-the-job training should not only aim at providing the trainees and employees with the skills needed for certain jobs, they should also aim at giving them training to enhance their work attitude so as to add value and match the development of a knowledge-based and service-based economy.

I know that in recent years the ERB has begun to make changes in response to market needs and run tailor-made courses for employers. To get suitable workers for the employers and create job opportunities for the unemployed, training courses for Event Guards, Customer Service Representatives, Hotel Security Guards, Property Service Attendants and Foot Reflexologists have been offered. Co-operation of this nature resulted in 123 classes of tailor-made programmes held in co-operation with employers. About 1 760 trainees have already completed their training. The job placement rate is over 90%. The retention rate is also as high as 80%. The result is apparently better than that of ordinary retraining courses. Obviously, placement-tied training programmes do have a market.

Under the organizations subsidized by the ERB are now 57 training institutions in receipt of government subsidies for running employees' retraining courses. A large number of trainees enrolled are the grassroots or members of the disadvantaged groups. I firmly believe that proper vocational training and on-the-job training can help them.

Deputy President, in proposing the relevant amendment, I hope that the Government will give attention to the matter so that all parties can work together to grasp this opportunity to do a review, and revise the courses on a trainee-oriented basis so as to give the courses enough length to help trainees progress and let them have enough subsidies so that they can study with peace of mind. This will enable them to look for jobs that are stable and offer better wages. In my opinion, there should be sustained follow-up by the Government in respect of retention. Also, more efforts should be made to study employers' opinions to find out more about employers' requirements and the types of

workers needed. Then suitable adjustments must be made. Employees' involvement in training should be boosted so as to ensure that workers so trained not only have the ability to adapt to the economic restructuring but are also in a position to propel the economic restructuring and share its fruits. If employees' skills, work attitude and confidence can thus be enhanced, then it is worthwhile to spend more time and money on training.

Deputy President, how to create job opportunities and how to improve the income of elementary workers are both issues of concern to the Liberal Party. I hope the Government will put in suitable resources and work concertedly with the employers and employees in a proactive manner to train up elementary workers so as to help them get out of low income permanently. Let us work hard together to get the job done. With these remarks, I propose my amendment.

**MS LI FUNG-YING** (in Cantonese): Deputy President, the Budget was released just last week. Generally speaking, members of the public have rather positive comments on it. With regard to the inadequacies of the Budget, the aspect drawing most criticism from the public is its utter disregard for the needs of elementary workers. As a matter of fact, the grassroots not owning any property, not receiving CSSA, and earning wages below the tax net are those most deprived of the fruits of economic prosperity. Their hand-to-mouth way of existence well portrays the disparity between the rich and the poor in society. This Council is going to have a debate on the Budget. I am going to present my full views on that occasion.

Recently, when talking about the wealth gap, government officials stressed that it was a common phenomenon in economically developed regions, thus implying that its existence was justified. That is to rationalize the wealth gap of Hong Kong. This is very dangerous. In the operation of any market, there is a high incidence of jungle law. This, however, does not justify jungle law. Let us first set aside the point that our Gini Coefficient is the highest among economically developed regions. Even if a comparison is indeed to be made with economically developed regions, the comparison still should not be confined to the figure about the wealth gap. There should also be a comparison with other developed regions on measures being taken to alleviate the disparity between the rich and the poor. It is meaningful only when merits are learned from others to offset one's weaknesses.

Last year, during the debate on a motion moved by me, namely on wage polarization in Hong Kong, I put forward some suggestions on alleviating the disparity between the rich and the poor, including one on changing the current policy on outsourcing non-skilled services. For the purpose of outsourcing non-skilled government services, the old practice of using a market-oriented approach and aiming at saving public coffers should be replaced by an approach offering reasonable pay and working hours and aiming at solving the employment problem for low-skill workers. On this basis, new posts should be created and, as far as possible, low-skill employees should be hired by setting more flexible working hours. I believe that in public services with keen manpower demand, such as street-cleansing, landscaping and elderly care, there is room to create a lot of posts.

Organizations that all along have been assisting low-skill employees, such as the Labour Department, retraining organizations and even the Social Welfare Department (SWD), should also complement the Government's recruitment policy. This is especially so in the case of the SWD's Support for Self-reliance Scheme. Under the Government's new recruitment policy, the SWD should no longer push CSSA recipients into the market to aggravate the employment environment. Instead, the Government should hire them, enabling them to re-enter the community.

Recently, much has been said about the effectiveness of social enterprises in helping the disadvantaged groups in the Chief Executive's election platform as well as in the Financial Secretary's Budget. The business and industrial sectors and welfare organizations are being encouraged to work jointly to promote the development of social enterprises. I, however, have to point out that the responsibility of giving assistance to the disadvantaged groups first rests with the Government. Being the largest local employer, the Government is best qualified to develop social enterprises. It is hoped that the Government will not forget its own role when encouraging the business and industrial sectors to play a part in social enterprises.

Deputy President, I support all measures helpful to creating job opportunities and improving the income of elementary workers mentioned in the motion and the amendments. It has also been noted that the Liberal Party's amendment states that "the decline in the unemployment rate from the peak of 8.5% in 2003 to 4.4% and that employers are finding it more difficult in

recruiting workers than before, the living conditions of the low-income group, the disparity between the rich and the poor and the problem of inter-generational poverty have yet to be ameliorated". It can be said that the amendment spells out the predicament faced by the grassroots. Why have the living conditions of the low-income group yet to be improved even though there is a drop in the unemployment rate? The crux of the matter is that even though they work hard for 10-odd hours a day, they only receive meagre pay, which just cannot improve their lot. So, in order to improve the income of elementary workers, it is ultimately necessary to enact legislation on minimum wage and working hours. Only this can bring about improvement. Thank you, Deputy President.

**MR FREDERICK FUNG** (in Cantonese): Deputy President, here last week, the Financial Secretary presented his Budget, probably one winning the most applaud in recent years. On the face of it, both the rich and the poor are able to have a share of the fruits of the economy. However, the phantom of the wealth gap is, in fact, still around. Actually it is getting worse and worse.

Even though this year the Financial Secretary is handing out money and candies, on the whole, it is still just "a quick fix", not getting at the root of the problem. With regard to the questions why it is necessary to alleviate poverty, what the causes of the wealth gap are, and what benchmark the community should set to combat poverty, there is neither study nor discussion nor consultation by the Government. On the contrary, every effort is being made to refrain from addressing squarely the problem of the disparity between the rich and the poor. Let me quote three examples for illustration purposes:

- (1) Even though the Report on Working Poverty presented by the Subcommittee to Study the Subject of Combating Poverty last year was unanimously endorsed by all Members of this Council, the issue about working poverty remains untouched. Although in last year's Budget the Government already undertook to introduce a travel subsidy for remote areas, the matter has been under negotiation with Members and has dragged on for one year. Only in this year's Budget was it mentioned again. Still it is not known when it can be brought into effect;
- (2) Even though the Census and Statistics Department had already released the Population By-census Report, arrangement was



specially made to delay the disclosure of the Gini Coefficient, a figure reflecting the disparity between the rich and the poor; and

- (3) The policy on poverty alleviation is being enforced by different departments separately, each introducing some measures or pilot schemes. For what reasons are those measures introduced? How effective are they? Are they sustainable? Is there a person or department to be accountable for the effectiveness and sustainability of poverty alleviation? The Commission on Poverty (CoP) set up two years ago is also merely advisory in nature, and enjoys no real power. It is also unable to review government policies or change the courses of government policies. It is regrettable that now not even the continuation of the CoP is certain. Which government department is going to take charge of the work of poverty alleviation in the future?

Hence, I can see in the Government neither the determination to solve the problem of poverty nor the commitment to combat poverty.

The Hong Kong Association for Democracy and People's Livelihood (ADPL) and I are of the view that in order to solve the problem of poverty, it is not advisable to rely solely on social welfare and education. It is closely linked with our overall economic development. The course to be taken by our economy is, of course, affected by many external factors, and must tie in with the planning of the Central Government. However, I wonder what people will get the benefits and what people will suffer if all resources are committed in a single-track manner to those so-called value-added high-knowledge-input industries. We are not against such a single-track course. However, a single-track course is impracticable and inadequate. Has the Government reviewed such a practice? Has an approach of economic duality or diversity been adopted in considering economic development? Has the Government tried to understand the grassroots' voice or consulted elementary workers of their needs?

The Government has repeatedly stressed its reluctance to make intervention in the market. However, the Government put down "Always People First" as the title of its policy address. What is meant by "Always People First"? Is it possible not to make intervention in the market when it is "Always People First"? The ADPL holds that the Government must take into

consideration the rights and interests of every sector, and should not be tilted towards the business sector only. The Government has the duty to make intervention in the market at the right moment so as to make the market also care for the needs of the disadvantaged groups and, at the same time, require the business sector to discharge its social responsibility.

These principles sound very simple to the ears, but they can be brought into play only through government measures. The Government should also regularly review the effectiveness of policies and assess those policies' positive and negative impacts on the grassroots for follow-up revision.

Many developed places around the world also have the problem of wealth gap. However, governments of all places have invariably made efforts to combat it, enabling the grassroots to become self-reliant by introducing more equitable taxation systems, bringing in minimum wage, supporting social enterprises and beefing up education.

In the amendments, Miss CHAN Yuen-han, Mr Andrew CHENG and Mr Alan LEONG all mentioned quite a few similar measures and policies. Developing a diversified economy, promoting social enterprises and environmental protection industries, and putting in more resources to boost education and retraining are all tasks for the Government that brook no delay. We must let elementary workers have more job opportunities, and ensure that workers are able to receive reasonable pay in return for their labour, and do have time to spend with their families or avail themselves of affordable further studies after work. There must be equal opportunities of education for children of elementary workers, who should not lag behind others for reasons of poverty or technological development.

As for the amendment proposed by Mr Andrew LEUNG, since it has deleted a lot of protection for elementary workers, especially that for minimum wage, we cannot accept this amendment by the Liberal Party.

Deputy President, the Government's current policy on poverty alleviation is without focus and direction. The Government often tries to instigate ill feelings by labelling and discriminating against the poor and the disadvantaged groups. In fact, this will lead to discontent and protest in the society, and intensify internal conflicts, which is pernicious to social harmony. So, both the ADPL and I must ask the Government not to do just a little window-dressing

when the economy is good, but "wield the knife" at the poor when the economy is bad. I hope the Government can really materialize the idea of "Always People First" and face up to the issue of wealth gap and the work of alleviating and combating poverty.

Thank you, Deputy President.

**MR WONG YUNG-KAN** (in Cantonese): Deputy President, before speaking on this topic, I would like to quote a once popular saying among local people: "Go back to the village to do farming". This saying reflects the point that in the past when a young man or woman who had left the village to work in the city became jobless on account of recession in the city, he or she still had one way out, namely, to go back to the village to engage in farming. They could have for meals the vegetables they grew. There was also the option of raising chicken or pigs. However, that only applies to yesteryears. As the New Territories becomes urbanized, pieces of farmland have been resumed. Those not resumed have been left idle, and their water supply cut off by the Government. What is more, the Government had legislation passed last year to ban backyard poultry keeping. As a result, even the retreat route of "going back to the village to do farming" is no longer available, and has become a dead end.

Similarly, in the past when a fisherman found himself "having trouble making a living" after going ashore, he could return to the fishing boat to resume fishing. However, as fishery resources in our fishing grounds steadily dwindle because of the progress of marine works, many fishermen's families have already sold their fishing boats, thus permanently winding up their business. Is it not hard for a jobless fellow with no food for tomorrow to buy a fishing boat? If one is to switch to a fishery-related job, at most one can only be engaged in the transport of fish or become a fish monger, or work in a restaurant as a "fish expert". These have been common problems. It can be said that there is now a situation where there is just not enough to go around.

It can be recalled that some three years ago, when the SARS epidemic was just over, the local unemployment rate was rising steadily, reaching what experts considered to be a critical point. The Government set aside a sum to hire unemployed workers through trade unions to do daily maintenance work for the elderly at their homes. That was a measure used to ease their financial hardship. At that time, a well-acquainted kaifong in my constituency joined

them. He later told me that at that time his family did ask him to apply for CSSA. However, he did not because all the time he himself found it totally unacceptable. Ultimately that led to endless rows in the family. It was in such a way that the Government gave them "relief" then, and thus somewhat preserved their self-respect. He, therefore, told me that he was very grateful to the Government for that.

This kaifong is now back to employment again. Most members of his family are also in employment. According to him, he was then relatively younger and somewhat skilled, and, therefore, could be considered to be luckier. However, some of the buddies around him remain jobless so far, and are still on "saline drip" (underemployment). He holds that as Hong Kong is undergoing economic restructuring, and there is a surplus of manpower, the Government should promote creative industries to create job opportunities. Otherwise, the problem will not go away, no matter how much money is handed out to the jobless. At most it can only be a "painkiller", not a permanent cure.

Deputy President, this kaifong often tells me that giving fish to a person is not as good as teaching that person how to fish. The former is just an offer of welfare, a typical case of welfarism. The latter is an act of aggressive government, the proper way to better people's livelihood. Miss CHAN Yuen-han's motion today and the mere mention of promoting local community culture and creative industries and providing more training opportunities to working youths and middle-aged people to enhance their competitiveness are all in line with the ideas of members of our industry. Being the representative of the industry, I support Miss CHAN's motion.

As I often have the opportunity to go to the Mainland, Taiwan and Southeast Asia for visits, I have noted that those places are vigorously developing leisure agriculture and fishery activities as well as eco-tourism. It has further been learned that according to the current trend of international tourism, tourists are not necessarily in pursuit of sensational entertainment in foreign places. More and more people now take to the nature and local community culture. Once I, together with Mr CHAN Kam-lam and several Members from the Hong Kong Federation of Trade Unions, boarded a boat at Sam Mun Tsai and headed for Tap Mun. From Tap Mun in the Tolo Harbour, we cruised around the eastern New Territories. Before reaching Sai Kung, in the area around Tai Long Wan, we saw many people doing rock fishing. Members of the industry were given the impression that more and more people

are taking to fishing. On another occasion, I went to Tap Mun with the Commissioner for Tourism to study the local community culture there and visit locations commanding sea views, also to enjoy the pleasure of being fishermen. They considered the place to be a nice tourist spot after all.

All these have me inspired. Those activities can create a lot of job opportunities by taking advantage of our local community culture and natural scenery. Such jobs can absorb the manpower from redundant fishermen or fishermen wishing to switch to a new trade. For example, they can take "fishing fans" out to the open sea in their boats, thus giving them a new experience.

I would like to quote another example. Mrs FAN, our President, during a visit on Kat O Island in 2001 for the Dragon Pacifying event, said right at the beginning that the place was really picturesque but did not get to be developed properly because of poor transport and the Government's policy on the frontier closed area. It was hoped that the Government could draw up a timetable in this respect. However, fortunately, after my trip to the Tolo Harbour by boat for a special visit with Mr LI Kwok-ying, Chairman CHENG Chun-ping, and District Officer POON Tai-ping last year, there has been much effort by the Government to promote the "District Partnership Programme". The programme will be launched this summer. It is hoped that this measure can help some members of the industry get employment. Therefore, I feel that the Government should strongly promote various tourist activities so as to enable some people to switch to new business. The problem cannot be solved simply by "handing out candies".

Thank you, Deputy President.

**PROF PATRICK LAU** (in Cantonese): Deputy President, with regard to creating job opportunities and improving the income of elementary workers, I am very much supportive. However, I have some reservation about the point that there is growing disparity between the rich and the poor. If the disparity between the rich and the poor is based on comparison of family income, it is understandable for gross family income to be lower than what it was previously because at present the size of a family is smaller, and fewer people are going out to work too. It is likely for a family of three to be fed by one breadwinner. So, how big is in fact the wealth gap? We ought to look further into it.

Regarding the issue of structural imbalance in the job market, I think it is necessary to get at the root of the problem by finding a sustainable and long-lasting counter-measure. The fact that elementary workers, especially construction workers, are being underemployed and poorly remunerated is mainly attributable to a lack of construction projects. When there is no project, then there is no work to do. Therefore, speeding up municipal development is the absolute cure for the problem. In addition to carrying out major infrastructural projects expeditiously, it is also very important to have small and medium projects of community building. In fact, when they are in employment, construction workers are most willing to spend money. That will liven up other markets, and create many other job opportunities, such as those in the entertainment or catering industries.

The Budget just released last week makes no mention whatsoever of the launch of new projects; nor are there concrete details on speeding up current projects. I am very disappointed. This proves that the Government still does not understand that urban development is a very important high-yielding investment. It is indeed the way to puff up the coffers by means of earning cash with cash. What is more, this can provide elementary workers with a lot of job opportunities. Although it has been a practice in recent years for the Government to set aside \$29 billion annually for spending on construction projects, it in reality is just a false front. Every year, the sum is not used up, for only a portion is spent.

On the contrary, in recent years Middle East countries like Dubai and Saudi Arabia have been investing heavily in municipal development, turning the deserts into oases. There is also heavy investment in infrastructure, with a lot of effort being put on landscaping and beautifying municipal facilities so as to improve the living environment, enhance the vitality of the cities, promote tourism and business and attract the in-flow of foreign capital, which is then re-invested in further municipal development. There is a continuous supply of job opportunities to the labour market.

If Hong Kong can invest in municipal development, speed up the progress of infrastructural projects, and at the same time launch various community building projects, such as building dormitories for overseas students, landscaping or even developing land in the New Territories that has yet to be opened up for the purpose of conservation, then the number of projects can be increased through municipal development. Hence there can be a solution to the problem of unemployment among the grassroots. With a huge increase in job

opportunities, workers' bargaining power can be enhanced and the problem of income polarization solved too.

Deputy President, at present, job opportunities provided by small and medium enterprises (SMEs) are still inadequate. If there can be more projects on environmental protection and heritage conservation, so in addition to helping Hong Kong turn into a city measuring up to international standards, a lot of job opportunities can be created in different fields, especially in the design profession, where expertise in design can be brought into full play and more workers can be hired by outsourcing the projects. Hence, developing projects of environmental protection and heritage conservation can contribute a lot to the creation of job opportunities, both short-term and long-term. It should be entrusted to the leadership of an experienced professional body accountable to the Chief Secretary for Administration direct, and implemented steadfastly so that there can be a permanent cure for the acute problem of unemployment among construction workers.

"Building our future together" is the main theme put forward by Mr TSANG. It is also one of the key points advanced by Mr LEONG. As both candidates for the post of Chief Executive consider "building our future together" to be a very important task, my wish is that, no matter which one of them becomes the Chief Executive, he can honour his promise in the future and "get the job done" in collaboration with professionals of the industry. By speeding up environmental protection and heritage conservation projects, more job opportunities should be created for the professionals and the grassroots. The income of members of the workforce should be steadily improved through adjustment of supply and demand in the free market.

I so submit. Thank you, Deputy President.

**DR KWOK KA-KI** (in Cantonese): Deputy President, the original motion of Miss CHAN Yuen-han is quite timely as it was just last week that the Government presented the most recent Budget. I believe that a very good way of examining the view on certain new policies held by a certain place or government is looking into its budget.

This year Hong Kong has notched a record fiscal surplus of \$50-odd billion. The Government profusely hands out money and "candies", making tax

rebates of more than \$20 billion to all sectors of the community. However, let us take a close look. To elementary workers with the lowest income, can this sum of \$20 billion bring them any improvement? I have to say with great disappointment that there is probably very little. Out of the \$20 billion, the portion that can barely be used for poverty alleviation merely amounts to \$0.9 billion. This may really help some of the grassroots. However, how to create job opportunities? How to improve income? Little has been said on these.

According to certain colleagues, there is neither structural unemployment nor disparity between the rich and the poor in Hong Kong. I think there is no need to say further on these. When the Financial Secretary and the Secretary for Financial Services and the Treasury briefed us in this Chamber last week, clearly written on a slide were figures showing that the ratios of the two lowest income groups in Hong Kong were higher than what they were 10 years ago. Surely, the number of rich people has increased too. This well indicates that at a time when Hong Kong is enjoying great economic growth, the situation of income inequality in the community is becoming more serious.

I also agree with certain views held by the Government. According to some friends in the business sector, we should not hand out money or become a welfare society. Yes, we should not do that. I am even adamantly against the view that the Government is doing something equivalent to solving the employment problem for low-income people by handing out some CSSA payments and offering "double pay". We hope the Government can provide some creative guiding policies that can boost employment.

The Government often mentions the need to run social enterprises. How to run social enterprises? To expect the business sector to foot the bill is, in my opinion, rather difficult. It can even be considered a fruitless endeavour, the reason being that members of the business sector are all after profits. We once made it very clear here. I recall that a colleague said that a developer, in order to achieve a certain plot ratio, would definitely make full use of the plot to build wall-like buildings. He said that the business sector had to make money and such an approach was a lawful way to make money. We cannot rely on enterprises or consortia in society to run social enterprises. Apart from assistance promised by the Government in certain training programmes, all social enterprises need some seed money, some financial assistance. Has the Government made any commitment? How much has been committed? If a



community has no start-up funds, how can one expect voluntary agencies in a poor community to have the money or resources to run social enterprises? Is that just empty talk?

In Hong Kong, it is in fact particularly difficult for people with low knowledge or middle-aged people to find employment. However, it has been noticed that in some low-income districts, they in fact are not unable to work. Certain residential care homes mentioned by Mr Andrew CHENG are precisely a key point that I would like to bring up.

Being a medical practitioner, I see many patients going in and out of the hospitals again and again. In many cases, patients basically are unable to leave the hospital after treatment. The main reason is the lack of up-to-standard residential care places in the community for the elderly to be discharged from hospitals so that there is no need for them to be re-admitted when their conditions turn bad. In fact the Government is doing something most undesirable, namely, pushing the patients out to the districts, even to some substandard private residential care homes. Those seniors or patients soon will have to be re-admitted into hospitals because those residential care homes, given their standard of service, are unable to help patients undergo rehabilitation in the districts. They go out now and come back later. Whenever they are admitted, taxpayers will have to spend on each of them \$10,000 or \$20,000 for their treatment. Such medical expenses should have been saved. This shows clearly how the Government tries to save a little only to lose a lot in the process.

The trouble is that there is probably inadequate co-ordination among Policy Bureaux. Last year, we heard the Government praise its Policy Bureaux for having saved a lot of money by effecting savings wherever possible. Can the money thus saved benefit the community? This is the question. I think the answer is definitely in the negative. When the Government is probably short of money or thinks that savings should be made wherever possible, many things that ought to be done have been cancelled. However, such a practice has led to a lot of wastage on the part of the Government. Even medical expenses have been so wasted.

So, I am strongly in favour of promoting work in districts like Tin Shui Wai, Tuen Mun, Yuen Long and North District, places with relatively more land for use. Moreover, these districts have more low-income people. If large numbers of subsidized up-to-standard residential care homes and rehabilitation

centres are built, then those whose income and education are both low may participate. As a matter of fact, those residential care homes have taken on from the community a lot of people whose income and education are both low. It is going to be a "win-win-win" option to get on with this task in those districts: job-seekers can find jobs; the Government can materialize the policy of boosting the employment rate; and the health care system can have its burden reduced.

Secondly, I would like to speak on developing medical tourism. Although in connection with the 11th Five-Year Plan the Government stated volubly that it was possible for Hong Kong to develop medical tourism, what we have done is in fact very little when compared with our neighbours like Singapore, India, and Thailand. In the year 2005 alone, Singapore took in 400 000 foreign patients, earning as much as US\$500 million. According to the forecast of the Singaporean Government, 1 million foreign patients will be attracted there by the year 2012. It is also forecast that there will be an annual growth of 30%. What Hong Kong has done in this respect is very little. Apart from some empty talks and listing it in the plan, nothing whatsoever has been done. In my opinion, it is not that the Government has not got the power to boost employment, or boost the employment of elementary workers. The trouble is that as far as policies are concerned, there are more empty talks than actual actions. Also lacking are support measures.

It is hoped that the Government can actively make improvement in this respect. I support the original motion moved by Miss CHAN Yuen-han.

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

**DR KWOK KA-KI** (in Cantonese): Thank you, Deputy President.

**MR JEFFREY LAM** (in Cantonese): Deputy President, with the Year of the Golden Pig already set in, every citizen wants to become "loaded with wealth", and to have long-lasting economic prosperity as well as full employment. According to the forecast of the Budget just announced, the growth rate of this year's GDP can be expected to reach 4.5% to 5.5%. Though this is a little lower than the GDP growth of 2006, which stood at 6.8%, the economy is expected to maintain the momentum of growth. This is most important.

However, still lurking behind our economy's upturn are quite a few hidden woes. For instance, there is no economic locomotive, and there is still the serious problem of unemployment among grass-rooters. As pointed out by Mr Andrew LEUNG's amendment, problems like the living conditions of the low-income group, the disparity between the rich and the poor, and inter-generational poverty all remain to be ameliorated. So, we should try hard to explore new economic paths for Hong Kong. Only by doing so can the economy be effectively revived, and more job opportunities created.

Deputy President, it has always been the view of the Liberal Party that it is necessary to improve the business environment and boost our competitiveness. Therefore, in 2005 the Liberal Party strongly supported the Government's decision to abolish estate duty. Though the Hong Kong Federation of Trade Unions and the Article 45 Concern Group, the antecedent of the Civic Party, were all against the said decision, it was approved in the end. We can see a clear increase in the inflow of capital last year. As mentioned by Financial Secretary Henry TANG in his Budget speech last month, by abolishing estate duty, we have indeed consolidated our position as a major asset management centre. He made the further prediction that, given the economic development in China and Asia, the assets under our fund management business can be expected to increase by one fold to exceed \$5,000 billion in five years, and, at the same time, push the development of other related industries to benefit the people.

Similarly, many countries or places around the world have been lowering their profits tax one after another in a bid to attract investors. Take Singapore, Hong Kong's rival, as an example. It has just lowered the rate of profits tax from 20% to 18%, just 0.5% higher than ours. It is earnestly hoped that the Government can avail itself of the present opportunity, when the Treasury is "flooded" and the finance is strong, to expeditiously lower the rate of profits tax to 15% in compliance with the global trend of cutting profits tax so as to enhance our competitiveness and attract more foreign capital.

At the same time, I think the Government should remove all unnecessary regulations and restrictions such as streamlining the licensing system, reviewing and simplifying all rules and regulations for doing business, giving support to small and medium enterprises, and refraining from drawing up cross-sector laws on fair competition. This can have positive impact on boosting the economy as well as job creation.

With regard to the suggestion urging the Government to speed up the implementation of infrastructural facilities, the Liberal Party is supportive. As we all know, at present major infrastructural projects are being launched one after another by cities on the Mainland. Among them is the Guangzhou-Shenzhen-Hong Kong Express Rail Link, and the section between Guangzhou and Shenzhen was implemented long ago. On the other hand, the Hong Kong section is still under discussion. It was only recently that Chief Executive Donald TSANG proposed in his re-election platform to adopt the "Dedicated Corridor Option" for its construction. We really have got to speed up so as to catch up.

(THE PRESIDENT resumed the Chair)

Besides cross-boundary infrastructure, some local major infrastructural facilities, such as the cruise terminal, MTR West Hong Kong Island Line and South Hong Kong Island Line, the Shatin to Central Link, and the Tamar project, are all making relatively slow progress. In the case of certain projects, "not even one single stroke has been put down for a character consisting of 10 strokes". So, it is hoped that the Government can accelerate the work of research in connection with these infrastructural projects to enable them to get started so that elementary workers can earn their daily bread as soon as possible and let our long-term development scale new heights.

In the area of poverty alleviation, the Government is prepared to bring in new thinking, vigorously develop social enterprises and bring into play the spirit of helping one to be self-reliant. In principle, the Liberal Party supports this. As a matter of fact, Mrs Sophie LEUNG of the Liberal Party last year moved in this Council a motion on vigorously promoting the development of social enterprises, which was endorsed by Members. It is, therefore, hoped that the Government can revise its policy and provide some incentives, such as tax concessions, so as to complement the development of social enterprises.

However, many members of the public are worried about the emergence of a scenario involving the need to vie with the people for gains and unfair competition as social enterprises may be supported or subsidized by the Government in a certain way, but at the same time they have to maintain their *raison d'etre* by making profits. It is, therefore, hoped that the Government

can, as soon as possible, formulate a specific policy on the concept of social enterprises in order that social enterprises can, while helping the disadvantaged groups and providing job opportunities, minimize their impact on normal business operations.

Madam President, I so submit.

**MR WONG KWOK-HING** (in Cantonese): Madam President, some time ago, the Financial Secretary, when presenting next year's Budget in this Chamber, pointed out that Hong Kong is now radiant with prosperity: investment is rising, the property market is stable, the stock market is booming. It appears that everything has been restored to what it was before the financial turmoil. The scene is one of joy and peace.

However, if we take a closer look at the existing social situation, it is not difficult to notice that these good scenes are just as thin and fragile as light bulbs. There is an inherent basic problem. On account of globalization and economic restructuring, the structural problem of Hong Kong is plagued by many ills, with the wealth gap ever widening and the issue of the working poor worsening. According to the latest Population By-census Report recently released by the Census and Statistics Department, our median monthly household income in the year 2006 stood at \$17,250, 7.78% lower than \$18,705, the figure for the year 2001. It is even less than the 1996 figure of \$17,500. This reflects that over the past few years wage earners' incomes have been shrinking steadily and the wealth has not got into their pockets. What is more, data also show that households each earning less than \$8,000 monthly have increased, rising from 18.2% in 2001 to 21.3%. This shows that there are more and more low-income households in Hong Kong. As a matter of fact, our Gini Coefficient was already as high as 0.525 in 2001. A calculation based on these data presents the gloomy prospect of an even higher figure. No wonder there are scholars holding the view that Hong Kong has developed into an "M-shape Society", one with just two sectors, the upper and lower sectors. The poor are getting poorer and poorer whilst the rich are becoming wealthier and wealthier.

Madam President, is the Government not trying to alleviate poverty? Some people have such a query. The Financial Secretary was "handing out candies" the other day. Is there not a sharp increase in spending on social welfare? It is beyond doubt that poverty does receive attention from the

Government. It, however, often just hands out money or provides training without actually helping the unemployed to become self-reliant in terms of employment. As a matter of fact, because of globalization, the existing economic positioning of Hong Kong primarily lies in the financial and service industries. However, among those in our workforce, 630 000 (that is, 18.8%) are non-skilled workers. Not yet covered by the figure are those still seeking employment, and most of them are "low in two aspects and middle in one aspect", that is, low skill, low education and middle in age. In the past, they were all engaged in the manufacturing industry. However, the manufacturing industry has moved to the north and the economy has undergone restructuring. They are losing their competitiveness in the market. At the same time, there is no room for them in the market. As a result, they can only take up jobs like cleansing and security services. Furthermore, there is imbalance in the Government's town planning. The problem of unemployment in remote districts can only get worse. With demand exceeding supply, they often become victims of exploitation by employers. That has led to many social problems.

Madam President, according to the statistics of the Social Welfare Department, one quarter of the households in Yat Tung Estate, Tung Chung are dependent on CSSA. Secretary, this is an alarming statistical figure. I have encountered and received many such cases. The persons concerned are all this type of low-income individuals. With each family consisting of several persons, they live in places like Tung Chung and Kwai Ching. The husband was once a construction worker, but he is now jobless. The children are still going to school. So, the wife has to go out to work, earning \$3,000 to \$4,000 a month. The daily working hours are over 10, and there is no rest day. If she wants to take leave, the employer will give permission. However, a substitute worker will be hired. All these are facts. A typical example is in the case of the female worker killed in Tung Chung by a vehicle backing up. Secretary, such tragedies abound. Many people are among the working poor. However, they dare not come forward to report and complain because if they complain or so report, they are likely to lose their jobs. They are, however, the most worthy of respect among us. They do not loaf, they just want to get employment to feed their families. Unfortunately, has the Government helped them and give them a way out? In Hong Kong, there are now indeed a group of people who want to find jobs and have no wish to be on CSSA. Madam President, at present the most popular saying in Hong Kong is "I will get the job done". Yet the most common saying among the unemployed is "I want to find a

job". For those who are now in employment, do they know how difficult it is for the unemployed to find a job?

Madam President, yesterday I met with officials of the Food and Environmental Hygiene Department on behalf of some representatives of ice-cream vendors. Seven years ago, there were originally 140 to 150 vendors who earned their living by selling ice-cream. However, the Government has not revised its policy and issued no more new licences. As a result, this group originally consisting of over 100 ice-cream vendors is now only left with 36 in the trade. The whole of Hong Kong is only left with 36 "fossilized pandas". Are there people who want to take up such a job? The answer is in the affirmative. However, their licence applications to the Government have been rejected. It is possible to feed many people by selling ice-cream. The father of our Secretary for Justice, Mr WONG Yan-lung, once also earned his living by selling ice-cream. Our Government is most fossilized, not knowing how to find jobs for the unemployed. So I am repeating this, and I hope that the Secretary can hear our appeal today and find ways to help the unemployed get jobs and solve the problem of the working poor (*the buzzer sounded*).....

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

**MR WONG KWOK-HING** (in Cantonese): Thank you, Madam President.

**MR LEE CHEUK-YAN** (in Cantonese): According to Mr WONG Kwok-hing, the most popular saying in town is "I will get the job done". There is in fact yet another saying by Donald TSANG, which, however, can be described as the most disgusting saying in town. That is his statement that the economy in Hong Kong now is the best in the past 20 years. I spoke with elementary workers and they all made catcalls, and wondered what was wrong with the Chief Executive. What is the justification to say that now is the best time in 20 years? Is he totally unaware of the people's hardships? Is he totally unaware of the sufferings of elementary workers and grass-roots families struggling for survival?

Every person may take a look at a figure. According to what the Financial Secretary stated in his Budget, in 2006 the number of persons earning less than \$4,000 a month each was larger than that of the year 1996. That

stands for the number of people in full-time employment. Over the past 10 years, the prices of our commodities have gone up a lot. Yet the number of those making less than \$4,000 a month each is larger than what it was 10 years ago.

As a matter of fact, the greatest issue for the whole of Hong Kong now is stated in today's motion, namely, creating job opportunities and improving the income of elementary workers. This is the most crucial issue in our society. But what is the Government's policy? The Government's policy is very simple: just wait for the coming of Lady Luck. Nothing needs to be done, just hope for an improvement in the economy. They have a theory, according to which there will be more job opportunities as the economy picks up, and the people's livelihood will improve once there are more jobs. However, this supposition is utterly wrong.

President, I wish to point out in this debate the most crucial issue, which is in fact the point that the unemployment rate will keep on rising, no matter how upbeat, how improved or how job-creating the present economy is. Why? We must take a look. Are there no job opportunities now? President, the answer is in the negative. We, on taking a closer look, can notice that there in fact is an increase in job opportunities. We cannot say that there is none. How come wages cannot go up when there are more job opportunities?

Honestly, to be able to find a job is not necessarily good; nor is it necessarily helpful. The reason is that it has got to be one with which a person can support the family and maintain dignity. So, our request is not just finding a job. The course for the whole of Hong Kong society should not be confined to that of helping the people find employment. The course of the entire society ought to be that of helping the people to find jobs that are respectable and capable of meeting the needs of living. Why is it not possible now? Why are the wages still so low even though 300 000 job opportunities have been created over the past few years?

President, the crux of the matter is that there is a vicious cycle. If we do not disentangle this vicious cycle, then there can never be a solution to the problem. What is the vicious cycle? Now the people are earning very little money. This is especially true of men, many of whom are jobless or are making far less money than before. Women are being forced to come out for employment. In order to supplement the income of their families, the women have to come out and just "work doggedly". Sometimes they are not even just



trying to earn extra money but because their men are out of employment. They are "picked" by employers because their pay demands are more modest. So employers feel free to keep their wages low. A lot of women come out to work. Their pay is being relentlessly kept exceedingly low. So, in order to feed their families, more people have to come out for employment. If it is necessary for more people to come out for employment because the pay for both men and women is persistently low, the working population will keep on swelling. Then the unemployment rate is bound to rise. It is because there is bound to be high unemployment rate when the growth of job opportunities cannot catch up with the growing working population. Why is the working population persistently growing? It is because the wages are too low.

So, President, if we do not solve the problem of low wages, there can never be a solution to the problem of employment. I earnestly hope that the Government will take a close look at the matter. Do not make it often necessary for the people to come out to work. If we respect women, then it is not necessarily a bad thing for them to stay home to look after their families.

I, however, also would like more women to be financially independent. It is necessary to provide more child care services. In reality, however, there are not bound to be enough job opportunities for every woman to come out to work, so the ultimate solution to the problem is bound to be one requiring either the man or woman of a family to come out to work. It is fine for the man to stay home to look after the family, but, in order to be able to feed the family, the pay has got to be higher and can obviate the need for so many individuals to come out to work. Otherwise, there can never be a solution to this problem.

President, some government policies are rather "stupid". Here is an example. Now those on single-parent CSSA are being forced to come out to work, otherwise \$200 will be deducted. In fact, as the Government seeks to get more people to come out to work, wages will be kept persistently low, and supply increases incessantly. The vicious cycle simply goes on and on. In asking for minimum wage, we are seeking to solve the income issue so as to obviate the need for so many people to look for employment and then wages can be raised. A continuous supply of labour may mean constantly suppressed wages for the workers.

President, the next issue is working hours. This is, again, unresolved. Here is an example. The Government does not draw up legislation on working hours. However, some matters can proceed right away as they are within the

Government's grasp. That is something that has been discussed for many years, namely, the Government buying places in residential care homes. Mr Andrew CHENG said earlier on that there should be more residential care homes. If the working hours at residential care homes can be reasonable, say, eight hours instead of 12 hours, then there will be more job opportunities. However, those posts at present are all for 10 or 12 hours. The pay is \$5,000 or \$4,000. Those working in residential care homes have been subject to the worst wear and tear. However, some other people cannot get a job.

There can never be a solution to the problem of employment so long as the issue of working hours remains unsolved. Hence, here is another thing that the Government can do right away — they have made a promise but nothing has been done, only saying it will be studied as usual — and that is to see if it is possible for residential care homes from which the Government has bought places to adopt eight-hour workdays. On adopting for their security guards the system of eight-hour workdays, the Housing Department immediately created several thousand job opportunities. This is the right course to take.

Finally, I would like to speak on infrastructure. If all prefabricated parts for infrastructural projects are made on the Mainland, that can be of no help to local workers. So, if the Government is to launch so many infrastructural projects, it is hoped that the Government can ensure that they are done in Hong Kong, including the production of prefabricated parts. Only this can help local workers in employment. Thank you, President.

**MISS CHOY SO-YUK** (in Cantonese): President, the disparity between the poor and the rich in Hong Kong is readily demonstrated in the pattern of spending. With the property market and the stock market both booming, the rich are spending money like splashing water. A banquet can cost as much as \$100,000 to \$80,000 a table. However, even that is fully booked. At the same time, however, the grassroots have just leftovers for their meals, which has long ceased to be newsworthy.

Not to go too far, let me take as example the couple working as cleansing workers for the building where I live. They live in Tung Chung, and have to leave for North Point early in the morning every day to work. They work very hard, but their total monthly income is below \$9,000. One can work out how much they can keep after deducting expenses on meals, transport and rent. Really unable to make ends meet, the husband recently took up another part-time

job. It is, of course, not a case of one single breadwinner. It is a case of two persons working three jobs.

President, this is not a unique example. Every week whenever I have interviews with the public, there are invariably two or three similar cases seeking help. The persons concerned lament that they have to travel afar every day as there are no suitable jobs for them near their homes. Time does not matter very much. It is the huge amount of travel expenses that matters. There being no other choice, they have to ask the Housing Department for transfer to other public housing units. Of all the cases, the one giving me a deep impression is a man who has been wait-listed for public housing for years. Every morning he has to go to Choi Sai Woo to work as a security guard. Recently, arrangement has been made for him to move to Tsuen Wan. At first he was very pleased. However, on checking things out, he learned that during office hours there is just no public transport, whether direct or indirect, connecting the two places. Surely, taking a taxi is an exception. So, it is impossible for him to take up that public housing unit unless he resigns.

It is evident in these examples that for the grassroots to earn their own living, comprehensive matching policies are definitely necessary. It is hoped that the Transport Support Scheme mentioned in this year's Budget can be a focused measure. However, with regard to other policies, such as that on flexible allocation of public housing, I hope that they can be given attention too. In the final analysis, the key lies in creating in the districts more jobs that fit low-skill workers. Only with that can the people obviate the need to waste energy and money to go to other districts for employment.

One of the "trump cards" used by the Government in specifically helping the disadvantaged groups is supporting the development of social enterprises. However, a look at the figure can already show that the effort thereon is utterly inadequate. The 41 social enterprise projects funded by the Enhancing Self-reliance Through Partnership Programme of the Home Affairs Department only provide 750 jobs. Yet the current unemployment rate among non-skilled workers is still close to 5% when the economy is booming. In other words, the unemployed number over 40 000.

We certainly support the development of social enterprises, but at the same time we must urge the Government not to forget its own responsibility just because of that. It is definitely necessary to help the grassroots to solve the

problem of their living. In particular, with the Treasury now flooded with cash, there is still much room to put in effort.

In the first place, as the Government's finance is sound, it is hoped that the Government can deploy new resources to promote projects that can create a lot of elementary-level jobs. First, to carry out basic renovation or maintenance for the some 500 declared historic buildings. Second, targeting some of our old districts, where conditions of the environment are poor and the back lanes are filthy, to carry out full-scale clean-up and landscaping. Third, to implement in the districts full scale the work of greening, including the greening of rooftops and vertical greening. Fourth, to speed up some items of infrastructure that have already been approved. Such work can create a lot of job opportunities and improve our environment. Moreover, approval can easily be obtained from all parties concerned without much obstruction.

In the case of other work that can similarly create a lot of jobs, what is lacking is a set of suitable policy, not public funding.

I am referring to the environmental protection industry. The technology for recycling is making progress by leaps and bounds. Matters once regarded as waste are now almost totally considered valuable. Moreover, the technology involved is already very sophisticated. As a matter of fact, on the basis of my contacts, quite a few people have told me that they intend to carry out in Hong Kong recycling projects dealing with matters like plastic bottles, styrofoam, rubber tyres, plastic bags and biodiesel. Also, many people are prepared to invest in such industries and set up factories in Hong Kong. They, however, all run into the same problem, namely, the inability to find enough raw materials. In other words, Hong Kong does not have sufficient quantity of waste! Such a phenomenon is most ironical. Whilst the huge quantity of our waste is a headache to us day and night, they are unable to find enough waste for them to set up factories.

The main reason is, in fact, that we have not got an effective waste separation and recovery system. As a result, those recyclable raw materials are sent to the landfills for nothing. If the Government implements waste separation on a full scale to produce huge quantities of recyclables, then a lot of elementary-level jobs can be created. I can cite an example. In Shanghai, a waste separation plant alone has created 400 low-skill posts by delivering to a recycling and recovery firm plastic bags sorted out in the separation process. A

Zhuhai factory that recovers printer cartridges is hiring 5 000 workers even though its scale of operation is average.

So, if factories can be set up in Hong Kong to make use of various raw materials just mentioned by me, such as plastic bottles, styrofoam and rubber tyres, the number of jobs to be created will, I believe, far exceed 40 000, the current number of the unemployed. I think the number will be more than 100 000. Furthermore, the separation of dry and wet waste, if carried out by the Government, can also create 10 000 job opportunities. It is, therefore, hoped that the Government will go ahead with the development of the environmental protection industry. Thank you.

**MR KWONG CHI-KIN** (in Cantonese): Madam President, this year the economy has seen considerable improvement. Some are saying that the market sentiments this year are the best in the last 10 years. The Financial Secretary also has a fiscal surplus of more than \$50 billion, and is able to "hand out candies" to every social sector. We, however, still face a scenario in which the size of the low-income group is ever growing, and the problem of the working poor is worsening.

First, there is the generally known problem of hollowing-out of our industry. In the 1980s and 1990s, the trend of speculation was very strong in Hong Kong, with wealth concentrated on real estate. Property prices increased by 14 times between 1984 and the first quarter of 1997. The bulk of Government income depended on proceeds from land sales, and the outcome of land sales very much determined the amounts of revenue. The aftermath of the financial turmoil of 1997 had the structural problem of excessive dependence on real estate exposed.

Because of economic restructuring and the relocation of the manufacturing industry to the north, there are not enough jobs in Hong Kong, rendering it impossible to provide low-skill workers with enough job opportunities. So far, there has been no amelioration of the problem. Even in the case of post-secondary youngsters, with the exception of certain professions, such as accounting and finance which are doing better, the situation in other professions is not at all satisfactory.

According to results from recent population censuses, the highest-income decile group and the lowest-income decile group are both steadily growing.

This shows that the problem of social polarization is worsening. Even though this year is a so-called good year, there are no big pay hikes for most wage earners. Families of the working poor with incomes below the CSSA level actually number more than 170 000. The Government in fact should face up to this issue. Members of the labour force are strongly asking for legislation on minimum wage. I hope the Government will not delay the matter any further.

Madam President, the Government has got to be forward-looking. It should look for economic projects imbued with local characteristics in order that our economy can have stable development. We may make reference to the experience of other places. For instance, the Korean Government has put in a lot of effort to promote Korea's film industry, creating a lot of job opportunities and, at the same time, hammering out a unique cultural brand. Japan also encourages creative industries, and exports cuisine and fashions heavily imbued with cultural characteristics. All these are successful cases in which emphasis is invariably put on bringing into play one's strong points to counterbalance global culture with local culture. The environmental protection or green industry now popular in Europe and America, for example, the promotion of recovery and recycling industry and organic farming, is a "win-win" course that can improve people's lot and bring about sustainable development apart from creating a lot of low-skill job opportunities. Miss CHOY So-yuk just now spoke on this in considerable length.

If the Government is prepared to face up to the problem squarely, there are in fact many ways to improve the current situation. However, if the Government still acts in a way like the Budget just presented by spending more and handing out more candies when the time is a little better and there is a little more money around without getting at the root issue affecting our economic structure, then we fear that in a few years we might be back to square one. When the Financial Secretary again runs into the red, he probably will have to extend his hand to ask the people for money. Even the candies already handed out might have to be taken back.

With these remarks, Madam President, I support the motion moved by Miss CHAN Yuen-han.

**MR RONNY TONG** (in Cantonese): President, it is said that "A fungshui master can keep you hoodwinked for eight or 10 years." But in fact, the

Government can at any time keep the people "hoodwinked" for more than 10 years.

Ever since the reunification, government officials have been talking about fixing the economy. It was so when TUNG Chee-hwa was the Chief Executive. It has been so since Donald TSANG took over from him. So long as the economy is doing well, members of the lower strata will stand to benefit. However, according to the Population By-census Report released by the Census and Statistics Department late last month, the percentage of local households each earning less than \$10,000 a month actually rose from 23.9% to 27.9% over a period of 11 years ending last year whilst households each earning less than \$6,000 a month rose from 10.8% in 1996 to 14.7%. So the truth is that economic revival not only brings no improvement to the livelihood of those in the lower strata, but actually makes it worse.

There was a government proposal to set up a Commission on Poverty (CoP). The CoP has been in operation for more than one year. With that, the Government merely made a promise about bringing in on a trial basis a Transport Support Scheme, which was in fact a bid to gain support for last year's Budget from Members, especially those belonging to the pro-democracy camp. Unfortunately, it was not until one year later, when there came a proposal from our colleagues to move a motion of regret, did the Financial Secretary at last honour the said promise. Facts show that the CoP is just a scam used by the Government to meet the political needs of the moment. A lie having been exposed, this Government seeks to effect a cover-up or divert attention with another lie. This time this lie is known as "social enterprises".

In his election platform, Chief Executive Donald TSANG states that on winning another term, he will summon a summit conference on social enterprises to pool members of the business sector and social welfare organization together to promote the development of social enterprises. This appears to be the panacea capable of improving the employment situation of the lower strata.

We, however, must not forget the facts. Take a look at Britain, the nation where social enterprises are the most successfully developed in the world. According to the most recent statistics, the whole of Britain has 55 000 social enterprises, which account for 5% of the total of the country's enterprises. Their annual turnover is as high as £27 billion. Of these, 15 000 businesses has each a turnover of more than £1 million. In the area of recreation and sports facilities alone, the whole country has 100 social enterprises, which manage and

operate swimming pools and gymnasiums in many places, and provide services to 100 million people visits.

The great success of the social enterprises in Britain is, of course, attributable to the support given by the British Government in terms of policy and legislation. According to the government structure in Britain, there is under HM Treasury a Minister of the Third Sector, who helps the Cabinet formulate policies on social enterprises, including giving tax concessions, funding the tests in connection with different forms of social enterprises, providing training to more than 2 000 civil servants tasked with liaison with social enterprises and voluntary agencies, and even buying from them their products or services.

Chief Executive Donald TSANG stated his intention to develop social enterprises. We, of course, welcome it. It is because successful social enterprises can indeed make poverty alleviation possible, revive local economy, promote enterprise ethics, and foster sustainability. However, the question is: Does the SAR Government have the determination and ability to accomplish this goal?

At present, our law has no definition for social enterprises. Can these social enterprises be protected by law? How people can be prevented from reaping excessive profits under the pretext of running social enterprises? Will the Government bring in "social enterprise priority" clauses at the time of tendering if circumstances permit? Is there any tax concession for social enterprises or banks that give social enterprises loans? Will the Government take the lead to buy the products or services of social enterprises?

We may take a look here. The social enterprise cafe in Tuen Mun has been in business for more than one year, but it is still suffering losses. Recently, there was a television report on it. This is the best example. With no supporting measures, but only empty talks about the grand plan for social enterprises, how can people be convinced? I hope that this time it will not turn out to be something with a fine start but poor finish, or just a loud thunder with little rain, as in the case of the CoP. I am not trying to throw a wet blanket. However, given the track record of the CoP, I do not want social enterprises to become another mirage of the policy on poverty alleviation.

On the other hand, Chief Executive Donald TSANG has made it known that major infrastructure projects will be launched or speeded up. It appears



that the Government is still not clear about the point that infrastructure projects are meant to meet the needs of the community, not tools to create jobs. So long as the Government does not reform the current way of planning in a black box, improve the transparency of the planning process, and increase public involvement, there will be a recurrence of events once encountered by the West Kowloon Cultural District project. Then it will not be possible to launch major infrastructural projects, and those to suffer first are, of course, workers in the construction industry.

It goes without saying that it is necessary to set up social enterprises and speed up the implementation of infrastructural projects. To expeditiously draw up legislation on minimum wage is, however, the most effective and direct approach capable of improving the livelihood of members of the lower strata. Only then can there be immediate benefit to the elementary workers. In addition, the Government should also expeditiously improve elementary and tertiary education in Hong Kong. The reason is that, the key to the solution of structural poverty does not lie solely in the allocation of resources, but also has much to do with restoring the social mobility of Hong Kong.

Thank you, President.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, if we have been paying attention, we must have noted that for more than one year, the Government has been presenting us a picture telling us that our economy is thriving. With sanguine reports coming from all quarters, the whole community has the impression that it is indeed like that. The entire community indeed appears to be on the upbeat, and shows no sign of going downhill. For instance, the GDP is growing continuously, rising by 6.8% over that of the last year. Moreover, for three consecutive years, there has been, on average, a growth of 7.6%. These please us all, inspiring the people with the feeling that the economy is really thriving.

However, why is it we are today debating "Creating job opportunities and improving the income of elementary workers"? Is this something outdated? President, I think the topic is not outdated. I, on the contrary, would like to see a reaction. What sort of reaction? That is a reaction capable of giving the Government a sharp warning. Why? In my opinion, for some time the Government has reveled in those handsome figures in total disregard of some

unsightly figures. What are those unsightly figures? The unemployment rate is an example. The Government has been harping on the point that the unemployment rate has dropped from the peak of 8.8% to the present level of 4.4%, the lowest in six years. This is surely a very handsome figure, a drop from 8.8% to 4.4%. However, President, the Government does not stress the fact that 4.4% means that 150 000 people are still jobless. Nor does the Government let us know or emphasize to us that about 80 000 or 90 000 people are still underemployed. If we add the rate of underemployment to the rate of unemployment, then there are more than 200 000 people. However, the Government does not put emphasis on these. So, I am very grateful to Miss CHAN Yuen-han for proposing the motion. It is hoped that even though the blow is not too strong, it can still have the effect of telling the Government not to revel in those superficially handsome figures in total disregard of some real problems that are still present.

Surely, apart from the unemployment rate mentioned by me, there is also another figure earlier on cited by LEE Cheuk-yan. I do not want to repeat that. It is that there are in fact a lot of people who are each earning less than \$4,000. Hence, I hold that a government seriously facing up to social issues cannot just "sing praises" and close its eyes to things unpleasant. Conversely, if a government is duty-conscious, in order to urge itself on, it should keep on saying that there is still room for the government to do more for the community. As 4.4% of the people in the community are still jobless, how should we make improvement? 2.3% of the people are underemployed. How can we enhance the skills of this group of people so as to let them have full employment? At present, some 100 000 to 200 000 households are each earning less than \$4,000 a month. How improvement can be made so as to make them do better? The Government's attitude should be like this. Only in this way can a proactive and positive approach be adopted. However, our Government is not like that. So I find it lamentable.

In addition to finding it lamentable, people are often driven to say that they will be in great joy if there is no additional kick from the Government. This is about the implementation of policies by the Government. Why do the people say so, President? The reason is that in some cases, many government policies give people the impression that it is not trying to be helpful, but "to be unhelpful" instead. It is not just being "unhelpful". Sometimes it gives people the impression that it is trying to rub salt into a wound or add a few more kicks. Is there any example? President, for instance, we have more than 10 000 temporary posts or contractual workers in the Government. As they were

temporary posts or contractual jobs, said the Government rhetorically, we had better regularize them. This sounds very good, doesn't it? The unexpected result is that upon regularization, these people were unable to get on the "through train". Instead, they were required to leave their posts. As a matter of fact, these people are basically without skill or education. So they had to take up contractual jobs or temporary posts. However, following the regularization, they were kicked away and became jobless.

Apart from this group of workers, yesterday there came another group of people from the restaurants and small businesses operating in the shopping malls managed by The Link Management. President, I think you probably also understand that small businesses provide job opportunities to some grassroots. However, The Link Management ventured to say that there was no promise to renew leases with these small businesses for another six years. They are required to leave at the end of a three-year period. These businesses are being persistently pushed aside to give way to the operations of consortia. However, how do consortia do business? They do not do it themselves. Instead, the business will be contracted out. Once there is contracting out, there are going to be tiers of further contracting out. What will that lead to? As we all know, some people in the middle will be able to make money without working, which leads to tiers of exploitation. From tiers of exploitation naturally come low income and instability of employment. Moreover, the employees will have to toil hard. Why? In normal circumstances, there might be five workers. It is likely that there are only three now. The reason is that the less manpower there is, the greater the profit will be. Given this, people just wonder whether the Government, while singing praises of the economy, really shows any solicitude for these elementary workers. Does it understand and feel sorry for the hardship in their lives? If only those on the top are taken into the picture, then surely the economy and their income are good because under the contracting-out arrangement, those on the top can make money without leaving their seats. However, have we thought about the situation of those at the bottom? By the time the money goes to the third or fourth or fifth tier, what is the situation? As stated earlier on, they cannot even make \$4,000 each. I wonder if the Government's current mentality is one seeking to help them or if it is one seeking to trample on them. This is our top concern.

Earlier on I also made mention of creating job opportunities and improving elementary workers. That really dovetails with our current situation. We are not saying things detached from the present circumstances. If the Government hands out candies and money here today, my wish is for the Government to think

carefully to see how to benefit certain people, especially those not eligible for CSSA and paying no tax. They, totalling about 500 000 to 600 000, can get no benefit whatsoever. Furthermore, in terms of retraining, those aged between 24 and 29 are also not benefited. No one is helping them to upgrade their skills. They also cannot switch to other trades. Can the Government relax the conditions set for retraining by, say, doing away age limits and educational standards so as to enable more people to benefit from retraining, and make it easier for them to switch to new trades and upgrade their skills? Can the Government do that? President, it is hoped that the Secretary can get them all done. Thank you, President.

**MR LEUNG KWOK-HUNG** (in Cantonese): When running for his re-election, the Chief Executive claimed to be a very pragmatic person. According to him, only he knows how to do things, and words said by others are not practical. I know not what he can do. I, however, know one thing, namely, that in dealing with those of the lower strata or those at the grass-roots level, he is not much different from his predecessor.

As a matter of fact, I have said numerous times in this Chamber, pointing out that this Government's rescue effort is just for the market, not for the people. Now the fact is indeed like that. The market — especially financial activities — has been revived. But people have not. In fact, every budget or policy address is just politics. What are the contents? What we talk about is not ordinary political theory, that is, whether or not there should be "one person, one vote" for the election of the Chief Executive. What we talk about is the transfer of benefits resulting from the inability to elect the Chief Executive.

Let us take a look. In The Link REIT incident, Mr Albert CHENG, Mr Albert CHAN and me were blamed for "getting into the way of Hong Kong people seeking wealth". What has the truth proved? In order to save the property market, TUNG Chee-hwa adopted 10 strokes to that end. Because of that, the Hong Kong Housing Authority ran short of money. Claiming that it had no money, the Housing Authority thus carried out the world's biggest privatization exercise and sold to The Link Management Limited at very low price some of its car parks and shopping malls. What was the result? It resulted in transfer of wealth. Small businesses cannot do business. Workers hired by small businesses lose their jobs. To buy the same commodities in the shopping malls, residents of public housing estates are required to pay more. Or, they will have to go a long way before they can buy cheap commodities.

The occurrence of such a transfer of wealth is due to the fact that under the present political system, having money means having the right to vote and the right to vote means more money to come. Today, quite a few colleagues have been talking about the ways to save the people. However, they have not mentioned one point, namely, that even if we shout ourselves hoarse today, the Chief Executive is not present, and he is under no obligation to listen too. This is the critical issue that Hong Kong is now facing. It has come to our notice that a lot of capital is rushing into Hong Kong, and Hong Kong is "flooded". Into whose pocket have the earnings generated by such capital dropped? The Government tells us ..... in fact Antony LEUNG in the past had made mention of the trickle-down theory many times, saying that once an opening was made, things would come trickling down and get accumulated slowly. However, the situation is not like that in reality. Our society in fact is not like that. In our society, when the rich people get happier, the poor will get into more trouble or sink further down.

We notice the practice of contracting out. What is contracting out? Contracting out means the process whereby profits originally created by the community are being thinned out through further exploitation and further division so that those creating the profits may get less and less. This is the reason accounting for the growing number of low-income workers and the growing frequency of contracting out. This is the reason why our economy is the best in 20 years whilst the livelihood of those at the grass-roots level is the worst in 10 years. Such a Government is still allowed to remain. What else can we say?

We are aware of such a Government, but are unable to replace it by casting votes. We can only speak in a low voice and say "Please let me compete, let me compete, let me compete." However, it is again like that after competition. This system of corruption and vice is a key factor accounting for the worsening wealth gap in Hong Kong. Shortage gives no cause for concern whilst inequality does. Why? Because many people are playing "Robin Hood in the reverse". That is to say, they are robbing those who are already very poor.

Our Chief Executive brazenly dined with rich people, and had his pictures taken. Several rich tycoons came out with him, all holding tooth-picks. I know not what he had said over the dinner table. He did not even avoid suspicion. The Secretary in charge of housing affairs bought a horse. He did

so in conjunction with others. How corrupt has this system become? They are doing that openly, openly ganging up with persons of wealth.

So I can state this here. So long as those wealthy Members representing functional constituencies still hold the sway in this Council, or have the say in our watch over the Government, or so long as the Chief Executive is still elected by 800 people or by a larger group consisting of 1 600 people who are all or mainly bigwigs or rich tycoons, then even if our society earns another \$1,000 billion, not even \$100 million will be left to the poor.

I think it is best to discuss such a topic at the time of the Chief Executive's election. This amply shows that the motion on creating job opportunities and improving the income of elementary workers is utterly pale and powerless in the Legislative Council. It is hoped that more Hong Kong people will take to the streets to say "no" to this small-circle election. I hope they will go to Victoria Park at 7 pm this Saturday to join the march.

**PRESIDENT** (in Cantonese): Time is up.

**MR SIN CHUNG-KAI** (in Cantonese): Members, today's motion is about creating job opportunities and improving the income of elementary workers. I believe this is our consensus. The original motion has pointed out in particular that changes should be made to the existing legislation so as to facilitate the development of social enterprises. This is also consistent with the motion passed by the Legislative Council last year. In this year's Budget proposals, the Democratic Party also proposed that the Government should allocate \$500 million to establish a social enterprise seed fund (seed fund), as a practical move to promote social enterprises. On the other hand, Mr Andrew CHENG, in his amendment, has in particular requested an increase in the number of places in residential care homes. This will certainly shorten the waiting time for residential care homes on the one hand and provide more nursing posts on the other, thus alleviating the unemployment problem, in particular, the unemployment problem of women. All these are effective and immediate measures.

Madam President, we have requested the establishment of a \$500 million seed fund, which will be available to people with disabilities and the

disadvantaged, for the purpose of enhancing their employment opportunities. And the promotion of social enterprises is also a policy to foster a society of care and justice. Social enterprise, an important channel for the disadvantaged to integrate with the community, is in fact a mode of business operation underpinned by a special social policy with the purpose of enabling the disadvantaged to improve their skills and abilities in running a business so that they can survive in a highly competitive commercial society in real life. The seed fund can be allocated to people with disabilities and the disadvantaged in five phases so that the operational mode and culture of social enterprises can be established in a gradual manner. Currently, some of the funds for assisting in establishing social enterprises under the Enhancing Self-Reliance Through District Partnership Programme can be merged with the seed fund in order to strengthen the support. I will discuss the details in the Budget debate.

On the other hand, the Democratic Party hopes that the Government can honour its pledge and increase the subsidies for elderly places. During the past 10 years after reunification, improvement to the elderly services in the SAR has been made at a very slow pace and the number of elderly people who are leading a hard life is still enormous. This is because in the past few decades, retirement benefits and elderly services in Hong Kong have been run poorly. As Hong Kong population is ageing rapidly, the problem of providing services to the elderly will worsen in future.

As we all know, it is very difficult for the elderly to be admitted to government-subsidized residential care homes. The waiting time may be as long as a number of years, resulting in many lonely elderly huddling in partitioned rooms in some old districts. The demand for places in residential care homes will keep increasing as our population is ageing more and more rapidly. At present, the waiting time for places in care and attention homes and nursing homes ranges from nine months to 38 months. We consider this totally unacceptable given Hong Kong's economic condition. The ideal waiting time should not exceed 24 months. In fact, the Housing Department has set the waiting time for public housing at 24 months. So, the waiting time for places in care and attention homes and nursing homes should be set at less than 24 months. I believe this is an attainable target of the Government. The Democratic Party suggests that the Government should allocate an additional fund of around \$800 million. In the long run, under the premises-led programme, more subsidized places in residential care homes should be provided to shorten the waiting time. In fact, it is the policy of the Government to buy more places in the private

sector. However, the Democratic Party would like to see that lands in remote districts such as Yuen Long, Tin Shui Wai, Tuen Mun and even Tung Chung can be granted for building such residential care homes. Upon the completion of these homes, plenty of job opportunities will be created, thus alleviating the unemployment rate of some nearby districts worst hit by unemployment. So, this is like killing two birds with one stone as the demand for care and attention homes can be better met while more employment opportunities can be created in these districts.

Besides, we believe that more job opportunities for local women can be created with the provision of more places in institutions. According to the figures of the Census and Statistics Department, Hong Kong's overall unemployment rate in the past 12 months is 4.2% while the unemployment rate of women is as high as 3.3%. As the women working population is only around 60%, we should attach greater importance to the plight of unemployment and underemployment suffered by women. Generally speaking, most of those who have taken up nursing posts are women. To improve the services of residential care homes will increase jobs in the nursing industry, thus improving the employment situation of women in a pragmatic way. I hope the Government can give a more positive response before the Women's Day on 8 March.

Madam President, regarding care and attention homes, Members have to understand one point. Now the Government always says that 25% of our population will be over 60 years of age in 2030 and the demand for care and attention homes will be on the rise. However, if the Government does not drum up the resolve to tackle the problem today, the cost tomorrow may be more expensive. In fact, it will help reduce medical costs by building such institutions. Because if the elderly who need care and nursing services are admitted to hospital — as we all know, many elderly often go to hospital and mainly receive care and nursing services there — if more care and attention homes are provided, the burden of the Hospital Authority can be alleviated and the unit cost of these institutions can also be lowered. Besides, it is more expensive for the Government to buy places in urban areas. If residential care homes are built in remote districts, it can kill two birds with one stone for this will relieve the plight of those on the waiting list, create more employment opportunities and solve the problem of the retired elderly.

Madam President, I hope the Government can consider our suggestion in a proactive manner. Prof Patrick LAU pointed out that it would cost around \$100



million to construct one residential care home and it is urgent for the Government to commence these projects because 25% of our population will be over 60 years of age in 2030. So, what we are going to build will not turn out to be white elephants. After the Government has paid the capital cost for constructing these residential care homes, they will be operated on a self-financing basis through the charges received because the demand is enormous.

With these remarks, I hope the Government can seriously consider my suggestion.

**DR FERNANDO CHEUNG** (in Cantonese): President, the topic of creating employment opportunities, improving the income of elementary workers and even the worsening wealth gap is an old and outdated issue.

In fact, this issue has been discussed time and again in this Council. In today's discussion, we are no longer enthusiastic as we wonder the use of our discussion. I believe the greatest problem is precisely the core issue mentioned by Mr LEUNG Kwok-hung just now, that is, the Administration will not make any special response and need not give any account after hearing our views. Such a political situation is in fact a dilemma.

Having said that, President, we think this Council is still the highest organ of elected representatives of the people, and we should continue and be obliged to voice the views of the people. Regarding this motion topic, we have in fact repeatedly discussed it and are well versed in the so-called economic transformation and all structural problems. We have been dwelling on this basic problem of poverty for so long simply because the Government is trying to turn it into an individual problem while the public is trying to make the Government realize that this is not purely an individual problem but the result of mismatches and problems in structure.

We will come to realize this simply by looking at our education system. Two thirds of our students are phased out after Secondary Five. As channels for further studies are limited, some students are further screened out after matriculation. Finally, only 18% of the students are able to get a subsidized place in the university. How can the university admission rate of a city be so

low in the 21st century? However, if we want to increase this ratio, we have to rely on the market, thus resulting in something which is neither fish nor foul. We emphasize the development of high value-added industries and the four pillars of our economy, but our education system fails to cope with our needs at all. How can it tie in with the so-called economic transformation when only a small proportion of our people can obtain a university degree? Now, the Administration has attributed the problems of economic transformation to individual mismatches and mistakes, and even their incompetence. These are structural problems and problems of the whole system.

Let us look at the problem of "working poverty" again. As some Members mentioned earlier, we found that the number of low-income households has increased rather than decreased compared with a decade ago. We can see that the wages, particularly those of the elementary workers, have been suppressed. Many of them have to face wage cuts rather than wage hikes. The minimum wage is a solution down to the system, but we have to face a Chief Executive who has evaded the problem by implementing the Wage Protection Movement. Despite all these measures, the truth is that he is unwilling to do anything. Such a simple theory has been implemented in foreign countries for decades. But in Hong Kong, as the Government needs not be accountable to the public, it can refuse to implement it after long discussions. Although issues have been pointed out in the Budget and tax concessions are offered, the crux of the problem remains untouched. A long-term plight cannot be solved by a few candies.

In fact, as Members have pointed out, there are much room for improvement in respect of creative industry or personal care, such as the elderly services mentioned by the Democratic Party, apart from environmental protection, heritage conservation, medical service, education and even other personal services like housing. Now, there are many urgent livelihood problems. The waiting list for places in institutions is very long, not to mention that for many basic social services. One has to wait for years in order to get a consultation in a specialist out-patient clinic. These problems are not only related to measures for improving people's quality of life, but something which will create more job opportunities. Why did the Government not make efforts in this aspect? Why did the Government not make investments? Why should we tighten our belt when our economy performs so well, with an estimated annual surplus of tens of billions of dollars in the next five years?

In fact, it is not that there is no way or no direction to solve these problems. It all depends on whether the Government has the will. Currently, the Administration has launched the so-called social enterprises. But Hong Kong's legislative system is too outdated and the Co-operative Societies Ordinance cannot tie in with the positioning of social enterprises at all. In fact, there is no room for the development of social enterprises. Now, most social enterprises are suffering losses. If we lack a large-scale incubation arrangement, with the Government taking the lead in outsourcing of work or providing contracts, venues and funds, how can we expect that social enterprises can create plenty of employment opportunities? It has only proved that the work of the Administration is but a drop in the bucket if programmes purely for helping children development or some piecemeal retraining schemes are introduced.

After having discussed the topic for so long, we can see that the biggest problem seems to be the fact that the Government, some representatives in this Council, and some rich and powerful political parties have failed to appreciate the plight of the grass-roots people. Recently, I participated in an activity in which primary school pupils or even kindergarten pupils had suggested ways of alleviating poverty. Among these proposals is one from a pupil who invited the government officials to stay in the place of a poor family for one week. I am not sure whether only by doing so will the government officials understand that poverty is not purely an individual problem or the result of laziness or lack of self-reliance, but a problem arising from the lack of opportunities in the system. I hope the Government can understand that what we are talking about is the problem of the entire system. To solve these problems, we need determination and resolution. And only a comprehensive solution can solve the problem as a whole.

Thank you, President.

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

**MR ALBERT CHAN** (in Cantonese): President, I am not sure whether the Secretary went out because he had learnt about my intention to speak. Maybe he has to answer a call of nature.

President, concerning the issue of job creation and improving the income of elementary workers, I think we have been discussing it in this Chamber for more than a decade. Basically, a plain fact is that Hong Kong gives people an impression that it is getting richer and richer and its economy has become more and more prosperous. The stock market, apart from what happened in the past few days, keeps rising. When the Hang Seng Index hit 20 000 points earlier, many people began to have shark fin soup in their meals.

However, obviously, the toiling masses, in particular the semi-skilled or non-skilled workers, especially the labourers, are getting lower and lower wages even though the Government has been boasting the prosperity of our economy. Quite a number of academics also pointed out earlier that Hong Kong was moving towards a M-shaped community where the disparity between the rich and the poor was worsening and the middle class began to be impoverished. Not only we who always target collusion between business and the Government and criticize the transfer of interests between the Government and great consortia have pointed out such a weird phenomenon or concerns that are worth our attention, but also academics who are relatively neutral or academic-oriented have expressed their extreme concern because these problems will become a hidden worry of our society, leading to social unrest.

I would like to illustrate the seriousness of this situation with some data. We can see that the number of workers earning \$3,000 or less monthly is extremely worrisome. Instead of looking back to the remote past, I just look back at the second quarter of 1999 when only 9 700 workers were earning \$3,000 or less monthly. This figure — I am talking about the increase in the number of workers instead of the increase in wages — the number of lowly-paid workers has been on the rise since 1999. By the second quarter of 2006, this figure reached 148 100. From 9 000 to 140 000 — my apology, President, the figure has increased from 90 000 to 140 000. In the second quarter of 1999, the figure should be 90 000. In the second quarter of 2006, the figure should be 148 100. The increase is more than 50%. We can see the increase in the number of low-income workers, reflecting the plight of the low-skilled workers.

We can see that it is more and more difficult to find jobs in Hong Kong. Particularly, the situation of the toiling masses is deteriorating. Regarding the so-called economic transformation, it was much boasted in TUNG Chee-hwa's era that our economy was moving towards financial services with emphasis on high technology and service industries. Meanwhile, the weight of the financial

sector is on the rise, representing 14.5% and 21.9% of the GDP in 1984 and 2005 respectively. In other words, over the past two decades, the percentage has increased from 14.5% to 21.9%. But during the same period, we can see that many industries, in particular, the garment industry — as we all know, the number of employees in many industries is falling. Obviously, such economic transformation has resulted in unemployment of many toiling masses who may be forced to accept lowly-paid jobs in order to survive.

In fact, in the past few years, many political parties, Members or academics have offered a lot of advice to the Government. But the Government seems to be uninterested in listening to recommendations concerning employment creation and improving the livelihood of the grass-roots people. However, it granted the franchise immediately when a great consortium mentioned the development of the Cyberport and shared a profit of more than \$100 million. I do not know how much profits the consortium has made at the end of the day. But they had made use of such information and opportunity, and employed excessive financial skills, resulting in the total loss of the life savings of some elderly whose income mainly came from the share dividends. The Government has obviously adopted a different attitude towards this.

I would propose a lot of simple and basic concepts to the Government whenever the consultation on the Budget was conducted annually. In view of the serious unemployment problem, the Government can create a lot of job opportunities. Recently, the Government has foregone \$20 billion through tax rebate and rate waiver. In fact, this sum of money can create tens of thousands of jobs. In the past, I mentioned that the Government could hire workers to grow trees in the hills because the hillsides in Hong Kong are bald, just like my head. However, President, all the hills in the Pearl River Delta and in the vicinity of South China are covered by plantation. In fact, Hong Kong can follow their example. The Government can hire workers to grow trees in the hills, thus improving the environment and creating employment opportunities. But the Government seems to be entirely uninterested.

In the past, I used to offer lots of views to the Government such as revitalizing the local economy and developing the Silver Mine Cave in Mui Wo. The Government is bored at listening to all these, isn't it? The Secretary and I visited many scenic spots at Southern Lantau earlier. The Secretary also said that they were very beautiful. If the Government promotes these scenic spots, many people will be attracted and spend money in Hong Kong, thus creating more jobs.

I hope the Secretary can change the Government's existing attitude. Do not just take care of the interests of giant consortia. Rather, it should create job opportunities for the ordinary people so that these job opportunities will make Hong Kong people stay and spend money in Hong Kong. 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 Miss CHAN Yuen-han to speak. You may now speak on the three amendments. You have up to five minutes to speak.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, three colleagues have proposed amendments to my motion today. I have counted outside the Chamber that more than 20 colleagues have spoken on the motion. I am grateful to them. On this topic, as many colleagues have said, we have in fact provided lots of advice to the Government through our debates in the Legislative Council over the years. I found that through our debates over the years, we have gradually come to a clear picture about the situation and even joined hands to strive for our goal.

Over the years, the Hong Kong Federation of Trade Unions has been proposing the development of a diversified economy for the creation of employment opportunities. In the 1990s, we advocated the environmental protection industry, which should be called the recycling industry. Today, I have listened to the speeches of many Members, in particular, those of Mr Andrew CHENG who has proposed an amendment to my motion and mentioned the same point. Many other Members, including Miss CHOY So-yuk, have also spoken on this. In Miss CHOY's opinion, around 10 000 jobs can be created by promoting such industry. According to our estimation, the number of jobs created will not be less than 10 000. According to our statistics compiled in the 1990s, 50 000 jobs or more could be created on successful implementation of this industry. But it all depends on how it is implemented by the Government. Plenty of employment will be created if the industry is promoted in a gradual manner.

For instance, some eating establishments have recently collected the kitchen waste which will then be turned into fertilizers resembling peanut cake meal after dehydration and removal of oil. If we can really promote the recycling industry, we can create a lot of employment opportunities. We already made such a proposal long time ago. Today, Mr Andrew CHENG mentions this again in his amendment, which is further elaborated by some other colleagues. Why did the Government not consider developing this industry?

Besides, I share the views of Mr Alan LEONG. In his amendment, Mr LEONG mentioned his concern about local conservation. In fact, I think, when developing a diversified economy, we should attach importance to conservation and greening work. We should look for the economic factors in all aspects. I am glad to hear Mr Albert CHAN or some other colleagues mention the situation in Nanao. In fact, some places in Hong Kong are very beautiful. If we take a look at Southern Lantau and other places, we will find that there are many beautiful places in Hong Kong. In recent years, I go hiking because of the attraction of Hong Kong's scenery. I have sustained an injury also because of hiking. Hikers are strongly attracted by the fabulous scenery of Hong Kong. From Wan Chai, I walked to Wan Chai Gap Park. Through the Black's Link, I strolled to the Hong Kong Parkview, Tai O, Tai Tam, Chung Tam, Tai Tam Tuk and Shek O before I took a bowl of fish ball noodle at Tung Tai Street. This trip will take me more than three hours. The scenery of Hong Kong is marvelous. I hurt myself only because I slipped out of carelessness. I would like to tell colleagues that hikers love Hong Kong more and more. So, regarding Mr Alan LEONG's proposal on conservation, I have in fact made a lot of recommendations in my district, including the development of three trails in Southeast Kowloon and Kai Tak: the seaside trail, the greening trail and the historical trail. Another example is the Nga Chin Wai Village suggested by me. In fact, more and more consensus has been reached in the District Councils regarding these concepts. So I think consideration should be given by the Government.

In his amendment, Mr Andrew LEUNG proposed to abolish unnecessary regulations and restrictions and assist small and medium enterprises. Originally I totally agree with him. However, frankly speaking, if the Government intends to launch social enterprises but does nothing, all empty talks will become piecemeal advice. The Chief Executive said that he would take the helm. I hope he can tell us what will be done. If he engages in empty talk, I would

think that it is problematic. However, Mr Andrew LEUNG has observed that structural unemployment and mismatch in the market have occurred. He thought that training and retraining could solve the problem. But in reality, it cannot because there is no employment opportunity at all for our jobs are moving elsewhere gradually. To solve the problem of structural unemployment which has led to working poverty and disparity between the rich and the poor, colleagues who are also insightful businessmen should know that minimum wage and creation of employment opportunities are the two most crucial means.

Because of this principle, we will not support Mr Alan LEONG although I agree to his proposal of removing unnecessary regulations and restrictions — sorry, I have mixed them up. I will support Mr Alan LEONG's amendment rather than Mr Andrew LEUNG's. *(Laughter)* I thank Margaret for reminding me because I was distracted by the pain in my leg. I support Mr Alan LEONG's amendment and oppose Mr Andrew LEUNG's. I agree with Mr Andrew LEUNG's proposal of removing unnecessary regulations and restrictions, but why does he not deal with the specific problems? *(The buzzer sounded) .....*

Thank you, Madam President.

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I would like to thank Miss CHAN Yuen-han for moving today's motion on "Creating job opportunities and improving the income of elementary workers". This is a topic that we are all concerned about. I would also like to thank Members for their speeches and valuable comments, including those from Mr Albert CHAN on "growing trees on the hill" just now. I think he should not feel too sad for himself because he still have some hair left on his head, although not many trees can be grown, so..... *(Laughter)*

Last year, with a 6.8% growth in the GDP, the labour market improved further. The employment figure was a historic high, standing at 3.5 million while the unemployment rate dropped to a six-year low of 4.4%. Of course, as Members just said, we will not indulge ourselves in these figures and will continue to work hard. In the past 40 months, more than 310 000 new jobs have been created in our economy, showing that economic development and promotion of employment are interrelated.



From mid-2003 to the present, the unemployment rate among high-skilled workers has been reduced by around 40% while that of low-skilled workers has been slashed by as much as 50%, showing an improvement over technical mismatch in the labour market and the incomes of workers of various levels have also begun to bounce back during the same period. But we are still facing some structural unemployment and technical mismatch challenges arising from economic transformation. The SAR Government will keep up its unflinching efforts in promoting employment, enhancing the quality and skills of local workers and increasing their incomes so that more elementary workers can benefit from economic recovery.

The best way to improve workers' income and living standard is to promote economic development so as to create more jobs. However, as manpower demand is different in different industries, the modes of economic development will also have an important bearing on the growth of employment. So, if we are to create more jobs for workers of various levels, in particular, the low-skilled workers, Hong Kong economy will need more balanced and diversified development. With diversified development, the impetus of economic growth will not be concentrated on a few industries, thus leading to a greater flexibility in the overall structure. It will help enhance our potential economic growth, improve our competitiveness in globalization and strengthen our market's ability in creating jobs.

Improving the business environment is an important element in promoting diversified economic development and attract foreign investments. The Government has been removing unnecessary regulations and restrictions while the Business Facilitation Advisory Committee has made a number of proposals to streamline procedures on the regulation of the construction, real estate, catering, retail and entertainment industries in the past year. We will continue to work hard on this front.

Small and medium enterprises (SMEs) are a pillar of Hong Kong economy, accounting for more than 98% of the total local enterprises and employing 1.18 million people, representing 50% of the total employees in the private sector. The Government attaches great importance to the development of SMEs and is committed to providing them with necessary support so as to enhance their competitiveness. At present, the Government has set up several finance schemes for SMEs so that they can get assistance in terms of financing, expanding export markets and enhancing their competitiveness as a whole.

Another important element in developing a diversified economy is to foster our creative industries. Ongoing efforts will be made by the Government to create a favourable environment for creative and technology industries so that new job opportunities can be provided. We have been helping the development of the software industry through the provision of finance schemes and infrastructure, the setting up of quality assurance systems, stepping up the outsourcing schemes for the Government's information technology projects, nurturing software professionals and promoting wider use of e-commerce by the business sector and all quarters of society.

To strengthen our support for design and innovation, encourage wider use of design and innovation by various industries so that they can move up the value chain, we launched the DesignSmart Initiative (DSI) in 2004 to finance design-and-brand related projects. Under the DSI, the Government has also financed the InnoCentre Programme to promote the research of new concepts which will then be turned into commodities and brands.

In respect of supporting the digital entertainment industry, the SAR Government has been very determined in developing Cyberport into a one-stop hub by providing a variety of infrastructure, resources and support services to the industry. Facilities which have been set up include the Digital Media Centre, the iResource Centre, the Digital Entertainment Industry Support Centre and the Digital Entertainment Incubation and Training Centre funded by the Innovation and Technology Fund. All of these measures will not only promote the development of the software industry and digital entertainment industry, but also provide additional employment opportunities.

Apart from promoting the creative and technology industries, the Government is also devoted to promoting the creative industry in relation to local culture. Our main target is to maintain freedom of creation, enable the public to understand the importance of cultural and creative industries, and create a suitable platform for innovators to realize their potentials. We will also do our best to promote partnership between innovators and entrepreneurs to enable integration of innovation with industry, thus achieving greater economic efficiency.

Last year, with the Government's encouragement, the Hong Kong Baptist University obtained support from the Hong Kong Jockey Club Charity Trust to

convert a former factory building in Shek Kip Mei into a Creative Arts Centre which will provide a suitable workshop at cheap rental so as to support the cultural, arts and creative industries, in the hope that job opportunities can be provided to the relevant sectors.

The film industry is also a flagship of Hong Kong's creative industry. The Government has been devoted to creating an environment conducive to the development of the film industry, including promoting Hong Kong films in overseas markets, setting up funds to finance projects which are conducive to the development of the film industry and provide loan guarantee for film production as well as training in film applied technology to workers in the film industry. All these measures will help the development of the film industry, and increase investment in film production and job opportunities in the film industry. Besides, a blooming film industry will also bring positive impact on the development and job opportunities of other industries such as tourism industry and other service industries.

In the latest Budget, the Financial Secretary has proposed the setting up of a new fund to help resolve the problems of financing and lack of talents in film production and earmarked \$300 million for this purpose. The fund will help stimulate investment in film production and the nurture of talents. The Government is now consulting the industry on the actual operation of the fund.

On promoting environmental protection industry, the Government is devoted to promoting the development of environmental protection and recycling industries so that recyclable materials from waste can return to the economic circle and the burden on the landfills and the adverse impact on our environment can be alleviated. At the same time, it will help create jobs for the relevant industries. I am very grateful to Miss CHOY So-yuk for proposing the "garbage theory", pointing out that garbage can also create plenty of jobs.

In 2000, the Government introduced the Green Procurement Policy, requiring all departments to take environmental protection factors into consideration when setting out tender specifications. They should choose products which are recyclable with higher energy efficiency, and more durable with a higher content of recyclable materials. In the past four years, we have procured green products with a value of more than \$180 million. This measure will help increase the demand for green products, thus helping the development of the green industry.

To further promote the development of the local environmental protection industry, the Government allocated \$257 million last year for the construction of the EcoPark in Tuen Mun with the purpose of providing long-term land use specifically for the recycling and environmental protection industries. Upon completion of the EcoPark, 14 hectares of land will be provided to the industries, creating around 750 positions.

The implementation of good town planning will need support from infrastructural projects. The Government is now working on a number of large-scale planning and infrastructural projects, involving major supporting infrastructure and development plans such as site formation, road works, cruise terminals and housing projects, which will create plentiful job opportunities for the planning, architecture, surveying and construction sectors.

As the Financial Secretary emphasized when delivering the Budget, the Government will continue to earmark an average of \$29 billion annually for infrastructural projects in the next few years. In the next financial year, we will see a number of major projects, including the Tamar development project, going into the commencement stage. It is estimated that they will create around 23 000 new jobs for the construction industry. According to estimation, some 14 000 additional vacancies for the construction sector will be created when other major projects in the pipeline including the Kai Tak development plan are implemented.

In respect of heritage conservation, the Home Affairs Bureau is currently conducting a review of the built heritage conservation policy and work so as to improve the existing historic buildings preservation system. We are now considering a series of improvement measures, including the proposal of setting up a statutory heritage trust fund, a comprehensive review of the assessment criteria for built heritage, formulation of diversified adaptive re-use options in relation to historic buildings and amending the existing enabling legislation. It will help create more positions in relation to heritage conservation if these improvement measures can be implemented smoothly.

The SAR Government agrees with the value of social enterprises and will support the promotion of social enterprises in a proactive manner in order to help the underprivileged to resume employment and become self-reliant. Starting from 2001, we have launched the Enhancing Employment of People with Disabilities through Small Enterprise Project to help rehabilitation organizations to set up social enterprises so as to help people with disabilities to find

employment. In view of the fact that social enterprises have been proven effective in helping people with disabilities find employment, the Commission on Poverty (CoP) supports the further development of social enterprises. In the past year, the CoP promoted the concept and value of social enterprises to the public, encourage cross-sectoral co-operation and step up training for social entrepreneurs.

To complement the promotion of the development of social enterprises, the SAR Government also earmarked \$150 million in last year's Budget to step up efforts in poverty alleviation at the district level, including the setting up of the Enhancing Self-Reliance Through District Partnership Programme last year, which provides a seed fund to help finance the development of social enterprises by community organizations. Up to early this year, an allocation of around \$38 million has been approved by the Programme, and it is expected around 750 jobs will be created. Besides, the Government will continue to consider how to facilitate social enterprises in participating in bidding for government contracts so as to create jobs for the disadvantaged groups under the principle of transparency, fairness and value for money without causing unfair competition to other industries.

Regarding the promotion of employment, Miss CHAN Yuen-han has proposed that more training opportunities be provided to working youths and middle-aged people so as to enhance their competitiveness, thus promoting employment. We of course agree with that.

In fact, a number of employment programmes of the Labour Department (LD) are precisely launched for this purpose. The Youth Pre-employment Training Programme (YPTP), which is specifically designed for providing pre-employment training to young people, was launched as early as 1999 while the Youth Work Experience and Training Scheme (YWETS) is aimed at providing on-the-job training to them. These two programmes are the LD's flagships in promoting employment of young people, with the purpose of enhancing their employability. Since the introduction of the YPTP, more than 73 000 young people have received training. As at the end of January this year, more than 30 000 trainees of the YWETS have been appointed on internship while more than 16 000 trainees have found employment in the labour market with the help of their case managers.

Starting from 2005, a "revolving door" mechanism has been introduced so that the trainees may participate in these two schemes and benefit from both. In

addition, tailor-made employment training courses are jointly run by these two programmes so that the advantages of both can be combined. A joint admission scheme under the two programmes commenced last month. We have sufficient training places to absorb all qualified young people.

Besides, the LD is also working on the setting up of two Youth Employment Resource Centres in the New Territories and Kowloon. The purpose of the Centres is to provide one-stop employment counselling, value-added training and support services on self-employment to past and existing trainees of the YPTP and YWETS and youths aged between 15 to 29 so as to enhance the employment support services for them. It is expected that these two Resource Centres can offer services by the end of this year.

Regarding the middle-aged people, the LD has set up the Employment Programme for the Middle-aged to encourage employers to take on the unemployed aged 40 or above. A Work Trial Scheme has also been set up to enhance the employability of job seekers who have special difficulties in finding jobs. As at the end of January, more than 28 000 job placements have been achieved and arrangements made for around 1 200 job seekers to participate in the Work Trial Scheme.

Regarding education, we should keep up our efforts in educating and nurturing our talents in order to enhance Hong Kong's competitiveness and further promote our economic development. To this end, the SAR Government is dedicated to providing good education in order to upgrade the quality of our workforce. Education has also been the priority policy of the Government. The Education Commission has also established "lifelong learning and holistic development" as the education target of the 21st century. We have set up a diversified education system which encourages lifelong learning and sustainable development in an orderly and gradual manner during the past few years. Many education reform measures have begun to bear fruits. In the 2007-2008 financial year, the total recurrent expenditure on education exceeds \$50 billion, which is the largest single item, accounting for more than 24% of the total government expenditure.

Regarding tertiary education, in order to enhance the opportunities of receiving tertiary education for local students, the Government has introduced a series of support measures since 2000, including the setting up of a \$5 billion Start-up Loan Scheme for service providers, Land Grant Scheme and a \$30

million Accreditation Grant Scheme to boost the development of the tertiary education sector. At present, the age participation rate of post-secondary education has increased dramatically to more than 60%, and around 30% of our workforce have attained the tertiary education level or above.

To look forward, under the new academic structure for senior secondary education and higher education (the "3-3-4" structure) to be implemented in 2009, all students will be able to receive three-year senior secondary education. They will have more time to learn and more room to develop the generic skills and abilities in all different aspects to ensure balanced growth so that they can be better prepared to face the ever-changing society in the future.

In respect of stepping up training, the Government has been offering various training and retraining programmes with clear and definite targets for people of different levels and different age groups, including young people and the middle-aged, so as to upgrade their competitiveness and employability.

The Vocational Training Council (VTC), Construction Industry Training Authority and Clothing Industry Training Authority are committed to providing various vocational education, industrial training and skills enhancement courses to youngsters and people in employment. The Project Yi Jin has opened up a new channel for Secondary Five school leavers and adult learners to receive continuous education, enabling them to lay a good foundation for employment and further studies. The Skills Upgrading Scheme (SUS) provides on-the-job training to elementary workers with lower skills and lower education attainment, helping them adapt to the economic transformation. The Employees Retraining Board (ERB) mainly offers retraining courses to the unemployed or displaced workers at the age of 30 or above with junior secondary education level or below to help them return to the labour market. Besides, the Government set up the Continuing Education Fund in 2002 to encourage people to pursue continuing education and provide subsidies to them so that they can cope with the development of a knowledge-based economy. So far, more than 320 000 applicants have been granted subsidies.

We agree that the courses run by all these training and retraining agencies should keep abreast of the market needs so that human resources which meet the market demands are provided. For this reason, there are representatives from all industries in the committees of various institutions providing recommendations on the courses to ensure that the courses meet the market needs. In fact, the VTC and ERB full-time graduates enjoy an employment rate

of more than 80%, showing a very satisfactory outcome of the courses. Besides, the Government has also commissioned an independent agency to carry out an efficacy assessment on the SUS. The findings reflect a satisfactory result. Under the Qualifications Framework, the Industry Training Advisory Committees of various industries are now formulating the Specifications of Competency Standards (SCS) for their respective industries so that these training institutions can offer SCS-based courses to facilitate the development of the relevant industries. The Government will from time to time review the efficiency of various training and retraining schemes to ensure that the market needs are met.

Madam President, the best solution to improve the employment opportunities of elementary workers is to promote economic development. The Government will continue to promote a diversified economy, improve the business environment, launch infrastructural projects, and promote the cultural, creative and environmental protection industries so that more jobs can be created. We will promote social enterprises, step up support for the elderly and help the disadvantaged to resume work. Besides, the LD provides a number of employment schemes, providing placement services to the needy. We will continue to step up training in order to upgrade the skills of workers with lower skills and lower education attainment. Meanwhile, the Government will be committed to providing quality education and nurturing our talents.

With the advent of globalization, knowledge-based economy and a society emphasizing information technology, the employment problem and income disparity will become a challenge to us and other economies. The SAR Government will continue to promote economic development, enabling the market to create more job opportunities. We will also continue to adopt a multi-pronged approach to promote employment in all sectors so that people can share the fruit of economic recovery.

Thank you, Madam President.

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

**MR ANDREW CHENG** (in Cantonese): Madam President, I move that Miss CHAN Yuen-han's motion be amended.



**Mr Andrew CHENG moved the following amendment: (Translation)**

"To delete "despite the revival of" after "That," and substitute with "given the recession in Hong Kong over the past few years, although"; to add "has revived" after "Hong Kong's economy"; to add "speed up the implementation of infrastructural facilities," after "this Council urges the Government to"; to add ", including promoting the overall development of the film industry and the recycling industry as well as increasing the number of places in residential care homes" after "creative industries"; and to add "encouraging workers to take up employment," after "promotion of social enterprises, thereby"."

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

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

(Members raised their hands)

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

(No hands raised)

Mr Howard YOUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Howard YOUNG has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Yung-kan, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr WONG Ting-kwong and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Prof Patrick LAU abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LI Kwok-ying, Mr Alan LEONG, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mrs Selina CHOW abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 11 were in favour of the amendment and 12 abstained; while among the Members returned by geographical constituencies through direct elections, 19 were present, 17 were in favour of the amendment and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**MS MIRIAM LAU** (in Cantonese): Madam President, I move that in the event of further divisions being claimed in respect of the motion on "Creating job opportunities and improving the income of elementary workers" or any

amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Creating job opportunities and improving the income of elementary workers " or any amendments thereto, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr Alan LEONG, you may move your amendment.

**MR ALAN LEONG** (in Cantonese): President, I move that Miss CHAN Yuen-han's motion be amended.

**Mr Alan LEONG moved the following amendment: (Translation)**

"To add "and the great improvement in government revenue" after "revival of Hong Kong's economy for a considerable period of time"; to delete "and" after "promoting local community culture" and substitute with ", "; to add "and environmental protection industry" after "creative industries"; to add "and to create more infrastructural development jobs which are conducive to good planning and heritage conservation" after ", etc"; and to add "expeditiously improve elementary and tertiary education in Hong Kong and" after "in addition, the Government should"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Alan LEONG to Miss CHAN Yuen-han's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

Mr Andrew LEUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Andrew LEUNG has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Prof Patrick LAU abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr Alan LEONG, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mrs Selina CHOW, Mr LAU Kong-wah and Mr LI Kwok-ying abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, nine were in favour of the amendment and 14 abstained; while among the Members returned by geographical constituencies through direct elections, 18 were present, 14 were in favour of the amendment and three abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr Andrew LEUNG, you may move your amendment.

**MR ANDREW LEUNG** (in Cantonese): President, I move that Miss CHAN Yuen-han's motion be amended.

**Mr Andrew LEUNG moved the following amendment: (Translation)**

"To delete "the job market still suffers from serious structural imbalance and, without minimum wage protection, the income of workers is polarized, which has led to the widening of" after "revival of Hong Kong's economy for a considerable period of time," and substitute with "the decline in the unemployment rate from the peak of 8.5% in 2003 to 4.4% and that employers are finding it more difficult in recruiting workers than before, the living conditions of the low-income group,"; to delete "the worsening of" after "the disparity between the rich and the poor and" and substitute with "the problem of"; to add "have yet to be ameliorated" after "inter-generational poverty"; to delete "develop a diversified economy, such as" after "this Council urges the Government to" and substitute with "adopt diversified measures, such as abolishing unnecessary regulations and restrictions, promoting investment, assisting small and medium-sized enterprises,"; to add ", to boost the economy, thereby generating more job opportunities" after "creative industries, etc"; to add "and provide incentives such as tax concession" after "make changes to the relevant policies"; to delete "and easing the oversupply of workers in the elementary labour market" after "thereby increasing job opportunities" and substitute with "for the disadvantaged"; and to delete "provide more training opportunities to working youths and middle-aged people to enhance their competitiveness" after "in addition, the Government should" and substitute with "review the training effectiveness of various existing organizations which provide on-the-job training and retraining services and strive to make them more effective, so as to train more human resources that meet the market needs"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew LEUNG to Miss CHAN Yuen-han's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Frederick FUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Frederick FUNG has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong, are you prepared to cast your vote?

(Mr CHEUNG Man-kwong pressed the button to cast his 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, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr KWOK Ka-ki, Mr WONG Ting-kwong and Prof Patrick LAU voted for the amendment.

Dr Joseph LEE voted against the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Ms Margaret NG, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Fernando CHEUNG and Mr KWONG Chi-kin abstained.

Geographical Constituencies:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr LAU Kong-wah, Ms Emily LAU, Mr Andrew CHENG, Mr LEE Wing-tat and Mr LI Kwok-ying voted for the amendment.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG and Mr Albert CHENG voted against the amendment.

Miss CHAN Yuen-han, Ms Audrey EU, Mr Alan LEONG and Mr Ronny TONG abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 15 were in favour of the amendment, one against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 19 were present, nine were in favour of the amendment, five against it and four 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): Miss CHAN Yuen-han, you may now reply and you still have five minutes five seconds.

**MISS CHAN YUEN-HAN** (in Cantonese): President, just now, when Secretary Stephen IP was responding to my question, initially, I was all ears, but then it sounded as though the comments made by the Secretary had come from a record player that repeats the same things and there was nothing new. I personally think that this is just like what we saw in the 1990s. After 1997, we made a visit to Shanghai. When I was about to leave Shanghai, it so happened that some officials were about to visit Hong Kong. They asked us not to leave and had a discussion with us from the labour sector.



They said that in Hong Kong, there was the Project Springboard and also other programmes designed to help young people and talked about many such things. In response, we said that they should not listen to what those people said. It was because they were going to make a visit that those people told them about all those things, making it sound as though the problem of unemployment among young people had really been solved. At that time, the unemployment rate of young people aged between 15 and 19 years was close to 30% and now, the unemployment rate is still as high as 20%, whereas the overall unemployment rate is about 4%.

I think the Government is always adopting this attitude of patching up here and there all the time and when people ask, it will say that we have this and that. To be honest, due to the Secretary's position, I believe he cannot say too much. But when he picked up his script, I believe he would also think.....I do not know how I should evaluate it, but I think there is nothing new.

Recently, I had a discussion with some workers in the film industry. They were very concerned about the \$300 million allocated by the Chief Executive and about how this sum of money should be used. In fact, all of them hoped very much that there could be a major change in this creative industry of film-making, that is, it is not just a matter of money but also of land. Take South Korea, a place that we have visited, as an example, it will not do to just leave people to their own resources after paying for something. Do our officials really know? I am sure that some Secretaries who keep close tabs on public sentiments certainly know about this, only that when they formulate policies, they do not have the determination to deal with the existing problems of the wealth gap and the working poor.

If they have the determination, I believe that when Henry TANG was discussing the Budget in the Legislative Council and after Honourable colleagues have raised their queries, I believe he should be aware of them. He should be aware of where the problem lies. From Antony LEUNG in the past to Henry TANG at present, how possibly can they not be aware? It is because the overall policy does not permit him to do otherwise that he has proposed ways of patching things up.

I remember that when I criticized the former Chief Executive, TUNG Chee-hwa, severely, he asked me to submit a proposal to him, so I submitted a

proposal on local community-based culture and economy to him. After the Secretaries under the accountability system had taken office, the proposal was handed over to Antony LEUNG, who changed the name to local community economy and in a high profile, appointed Mr Chris SUN Yuk-han, to go to the 18 districts to carry out promotional work. Later, he said to me, "Miss CHAN, I cannot say too much because I am a government official." However, we all understand how the situation is like and that it is simply a total impossibility to remove all the barriers and constraints.

Does anyone still talk about the local community economy anymore nowadays? Not any more. TUNG Chee-hwa talked about creative industries and even commissioned The Hong Kong Polytechnic University to conduct a study on what is called the creative industries. However, has any follow-up action been taken since the completion of the study? No. Just now, the Secretary said that it would not do for him to do nothing. I agree with this. Although something has been done in Shek Kip Mei, in fact, it is still possible to do more there. Since the results in Shek Kip Mei are so good, new projects should be introduced. For example, I have taken "Mr SUEN" and Dr Patrick HO to the factory buildings in San Po Kong — I cannot remember if Secretary Stephen IP has been there, perhaps I will go there with him some other day. These buildings have great potential in becoming places for cultural and creative industries. When I talked about this with members of the film industry, they were also very excited, however, I think it is very difficult to get any land grants.

Be it among the public or Honourable colleagues in the Legislative Council, there is in fact a group of people who really want to focus on the problem of structural unemployment. Be it middle-aged people, young people or students in tertiary institutions, if the subjects they study do not meet the needs of society, they can only work in positions paying several thousand dollars. I have a colleague whose son studied film technologies overseas and I asked him how much he earned. He said he earned only \$9,000, and he is an outstanding worker in the industry. The Secretary is in fact aware of such a situation, however, he cannot get out of this bind unless he takes part in an election.

I personally think that it is really necessary for the Government to have some determination. The problem now is whether it has any determination, whether it is facing the problem squarely and whether it will stop getting an economist to say a load of nonsense, maintaining that there is no disparity of wealth in Hong Kong. We should follow the example of Singapore properly,

face the disparity of wealth in Hong Kong squarely and solve this problem, otherwise, our Honourable colleagues will raise the same issue again next year. Sometimes, I also feel that I can only shrug this matter off with a laugh. If I always feel discontented, I will be very heartbroken. I hope the problem can really be solved one day. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That Miss CHAN Yuen-han's motion be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr Andrew LEUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Andrew LEUNG has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Yung-kan, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr WONG Ting-kwong and Mr KWONG Chi-kin voted for the motion.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Prof Patrick LAU abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LI Kwok-ying, Mr Alan LEONG, Mr Ronny TONG and Mr Albert CHENG voted for the motion.

Mrs Selina CHOW abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 11 were in favour of the motion and 12 abstained; while among the Members returned by geographical constituencies through direct elections, 19 were present, 17 were in favour of the motion and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Second motion: Strengthening the supervision of railway safety.

### **STRENGTHENING THE SUPERVISION OF RAILWAY SAFETY**

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

Madam President, railway incidents have always been a subject of concern for the public and the Legislative Council. Over the past few years, there were failures of all sorts of the railway systems and what resulted were all sorts of reports compiled in various lengths. However, the impression we get is that while the reports are accepted, the failures continue nonetheless. The concern expressed by the Government and the railway corporations is seemingly confined to their claim that the incidents are merely isolated incidents. For my part, it is not the first time I move this kind of motion. I hope that the authorities will be convinced that proper attention should be paid to the problem of railway safety.

As railways are a key mass transit system, any minute of railway system failure could bring about tens of thousand dollars of loss in social cost terms. If the failure of the railway systems occurs during the peak hours, the direct financial losses so incurred could be in the region of millions of dollars. Did the Government take into account the direct social losses incurred when it dealt with the problem of railway safety in the past? If the *per capita* income of our workforce values at \$3.38 per minute, take the example of the incidents that happened in the Mass Transit Railway (MTR) in 2004 — there were a monthly average of 10.8 incidents of delay and disruption lasting eight minutes or more — and assume that 10 000 passengers were affected in each of these incidents lasting eight minutes or more, then the social and financial losses incurred might be as much as \$35.04 million.

From this, it can be estimated that if the Kowloon-Canton Railway Corporation (KCRC) is also included, the total financial losses caused by railway incidents each year may be as much as \$70 million to \$80 million. Over the past five years, the total direct financial losses incurred as a result of system failures may even reach as much as \$400 million.

Madam President, as I have emphasized many times, the cause of so many railway incidents occurring is that the Government has never imposed any direct penalty on the two railway corporations. If the existing review mechanism is allowed to continue, it will become no more than constant repetitions of certain prescribed procedures under the bureaucratic system. Even if the two railway corporations have the most impressive train operation data, that will not help reduce the possibilities of these railway incidents from occurring. Take the year 2004 as an example again, the total system failure time in that year was 5 000 minutes. Madam President, 5 000 minutes of disruption, delay and failure translate into 84 hours and despite these 84 hours of disruption, delay and failure, the Government claimed that the punctuality for the railways in that

particular year was 98.9%. It can be seen that the so-called supervision and punctuality of the railways cannot reflect at all the number of system failures that have taken place. We are convinced that a clear penalty system and set of standards should be set up before these two railway corporations can pay serious attention to their frequent incidents. The measures concerned should include the total number of hours of service disruption or delay resulting from railway incidents and the time slots of the day these occur, the number of affected passengers and the number of the resultant casualties and fatalities. They should be taken as standards for the service performance of the railway corporations. These standards should be used in the place of this kind of fanfare about a so-called 90%-plus punctuality. At the same time, a demerit points system should be introduced such that penalties will be imposed according to the extent of the impact and seriousness of the incidents. As for the specific suggestions about the demerit points system, other colleagues from the Democratic Party will talk about them later.

With respect to the organization of the Government, now the Railway Inspectorate is unable to play its role of supervision of railway safety owing to its establishment and resource limitations. When railway incidents happen, under the existing procedures, the railway corporation concerned is required to submit a report to the Environment, Transport and Works Bureau and to give an account to the Legislative Council. As for investigation, it is to be carried out by the railway corporation on its own. The Railway Inspectorate does not have any authority to take any direct action to initiate an investigation into a railway incident. In fact, taking the example of incidents in the East Rail, the Report of the Review Panel on the Reporting of East Rail Incidents also points out that since the Railway Inspectorate monitors the railway corporations on behalf of the Government, it should undertake a more active role and take part in the investigation of incidents. However, under the existing establishment of the Railway Inspectorate which is tasked with supervising all the railways in Hong Kong, there are only seven persons working in it. Just imagine if system failures occur at the same time in the two railways, how can the Inspectorate which only has seven persons handle the situation? In my opinion, to give full play to the functions of the Railway Inspectorate, its current establishment and powers must be expanded. The Democratic Party suggests that the post of Commissioner for Railway Safety should be created to co-ordinate the work of the Railway Inspectorate and the office-holder should be given powers to conduct investigations into railway incidents direct. At the same time, the current establishment of the Railway Inspectorate should be expanded so that it can undertake more work in this aspect.

On the post of Commissioner for Railway Safety, we have taken reference of the example in Britain which also faces the same problem of frequent occurrences of railway safety incidents. In view of this, on 1 April 2003, with the co-operation of the railway sector in Britain, the non-profit-making Rail Safety and Standards Board was set up. Its aim is to improve the railway safety standard in Britain and to reduce the risk of accidents to passengers, staff and the public.

The specific proposals put up by the Democratic Party on railway safety include the hiring of a person with extensive experience in railway safety to assume the post of Commissioner for Railway Safety. With respect to the day-to-day operation of the railway corporations, the Commissioner can give advice, undertake studies, make assessments and propose improvements on all matters related to safety, including regular repairs and maintenance, system safety and train operations, and so on.

Under the Commissioner for Railway Safety, a Committee on Railway Safety should be set up with members from the Government, experts, scholars and even directly elected Members of this Council. Meetings should be held on a regular basis to deliberate on various kinds of rail incidents, draft safety standards and make recommendations on improvement of railway safety.

Madam President, on the repairs and maintenance work of the railways, as far as we know, the staff of the KCRC are hit by low morale in the wake of the rail cracks incident in 2005 and their worries about their job and remuneration after the merger of the two railways. Every time when a railway incident happens, those who suffer are invariably the staff, not the management. For the staff, not only do they have to work hard in their respective posts, they will also face tremendous pressure from the management. It is therefore a very important thing to railway safety to upkeep staff morale and service quality. I urge the Government to require the two railway corporations to give more resources and training support to the repairs and maintenance departments of the two railway corporations and to give ample rest breaks to the staff and to ensure that their morale will not be affected.

Last month a fire occurred in the Tai Lam Tunnel of the West Rail and this incident has aroused public concern for the sufficiency of emergency escape facilities in the train tunnels and along all the railways. On that day, the firemen had to walk more than 2 km to the scene on that day to fight the fire.

Just come to imagine this. If there were people wounded and needed to be sent to hospital, would the railway corporation have any contingency measures to assist in conveying the wounded to hospital? Has it ever occurred to the Government that the safety measures in other tunnels are sufficient or not? We urge the Government to examine the fire service installations and means of escape along all the railways to see if they can cope with major railway incidents.

Madam President, the Democratic Party has all along been striving for the provision of radio reception services along all the railways and the installation of screen doors or automated gates at the platforms of all railway stations. The former will help passengers obtain information on railway incidents and emergency traffic arrangements more promptly so that they can change to other modes of transport. The latter will help reduce accidents caused by people falling onto the tracks. Ever since the MTR has installed screen doors, the number of accidents resulting from people falling onto the tracks has dropped from 119 in 1999 to only 16 in 2005. As for the East Rail, there is a growing trend of this kind of accidents. In 2003, there were 44 such cases. The number rose to 49 in 2004 and 56 in 2005. However, the two railway corporations have all along rejected the above suggestion and we hope that the Government can require the railway corporations to provide radio reception services in the MTR tunnels, MTR train cars and KCRC tunnels so that passengers can receive information on the radio. This will enable passengers to know what is going on whenever an accident has taken place.

Madam President, the Bureau may think that the above suggestions are much too harsh. But when the Government is to approve of the plans to expand the railway networks, it will as a general rule grant a host of special favours to the railway corporations, such as other modes of public transport must reorganize or cancel their service routes to make way for the railways. The Government may even grant a great deal of property development rights along the railways to help the railways develop. So I hope the Bureau will see the point that the public has strict requirements of the railway corporations and expect them to minimize the number of incidents by all means. And as some of the railway systems have been in use for more than 20 years and the ageing problem is already appearing, we hope the Bureau can re-examine the existing policy on railway safety and make some forward-looking recommendations on the problem of ageing of the railways. The Government should send a clear message across to the railway corporations, that they should not care only for their own rights to the neglect of their social responsibility in public safety.



From past experience I know that this motion today may not be able to pass. But I would like to make use of this opportunity to tell the Government and those pro-Government Members that I have on numerous occasions made many recommendations on the merger of the two railways and on the issue of railway safety, and I do not wish to see the issue of railway safety labelled in the merger discussions as an attempt to forestall the merger. I hope Members can see that the public must fight for the chance to uphold their rights concerning the railways. And as the Government is constantly pressing the Members to speed up the merger process, has it ever given any thoughts to the right to railway safety that the public should enjoy and tried to solve the myriad of railway system failures that take place all the time and come in all sorts of severity? The Government really has the obligation to pause and think this issue over, such that an assurance of railway safety can be given.

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

**Mr Andrew CHENG moved the following motion: (Translation)**

"That, as the railway network in Hong Kong is continuously expanding with part of the railway systems starting to age, and in view of the recent serious West Rail incident as well as the incidents and delays involving the railway systems that occurred from time to time in the past few years, which have aroused public concern about the safety of railway operations, this Council urges the Government to strengthen its supervision of the Kowloon-Canton Railway Corporation and the MTR Corporation Limited ("railway corporations") and to adopt the following measures, in order to safeguard the safety of the public and ensure that the railway systems are capable of providing efficient, effective and safe services:

- (a) creating the post of Commissioner for Railway Safety with the responsibilities to advise, conduct studies, make assessments and propose improvement measures on the various safety issues of the railway systems (including daily maintenance, system safety, train operations, etc), as well as to lead the work of the Railway Inspectorate;
- (b) expanding the current staff establishment and powers of the Railway Inspectorate to assist the Commissioner for Railway Safety in discharging his duties;

- (c) introducing a demerit points system for situations such as disruptions, delays and system failures in train services, and setting objective and clear standards for the service performance of the railway corporations;
- (d) including the number of hours of service disruptions or delays resulting from railway incidents, the number of affected passengers and the number of the resultant casualties as factors to be considered when assessing annually whether the services of the railway corporations have attained the required standards;
- (e) reviewing and improving the existing maintenance work of the railway systems, and requesting the railway corporations to allocate additional resources to their maintenance departments;
- (f) reviewing and improving the current feeder service arrangements and the contingency procedures in the event of train service disruptions or delays owing to incidents, so as to strengthen the capability of the railway corporations to cope with emergencies;
- (g) reviewing and upgrading the fire service equipment and means of escape provided along all the railways and inside the train cars;
- (h) requesting the railway corporations to give more training and support to the front-line maintenance staff, and requiring them to provide sufficient rest breaks for the staff, so as to enhance their morale and service quality;
- (i) requiring the railway corporations to provide radio reception services along all the railways (including the tunnels), so as to ensure that the public can obtain information on railway incidents and emergency arrangements more promptly; and
- (j) requesting the railway corporations to install screen doors or automated gates at the platforms of all railway stations so as to ensure the safety of passengers."

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

**PRESIDENT** (in Cantonese): Two Members will move amendments to this motion. The motion and the two amendments will now be debated together in a joint debate.

I will call upon Mr WONG Kwok-hing to speak first, to be followed by Mr LI Kwok-ying; but no amendments are to be moved by the two Members at this stage.

**MR WONG KWOK-HING** (in Cantonese): Madam President, from the annual reports of the two railway corporations, it can be seen that the daily ridership of the two railway corporations in 2005 numbered some 3 million trips and the ridership is increasing year on year. As the railways in Hong Kong form a huge transport system and as its patronage is extremely high, the issues of safety and effective operation of the railways are always the focus of public concern. Hence the strengthening of the supervision of railway safety is a vital duty of the Government and the railway corporations alike. Madam President, the reason I propose an amendment today is to supplement the original motion in a comprehensive manner. Now I would like to discuss five aspects, namely, raising the existing standards of safety inspections and tests, additionally installing a separate safety alarm system in each train, setting up a direct communication system between train operators, including an independent person as monitor in the process of regular railway safety drills, and comprehensively reviewing the impact of outsourcing maintenance work.

First of all, the two railway corporations have in place some existing standards for safety inspections and tests in order to ensure that trains in service can provide reliable and safe service. However, with the constant expansion of the railway networks and the increase in ridership, social demand on the safety of the railway systems has risen. Moreover, serious railway incidents have occurred in the two railway corporations in recent years and they are therefore obliged to raise their existing standards of safety inspections and tests to ensure that all trains pass the safety inspections and tests before running, that is, before the commencement of their daily operation, the trains must pass all the relevant inspections and tests. It is only when these are passed that the trains can commence service.

Last month, a train running on the West Rail had an accident in the Tai Lam Tunnel. Sparks and dense smoke came out from the top of the train car.

At that time, the train operator learned of the incident which happened at the top of the sixth train car only after some passenger had pressed the emergency alarm in the train car. As technology is very advanced these days, there are different devices for scanning and recording purposes both before the train operates and while it is in operation. I therefore suggest that the train operation recording system in the trains be improved and studies conducted to see if an alarm system can be installed and linked with a video-recording system. When an accident occurs, the train operator can then be able to ascertain the part of the train as well as the components that have gone wrong. A video-recording system should be installed together with the emergency alarm, for this will record the incident for the purpose of review and improvement measures to be taken afterwards. Hence it will help to better protect passenger safety. At present, no such recording system is in place.

In addition, there is a communication system in every running train to enable the train operator to communicate direct with the main control room of the railway corporation, while the main control room can contact each train direct. However, there is no means of direct communication between the operators of trains and the communication between them has to be modulated through the main control room. When an incident happens, as the trains before and after the train which has an incident will be closest to the scene of the incident, there is a greater need than the main control room that these trains be informed promptly of the situation of ahead or after them on the same rail. I therefore suggest that the two railway corporations should install a communication system that will enable train operators to engage in direct communication with each other. This will enable train operators to know better the situation on track.

Moreover, the railway corporations have regular drills or contingency exercises held on a regular basis with government departments like the Fire Services Department. However, these drills and exercises are often held behind closed doors and there is a lack of transparency. More often than not, it will only be the railway corporations that will monitor their own performance and the relevant government departments are there just to help. No one knows whether these are effective or not and how effectiveness is measured. No one will know and nothing is disclosed to the outside world. In a way this will distort the meaning of these drills. I therefore suggest changing the drills carried out by the railway corporations on the contingency plans or the emergency procedures from a closed-door mode to an open-door mode and from a black-box operation to an open-box operation. More public participation and monitoring should be

added. A set of open, fair and honest standards should be devised to measure effectiveness and used for monitoring the performance of each drill or exercise. And the results should be made public and hence the public can have some idea about the importance which the railway corporations attach to safety.

Lastly, that is the fifth aspect, maintenance is always the most vital link in the provision of reliable train service. On the question of how to strengthen supervision of railway safety, I have sought the advice of people doing maintenance work in the railway corporations. At present, regular maintenance work of the railways can be broadly divided into preventive and remedial in nature. Preventive maintenance generally refers to the inspection of trains before the occurrence of any incident, whereas remedial maintenance refers to work done after the occurrence of an incident. At present, how do the Government and the railway corporations ensure that there are enough and quality staff in the maintenance departments of the corporations? Do the maintenance departments have any outsourcing schemes? Is the Government aware of the outsourcing situation in these departments? Does the Government exercise any supervision of that? Owing to the importance of the maintenance departments, if outsourcing schemes are in place, there may be some impact on maintenance quality and the safety level.

Madam President, as far as I know, a railway corporation shirks its responsibilities in an attempt to cut labour costs by outsourcing some of the maintenance work. The contractor can only employ staff on a contract basis instead of employing them as permanent staff. The contractor may be doing this deliberately. Such a move has dealt a severe blow to the morale of the maintenance staff and led to the wastage of quality and well-experienced technicians. This kind of practice and employment policy will have a direct impact on the quality of railway maintenance. Is the Government aware of this? Do the authorities carry out any supervision of this and are any studies conducted on this?

In a relevant meeting the other day, I had asked the Government to list the actual number of permanent staff, contract staff, directly-employed staff and staff of contractors. But the Government seemed to be lost in the clouds. It is my hope that the Government can produce the information for us to see and say whether or not it has ever seen such information and how it has carried out its supervision. Is the Government not keeping an eye on the matter or is it turning a blind eye on it? I hope the Government can give an account on each of these points raised.

Madam President, now that the proposed merger of the two railway corporations has come to the legislative stage and before this merger is finalized, would the Government devise any specific measures to strengthen the supervision of railway safety? I hope when the authorities make a response later, a reply can be given to the five points raised by me. Lastly, I wish to express my gratitude to those in the trade who have given me much insider advice on the amendment proposed by me.

Madam President, I think that there is only a slim chance that this motion and the amendments can be passed today. But never mind, we have said according to what our conscience has dictated us and we have exposed the crux of the problem in the interest of public safety. The key lies in whether or not the Government will take any action. We hope that it can act with a good conscience instead of with a bad one, and that it can really make a response in public interest and for the sake of train safety. Thank you, Madam President.

**MR LI KWOK-YING** (in Cantonese): Madam President, in the recent West Rail fire incident which was allegedly caused by an overheated voltage transformer mounted on the top of a train car, the fire was eventually put out by the firemen after more than one hour, during which the passengers fled through a dark tunnel in panic. It is fortunate that the incident had occurred during non-peak hours when there were not many passengers, thus no chaotic situations or serious casualties had been resulted.

Honourable Members, a simple, tiny voltage transformer can be so powerful as to destroy a train and a railway. It may even become a lethal weapon in some serious cases. Therefore, neither the slightest defect is allowed in railway operation and the installation of equipment, nor efforts in maintenance and day-to-day safety inspections be spared.

Mass carriers have been identified by the SAR Government as the major transportation of Hong Kong in the '80s, with a daily patronage of more than 300 million passenger trips at present, second only to the passenger volume of bus. According to our future planning, there will be more railways coming into operation and the number of railway passengers will soon outnumber that of bus. In other words, more and more people will travel by rail which thus increases the importance of railway safety. For this reason, there is a greater need for the

Government and the relevant authorities to exercise tight control over system operation and safety. However, looking at the services currently provided by the two railway corporations, we are gravely disappointed.

I wonder if it is due to the ageing of the old railway, or the new railway is still at a gearing-in stage or other human factors, that news about railway failures are heard from time to time in recent years. Colleagues of my company, who commute to work on the MTR every day, smilingly said that they have become accustomed to it, and do not think it is at all uncommon.

Madam President, I really feel saddened about this situation. Given that the two railway corporations always claim themselves to be among the best in the world in terms of railway service and safety, why have the general public still experienced incidents of railway failure time and again and become indifferent to them?

We think that the main reason is the frequent negligence of the railway corporations of the safety of the railway systems and other aspects associated with safety. Although they have repeatedly claimed that the established procedures and guidelines are properly followed, are the existing safety inspections the best and most appropriate? Why did problems occur one after another despite the established rules for compliance?

In this connection, should the railway corporations not conduct a review of the relevant procedures and guidelines to see whether they are outdated or no longer applicable to the current systems? If both corporations are willing to take one step further by putting more effort on the established safety requirements, for example, carrying out more thorough inspections in respect of such essential procedures as day-to-day maintenance, system safety and train operation, it is believed that railway safety can be greatly enhanced as a result.

Another reason is that the Government and the railway corporations always follow the same "formularized" handling procedure every time after an incident: In the case of simple failures, the railway corporations will be requested to submit a report; whereas in the case of complicated failures, Legislative Council meetings will be called for and very often experts will also be engaged to investigate into the incidents. The compilation of the report will then take a long time with the intent of letting the incident gradually fade from people's memory and then into oblivion.

In fact, according to the existing legislation, the Government has put in place a mechanism to penalize the railway corporations for contravention of provisions in the relevant ordinance. In relation to the MTR Corporation Limited (MTRCL), the Chief Executive in Council is empowered to impose a fine on the MTRCL for contravention of the Mass Transit Railway Ordinance or the Operating Agreement executed with the Government.

In relation to the Kowloon-Canton Railway Corporation (KCRC), the Government can also impose a fine on it when it fails to comply with the Kowloon-Canton Railway Corporation Ordinance by carrying out the necessary works or taking the necessary steps to ensure railway safety.

It can be clearly seen from the above ordinances that penalties may be immediately imposed by the Government when the occurrence of a railway incident involves the contravention of ordinances, so as to be accountable to the public. Nevertheless, enforcement by the Government has never been seen. Even in such cases as the East Rail crack incident which happened last year and the tripping of traction power supply of a MTR Tung Chung Line train, the Government had again followed the "formularized" handling procedures. Not long after, incidents of train failure involving the two railways occurred again.

We think that the Government should strictly enforce the penalty provisions of the relevant ordinances because, on the one hand, it can immediately bring itself accountable to the public by demonstrating that rewards and punishments were meted out in society properly, and put the railway corporations on vigilance at once on the other. This is indeed an instant solution, so I wonder why the Government has never invoked these ordinances.

Madam President, the original motion suggests that consideration be given to the introduction of a demerit points system for situations such as disruptions, delays and system failures in train services, and that objective and clear standards for the service performance of the railway corporations be set. We support the underlying spirit in general, but consider that apart from those factors mentioned in the original motion, the implications of the railway corporations' response in the aftermath of an incident on passengers and the general public should also be taken into account, for example, passengers of other modes of transport who had been directly affected by the incidents and those who were waiting outside the MTR station. We consider these important factors for assessing the performance of the railway corporations.



As to how objective standards can be set, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has adopted an open attitude. The demerit points system can be an option, but we cannot exclude the possibility of other more appropriate options. Therefore, I have proposed in the amendment to add the phrase "studying the feasibility". We look forward to studying the relevant issue with Honourable colleagues seriously in the future.

Furthermore, the original motion also proposed the creation of a Commissioner for Railway Safety, whose duties actually bear much resemblance to that of an Inspecting Officer (Railways). In order to avoid duplications in structure and efforts, as well as to prepare for the commissioning of more railways in future, we opine that the existing Railway Inspectorate should be reviewed instead to cover various issues, for example, an expansion of staff as early as possible, redeployment of resources, exercise of power, and so on, in order to step up its supervision of the railway corporations in respect of railway operation, with a view to ensuring the safe operation of all railways. I believe this is more important and practicable than to create the post of a commissioner which is supervisory in nature.

Lastly, I wish to talk about the railway incident drills as mentioned in my amendment.

As we all know, the drills were conducted by the railway corporations late at night so as not to affect train service. As such, very often the participants were family members of their staff or the concerned parties. However, following the arson case on an MTR train, the public has become very concerned about the means of escape in the event of an incident. We therefore consider that in view of the increasing railway incidents now, members of the public should have some knowledge about the means of escape. Hence, in my amendment, I have suggested the railway corporations to step up efforts to publicize information on emergency escape in case of a railway incident, and allow more public participation in the railway incident drills. Meanwhile, the railway corporations may also consider constructing a platform in the depot and invite members of the public to participate in drills during daytime, with a view to enhancing their ability to cope with emergencies in the event of accidents.

With these remarks, Madam President, I hope Members will support my amendment.

**MR RONNY TONG** (in Cantonese): President, railway is an integral part of Hong Kong's transport. While the daily patronage of the MTR reaches as high as 2.5 million passenger trips, it is 890 000 for the East Rail and Ma On Shan Rail, 370 000 for the Light Rail and 180 000 for the West Rail, and these figures have actually reflected the market share being taken up by railway in the whole transportation network of Hong Kong. In this past year or so, however, a spate of incidents concerning railway safety has been seen. Successive incidents ranging from the East Rail underframe equipment mounting cracks found on refurbished trains last year, to passengers entering and falling onto railway tracks of the East Rail and the MTR as a result of their failure to retrofit platform screen doors or gates, and the serious delay of MTR trains during peak hours due to system failure, as well as the recent explosion of a voltage transformer installed in a West Rail train, have time and again aroused public concern about railway safety.

Of course, we should not focus our attention on the incidents alone without probing into the underlying causes. The East Rail crack incident reflects not only that further improvement can be made to the maintenance of trains, it should also be noted that the carrying capacity of the East Rail has increased by 15% through conversion and refurbishment.

The focus of the crack incident is why such primitive methods had been used by the East Rail for holding its components, and the vibrations that the tracks caused to the train chassis and mountings. Why could the carrying capability of the East Rail be enhanced only by increasing the service capability of each train, but not increasing the total number of trains or the frequency of service? Before any new train came into service, the East Rail had altogether 29 trains; with new trains having come into service, there are now 37 trains but only 24 trains per hour at the maximum. In the aftermath of the crack incident, however, with tightened inspections of the refurbished trains, which account for the majority of trains, service delivery during peak hours can only be maintained at 21 trains per hour. Assuming that all the eight new trains have come into service, another 13 new trains will still be required to maintain a frequency of 21 trains per hour.

The crack incident reflects that train refurbishment can only be a short-term measure, and in the long run, only prompt replacement of old trains with new ones can resolve this problem. Also, it has highlighted another question. Why was the East Rail unable to operate at increased frequency?

The answer can be, of course, partly explained by the long history of the East Rail system, but an even more important factor is, in addition to the domestic passenger service, the East Rail also provides through train and freight train services, which have inevitably made train schedule arrangement difficult.

We consider that the East Rail's domestic train service should be separated from freight train service, and in the long run, it should be allowed to arrange for the provision of special service that competes with other modes of transportation. Should the Government construct other new railways in the future, it should avoid providing different types of services on the same track.

Another issue also mentioned by other colleagues is the retrofitting of half-height gates at at-grade and above-ground stations to reduce the possibility of passengers mistakenly entering or falling onto the track. This design has taken into account the operation environment of at-grade stations so as not to impede air ventilation. We really do not see why the MTRCL has delayed the retrofitting of half-height gates at at-grade and above-ground stations over and over again, especially in view of the fact that an extra \$0.1 has been charged for each MTR journey paid with Octopus. There is no reason at all for it further delay the relevant works.

As regards the recent explosion incident, we opine that the KCRC should conduct a detailed investigation into it and explain clearly to the public the improvement measures to be taken to address the problem. At the same time, in dealing with the recent West Rail incident, we also hope that the KCRC will seriously review the performance of the West Rail over the past three-odd years and adopt effective improvement measures. It is true that the West Rail has provided the Northwest New Territories with convenient and quick railway service which, however, does not seem to be very reliable. Furthermore, it seems that the West Rail is more prone to incidents in relation to, say, the signalling system, air-conditioning system, platform screen doors and collision of trains in the depot. After all, it still fails to command the full confidence of passengers so that they can travel at ease.

With regard to the demerit points system for railway incidents as proposed by a colleague, the Civic Party does not see any major problem in it. How the railway corporations in question should be penalized is not the only concern, for a more important point is what will be done by the railway corporations to seriously improve their performance.

We hope the railway corporations will understand that, even though railway has been designated as the backbone with other road transport playing only a supplementary role under the Government's transport policy, the corporations are duty-bound to provide services of a certain standard before passengers will be happy to patronize. The leading role played by railway should have its foundation built upon the quality service of the railway corporations, but not the implementation of government policies, upon repeated requests from the railway corporations, that will deal a blow to its competitors and enable them to assume a leading role in transportation.

Thank you, President.

**MR ALBERT CHENG** (in Cantonese): Today, Mr Andrew CHENG, Mr WONG Kwok-hing and Mr LI Kwok-ying have respectively proposed the original motion and amendments in relation to railway safety, which I found very meaningful. Railway is the major mode of transport in Hong Kong with a daily patronage of several millions passengers, therefore railway safety and efficiency is definitely our concern.

However, after hearing Members' speeches, while I reckon that sometimes we may request the Government to act according to its own conscience, just as Mr WONG Kwok-hing said, we should still give the matter its fair deal. After hearing the speeches made by those three Members, it seemed to me that our railway system is very, very unsafe and terrible. If I had never travelled on MTR or a KCRC train, I would be too scared to try one. Mr Andrew CHENG has compared it with the railway in the United Kingdom, which has a history of more than a century. I had once travelled on a local train in the United Kingdom, which stopped in a dark tunnel that was filled with filth. Yet, not a single complaint was heard during that 20-odd minutes because they were all accustomed to this. Our railway has, in fact, outperformed that of the United Kingdom and the United States, it is therefore necessary to do justice to the railway corporations and their staff. Hong Kong's railway system is indeed very, very reliable, safe and efficient, and we have outperformed the United Kingdom and United States in this area long time ago. So, it is downright not necessary to compare with the century-old railway in the United Kingdom.

In relation to the present motion, which is about the railway and staff welfare, and has gone so far as to risk a duplication of effort and structure by

creating the post of Commissioner for Railway simply for the sake of increasing job opportunities, President, I certainly take a supportive stand and this is absolutely not a problem at all. Increasing employment means more people will be employed, hence fewer people being unemployed. This I must not oppose.

Coming back to railway safety, Mr Andrew CHENG mentioned a total delay of 5 000 minutes per year. There are over 3 000 trains daily, and in an attempt to make a rough calculation using the calculator, a 5 000-minute delay per year means a 13-minute delay per day. By dividing it with the 3 000-odd trains, the answer which represents the duration of delay for each train is beyond the calculation capabilities of my watch — my watch should be able to do such calculation as it is a Daytona — the answer should be 0.05 second, in other words, there is a delay of 0.05 second for each train. Of course, we cannot calculate the duration of delay in this way as some trains may have been delayed for up to 20 or 30 minutes. Yet, our calculation has shown a delay of 0.05-second for each train, which is beyond the display of watches. Have we gone too far for being so mean? If an unco-operative passenger rush into the train and try to block the door from closing, the delay thus resulted would be no less than five seconds. Therefore, safety is of paramount importance and is definitely our concern. However, there is no need for all trains to undergo safety inspections before their commencement of operation, as suggested by Mr WONG Kwok-hing. Of course, given that our MTR system is so advanced, safety must be guaranteed before the trains commence operation, otherwise operation should not be allowed so as not to scare off passengers and deter them from travelling on it.

Mr LI Kwok-ying said that even a voltage transformer could result in a very serious accident. Being a professional engineer, I can tell Members that every single component of a train, irrespective of its size, should not be belittled. Whenever there is any accident or failure, it may result in different accidents and incidents. Therefore, voltage transformers should never ever be belittled. Yet, this analogy is indeed not at all appropriate, and over-generalized.

As for the question of whether there have been numerous incidents in our railway system, I really do not think so. I think that we, being Hong Kong people and taxpayers, should be proud of having so many highly efficient railways.

I would like to tell a story. I am an aircraft maintenance engineer and had served in the former Kai Tak Airport in the '60s. Whenever a typhoon

signal no. 10 was hoisted, the aircraft of all airline companies would be grounded, with the exception of Cathay Pacific Airways. Its aircraft were always the first to land and also the first to take off because it had only two planes, just like the present Oasis Hong Kong Airlines Limited. If both of its aircraft were not taking off, it would mean that one of them was airborne while the other had landed. Its aircraft must either land or take off in any event.

As regards the demerit points system, a recent incident in Japan can be attributed to a similar demerit points system exerting additional pressure on the staff. To put it simply, suppose we put in place that demerit points system, will the train operator be punished for any delay? Of course, I am not saying that the incident that happened in Japan may occur in Hong Kong, but it is precisely because the train operator concerned was in great fear of delay that gave rise to that incident in Japan, which had ended up in an accident with the train running into the wall. We really have to think twice about to whom the demerit points should be awarded under this system. Will it be the MTR's Chief Executive Officer, "CHOW Sir"? Should he be subject to wage deduction or even fired? Or will the train operator concerned be implicated in the end, thereby exerting additional pressure on the staff? If additional pressure will be exerted on the staff, I believe neither Mr WONG Kwok-hing nor I will support it. They are already subject to immense pressure now, how can we go even further to say that a demerit points system will be introduced, under which they may become jobless or even be laid off at any time?

It should be noted that I am not saying anything in the Government's defence, but insofar as the management of the railway corporations is concerned, pressure is definitely being exerted from top down, where the staff will definitely be pressurized. So, even if the demerit points system is introduced, will "CHOW Sir" undertake to have \$5 million deducted from his wage per year when five points have been registered against him? After \$5 million is deducted from his wage, however, he is still left with \$5 million. This is not a small sum of money at all. Yet, it does not matter. The worst scenario will be the train operator concerned being subject to a wage deduction, whereby \$500 is deducted from his \$9,000 wage. That will be too bad. Therefore, Members must think twice about the demerit points system.

Furthermore, I have read some press reports recently, which may be stories too given that storytelling is so popular lately. So, let me tell Members a

story. I have just learnt from a press report that the staff of the Ocean Park Corporation complained that — I wonder if they have come to the Legislative Council — if any lunchbox or cup should be missing in the Park, they will be subject to wage deduction, whereby meal allowances will be deducted. Let me tell you, I have seen staff of other organizations, but not the Ocean Park, picking up lunchboxes and cups from dustbins, and then washed and placed them where they were. These cases can happen.

Regarding the duplication of structure and efforts in the supervision of railway safety, day-to-day supervision is currently carried out in view of the fact that there is a patronage of over 4 million passengers. When I was working in a radio station, I would learn about incidents of train failure even before the radio station was notified by the railway corporations. The media, Members of the Legislative Council and passengers are in the best position to exercise supervision. Is it necessary to duplicate our structure and efforts? Is it necessary to introduce a demerit points system? I think there are problems with it. Notwithstanding all this, I will not oppose the original motion and the amendments because this is, after all, a motion with no binding effect. I always say here that these motions represent a certain kind of spirit. I certainly support the supervision of railway safety and protection of staff, and this I definitely support.

Thank you, President.

**DR RAYMOND HO** (in Cantonese): Madam President, from 1977 to the mid-1980s, I was honoured to have participated in and taken charge of the entire modernization and electrification programme of the Kowloon-Canton Railway (KCR). The KCR at the time was regarded by the general public as a rural railway serving the New Territories, while the Mass Transit Railway (MTR), commissioned in 1980, starting with the Central to Kwun Tong line and later extending to Tsuen Wan, was regarded mainly as a urban railway line. However, after almost 30 years of continuous expansion and development of the local railway network, the distinction between the KCR as the rural railway and the MTR as the urban railway has started to disappear. Now, the KCR East Rail has been extended to Tsim Sha Tsui and its West Rail has its urban terminus established at Nam Cheong; while the MTR network has also extended its coverage to Tung Chung, Lantau.

I use the railway services almost every day. As far as I can remember, the safety records of the railways in Hong Kong have always been good, except in 1996 — I happened to be the Chairman of the Transport Advisory Committee at that time — when a number of incidents happened with the MTR due to the replacement of its signalling system and other problems. On the whole, the safety standards of the MTR and KCR in Hong Kong have maintained a leading place in the world, absolutely comparable with railway systems in any advanced cities. Many tourists visiting Hong Kong, having ridden on our railways, have very good impression about them. I always encourage the railway corporations to consider making use of our good brand name to export our professional services relating to railway planning and construction.

As to the fire broken out on a train car of the West Rail caused by a short-circuited voltage transformer on 14 February, due to the proper emergency procedures effectively adopted by the KCR, order was maintained and the safety of passengers ensured. Soon after the accident had happened, the staff concerned quickly and safely evacuated passengers along the emergency walkway of the Tai Lam Tunnel. The ventilation and lighting systems installed inside the tunnel also largely contributed to the safe evacuation of passengers from the scene. Moreover, the railway corporation was able to report this incident to the Transport Department and the media in accordance with the requirement of reporting within eight minutes of train service disruption, and notified passengers affected by the incident through service disruption broadcasts.

In respect of the two railway systems in Hong Kong as a whole, their standards, be it concerning air quality in the train stations or the carriages, or the planning design and environment management, are very high. The train stations and carriages are kept very clean and clear directions are posted specifying, in particular, emergency escape procedures. The recent fire incident on the West Rail carriage is the best proof of the importance of environment management of train stations and carriages as well as crowd management in case of an accident. In respect of railway maintenance, there is also a stringent system in place. In addition, the two railway corporations have maintained liaison with different government departments such as, among others, the Hong Kong Police Force, Department of Health and Fire Services Department, in formulating effective emergency response measures.

At present, the planned merger of the two railway corporations means that future railway services in Hong Kong will be grouped under one single private



corporation. Although the Government is the largest shareholder, the listed corporation will realistically exercise prudent commercial principles which, after all, should give no cause for much criticism. My only hope, however, is that the new railway corporation will not outsource all of its maintenance work for the sake of cost-saving, since insufficient supervision of outsourced work will surely lead to a fall in the maintenance standard and railway incidents will continue to occur. I further hope that the new railway corporation will, instead of outsourcing its maintenance work, use only in-house staff to carry out the maintenance work.

On the part of the Government, it should continue its supervision in accordance with established legislation and relevant operating agreements, and monitor and follow up railway incidents through the Railway Inspectorate. Obviously, the current manpower of the Railway Inspectorate is insufficient and needs to be strengthened expeditiously so as to ensure that railway services are effectively monitored.

The next point is very important. At present, the daily railway patronage in Hong Kong accounts for about 35% of the total daily public transport patronage (about 11 million passenger trips). With the rapid development of our railway network, I believe the total railway patronage will, as mentioned by the Government earlier, increase to 40%, which will be further pushed up, I believe, by the increasing number of tourists, particularly those from the Individual Visit Scheme, who will opt for railways as their main means of transport. The Government is thus duty-bound to monitor the railway services, but it is advisable not to adopt a demerit points system, as proposed in the motion, which would greatly dampen rather than boost staff morale.

Madam President, I so submit.

**MR ALBERT CHAN** (in Cantonese): President, situations of violent shaking while taking the train, loosening and falling-off of its installations, train carriages detaching, passengers being caught by closing train doors, trains skipping stations, a fire breaking out or even a train crash are not scenes in "Midnight Express", nor are they describing a roller coaster, but they are references to the railway services in Hong Kong and the problems happened in the past. In fact, these problems happened not long ago. I believe, in the past two or three years, 70% to 80% of these problems have happened one after another in the two

railways. The Hong Kong Government and the two railway corporations always say that the railways in Hong Kong are very safe, that the supervision of the railways in Hong Kong is perfect, and that the railway accident rate in Hong Kong is almost the lowest and amongst the best records of many railways in the world. However, after a series of problems, we cannot help but feel that at least an alarm has been sounded for railway safety in Hong Kong. If we ignore and turn a deaf ear to the alarm, disastrous problems may be likely to happen again or continuously.

One of the gravest and most apparent problems with the railways now, particularly with their safety, is inadequate supervision. Let us look at the manpower and resources of the Railway Inspectorate, which are largely inferior to those of the two railway corporations. The railways are a super kingdom. The Government often has to wait for reports on problems of operation or other problems within this kingdom. Should a problem emerge the Government will have to wait for a report to be submitted. If the Railway Inspectorate, after examining the report, opines that the problem is grave, the Government will commission a consultant to look into the problem. It will often take three to five months from the time of waiting for a report to commissioning a consultant and then to the completion of the study. It is thus inevitable doubts are raised as to the actual power of the Government in supervising the two railway corporations.

When a problem arises and the supervisory body is unable to instantly point out the cause of the problem, incapable of instantly finding out by itself the cause of the problem, and fails to instantly solve the problem at root and penalize the staff in dereliction of duty, the system itself already has serious flaws.

After the merger of the two railway kingdoms, it will become a super kingdom. I often describe the MTRCL as an alien which is characterized by its nature of devouring even its mother. Thus, unless the Secretary is the Queen Mother capable of supervising the entire super kingdom, or unless there is a revolt overthrowing the kingdom, the kingdom will only continue to sprawl and nibble off the income of the people of Hong Kong who have toiled hard for it. Last year, their profits reached \$8-odd billion, but there is hardly anything that can convince the public that their services have improved.

I thus hold that, in respect of supervision of railway safety, the Government should conduct a comprehensive review of the responsibilities and

manpower of the Railway Inspectorate and see whether the latter is sufficient. The Government itself does not have the capacity and manpower to carry out supervision and often needs to rely on the railway corporations to submit reports to it, and only by the time when any accident happens, it will then commission a consultant to look into the matter. Such distant water very often cannot help put off a nearby fire. The Government often brags about how capable its departments are, but it often has to rely on external help which, more often than not, will involve complicated interests, often leaving the real problems not uncovered. Thus, in this connection, I hope the Secretary can learn the hard lesson. The series of problems that surfaced recently, as I have mentioned just now, have obviously revealed that an alarm has been sounded. If the Government continues to ignore the alarm and emphasize how perfect the present system is, it cannot, I believe, shirk the responsibility when any disaster — tough I do not wish so — happens in the future. Thank you, President.

**MS MIRIAM LAU** (in Cantonese): Madam President, it is beyond any doubt that safety must come first. Any initiative to improve or strengthen operational safety of the railways will merit our support. Therefore, most of the recommendations made in the original motion and the amendments are worth considering. However, some of these recommendations may be well-intentioned, but they could nevertheless be counter-productive and add to the risk of accidents. The Liberal Party has reservations about these recommendations. Owing to the time constraints, I would focus on discussing the two recommendations on the introduction of a demerit points system and the creation of the post of Commissioner for Railway Safety.

The Liberal Party understands that the purpose of introducing a demerit points system on the disruptions, delays and system failures is to ensure that train service can be maintained at a higher level. However, if the demerit points system is used in the day-to-day operation of the railways, we are worried that a disservice will be done out of good intentions.

No one will like to experience any delay in train service and this applies to all means of transport as well. The saying goes "better late than never" can describe the railway system in Hong Kong aptly. This is because the railway system here uses a fail-safe design and when the system detects any problem, the train will be braked safely and brought to a halt. This is what the system will do by itself and the purpose is to ensure safety and to prevent the happening of accidents. In other words, the primary concern of the railway system is not

whether the train will be delayed or the passengers will be late as a result — these are of course important considerations — but the first and foremost concern is to carry passengers to their destinations safely. This is what is meant by safety first.

It can be pictured that once this demerit points system is introduced, every time when a train experiences some delay, be it caused by mechanical or man-made reasons, demerit points will be recorded. The longer the delay will result in more points recorded. It is only natural that the management will not like to see any points recorded and the front-line workers will be put under the stress of not doing anything that may lead to a recording of points against their corporation. When pressure is felt at all levels, the train operators in their bid to avoid being penalized may start a train for no justifiable reason or do something rash. Hence, a demerit points system can only bring counter-productive effects and even cause serious accidents. It may be due to this reason that, to the best of my knowledge, no such demerit points system on delays or failures is found in railway systems anywhere in the whole world.

I am not trying to raise alarmist talk, but there are really precedents for that. Two years ago, that is, in April 2005, a train was derailed in Osaka, Japan and it crashed into a residential block, killing 106 people and made 555 people wounded. What was the cause of this incident? It turned out that before it took place, that train had experienced a delay of 90 seconds in the previous station and it was suspected that the train operator speeded to make up for the delay and so this catastrophe was caused.

We are glad that the safety and service standards of our two railways are always very high. We hope that they can keep up with the good work. Having said that, I know that some Honourable colleagues have said that many incidents have happened to the trains. But the fact is no technology in any railway system in the whole world can attain the goal of zero incident and zero failure. So we may not be able to meet this kind of requirement. And it may be unrealistic for us to make such a demand. There are three benchmarks to measure railway service used by the Community of Metros (CoMet) and they are: delivery of train service, punctuality of train service and punctuality of passengers. The two railway corporations in Hong Kong are ranked very highly among the railways of the world. The MTRCL even tops the list or comes second. The KCRC is placed among the top five. For the MTRCL, the ratings in these three benchmarks are 99.9%, 99.7% and 99.9%. While we

hope that the two railway corporations can do even better and achieve greater excellence in their performance, we should guard against counter-productive results.

As a matter of fact, the two railway corporations are not immune from penalties. Under the existing supervisory mechanism, the railway corporations must meet the service standards specified by the Government. Also, with respect to the MTRCL, a fine can be imposed by the Government for failure to discharge any obligation under the operation agreement or any breach of duty, including the occurrence of any serious service disruption. The Government can of course also issue verbal or written warnings before imposing a fine. In case of serious incidents, a fine can be imposed directly or the franchise concerned may even be revoked. These will only happen under very serious circumstances. The respective ordinances governing the two railway corporations provide that if any risk to physical injury may be caused by the operation or the machinery of the railways, the Government may require the railway corporations to undertake improvement works or take such measures. If follow-up action is not taken, a fine may be imposed. In other words, regardless of the existence or otherwise of the proposed demerit points system, the authorities can still mete out punishments according to the standard of service of the railways.

As for the creation of the post of Commissioner for Railway Safety, the Liberal Party is of the view that there is already a Railway Inspectorate under the Environment, Transport and Works Bureau and its terms of reference are more or less the same as that of the Commissioner for Railway Safety proposed by Mr CHENG. Also, the railway corporations are obligated to prove to the Railway Inspectorate that the standards in railway safety and design comply with those of the trade and international practice and that the relevant design suits the local circumstances. When any serious railway incident happens, the authorities may appoint independent experts to form a special panel to investigate into the incident.

From these, it can be seen that the Railway Inspectorate is already vested with certain powers to oversee railway safety. To create a post of Commissioner for Railway Safety will not only be redundant but also puts into question its necessity. In any case, however, the Government has to respond to the changing needs of the times and examine the effectiveness of the Railway Inspectorate. If it is found that it is not doing its work effectively or if its

resources are not sufficient, then consideration should be given to ways to improve the situation, including the composition of the Inspectorate, its staff establishment and powers.

Madam President, I so submit.

**DR FERNANDO CHEUNG** (in Cantonese): I believe railway safety will affect everyone. For ordinary members of the public, irrespective of whether they ride on the KCR, the Light Rail or the MTR, it will never occur to them that it is a very complicated thing. All we need to do is to go to the entrance of the station, take a lift or walk up the stairway and enter the concourse, then go down the platform and that is it. These are all a matter of routine and nothing special. However, for persons with disabilities, this could be a very trying test for them.

Speaking from my own experience, my daughter is a person with serious mental disabilities and she is a wheelchair user. Of course, when we go out with her, sometimes we may need to use public transport like the railway. Actually, there are many difficulties involved in riding a train. We would certainly be looking at it from the perspective of parents and we do not want our daughter to get into harm's way. But at times owing to the nature of the facilities available, there will be some problems. On riding the MTR, for example, now that quite a number of MTR stations still do not have any elevators or lifts to carry passengers directly from the ground level to the platform or the station itself. And the machine to carry my daughter is the stairlift, or commonly called "the monster". I have the experience of letting my daughter ride on "the monster". President, I think you must have seen such a "monster" before. It is like a platform and resembles a tank and it can roll from the top of the stairs down step by step. My daughter is quite young and when we made her sit in the stairlift, the staff from the MTR was there to help. But my daughter was still very scared. It was only after the stairlift had gone down a few steps that I found out that the method does not work. It is because she was so scared that she wanted to jump off the stairlift. As there was some distance between the stairlift and the ground, if she jumped out, she would fall on the ground and get hurt. So I yelled at her and told her not to do it. At last, I had to give up and got her out of the stairlift. In other words, I cannot ride on the MTR with my daughter at stations without any direct elevator access to the platform. Such is my personal experience. And I believe this is also the experience of many persons with disabilities.

Railway safety is already so important to people like us who are not disabled. But for persons with disabilities, we may have never dreamed that so many things are so difficult for them.

I know many people who are wheelchair users and they often have to go to the Hong Kong Council of Social Service which is located at the Tai Fat Hau area in Hennessy Road, Wan Chai. We all know that the place is midway between the Admiralty Station and the Wan Chai Station. For people with no disabilities, they may take the MTR and go to the Admiralty Station, then walk from the Hong Kong Park to that place. Actually, this is quite a nice walk too, and I do that from time to time. But for wheelchair users, it would be terrible for them once they get out from the Admiralty Station, for there is no lift in Admiralty that goes up to the ground level direct. And so they will find it very difficult to get to the Hong Kong Council of Social Service once they get off at the Admiralty Station. It would be ridiculous to ask them to go there via the Hong Kong Park. So they have to get off at the Wan Chai Station and then slowly wheel their way there. From this it can be seen that they are forced to ride on "the monster". However, "the monster" is not a very safe device and there are genuine safety risks with it. For people with disabilities, their choices are very limited indeed.

The gap at the platform is also quite a problem for persons with disabilities. On the International Day of Disabled Persons not too long ago, that is, in November, the MTR announced a policy which I think is not at all reasonable and that is, only one person on an electric wheelchair for one train will be given assistance and if there is more than one person on wheelchair, they cannot ride on the same train. This is just incomprehensible. On the International Day of Disabled Persons, free rides are given to people with disabilities and the aim of that is to encourage them to go out of their homes. But if they come in a group and want to take the MTR, it turns out that they cannot ride on the same train. They have to take one train each. Of course, the MTRCL will say that this is based on safety considerations. I am not against any concern for their safety, but the problem is actually the MTRCL is unwilling to place enough staff to assist wheelchair users to board a train. According to the MTRCL, each train has got at least three carriages for wheelchair users. It appears that the MTRCL must provide enough staff apart from paying attention to safety matters. This will enable people with disabilities to ride the MTR in a safe and reasonable manner.

As for the visually impaired, we know that the coverage of many of the tactile guide paths is limited. In the East Rail of the KCRC, not all the platforms are fitted with tactile guide paths and these are only found in the middle of the platforms. Some visually impaired people tell me that when there are many people on the platform, they are forced to walk out of the tactile guide path to the front or rear parts of the train. They are afraid that once it gets very crowded, it may pose some safety hazards to them. Besides, many platforms of the Light Rail do not have any tactile guide paths. When I raised an oral question to the Government before, I pointed out that in 2003, 2004 and 2005 there were two, four and five cases respectively of accidents involving passengers falling onto the tracks. There were two cases in 2006. The Light Rail is still considering the fitting of tactile guide paths on its platforms and a decision will only be made in mid-2007. As for the issue of screen doors which is associated with tactile guide paths, the two railway corporations are still unwilling to make any pledges to install screen doors or automated gates in all the stations.

There are so many persons with disabilities who use the railways and Special Topics Report No. 28 also states that of the 52 000 persons with disabilities who are in employment, more than 30% of them use the railways. If work is not done fast enough to make the railways truly barrier-free and safe for use by persons with disabilities, this would prevent the barrier-free concept from becoming a reality. I hope the two railway corporations can give a positive response to this. Thank you, President.

**MR JEFFREY LAM** (in Cantonese): Madam President, the mass transit system in Hong Kong, in particular the MTR system, has become an indispensable part of the daily life of the people. The MTR has a daily ridership of 2.5 million passenger trips and it is one of the busiest railway systems in the world. The KCR carries 1.5 million passenger trips a day. With the completion of the Lok Ma Chau Spur Line and the commissioning of the Kowloon Southern Link in future, plus the commencement of many other railway development projects, it is believed that the public will only rely more heavily on railways than ever. It follows that the safety of the railway system and its reliability are highly important.

However, as Ms Miriam LAU has said, if a demerit points system is introduced to enhance the supervision of railway safety and reliability, it may be



counter-productive. As the example of a railway accident in Japan cited by Ms Miriam LAU shows, the very strict requirement of the Japanese society on punctuality of trains has led to great emphasis put by the train company on the same. The stringent demand on the employees has led to a serious accident caused by a train driver who speeded to avoid missing the schedule because he was 90 seconds behind it. The accident resulted in 106 persons dead and 553 persons wounded. I would like to ask Members, "Is this what we wish to see?"

We need to know that given the daily ridership of millions of passengers, some minor hiccups are bound to take place in the railways. Cases like people gate-crashing, train cars getting too crowded, and passengers feeling unwell in the train cars, and so on, will all cause delays of trains.

If a demerit points system is implemented, can we imagine the psychological stress and burden on the shoulders of the front-line staff? The demerit points system is like an invisible sword of Damocles over all railway employees, ranging from train operators to staff in the control room. It adds yet greater stress to work which is already highly stressful. I have had the opportunity of meeting with the staff of the two railway corporations and they are all very concerned about the idea of a demerit points system. They have great reservations about it. Therefore, we think that this demerit points system idea must be introduced only after careful consideration so that staff of the railways will not be put under excessive pressure, lest the interest of the passengers and the general public will be jeopardized.

It is true that of late we have heard a lot about various kinds of failures in the trains. But is the imposition of penalties through a demerit points system the only means to achieve greater train safety? The authorities can actually do something to strengthen the supervision of the railway systems and require the two railway corporations to take active steps to examine and upkeep the stability and safety of the railway systems and enhance the transparency of the services delivered. These will imbue greater public confidence in the railway services. When the railway corporations have done something wrong, the Government should penalize them according to the relevant laws.

No one wants to see any railway incidents. After a major or serious accident or incident has happened, such as the present case of the explosion of the voltage transformer in the tunnel of the West Rail, the authorities must

require the railway corporation concerned to take speedy action to find out the causes and take remedial measures as appropriate. It is only in this way that public confidence in the railway service can be maintained.

Madam President, I so submit.

**MR LEE WING-TAT** (in Cantonese): President, I would like to focus my speech on the remarks made by Mr Jeffrey LAM and some Honourable colleagues on the demerit points system and the idea of the Commissioner for Railway Safety.

Some Honourable colleagues stated, and as Mr Jeffrey LAM has said, all demerit points system will produce stress in the front-line train operators. When Mr Andrew CHENG of the Democratic Party suggests the introduction of the demerit points system and a Commissioner for Railway Safety, he must have considered this factor already. Our aim is certainly not to impose any pressure on the front-line staff.

Speaking of the real-life situation in Hong Kong, there is a demerit points system for drivers driving public means of transport like buses or trucks. Demerit points will be recorded against them for speeding. When they have violated the traffic regulations, such as running the red light, they will have points recorded against them. We cannot say that this creates great pressure on them. I remember we had many debates on the recording of demerit points for not following the amber light or the red light. The Secretary also discussed that issue here many times. Eventually the law was passed. I do not think that many taxi drivers, minibus drivers, lorry drivers, or bus drivers say now that they feel great stress after the introduction of the demerit points system. The most important thing is, I think, whether that is reasonable or not.

I think Mr LAM may have misunderstood our proposed system. We are not saying that demerit points will be recorded for every minute's delay, but what we are after are acceptable reasons and reasonable explanations, as well as reasonable punctuality. If a train is only late for 30 seconds, half a minute or one minute, this would of course not fall into the scope of our demerit points system. What Andrew CHENG is talking about are delays for eight minutes or even 16 minutes. Even if a train may be late for a very long period of time, it does not mean that the driver will have demerit points recorded against him, if

only he can provide an acceptable explanation, such as when the cause of the delay is not his fault but that of the central control system. I think it is pointless to state that this system is bound to create great stress among train operators. The most important point is whether this is reasonable or not.

Next I would like to talk about the issue of the Commissioner for Railway Safety. Yesterday, the Bills Committee on railway merger held a meeting and I also raised this question there. We know that when major problems occur in operation, an international panel of experts will be called in. This panel of experts will conduct investigations to find out the causes of the major problems at hand. An example is the case of cracks in KCR trains last year. International experts were called in to conduct investigations. We have no objection to that. However, there may be some incidents with the railways that may look minor but may nevertheless impact on passenger safety.

This does not mean that people in the Railway Inspectorate are not doing their job properly. The question now is that over these past few years, public awareness of railway safety has been heightened. When requirements have been raised, should we not upgrade the Railway Inspectorate and set up a system like that of a Railway Safety Commissioner that has greater powers? The aim of that is to make the two railway corporations pay more attention to safety matters. We do not think that after the creation of a Commissioner for Railway Safety, there will necessarily be resistance in the management, and especially among the front-line workers. I think the management of the two railway corporations will know that safety is the most crucial consideration of all for any means of transport. If work on that is not done well, the public will lose its confidence in the railways.

In some incidents that happened previously, there was a delay — even if there was no attempt to cover up — in the time before these incidents were reported to the Transport Department and the transport authorities. The result was that the public doubted whether the management of the two railway corporations could truly handle safety issues well in an independent and open manner. This proposal from the Democratic Party is to set up a Commissioner for Railway Safety and in so doing, at least a post with greater powers is created to enable someone specifically tasked to oversee the problem with stringency.

In these few years, after incidents of various magnitudes took place — it is fortunate that so far nothing particularly unpleasant has happened despite a

number of major railway safety incidents in the period. This could be owed to our luck. But we can never depend on our luck all the time. We cannot depend on luck that such things will never happen. Even in advanced places and countries in the West and in Europe, there are similar cases of derailment and incidents causing deaths and injuries. What we should rely on is the system and a Commissioner for Railway Safety who is specially tasked with the job, so that all the relevant work can be done better.

Thank you, President.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): President, as many Honourable colleagues have said, at this time and age, the development of railway transport in Hong Kong has assumed a position of great importance. The number of passengers riding on the trains is constantly growing and it is getting greater than ever. So as we talk about safety in railway transport, this should be noted and due attention be given to it.

Over the years, we have been very lucky here in Hong Kong that no incident of a very serious nature has happened in respect of safety. But this does not mean that no incident has ever happened or nothing has gone wrong. Delays and failures have often occurred. In the topic of safety that we are discussing today, two issues are worth pondering and, as some Honourable colleagues have said earlier, they are safety and reliability issues.

We also know that when discussions were held on the merger of the two railways, many Honourable colleagues had heaped praises on the MTR. They thought that service was not too bad. However, are we going to be satisfied with that? I know that in the past some incidents did happen and not only did these result in delays to the passengers but also physical injuries were caused. I have come across some cases about escalators malfunctioning. We know that many passengers stand on the escalator and if the escalator comes to a halt suddenly, as the few cases I have received show, passengers will fall to the ground and even roll over. They will get seriously hurt. Such incidents have happened before. However, unfortunately, as seen in my past experience, the problem is that the MTRCL did not take the incidents seriously. All it did was

to report the case to the police and there was not even any show of care and concern to the wounded passengers. This makes people doubt whether or not train service is really customer-centred at all.

Today, we are talking about railway safety. Mr Andrew CHENG has made some proposals, including the possible creation of a post of a safety officer and introducing a demerit points system. Some Honourable colleagues think that these will add to the pressure on the staff and the corporation concerned. President, as a matter of fact, the most important reason for adding these systems is that, as seen from past experience, the systems now in existence are no systems at all. For example, the Government has required the railway corporations to submit reports or improve the situation and the corporations are told that no delay must ever be made to report any incident that has happened and that all incidents must be reported at once. But incidents have happened time and again and the reporting of these incidents is delayed. Is there any supervisory system? No, none whatsoever. Or it may be that the supervisory system has never been effective at all. That is why such measures are proposed. Had there been a sound supervisory mechanism in place, there would never be any need to make such proposals.

When we discussed the merger of the railway corporations, we had a chance to look at the agreements concerned. We found the following: after an incident has happened, the railway corporation should only submit a report of the incident to the Transport Department (TD). What will the TD do afterwards? No one can tell. All that the TD wants is that a report be submitted to it. What will be done later to follow up and how can improvement be made to the corporation? No one will ever tell. This is exactly what makes us feel so worried about the safety and reliability of the railways. Therefore, some proposals are made today. Of course, there are many areas that warrant discussion again, such as whether or not a demerit points system should be introduced. But the question is it will never do if we are to stick to the present system which is like nonexistent, and the services will never get anywhere better.

So no matter what, the Government should review the many incidents that have happened and think over whether or not any effective supervision can be made. Many members of the public frequently say to us that the supervision by the Government is like a toothless tiger, lip-service only. Even if the railway corporations are required to make improvements, no one will tell whether improvements are indeed made. The public can never tell.

Therefore, with respect to the present supervisory mechanism, I suggest that apart from requiring the railway corporations to submit reports and make improvements, the Government should also make public announcements so that the people can know what demands of the Government are, what the railway corporations have done, whether the requirements are met, and the progress of such work. The Government must make all these public, so as to make us know more and increase public confidence. For if not, any talks of being customer-centred will lapse into hollow slogans and the reliability and safety of the railways will remain questionable.

President, I so submit.

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

**MRS SELINA CHOW** (in Cantonese): President, passenger safety is definitely our first and foremost concern. I think Members have a very strong common understanding on that. Of course, if some safety requirements are in place, there will be matching requirements in service too. In addition, there will be the problem of whether or not the fares are already inexpensive enough. As consumers, this is something all very natural. However, I have just heard some Honourable colleagues say — especially concerning the demerit points system — and they seem to think that once this system is in force, passenger safety can be ensured. But through what? Through the imposition of requirements on the staff, binding them all over with restrictions and they will naturally do their best to achieve passenger safety.

Things in this world are very strange. At times we may think that the road from A to B should go this way, but the fact is it is not. This is really a strange world. Sometimes we may think that we should go this way, but the result is just contrary to what we think. I do not know why Members are so smart when they come up with the idea of a demerit points system. This is not found elsewhere in the whole world. This is something we make up and it is so ingenious of us. And the goal can be reached definitely this way. However, since there are so many advanced systems in the world that do not practise this demerit points system, then can it be said that they are condoning the faults of their staff? Or is there any special reason for that? I notice a very interesting point and it says: "introducing a demerit points system for situations such as

disruptions, delays and system failures". These are not aimed at man-made problems as such but problems with the system or the institution.

A while ago I heard Mr LEE Wing-tat say that driving through the red light will lead to demerit points being recorded against drivers in many cases. But this is because the drivers do not act according to the traffic regulations or when they deliberately do something that they should not do and in so doing endangers the safety of other people. Even if no harm has actually been done to other people, the driver concerned will be given demerit points. This is more so the case of rushing through the red light. Points will be recorded, for the reason that very serious harms can be caused. We also see many such examples. I think Members will know that drivers should never speed past a red light.

Then what are the problems we are talking about? They are disruptions, delays and system failures. And demerit points will be given for these. First, the incident may actually have nothing to do with the staff. But the pressure is now exerted all on the staff once this demerit points system is introduced. You may think that the system is meant for preventive purposes, but the dark side of it is that it is intimidating. For the staff, the system is definitely going to make them feel more nervous. I think we do not want to see such an effect produced in the staff. We think the staff must be trained properly and a very strong sense of safety must be fostered in them. I agree with that. No matter if it is the railway corporations or the transport organizations we are operating — I myself have served in the Airport Authority — and the first thing discussed in the meetings there is the safety report. All other matters are to follow. No one will talk about profits but the safety report. This comes first. I agree very much that all public transport systems must make this their first and foremost consideration.

Perhaps the Secretary may tell us if these corporations and organizations have accorded a high priority to safety considerations. If safety is valued highly, the whole management and all the front-line staff will know what considerations are valued most highly and regarded as most important by their company and they will naturally act accordingly. If an intimidating knife is there all the time..... Mr LEE Wing-tat was putting this very nicely when he said that there would not be any penalty for being late for half a minute and it had to be an eight-minute delay before anyone got punished. But how is the line going to be drawn? If there is a system failure of eight minutes, will the staff be

punished? When the workers are at work, they would not know what may go wrong, be it the machines, the computers or the signals. Do we want to exert such pressure on the staff at the control panels? The staff are already under great stress even without this extra source of pressure. I think that when we consider such matters, we must not oversimplify things and mix different concepts up. We should not think that driving through the red light will result in demerit points and so the train operator will also get demerit points. The two things cannot be compared this way.

I therefore hope that Members can ponder over this matter seriously. We in the Liberal Party think that this so-called demerit points system must be avoided by all means. All the most advanced systems in the world do not have such a demerit points system and there must be reasons for that. The clearest and most apparent reason is that this is totally unfair to the staff. As many of these incidents are not caused by human errors and other man-made factors, do we have to act like judges and try cases all the time? Before any judgement is passed, actually we can consider issuing a warning to the staff concerned. Thank you, President.

**MR ALBERT HO** (in Cantonese): Madam President, with respect to the topic of railway safety, we have held discussions on it many times before and the Democratic Party has also made many suggestions on that. However, in many cases they are not accepted by the Government and the railway corporations. We feel most sorry about this.

Actually, as evident in the figures, we cannot say that the operation and safety records of the two railway corporations are very bad. But figures cannot reflect the facts in their entirety, such as the impact caused by the West Rail which affects the daily transport needs of so many people. And this cannot be measured by figures alone. The public demand for efficiency and safety in the operation of the railways is very high and so we hope that the railway corporations can lower the number of incidents. This is only some reasonable expectation.

As a Member of this Council from the New Territories West returned by direct election, I am not satisfied with the performance of the Light Rail and West Rail systems over the past few years. This is especially the case with the West Rail. Though it is such a new system that has been operating for just two



or three years, a major incident of delay will happen almost every two or three months. And there is a recent case of a blaze caused by the transformer in the train. This makes people wonder why a new system like this would have such an incident. What in fact are the causes? Is this due to the neglect of certain characteristics of railways in Hong Kong or other factors by the train manufacturers and the railway corporations during the initial design stages? We would really want to know.

I hope Members will know that the ridership of the West Rail has long been lower than expected. There are of course many factors leading to such a situation, such as the expensive fares and property development on the stations along the railway not being able to proceed as planned, and so on. There is also another reason, and that is, many passengers of the West Rail are worried about delays. Those who commute to office find frequent delays unacceptable.

We would also like to stress one point and respond to the remarks made by Selina CHOW on the demerit points system earlier. We wish to stress that the demerit points system proposed by us is not meant to target at the staff but the corporations. The corporations are the operators of the systems and they should be held responsible for the operational reliability and safety of the railway systems. We do not mean to intimidate the staff. It is true that we wish to bring pressure to bear on the corporations and we believe that exerting the right amount of pressure will compel the corporations to enhance their safety consciousness and do a better job in their day-to-day inspections and tests. Hence it will be possible to ensure service quality and prevent the occurrence of any delays.

Selina CHOW has said earlier that no such measures are found in other countries. This is not the case. We can see that there is a similar penalty system in place in Britain. After the passage of the Railways Act in Britain in 1993, as far as we know, there were at one time 100 operators in the market in Britain, of these the largest one being Railtrack. It is responsible for running the railways. There were frequent failures in its system and that attracted much criticisms. In 1999, the Chairman of the Office of Rail Regulation stated that Railtrack had to rectify its punctuality problem within one year and a target of 12.7% was set, and that failure to meet that target would mean a fine for the company. The result was that the punctuality problem had got better and the target was met and it was improved to 10% — sorry, the target was not yet met and it should be improved to 12.7% but the company only attained 10%. So the

target was not met. But we think this is still useful. According to the figures we have, that company was fined £7.9 million in the end.

In my opinion, pressure is useful for an operator and it can compel it to make improvements. I think if there is no such a target, the situation may even be worse. Although we have a system whereby a fine can be imposed on the MTRCL, we know that often times the penalty is not heavy and the Government will not pursue every case as the Government is also worried that the rating of the railway corporations such as the MTRCL may be affected. Therefore, I think that leniency would on the contrary make the corporations have an insufficient safety consciousness and so work cannot be done well and it is not possible to enhance system reliability. In other words, the corporations will not be able to do their job properly. So, we think that it is perfectly desirable to make the penalties stiffer and adopt the demerit points system.

In addition, I wish to talk about the issue of automated gates which was raised in the meetings with the Secretary before. We know that when the two railway corporations are about to be merged, there are two problems in the Light Rail which are neglected. The first is that fares will not be reduced and the second is that it still refuses to consider or study the installation of automated gates on the platforms. If the Secretary has a chance to experience the crowded situation on the Light Rail during the rush hours, she will know why residents living in the districts concerned have such strong demands. Besides, when the two railway corporations are merged, not only will the passengers of the Light Rail not be able to get any fare concessions but they have also to face reductions in the feeder buses and service of the inter-district routes. These make the residents feel very upset. So I hope Members can consider *(the buzzer sounded)*.....

**PRESIDENT** (in Cantonese): Speaking time is up. Please sit down. Does any other Member wish to speak?

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If no Member wishes to speak, I will call upon Mr Andrew CHENG to speak on the two amendments. The speaking time allowed is five minutes.

**MR ANDREW CHENG** (in Cantonese): Madam President, on the amendments proposed respectively by two Honourable colleagues, Mr WONG Kwok-hing in his speech says that he wants to add railway safety drills and a safety alarm system, I am definitely in agreement to these.

As for the amendment moved by Mr LI Kwok-ying, I may need to spend some time to express what I think of it. First, Mr LI adds the idea of studying the feasibility of the demerit points system. Of course, I see his point there. It is because earlier on some Honourable colleagues have expressed their concern about the demerit points system. Just now an Honourable colleague from the Democratic Party has explained our view on that and I wish to stress again that I would like to have the following put on record: first, this demerit points system is not meant to target drivers and train operators and it is different from the so-called demerit points system for cases like drivers driving through a red light. We will definitely not record demerits for any delay by a train of one minute, two minutes, three minutes, four minutes, or even five minutes. With respect to this point, I think the Secretary may have heard of it many times. However, for some Honourable colleagues, whenever they hear about the demerit points system, they will think this means the train operators are forced to drive the train to the station as soon as possible and it is therefore very likely that accidents such as the one happened in Japan would take place. Sorry, this accident in Japan is too horrible and it bears no relevance to this proposed demerit points system of mine.

The suggestion made with respect to this demerit points system is based on the standard laid down by the Railway Inspectorate of the Transport Department earlier together with the Bureau and the railway corporations, that is, the media would only be informed when there is an eight-minute failure. Members may ask why the standard was set at eight minutes at that time. Madam President, you are not a member of the relevant panel and this issue has been the subject of our discussions for a number of years — from the suggested 30 minutes at the beginning, to 20 minutes and finally to eight minutes. This is agreed by us. In other words, this specific time of eight minutes is our agreement. In case a failure lasting for eight minutes or more is expected, it will certainly result in train users being affected to a certain extent.

If we agree that the standard should be eight minutes or more, and under my proposed demerit points system, a delay of eight to 16 minutes would mean five points; a delay of 16 to 30 minutes would mean 10 points, and a delay of

more than 30 minutes would mean 15 points. Punishment will be imposed if the points reach 30 or more within a quarter — Members may make other suggestions like two years. Madam President, the penalties are not aimed at the drivers but the entire corporation. According to relevant laws like the Mass Transit Railway Ordinance, it is provided that the offence of wilfully endangering safety carries a fine at level 6 or imprisonment for three years. If my memory is correct, a fine at level 6 should be \$50,000. But this penalty provision has never been invoked and it has never been imposed.

With respect to the idea of "strictly enforcing the relevant penalties as a warning" proposed in Mr LI Kwok-ying's amendment, I am fully in agreement to that. If there is no pressure or no penalties are imposed, or no objective mechanism is in place to require the railway corporations to do better, then each incident of failure will be regarded as an isolated incident and a report will be written for each incident. After a report is accepted, the failures would still take place. This is the kind of contradiction and helpless situation faced by us.

I hope my motion will bring out a point and that is, the railway service in Hong Kong has a very good reputation, I do not wish to see it tarnished. Some Honourable colleagues may say that this is unheard of and Hong Kong is the only place in the world where a demerit points system is found. I would like to ask those Members from the business sector this particular question. It is also heard that there is no such thing in the whole world for a government to inject money indirectly into the property development on railway stations, but that is a very good development concept for the railways in Hong Kong. Can we therefore say that Hong Kong cannot take the lead when something is not done elsewhere in the world?

So I hope the Secretary will, with respect to this motion..... I will pursue the matter even if I fail today. And as there is still one year in my term of office, I will propose this next year. Thank you, Madam President.

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**  
(in Cantonese): President, with regard to the two railway corporations in Hong Kong, Members should be well aware of the fact that the daily service capacity of railway is the highest among all major modes of transport, reaching 4 million passenger trips. The popularity and importance of railway is therefore clear to all. The Government has all along adopted stringent measures to supervise the safety and reliability of railway service, and required the two corporations to

carry out regular reviews and make continuous improvements with a view to providing services to keep pace with the times. I thank Members who have spoken today for putting forward valuable opinions on railway safety and service, and I would like to respond to them one by one.

On the whole, the Government supervises the safety and performance standards of railway in a forward-looking and comprehensive manner. In other words, we are very much concerned about each and every stage of service delivery, from planning and system design to maintenance and operation of railway, and have required the railway corporations to ensure the safe operation of the whole systems. Second, railway service must meet our standard. The railway corporations are required to adopt a safety management system on a par with international standards, and minimize risks as is reasonably practicable with the best practice of the trade. Furthermore, the railway corporations must attain a very high standard of service and reliability, and we should strive to achieve the highest standard either within the region or among all developed cities.

First of all, I would like to talk about railway safety as this is our greatest concern. Insofar as the supervision of railway is concerned, we have the Railway Inspectorate. It is certainly not duty-bound to monitor the day-to-day operation of railway, but it has to oversee the different areas of work (including railway design, construction, operation and maintenance) and measure them against an appropriate set of international standards. It has been our target to reduce risk to the minimum.

Being railway operators, the railway corporations are duty-bound to ensure the safety operation of their railways, but not counting on the Railway Inspectorate's advice on what to do. Regarding the daily operation of the Railway Inspectorate, reports on the safety performance of railway must be submitted by the railway corporations for its consideration. Site investigations will be conducted, and meetings with the railway corporations concerning safety performance will also be held on a regular basis. Where a need for improvement to the railway corporations is identified, follow-up actions will be taken by the Railway Inspectorate. It is incorrect for Mr LEUNG Yiu-chung to say earlier that no follow-up actions have been taken, maybe it is because he failed to notice the follow-up actions proposed by us after the publication of the reports. What is more, discussions were held at the Subcommittee on Matters Relating to Railways, so I hope that he will look up the relevant minutes of

meetings. These follow-up actions are important for our consideration of how risk can be reduced to a minimum under the safety management system, thereby minimizing the occurrence of incidents as well. Yet, we understand that it cannot be reduced to nil because where machinery is involved, there is always a risk of failure. Another factor is human error. They are the two major principles that underlie the study of safety management.

First of all, I wish to talk about the system. I noticed that quite a number of Members, such as Mr Andrew CHENG, suggested the possibility of an ageing problem. Although the wordings used by him were "an ageing problem may arise" for he was unable to ascertain its existence, but I can tell Members that it is actually not an ageing problem. It is because through sound and long-term asset management, where replacement is possible, the railway system should not experience a decline in quality as it ages, which is the so-called ageing of the railway. In 2005, the Government already looked into the issue in collaboration with an international expert, Lloyd's, and an independent local railway expert. We shared the same view that all previous incidents were not systematic at all, but were random in a sense that they were not attributed to problems identified in different parts of the railway, (Appendix 1) at a different time and place, as well as in different systems. So, there is no evidence to suggest that the system has an ageing problem. Any problem in the system is a very important issue. I am not saying that no sign of ageing means the system is problem-free. It is necessary to impose stringent requirements in respect of safety management and design.

Both railway corporations have adopted the "fail-safe" design, whereby the train will be brought to a halt even if the slightest possibility of risk is detected by the system should the train proceed further, be it a problem caused by passengers, parts or the computer. The principle underlying this design is that safety shall always come first, and any danger that arises when the train runs at speed should be avoided.

Apart from the problem of system design, just now a number of Honourable Members (including Mr WONG Kwok-hing) also mentioned the standards for safety inspections. The inspection standards cannot be explained in a few words, stating what should be done more of or what should be done less, and whether all trains must pass certain functional tests before the commencement of their daily operation. In fact, a system is in place and all operational functions are required to undergo inspection nearly every year.

Yet, it is questionable whether there is a need for each train to be inspected before commencement of operation. However, despite being the supervisory authority, we still have to count on the professionals of the railway corporations to lay down the relevant rules, and will not make drastic changes to the whole system simply because of a couple of isolated incidents. Making changes can be more dangerous as the safety system was not established overnight, and is subject to the checks and balances of many different factors. We therefore hope that Members will understand that a change in the system warrants prolonged and careful considerations, and the pros and cons of such a move must be carefully examined by professionals from different perspectives.

Having said that, however, the requirement imposed on the railway corporations concerning the safety inspections of trains is very stringent, and is applicable beyond the regular day-to-day inspections. The railway corporations are required to drive for continuous improvements, whereby regular tests on the overall safety management system will be carried out at least once every three years to strive for perfection. Furthermore, an accident or incident analysis has to be made after each incident. Such an analysis should not only be made following the occurrence of very serious incidents, incidents resulting in casualties or an extended suspension of train service, but in the aftermath of all incidents, be it major or minor. Very often, the most important thing to note about safety management is the "near miss" cases, that is, incidents that almost occur but never did. Because the result of an analysis of these incidents is most meaningful, with the involvement of the Railway Inspectorate being responsible for examining the relevant reports. Information obtained from the railway corporations and the Railway Inspectorate will be used to ascertain what safety management problems these incidents demonstrate, say, is there a need for improvement, what improvements have to be made and the implication of such improvements on other departments and components. Earlier, Mr CHENG also mentioned the transformer. In fact, even a tiny transformer was studied in great detail this time. Transformers may cause fires or explosions. While there are small transformers for fish tanks found in residential premises, which had once blackened my friend's house, there are also large ones found in major machines. Trains of old design, however, can do without transformers. A transformer is used simply because it has certain functions that facilitate railway operation, and yet, it is an extra component after all. Also, there are different types of transformers. Therefore, this time we must be very careful in examining every additional component to see what implication it will bring to safety in general. Consideration should not be isolated and lopsided.

Furthermore, apart from the system, machinery and design, human factor is the most important. The Heinrich Principle of Safety Management proposed by a German expert pointed out that human error accounts for the majority of incidents and accidents. I do understand that Mr CHENG is gravely concerned about how a demerit points system or penalties for service delays can be imposed to enhance the awareness of the staff while driving the corporations to be more keen, but after listening to the views expressed by quite a number of Members on the matter, we are aware that holistic consideration is necessary. Dialling up the pressure of a pressure cooker infinitely will have adverse impacts on both the corporations and their staff. We do not wish to put too much pressure on them for service delays to avoid risking a compromise of the safety safeguard, as safety shall always come first.

As for railway management, I am going to talk about it later. Insofar as our legislation is concerned, some extreme penalties like the revocation of licence have been provided for. Citing London as an example, Mr Albert HO pointed out earlier that while the fines amounting to several tens of millions of Pound Sterling had brought the City of London to the verge of bankruptcy, and the company in question had actually gone bankrupt. In fact, the company (that is, Railtrack) had ended up being banned from railway operation. It closed down and has to start all over again. We do have such power, but do we need to go that far? I believe not, and there is no reason for doing so either. Honourable Members have been to different parts of the world, be it London, New York, the more inferior Los Angeles or the better San Francisco, and those who had travelled on their trains should have noticed that Hong Kong's railway service provided by the two corporations is among the top ones in the world in terms of quality, punctuality, cleanliness and overall management. The standard of our railway service is as high as 99%, and the number of recorded cases of service delay by eight minutes or more in 2006 was also the least in three years. We consulted a local independent railway expert in 2005 who pointed out that the existing performance requirements in Hong Kong were the standard being widely adopted in the international community. Therefore, Hong Kong should not deviate from such an international standard and adopt other service requirements that have not been proved effective or properly tested. Certainty is assured by adopting an international standard as it is derived from years of scientific statistics and analysis, which also demonstrates that a balance between safety and efficiency can be struck. I do not wish to make significant changes to the system, like the demerit points system, whereby the staff will be forced to do repair work, to decide if the train is allowed to commence operation



or whether it is worth taking the risk when it is already so close to the standard. Serious accidents which no one wishes to see may occur as a result. No one can guarantee that these scenarios will not arise. However, being the Government, we can only assess the management performance of the railway corporations by using scientific statistics, and address the issue by a system tested and assured internationally.

Earlier, Mrs Selina CHOW also mentioned the demerit points system enforced by me, under which demerit points will be incurred, for red-light jumping in particular. Just now, she highlighted in detail that it serves a person right if he incurred demerit points for contravention of rules when the situation was controllable by him. However, is it really possible to resolve the problem through repair work and identifying the cause of fault in the context of such a complicated railway system? This is not a personal problem at all. So, the imposition of additional pressure may result in the accident that happened in Japan, which is the last thing we would wish to see.

Here, I would like to mention in passing the issue of economic efficiency as raised by Mr Andrew CHENG. Insofar as railway safety is concerned — perhaps I should say service because his emphasis was on the possibility of further improving train punctuality with a view to minimizing the economic loss incurred due to time lost. Just as Mr Albert CHENG calculated earlier, a service delay of only 0.05 second on average was intolerable to Hong Kong people. This is exactly the same case in Japan, where all the systems are in duplicate. In other words, a system can be readily replaced by another when it breaks down. Though the costs incurred for design and construction are much higher, there are really fewer incidents in Japan than in Hong Kong. But is it necessary for us to adopt such a standard? I believe we have not come to that state. Furthermore, we have to take into account the burden of the public as well. Fare is always our concern. How much can society at large afford? Is a service delay of 0.05 second really that unacceptable?

Since quite a number of Members have stated how outstanding our existing railway system is, so I am not going to further elaborate on it. Mr WONG Kwok-hing mentioned that there was a need to install a separate safety alarm system in each train and set up a direct communication system between train operators. In fact, a Train Information System has been installed in each train for monitoring the operation of all critical components. Should any irregularities occur, the train operators will be promptly alerted.

Furthermore, a Radio Communication System has also been installed in each train and the Operations Control Centre to facilitate direct communication between the train operator and traffic controller. It is, however, not necessary for trains to maintain direct communication as this may give rise to confusion. With all the information being centralized at the Operations Control Centre, it therefore has a good grasp of the overall situation of different lines and is able to co-ordinate the deployment of trains. This is particularly the case with the East Rail, where there are three rails for interchange and central control of train movements is therefore necessary.

The two railway corporations' performance in terms of safety has been among the best in such advanced countries and places as Hong Kong, London, New York, Paris and Tokyo. Regarding the benchmark for safety and reliability, for every 1 million car km, the number of incidents for the two corporations is maintained at approximately one; in other words, there is approximately one incident when a train runs up to 1 million km. Compared to the trade average of 20-odd cases in other major cities, our performance is considered satisfactory. I am not saying that we are complacent about our safety performance, as it has always been our target to achieve zero accident. Even though we all know that zero accident is impossible in terms of physics, it does not mean that we will give up the pursuit of this ideal. The Government has taken a very firm stance in requiring the railway corporations to maintain safe and smooth railway operation at all times, and to minimize the occurrence of incidents by all means. We requested and the railway corporations have agreed that reference should continuously be drawn from local and international experience, and railway safety and service persistently enhanced in the light of new developments in technology.

Several Members mentioned earlier the contingency procedures in view of the recent spate of fire and explosion involving the West Rail. Certainly, Members are gravely concerned about the incidents and have expressed concern about fire safety and the contingency procedures. I wish to point out that the design of all the existing railway systems meets the prevailing requirements of design at the time of their construction. It is definitely necessary to upgrade our system. When designing a new railway system, the railway corporations should ensure compliance with the ordinances associated with the Fire Services Department and other departments. Before commissioning, trains must pass the inspections and tests of all the relevant departments, and all safety facilities and contingency procedures are properly placed and arranged. The existing system

is installed with fire compartments, means of escape, means of access for firefighting and rescue, smoke extraction systems, emergency alarms, emergency lighting and ventilation systems, and so on, and the train itself also has adequate insulation.

Emergency drills will be organized jointly with the two railway corporations and views of Members will also be taken on board, with a view to enabling the involvement of the public and monitors in a more effective and appropriate manner.

Today, a lot of issues relating to railway service and safety have been discussed, which I believe will be helpful to the future railway management as well as the provision of more safe, reliable and efficient railway transportation to the public. Furthermore, during our day-to-day supervision, the measures relating to repair work, manpower of the Railway Inspectorate and emergency training will be reviewed through various channels. Earlier, a number of Members mentioned the creation of the post of Commissioner for Railway Safety and the demerit points system. We have great reservations about these proposals and do not think such drastic changes will bring any benefit. I hope Members will oppose them. Thank you, President.

**PRESIDENT** (in Cantonese): I now call upon Mr WONG Kwok-hing to move his amendment to the motion.

**MR WONG KWOK-HING** (in Cantonese): President, I move that Mr Andrew CHENG's motion be amended.

**Mr WONG Kwok-hing moved the following amendment: (Translation)**

"To add "(a) raising the existing standards for safety inspections and tests to ensure that all trains must pass the relevant inspections and tests before the commencement of their daily operation; (b) additionally installing a separate safety alarm system in each train to enable train operators to, in the event of accidents, immediately find out where the failures occur and what the situation is; (c) setting up a direct communication system between train operators, so that in the event of accidents the train operator can immediately coordinate with the operators of the trains in front and behind; (d) including an independent person as monitor in the

process of regular railway safety drills, so as to enable a more comprehensive and objective evaluation of the feasibility of the relevant measures;" after "safe services:"; to delete the original "(a)" and substitute with "(e)"; to delete the original "(b)" and substitute with "(f)"; to delete the original "(c)" and substitute with "(g)"; to delete the original "(d)" and substitute with "(h)"; to delete the original "(e)" and substitute with "(i)"; to delete "and" after "maintenance work of the railway systems,"; to add ", and comprehensively reviewing the impact of outsourcing maintenance work on the train services" after "maintenance departments"; to delete the original "(f)" and substitute with "(j)"; to delete the original "(g)" and substitute with "(k)"; to delete the original "(h)" and substitute with "(l)"; to delete "maintenance" after "frontline"; to delete the original "(i)" and substitute with "(m)"; and to delete the original "(j)" and substitute with "(n)".

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

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

(Members raised their hands)

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

(Members raised their hands)

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 begin.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki and Dr Fernando CHEUNG voted for the amendment.

Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, Mr Bernard CHAN, Mr Abraham SHEK and Prof Patrick LAU voted against the amendment.

Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat and Mr Ronny TONG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Mr LAU Kong-wah, Miss CHOY So-yuk and Mr LI Kwok-ying abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, seven were in favour of the amendment, six against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 18 were present, 12 were in favour of the amendment 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 negated.

**PRESIDENT** (in Cantonese): Mr LI Kwok-ying, you may now move your amendment.

**MR LI KWOK-YING** (in Cantonese): President, I move that Mr Andrew CHENG's motion be amended.

**Mr LI Kwok-ying moved the following amendment: (Translation)**

"To delete "creating the post of Commissioner for Railway Safety with the responsibilities to advise, conduct studies, make assessments and propose improvement measures on" after "(a)" and substitute with "urging the railway corporations to expeditiously review and improve"; to delete ", as well as to lead the work of the Railway Inspectorate" after "train operations, etc)"; to delete "to assist the Commissioner for Railway Safety in discharging his duties" after "powers of the Railway Inspectorate"; to add "studying the feasibility of" after "(c)"; to delete "for" after "a demerit points system" and substitute with "or other measures regarding the service performance of the railway corporations, including"; to delete "and setting objective and clear standards for the service performance of the railway corporations" after "system failures in train services," and substitute with "as well as their impacts on the public; (d) strictly enforcing the relevant penalties as a warning when the railway corporations have breached the relevant provisions relating to railway safety in the pertinent ordinances or operating agreements"; to delete the original "(d)" and substitute with "(e)"; to delete the original "(e)" and substitute with "(f)"; to delete the original "(f)" and substitute with "(g)"; to delete the original "(g)" and substitute with "(h)"; to delete the original "(h)" and substitute with "(i)"; to delete the original "(i)" and substitute with "(j)"; to delete "and" after "more promptly"; to delete the original "(j)" and substitute with "(k)"; and to add "; and (l) stepping up efforts to publicize information on emergency escape for passengers in case of a railway accident, and organizing more railway incident drills with the participation of the general public, so as to enhance the public's ability to cope with emergencies in the event of accidents" immediately before the full stop."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

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

Functional Constituencies:

Mr WONG Yung-kan, Ms LI Fung-ying, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr WONG Ting-kwong and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr David LI, Mr Bernard CHAN and Mr Abraham SHEK voted against the amendment.

Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Prof Patrick LAU abstained.

Geographical Constituencies:

Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Frederick FUNG, Ms Audrey EU, Mr LI Kwok-ying and Mr Ronny TONG voted for the amendment.

Mr James TIEN, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Mr LEUNG Yiu-chung, 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, 24 were present, seven were in favour of the amendment, four against it and 13 abstained; while among the Members returned by geographical constituencies through direct elections, 18 were present, six were in favour of the amendment and 11 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, you may now speak in reply. You have three minutes 38 seconds.

**MR ANDREW CHENG** (in Cantonese): Madam President, I hope the Secretary will understand that this motion is absolutely not demanding zero failure. The Secretary and colleagues of the Liberal Party have said time and again that it is impossible to achieve zero failure. Under such a highly complicated system, fault is unavoidable. I very much agree with this point.

I must stress again that the demerit points system proposed by me is not designed for train operators, and demerit points will not be immediately registered against them for delay of one minute, two minutes, three minutes or four minutes. The suggested starting point is eight minutes. I must stress again — although I have already mentioned it earlier, seeing that there are now more Members in the Chamber, I have to repeat what I said just now when the



Honourable colleagues were not here. I must stress again that the starting point of the demerit points system proposed by me is eight minutes, which Members agreed in the past would affect railway passengers. I suggest that five points be accorded for delay of eight to 15 minutes; 10 points for 16 to 30 minutes and 15 points for over 30 minutes. Penalties will not be awarded until more than 30 demerit points have been recorded within two years. To a certain extent, I think it is a requirement for the railway corporations and an objective benchmark. This is the thrust of my proposed demerit points system, rather than pressing the train operators or the railway corporations to speed up the maintenance work. There is no problem with any delay of just a couple of minutes. We also expect to see delays for the sake of railway development and improvement, and the award of demerit points will not be immediately followed by penalties. I must stress this point again.

Honourable colleagues and the Secretary have said time and again that the demerit points system is not found in the rest of the world. I must stress again that the railway development in Hong Kong going in tandem with real estate development is also not found elsewhere in the world. And yet, it is doing very well in the eyes of the Secretary in particular, and even better to Honourable colleagues of the Liberal Party. So, why is the demerit points system not feasible then? Can we study into it and then put it into practice? If Members really find that there is any problem, perhaps a trial can be conducted; and if there is actually any problem with it, I believe the general public will not press for more.

The Secretary talked about Tokyo, where the fare level and standard of living have been studied by us. In respect of Tokyo's fare, with the availability of monthly tickets and zonal discounts, the fare is actually more or less the same as that of train or MTR in Hong Kong. Secretary, let us do some calculations. Yet, the Secretary mentioned earlier that even though a more stringent safety system has been adopted, the target of which is 0.05 second, Tokyo is still able to make it. Why? It is because considerable amount of resources has been devoted to it. But where did the resources of the MTR and trains go? They have made hundreds of million dollars of profits, but why was safety not given greater consideration? If the level of system safety can be brought on par with that of Tokyo, coupled with the so-called demerit points system, I hope that every year — Take 2004 as an example, just now I said that there were failures which added up to nearly 84 hours, Madam President, and they occurred mostly during peak hours. Since an incident of railway failure may probably result in a delay of 30 to 45 minutes and cause serious economic loss, I hope the Secretary

will understand that it indeed incurs heavy social cost and direct economic loss, and warrants attention.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Andrew CHENG 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 begin.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the motion.

Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, Mr Bernard CHAN, Mr Abraham SHEK and Prof Patrick LAU voted against the motion.

Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat and Mr Ronny TONG voted for the motion.

Mr James TIEN, Mrs Selina CHOW, Mr LAU Kong-wah, Miss CHOY So-yuk and Mr LI Kwok-ying abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, eight were in favour of the motion, six against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 18 were present, 12 were in favour of the motion 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 motion was negatived.

## **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 14 March 2007.

*Adjourned accordingly at sixteen minutes to Seven o'clock.*



**Appendix 1****REQUEST FOR POST-MEETING AMENDMENT**

**The Secretary for the Environment, Transport and Works requested the following post-meeting amendment**

Line 8, fourth paragraph, page 180 of the Confirmed version

To amend ".....that they were not attributed to problems identified in different parts of the railway, ....." to ".....that they were attributed to problems identified in different parts of the railway, .....". (Translation)

(Please refer to lines 11 and 12, second paragraph, page 5050 of this Translated version)



## Appendix I

## WRITTEN ANSWER

## Written answer by the Secretary for Security to Miss CHOY So-yuk's supplementary question to Question 6

As regards whether there had been cases involving triad activities at taxi stands at other boundary crossings or places other than the Airport, attached is a table for Members' reference.

Breakdown of reported criminal cases which occurred at taxi stands other than that in the Hong Kong International Airport in 2004 to 2006

Offences	2004				2005				2006			
	No. of cases reported	No. of detected cases (% of number of reported cases)	No. of triad-related cases (% of number of reported cases)	No. of persons prosecuted <sup>(1)</sup>	No. of cases reported	No. of detected cases (% of number of reported cases)	No. of triad-related cases (% of number of reported cases)	No. of persons prosecuted <sup>(1)</sup>	No. of cases reported	No. of detected cases (% of number of reported cases)	No. of triad-related cases (% of number of reported cases)	No. of persons prosecuted <sup>(1) (2)</sup>
Wounding and Serious Assault	3	1 ( 33.3% )	-	1	-	-	-	-	2	1 ( 50% )	-	1
Blackmail	1	1 ( 100% )	1 ( 100% )	1 <sup>(3)</sup>	-	-	-	-	-	-	-	-
Criminal Damage	2	1 ( 50% )	1 ( 50% )	-	-	-	-	-	-	-	-	-
Unlawful Society	1	1 ( 100% )	1 ( 100% )	-	-	-	-	-	-	-	-	-
Total	7	4 ( 57.1% )	3 ( 42.9% )	2 <sup>(3)</sup>	-	-	-	-	2	1 ( 50% )	-	1

## Footnote:

- (1) Breakdown according to the year of arrest and the crime for which the arrest was made; the actual prosecution might be conducted in subsequent years, and the crime for which the person concerned was prosecuted might be different from the crime for which the arrest was made.
- (2) The prosecution figures for 2006 are provisional figures.
- (3) Among which the charge of one defendant involved triad activities.