

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 9 May 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.

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 BERNARD CHAN, G.B.S., J.P.

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

THE HONOURABLE LAU WONG-FAT, G.B.M., G.B.S., J.P.

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

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE TAM HEUNG-MAN

MEMBERS ABSENT:

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

THE HONOURABLE CHAN YUEN-HAN, J.P.

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

THE HONOURABLE KWONG CHI-KIN

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR HOUSING, PLANNING AND LANDS

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

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

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.
SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

DR THE HONOURABLE SARAH LIAO SAU-TUNG, J.P.
SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

CLERKS IN ATTENDANCE:

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

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members to the Chamber.

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

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

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>
Road Traffic (Amendment: Extension of Permitted Area for New Territories Taxis to Shenzhen Bay Port Hong Kong Port Area) Regulation 2007	68/2007
Closed Area (Hong Kong Section of the Shenzhen Bay Bridge and Deep Bay Link Portion) Order	69/2007
Immigration (Places of Detention) (Amendment: Lok Ma Chau Spur Line Control Point) Order 2007	70/2007
Immigration Service (Designated Places) (Amendment: Lok Ma Chau Spur Line Control Point) Order 2007	71/2007
Immigration (Places of Detention) (Amendment: Shenzhen Bay Port Hong Kong Port Area) Order 2007.....	72/2007
Immigration Service (Designated Places) (Amendment: Shenzhen Bay Port Hong Kong Port Area) Order 2007	73/2007
Frontier Closed Area (Permission to Enter) (Amendment) Notice 2007	74/2007

Shenzhen Bay Port Hong Kong Port Area (Permission to Enter) Notice	75/2007
Antiquities and Monuments (Declaration of Historical Building) Notice 2007	76/2007

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Further Studies Subsidies for Kindergarten Teachers

1. **MR TOMMY CHEUNG** (in Cantonese): *It has been learnt that the Government expects serving kindergarten (KG) teachers to obtain the Certificate in Early Childhood Education (ECE) qualification by the 2011-2012 school year. In this regard, since the 2007-2008 school year, teachers who work in KGs not joining or not eligible for the Pre-primary Education Voucher Scheme (PEVS) may claim reimbursement for up to 50% of the fees for one approved ECE diploma or degree course, capped at \$60,000. As for teachers working in KGs eligible for PEVS, they may receive no less than the same amount of course fee reimbursement as teachers of the above KGs. In this connection, will the Government inform this Council:*

- (a) *whether, according to the above arrangement, teachers of KGs eligible for PEVS will receive more subsidies than those of non-eligible KGs; if so, whether it has assessed if such an arrangement is unfair, and whether it will reduce the opportunities for those teachers who work in non-eligible KGs and cannot afford the course fees to pursue further studies and seek employment in future, as well as adversely affect the development of the qualifications of teachers in such KGs; if it has made such an assessment, of the results; and*
- (b) *given that according to the above arrangement, teachers receiving subsidies are required to pay the course fees in full first and then apply for partial reimbursement afterwards, how the Government will assist those teachers who are unable to pay the full fees first?*

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

- (a) The 2006-2007 policy address announced the implementation of the PEVS, providing direct subsidy to parents, and at the same time subsidizing KG principals and teachers in upgrading their professional qualifications. Each non-profit-making KG joining the PEVS will be granted a teacher development subsidy from the 2007-2008 to 2011-2012 school years covering course fee reimbursement of approved courses, appointment of supply teachers and provision of school-based professional development programmes. We encourage KG principals to pursue further training so as to possess the qualification of a degree in ECE before the 2011-2012 school year. KGs joining the scheme can use the subsidy flexibly in accordance with the ambit. However, these KGs should work out their individual staff development plan with reference to their staff profile. The staff development policy and the criteria for allocation of financial support should be fair, open and transparent.

To encourage principals and teachers of KGs not under the PEVS to study and raise their professional qualifications, the Government will also provide subsidy for their professional development. They are entitled to claim up to 50% of the fees for one approved ECE diploma or degree course, capped at \$60,000, until the end of the 2011-2012 school year. The Government in parallel provides subsidy for principals and teachers of such KGs in order to encourage the upgrading of the quality of pre-primary education as a whole and to provide training opportunities. We expect that this measure can effectively encourage principals and teachers in need to upgrade their professional qualification. Pre-primary education will continue its multi-facet development.

- (b) With respect to the mechanism of course fee reimbursement, the Education and Manpower Bureau will reimburse course fee on a yearly basis to principals and teachers for having successfully completed part of the course in that school year. We believe that this will relieve the financial burden of individual principals and

teachers. If necessary, principals or teachers on training can apply for non-means tested loan provided by Student Financial Assistance Agency to pay for the course fee.

MR TOMMY CHEUNG (in Cantonese): *President, I am very disappointed. The Secretary has only restated the question once without answering the two-part main question. President, actually, I want to put two supplementary questions, but you will not allow me to do that, so I will only ask one supplementary question.*

I wish to ask the Secretary, in formulating this policy, it is apparent that..... What I want to ask is: Is the Secretary discriminating against teachers of KGs not eligible to join the PEVS? If the Secretary has no intention to discriminate against them, he has no grounds for granting different amounts of subsidy to teachers of KGs under the PEVS and those not under the PEVS. May I ask the Secretary whether there was discrimination in the formulation of the policy? If not, should he not treat teachers of both types fairly by subsidizing their pursuit of further studies?

PRESIDENT (in Cantonese): Mr Tommy CHEUNG, if you wish to ask a supplementary question again, you can do so by pressing the button and wait for another turn. You will have a chance to ask it.

(Mr Tommy CHEUNG nodded to indicate his acknowledgement.)

PRESIDENT (in Cantonese): You have another supplementary question to ask, do you not?

MR TOMMY CHEUNG (in Cantonese): *I will ask it later.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, there is no question of discrimination by us. Teachers from both types will be granted subsidy. The two schemes are slightly different.

Non-profit-making KGs will be granted \$16,000 in subsidy of which \$3,000 is given to the KGs to cater for their staff enhancement. In other words, \$16,000 will be granted for each student of a KG. If the KG has 10 students, it will be granted \$30,000. In this circumstance, the money is not only used for training purposes, but also for the appointment of supply teachers or school-based development. This is one of the schemes.

For the second scheme, we attach equal importance to teachers teaching in non-profit-making KGs, hoping that they can also pursue further studies. The second scheme is thus different. Teachers pursuing further studies within the coming five years will be granted subsidy with a cap at \$60,000.

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

MR TOMMY CHEUNG (in Cantonese): *President, the Secretary has not answered my supplementary question. Speaking about discrimination, the Secretary did not recognize that at present, irrespective of the schemes, teachers of KGs not under the PEVS are discriminated against; in other words, the Government has not assessed whether there is discrimination and to what extent there is discrimination. If the Government holds that there should not be any discrimination, should it not give an equitable amount of subsidy to teachers of the both types instead of discriminating against one category?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, there is entirely no discrimination because if there was, only one type would be benefited and not the other type. At present, however, teachers of the both types are benefited.

MR MA LIK (in Cantonese): *The Secretary mentioned in part (a) of the main reply that the staff development policy and criteria for allocation of financial support should be fair, open and transparent. With the launch of the PEVS, however, it gives people the impression that teachers of non-profit-making and independent KGs are treated unfairly. May I ask the Government whether or*

not it has set a cap for the course fees for teachers of non-profit-making KGs? Because on the other hand, there is a cap for teachers of private independent KGs.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, for profit-making KGs, it is spelt out clearly that the money is earmarked for teachers to pursue further studies by subsidizing the course fees. They cannot use the money for other purposes. As for non-profit-making KGs, the money is calculated by the head count, that is, the number of small children with each of them being granted \$3,000. The KGs can use that sum of money to carry out different programmes for the development of the KGs, including course fees for teachers to pursue studies, for appointment of supply teachers and school-based development. Thus, the two schemes are different.

MR CHEUNG MAN-KWONG (in Cantonese): *President, the Government stated in part (b) of the main reply that with respect to the mechanism of course fee reimbursement, the Government will reimburse course fees on a yearly basis to principals and teachers for having successfully completed part of the course in that school year. Can the Government clarify whether it will provide equal treatment to all teachers, irrespective of whether their KGs are under the PEVS, and that all of them will be treated equally by receiving a yearly reimbursement of course fees instead of having to wait for the completion of the whole course in a few years' time?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Course fee reimbursement is made on a yearly basis, which is an equitable treatment.

MR CHEUNG MAN-KWONG (in Cantonese): *President, there are now two types of KG teachers pursuing further studies — one of which is teachers teaching in PEVS-subsidized KGs and the other is those in non-PEVS-subsidized KGs, can the Government treat them equally by granting both types of teachers course fee reimbursement on a yearly basis, instead of just granting yearly course fee reimbursement to teachers of KGs under the PEVS?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Both types of teachers are receiving the same treatment. They are granted course fee reimbursement on a yearly basis.

MS AUDREY EU (in Cantonese): *President, in fact, the purpose of teachers — no matter they are from private independent KGs or non-profit-making KGs — in pursuing further studies is in the interest of students. Will the Secretary explain why these two types of teachers are treated differently? Is this a means to drive all teachers under private independent KGs to teach in non-profit-making KGs?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, all KGs, whether non-profit-making or profit-making, are independent. I need to clarify this. Then, where is the difference? All fees paid to non-profit-making KGs are ploughed back into education, while part of the school fees — that is, 10% — of the so-called private independent KGs can be diverted to the school sponsoring body, school council, and so on. It is thus difficult for us to grant the subsidy because it is taxpayers' money. Can we put the subsidy into other people's pockets? We may need to reconsider this issue.

However, we hold that taxpayers' money should all be expended on education rather than being used by others for their business. This has led to two different scenarios. We also very much want our teachers to upgrade their qualification and we will thus subsidize each KG under the PEVS \$16,000 for each student annually, out of which \$3,000 is earmarked for teachers' training, school-based development or appointment of supply teachers. The usage is to be decided by the school itself. The autonomy rests with the KG.

With respect to the so-called private independent KGs, although we do not directly grant them the education vouchers, we also want their teachers to receive training, because just as Ms Audrey EU has said, it is for the interest of our students and we are very delighted to do that. We thus have adopted another scheme. That is to say, if these teachers wish to pursue further studies, we will subsidize them in the form of direct subsidy instead of granting it through their KGs. This is the difference.

MS AUDREY EU (in Cantonese): *President, the Secretary has not answered part of my supplementary question. The Secretary is, in fact, very clear about*

my supplementary question. I did not say profit-making and non-profit-making because the correct way of saying it is the difference between private independent KGs and non-profit-making KGs, and not profit-making KGs. President, I asked the Secretary whether this means of handling these two types of teachers in a separate manner intends to drive all teachers of private independent KGs to teach in non-profit-making KGs?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I do not see why we have to drive them to do so. Both types of teachers are subsidized and encouraged likewise to pursue further studies.

MR TOMMY CHEUNG (in Cantonese): *President, I need to ask the Secretary again. Having read the main reply, it is obvious that some teachers are subsidized while some are not; nevertheless, the Secretary said that this is not discrimination. The Secretary replied just now that both types of teachers are subsidized, and not that some have subsidy and some have not. I wish, however, to tell the Secretary that the meaning of discrimination is that even if some teachers are subsidized, as long as some of them are given a little more while some are given even more, it is discrimination. Hence, I wish to ask the Secretary that as there is no discrimination, should he not ensure that teachers of both types are given the same training opportunity, instead of some having this much while otherswhat is the least amount? I do not know the cap. I think the Secretary has to clarify this, or ensure that teachers of the both types are treated equally in order to convince me that there is no discrimination.*

PRESIDENT (in Cantonese): Are you asking the Secretary whether or not he is willing to make such an undertaking?

MR TOMMY CHEUNG (in Cantonese): *I wish to ask the Secretary whether he can ensure that teachers of both types can receive the same amount of subsidy?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we trust our KGs and thus to some of them, we grant them the allocation and let them decide at their own discretion the needs of their teachers, which are different from one KG to another and their teachers' qualifications are

different too. We thus let the KGs make their own arrangements for subsidizing their teachers' training. On the other hand, however, we directly subsidize the teachers. Hence, teachers of the two types are benefited.

DR FERNANDO CHEUNG (in Cantonese): *A problem has arisen with subsidizing nursery teachers in receiving training, that is, non-profit-making nurseries have been providing service to children aged over two years and some of them even at age zero. After the restructuring, however, nurseries as well as KGs are put under the Education and Manpower Bureau. As KGs cater for students aged over three and the PEVS targets at students aged three or above, children aged two to three in many nurseries cannot benefit from the education vouchers, and thus the teachers of these nurseries cannot benefit from this training scheme either. A school or teacher is brought under two different systems as there may be students aged two to three and students aged over three within the same school or under the same teacher. May I ask the Secretary, under this circumstance, if it will give rise to an unfair or even absurd situation?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, this is not the case at all because I have hardly heard of any nursery or KG which has teachers teaching only children aged two to three and not above age three. Thus, there are teachers who teach students aged two to six and these teachers will also be benefited as they have students aged three to six. There will not be a nursery which employs a teacher to specially teach children aged two to three and not children over three.

DR FERNANDO CHEUNG (in Cantonese): *The question of the Secretary is, in fact, a little misleading, I mean, his reply is a little misleading because.....*

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

DR FERNANDO CHEUNG (in Cantonese): *The part that has not been answered is, the targets for granting subsidy are, in fact, children aged over three. If the children aged two to three — because students are used as the units.....*

PRESIDENT (in Cantonese): You have already provided your explanation just now. Can you tell me which part has not been answered?

DR FERNANDO CHEUNG (in Cantonese): *The part that has not been answered is that I find this arrangement absurd and problematic because the Secretary.....*

PRESIDENT (in Cantonese): This is your comment. I am asking now which part of your supplementary question has not been answered by the Secretary and I will ask him to reply.

DR FERNANDO CHEUNG (in Cantonese): *How will the Secretary address the unfair situation? Why is there an unfair situation?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): I do not find anything unfair because our KG education starts at the age of three. If our KG education starts at the age of two and we only provide subsidy to children aged three or above, then it may be unfair. However, we now provide subsidy to all KGs with children starting at the age of three.

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

DR YEUNG SUM (in Cantonese): *Madam President, basically, it is government policy that KG teachers are expected to attain the ECE qualification by 2011-2012. If all KG teachers, whether or not they are teaching in KGs under the PEVS, can be granted the same amount of subsidy for training, the probability for the Government to reach the target, that is, the target of attaining ECE qualification for all KG teachers by 2012, will be higher, will it not? By so doing, nursery teachers will have the incentive to participate in this government scheme and thereby achieve the target sooner. Thus, my supplementary question is: Can they be treated equally and granted the same amount of course fee subsidy?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): We are confident that we can reach our target by 2012 because in terms of the degree course places at present, there are 1 000 such places each year for teachers' training. There are now roughly 10 000 KG teachers, and about a quarter of them has already attained this qualification and more than a quarter of them is taking such courses. Therefore, in the coming five years, we are confident that we can reach the target. The crucial point is whether they want to study. With respect to the arrangement mentioned by the Member, I have already stated very clearly that all KG teachers will be benefited.

PRESIDENT (in Cantonese): Second question.

Private Practice by Teaching Staff of Medical Faculties

2. **DR KWOK KA-KI** (in Cantonese): *Madam President, it is learnt that the Faculties of Medicine of the two universities have not kept detailed records of the number of consultation sessions provided by clinical teaching staff for non-private patients at public hospitals (hereinafter as "general patients") and the number of such attendances. One of these universities also has not kept records, such as the number of sessions, for private consultation service. Not only are members of the public concerned about the proper use of public health care resources, they also worry that these teaching staff are preoccupied with private consultation service, which gives the university a share of the income, resulting in general patients being adversely affected. In this connection, will the Government inform this Council whether it knows if the two universities concerned and the Hospital Authority (HA):*

- (a) *will consider keeping more detailed information on private and non-private consultation services, so as to monitor if the two Faculties of Medicine and the teaching hospitals are preoccupied with private consultation service;*
- (b) *have any new measures to ensure and monitor the proper use of the income generated from private consultation service; and*
- (c) *will set targets on the number of hours spent each week on the treatment of general patients and the number of such patients treated*

by each clinical teaching staff, so as to ensure that the general patients of the teaching hospitals will not be discriminated and will receive treatment by clinical teaching staff?

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

- (a) Through its computer system and paper documents, the HA has in place an effective mechanism for keeping detailed records of all public and private consultation services provided in public hospitals. The information captured includes details of the attending doctors and patients, the doctors' diagnoses, the examination and treatment required by patients, the medication prescribed by the doctors and the charges payable, and so on.

Queen Mary Hospital (QMH) and Prince of Wales Hospital (PWH) are the teaching hospitals of the University of Hong Kong (HKU) and The Chinese University of Hong Kong (CUHK) respectively. The two hospitals provide primarily public medical services for the community at large, and private patient services account for a very small fraction of the services provided by them. According to the HA's records, in 2006-2007, there were a total of 33 890 private specialist out-patient (SOP) attendances at the two teaching hospitals, which accounted for 2.9% of their total SOP attendances. The number of private bed-days utilized was 25 076, which accounted for 3.2% of the total bed-days utilized at the two teaching hospitals. A breakdown of the relevant figures is provided at Annex.

As regards the universities, details regarding the consultation service provided by the clinical teaching staff of the HKU and CUHK for both private and non-private patients at public hospitals are recorded through the computer systems and paper documents of QMH and PWH respectively. In addition, the HKU has kept its own records on private consultation service provided by its clinical teaching staff. CUHK has also introduced a new web-based time-logging system in 2006 to record the time spent and activities in respect of private clinical practice by individual clinical teaching staff so as to facilitate the monitoring of such activities by department chairmen and the CUHK Faculty of Medicine.

- (b) At present, the HA manages the collection of private patient fees at public hospitals through its Patient Billing and Revenue Collection (PBRC) system. The PBRC system is the core billing system of the HA responsible for calculating, recording and managing the different fee levels in accordance with the rates published in Gazettes, and for tracking the settlement of bills following the standard overall financial regulations and operational guidelines of the HA. The income received by the HA from private patient services is recorded together with its public fee income. All of the income received, along with the Government's subvention to the HA, will be used as the HA's operating funds to meet the expenditure of public hospitals and clinics.

Regarding the institutions, to ensure the proper use of the income generated from private consultation service, both the HKU and CUHK have established guidelines on the usage of such income and the approving criteria. For the HKU, income generated from private consultation services can only be used for academic research, attendance of overseas academic seminars and professional development. Requests for the use of such income are subject to the approval of the department head and the scrutiny of the university administration, where the department head and the university will examine the justification submitted in the course of scrutiny. These applications are also subject to audit by the universities' internal audit office and external auditors on a regular basis. The HKU has also recently established a Committee of Enquiry to review issues relating to the fees charged for private consultation services.

For CUHK, according to its guidelines on private Clinical Practice (PCP), the income derived from PCP may only be used on the following areas:

- (i) purchase of special equipment required for departmental research;
- (ii) purchase of books and journals for departmental research;
- (iii) financial assistance for research projects where necessary;

- (iv) travel by teachers to and from, and attendances at, academic conferences and training courses;
- (v) fees and subsistence allowances for attending academic conferences and training courses; and
- (vi) entertainment of official visitors at departmental level, subject to the University's established standards for such expenditure.

Eligible clinical teaching staff of the CUHK Faculty of Medicine may submit applications to use the income derived from PCP for the abovementioned purposes for consideration by the concerned department. Department chairmen are vested with the responsibility and powers to vet such applications. Moreover, department chairmen themselves may also apply to use the PCP income for the above-stated purposes. All applications will be considered jointly by the CUHK Faculty of Medicine and the University Bursar to ensure that the proposed disbursements comply with the rules and regulations stipulated by CUHK for procurement, research, staff development, conference attendances and entertainment. All income and expenditure are subject to external and internal auditing exercises.

- (c) Both the HKU and CUHK have established clear guidelines regulating the extent of outside clinical practice that their clinical teaching staff may undertake. In the case of the HKU, clinical teaching staff are required to provide clinical service as well as carry out teaching and research work. Whilst they have the right to decide whether or not to provide private consultations, the amount of private consultations, if provided, should not exceed two half-day sessions (about eight hours) every week. Clinical service for non-private and private patients provided by each subspecialty is under the supervision of the relevant division chief and departmental chief of service respectively. Duties regarding non-private clinical service are shared by all staff members of each clinical department.

For CUHK, under its existing regulations, clinical teachers are required to devote their time to both clinical services and academic services, that is, teaching and research. All clinical appointees,

who are honorary staff of the HA, may provide private clinical services of not more than eight hours per week. Provision of other clinical services (including non-private clinical service) and the number of hours spent on these services are subject to the arrangements of the chief of service of the respective disciplines.

Annex

Private patient and public medical services at QMH and PWH

	<i>QMH</i>	<i>PWH</i>	<i>Total</i>
Number of private SOP attendances	22 793	11 097	33 890
Total number of SOP attendances	545 662	623 411	1 169 073
Number of private bed-days utilized	18 367	6 709	25 076
Total number of bed-days utilized	391 731	403 541	795 272

DR KWOK KA-KI (in Cantonese): *Madam President, the Secretary has given us a very long answer. If there was no problem as the Secretary suggested in his reply, there would be peace in the world. The resignation of Prof LAM Shiu-kum, Dean of Li Ka Shing Faculty of Medicine, in early March has revealed the problems. In the past five years, the Faculties of Medicine of the two universities have received \$600 million in total. In the year 2005-2006, the surgical unit of the Li Ka Shing Faculty of Medicine of the HKU received \$13 million, while the surgical unit of CUHK received \$14 million.....*

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, please come to your supplementary question.

DR KWOK KA-KI (in Cantonese): *Madam President, yes, I am going to ask my question.*

The surgical unit of the HKU has spent some \$2.1 million on conferences. These faculties of medicines have failed to separate private and public interest and received money on various pretexts. It is learnt that they have set up certain foundations or committees to receive money. In the main reply, the Secretary said that department heads and the university administration would

examine the justifications submitted. But the money is actually controlled by these department heads who, more often than not, are taking advantage of public means to satisfy their private ends. Second, the Secretary said that the justifications concerned are being examined by the universities. May I ask the Secretary whether or not he can tell us who will examine these two Faculties of Medicines? If a committee is responsible for this, what committee is it? How many meetings have been held? What is the result of the latest examination? How many examinations are carried out each year? Those "outstanding bills" are a serious concern to the public.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the question raised by Dr KWOK Ka-ki is actually an issue of grave concern to the universities. As far as I know, the HKU has already set up an independent committee of enquiry, chaired by Dr LEONG Che-hung, a Member of the Executive Council, to monitor the operation of the entire system. According to my understanding, the investigation is ongoing.

DR KWOK KA-KI (in Cantonese): *I am not interested in knowing how the HKU will conduct an investigation on itself. My question posed to the Secretary is very clear: In the past five years, who is responsible for examining the Faculties of Medicines of the two universities? If meetings were convened by any committee, how many meetings were held? What has it done? If the Secretary thinks that he cannot give an answer now, Madam President, I hope he will tell us in writing what the two Faculties of Medicines have done in the past five years — I mean what they did before, but not after the incident to cover up the incident.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I can reflect the Member's view to the universities, but the information will be provided by the universities, for we do not want to interfere with institutional autonomy. (Appendix I)

MRS SOPHIE LEUNG (in Cantonese): *President, I would like to follow up this question. In part (a) of the main reply, the Secretary mentioned that the HKU had kept its own records on private consultation services provided by its clinical*

teaching staff, and in part (b), he mentioned that the HKU had recently established a Committee of Enquiry. May I ask the Secretary whether the work of the Committee includes an examination of the records kept by the HKU? With regard to the billing procedures of private consultation, are they stringent to the extent that there is no room for bypassing? Will these procedures be exploited to accommodate the need for administrative convenience? I would like to know about this.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Committee is set up by the HKU of its own accord, and thus the Government has no involvement. However, as far as I know, the Committee will examine the system as a whole, covering items like fee charging, the usage of the money received and where the money should be kept. According to my understanding, this is what the Committee will do.

MR LEE CHEUK-YAN (in Cantonese): *In the main reply, the number of private consultations was mentioned but the money concerned was not mentioned. Dr KWOK Ka-ki has mentioned the money concerned earlier, but I would like the Secretary to confirm how the money has been spent. The Secretary will surely say that it has been spent on academic research, but has the money been withdrawn under the false pretence of a certain foundation and went into individuals' pockets in the end? Will the Secretary inform us, in the case of the HKU, regarding the fees collected from private consultations, how much in total the HKU will pocket from its entitlement and how the rest of the money will be spent? Will the money be injected into any foundation, and if so, what is the nature of these foundations? Does the Secretary have detailed information on this? I hope the Secretary will not use institutional autonomy as his excuse of knowing nothing about how the public money has been spent and where the money has gone.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, as far as I know, the HKU is now tracing the whereabouts of the money and checking whether the money has been accounted to the foundations concerned, and if that is the case, it will examine the usage of the money. The Committee will prepare a report on this for public information.

MR LEE CHEUK-YAN (in Cantonese): *President, the Secretary has not answered my supplementary question. Does it mean that he knows nothing now? His replies suggest that he knows nothing. However, if the Secretary does know a little bit about this, I still hope he can tell us, for there is no reason the Secretary knows nothing about it.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): More often than not, Secretaries know nothing at all. *(Laughter)*

MR JAMES TO (in Cantonese): *President, I would like to follow up the supplementary questions of Dr KWOK Ka-ki and Mr LEE Cheuk-yan. We consider it unacceptable that the Secretary does not know anything about it, for if so, how can accountability be ensured?*

President, I now come to my supplementary question. We learnt from the main reply that no detailed record showing the relevant information had been kept by the Faculties of Medicines of the two universities. Then, in the third paragraph of part (a) of the main reply, the Secretary said that the HKU had kept its own records showing the relevant information. Earlier on, a colleague asked about the persons in charge of record-keeping in the two universities, the availability of detailed records and the existence of monitoring committees in doing verification. Does not the Secretary know about this? Or, does he think that making enquires about such information is also an interference in academic freedom? If not, does it mean that the Secretary has not done his job, for he has failed to ask for the relevant information without interfering in academic freedom in order to answer the question of this Council and manifest the spirit of accountability?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, as far as I know, they have kept records on the relevant information, such as the number of patients treated, the number of cases diagnosed and the income received. They have kept records on all this, including written records and computer records. The issue now under investigation is how the money received has been spent and whether or not it has been spent properly. This is the present position of the investigation conducted by the Committee of Enquiry.

MR JAMES TO (in Cantonese): *The Secretary has not answered part of my question, which has been asked by other colleagues earlier, and I would like to ask about this now. Is there a committee responsible for overseeing the situation? Does the Secretary know about this? Or is there no such a committee indeed?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Regarding the accounts, the universities will definitely monitor its accounts and the usage of money, which are also subject to audit by external auditors. However, in respect of the details or the usage of the money, an investigation is now conducted by the Committee of Enquiry.

MISS TAM HEUNG-MAN (in Cantonese): *Representatives from the Audit Commission should perhaps attend the meeting to investigate this incident. The Audit Commission will find the answer.*

President, I have a paper indicating that of the income from private consultations in the year 2005-2006, some \$2 million was spent on attending overseas conferences, while some of the attendees took the first-class flights. President, may I ask the Secretary, as he indicated in the main reply that the expenditures of universities were handled prudently and governed by a mechanism, why some people took the first-class flights and some \$2 million was spent on attending overseas conferences? Do they not have to consider the cost-effectiveness of their expenditures, thus spending public money lavishly?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): First of all, the money is not public money, but income generated from their private consultations, so there is no question of spending public money. As to which class of flights, first-class, second-class or third-class, an attendee should take, rules have been laid down by the universities, and each university has its own set of rules stipulating the class of flight officers of different posts are entitled to take. Follow-up actions need to be taken in this respect. In case of any abuse, the existing Committee of Enquiry will look into it.

MISS TAM HEUNG-MAN (in Cantonese): *The first supplementary question I asked just now was whether or not the Secretary would consider allowing the*

Audit Commission to investigate the relevant accounts in order to let us know how the money was spent. I, of course, understand that the money is income from private consultations, but the hospitals concerned are funded by public money, even though the money is income from private consultations, the universities are still using public resources in the course of providing private consultation services.

PRESIDENT (in Cantonese): Miss TAM Heung-man, the question you just asked is not a follow-up, for you hope the Audit Commission can conduct investigations. I do not consider it a follow-up. If I regard it as a follow-up, I have to ask which supplementary question you wish the Secretary to reply, for you have put two supplementary questions. I think the Secretary has already heard your views.

We have spent more than 18 minutes on this question. Last supplementary question.

DR FERNANDO CHEUNG (in Cantonese): *In the second paragraph of part (b) of the main reply, the Secretary said that both the HKU and CUHK had express provisions on this, and that the consultation fees of private consultations of the HKU could only be spent on academic research, attending overseas conferences and professional development. If so, it seems that not a single dollar of the consultation fees will go into individuals' pocket. May I ask the Secretary whether it means that both the consultation fees of private consultations of the HKU and CUHK will not go into the pocket of individual doctors? If doctors do have a share, how much is involved and the percentage the share accounts for in the consultation fees? Overall speaking, what was the actual amount of consultation fees received in the past five years?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, as far as I know, in the case of the HKU, no consultation fees from private consultations will go into pockets of individual teaching staff members. As for CUHK, according to my understanding, a small part of the consultation fees may be kept by teaching staff, but that is only a small number, around 12.5%, but the figure may be inaccurate.

DR FERNANDO CHEUNG (in Cantonese): *President, will the Secretary provide some specific figures? My earlier question is very specific. Will he give us supplementary information showing the actual figures after the meeting?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): I am most willing to provide supplementary information in this regard. (Appendix II)

PRESIDENT (in Cantonese): Third question.

Construction of Permanent Aviation Fuel Facility

3. **MR WONG KWOK-HING** (in Cantonese): *President, the Government is processing the application by the Airport Authority Hong Kong (AA) to build a permanent aviation fuel facility (hereinafter as "tank farm") at Tuen Mun Area 38. In this connection, will the Government inform this Council:*

- (a) of the latest progress of the aforesaid application, and whether there are other possible sites;*
- (b) whether there are any stipulations on the safety distance between the tank farm and residential areas, as well as that between the tank farm and various types of industrial/commercial premises; if not, how the Government safeguards the lives of the public; and*
- (c) given that the design and building of tank farms are subject to the Code of Practice for Oil Storage Installations (the Code), whether the Government has updated the Code since its revision in 1992 in accordance with the changes in relevant international standards; if it has, of the details of the updating exercise; if not, the reasons for that?*

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

- (a) In accordance with the requirements of the Environmental Impact Assessment Ordinance (EIAO), the Environmental Impact

Assessment (EIA) Report for the tank farm was made available for public inspection from February 23 to March 24, 2007, and was considered and endorsed by the Advisory Council on the Environment (ACE) on 19 April 2007. This EIA Report is now being considered by the Director of Environmental Protection for approval.

The search for a suitable site for the tank farm started in 1991. The selection criteria included water depth of at least 17 m for access by oil tankers, availability of sufficient land to build the jetty and other necessary facilities, viable route for oil pipelines to airport, compliance with environmental legislation and certainty of timely completion to meet growing demand for aviation fuel.

More than 10 sites near the airport and Lantau Island had been considered by the AA in the site search process. Tuen Mun Area 38 was finally identified as the most preferred site in 2001.

The extensive site search undertaken demonstrated that the selected site meets all the requirements. Any attempt to select another site now would entail a repetition of the site selection process, and even if a site could be identified, the AA would need to seek all necessary statutory approval for construction of the tank farm at the new site. All these procedures would take considerable time, making it impossible to complete the tank farm by 2009. This would affect the operation of Hong Kong air services as from 2009 the capacity of existing fuel receiving and storage facilities would not be able to ensure continual operation of our airport in the event of fuel supply disruption.

- (b) Jet A1 fuel to be stored in the tank farm is safer than other fuels such as gasoline and LPG because Jet A1 fuel is more difficult to ignite. The required safety distance between the tanks for Jet A1 fuel and the boundary of the tank farm site is 10 m under the Code. In the case of the tank farm, the minimum spacing between the tanks and the tank farm site boundary is 28.5 m.

Furthermore, tanks of the tank farm will be surrounded by a sunken bund with containment capacity well exceeding international standards to contain any possible fuel spillage. Compared with the

common worldwide practice of using a single bund wall and fence, the tank farm will have two additional impervious security walls and a landscape bund to further reduce any risk to parties outside its perimeter. Other safety measures of the tank farm include fixed base foam injection, shell cooling systems on the tanks and remotely operated foam monitors, and so on. As detailed in the EIA Report for the tank farm, quantitative risk assessments revealed no unacceptable offsite risks. A separate study jointly commissioned by the Tuen Mun District Council and AA has also come up with similar findings.

- (c) The Code is issued by the Building Authority to provide general guidelines for the design, construction and maintenance of oil storage installations. In the design of the tank farm, the AA has, apart from complying with the above Code, adopted the latest versions of the relevant international design and construction standards and codes of practice.

MR WONG KWOK-HING (in Cantonese): *President, in part (b) of the main reply, the Secretary said that Jet A1 fuel was more difficult to ignite and that no unacceptable offsite risks were identified, and he went on to state that the Tuen Mun District Council had also come up with similar findings. However, this is not the actual situation. When Tuen Mun District Council Members met with Members of the Legislative Council, they unanimously opposed the construction of the tank farm and pointed out that risk was involved.*

I, being a Member of the Legislative Council representing the labour sector, am keenly concerned about occupational safety. Though the Government said that the facilities were safe and involved no unacceptable risks, workers of Shiu Wing Steel Limited still have safety worries, and they thus came to the Legislative Council Building today to submit their petition and a compact disc to me at the entrance. They poured aviation fuel onto steel of over a thousand degrees in their works, President, you can see that it has caused a huge fire. Even for finished products.....

PRESIDENT (in Cantonese): Mr WONG, please come to your question direct. This is not time for debate, and you need not show us so many things. Please

ask your supplementary question direct, for 10 Members are still waiting to ask supplementary questions.

MR WONG KWOK-HING (in Cantonese): *Yes, thank you, President. May I ask the Secretary, if he considers the arrangement safe, whether or not on-site safety verification has been carried out? If not, is the so-called conclusion on safety hasty and misleading to the public?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, I would like to tell Mr WONG that we share his concern about safety, not only that of the workers but also all the residents. When we decide to construct the tank farm, we surely have to ensure its safety. Therefore, we will definitely follow all the ordinances in Hong Kong relating to the construction of this type of facilities and conduct the EIAs as required. I have pointed out in the main reply that the AA and Tuen Mun District Council had conducted a study, and I was referring to the findings of the study but not the opinions of District Council members. I hope Mr WONG can differentiate the two.

President, the most important point is that when we start a site search, we have to ensure that the conditions of the site can meet all our requirements. Then, we will conduct the EIA to ensure that the site complies with all the relevant ordinances. This can explain why since the site was identified in 2001, up to now, in the year 2007, we are still waiting for the approval of the EIA report by the Director of Environmental Protection. On the safety issue, the site has passed the relevant tests of law and the inspection of the relevant committees. As I have pointed out in the main reply, in addition to compliance with all the relevant ordinances, the AA has adopted the latest versions of the relevant international standards and codes of practice.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has given a very long reply, but he was just beating about bush without answering my question.*

My supplementary question for the Secretary is: Has the Government conducted on-site inspections at Shiu Wing Steel Limited to ascertain if there are

no unforeseeable risks? I want him to tell me whether such inspection has been conducted. If not, will he consider doing so?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, the AA has already done all that we are required to do under the laws of Hong Kong.

MR WONG KWOK-HING (in Cantonese): *President, he has not answered my question. I am referring to on-site inspection but not all the other things the AA is required to do under the law. He has not answered whether or not such an on-site inspection has been done after all. Is this a "yes" or a "no"?*

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

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, we are not talking about experiments. We are saying that we have done all we should as required by the law.

MR CHEUNG HOK-MING (in Cantonese): *President, in part (a) of the main reply, the Secretary mentioned the site search in 1991. He said that more than 10 sites near the Lantau Island had been considered and Area 38 was finally identified as the most preferred site. May I ask the Secretary, when Area 38 was identified as the preferred site, apart from the requirements mentioned by the Secretary in his main reply, has consideration been given to the existence of the steel mill across the road running high-temperature operations? Was this taken into account in deciding the preferred site?*

Moreover, we notice that many residents in Tuen Mun have shown great concern about this issue. Upon hearing these views, has the Government tried to allay these worries of the people?

PRESIDENT (in Cantonese): Mr CHEUNG Hok-ming, you have asked two supplementary questions, in what way are they related?

MR CHEUNG HOK-MING (in Cantonese): *I would like the Secretary to answer the part about site identification.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, in respect of site identification, at that time, more than 10 sites were considered. As I have said in the main reply, we have to meet a lot of requirements in site identification. Having considered all the requirements, we considered Tuen Mun Area 38 was the most preferred site. Certainly, as I have said in my earlier reply to Mr WONG Kwok-hing's questions, safety is the most important consideration. If it is not safe, the tank farm will not be constructed there.

Therefore, in the course of site identification, as I have said earlier, one of the considerations is environmental factor, which includes the acceptability of the site in terms of safety and compliance with all requirements under the law. Surely, we have conducted all the assessments required subsequently. Also, we have done all the things we are required to do under the law. Finally, approvals from the ACE and the Director of Environmental Protection have to be sought.

MR JEFFREY LAM (in Cantonese): *President, the State and the SAR Government both consider the logistics industry vital to the economic development of Hong Kong. The Secretary mentioned earlier that the tank farm was expected to be completed in 2009. We surely understand the paramount importance of fuel supply for planes at the airport, but we have never heard of planes running out of fuel. May I ask the Secretary of the urgency of completing the construction of the tank farm in 2009?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Thank you, Mr LAM.

I believe Members know the importance of aviation services and the airport to the economy and employment situation in Hong Kong. Besides, all along, Hong Kong has sustained considerable growth in both cargo traffic and passenger traffic. At present, the daily throughput of the fuel facilities at Sha Chau is only 16 800 cu m which has nearly reached the capacity. Given the expected growth till 2009, we will not be able to cope with the demand unless we have a permanent tank farm. The normal operation of the airport cannot be

maintained in the event of fuel supply disruption. This will certainly affect the services of the airport, as well as the operation of logistics and passenger services mentioned by Mr LAM earlier.

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

MR JEFFREY LAM (in Cantonese): *Yes. President, if the tank farm cannot be completed in 2009, will it have great impact on fuel supply in Hong Kong?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I should perhaps reiterate that according to our projection, passenger traffic would continue to grow for the number of flights is now on the rise and new airlines are joining the market. As I have said earlier, the daily throughput at Sha Chau is only 16 800 cu m at present, which is certainly insufficient to cope with the growth till 2009. By 2009, in case of any fuel supply disruption, the normal service of the airport cannot be maintained.

MR JAMES TIEN (in Cantonese): *President, I think this is not a matter of law but a matter of policy.*

I have a question for the Government. The Government said that it had started examining the construction of this permanent facility in 1991 and expected it to be completed in 2009, but it was not until 2001 that the Government decided to construct the facility at Tuen Mun Area 38. But at that time, the Government had already offered compensation amounting to several billions dollars to Shiu Wing for the relocation of its factory at Tseung Kwan O to that site. Put it in the policy perspective, since the Government had already requested Shiu Wing to relocate its factory to the site, why would the Government decide to build the permanent facilities next to the factory in the year 2001?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, regarding Mr TIEN's supplementary question, I do not see there is any problem.

In fact, he assumed that the arrangement would give rise to safety problems. However, as I said in my earlier reply to Mr WONG Kwok-hing's supplementary question, we understand that the safety issue is of grave concern to the public. Therefore, if we are to build a tank farm at the site, we are surely obliged to conduct all the assessments required, such as those on safety, environment, and so on, to ensure that the site is acceptable on the safety front before we proceed to construction. As I explained in the main reply, we have done all the work required, and the arrangement has been accepted by the ACE, now pending the approval of the Director of Environmental Protection.

MR TAM YIU-CHUNG (in Cantonese): *Not long ago, in Britain, an explosion of a similar fuel facility happened, followed by a disastrous fire. Has the Government conducted any assessment on this accident and see whether we can draw any lesson from the experience in constructing the permanent tank farm?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have already mentioned it in the main reply, that assessments have been conducted by experts, and these certainly include detailed and comprehensive assessments.

I think Members are aware that a tank farm of this size already exists in Hong Kong; there is one on Tsing Yi. In comparison with LPG and gasoline, aviation fuel is safer for it is more difficult to ignite. Just as I said in the main reply, we have taken all the necessary safety measures. In fact, we have done more than we are required.

With regard to the safety distance, as I said earlier, according to the existing requirement, it should be 10 m, but we have set the distance at 28.5 m. In addition to these guidelines, the AA will also adopt the latest international standards and codes of practice. That is to say, we have considered all aspects.

MR DANIEL LAM (in Cantonese): *May I ask the Secretary, if the tank farm cannot be completed on schedule, what adverse impact will there be on our economy?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have to thank the Member for his concern about the adverse impact

on Hong Kong economy if the tank farm cannot be completed on time. As I have said in my reply to Mr Jeffrey LAM's question, the operation of the airport, the logistics and passenger services, and so on, are all vital to Hong Kong. When planes arrive at Hong Kong, they have to be refilled, and it is impracticable for planes arriving at Hong Kong from London to fly to other places for refill. It is impossible. Therefore, we have to ensure the adequacy of our facilities. In other words, in case of any incidents, such as fuel supply disruption, we will still be able to maintain the normal operation of the airport. This explains why we consider there is an urgency to construct the tank farm.

MR ALBERT HO (in Cantonese): *President, I believe both the Member from the Liberal Party who asked the question and the Secretary who answered the question do not consider safety of human lives less important than economic factors. I hope this is not the case. I have a question for the Secretary for despite the Secretary's acknowledgement of the importance of public safety, the storage capacity of the tank farm is the largest in the world in reality. In the peripheral area of some 20 m or 50 m of the tank farm, there is a large steel mill operating at a high temperature of 1 000°C to 1 400°C 24 hours a day. This should be considered as a specific factor, and the risk posed by the location of the tank farm is not comparable to that in a general case. Since a steel mill operating at high temperatures of more than a thousand degree 24 hours a day is next to the tank farm, this poses a special risk.*

Though the Secretary said in the main reply that there were no unacceptable risks, the question is whether it is necessary to take such risks. Are the risks unnecessary? Thus, may I ask the Secretary whether he will consider the options suggested by the District Council members: First, expansion of the facility at Sha Chau. Area 38 can be developed into a berthing dock, so that fuel can be transferred by pipelines from Area 38 to Sha Chau. The Government may also carry out extension works at Sha Chau while at the same time construct smaller oil tanks at other locations within Area 38, such as the site for the second stage EcoPark. It may use the site for the second stage EcoPark to construct a tank farm, for the site is far away from Shiu Wing. Why has the Secretary not considered these options? All these sites are immediately available.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Thank you, Mr Albert HO. First, I have to clarify that the tank

farm is not the largest in the world, for its total capacity is only 388 000 cu m after all.

At present, the capacity of the tank farm on Tsing Yi is more than 300 000 cu m. I hope Mr Albert HO will understand that many tank farms around the world are larger than ours. For instance, the tank farm to be completed next year in Dubai has a capacity of 1.8 million cu m, a tank farm in Ningbo, China has a capacity of 5.3 million cu m. A tank farm with a capacity of 8 million cu m is also under construction in Malaysia and is expected to be completed next year.

I would like to reiterate to Members that safety is surely of paramount importance, and safety definitely outweighs economic concerns. It is out of the question that we will insist on building the tank farm even we know it is unsafe. When we decide to do so, just as I have said in my earlier replies, we must conduct all the EIAs required. If any aspect is considered unacceptable from the safety perspective, I believe neither the ACE nor the Director of Environmental Protection will endorse and accept the decision.

MR ALBERT HO (in Cantonese): *President, in fact, in my supplementary question, I asked why the Government had not refrained from taking such unnecessary risks by moving the tank farm away from Shiu Wing. For instance, as I mentioned earlier, it may carry out extension works at Sha Chau and develop the second stage EcoPark into a tank farm, so that the tank farm will be far away from Shiu Wing. Why did the Secretary not consider this option? In fact, this will not affect the date of completion of the tank farm.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I would like to reiterate that more than 10 sites had been considered in the year 1991 and Sha Chau was one of them.

PRESIDENT (in Cantonese): This Council has spent more than 21 minutes on this question. We will now proceed to the fourth question.

Regulation of Advertisements Published in Print Media

4. **MR FRED LI** (in Cantonese): *Quite a number of general weekly magazines published in Hong Kong carry in every edition a large quantity of*

full-page advertisements relating to beauty and figure improvement. Regarding the regulation of advertisements published in the print media, will the Government inform this Council:

- (a) given that in 2004 the Broadcasting Authority (BA) strongly advised two television stations not to broadcast a certain advertisement for a height enhancing equipment because the BA considered that the claim in the advertisement could not be substantiated, and that the licensees concerned had not exercised due diligence in ascertaining the truthfulness of the relevant claim, whether the publication of similar advertisements in the print media is subject to the same regulation; if not, of the reasons for that;*
- (b) whether there are measures to regulate the publication in the print media of print advertisements carrying contents which are related to beauty, height enhancement, body trimming and plastic surgery, and so on, and involve untruthful claims; if so, of the details; and*
- (c) as many advertisements relating to breast augmentation are published in the abovementioned general weekly magazines, whether the Government has studied if such advertisements are subject to the regulation under the Undesirable Medical Advertisements Ordinance; if it has conducted such a study, of the findings?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in the absence of Secretary for Health, Welfare and Food) (in Cantonese):

- (a) I understand that at present we do not have a set of comprehensive legislation to regulate all types of advertisements and their contents. That said, individual ordinances and codes of practice are in place to govern advertisements in various areas or the claims made in the advertisements.

As for advertisements on television and radio, it is stipulated in the Generic Code of Practice on Television Advertising Standards and the Radio Code of Practice on Advertising Standards issued pursuant to the Broadcasting Authority Ordinance and the Broadcasting Ordinance that no advertisements may contain

descriptions, claims or illustrations which depart from truth, or misleadingly claim or imply that the product or service advertised has some special features which are incapable of being established.

For print media, newspapers printed or produced in Hong Kong are required to register in compliance with the relevant provisions of the Registration of Local Newspapers Ordinance. For books and publications printed, produced or published in Hong Kong, they are required to register under the Books Registration Ordinance. In addition, books and publications are regulated by the Control of Obscene and Indecent Articles Ordinance in respect of contents which are obscene and indecent.

For advertisements in general, various ordinances or codes of practice are in force to restrict the media (including the print media) from disseminating untruthful or false advertisements. For instance, the Non-local Higher and Professional Education (Regulation) Ordinance, the Education Ordinance, the Companies Ordinance, the Securities and Futures Ordinance, the Protection of Investors Ordinance, the Securities Ordinance, the Banking Ordinance, and so on, govern advertisements in respective areas, and prohibit, among others, misrepresentations in advertisements and the publication of false, misleading or deceptive advertisements. Moreover, the Trade Descriptions Ordinance regulates those descriptions in advertisements of goods that fall within its definition of "trade description", including method of manufacture, composition, testing results, fitness for purpose, strength, and so on. False claims are prohibited.

As regards codes of practice, the Association of Accredited Advertising Agents of Hong Kong has formulated a set of code of practice to regulate the advertisements produced by its members. The code of practice requires that advertisements must be legal, decent, honest and truthful. The Consumer Council also published two sets of Good Corporate Citizen's Guide in 2005 and 2006 respectively, which, among other things, remind enterprises of the need to ensure that their promotional materials and advertisements are truthful, unbiased and sensible, without any misleading elements, and in compliance with the requirements stipulated in the

related legislation or rules so that consumers can make informed decisions of whether to make purchases. In addition, the Beauty Industry Code of Practice, drawn up by the Consumer Council to assist the beauty industry, puts forward a number of recommendations regarding advertisements issued by the industry. This is to encourage the industry to exercise self-regulation and place legal, decent, honest and truthful advertisements.

- (b) Advertisements, including those in the print media, are regulated by the aforementioned ordinances and codes of practice. Disseminating consumer information is an important aspect in protecting consumers from untruthful claims in advertisements. Informed consumers are more vigilant against improper sales tactics. Since its establishment, the Consumer Council has been performing its statutory functions under the Consumer Council Ordinance. It collects consumer market information from time to time, conducts investigations or tests on various products and services, and publishes its findings through press conference and its monthly magazine, *CHOICE*, and so on, to help consumers make smart choices. From 2004 to date, the Consumer Council has issued various reports on beauty service, height enhancement, body trimming and plastic surgery in the *CHOICE* to provide the public with unbiased information on different aspects of such services and products, such as their quality and efficacy.
- (c) The Undesirable Medical Advertisements Ordinance prohibits the advertisement of medicines, surgical appliances or treatments for prevention or treatment of certain diseases or bodily conditions as specified in Schedules 1 and 2 to the Ordinance. The purpose is to protect the public from being induced by advertisements to seek improper self-medication or treatment which may pose health or safety hazards to them as a result of delayed treatment.

As defined in the Undesirable Medical Advertisements Ordinance, "advertisement" includes any notice, poster, circular, label, wrapper or document, and any announcement made orally or by any means of producing or transmitting light or sound. However, the truthfulness of claims made in the advertisement does not fall within the ambit of the Ordinance.

Schedule 2 to the Undesirable Medical Advertisements Ordinance stipulates that advertisements of any medicine, surgical appliance or treatment for the purpose of correction of deformity or the surgical alteration of a person's appearance are prohibited. For advertisements involving the surgical alteration of a person's appearance such as breast augmentation, they will be subject to the regulation of the Ordinance.

MR FRED LI (in Cantonese): *President, I also hope that I can be as imposing as Secretary Stephen IP, so when I saw this advertisement, I was very delighted. It says, "If you want to become taller, you can. (Laughter) This works for men and women of all ages and the result is excellent. One to five inches. After going through therapy, your height will increase by one to five inches." However, perhaps I should recommend this to Mr LEE Wing-tat. (Laughter) I have sought the advice of orthopaedics and also talked with people of the Consumer Council and the Federation of Beauty Industry (H.K.) and learnt that it was not possible to increase one's height by one to five inches after puberty without undergoing surgery. These advertisements are carried prominently in various weeklies, however, the reply given by the Secretary just now did not pinpoint the real problem. Every day, when we open these magazines, we can still see these advertisements and they have deceived a lot of people. Is the Government turning a blind eye to this and leaving consumers to their own devices?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I thank Mr Fred LI. I believe Mr Fred LI has already gone through puberty and I do not see any need for him to make use of beauty, height enhancement and trimming services or plastic surgery, still, I thank him for his concern.

I wish to say that in fact, it is not true that we are turning a blind eye to this and Secretary Dr Sarah LIAO has also mentioned in the main reply that there are in fact some ways to address the problem. For example, the Trade Descriptions Ordinance mentioned just now regulates those descriptions in advertisements of goods that fall within its definition of "trade description". Of course, what the Honourable Member is talking about is not goods but services, so this actually exposes the inadequacies of the existing legislation and we agree with this. If the Trade Descriptions Ordinance can be made to cover services, I believe this

problem can be solved. In this regard, I believe Mr LI is also aware that the Financial Secretary said in February that the Government was actively studying this issue to see what inadequacies there were in consumer protection legislation. We will consider this issue in the process. I can assert that this is also a matter of concern to us and we will think about it.

MR LEE WING-TAT (in Cantonese): *President, I have an advertisement here and it reads, "With advanced equipment and highly experienced professionals, in 20 minutes.....you will have full, round and natural-looking breasts that are firm and robust. Safe, reliable and everlasting." Such advertisements can be seen daily and one can come across them a hundred times or even a thousand times. There are many advertisements of this nature every week and I think the Secretary will not believe in these advertisements. The only response given by the Secretary was that they were related to services but not goods and the term used in them was "breast enhancement", not "breast augmentation" as augmentation mammoplasty is regulated by law, so this latter term is not used. However, I think the two Secretaries are also aware that such practices are in fact exploiting a loophole in law. Secretary Stephen IP has given a more positive reply and he is aware of this problem. May I ask him if the Government has set a timetable for completing the review of the legislation and the policy, so that the amendment and scrutiny of the legislation by the Legislative Council can be carried out next year, that is, in October 2007?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, concerning matters of beauty services and breast augmentation, I think it will be more appropriate for Secretary Dr Sarah LIAO to give a reply. *(Laughter)* However, as I have said just now, since this is a matter of medicine..... Members must not mistake what I mean, please do not mistake what I mean.....

MS EMILY LAU (in Cantonese): *President, a point of order. Is it appropriate for the Secretary to make remarks that insult another Secretary?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, no, no, I wish to clarify.....

MS EMILY LAU (in Cantonese): *I ask the Secretary to withdraw that kind of remarks that insult women.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, I wish to clarify that I have no such intention. Since this is an issue of medicine and Secretary Dr Sarah LIAO is here to give replies on behalf of Secretary Dr York CHOW, so I made those comments. Ms Emily LAU must not be mistaken about it and what I meant was certainly not that sort of thing. What we are talking about now is medicine, that is, surgery, so we are not talking about that sort of things.

In this regard, what I wish to say in reply is that Mr LEE is correct, that is, if medicine and surgery matters such as operations are involved, they are subject to the Undesirable Medical Advertisements Ordinance, so it would not be possible for people to do that sort of thing. However, as Mr LEE said, those advertisements are exploiting a loophole in law. Since it is not said therein that operations are necessary, I should be the one to give a reply.

In fact, this situation is just like the one that I pointed out in my reply to Mr Fred LI, President, and what is the problem? The problem is that this kind of situations is not subject to the Trade Descriptions Ordinance because services instead of goods are involved. If the services in question do not involve any operation, it is not covered by the Undesirable Medical Advertisements Ordinance either, so there is a vacuum that we have to deal with. I have also replied directly that we are now reviewing this situation. Of course, we hope that in the Trade Descriptions Ordinance..... actually, is it necessary to stipulate that services are also included, just like the trade practices of some overseas countries? I believe this is the best solution.

MR LEE WING-TAT (in Cantonese): *President, the Secretary has not answered my supplementary. I have only raised one very specific and serious question, that is, whether or not the Government can table this piece of legislation in the new Legislative Session which will begin in October 2007. I hope very much that we can see this piece of legislation at that time. My question just now is very specific.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have said that at present, internally, say, in the Consumer Council

and in the Government, teams have been established to study these issues and of course, we hope that some amendments can be made as soon as possible. However, I hope Members can also understand that the issues under discussion are in fact rather fundamental ones because we have to consider not just this point, but also the overall role played by the Consumer Council, such as whether it is necessary to give it greater power or not. We are talking about matters such as prosecution. We attach great importance to this area, therefore, I also said just now that we had taken the initiative to raise this matter in February and we feel that it is necessary to improve the existing legislation. Of course, just like Mr LEE, I also hope that the review can be completed as soon as possible. I hope we can finish this task within this year and table the relevant legislation as soon as possible.

MISS CHOY SO-YUK (in Cantonese): *President, may I ask the Secretary whether or not he will draw on overseas experience when reviewing the legislation? That is to say, concerning false medical advertisements, if a certain amount of money has been spent on placing false advertisements, an equal amount of money has to be spent on placing advertisements that state that the benefits as claimed do not exist. I believe this will be effective in making people who place advertisements cautious about the choice of words.*

PRESIDENT (in Cantonese): Which Secretary will reply?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I think we will take this point into consideration.

MR LEE CHEUK-YAN (in Cantonese): *When replying to Mr LEE Wing-tat's supplementary just now, Secretary Stephen IP said that questions relating to surgery should be answered by Secretary Dr Sarah LIAO, whereas those that were not would be answered by him. However, in what way can he know whether any element of medicine is involved? This is because the Undesirable Medical Advertisements Ordinance does not just cover surgery but also treatments. Do the advertisements on breast enhancement involve any treatment? I wonder if the Secretary realizes that in the course of law*

enforcement, there is no knowing whether the Undesirable Medical Advertisements Ordinance is involved. Does the Government carry out undercover operations or does he actually have ways to monitor whether such practices have breached the Undesirable Medical Advertisements Ordinance? I do not know if this supplementary should be answered by Secretary Dr Sarah LIAO or Secretary Stephen IP. However, regarding law enforcement in this area, will undercover operations be carried out to see if any treatment is involved and whether or not the law has perhaps been breached?

PRESIDENT (in Cantonese): Secretary Stephen IP, are you going to reply or is Secretary Dr Sarah LIAO going to reply?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I will tackle it.

PRESIDENT (in Cantonese): Fine, Secretary IP will reply.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Originally, this should have been answered by Secretary Dr York CHOW. Mr LEE, Schedule 2 to the Undesirable Medical Advertisements Ordinance stipulates that advertisements of any medicine, surgical appliance or treatment for the purpose of correction of deformity or the surgical alteration of a person's appearance are prohibited. Your supplementary asks whether the law will be violated if treatment is provided. I believe it must be determined in accordance with the provisions in the Undesirable Medical Advertisements Ordinance, and then we have to look at the merits of individual cases. If violations such as the mention of treatment have occurred, we can then decide whether prosecution has to be initiated or not.

MR LEE CHEUK-YAN (in Cantonese): *President, the Secretary did not give me a reply as to whether or not undercover operations will be carried out or law enforcement will actually be carried out. This is because we do not know how the treatment is like and it may be necessary to go to a certain location before one will know. In this regard, will the Government take any active measure?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, concerning the question of whether undercover operations will be carried out, we will discuss this with Secretary Dr York CHOW to see if he considers it necessary.

MR LEUNG KWOK-HUNG (in Cantonese): *Part (c) of the main reply says that the Undesirable Medical Advertisements Ordinance prohibits the advertisement of medicines, surgical appliances or treatments. This piece of legislation has a rather long history, so may I know if the authorities have considered making amendments to it? In my view, at present, it is possible to say anything on the Internet. Have the authorities considered amending this piece of legislation, so that Hong Kong people can obtain more information for the sake of their health, for example, information on unconventional treatments or things of this nature? May I know which secretary will reply?*

PRESIDENT (in Cantonese): After putting your query, you can sit down. I will then ask which Secretary will reply.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Thank you, Mr LEUNG Kwok-hung. I wish to point out that it is not the case that a piece of legislation has to be amended after it has existed for a long time, however, we have of course heard your comments and we will keep a close watch on the developments in society. I will keep in view all the matters you have pointed out just now. Regarding whether or not it is necessary to make amendments, we will of course pay close attention to the relevant developments.

I have already said in reply to Mr LEE Wing-tat and Mr Fred LI that if we want to target this sort of things, in fact, it may not be necessary to do so through the Undesirable Medical Advertisements Ordinance and there are also other laws. The most important thing is to find this kind of cases, that is, if it is found that a loophole exists in this area, we can impose control by means of other laws. I have also said that we are now studying the relevant consumer protection legislation and hope that amendments can be tabled to the Legislative Council by all means.

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, has your supplementary not been answered?

MR LEUNG KWOK-HUNG (in Cantonese): *No. The Government said in part (c) of the main reply that "The purpose is to protect the public from being induced by advertisements to seek improper self-medication or treatment which may pose health or safety hazards to them as a result of delayed treatment." This is the justification. I think this justification is outdated because in modern society, the right to know is very important and this is perhaps different from the past.*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, you only have to point out the part of your supplementary that has not been answered and there is no need to voice any other opinion.

MR LEUNG KWOK-HUNG (in Cantonese): *OK. Therefore, my conclusion is very simple. Are you going to amend the legislation so that other people can enjoy a greater right to know?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, I have said that currently, we have no intention of amending the Undesirable Medical Advertisements Ordinance, however, we will keep monitoring this matter as well as paying close attention to the developments in society. Of course, we will amend the legislation when necessary and will also consider the suggestion made by Mr LEUNG just now.

PRESIDENT (in Cantonese): This Council has spent more than 19 minutes on this supplementary. We will now proceed to the fifth question.

Variable Pay for Executive Director of Hong Kong Tourism Board

5. **MR SIN CHUNG-KAI** (in Cantonese): *President, Secretary Stephen IP really reacted rapidly after making a slip of tongue.*

The former Executive Director of the Hong Kong Tourism Board (HKTB), who has just departed, received a "discretionary performance pay" ("performance pay" is also called "variable pay") in the amount of \$589,000 in 2005-2006, four times more than that of the previous year. It has been reported that the Board of the HKTB will further grant her a variable pay exceeding \$1 million. In this connection, will the Government inform this Council:

- (a) whether it knows of the formula adopted by the Board of the HKTB for calculating the amount of variable pay receivable by the Executive Director, together with the factors for consideration as well as their weighting;*
- (b) if the above factors for consideration include the two indicators of "Visitor Arrivals" and "Tourism Expenditure Associated to Inbound Tourism", whether, based on the Government's assessment, developments such as the Central Government's liberalization of Individual Visit Scheme (IVS), the opening and publicity of the Hong Kong Disneyland, and the rising hotel room rates have contributed to the rise of these indicators, apart from the publicity of the HKTB; and*
- (c) whether it knows how the Board of the HKTB, when it applies the said formula to determine the variable pay, assesses how much of the changes in the factors for consideration may be attributed to the performance of the HKTB?*

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

- (a) The remuneration package for the staff of the HKTB at the level of General Manager or above (including the Executive Director) consists of basic salary and performance pay. According to the independent human resources consultancy study (Consultancy Study) on the remuneration of HKTB staff in local and worldwide offices, the Board of the HKTB endorsed in 2004 that the performance pay of the Executive Director should account for 15% of the remuneration mix.

According to the recommendations of the Consultancy Study and the employment contract between the HKTB and the former Executive

Director, the performance pay of the Executive Director depends on whether she could achieve the four performance indicators, namely visitor arrivals, tourism spending, length of stay and satisfaction level, as set by the Board of the HKTB in its Annual Business Plan, as well as other factors regarding her administrative abilities and performance, such as competence in implementing marketing strategies, organizational as well as management ability, and so on. The Remuneration Review Committee (RRC) under the Board of the HKTB holds special meeting(s) to review the annual performance of the Executive Director and the amount of performance pay awarded to the Executive Director. In the case of the former Executive Director, as the overall performance of the HKTB in 2005-2006 achieved its targets, and the job performance and management ability of the Executive Director were also satisfactory, the former Executive Director was awarded her performance pay in full, which amounted to \$589,000. In 2006-2007, the HKTB fully achieved two performance indicators, namely tourism spending and satisfaction level, but not so in visitor arrivals and length of stay. Therefore, the RRC decided to award the former Executive Director only about 60% of her performance pay which is in proportion to the level of achievement.

(b) and (c)

The above four performance indicators are set by the HKTB every year in its Annual Business Plan as performance targets. They are also important considerations for assessing the performance of its senior executives to determine whether performance pay is granted.

In drawing up its Annual Business Plan, the HKTB will make an estimate on visitor arrivals, tourism spending, length of stay and satisfaction level, using a set of methodology based on market surveys. These are all objective and quantifiable yardsticks. Every year, these are examined by the Board of the HKTB, its Marketing and Business Development Committee as well as Staff and Finance Committee, and endorsed by the Board of the HKTB. As a result, in considering the performance pay of the Executive Director, the RRC's assessment would focus on these four performance indicators. In fact, the implementation of the HKTB's Annual Business Plan is subject to many local and external factors, for example, the economic situation of source markets,

policy changes, political environment, and emergency situations associated with safety and health concerns, and so on. These factors would have positive or negative impact on the overall tourism performance of Hong Kong. However, the impact of each and every factor on the tourism performance of Hong Kong could hardly be assessed in a scientific manner. Most importantly, the HKTB must flexibly adjust its marketing and promotion strategy in response to these external factors so as to promote the growth of Hong Kong's tourism industry.

In implementing its business plan, the HKTB has to complement the latest development of the tourism trade, including tourism policy, commissioning of new tourist attractions, supply of hotel rooms and supporting infrastructure, and so on. The HKTB has to make use of its professional knowledge and skills, including analysing the economic situation of source markets and visitors' preference, to formulate complementary marketing strategy with a view to achieving the above four performance indicators. The HKTB is also playing the role of a facilitator. On the one hand, it has to complement government policy by exploring and developing new source markets to attract more visitors to Hong Kong. On the other hand, the HKTB has to maintain close liaison with the travel trade to develop new tourism products, and to join the travel trade in participating in local and overseas promotion activities. For instance, the HKTB has targeted at the business and family visitor segments in its worldwide promotion strategy and worked closely with the trade to launch targeted promotions over the past two years. As compared with 2004, the number of family visitors has grown by 13%; the number of visitors below 16 has increased by about 35%, and the number of visitor arrivals attending conventions and exhibitions has also increased by 44% in 2006.

Similarly, negative incidents will undermine visitors' interest in visiting Hong Kong and lead to a drop in visitor arrivals. For instance, international terrorist attacks, SARS, threat of avian flu, and so on, have much impact on the interest of visitors from all over the world in visiting Hong Kong. Under such circumstances, the HKTB will appropriately adjust its marketing strategy to avoid any persistent impact arising from such negative news on the markets and visitor segments concerned, and to rebuild visitors' confidence and entice them to visit Hong Kong.

MR SIN CHUNG-KAI (in Cantonese): *President, as evident in the figures, the number of visitor arrivals was about 25 million in 2006 and about 21 million in 2004, which represents an increase of about 3.4 million, of which 70% (that is, 2.4 million) were visitors coming under the IVS. My supplementary question is: If the number of arrivals is used as an indicator in accordance with this policy, should a variable pay be awarded to Premier WEN Jiabao given that the policy was implemented by the Central Government, or should it be awarded to the Executive Director of the HKTB instead? Was the increase in visitors attributable to the efforts made by the HKTB or the policy of the Central Authorities?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Thank you, Mr SIN. I believe Mr SIN knows what my answer will be. As mentioned in the main reply earlier, we certainly understand what Mr SIN said, such factors as the IVS can attract more visitors to Hong Kong, for example. Also, I have pointed out that apart from positive factors, there are negative factors, too, for instance, the occurrence of sudden incidents like the September 11 incident, the threats of SARS or avian flu, and so on. I believe after considering these factors, the HKTB should have found it very difficult to determine the performance pay in the light of individual incidents. It therefore commissioned an independent human resources consultant in 2004 to review, *inter alia*, the percentage of performance pay in the remuneration. In fact, a comparison had been made with the market in 2004 before the performance pay was determined to be 15% of the remuneration mix. In answering Mr SIN's supplementary question, we find it very difficult to state the amount of pay to be awarded in a scientific manner in the light of certain incidents. After all, the matter would be followed up by the RRC of the HKTB.

Madam President, I also wish to point out that the HKTB has attached great importance to the matter as members of the RRC, which is comprised of the Chairman and six board members of the HKTB, will sit together to assess the performance of the staff concerned in the whole year before making a decision, by considering, for instance, the relevant indicators and overall performance mentioned earlier on.

MR SIN CHUNG-KAI (in Cantonese): *How artful the Secretary's rhetoric is. In fact, although the Secretary has spoken for as long as three minutes, I still cannot tell whether or not the growth was attributable to a change in the policy of the Central Authorities or the efforts of the HKTB. My supplementary question*

is: Is there any way to assess whether or not the growth of 3.4 million people was mainly attributable to the preferential treatment under the policy of the Central Authorities or the efforts made by the HKTB?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I believe we all know that it is difficult to tell, in a scientific and broadbrush manner, to what extent the increase is attributable to the new policy, the promotional efforts of the HKTB or the launch of new products. In this connection, apart from the implementation of the IVS policy, the HKTB also has its work to do. For instance, promotion, marketing and briefings must be conducted in mainland cities within the IVS catchment area. As I have mentioned earlier, in addition to the IVS, other factors must also be taken into consideration. Here, I am not going to repeat the content of the main reply.

MR ALBERT CHENG (in Cantonese): *Some people said that the variable pay must be granted for this is the contractual spirit. Hong Kong as a society governed by the rule of law, the contractual spirit must be respected. President, I wish to ask the Secretary: Has the contract provided that the variable pay would be awarded to the staff in spite of their poor performance or being spendthrifts?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Thank you, Mr Albert CHENG. Certainly, I believe the variable pay may not necessarily be awarded. As mentioned in the main reply, for instance, only about 60% instead of the full performance pay was awarded in 2006-2007. As regards the award of such pay, there is indeed an established mechanism in the HKTB under which a decision would be made by the RRC. Earlier, I have mentioned that it was chaired by the Chairman of the HKTB and comprised of six other members, who have all attached great importance to the matter. It can be seen that actually a number of members will be sitting together to thoroughly review the performance from different perspectives in accordance with the four predetermined indicators on a yearly basis. Just now, Mr SIN mentioned the IVS, but we must not forget the outbreak of SARS in 2003 when they had worked extremely hard and performed very well. Generally speaking, before a decision is made by the RRC, it has to look back and see if any irregularities occurred in the past year, and consider the staff's overall performance.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR ALBERT CHENG (in Cantonese): *Yes, the Secretary has not answered my supplementary question. I asked whether the variable pay would be awarded in spite of the staff's poor performance. But the Secretary has not answered.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I have answered, only that Mr CHENG did not get it. I said that the RRC would have to look at the overall performance of the staff. Certainly, Mr CHENG may have some personal views on the performance of the staff concerned, but I believe the RRC must also take into consideration the staff's overall performance, for instance, to consider the performance of the Executive Director to see if it is up to standard; to examine if particular incidents such as SARS occurred in that year; to examine the areas where good performance has been achieved, as well as to consider the need for incentives. In the end, it was the responsibility of the RRC to consider and assess the performance of the Executive Director; to see if there are irregularities in the use of public money; whether she has failed to meet the job requirement, and whether her promotional efforts have proved a failure or a success. The decision lies with the RRC.

PRESIDENT (in Cantonese): There are 11 Members waiting for their turns to ask supplementary questions, I hope Members who have the opportunity to put questions can be as concise as possible.

MR CHAN KAM-LAM (in Cantonese): *The main reply of the Secretary clearly showed that it would be very difficult to assess the overall performance of the tourism industry in a scientific manner. So, does it mean that the variable pay of the incumbent Executive Director of the HKTb is also very rashly determined? In fact, those four performance indicators are often vulnerable to external factors. It gives people an impression that the success of the tourism industry appears to hinge on the so-called performance of the HKTb. May I ask the Secretary which of the few tourism-related bodies have adopted a variable pay scheme like that of the HKTb?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): First of all, as regards the variable pay scheme, just now I said that the HKTB had purposely commissioned an independent human resources consultant in 2004, who recommended the award of a 15% variable pay and suggested certain comparatively more practicable and quantifiable indicators. I believe many bodies other than those related to tourism have also adopted the variable pay scheme for their senior executives. Of course, different bodies will set their own indicators, and I believe those four indicators were tailored to the prevailing situation of the tourism sector. Furthermore, the overall performance of the Executive Director will also be considered before a decision is made.

Regarding Mr CHAN Kam-lam's question concerning other related bodies, I do not think that this scheme is widely adopted. For instance, there is only one Executive Director in the Travel Industry Council of Hong Kong, whose pay (which I think better not to disclose) is of a comparatively lower level and is, I believe, subject to an assessment of performance and a review. Nonetheless, I do not think that they should be compared. I wish to state clearly that the HKTB actually attaches great importance to this matter, which is also a grave concern to us. We should note that the Chairman and six members of the HKTB, who are currently discussing the matter, do not work for pay. They participate in the work of the HKTB simply to conduct an objective assessment of the performance of the Executive Director before making a decision. I believe this has been the practice over the past few years.

MR HOWARD YOUNG (in Cantonese): *President, insofar as human resources management is concerned, the variable pay scheme is also adopted in many private firms. It is nothing new as many firms have put this system in place of the traditional 13-month pay. In setting those indicators, it has been the established practice to consider external factors on the one hand, and individual performance on the other. I wish to ask: Has the HKTB consulted the trade if the indicators are reasonable when they were set? It is because many members of the industry told me last year that it was impossible to achieve the indicator of 27 million visitor arrivals. Have the authorities simply chosen certain figures that "sound nice" but are not actually attainable as indicators?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, as far as I understand it, the HKTB will prepare a Business Plan and a budget each year as it attaches great importance to these

figures, and a lot of researches and studies will be conducted. I think Mr YOUNG is also aware that, insofar as visitors are concerned, there are studies on outbound visitors about, say, whether or not they are satisfied with our services. Furthermore, as we all know, the HKTB has more than 10 overseas offices, as well as some teams to study the preferences of local visitors and their intention to come here again. As far as I understand it, the HKTB will conduct a number of such studies. The Marketing and Business Development Committee — I have said earlier that there are four committees — will refer to these figures, consider the prevailing situation of Hong Kong and policies and facilities in various areas before deciding on the indicators.

Certainly, just as Mr YOUNG said, while the indicators are sometimes attainable, sometimes they are not because there may be many unforeseeable factors when the indicators were set. For instance, no one can predict the outbreak of SARS or the September 11 incident, nor is the sudden implementation of the IVS policy. Given that sometimes there are positive factors, and sometimes there are negative ones, it is very difficult to guarantee that the targets would be met. Of course, if the HKTB wishes to go for the easy way, it can easily meet the target by simply lowering the indicators. Yet, as we can see, it did not do so. Rather, it has promoted Hong Kong tourism and attracted more inbound tourists by all means in the light of the prevailing situation.

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

MR HOWARD YOUNG (in Cantonese): *Just now I said that even the tourism sector did not believe the indicator of 27 million people was attainable. Has the authorities consulted the sector whether the indicators are reasonable? The Secretary has not answered.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, just now I have stated how the HKTB determined the relevant figure.

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

MR LAU KONG-WAH (in Cantonese): *President, there was an incident of the Kowloon-Canton Railway Corporation relating to variable pay earlier on, which resulted in a comprehensive review of every single indicator by its Board of Directors. Will the Secretary consider asking the HKTB to disclose its indicators in the future as well?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I certainly will. As I have fully explained in the main reply, those four indicators are clearly described to be related to the number of visitors, spending, length of stay and satisfaction level. I also said that, under this mechanism, the various committees will review the Annual Business Plan based on those indicators — just as what Mr Howard YOUNG asked earlier — a plan will be drawn up every year to predict the number of visitors, with its effectiveness being reviewed by the committees in the end to see if the number of visitor arrivals really meets the target; whether or not the target on tourism spending has been achieved or even surpassed, and whether or not the wish of attracting more business and family visitors to Hong Kong has been fulfilled. All these indicators are clearly provided and a relevant mechanism has also been established.

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

MR LAU KONG-WAH (in Cantonese): *President, in fact, I was asking about the percentage. I am aware of those four indicators, but I wish to know about their percentages.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Insofar as the percentages of those four indicators are concerned, according to my understanding, they are indeed equally important. You may say that they carry more or less the same weight. After all, it is subject to the overall performance of the Executive Director.

PRESIDENT (in Cantonese): Last oral question.

Governance of Statutory Bodies

6. **MR LEE WING-TAT** (in Cantonese): *President, regarding the governance of statutory bodies, will the Government inform this Council:*

- (a) *whether it knows the details of the remuneration and bonus systems for senior staff of existing statutory bodies (including the Kowloon-Canton Railway Corporation (KCRC), the Hospital Authority (HA), the Urban Renewal Authority (URA) and the Hong Kong Tourism Board (HKTB)), the vetting procedures for such systems, and how it ensures that there will not be wastage of public money under such systems;*
- (b) *whether it has reviewed how the roles and functions of government officials who serve as ex-officio members of such bodies, and how they assist in meeting the target of achieving good governance in such bodies; if it has conducted such a review, of the results; if not, the reasons for that; and*
- (c) *how it ensures that members of the governing structures (such as board members) of such statutory bodies fully assume their responsibilities as members of the governing structures concerned, and how individual members hold themselves accountable to the public?*

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

- (a) At present, there are 240 statutory bodies in Hong Kong. They perform a wide range of functions in specified areas in accordance with the ordinances which establish them. The nature and functions of these statutory bodies vary considerably, from advisory committees providing advice in particular areas, such as the Antiquities Advisory Board (AAB), to non-departmental public bodies providing services to the public, such as the HA, and to public corporations like the KCRC which is required to operate on prudent commercial principles, regulatory bodies, advisory and management boards responsible for trusts and subsidy schemes, and appeal boards that deal with appeals under different ordinances.

The secretariats of a majority of these bodies are serviced by civil servants, such as the AAB. About 60 statutory bodies have employed their own staff and the remunerations of their senior executives normally comprise base salaries, end-of-contract gratuity and other fringe benefits. The approving authority for remunerations of these staff is set out in the relevant legislation. In general, the remunerations of staff in these statutory bodies are determined by the governing boards of the respective bodies.

In general, the remunerations of staff and their adjustments in these statutory bodies should be able to attract and retain staff with the appropriate calibre, experience and expertise, having regard to the level of responsibilities of the relevant posts and the specific nature of operation of the organizations concerned.

To strengthen the monitoring and control of remuneration practices in respect of the top three tiers of executives in subvented bodies, the Government promulgated guidelines in March 2003 under which statutory bodies which receive more than 50% of their operating income from the Government, except those fulfilling prescribed exemption criteria, should regularly review the number, ranking and remuneration packages of staff at the top three tiers and submit the review reports to their responsible Directors of Bureaux. The reports should, *inter alia*, explain and justify any changes over the period covered in the report. In assessing the appropriateness of the number and ranking of senior positions of a subvented body, the Director of Bureau will consider the functions and overall staffing structure of the concerned body, the nature and complexity of duties being performed by the top three-tier executives in question, and the ranking for comparable jobs in the Civil Service as appropriate. In evaluating the appropriateness of remuneration packages for senior positions of a subvented body that have comparable civil service ranks, the relevant Director of Bureau will compare the average total cost of remunerations for a tier of staff with that of civil servants at comparable ranks. In the absence of such comparable civil service ranks, reference should be made to market practices. To enhance transparency, the Director of Bureau will work out with those subvented bodies under his/her purview suitable arrangements for public disclosure for their regular review reports.

For public corporations and similar major statutory bodies (such as the KCRC, the URA and so on), they have their own governing boards and are required under the relevant laws to operate independently and effectively. The remunerations of senior executives in these statutory bodies are determined by the governing boards of the respective bodies as set out in the relevant legislation. The remuneration mix of senior executives in these bodies normally comprises a fix salary and a performance-based variable pay. In general, to achieve greater consistency and objectivity in the organizations' remuneration arrangements, these bodies have designated committees to deal with their remuneration policies and arrangements, to track the remuneration levels and trends in the relevant human resource market by conducting regular remuneration surveys, to review the performance and remuneration particularly of the Chief Executive Officers, and to formulate its recommendation to the relevant governing board or approving authority.

- (b) For statutory bodies with government representatives sitting on their management boards as ex-officio members, these government representatives are usually from Policy Bureaux or departments relevant to the work of the statutory bodies concerned. The roles and functions of these ex-officio members are in general to offer advice from the perspectives of the Government's policy in relevant areas to enable the statutory bodies concerned to give due regard to the wide public interests in the pursuit of their organizational goals.

While these government representatives also perform a monitoring role, the responsibility for ensuring good corporate governance rests with the governing boards of the respective bodies. In general, there are also specific legal provisions in the ordinances which establish these bodies governing their operations. Insofar as the major public corporations are concerned, they have all set up their own internal audit mechanisms to ensure the proper use of resources. They are also required to appoint independent external auditors. The audited financial statements, together with the auditors' reports are either tabled in this Council or published and made available to the public.

- (c) As a matter of principle, each appointment to the governing boards of statutory bodies is made on the basis of the merit of the individual

concerned, taking into account the candidate's ability, expertise, experience, integrity and commitment to public service, with due regard to the functions and nature of business of the statutory bodies concerned. All members of the governing boards will endeavour to discharge their duties as a member of the governing board. When considering whether an incumbent member of the governing board of a statutory body should be reappointed upon expiry of his/her current term of appointment, the Government will take into account, among other considerations, the past performance of the individual concerned.

On the question of accountability, individual members of the governing board of these statutory bodies are obliged to exercise due diligence in discharging their duties and are held accountable to the public, through the bodies as a whole, in respect of the operations, services and efficiency of these bodies. In addition, the Administration reports to this Council on the affairs of these bodies from time to time and answer questions raised by Members. Senior management staff of these bodies will also attend meetings of panels of this Council on request to brief Members on subjects of interest or public concern. Apart from these arrangements, many statutory bodies have also set performance pledges and targets and published information on their activities at their websites on a regular basis to enhance accountability and transparency of their operations.

MR LEE WING-TAT (in Cantonese): *President, people often criticize that important statutory bodies are always served by the same group of people, and a person may even serve a number of committees at the same time. However, they never show up at meetings and their decisions are sometimes inconsistent with public view. For instance, in the recent variable pay incidents of the Hong Kong Applied Science and Technology Research Institute and the KCRC the variable pay was determined by the board of directors.*

May I ask the Secretary whether or not the Government has actually considered reviewing again the principles of appointing members of important statutory bodies, particularly in view of the AAB has audaciously appointed recently many young people as board members whose views are fundamentally different from that of the Government? The Secretary is in charge of that

advisory board. Will you recommend this approach to all statutory bodies and let each committee have at least a small portion of members who hold views different from that of the Government instead of members who will purely follow government decisions?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the roles and functions of advisory and statutory bodies have to cope with the changing needs of society. The backgrounds of the members of many of these statutory bodies are thus prescribed in the ordinances, so are the statutory bodies themselves.

However, to keep abreast of the times, the composition or appointment of individual members will be adjusted in accordance with the needs of the time or society. In this regard, we will frequently and regularly report to the Panel on Home Affairs of the Legislative Council. At present, we have tabled about six interim reports, covering areas of, *inter alia*, the "six-six system" and appointment of candidates. We will provide clarification and explanation to individual questions raised by the Panel. Individual advisory committees will make administrative arrangements relating to their respective ambits and tender advice to the Government on the appointment of talents required.

MR LEE WING-TAT (in Cantonese): *President, my supplementary question was simple. My question to the Government is: In view of the numerous incidents happened recently concerning the statutory bodies, will the Government (particularly the Home Affairs Bureau responsible for this policy) conduct a major review to change the composition and appointment of members to these committees? This is what I want to ask.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I have already answered just now that we will conduct from time to time reviews of the composition. Moreover, these statutory and advisory bodies have many different needs, policy areas and executive arrangements.

MR CHEUNG MAN-KWONG (in Cantonese): *President, the most frequent public criticisms against the statutory bodies are that they spend extravagantly and are subject to no financial supervision.*

According to the Basic Law, the responsibilities of the Legislative Council include the scrutiny and passage of the budget. Will the Government support and require all publicly-funded statutory bodies (including the HKTB) to come to this Council and answer Members' questions on financial provisions and remunerations, before the passage of the budget in the Legislative Council, so as to ensure that public money is well spent and subject to monitoring by this Council ?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the Legislative Council has the authority to request the persons in charge of public corporations or statutory bodies to come to the Legislative Council and explain their policies, the contents and approach. The Government supports this, but it is up to the members or persons in charge of these committees and corporations to consider whether or not they are willing to come. This is their consideration and responsibility.

Moreover, insofar as transparency is concerned, many statutory bodies (such as the HKTB) and public corporations will table to this Council their income and expenditure statements and the auditor's reports, which is a fundamental requirement on them that they must meet every year.

MR CHEUNG MAN-KWONG (in Cantonese): *There are in fact two parts to my supplementary question, which are whether or not the Government will support as well as request these publicly-funded statutory bodies (including the HKTB) to come to this Council and answer Members' questions on the budget? The Secretary stated just now his support for this, but then he said it is up to them to decide whether or not they will show up at this Council. I was asking the Government whether or not it will at the same time require them to come? Is the Government aware that the HKTB did refuse to come here to answer questions on its finance?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, in general, the Government supports and requires by all means the person in charge of individual public corporation to come to the Legislative Council to give explanations, but with respect to individual requests, the request to these public corporations should be made by the Secretary concerned.

MR ALBERT HO (in Cantonese): *President, the Secretary mentioned in part (b) of the main reply that ex-officio members appointed by the Government in general will offer advice from the perspectives of the Government's policy in relevant areas to enable the statutory bodies concerned to give due regard to the wide public interests in the pursuit of their organizational goals. May I ask the Secretary whether or not this applies to all statutory bodies, including those operating on prudent commercial principles? May I ask the Secretary, using the KCRC as an example, whether or not the government representative will request the KCRC to, having due regard to public interests and in view of the long-standing accumulated deflation, consider, amongst others, appropriately reducing the fares? Does the government representative have the responsibility to do this? If not, why?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, as I have said just now, if they are the ex-officio members from the Government, their function in these public corporations or statutory bodies is to offer advice from the perspectives of the relevant policy areas to ensure that due regard is given to the overall policies of the Government in the pursuit of their organizational goals. Such policies include interests of the vast general public. If the issue is individual in nature, the Secretary concerned will be responsible for providing a reply.

MR ALBERT HO (in Cantonese): *President, my supplementary question was simple. For corporations such as the KCRC, does its government representative have the responsibility or authority to request it to consider also the interests of the public? In other words, in times when the fares should be reduced, it has to do so? Other than commercial principles, does the Government have such a policy?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the government representative is an ex-officio member, that is, one of the many other members. They will reflect on behalf of the Government considerations of public interest.

MR SIN CHUNG-KAI (in Cantonese): *President, on the variable pay incident of the KCRC, the public does not understand why the staff concerned could still*

receive bonus after the mutiny. May I ask the Government whether or not the government representative attending the board meeting has objected to the award of bonus to the relevant staff and executive directors?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, regarding consideration given to individual operation or an individual case, we will provide a reply in writing. (Appendix III)

MR LEUNG KWOK-HUNG (in Cantonese): *President, I heard the Secretary say just now that the government official, serving as a member of public corporations (such as the KCRC) or statutory bodies, is only one of the many committee or board members. All available information indicates, however, that the Government is, in fact, the major shareholder of these corporations (such as the KCRC or the MTRCL). I thus do not hold that the Government is only one of the many board or committee members.*

May I ask the Secretary, when these statutory bodies or public corporations decide to, for example, increase the fares or not to decrease the fares, which runs counter to the wide public interest, whether or not the Government has issued a directive to exercise administrative power to stop such a decision? Is there such a directive?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I have already said just now that, in general, although the government representative is an ex-officio member, but he/she is only one of the many members. However, the Government does not rely on the ex-officio members alone to monitor these public corporations or statutory bodies. Other than designating ex-officio members to attend meetings, relevant Policy Bureaux or departments will discuss relevant matters with the statutory bodies or public corporations concerned by holding regular meetings with them or through the minutes and information of these statutory bodies. It is thus multi-faceted co-operation and we do not rely on the ex-officio members alone to reflect views in the meetings.

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

MR LEUNG KWOK-HUNG (in Cantonese): *It is not answered. The Secretary has not yet answered whether there is a directive or not. In fact, I have a reason for asking this supplementary question and that is, public money is at stake. In the business world, no major shareholder will not have a deciding say. This is something which would not happen in a business world. Things are decided by the major shareholders, just as.....*

PRESIDENT (in Cantonese): You only need to put your follow-up question. You do not need to explain.

MR LEUNG KWOK-HUNG (in Cantonese): *Just as the case of The Link REIT, as long as the points are exceeded.....*

PRESIDENT (in Cantonese): Mr LEUNG, you only need to mention the part of the supplementary question just now which has not been answered. Have you asked the question?

MR LEUNG KWOK-HUNG (in Cantonese): *No. I am just trying to help the Secretary to understand it. He seemed unable to hear my supplementary question.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): In fact, I heard Mr LEUNG's supplementary question and I have also answered it just now. Let me say it again. The government representative is an ex-officio member who will provide his professional views in the meetings and ensure that the policy content is represented so that decisions made by the board of directors of the public corporations are in line with the interests of the general public.

MR LEUNG KWOK-HUNG (in Cantonese): *When a decision made by a public body, public corporation or statutory body runs counter to public views and public interests, is there a directive to stop the decision by administrative means?*

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

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

PRESIDENT (in Cantonese): We have spent 20 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Plan to Develop Art and Cultural Facilities in Causeway Bay

7. **MR MARTIN LEE** (in Chinese): *President, it has been reported that last month, a real estate developer and two art groups jointly submitted an application to the Town Planning Board (TPB) for planning permission for a development project, which includes a 33-storey hotel, shops as well as art and cultural facilities (exhibition hall and studio theatre), on the Ex-A-King Slipway Site and the adjoining government land in Causeway Bay. In this connection, will the Government inform this Council whether it knows if the authorities concerned:*

- (a) have requested the applicants to provide an assessment report on the following aspects of the development project: (i) the need for reclamation or piling works to be carried out at any shore or sea-bed, (ii) the impact of the proposed hotel development on air ventilation to the inland buildings, on the view from the sea to the waterfront, on the panoramic view from the inland buildings, and on the traffic conditions of the nearby residential areas, as well as (iii) whether the site concerned has been contaminated; if they have, of the results of the assessment and the channels through which members of the public may access the relevant report; if not, whether they will make such a request; and*
- (b) have studied the impact on the view corridor in the district upon completion of the buildings of the project; if they have, of such impact (with illustrations);*
- (c) have studied if the proposed 33-storey hotel of the project has breached the stipulation in the Urban Design Guidelines of the Hong Kong Planning Standards and Guidelines that taller buildings*

should be located inland, with lower developments along the waterfront; and

- (d) *have posted notices and the relevant plans at the streets nearby (including the Hing Fat Street, Gordon Road, Whitfield Road and Electric Road) during the consultation period of the development project to consult and inform the local residents; if they have, of the exact locations where the notices and the plans are posted; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese): President, the development referred to by the Honorable Member is related to a planning application submitted to the TPB by a private developer and two art groups under section 16 of the Town Planning Ordinance (the Ordinance) on 4 April this year. The applicants plan to undertake a development project, which includes a hotel, place of recreation, sports and culture (arts venue) and exhibition and conference hall, at the Ex-A-King Slipway Site and the adjoining government land in Causeway Bay. The application is being processed by the TPB Secretariat, including consulting the government departments concerned and the public on the application based on the information provided therein. The TPB may later ask the applicants to submit additional data or further information.

The applicants have submitted, in support of the application, several technical assessment reports including those on environmental assessment, traffic impact assessment, visual impact assessment and tree survey. The government departments concerned will give professional advice on the development project and their technical assessments. They will also advise on the height and visual impacts of the proposed development having regard to the Urban Design Guidelines of the Hong Kong Planning Standards and Guidelines. Copies of the application and the related technical assessment reports are available at the Planning Enquiry Counter of the Planning Department for public inspection.

On 13 April, a newspaper notice of the planning application was published, as arranged by the TPB Secretariat under the Ordinance. Three site notices were also posted at different locations on the application site, namely (1) the Ex-A-King Slipway Site facing the Victoria Park Road, (2) the Ex-A-King Slipway Site near the Causeway Bay Fire Station, and (3) the Whitfield Road Rest Garden facing Hing Fat Street.

The TPB Secretariat also mounted a notice of the application at two locations closest to the application site as designated by the Lands Department (that is, on the roadside railings off St. Paul's Convent School, Leighton Road and Jardine Engineering House, King's Road). Taking into account the views of the Eastern District Council, the Lands Department subsequently made available an additional position nearer to the application site (that is, the roadside railing at the Causeway Bay Market, Electric Road) for mounting the notice.

A notice of the planning application was uploaded onto the TPB's website and sent to the relevant District Office for posting at its public enquiry service centre. Copies of the notice were sent to the Owners' Corporations or other committees of buildings within 100 ft (around 30 m) of the application site.

Any person may submit their views on the planning application to the TPB Secretariat between 13 April and 4 May in accordance with the Ordinance. The views so collected, together with the planning application and the comments from the government departments concerned, will be submitted to the TPB for consideration.

Abuse of CSSA System

8. **PROF PATRICK LAU** (in Chinese): *President, I have recently received complaints alleging that some women from the Mainland came to Hong Kong to give birth and left their new-born babies to the care of their friends and relatives in Hong Kong, who would then apply for Comprehensive Social Security Assistance (CSSA) in the name of the babies and remit part of the CSSA payments to the Mainland to subsidize the daily expenses of these women. In addition, some mainland people had applied for settlement in Hong Kong on the grounds of taking care of young children in Hong Kong, and upon coming to Hong Kong, they asked for discretionary approval of their CSSA application on the grounds that they had to stay home to take care of these children and thus could not go to work. In this connection, will the Government inform this Council:*

- (a) *of the number of cases in which children born in Hong Kong to mainland women remained in Hong Kong since birth and became CSSA recipients in each of the past five years;*
- (b) *whether it knows, in each of the past five years, the number of cases in which mainland people applied to the mainland authorities for*

one-way exit permit to settle in Hong Kong on the grounds of taking care of young children in Hong Kong; and

- (c) *whether it has assessed if the CSSA system has been abused; if it has and the assessment result is in the affirmative, whether it has any means (such as enacting laws) to curb the problem?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in the absence of Secretary for Health, Welfare and Food) (in Chinese):
President, the CSSA Scheme provides a safety net of last resort to meet the basic needs of those who cannot support themselves financially. An applicant must satisfy the residence requirements, that is, having been a Hong Kong resident for at least seven years and having resided in Hong Kong continuously for at least one year immediately before the date of application. To be eligible for assistance, an applicant must also pass both the income and assets tests. For Hong Kong residents aged below 18, they are exempted from the seven-year residence requirement and the requirement of having resided in Hong Kong continuously for one year before the date of application but a means test is still required. My reply to the various parts of the question raised by Prof Patrick LAU is as follows:

- (a) The Social Welfare Department (SWD) has not maintained statistics on children under this category in the past five years. However, the SWD has started to collate data on new CSSA applications from children born in Hong Kong to mainland parents who are not Hong Kong residents since August 2006. There were 93 cases, involving 102 recipients aged from two months to 17 up to the end of March 2007.
- (b) The One-way Permit (OWP) Scheme is under the mainland authorities' purview. There is no specified quota under the Scheme for mainland residents to come to Hong Kong on the ground of taking care of their children in Hong Kong. In other words, such mainland residents could not use the said ground to apply for an OWP.
- (c) With regard to the vetting and approval procedures for CSSA applications, the SWD has provided clear operational guidelines on the standing requirement that CSSA applications must be made on a household basis (including applications from children born in Hong

Kong to mainland parents) for the SWD staff to follow. If the applicant is living with other family members, the application has to be made on a household basis. The total income, assets and needs of all family members in the same household are taken into account in determining the family's eligibility for CSSA. For children living with their relatives (such as the grandparents), the relatives concerned will also be required to apply for CSSA on a household basis with the children. Under exceptional circumstances, the SWD will consider exercising its discretion on special case intervened and recommended by social workers to allow CSSA applications to be made by the children on their own.

In processing CSSA applications, the SWD staff will conduct detailed verification of the information provided by the applicants and their family members through interviews and home visits. In addition, the SWD conducts data matching periodically with other government departments and relevant organizations to cross-check the information provided by the applicants and their family members. The SWD also carries out regular review on individual cases to determine the eligibility of the recipients as well as random checks on targeted CSSA cases through home visits. The Fraud Investigation Teams of the SWD conduct in-depth investigations into suspected fraud cases. The established fraud cases may be liable to prosecution. We will continue our effort to strengthen the CSSA approval mechanism, with a view to prevent abuse.

The Administration has been very concerned about CSSA applications by children born in Hong Kong to mainland parents, but at this stage we could not come to any conclusion on its long-term impact on our social welfare system.

Surplus Teachers

9. **MR TAM YIU-CHUNG** (in Chinese): *President, it has been learnt that with the number of school-aged children continuing to decrease in recent years, and the transformation of schools such as the merging of schools and schools participating in the Direct Subsidy Scheme, the number of teachers employed by government and aided primary and secondary schools in the 2007-2008 school year is expected to continue to decrease. In this connection, will the Government inform this Council:*

- (a) *given that it has been reported that the Education and Manpower Bureau (the Bureau) has earlier ordered 13 primary schools to cease operating Primary One classes in the new 2007-2008 school year, and that there are 12 secondary schools with insufficient student intake for Secondary One classes, what is the Bureau's final decision on the future of these schools;*
- (b) *of the respective expected numbers of surplus teachers in primary and secondary schools in the next school year resulting from schools ceasing to operate classes at certain levels, transformation of schools or reduction of classes; and*
- (c) *of the plans it has to assist the above surplus teachers in seeking employment?*

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

- (a) In the 2007-2008 school year, 13 government/aided primary schools will not be allocated Primary One class. One of these schools will undergo Special Review, three are considering merger with other schools, four have applied to operate private Primary One class in the next school year, one will cease operation gradually starting from Primary One in the 2007-2008 school year while the other four have no clear indication of their development plan.

As for the secondary schools, there are 12 government/aided secondary schools operating less than three Secondary One classes in the 2006-2007 school year. One of these schools will turn private to continue operation, two will continue operation through injection of additional resources, five will continue operation with the junior secondary classes under the "Per Capita Subvention Mode" while the remaining four will cease operation gradually.

- (b) According to the information provided by schools at the end of April this year, there are about 470 surplus primary school teachers in the next school year. As regards secondary schools, since there is a net increase of teaching posts in the sector as a whole in the next school year, only a few surplus teachers exist in individual schools. The exact information will only be available after schools have

confirmed the staff changes (including retirement, resignation, staff deployment and absorption among schools under the same sponsor, and so on).

- (c) The Bureau has already implemented various measures to alleviate the situation of surplus teachers, including:
- (i) to increase the number of teaching posts, such as creation of additional teaching posts at the junior secondary levels for providing better support for the academically low achievers, provision of additional teaching posts for the implementation of the specialized teaching in primary schools, and so on;
 - (ii) to request school sponsors to absorb or redeploy teachers among schools of the same sponsor;
 - (iii) to encourage schools to employ suitable surplus teachers to fill the teaching vacancies;
 - (iv) to provide various grants for schools which can be used, among others, to employ teachers;
 - (v) to encourage job-sharing in schools so as to reduce the number of surplus teachers;
 - (vi) to handle teachers' applications for no-pay leave with flexibility and implement the Sabbatical Leave for Teacher Professional Development Scheme so as to create teaching vacancies;
 - (vii) to set aside \$700 million and \$520 million for the implementation of the Early Retirement Schemes in primary and secondary schools respectively so as to alleviate the surplus teacher problem;
 - (viii) if necessary, to release information on teaching vacancies on the Bureau Homepage so as to facilitate teachers to make applications to schools direct; and
 - (ix) to second suitable teachers to the Bureau so as to create teaching vacancies for absorbing surplus teachers.

Hongkong Post Circular Service

10. **MS AUDREY EU** (in Chinese): *President, it has been learnt that the Hongkong Post provides the Hongkong Post Circular Service (HKPCS) for delivering advertisement circulars to commercial and residential letterboxes. In this connection, will the Government inform this Council:*

- (a) *of the number of advertisement circulars delivered by the Hongkong Post in each of the past three financial years; and*
- (b) *whether there is a mechanism for members of the public who do not want to receive such circulars to be exempted from receiving those circulars; if so, of the details; in each of the past three financial years, how many members of the public and residential estates were exempted from receiving such circulars, and how the mechanism deals with requests made by residents in residential estates or buildings without owners' organizations for exemption from receiving such circulars?*

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

- (a) The number of advertisement circulars delivered through the HKPCS in each of the past three financial years was as follows:

<i>Financial Year</i>	<i>No. of Advertisement Circulars Delivered</i>
2003-2004	82 million
2004-2005	84 million
2005-2006	98 million

The number of advertisement circulars delivered in the financial year of 2006-2007 is not yet available.

- (b) The Post Office has in the past acceded to requests from Owners' Corporations of individual buildings or housing estates to be removed from the HKPCS distribution list.

The number of buildings or housing estates removed from the HKPCS distribution list following requests from the relevant Owners' Corporation was as follows:

<i>Financial Year</i>	<i>No. of Buildings/Housing Estates Opting Out</i>
2003-2004	0
2004-2005	2
2005-2006	1

Following a recent review of the operation of HKPCS, the Post Office has concluded that the current arrangement regarding the removal from the HKPCS distribution list is not consistent with its role as a mail delivery service provider.

The Post Office considers that members of the public who do not wish to receive HKPCS items should be able to inform the senders directly of their wishes. Accordingly, the Post Office now advises any citizen who does not wish to receive HKPCS items to contact the relevant sender directly. To facilitate such an arrangement, the Post Office will launch a notice entitled: "Advice on Opt-out Arrangements" on 9 May 2007. Under this arrangement, senders of advertising circulars will be advised to include a reference to "Non-subscription to Circulars" in their materials. Such reference would include information on how residents may request senders not to send further materials to the addressees concerned.

As for the buildings or housing estates that have been removed from the HKPCS distribution list, the Post Office will contact them to explain the new arrangements.

Noise Nuisance Caused by Slip Roads of Route 8

11. **MR LEE WING-TAT** (in Chinese): *President, with regard to the anticipated traffic noise nuisance caused to residents of Rambler Crest in Tsing Yi upon the opening of Route 8's slip roads, which are under construction, will the Government inform this Council:*

- (a) *of the reasons and justifications for deciding not to install noise barriers at the road sections concerned; and*
- (b) *given that the site of Rambler Crest was planned for commercial use when the relevant environmental impact assessment study was conducted, and the Town Planning Board (TPB) had subsequently*

approved an application to change the planned use of the site to "hotel and service apartment", whether it will reconsider installing noise barriers at the road sections concerned in the light of this change in land use?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Chinese): President, the developer of Rambler Crest had given due consideration in its environmental impact assessment to the noise impact of the nearby existing roads and the proposed slip road of Route 8 on Rambler Crest before submitting the planning application for the development of serviced apartments to the TPB in accordance with section 16 of the Town Planning Ordinance in 1999. The developer also undertook to provide the apartments with central ventilation and proper insulating glass as noise mitigation measures. The Board subsequently approved the planning application of Rambler Crest based on this condition.

The Lands Department issued a certificate of compliance upon the confirmation by the concerned departments on the completion of the noise mitigation measures undertaken by the developer. At present, we do not have any plan for installing additional noise barriers on the section of the slip road of Route 8 passing Rambler Crest.

Notwithstanding this, the Highways Department (HyD) has planned to surface the concerned road section with low-noise materials and minimize the number of road joints required for the section. The HyD will continue to closely monitor the traffic condition along the road section and ensure that the road joints are as smooth as possible, so as to reduce the noise generated by passing vehicles.

Transfer of Sentenced Persons Between Hong Kong and Mainland

12. **MR LEUNG YIU-CHUNG** (in Chinese): *President, at the Legislative Council meetings on 30 June and 1 December 2004, I had asked questions on the discussions between the Government of the Hong Kong Special Administrative Region (SAR) and the mainland authorities on the transfer of sentenced persons. In reply, the Administration said that because of differences in the legal and judicial systems of the two places and the complexity of the issues involved, the discussions had therefore not yet been completed, and both sides had agreed that the discussions should continue and hoped to reach an agreement as soon as*

possible. However, no agreement on the above matter has been reached so far. In this connection, will the Government inform this Council:

- (a) of the latest progress of the above work;*
- (b) of the number of meetings held with the mainland authorities since 1 December 2004, and the details of each meeting, including the meeting date, officials present, issues discussed and achievements made;*
- (c) of the reasons for not yet being able to reach an agreement with the mainland authorities so far and the difficulties encountered; and*
- (d) whether a target has been set for reaching an agreement on the matter; if not, of the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) Discussions between the SAR Government and the mainland authorities on the transfer of sentenced persons between the two places are still underway.
- (b) Government officials of the two places have been exchanging views on various specific issues related to the transfer of sentenced persons, such as the conditions and procedures for transfer, through formal and informal meetings, and exchange of correspondence. No formal meeting has been held between the two sides since 1 December 2004. However, government officials of the two places continued to exchange views on the matter when they met.
- (c) The SAR Government and the mainland experts have been very serious and cautious in the discussions on the transfer of sentenced persons. Because of differences in the legal and judicial systems of the two places, both sides need to have a full understanding of the system of the other side and carry out thorough examination and deliberation of the complicated issues involved.
- (d) The established policy of the SAR Government is to assist, as far as possible, sentenced persons in transferring to their places of origin so as to enable them to serve their sentences in a familiar environment free of language barrier and where their friends and

relatives can visit them on a regular basis. This would be conducive to their rehabilitation. We hope to reach agreement with the Mainland on the arrangements for the transfer of sentenced persons between the two places at an early date. However, because of the complexity of the legal and judicial issues involved, it is difficult to set a definite timetable at this stage.

Statistics of Babies Born in Hong Kong

13. **MR LI KWOK-YING** (in Chinese): *President, will the Government inform this Council whether it knows the following in each of the past three years:*

- (a) *the respective numbers of spontaneous and induced abortions;*
- (b) *the number of children who died before reaching the age of five, broken down by the causes of death;*
- (c) *the number of babies who were born in Hong Kong and diagnosed as having hereditary diseases, and the percentage of such number in the number of new-born babies in that year; and*
- (d) *the number of married couples both the husband and wife of which had undergone body check-ups before the wife became pregnant, and the measures taken by the Government to promote such check-ups?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in the absence of Secretary for Health, Welfare and Food) (in Chinese):
President,

- (a) According to the statistics kept by the Department of Health (DH), the numbers of legal termination of pregnancy cases between 2003 and 2005 are as follows:

<i>Year</i>	<i>Number of legal termination of pregnancy cases</i>
2003	17 420
2004	15 880
2005	14 190

According to the statistics of Hospital Authority (HA) hospitals, hospitals of Correctional Services Department and private hospitals, the numbers of persons¹ related to spontaneous abortion between 2003 and 2005 are as follows:

<i>Year</i>	<i>Number of persons related to spontaneous abortion</i>
2003	3 033
2004	3 439
2005	3 334

¹ The figures do not equate to the numbers of cases involved, but represent the numbers of in-patient discharges and deaths related to spontaneous abortion.

- (b) As compared with some major developed countries like the United Kingdom, the United States, Australia and Singapore, the mortality rate of children aged under five in Hong Kong is generally on the low end. The numbers of registered deaths of children aged under five between 2003 and 2005 are as follows:

<i>Year</i>	<i>Number of registered deaths of children aged under five</i>
2003	156
2004	142
2005	175

The number of registered deaths by causes of death are tabulated according to the age groups of the children (aged under one and aged one to four) in Annex 1 and Annex 2 respectively.

- (c) According to the data of the past 25 years provided by the Clinical Genetic Service of the DH, there were more than 600 types of genetic disease detected in babies born in Hong Kong. The common ones are Glucose-6-Phosphate Dehydrogenase (G6PD) Deficiency, Congenital Hypothyroidism, Down's Syndrome, Cleft Lip and Palate, and so on.

In the past three years, the number of babies and percentage diagnosed with G6PD Deficiency or Congenital Hypothyroidism are as follows:

<i>G6PD Deficiency²</i>		
<i>Year</i>	<i>Number of babies with G6PD Deficiency</i>	<i>Percentage of newborn babies diagnosed with G6PD Deficiency</i>
2003	Boys : 827	4.50%
	Girls : 80	0.47%
2004	Boys : 859	4.41%
	Girls : 67	0.37%
2005	Boys : 940	4.37%
	Girls : 84	0.43%

² As most of the patients with G6PD are male, figures of baby boys and baby girls are listed out separately. Percentages of baby boys with the disease are calculated from the number of baby boys diagnosed with G6PD over the total number of baby boys born in that particular year. Similarly, the percentages of baby girls with the disease are calculated from the number of baby girls diagnosed with the disease to the total number of baby girls born in that particular year.

<i>Congenital Hypothyroidism</i>		
<i>Year</i>	<i>Number of babies with Congenital Hypothyroidism</i>	<i>Percentage of newborn babies diagnosed with Congenital Hypothyroidism</i>
2003	17	0.048%
2004	32	0.085%
2005	37	0.090%

Currently, there is no data on the number of patients with Down's Syndrome and Cleft Lip and Palate for the past three years. However, the approximate incidence rates of these diseases in Hong Kong are as follows:

<i>Genetic diseases</i>	<i>Incidence rates</i>
Down's Syndrome ³	0.13%
Cleft Lip and Palate ⁴	0.125%

³ The incidence rate of Down's Syndrome is derived from the research findings between 1986 and 1992.

⁴ The incidence rate of Cleft Lip and Palate is derived from the research findings between 1984 and 1988.

- (d) In Hong Kong, the body check-up service for married couples is mainly provided by private hospitals, private medical practitioners and the Family Planning Association of Hong Kong (FPAHK).

We do not keep statistics on the number of married couples with both the husband and wife known to have undergone body check-ups before the wife became pregnant. The numbers of persons who received pre-pregnancy check-up at the FPAHK are as follows:

<i>Year</i>	<i>Number of persons</i>
2003	4 027
2004	3 938
2005	4 357

In addition, women health services are available in the DH's three Woman Health Centres and 10 Maternal and Child Health Centres. Such services include health promotion and disease prevention services to cater for the health needs of women at various stages as well as pre-pregnancy check-up service for women who need such service. The Administration and the FPAHK also remind the public of the importance of pre-pregnancy check-up through various channels such as leaflets, exhibitions and other promotional activities.

Annex 1

Number of Registered Deaths of Children (aged under one)
by Five Major Causes of Death

Year 2003

<i>Type of Disease</i>	<i>Number of Registered Deaths</i>
Congenital malformations, deformations and chromosomal abnormalities	36
Diseases of circulatory system	8
Haemorrhagic and haematological disorders of fetus and newborn	7
Intrauterine hypoxia and birth asphyxia	5
Diseases of the digestive system	4
Disorders relating to length of gestation and fetal growth	4
External causes of morbidity and mortality	4
All other causes	40
Total	108

Year 2004

<i>Type of Disease</i>	<i>Number of Registered Deaths</i>
Congenital malformations, deformations and chromosomal abnormalities	29
Disorders relating to length of gestation and fetal growth	12
Haemorrhagic and haematological disorders of fetus and newborn	9
Other respiratory conditions of newborn	8
Bacterial sepsis of newborn	8
All other causes	55
Total	121

Year 2005

<i>Type of Disease</i>	<i>Number of Registered Deaths</i>
Congenital malformations, deformations and chromosomal abnormalities	41
Diseases of the circulatory system	12
Disorders relating to length of gestation and fetal growth	11
Intrauterine hypoxia and birth asphyxia	8
External causes of morbidity and mortality	8
All other causes	56
Total	136

Annex 2

Number of Registered Deaths of Children (aged one to four)
by Five Main Causes of Death

Year 2003

<i>Type of Disease</i>	<i>Number of Registered Deaths</i>
Malignant neoplasms	10
External causes of morbidity and mortality	10
Septicaemia	4
Congenital malformations, deformations and chromosomal abnormalities	4
Diseases of heart	3
Pneumonia	3
All other causes	14
Total	48

Year 2004

<i>Type of Disease</i>	<i>Number of Registered Deaths</i>
Malignant neoplasms	3
Diseases of heart	3
Congenital malformations, deformations and chromosomal abnormalities	3
Cerebrovascular diseases	2
Pneumonia	2
All other causes	8
Total	21

Year 2005

<i>Type of Disease</i>	<i>Number of Registered Deaths</i>
External causes of morbidity and mortality	8
Malignant neoplasms	5
Diseases of heart	4
Pneumonia	3
Septicaemia	2
Congenital malformations, deformations and chromosomal abnormalities	2
All other causes	15
Total	39

Employment of Ethnic Minorities

14. **MR JAMES TO** (in Chinese): *President, regarding the employment of the ethnic minorities, will the Government inform this Council:*

- (a) *whether it has allocated or established funds for assisting the ethnic minorities in seeking employment; if it has, of the amount of funds used every year;*
- (b) *of the current numbers of social worker teams, community centres and non-governmental organizations (NGOs) that offer employment assistance to the South Asians living in Western Kowloon;*

- (c) *whether it will request the Employees Retraining Board (ERB) to offer training courses on language and vocational skills specially for South Asians; and to provide them with job allowances, in order to enhance their employability; and*
- (d) *whether financial incentives will be provided to employers to encourage them to employ South Asians?*

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

- (a) The Administration has made every effort to promote employment. Various measures have been put in place to help job-seekers, including the ethnic minorities, find jobs. Through a network of 12 job centres, the Labour Department (LD) provides a comprehensive range of employment assistance and counselling services for job-seekers. Job-seekers may make use of the Interactive Employment Service website to register for employment services and browse information on employment and vacancies. Job referrals can also be secured through the Telephone Employment Service hotline. Various employment programmes including the Employment Programme for the Middle-aged, the Work Trial Scheme, the Youth Pre-employment Training Programme and the Youth Work Experience and Training Scheme are open to the ethnic minorities.

Besides, the Social Welfare Department (SWD) has commissioned NGOs to launch the Intensive Employment Assistance Projects (IEAPs) since October 2003. The projects aim at providing tailor-made employment services to help the Comprehensive Social Security Assistance (CSSA) recipients with working abilities and the needy unemployed persons, including the unemployed ethnic minorities to find jobs and become self-reliant.

Other than IEAPs, the Administration commissioned NGOs to run two trial employment programmes in October 2006. These include three District Employment Assistance Trial Projects launched in Tin Shui Wai, Tsuen Wan/Kwai Tsing and Tung Chung Districts in assisting the long-term CSSA recipients to rejoin the workforce, and two projects under the Special Training and Enhancement

Programme (My STEP) to help and motivate the unemployed young CSSA recipients aged 15 to 24 living in Tin Shui Wai District in returning to work and moving towards self-reliance. The ethnic minorities are also the target participants of these two trial programmes.

As the above services and programmes are open to all eligible persons irrespective of their race, we cannot provide the amount of funds solely applicable to the ethnic minorities.

Moreover, the Administration funds about 10 projects (including two in West Kowloon) under the Community Investment and Inclusion Fund to help improve the employability of ethnic minorities through building up their capabilities and social network as well as partnering with the business sector for job opportunities. Under the Enhancing Self-Reliance Through District Partnership Programme, five projects have also been approved to help enhance the employability of ethnic minorities by raising their employment skills and capabilities. These projects also provide job opportunities for them.

- (b) Currently, there are a total of 20 IEAPs run by 15 NGOs in the Kowloon West region (including Sham Shui Po, Kowloon City and Yau Tsim Mong Districts). Tailor-made employment services are provided to the target participants including South Asians. Language training courses will also be arranged for the unemployed South Asians on a need basis so as to help them integrate into the community.

Based on district needs, the Integrated Family Service Centres (IFSCs) of the SWD will organize various groups and programmes to increase ethnic minorities' understanding of the community, enhance their social participation and provide more opportunities for their social integration. Where appropriate, IFSCs may refer their ethnic minority clients in need of employment assistance to the LD for employment support.

The LD has set up a job centre in the Kowloon West region. The job centre provides a wide range of employment services to the residents including ethnic minorities in the district. It is also equipped with a resource corner to provide information in English

on the labour market and job-seeking skills. Some reference materials like the leaflet on "Easy-to-use Employment Services of the Labour Department" are translated into Tagalog, Indonesian, Thai, Hindi, Urdu and Nepali. Employment briefings in English and tailor-made for the needs of ethnic minorities are regularly conducted at the Job Centre to facilitate their understanding of the local job market and job-seeking skills.

- (c) The ERB plans to offer courses on security and property management as well as domestic help in English for non-Chinese speaking (NCS) adults on a pilot basis. Two such courses will commence in the middle of this year depending on the enrolment situation. Other types of retraining courses will also be considered for NCS adults subject to market needs. Retraining allowance amounting to about \$150 per day will be payable to retrainees who achieve an attendance rate of 80% or more in the ERB's full-time placement-tied courses lasting for more than one week, including the two planned courses for NCS adults.

To meet the demands of NCS students, the Vocational Training Council (VTC) plans to organize 13 dedicated programmes for NCS youths and adults offering about 300 places in the current academic year. These dedicated programmes are conducted in English and cover courses ranging from part-time trade licensing test preparatory course for in-service personnel to full-time Foundation Diploma courses for Secondary Five leavers in the areas of business, information technology, hospitality, electrical and welding industries, and so on. The VTC also plans to offer short vocational Chinese modules for the NCS groups on a pilot basis.

Since 2000, the Home Affairs Bureau has been funding NGOs to provide progressive courses in practical Cantonese and English for the ethnic minorities. The Bureau sponsored three NGOs to organize 70 classes (20 English and 50 Cantonese) in 2006-2007 and has earmarked funding for organizing 75 classes under this programme in 2007-2008.

- (d) The Administration promotes racial equality through public education and fosters a culture of mutual respect and social harmony. We also encourage employers to provide equal opportunities in employment. The LD has launched the

Employment Programme for the middle-aged to encourage employers, through the provision of training allowance, to take on the middle-aged including South Asians as full-time employees and provide them with on-the-job training. For each eligible job-seeker engaged, the employer will receive a training allowance of \$1,500 per month for up to three months. Ethnic minorities with special difficulties in finding employment may also join the Work Trial Scheme. On completion of the one-month work trial, the participant will be paid an allowance of \$5,000, of which \$500 is contributed by the participating organization.

The LD also runs the Youth Work Experience and Training Scheme which aims to enhance the employability of young people, including South Asian youths, aged 15 to 24 with educational attainment below degree level by providing them with on-the-job training of six to 12 months. Employers providing on-the-job training places will receive a monthly training subsidy of \$2,000 for each trainee employed during the training period as well as full-package support services from the LD.

Hong Kong Computer Emergency Response Team Coordination Centre

15. **MR SIN CHUNG-KAI** (in Chinese): *President, the Hong Kong Computer Emergency Response Team Co-ordination Centre (HKCERT), established and managed by the Hong Kong Productivity Council (HKPC), is tasked to co-ordinate the efforts in handling local incidents relating to computer or network security, and has been in operation for six years. In this connection, will the Government inform this Council:*

- (a) *whether it knows why the report on Information Security Survey published annually since 2001 has ceased publication after 2004; whether the HKCERT currently has channels to understand the standard, current status and trends of information security in Hong Kong, as well as to collect the relevant data; if so, of the details; if not, the reasons for that;*
- (b) *whether it knows in each year since 2005, the number of requests for assistance (broken down by the types of information security incidents such as hacker intrusion and viruses) handled by the HKCERT, the average response time, the number of various types of*

security alerts disseminated, as well as the number of applications for SMS Alert Service provided by the HKCERT;

- (c) of the respective amounts of money allocated to the HKCERT by the government departments concerned and the HKPC each year since the establishment of the HKCERT;*
- (d) whether it knows if the HKCERT had launched new measures in each of the past three years to disseminate news on its own initiative for more members of the public to know more clearly the latest information on information security; if so, of the details; if not, the reasons for that; and*
- (e) given that the number of security incidents is on the rise according to the data released by the HKCERT in the end of 2006, whether it knows if the HKCERT will follow the practice of other major computer emergency response team co-ordination centres in the Asia-Pacific Region to introduce a monitoring system on network threats, so as to proactively monitor potential risks; if it will, of the details, as well as the estimated costs involved and the implementation schedule; if not, the reasons for that?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in the absence of Secretary for Commerce, Industry and Technology) (in Chinese): President, regarding the question raised by Mr SIN Chung-kai, my reply is as follows:

- (a) Since 2005, the HKPC has reprioritized its services/activities and categorized the information security survey as a non-core function of the HKCERT and ceased the conduct of surveys on the information security status of Hong Kong. According to the HKCERT, it currently makes use of the data of incident reports processed by the centre and those provided by other information security organizations to keep track of the level, status and trend of information security in Hong Kong.
- (b) Statistics of the number of information security incidents reported to the HKCERT, the number of various security alerts it disseminated and the total number of subscribers as provided by the HKCERT are tabulated below. According to the HKCERT, it did not keep the response time of each handled case which could involve many rounds of discussion, investigation and analysis.

		2004-2005	2005-2006	2006-2007
(1)	Number of security incidents reported			
	- Hacking and Intrusion	614	287	436
	- Phishing	99	250	567
	- Spamming	96	81	40
	- Spyware	89	839	212
	Total	898	1 457	1 255
(2)	Number of computer virus incidents reported	2 815	805	527
(3)	Security alerts published	94	115	206
	Virus alerts published	16	4	1
(4)	Subscribers receiving alerts			
	- via email	8 202	8 800	9 250
	- via SMS	1 010	1 156	1 257

- (c) In July 2000, the HKPC submitted an application to the Innovation and Technology Fund for a total amount of \$10.744 million for the setting up and operation of the HKCERT for three years. In December 2000, the HKPC's application was approved and the HKCERT was launched in February 2001. In November 2003, the Government and the HKPC discussed the funding arrangement for the ongoing operation of the HKCERT. The Government suggested that the HKPC should explore ways to generate revenue to cover part of the operating expenses of the HKCERT beyond 2004. To allow more time for both parties to work out the longer-term funding arrangements for the HKCERT, the Government provided a one-off sum of \$3.7 million to the HKPC for the operation of the HKCERT in 2004-2005.

Since 2005-2006, the HKPC has been funding the operation of the HKCERT via the overall government subvention. The government subventions to the HKPC were \$174.5 million in 2005-2006, \$173.8 million in 2006-2007 and estimated to be \$172.8 million in 2007-2008. According to the HKPC, its expenditures in connection with the HKCERT were \$3.2 million in 2005-2006 and \$3.7 million in 2006-2007 respectively. For 2007-2008, the HKPC estimates that it would require \$4 million to operate the HKCERT, which is around 2.3% of the government subvention provided to the HKPC. The HKPC has approached the Government to seek additional funding for the operating expenses of the HKCERT. We are actively discussing with the HKPC on the need and approach regarding the request.

- (d) In 2003, the HKCERT started to use telephone short messages and a commercial information portal to disseminate information security alerts to the public. Together with other existing channels including the HKCERT website, electronic mails and press releases, the HKCERT considers that the information dissemination channels are adequate.
- (e) According to the HKCERT, it is considering to conduct a feasibility study to understand the practice of other major computer emergency response team co-ordination centres in the Asia Pacific Region in monitoring network threats and issuing security alerts, and making recommendations on whether there is need for a similar mechanism in Hong Kong. Details of the estimated cost and schedule of implementation of such a mechanism are not yet available.

Red Fire Ants

16. **MR LAU KONG-WAH** (in Chinese): *President, regarding the inspection and eradication of red fire ant mounds, will the Government inform this Council:*

- (a) *of the number of red fire ant mounds found last year and the relevant details;*
- (b) *of the details of the actions taken to eradicate the red fire ant mounds found;*
- (c) *of the measures to eradicate ants to be taken in areas where red fire ant mounds have been found, and whether ants surveillance inspections will be carried out more frequently in those areas; and*
- (d) *whether it will re-issue publicity leaflets and posters about red fire ants and step up publicity efforts in this regard, so as to remind the public how to effectively avoid the nuisance caused by red fire ants?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in the absence of Secretary for Health, Welfare and Food) (in Chinese):
President,

- (a) Between 1 May 2006 and 30 April 2007, a total of 3 054 ant mounds were found in various districts including Lantau Island, Yuen Long, Tai Po, Kam Tin, Tin Shui Wai, Tseung Kwan O, Fanling, Sha Tin,

Ta Kwu Ling, Sheung Shui and Sham Shui Po. In general, between several to a dozen or so ant mounds were found in each infested site. However, over 2 700 ant mounds were found on several pieces of government land with a total area of about 30 hectares in Tseung Kwan O in April 2007.

Red fire ants have been occasionally found in Hong Kong since their first detection in the territory in 2005. Once red fire ant mounds are found, relevant government departments will take prompt action to eradicate them.

- (b) Since the first detection of red fire ants in 2005, the Health, Welfare and Food Bureau has set up an inter-departmental action group to co-ordinate the work on the control and prevention of red fire ants. The action group comprises members from various government departments and relevant agencies, including the Agriculture, Fisheries and Conservation Department (AFCD); Food and Environmental Hygiene Department; Department of Health; Housing Department; Leisure and Cultural Services Department; Highways Department; Civil Engineering and Development Department; Lands Department; Home Affairs Department; Architectural Services Department; Education and Manpower Bureau; Environmental Protection Department; Environment, Transport and Works Bureau; Information Services Department and Airport Authority. With regard to the control, prevention and eradication work, all government departments are responsible for inspecting the venues and premises under their purview and participating in the control and prevention work against red fire ants. Once red fire ant mounds are found, they will take prompt action to eradicate them. The AFCD has issued a technical note on red imported fire ant control methods to various departments and pesticide application service providers, setting out in detail the appropriate pesticide application and mound treatments. Apart from organizing technical seminars on the control of red fire ants for government departments and pesticide application service providers, the AFCD will also review the work progress with the departments concerned at regular intervals.
- (c) During the course of pesticide treatment, the government departments concerned will keep on inspecting the areas under their purview where red fire ant mounds have been found so as to ensure the pest is properly eradicated. With regard to the control and

prevention of red fire ants, the AFCD will also regularly remind the departments to check the venues and premises under their purview, including those previously infested areas to ensure that the ants will be discovered and eradicated as soon as possible.

- (d) Upon first discovery of red fire ants in 2005, the Government immediately produced a publicity leaflet informing the public of the way to handle suspicious cases of red fire ants and giving health advice on stings by red fire ants. It also provided free identification service through the AFCD. The leaflet is distributed to the public regularly through schools, district offices, housing estates, Environmental Resource Centre and Property Management Advisory Centre to remind the public of the points to note when handling red fire ants. Information on red fire ants has also been uploaded to the websites of the AFCD, Department of Health and Food and Environmental Hygiene Department for public reference. In addition, the Government has also strengthened public education through posters and Announcements in the Public Interest.

Broadcasting Quality of RTHK

17. **MR ALBERT CHAN** (in Chinese): *President, recently, I received quite a number of complaints from residents in Tuen Mun and Tin Shui Wai that they fail to have clear reception of the broadcast of Radio 3, Radio 5 and Putonghua Channel of Radio Television Hong Kong (RTHK). In this connection, will the Government inform this Council:*

- (a) *of the number of relevant complaints received in each of the past three years;*
- (b) *of the reasons for RTHK's failure to solve the problem so far; and*
- (c) *whether it will step up efforts to urge RTHK to expeditiously improve the broadcasting quality in the above areas, so that the residents there can have clear reception of the broadcast of the radio channels concerned; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in the absence of Secretary for Commerce, Industry and Technology) (in Chinese): President, I reply to parts (a), (b) and (c) of the above question as follows:

- (a) In the past three years, RTHK received a total of 59 enquiries about residents in Tuen Mun and Tin Shui Wai being unable to clearly receive the broadcast of its Radio 3, Radio 5 and Putonghua Channel. The number of enquiries received in each of the past three years is set out below:

<i>Year</i>	<i>Enquiries</i>
2004	23
2005	28
2006	8
Total:	59

- (b) Currently, RTHK operates seven radio channels, namely, three FM channels (Radio 1, Radio 2 and Radio 4) and four AM channels (Radio 3, Radio 5, Putonghua Channel, and British Broadcasting Corporation World Service relay).

Due to the difference in transmission characteristics of various frequency bands and performance of different transmission technologies, the reception quality of FM broadcast is generally better than that of AM broadcast. The high density of high-rise buildings and hilly terrain in Hong Kong may result in unsatisfactory reception of RTHK's AM broadcast in some areas (for example, Tuen Mun).

RTHK has been liaising with the Office of Telecommunications Authority (OFTA) to examine the feasibility of installing local FM transposers in areas experiencing poor AM reception. Such FM transposers enable the relay of AM broadcast onto localized FM channels to improve reception. The prerequisite for installing FM transposers in such poor-reception areas is the availability of spare FM channels covering the local areas and suitable sites for installing the transposers.

- (c) In 1994, RTHK installed an FM transposer in Castle Peak to improve the reception of its Radio 5 in Tuen Mun. Besides, in mid-2005, RTHK installed an FM transposer in Tin Shui Wai to improve the reception of its Radio 3, Radio 5 and Putonghua Channel in Tin Shui Wai and North Tuen Mun.

In view of the fact that the reception of Putonghua Channel is still unsatisfactory in the vicinity of Tuen Mun Town Centre, since

mid-2006 RTHK has commenced to study new measures to improve the situation. It conducted four tests of FM broadcasting on different frequency channels in Castle Peak, but the results were not satisfactory. RTHK is working with the OFTA to come up with different improvement measures and conduct more tests to ascertain the feasibility of frequency channels. RTHK hopes to work out a feasible solution to the reception problem of Putonghua Channel in the area concerned within this year.

On the other hand, in accordance with its performance pledge, RTHK has been deploying technical staff to help the audience experiencing unsatisfactory reception solve such problems. For instance, home visits are made to help the audience solve reception problems caused by signal interference, improper positioning of antennas/radios, and so on.

Handling of Stray Dogs Implanted with Microchips

18. **MISS CHOY SO-YUK** (in Chinese): *President, will the Government inform this Council of the following in the past three years:*

- (a) *the amount of expenditure the Agriculture, Fisheries and Conservation Department (AFCD) incurred each year on handling stray dogs which were implanted with microchips;*
- (b) *the number of microchipped dogs which had been abandoned and caught or received by the AFCD each year, broken down by the AFCD's Animal Management Centres; and among such dogs, the respective numbers of those which had been reclaimed by their owners, had been adopted by others and had not yet been adopted; whether the owners who reclaimed their dogs or the adopters were required to pay any fees; if so, of the details;*
- (c) *how the AFCD handled cases in which owners of stray dogs declined to reclaim their dogs; whether such dog owners would be subject to a fine; if they would, in each year, the number of cases in which the dog owners concerned were fined, the amount of fines generally imposed, the number of cases in which the fines have not been fully settled to date and the total amount of outstanding payments; and*
- (d) *how many stray dogs which had been implanted with microchips were euthanized each year, and the amount of expenditure involved?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in the absence of Secretary for Health, Welfare and Food) (in Chinese):
President,

- (a) In the past three years, the AFCD spent on average about \$320,000 a year on handling stray dogs implanted with microchips ("microchipped stray dogs", that is, stray dogs that previously had owners and were implanted with microchips). The expenditure mostly covered catching of/taking in microchipped stray dogs; contacting owners to reclaim the dogs or arranging for their adoption; and arranging for euthanasia when necessary.
- (b) The annual number of stray dogs caught or taken in by the AFCD in the past three years, broken down by Animal Management Centres, is as follows:

	<i>Animal Management Centres under the AFCD</i>				
	<i>Hong Kong Island</i>	<i>Kowloon</i>	<i>New Territories South</i>	<i>New Territories North</i>	<i>Total</i>
Number of microchipped stray dogs caught by the AFCD					
2004	102	193	103	293	691
2005	87	203	115	387	792
2006	91	69	144	369	673
Number of microchipped stray dogs taken in by the AFCD					
2004	134	277	167	605	1 183
2005	154	328	205	576	1 263
2006	193	392	196	517	1 298
Number of microchipped stray dogs reclaimed by owner					
2004	52	121	82	114	369
2005	47	117	97	166	427
2006	67	106	105	166	444
Number of microchipped stray dogs adopted by others					
2004	89	65	9	18	181
2005	89	33	16	19	157
2006	48	32	46	38	164
Number of microchipped stray dogs abandoned/not reclaimed by owner, and not adopted					
2004	95	284	179	766	1 324
2005	105	381	207	778	1 471
2006	169	323	189	682	1 363

To reclaim a microchipped stray dog, a dog owner has to pay a handling fee of \$565 and a daily pound fee of \$40.

- (c) Upon catching/taking in microchipped stray dogs, the AFCD will promptly contact their owners to reclaim their dogs. In case the owners refuse or fail to reclaim the dogs, the AFCD will revoke their status as dog owners and the dogs will be taken over by the AFCD for disposal. In cases of sufficient evidence, the AFCD will prosecute the dog owners under the Rabies Ordinance, with a maximum penalty of \$10,000 fine. The annual number of prosecutions against owners of microchipped stray dogs in the past three years is as follows:

<i>Year</i>	<i>Prosecution (Cases)</i>	<i>Fine</i>
2004	620	\$100 - \$1,000
2005	482	\$50 - \$1,100
2006	506	\$150 - \$1,500

Since the fines were awarded and executed by Courts, the AFCD did not have the data on cases of outstanding payments.

- (d) The annual number of stray dogs implanted with microchip euthanized by the AFCD and the approximate expenditure over the past three years is as follows:

<i>Year</i>	<i>Number of Dogs Euthanized</i>	<i>Expenditure</i>
2004	1 324	\$120,000
2005	1 471	\$120,000
2006	1 363	\$120,000

Editorial Independence of RTHK

19. **MS EMILY LAU** (in Chinese): *President, the Framework Agreement signed between the Secretary for Commerce, Industry and Technology and the Director of Broadcasting specifies that Radio Television Hong Kong (RTHK) is editorially independent. In this connection, will the executive authorities inform this Council:*

- (a) *of the respective numbers of phone calls made in the past two years by the staff of the Information Officer grade in the Office of the Chief Executive, Private Offices/Offices of the Secretaries of Departments,*

bureaux and departments to the News and Current Affairs Unit of RTHK to enquire or complain about its news reports (with a breakdown by the reasons for making such calls), and the number of cases in which RTHK made changes to the contents of its reports as a result;

- (b) whether they will review if the aforesaid practice of such staff goes against the policy of safeguarding the editorial independence of RTHK; and*
- (c) of the other measures in place to honour the undertaking to safeguard the editorial independence of RTHK?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in the absence of Secretary for Commerce, Industry and Technology) (in Chinese):
President, I reply to parts (a), (b) and (c) of the question as follows:

- (a) According to the Producers' Guidelines of RTHK, news should be presented with due accuracy. As an established practice, RTHK reports news based on the veracity of facts. Nevertheless, if RTHK finds that errors may have been made after news reports have been released, or if it receives enquiries concerning the accuracy of its news reports, it will carefully investigate and make corrections if errors are so verified. RTHK handles in a fair, non-discriminatory manner all complaints and enquiries from within and outside the Government, made either in written form or through telephone, about its news reports.

Generally speaking, when Government Information Officers find any factual errors in a media report, they will check with the concerned media member through different means (including telephone enquiries) and issue clarification as necessary. Such practice does not affect editorial independence of any member of the media on news coverage.

It is one of the day-to-day duties of a media member to liaise and communicate with Government Information Officers. RTHK's English and Chinese News and Current Affairs Sections are of no exception. According to RTHK, it has not maintained any records on the number of day-to-day contacts, and the content of such contacts, with the staff of the Information Officer grade in the Office of the Chief Executive, the Private Offices/Offices of the Secretaries

of Departments, bureaux and departments. Neither do relevant government departments keep records on such normal communication.

- (b) Day-to-day liaison between RTHK and Government Information Officers is normal working communication, which is not related to RTHK's editorial independence.
- (c) In accordance with the existing policy, the Secretary for Commerce, Industry and Technology will continue to discharge his duties set out in the Framework Agreement signed between him and the Director of Broadcasting, which includes the clause on RTHK's editorial independence in the production of news and current affairs programmes.

Internet Portals Set up by Government

20. **MR FREDERICK FUNG** (in Chinese): *President, the Government has set up a number of Internet portals, namely "Hong Kong SAR Government Information Centre", "news.gov.hk", "GovHK" and "ESDlife". In this connection, will the Government inform this Council:*

- (a) *of the respective dates on which the above websites were set up, the purposes of setting up these websites and the expenses incurred, their functions and characteristics, their respective daily average hit rates and numbers of visitors, the contents of the webpages which have the highest and lowest page view rates, the government departments/contractors managing these websites, as well as the annual expenditure involved in maintaining these websites and the manpower requirements in this respect;*
- (b) *whether it has conducted a survey on the public awareness of these websites, including whether the public can distinguish the different functions and characteristics of these websites, as well as the backgrounds of the visitors and their needs; if so, of the results;*
- (c) *whether it has assessed if the functions of these websites overlap and meet the needs of the visitors; if so, of the assessment results; and*
- (d) *whether, for the purposes of saving resources and facilitating visitors, it will consider consolidating the above websites and the information they contain, with a view to providing a one-stop website which is diverse in content and user-friendly?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in the absence of Secretary for Commerce, Industry and Technology) (in Chinese):
President,

(a) and (b)

The detailed information requested in these two parts of the question is set out in the Annex.

(c) The overlapping of roles amongst GovHK (< www.gov.hk >), the Government Information Centre (GIC) (< www.info.gov.hk >) and *ESDlife* (< www.esdlife.com >) only exist in the interim period to ensure a healthy transition. The overlap will cease once the transition is over.

The new one-stop portal, GovHK (< www.gov.hk >), which was soft launched in September 2006, will soon replace the GIC (< www.info.gov.hk >) when the latter is decommissioned in May 2007. Online government services now hosted on *ESDlife* will be migrated to GovHK before the expiry of the contract between the Government and ESD Services Limited (ESDSL), the operator of *ESDlife*, in January 2008.

The news.gov.hk website (< www.news.gov.hk >) is maintained by the Information Services Department (ISD) to disseminate government news to the general public. GovHK highlights on its homepage the latest headlines on < news.gov.hk > and directs users to < news.gov.hk > for full details on the new stories released by the ISD. There is no duplication in the primary functions of the two sites.

(d) It is exactly the purpose of GovHK to provide a one-stop portal with comprehensive content and user-friendly interface. GovHK brings together useful government information and services from different bureaux/departments (B/Ds), and delivers them in clusters centred around the needs and interests of customers in particular subject areas (for example, Education and Training, Employment, Environment, Health and Medical Services and Transport and Motoring) and user groups (for example, residents and visitors). We will continue to collect customers' feedback and use them to enrich and enhance the portal to better serve citizens.

Annex

	<i>GIC</i> (<i>< www.info.gov.hk ></i>)	<i>ESDlife</i> (<i>< www.esdlife.com ></i>)	<i>news.gov.hk</i> (<i>< www.news.gov.hk ></i>)	<i>GovHK</i> (<i>< www.gov.hk ></i>)
(a) Launch date	December 1995	December 2000	December 2002	September 2006 ¹
Purpose of the website	The GIC was set up by the ISD to promote Hong Kong and disseminate government information via the Internet.	The <i>ESDlife</i> portal was set up by the ESDSL under the Electronic Service Delivery (ESD) Scheme to provide both public ² and commercial services to citizens and businesses. The ESD Scheme was one of the key initiatives under the first Digital 21 Strategy published by the Government in 1998, aimed at improving the quality and efficiency of public service delivery and pump-priming the development of e-commerce in Hong Kong. The ESDSL was selected through open tender ³ to operate the Scheme.	<i>< news.gov.hk ></i> was set up by the ISD to present government news online in a multimedia format and to enhance communication between the Government and the communities both inside and outside Hong Kong.	The GovHK portal was set up by the Office of the Government Chief Information Officer (OGCIO) to offer citizens and businesses quicker and more convenient access to a comprehensive range of government information and public services. It will replace the GIC and become the single one-stop portal of the Government from May 2007.
Expenses incurred in setting up the website	The GIC was developed by the ISD and the former Information Technology Services Department (ITSD) using in-house staff resources.	The <i>ESDlife</i> portal was developed by the ESDSL at its own cost.	<i>< news.gov.hk ></i> was developed by the ISD using in-house staff resources and contract services. The total expenditure on hardware, software and implementation services was \$9.4 million.	The GovHK portal is under development by the OGCIO using in-house staff resources and contract services. Up to end March 2007, around \$6.8 million ⁴ was spent on the engagement of contract staff and hiring contract services in customer research, portal design, information architecture development, content writing, enhancing the search function and setting up an enquiry

¹ GovHK was soft launched to the public for trial use on 6 September 2006. The design of the portal is now being enhanced based on the findings of customer satisfaction survey conducted after the soft launch. Pending the completion of the enhancements, publicity will be launched to promote GovHK and the GIC will be retired in May 2007.

² *ESDlife* hosts or hyperlinks to 200 online services offered by government B/Ds and related organizations.

³ The Government's contract with the ESDSL will expire in January 2008.

⁴ The Finance Committee of the Legislative Council approved a non-recurrent commitment of \$170.8 million in March 2006 for the development of a new one-stop access portal (now named GovHK) and the enhancement of the central infrastructure to support the implementation of citizen-centric e-government service delivery. Around 80% of the sum will be spent on enhancing the capacity and capability of the E-Government Infrastructure Service (EGIS) platform to host the existing online government services to be migrated from *ESDlife* to GovHK and the new online government services to be introduced by departments on GovHK.

	<i>GIC</i> (<i>< www.info.gov.hk ></i>)	<i>ESDlife</i> (<i>< www.esdlife.com ></i>)	<i>news.gov.hk</i> (<i>< www.news.gov.hk ></i>)	<i>GovHK</i> (<i>< www.gov.hk ></i>)
				help desk service for the users of the portal. Another 30 million has been budgeted for the further development of the portal, including content enrichment for individual user groups and clusters, over the next three years ⁵ .
Government department/contractor responsible for managing the website	The ISD is responsible for managing the GIC.	The ESDSL is responsible for managing the <i>ESDlife</i> portal.	The ISD is responsible for managing the <i>< news.gov.hk ></i> website.	The OGCIO oversees the ongoing development, operation and management of the GovHK portal in collaboration with the ISD and other relevant B/Ds.
Function and characteristics of the website	The GIC provides information on the government structure and a directory to help the public access some 200 departmental/thematic websites owned by various government B/Ds.	The <i>ESDlife</i> portal hosts a range of popular online public services developed by the ESDSL, including booking of recreational facilities (that is, Leisure Link), appointment booking for the replacement of identity cards and giving of marriage notice, e-stamping and tax return filing. It also provides related commercial content and services, such as information and services for couples planning for their wedding.	<i>< news.gov.hk ></i> provides government news and features updated as needed 24 hours a day, seven days a week, in an online newspaper format. It also offers multimedia content such as webcasts, photo galleries and videos. Users can register to personalize the homepage of the website and subscribe to e-newsletters. <i>< news.gov.hk ></i> also offers a PDA version and RSS feeds.	GovHK adopts a service clustering approach to help the public access frequently sought government information and public services according to their user profiles (for example, Residents, Business and Trade, Non-Residents) and subjects of interest (for example, Education and Training, Employment, Health and Medical Services). The portal also brings together relevant information and services from different B/Ds and presents them in the form of feature articles to help the public handle issues of common concern, for example, issues to note in hiring a domestic helper. In addition, GovHK offers an enhanced search function that help users to identify the specific content they need.

⁵ GovHK currently provides mostly hyperlinks to departmental/thematic websites owned by individual government B/Ds. The OGCIO will work with relevant B/Ds to migrate information and services that are most frequently sought by the public from their departmental/thematic websites into the relevant clusters on GovHK. The migration process will be incremental and is expected to take about three years.

	<i>GIC</i> (< www.info.gov.hk >)	<i>ESDlife</i> (< www.esdlife.com >)	<i>news.gov.hk</i> (< www.news.gov.hk >)	<i>GovHK</i> (< www.gov.hk >)
Daily average page views, hits and visits ⁶	Daily average page views (from January 1997 to March 2007) 395 000 Daily average hits (from June 2004 to March 2007) 4 million Daily average visits (from June 2004 to March 2007) 32 000	Daily average page views (from December 2000 to March 2007) 363 000 Daily average hits (from December 2000 to March 2007) 3.2 million Daily average visits (from December 2000 to March 2007) 55 000	Daily average page views (from December 2002 to March 2007) 95 000 Daily average hits (from June 2004 to March 2007) 510 000 Daily average visits (from June 2004 to March 2007) 9 400	Daily average page views (from September 2006 to March 2007) 29 000 Daily average hits (from September 2006 to March 2007) 602 000 Daily average visits (from September 2006 to March 2007) 6 200
Webpage receiving highest page views in March 2007	The webpage offering a collection of RSS feeds (< http://www.info.gov.hk/rss/eng/index.htm >) received the highest page views in March 2007.	The <i>ESDlife</i> portal offers both government and commercial content. In terms of online government services, appointment booking for the replacement of Smart Identity Card and Leisure Link are the two most popular applications.	The content of < news.gov.hk > is updated throughout the day. Major government announcements tend to attract more visitors.	The Traditional Chinese version of the GovHK homepage received the highest page views in March 2007.
Webpage receiving lowest page view in March 2007	More than one webpages received the lowest page view in March 2007, for example, past speeches and consultation papers in archive.	The online government service for the notification of pre-mature termination of employment contracts of imported workers/foreign domestic helpers is the least popular.	More than one webpages received the lowest page view in March 2007, for example, past news stories in archive.	More than one webpages received the lowest page view in March 2007, for example, Simplified Chinese version of certain webpages.
Annual expenditure on the maintenance and manpower required	The GIC is hosted on the Government's own infrastructure. The cost of providing the central web hosting service for the portal was about \$1.1 million in 2006-2007. Six staff members of the ISD are involved in the daily operation and management of the GIC.	The <i>ESDlife</i> portal is hosted and maintained by the ESDSL at its own cost. Under the ESD contract, the Government has been paying a monthly subscription fee of \$400,000 and a transaction fee of \$5.5 per chargeable transaction to ESDSL since mid-2005 (that is,	< news.gov.hk > is hosted on the Government's own infrastructure. The costs of hosting, maintenance, licensing and communications costs of the website added to about \$2.2 million in 2006-2007. Eight staff members of the ISD are involved in	The GovHK portal is hosted on the Government's own infrastructure and is still under development. In future, the portal and its clusters will be jointly managed by the OGCIO, ISD and relevant B/Ds using in-house staff resources and contract services as appropriate. To support the operation

⁶ The statistics on page views, hits and visits of the GIC, < news.gov.hk > and GovHK were collected by the Government of the Hong Kong Special Administrative Region Web Sites Visitors Statistics System. Statistics on page views are available since January 1997, whereas statistics on hits and visits are only available from June 2004. According to the System, a page view is the result of a request for a particular webpage. A hit refers to a single action on the web server as it appears in the log file. (A visitor downloading a single file is logged as a single hit, while a visitor requesting a webpage including two images registers as three hits on the server: one hit is the request for the .html page, and two additional hits are requests for the downloaded image files.) A visit refers to all the activity, from beginning to end, of one visitor to a website. (If a visitor is idle longer than 30 minutes, the System assumes the visit was voluntarily terminated. If the visitor continues to browse a website after they reach the 30-minute idle time-limit, a new visit is counted.)

	<i>GIC</i> (<i>< www.info.gov.hk ></i>)	<i>ESDlife</i> (<i>< www.esdlife.com ></i>)	<i>news.gov.hk</i> (<i>< www.news.gov.hk ></i>)	<i>GovHK</i> (<i>< www.gov.hk ></i>)
		one year after the threshold of 2.3 million chargeable transactions was reached in mid-2004).	the daily operation and management of <i>< news.gov.hk ></i>	of the portal, the OGCIO estimates that around \$10 million per year will be required for ongoing customer research, content development and updating, enhanced search function and help desk services, and so on.
(b) Findings of survey	An online survey was conducted in 2002. Respondents rated the GIC favourably in terms of its user friendliness/ease of navigation, design and layout, content coverage and updating. A number of users also made suggestions and comments on the search engine.	According to the Thematic Household Survey on Information Technology (IT) Usage & Penetration conducted by the Census and Statistics Department (C&SD) in 2006, over 40% of persons aged 15 and over were aware of the ESD scheme.	During the design and development stage and the soft launch of the website, the ISD conducted a number of focus-group discussions with potential users of <i>< news.gov.hk ></i> , including those from the media, business/industry sector, academia and the community at large, and used their inputs to refine the design of the website.	<p>Six rounds of customer research were conducted before the soft launch of GovHK to gauge public views on the service propositions of the portal, its design, information architecture and usability. Tests were also conducted with visually impaired members of the community to collect their feedback and help improve the accessibility of the portal.</p> <p>A customer satisfaction survey was conducted in September to November 2006 (after the soft launch) to gauge citizens' views on GovHK. 500 respondents responded to a telephone interview. 87% of them found it easy to search for the information and services they require on GovHK and 79% said that they would recommend GovHK to others.</p> <p>More customer research has been and will be conducted with focus on individual clusters and user groups. Online survey and future Thematic Household Surveys on IT Usage & Penetration conducted by the C&SD will also help to keep track of public views on the design and content of GovHK.</p>

MEMBERS' MOTIONS

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

First motion: Combating Unscrupulous Shops. I now call upon Mr LAU Kong-wah to speak and move his motion.

COMBATING UNSCRUPULOUS SHOPS

MR LAU KONG-WAH (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

Hong Kong has all along been regarded as a shopping paradise. With the economic take-off on the Mainland, visitors from the Mainland with a greatly increased consumption power flock to Hong Kong. But they are mercilessly ripped off when they spend in this shopping paradise. The city of no fakes which the Hong Kong Government has been working so hard to build is now under serious threats.

Certainly, there are bound to be black sheep in any community. And despite the fact that the overwhelming majority of merchants in Hong Kong are honest traders, the kind of complaints about inferior quality of products sold which we heard in the past were no more than sporadic cases. But ever since the end of last year, newspapers are full of headlines like "tourist bought crap watch in Hong Kong for tens of thousand dollars", "tourist gets glass at price of diamond", and "tour guide dumps tourists on the street after failing to lure them into buying". We have been hearing more and more of this kind of negative reports.

In fact, the Hong Kong Consumer Council has been receiving an increasing number of complaints from mainland tourists year after year. Last year, there were more than 1 500 such cases. A survey called the International Crime Victims Survey was conducted by the United Nations last year. According to the preliminary findings announced in October 2006, 22% of the respondents in Hong Kong said that they had been deceived in one way or another when they spent in Hong Kong. From this, it can be seen that customers being ripped off by unscrupulous shops are no longer sporadic incidents and it can be said that the problem has become rampant.

The China Central Television (CCTV) made an *exposé* early last month of shops in Hong Kong ripping off mainland customers. After this, the public in Hong Kong demands that the Government must no longer pretend that it does not know anything about such events and continue to let these unscrupulous shops doing whatever they can to rip off the tourists and hence jeopardize our tourism industry which fetches an annual revenue of upwards of \$100 billion for Hong Kong.

Despite the fact that there are about a dozen laws in Hong Kong which seek to curb sales malpractices which deceive or mislead customers, the relevant provisions are scattered in laws such as the Sale of Goods Ordinance, Control of Exemption Clauses Ordinance, Trade Descriptions Ordinance, and so on. These provisions are not comprehensive enough and they are fragmented and lacking in uniformity. Hence, it is difficult for consumers to gain a good understanding of the law to protect their due rights and interests. To protect consumer rights and interests effectively and to punish unscrupulous merchants for their malpractices, there must be a coherent and complete set of laws. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) in fact proposed two years ago to consolidate the provisions related to protection of consumer rights and interests in the existing legislation into a Protection of Consumer Rights and Interests Ordinance.

The CCTV reports on the malpractices of these unscrupulous shops serve as a wake-up call to the Government and prompt it to initiate a study into the possibilities of introducing a law on sales practices to show that the Government is determined to crack down on sales malpractices. Certainly, we welcome this. However, as much time is needed to draft laws and as the saying goes, water from afar cannot put out a fire raging right before us, we therefore think that it would be preferable to consolidate the existing legislation into a coherent law. Such a complete law would be the most suitable option to pursue under the pressing circumstances currently.

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

Apart from this, it is very important to conduct a review of the contents of the relevant laws and clarify the grey areas therein. Take the example of undesirable practices like alluding to particular brands or misleading customers,

of the over 10 laws on protecting consumer rights and interests, there is none to regulate such malpractices. The most common way to rip off customers these days is precisely the trick to allude to name brands and offer goods that are grossly inferior in quality.

Such kind of acts to mislead customers may not contravene any provisions on counterfeits or trade descriptions and hence the existing Trade Descriptions Ordinance cannot be invoked to press charges against the offenders. The result is that the unscrupulous shops get emboldened by this loophole. Many years ago the Consumer Council already submitted a report to the Government, pointing out that existing laws were inadequate in curbing misleading sales practices. In 2004, the Government began a review of the law on consumer rights and interests but the problem of alluding to particular brands was not addressed. From this, it can be seen that in order to eradicate the trick of passing off goods of inferior quality as international brands and ripping off customers, the most pressing task is to conduct a review of the existing law with a view to effectively preventing allusions from being made to particular brands and other misleading sales practices.

Those mainland tourists who complain of being cheated while shopping in Hong Kong are mostly those on packaged tours and led to visit these shops and get swindled. And most of these cases are related to zero-fare tours. Some time ago, the China National Tourism Administration (CNTA) promulgated eight initiatives to regulate the market order. As the events touch on regulation by both sides, we agree with the point raised in an amendment that the Hong Kong tourism authorities must co-operate with the relevant mainland authorities to thoroughly combat the problems arising from zero-fare tours and to enhance publicity on consumer protection information among mainland tourists.

Deputy President, it is known that at present there is no official channel for mainland tourists who have left Hong Kong to lodge complaints. If they are cheated while shopping in Hong Kong, they have to apply for permission to come to Hong Kong again in person to pursue the matter or lodge a complaint. A newspaper had approached some 20 mainland tourists who complained in an unofficial website the experience of being cheated in Hong Kong and the money involved amounted to more than \$100,000. It was found that in the end only three persons succeeded in getting a refund. As for the remaining complainants, either they failed to get any results after pressing their case for a

long time or they just gave up asking for a refund because they lived too far away and they could get no assistance.

Although the Individual Visit Scheme (IVS) is implemented in the major cities on the Mainland, those who want to come to Hong Kong would in any case have to make an application and undergo vetting and approval procedures. It is very likely that these people have to return to Hong Kong in person to lodge their complaints or assist in the follow-up of their cases. So they would have to spend time and money before they can get any compensation. The result is that those who are cheated would rather swallow the grudge than do anything. This has indirectly perpetuated the malpractices of these unscrupulous shops.

In view of this, we propose that the Government should ask the Travel Industry Council (TIC) to set up a formal complaint website so that mainland tourists can have a formal channel to lodge complaints even after they have returned home. This will show that Hong Kong is sincere in protecting mainland tourists. Also, setting up a website may serve to deter those unscrupulous shops from thinking that they may get away with their rip-offs and that the victimized tourists may not pursue the matter. This would be helpful to the handling of such cases and following up with the victims.

This problem of the tourism industry ripping off tourists must be faced squarely. Apart from those unscrupulous shops which are the cause of the problem and they must be prohibited from doing so, those travel agents who arrange for tourists to visit these shops and those tour guides who coerce tourists into shopping are also accomplices in these rip-off cases. What they are doing will also destroy our tourism industry, so appropriate actions must be taken on them.

Now all the shops which have made a shopping arrangement with the travel agents to receive group tour visitors must be registered with the TIC and they must pledge to carry out the 100% Refund Guarantee Scheme and come under the regulation of the demerit points system. The TIC has set up a clear-cut demerit points scale to set out the kinds of circumstances under which a shop will be given demerits. The sanction mechanism also lists in detail the different punishments for the numbers of demerit points accumulated. In comparison, there is no system to regulate travel agents and there is no clear-cut mechanism on the punishments to be meted out to travel agents which have violated the relevant rules, for the Board of Directors of TIC will handle the cases on an individual basis.

Since shops which receive group tour visitors are subject to the regulation of a demerit points system, the other key players in these rip-off cases, that is, the tour guides and travel agents, should also be put under the regulation of a demerit points system. This system will serve to institutionalize the regulation of the tourism industry and boost the transparency and integrity of the industry and the TIC. The DAB hopes that the Government will talk with the TIC as soon as possible and make concerted efforts to enhance the quality of the local tourism industry.

With these remarks, I beg to move.

Mr LAU Kong-wah moved the following motion: (Translation)

"That, in view of the rising number of cases of mainland tourists being cheated while shopping in Hong Kong, this Council urges the Government to adopt active measures to rigorously combat unscrupulous shops ripping off customers and to strengthen the regulation of the tourism industry, in order to restore the confidence of tourists coming to Hong Kong for shopping, including:

- (a) studying the consolidation of the provisions relating to protecting consumer rights and interests in the existing legislation into a Protection of Consumer Rights and Interests Ordinance;
- (b) comprehensively reviewing the existing legislation on protecting consumer rights and interests, and tightening up regulation to cover the marketing practices of alluding to particular brands or misleading the customers;
- (c) enhancing the regular inspections and "undercover" operations carried out by the police and the Customs and Excise Department to crack down on shops engaging in fraudulent practices and selling fake products;
- (d) requesting the Travel Industry Council of Hong Kong (TIC) to set up a complaint website, so that mainland tourists may lodge complaints through the website after their departure from Hong Kong;

- (e) expeditiously discussing with the TIC the introduction of a demerit point system to regulate travel agents and tour guides; and
- (f) fully disclosing the parties involved in complaint cases, including the names of shops, the local and mainland travel agents, as well as the tour guides concerned."

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

DEPUTY PRESIDENT (in Cantonese): Mr Howard YOUNG and Mr Fred LI will move amendments to this motion respectively. Mr SIN Chung-kai will move an amendment to Mr Howard YOUNG's amendment. The motion and the two amendments will now be debated together in a joint debate.

I will call upon Mr Howard YOUNG to speak first, to be followed by Mr Fred LI and Mr SIN Chung-kai, but no amendments are to be moved this stage.

MR HOWARD YOUNG (in Cantonese): Deputy President, since the CCTV aired a report early last month alleging that unscrupulous shops in Hong Kong had ripped off tourists, the relevant departments of the SAR Government, the Travel Industry Council of Hong Kong (TIC), the Hong Kong Tourism Board (HKTB), and so on, all made hasty efforts to tackle the problem. They discussed the matter with the China National Tourism Administration (CNTA) and took a number of initiatives to combat such sales malpractices and boost the protection of consumer rights and interests in order to restore the confidence of mainland tourists. Such initiatives have gained the support of the majority in the industry who engage in honest business and they are furious about the minority black sheep in the industry who have tarnished the reputation of the Hong Kong tourism industry.

Despite the fact that in the Labour Day Golden Week just past, the number of mainland visitors to Hong Kong has surged instead of fallen compared with the same period last year and that is evidence that the remedial measures have worked well among the mainland visitors, I think we must still examine what can

be done to deal with these black sheep in the industry. This will prevent any damage done or blemish made to our reputation as the Pearl of the Orient and shoppers' paradise.

The Liberal Party is very supportive of the eight regulatory measures promulgated of late by the CNTA, including the two sides using what is known commonly as undercover operations and random inspections to step up action to crack down on shops selling goods at exorbitant prices or goods of inferior quality, promoting "Honest and Quality Hong Kong Tours", and so on. We consider that if these initiatives are thoroughly implemented, they should be able to address the problem effectively, hence enabling the tourist industry on both sides to develop in a healthy manner.

As a matter of fact, mainland visitors who are cheated in Hong Kong mostly have the experience at the shops under a designated shopping arrangement. Therefore, the root of the problem — including that of unscrupulous shops ripping off customers — actually lies in the zero-fare tours of the Mainland. It follows that we must tackle the problem at root, work closely with the relevant departments of the Mainland and take actions as appropriate before the problem can be addressed.

So we think that one of the ways to solve the problem is to impose the same requirement on mainland travel agents as their Hong Kong counterparts and forbid them to collect additional charges from members of a tour for leaving the tour group before the completion of the itinerary. The reason for this is that those travel agents who offer Hong Kong and Macao tours at "super bargain prices" will rely on tourists doing a lot of shopping in the designated shopping spots in order to get the massive commission in return to offset the tour costs, that is, the board and lodging, transport expenses and tour guide fees, and so on. Therefore, many travel agents will stipulate in the contract entered into with their clients that a surcharge will be levied if members of a tour leave before the itinerary is completed. There is no such requirement for outbound tours departing from Hong Kong. Hence, forbidding travel agents to collect such surcharges will serve to raise the costs of such problematic bargain tours significantly, thereby effectively eliminating the problem of zero-fare tours.

The guidelines on reference tour fares issued by the CNTA can help check the appearance of zero-fare and negative-fare tours, but what are the penalties for

violating these guidelines? Will a fine be imposed, or the licence revoked or some other punishments given? I think the mainland authorities are presently looking into this problem. If a transparent system of penalties or licence revocation is set up, this should be able to boost public confidence and prevent unscrupulous businessmen from exploiting the loophole to make ill-gotten gains.

Deputy President, I have another solution and, that is, to foster healthy competition among the mainland travel agents. Of the 1 000-plus travel agents in Hong Kong, only three are permitted under CEPA to organize Hong Kong and Macao tours in Guangdong Province. But the Liberal Party thinks that the mainland authorities should allow more quality and reputable Hong Kong travel agents to operate such tours. This will lead to healthy competition with the mainland travel agents. When the conditions are ripe, this permission can be extended gradually to places outside Guangdong Province. This would help address the problems.

We cannot just rely on the Mainland to crack down on zero-fare tours, and the tourism industry in Hong Kong is also duty-bound to take actions to deal with problems caused by zero-fare tours. That is why the TIC of Hong Kong has recently announced eight rigorous measures including extending the time limit for protection under the 100% Refund Guarantee Scheme to 180 days. This shall apply to mainland tour groups doing designated shopping.

One of the reasons for tourists being swindled by the unscrupulous shops is that the tour guides receiving the mainland tour groups are not paid any salary or tour guide fees. They can only depend on the commissions. Furthermore, sometimes the tour guides may even have to pay for the tour costs in advance and hence the oddity of paying first before getting paid happens. Such a practice is not recognized across the industry. The local tour guides, in their attempt to get back what they have paid in advance and as they are driven by the attraction of getting more in commission as more purchases are made, may resort to luring and coercing tourists into buying goods not worth the prices paid or goods of an inferior quality. Now the TIC has reached an agreement with the tour guide associations and the travel agents whereby tour guides receiving mainland visitors will be given a tour guide fee on each assignment and they will not have to earn their living by the commission they get. The Liberal Party thinks that this should be able to reduce the incentive for tour guides to rip off tourists. We therefore propose the expeditious introduction of a fees or salary system for tour guides.

Thanks to the efforts of all quarters, the number of mainland visitors coming to Hong Kong during the Labour Day Golden Week registered a growth of 30% and that is certainly impressive. There were no complaints about fakes or visitors being coerced into buying anything during the first six days of the Golden Week. LI Gang, the Deputy Director of the China Liaison Office in Hong Kong said that the recent measures introduced in Hong Kong to protect mainland visitors in shopping had proven effective. All these show that the TIC can effectively regulate the industry and better protect the rights and interests of visitors.

For this reason, with reference to Mr Fred LI's proposal to transfer the TIC's function of monitoring the tourism industry to a new statutory regulatory body to avoid the problem of "the industry regulating its own members", the Liberal Party considers that this would serve to destroy completely the credibility which the TIC has built up all through the years and wipe out its contribution to the tourism industry.

The TIC was established in 1978 and it has a history of about 30 years. The TIC has all along been regulating outbound tours only. Starting from 2002, it has been supervising inbound tours as well. The TIC has been taking active steps to look for improvement initiatives. The sincerity of the TIC in fostering healthy development in the industry and the contribution it has made are commonly acknowledged.

Deputy President, we must not forget that of the 25 members on the TIC Board of Directors, eight are independent directors appointed by the Government, accounting for one third of the membership. This practice is not found in most other professional bodies. Even in self-regulatory bodies among the barristers and accountants, for example, one can seldom find such a high proportion of lay members on their governing board.

If an appeal case is to be heard, the Appeal Committee shall consist of three independent members and two trade members. The chairman of the Appeal Committee would in most cases be an independent member. This would ensure the impartiality of the hearings. I think these measures should to a great extent be able to prevent the problem of conflict of interest. I also believe that such a mode of self-regulation by the industry would be better than the proposal made by Mr Fred LI to set up another body.

As for Mr SIN Chung-kai's amendment to my amendment, I think that our views are actually quite similar and, that is, to provide more information to visitors coming to Hong Kong on how to avoid being cheated and how help can be sought should anything happen, as well as on enhancing the rights and interests of mainland visitors as consumers. I would like to point out, however, that these are not the duties of the TIC, but those of the HKTB. So I hope Mr SIN can lend his support to the approach we take on these matters. We also hope that he can give support to the work and resources of the HKTB as well.

While enhancing the education of visitors on their rights and interests, we should enable the visitors to know clearly the risks of zero-fare tours so that they can make an informed decision. This would be equally important.

Deputy President, I so submit.

MR FRED LI (in Cantonese): Deputy President, my proposed amendment today seeks to add in the original motion "in the cases of travel agents incurring demerit points due to non-compliance with the rules, examining how to prevent their directors from evading the penalty by changing their company names to continue operations;" and "studying the transfer of the TIC's function of monitoring the tourism industry to a new statutory regulatory body to avoid the problem of 'the industry regulating its own members'."

These two amendments are crucial to improving the tourism industry in Hong Kong.

Deputy President, it is no news that local travel agents use fraudulent means to rip off customers. Since the reunification, the number of mainland tourists has been increasing. Inbound mainland tourists being sold down the river or cheated in shops arranged by the travel agents in shopping is a very common and serious problem.

Although every time when such disgraceful news broke out, the TIC would come out immediately and say that they would step up monitoring and formulate better systems to protect the tourists, once the incidents died down, some travel agents would resume their old ways and rip off mainland customers like before.

I believe the reason for the failure of the TIC to curb the malpractices of some unscrupulous travel agents in Hong Kong is attributable not to the

regulatory system not being sound enough, nor the tight resources. The real reason lies in the structural contradiction of "the industry regulating its own members".

Let us look at the TIC which started its regulation of outbound travel agents in 1988. The Government appointed four independent directors into the TIC in 1994. After legislative amendments introduced in 2002, the TIC extended its regulation to travel agents receiving inbound mainland tourists. The Democratic Party then vigorously proposed the addition of non-industry directors and the Government increased the number of independent directors from four to eight. Mr Howard YOUNG seemed very proud when he mentioned just now that the independent directors account for one third of the board, but we have to realize that among the eight so-called independent directors, four are recommended by the TIC and have to go through a selection process. Hence, those eight directors are in fact not entirely appointed by the Government without consultation with the TIC. Some of them are recommended. Thus, actually, among the 25 directors, eight of them are non-industry members while the rest are all bosses of travel agents — and of course, also the bosses of Mr Howard YOUNG. As they are his voters, he surely has to support the TIC. This is an unavoidable role he has to play and he surely needs to preserve the TIC. He is different from us. We are neutral. We judge matters from the perspective of the public. The TIC is indeed regulating its own industry by its own members, that is, the travel agents.

The Democratic Party holds that to protect the rights and interests of tourists, the Government has to play a more active role. I mentioned this to the then Commissioner for Tourism, Mrs Rebecca LAI, in 2002. She also agreed that in the long run, a study needed to be carried out, and that we should not rely on self-regulation by travel agents alone. I hold that the Liberal Party has too many interests and too many roles to play. I hope that the Secretary can look at the situation of this Council. In the last meeting of the Panel on Economic Services, I proposed a similar amendment to Mr Howard YOUNG's motion. The voting result was four votes to four votes — the four votes for the amendment came from the Civic Party, the DAB and us, the Democratic Party; while the four votes against the amendment were all from the Liberal Party, including the president of the meeting at that time, Mr Jeffrey LAM. We can thus see that the interests involved are overwhelming.

The Travel Agents (Amendment) Ordinance 2002 requires all travel agents providing travel services to inbound foreign tourists to apply for a licence and the licensing requirement is that they must become a member of the TIC.

With this Ordinance, the Administration further handed over the responsibility of managing travel agents to the industry. Although the Registry of Travel Agents is tasked with the registration of travel agents, without which travel agents cannot conduct travel business, it is the TIC that acts as the gatekeeper for compulsory membership, without which a travel agent cannot be established in the first place. Hence, the TIC basically controls the life and death of the travel agent industry.

Taking reference from neighbouring countries and regions, we find that the tourism industry in most of them is supervised by a government or statutory body, rather than associations such as a business association or the TIC. For example, the China National Tourism Association (CNTA) and the Ministry of Trade and Industry of Singapore take charge of the registration of travel agents and supervision of their operation, and the CNTA handles also tourist complaints. In India and Malaysia, their travel agents are also supervised by the tourism department of the government. Why then in Hong Kong our travel agents are supervised by a business association?

Regarding supervision of the industry by a statutory body, my amendment only proposes to the Government to study rather than proceed immediately with this proposal, so I wish Members could pay attention to the wordings. We hold that we should examine making another non-industry-led statutory body carry out regulation, which will be more credible, independent and comprehensive in balancing the interests of travel agents and tourists.

We want to declare our stance that the Democratic Party, by putting forward this proposal, does not — I reiterate — does not mean to disband the TIC. Please do not smear me on this. I am not seeking to disband the TIC. In fact, the TIC, like other business associations, functions as an association representing the industry and we totally respect that. However, the problem is that we cannot accept that it also plays the roles of the police and the legislator. This we cannot accept, and thus I have put forward this proposal.

Moreover, my other proposed amendment seeks to amend the existing Travel Agents Ordinance. Regarding the two responsible directors, we need to examine the issue that, in the cases of travel agents incurring demerit points due to non-compliance with the rules, the directors themselves also have to be held responsible and that they should be prevented from evading their responsibility by changing their company names to continue operation. We hope this can be

implemented as soon as possible. For example, the Majestic Watch & Jewellery Company, which is the target of many complaints recently for selling products with false trade description, was exposed by the industry that it has often "sloughed its skin like a cicada". This is talking about those designated shops. To evade customers' pursuit of responsibility and the demerit point system of the TIC, the company has been changing its name and continuing operation at the same address. We totally agree with Mr Howard YOUNG's amendment on, among others, how to carry out supervision, but the problem lies in the fundamental structural contradiction mentioned by me just now. I emphasize once again that the industry should not be regulating its own members.

We see that the Chairman of the Liberal Party is also the Chairman of the Hong Kong Tourism Board (HKTB) and the previous Chairman of the HKTB was the Deputy Party Chairman. Mr YOUNG is a member of the Liberal Party and the TIC has members from the Liberal Party. The director of the Expo Global Limited, a company named by the China Central Television (CCTV) for criticism some time ago, is also a member of the Liberal Party. I reckon that the two major organizations of the tourism industry — the HKTB and the TIC — have very close ties with the Liberal Party. This is a fact. I thus hope that other Members of this Council can see the conflict of roles they play and their problems, and I also hope that other Members of this Council can examine fairly and squarely the best way forward for the tourism industry.

The HKTB does not supervise travel agents. No matter how diligent Mr James TIEN has meetings with the Mainland, the function of the HKTB remains promoting tourism. The \$300 million to \$500 million allocation to the HKTB is for marketing and promotion, not for regulating the tourism industry or the trade. I thus hope that Members can distinguish these facts.

An opinion poll conducted by the Democratic Party in May indicates that more than 70% of the public hold that the recent news coverage on products with false trade description and the flurry of news reports by the CCTV will seriously damage the image of our tourism industry. Many interviewees — nearly 50% of them — are dissatisfied with the approach adopted by the TIC in handling the matter. Only more than 30% of the interviewees are satisfied with the approach while 50% hold an opposite view. This reflects the public view. 63% of the public support our proposal, that is, the setting up of a statutory body to replace

the TIC to supervise the tourism industry. This is a survey just conducted by us with 659 members of the public interviewed. This is a scientific survey.

I hope Honourable colleagues can carefully examine and support the amendment proposed by the Democratic Party.

MR SIN CHUNG-KAI (in Cantonese): Deputy President, I would like to take this opportunity to tell the Secretary that the Government is suspected of conniving at the Liberal Party controlling the tourism industry. I think that the Government should confirm to the community that the remark made by Mr Fred LI earlier was not a slander but an objective fact. The Government should examine how a constituency can be controlled by a political party.

Deputy President, the amendment proposed by me today seeks mainly to amend Mr Howard YOUNG's amendment in relation to the installation of television facilities at border control points to publicize tourism information. Actually, a similar proposal was already raised by me to the Customs and Excise Department (C&ED) when the policy address and Budget were published. The C&ED was of the view that it was outside its ambit or area of work. However, as Members are aware, when passenger clearance was at its peak during the Golden Week or festive holidays, mainland tourists were required to wait more than an hour before they could cross the boundary. Given the considerable waiting period, they can be shown Announcement of Public Interests (APIs) on television to kill time. At the same time, publicity can thus be achieved. Actually, mainland tourists simply have no idea how to tell the difference between the four organizations relating to the tourism industry, namely the Travel Agents Registry, Hong Kong Tourism Board (HKTB), Tourism Commission and Travel Industry Council (TIC). As they must be told how complaints can be lodged, the Government may teach them in Putonghua in APIs the channels available for lodging complaints. I consider that this is necessary. Regarding the point raised by Mr Howard YOUNG earlier, that publicity should be conducted by the Tourism Commission, I have not mentioned in my amendment which organization should take charge of this. Actually, it is most important for the Government to find relevant.....

DEPUTY PRESIDENT (In Cantonese): Mr Howard YOUNG, what is your question?

MR HOWARD YOUNG (in Cantonese): I was referring to the Hong Kong Tourism Board (HKTB), not the Tourism Commission or Travel Industry Council (TIC).

MR SIN CHUNG-KAI (in Cantonese): I know. I heard he mention the HKTB. However, I did not mention in my amendment that the HKTB should be responsible. I merely feel that someone should be responsible for this task. The Government should find someone to take charge of it because this will be greatly helpful to tourists.

Second, holders of mainland telephone cards using roaming services — it would actually be greatly effective for the Tourism Commission and relevant tourism organizations to collaborate with telecommunications service operators to send complaint telephone numbers to tourists by intra-operator messages — complaints can be lodged if telephone numbers are available. This is better than Mr James TIEN's proposal of distributing leaflets in Shenzhen as the distribution of leaflets or publication of the telephone numbers on newspapers lasts only one day. I hope the Government will adopt this effective method.

Furthermore, it is very important to enhance transparency and strengthen accountability in the regulation of the tourism industry. I would like to refute a point raised by Mr Howard YOUNG, that many professional bodies are not operating in such a liberal manner as the TIC, in which many laymen are appointed. I would like to emphasize that professional bodies and regulation of trades and industries are two separate issues. Professional bodies do advocate self-regulation. For instance, the Hong Kong Association of Banks of the banking industry is responsible for discussing and formulating best practices, whereas the Hong Kong Monetary Authority is obliged to supervise the banking industry. By the same token, the Government is obliged to supervise the tourism industry. The Travel Agents Registry, a licensing organ devised by the Government years ago, should actually be responsible for licensing and supervision. However, the Government holds that the tourism industry should be regulated by the TIC instead. Therefore, for the purpose of meeting licensing requirements, all companies must be members of the TIC before they can successfully register with the Travel Agents Registry. The consequences are predictable should the licensing system be abolished. Actually, regardless of whether regulation is effected by the Travel Agents Registry or, as proposed

by colleagues from the Democratic Party, by the newly-established regulatory organ, the Government can still beef up the Travel Agents Registry by conferring on it solid powers to regulate the tourism industry or travel agents.

The newly-established body, though armed with teeth, is powerless — sorry, it does have teeth because it is empowered to revoke licences. However, it is powerless. This is why it is said to be powerless, though armed with teeth. These regulatory organs have been turned by the Government into showcases. Later on, Secretary Stephen IP may speak for five to 10 minutes to give us a detailed response. However, the outcome will still be useless. I suppose the Government can consider the suggestion made by the Democratic Party concerning whether a political party should be allowed to govern its own people.

Deputy President, it is not the first time that this amendment is proposed by the Democratic Party. When an ordinance on inbound tours was amended as early as 2002, a similar proposal was already proposed by Mr Fred LI in relation to the legislation. At that time, the Government adopted a delaying tactic, saying that the enforcement of the legislation would be examined. Year after year, however, nearly two decades have passed since the introduction of the system in the '80s. A system was hastily devised by the Government then because of problems with outbound tours. Two decades down the line, the Secretary has been in charge of this work for five years. I wonder whether the Secretary will still be responsible for this task in the next term. Actually, it is now timely to review the entire system to examine which of the four organs should be given genuine powers to regulate travel agents.

With these remarks, Deputy President, I hope the Government can conduct a thorough review.

MR WONG KWOK-HING (in Cantonese): Deputy President, since the opening up of mainland provinces and cities in 2003 to allow mainlanders to travel to Hong Kong under the Individual Visit Scheme (IVS), the territory's tourism industry has been swiftly driven by mainland tourists and the sluggish economy has improved. Nowadays, mainland tourists have become the major source of clients for the local tourism industry. Visitor arrivals from the Mainland exceeded 1 million monthly during the period from January to March this year.

The growing number of mainland tourists in recent years has led to the emergence of travel agents and tour guides specially receiving mainland tourists. However, under the influence of zero-fare tours and unscrupulous practices, there have been frequent complaints about mainland tourists being cheated, abandoned on the streets, forced to do shopping, and so on. We cannot help ask these questions: Why would this happen? Why would this frequently happen to mainland group visitors to Hong Kong and most of the tours are so-called mainland shopping tours?

Actually, a number of tour guides receiving mainland tour groups have continuously pointed out that the crux of the problem lies in the charging of zero or extra-low fares for shopping tours as a gimmick to attract mainland tourists. As a result, mainland travel agents organizing tour groups and Hong Kong travel agents receiving them have to rely on shopping commission to cover their costs and profits. Furthermore, local tour guides have no basic salaries and are not protected by labour insurance or the Mandatory Provident Fund. Relying merely on their share of commission, they are like being perpetually put on "saline drip" for not only are their income low, they do not have much work to do as well. As a result, a small fraction of tourist guides have resorted to unscrupulous practices to cheat tourists for the sake of making a living. The bad conduct of these few tour guides has seriously undermined the image of the industry. However, the actual predicaments of the majority of tour guides have not been appreciated by society.

In fact, unions of tour guides under the Hong Kong Federation of Trade Unions already reflected the predicaments of tour guides as early as the middle of last year, pointing out that tour guides not only had no basic salaries, they were also bullied by travel agents such that they had to make advance payments for expenses on hotel accommodation, meals for tourists, and so on. Should they refuse to make advance payments, they would immediately lose their jobs. Tour guides already fought for basic salaries back in last year in the hope of protecting the living of their families with a basic income.

Over the past couple of years, however, no progress at all has been made by the Government and the TIC in targeting these malpractices, and tour guides were still leading a difficult life. It was only until a disclosure by the China Central Television (CCTV) through an "undercover" operation last month of the malpractices of misleading mainland tourists and selling faked goods to them in Hong Kong that the Government and the TIC took the initiative to enforce urgent

combating measures to require operators of designated tourist shopping points to offer mainland tourists a 180-day unconditional refund period. Following the introduction of these measures, however, relevant travel agents and designated operators somehow transferred the impact onto tour guides and their employees by announcing that tour guides could receive commission only after 180 days instead of being paid commission immediately as they used to be. This led to strong dissatisfaction from the Hong Kong Tour Guides General Union. Protesting against "working without pay", it was prepared to express its discontent through such actions as strikes, processions, and so on.

In this connection, I joined the Hong Kong Tour Guides General Union to convene two meetings with the TIC, the Government and other tour guide unions and succeeded in fighting for the travel agents' consent to offer tour guides fees in respect of mainland shopping tours in Hong Kong. While the TIC will be responsible for formulating the relevant guidelines, various unions have proposed that \$500 per tour be set as a starting point. The TIC has also disallowed travel agents from forcing tour guides to "buy group tours". Furthermore, travel agents must not require tour guides to make any advance payments or withhold tour guides' wages, or else they will be fined or have their licenses suspended. The TIC's consent for these requests by unions and decision to take these measures are welcomed by us.

The Government has also undertaken that it will seriously follow up the various illegal practices of unscrupulous travel agents and unscrupulous shops, as reported by unions or tour guides. All these measures will help crack down on the black sheep in the industry and reverse the existing undesirable practices.

Subsequent to the recent disclosure by the CCTV, the number of mainland visitors to Hong Kong during the Golden Week has not fallen but risen to 356 000. However, most of these mainland visitors have come to Hong Kong under the IVS. The number of mainland group visitors has, however, dropped 13% over last year to 20 900. Without efforts made by various parties, I am afraid the number of group visitors to Hong Kong might have even dropped beyond this figure.

Deputy President, owing to the revealing story by the CCTV, the Government, the TIC and the industry have all striven hard for changes. Even the Customs and Excise Department has pointed out that following its operations against the sales of fakes over the past three weeks, no more organized sales of

fakes to cheat tourists have been found. All these are conducive to restoring mainland visitors' confidence in joining group tours to Hong Kong.

In the final analysis, however, for the purpose of turning deeds from bad to good, the ripping off of customers by unscrupulous shops must be rooted out at source by vigorously advocating and promoting "honest and quality tourism" and "quality tourism" in both the Mainland and Hong Kong. Furthermore, zero- or negative-fare mainland shopping tours must be resolutely combated and the illegal acts by travel agents specially receiving such tours and relevant "arranged shopping" shops must be rigorously regulated and combated. Only in doing so can the structural loopholes existing within the industry can be radically resolved, and the breeding ground for "one-stop" ripping off of customers by unscrupulous shops be eliminated.

I so submit.

MR CHAN KAM-LAM (in Cantonese): Deputy President, as the old saying goes, "A whole pot of porridge can be spoiled by a tiny rodent dropping". We can actually see from the recent disclosure of all sorts of scandals in the tourism industry that only a couple of shops have actually engaged in unscrupulous operation. It is a pity that these few perpetrators suffice to spoil a whole pot of porridge by ruining Hong Kong's reputation as a shoppers' paradise. In spite of our regret, however, we should actively come up with solutions to combat these unscrupulous shops to restore Hong Kong's reputation as a shoppers' paradise. It is therefore timely for this motion on combating unscrupulous shops to be proposed today.

Deep-rooted problems with the tourism industry, such as zero-fare tours and "arranged shopping", have recently become a heated topic of discussion among the public. Some critics hold that these practices should be curbed or even abolished. However, we are of the opinion that none of these is the crux, at least not the focus, of the problems. For instance, zero-fare tours are a long-standing practice, whereby commission received as a result of tour members shopping in designated shops is used mainly to subsidize tours charging extremely low or zero fares. It is just a mode of operation. It cannot be objectively judged right or wrong, provided that it is clearly stated in the information that tour members are required to do more shopping to subsidize their tours, or even a quota would be set on the amount of money to be spent on

shopping. If tourists are already informed before joining the tours and they still choose to sign up for the tours, they should at least be responsible because they are informed in advance. Furthermore, under the operation of market economy, it stands to reason that such tours will naturally be eliminated should the majority of tourists choose not to join them.

By the same token, this applies to "arranged shopping" too. The price of a piece of goods might differ from place to place. It makes sense that tourists should do some shopping while paying little for their tours. The problem is whether or not they are fully aware of their obligation to do shopping at designated shops when they sign up for tours. Another point is whether or not faked goods are sold at these shops. If the answer is in the affirmative, the Government must seek to combat these unscrupulous shops by disclosing their names and providing tourists with abundant information. This is actually where the crux of the problem lies.

As Members are aware, it is not easy to fully resolve this problem because illicit collusion between some shops and travel agents are often involved. Tour guides would first resort to such tactics as boasting on tour coaches and then urge tour members to do shopping by all kinds of coercion and inducement. At the same time, fakes sold in unscrupulous shops often appear to be authentic. For instance, goods manufactured on the Mainland may be affixed with Italian labels. Counterfeits are affixed with labels showing that they are famous watches from Switzerland. Earlier, a tourist even found out after taking a closer look at a camcorder thought to be an authentic from Japan that there was a discrepancy in one of the alphabets in the brand name. As the saying goes, "A false step will make a great difference". However, ordinary tourists will very often fail to spot discrepancies in a hurry and end up buying fakes unknowingly. It is precisely because of such intricate collusion between unscrupulous shops and travel agents that law enforcement is made even more difficult.

As the first step to solve these problems, the Government certainly have to step up law enforcement to combat unscrupulous shops. Furthermore, legislative amendments should be introduced and penalties increased to deter unscrupulous shops. However, effective law enforcement is not at all easy. The practice of monitoring travel agents by the TIC has long been a cause of criticism on the ground that self-conclusive investigations are conducted on one's own peers. With such a serious lack of credibility in society, how can the TIC regulate the industry? Besides, the HKTb, being a toothless tiger, is merely

responsible for promotion and publicity. In the end, the duty of law enforcement rests with the Government. There is indeed a need for the non-intervention policy to be abolished. The Government's goodwill of allowing self-regulation by the industry has actually disappeared a long time ago in the wake of these scandals. Therefore, the Government should resort to more effective means by taking the initiative to regulate and combat unscrupulous shops, and step up its regular inspections and "undercover" operations. In addition, the past practice of passively waiting for consumers to lodge complaints before launching operations must be discontinued. Actually, even government officials have conceded that they were aware of the existence of unscrupulous shops a long time ago. However, proactive actions have never been taken to combat these shops. Instead, actions are often taken on receipt of complaints by victims. Law-enforcement agencies should no longer adopt a permissive attitude towards these unscrupulous shops. Instead, these shops should be rigorously combated not only for the sake of the tourism industry but also in the interest of the well-being of the entire market.

To prevent unscrupulous operators from passing off the sham as the genuine, the Government should consider amending the existing Trade Descriptions Ordinance, establishing an examination system for commodities and setting out in detail the details and specifications of products of different brands so as to provide consumers with a clear standard whereby they can judge the authenticity of the goods they have bought so that fakes will not go undetected.

Lastly, we agree that the return period be extended to give tourists sufficient time to return to Hong Kong to claim compensation if they discover that the goods they have bought are fake. However, it must be noted that some tourists might abuse this mechanism, and the normal daily operation of businesses might thus be affected. Thus, it is necessary to perfect the existing return mechanism by setting out clear provisions so that transactions can be conducted between both parties on an equitable basis.

Deputy President, Rome was not built in one day. Neither could Hong Kong have built up its reputation in a day. Unfortunately, however, a reputation can be ruined overnight. The fact that the number of tourists visiting the territory during the past Golden Week has not dropped as a result of a series of scandals does prove that Hong Kong's reputation still carries certain weight. However, should the Government still refrain from taking immediate actions,

our tourism industry and Hong Kong as a shoppers' paradise can only seek its own defences.

Deputy President, I so submit.

MR VINCENT FANG (in Cantonese): Deputy President, I have to declare my interest first. I am a member of the Board of Directors of the Hong Kong Tourism Board (HKTB) and the vice-chairman of the Quality Tourism Services Scheme (QTS Scheme) operated under the HKTB. More importantly, I am a representative of the wholesale and retail constituency.

Hence, I have to thank Mr LAU Kong-wah here for moving this motion today. The motion seeks to, in response to a recent disclosure by the China Central Television (CCTV) of the existence in the territory of shops involving in "arranged shopping" to cheat mainland tourists, propose combating unscrupulous shops to uphold Hong Kong's hard-earned reputation of being a shoppers' paradise and the tourism industry as one of the pillars of Hong Kong economy.

The retail industry is precisely a key component of a shoppers' paradise. We all support combating unscrupulous shops because these shops are simply not part of our tourism industry, and their existence has affected the integrity of the retail industry. However, we think it is wrong to propose reviewing the existing time-tested legislation on protecting consumer rights or enhancing regulation for the sake of these unscrupulous shops. Moreover, we have reservations about this because the clients of these shops are not ordinary consumers. We are extremely doubtful that, while there is no way for legislation protecting consumer rights to regulate these shops, the operational flexibility of the retail industry will, on the contrary, be further restricted.

I said this because these unscrupulous shops will simply not entertain the so-called individual "walk-in" customers, not to mention opening up to local consumers. These shops are the product of irrational zero-fare tours relying on the spending of tour members to subsidize their fees and reap exorbitant profits. How can this mode of shopping be rational?

Although the existing provisions relating to protection of consumer rights are rather fragmented, they can still perform their respective functions effectively. The existence of unscrupulous shops in Hong Kong cheating

tourists is not because the local retail industry has problems. It is rather caused by the arrangement of zero-fare tours on the Mainland. The right remedy has to be prescribed to crack down on these unscrupulous shops.

Hence, the retail industry absolutely supports the implementation in Hong Kong of the eight regulatory measures promulgated by the China National Tourism Administration to actively promote honest and quality tourism, implement a tour guide fee system in Hong Kong, and upgrade the quality of tour guides through collaboration between the Government and the industry.

The retail industry also supports further entrenching Hong Kong's status as a shoppers' paradise. Actually, a number of trades and industries have taken the initiative to protect consumer rights in order to boost their reputation. Although the Government has not yet introduced legislation requiring operators to provide consumers with return services, many quality operators have actually provided their customers with return, and even refund, services within a specified period.

(THE PRESIDENT resumed the Chair)

Two voluntary schemes, namely the QTS Scheme and the "no fakes" scheme promoted by trade associations, are currently implemented in Hong Kong. Signs bearing the Chinese characters "優"¹ or "正"² can be seen displayed at the entrances to more than 8 000 retail outlets and restaurants throughout the territory. The QTS Scheme, though regulated by the HKTB, was promoted and set up by the industry in 1999. Basically, shops are required to entertain "walk-in" customers and undergo checks annually. To date, the logo has been widely recognized by both overseas and mainland tourists, as well as local consumers.

The purpose of the industry's willingness to inject abundant resources is nothing more than to boost its own reputation to give customers an impression of value-for-money, quality services and reasonable prices. In doing so, the

¹ "優" means "excellence"

² "正" means "no fakes"

customers will naturally return. Actually, these measures are also meant to protect the due rights and interests of customers.

It is not the hope of the retail industry that the reputation of the industry will be undermined by such black sheep. In particular, we hope that the Customs and Excise Department can step up its efforts in combating the sales of fakes and counterfeits and take rigorous sanctions. We also support the proposal raised by the Secretary for Economic Development and Labour to consider introducing legislation on trade practices and prohibit tour guides from adopting compulsory or bait practices for the protection of the consumer rights of tour members.

Lastly, I would like to reflect the views of the industry. It is hoped that the Government and the tourism industry must emphasize in publicizing the 180-day unconditional refund protection that only "shops for arranged shopping" are applicable. We do not hope that the provision for regulating the 50-odd "shops for arranged shopping" will be abused, thus leading to negative news such as mainland tourists' refund requests rejected by certain brand-name outlets or reputable shops. In late April, a mainland tour group called the police and complained to a television station in the middle of the night about their terrible accommodation, though it had been stated in their itinerary that they would be accommodated in a training camp in the High Island Reservoir. They have obviously abused the territory's respect for tourists. Therefore, the established principles of the industry should be adhered to.

I so submit. Thank you, Madam President.

MS LI FUNG-YING (in Cantonese): Madam President, the Legislative Council debates the motion on combating unscrupulous shops today. Actually, the issue of unscrupulous shops is but the tip of the iceberg of the operation of the tourism industry in Hong Kong. This tip of the iceberg has aroused the grave concern of the Government because of the coverage by the influential China Central Television (CCTV) on the Mainland and the impact of its report on the reputation of the territory's tourism industry. In the past, when overseas media criticized Hong Kong or when people with dissenting views expressed criticisms, senior government officials, and even some members of the community, would respond by advancing rebuttals in a high profile or even say that the critics had ulterior motives to smear Hong Kong.

This is the response of the Government and comments made in society to the broadcast of a real-life documentary of the unscrupulous shops involved in the tourism industry, a pillar of Hong Kong economy. Despite the harsh criticisms levelled by the CCTV and the resulting enormous impact on Hong Kong's tourism industry, the attitude demonstrated by the Government and comments made in society is entirely different from how they treated criticisms of the territory in the past. There have been no high-profile rebuttals by the Government. Neither has there been anyone making penetrating remarks. Instead, prompt action was taken by the Customs and Excise Department (C&ED) to inspect relevant shops. The Chairman of the Hong Kong Tourism Board (HKTB) also made a personal trip to the north to learn more about the situation from the CCTV, complement the efforts of the relevant authorities of the State, and come up with solutions to improve the operation of the industry in Hong Kong. The Government's proactive attitude in addressing criticisms is indeed commendable. I believe it is because of the Government's ready acceptance of good advice and resolute action that the number of tourists visiting Hong Kong during the Labour Day Golden Week, which has just passed, has not dropped but risen. What is more, I hope the attitude displayed by the Government this time in responding to criticisms has nothing to do with the fact that the one criticizing Hong Kong this time was the CCTV on the Mainland, but rather signals a change in the bureaucratic culture. I hope the Government can first review itself in response to criticisms from the media, whether they are the CCTV or Radio Television Hong Kong, or even other media and opinion, for the purpose of improving any areas where it has not done so well and aiming even higher in areas where it has a leading edge.

Insofar as the initiatives of improving the territory's tourism industry are concerned, the three-in-one vicious circle of unscrupulous shops, zero or low tour fares and the reliance of tour guides on commission for income has continued to erode the industry. Under such a tripartite relationship, only a small fraction of bosses of travel agents are benefited, with society at large being victimized. The problem must be ameliorated with a three-pronged approach before our tourism industry can be put back onto the right track. We can see that vigorous efforts are being made by the C&ED to combat unscrupulous shops, and measures are being taken by the China National Tourism Administration (CNTA) to root out tours charging zero or low fares. However, the problem arising from Hong Kong tour guides relying on commission for income has not been given adequate concern and attention. As in the motion today, only the last of the 11 improvement measures proposed by Mr Howard

Young mentions the need to discuss with the industry the introduction of a tour guide fee system.

The charging of zero or low tour fares and the *modus operandi* whereby commission is paid in lieu of salary actually represents the two sides of a coin. Under such a *modus operandi*, the ripping off of tourists by unscrupulous shops will definitely occur. Otherwise, there is no way for travel agents to reap profits and tour guides to make a living. Hence, the proposal and initiatives proposed by the CNTA warrant careful consideration by the Government. For instance, the Vice Director of the CNTA, ZHANG Xiqin, described zero and low tour fares as a "malignant tumour", referring to the fares collected by travel agents for receiving clients. On the other hand, the travel agents' practice of paying commission to tour guides in lieu of salary or tour guides are offered an extremely low pay to be topped off largely by commission is likewise a "malignant tumour" of the tourism industry. The CNTA can regulate only mainland travel agents operating tour groups to Hong Kong and root out zero-fare tours. Conversely, what the Hong Kong Government can do is to regulate the *modus operandi* of the industry in the territory to root out the unhealthy practice of travel agents paying tour guides commission in lieu of salary.

Madam President, tour guides are at the forefront of the tourism industry in Hong Kong. To protect the development of the industry, the livelihood of tour guides in Hong Kong must be protected in the first place. This brings us back to the long-standing demand by the labour sector for a minimum wage. If even the wages of tour guides are unprotected, any measures of improving the tourism industry in Hong Kong will only end up getting half the results with double the effort. Thank you.

MR JAMES TIEN (in Cantonese): Madam President, as the Chairman of the Hong Kong Tourism Board (HKTB), I would like to begin by reporting some latest figures — though they have been published in the newspapers. Up to 7 May, the number of mainland visitors to Hong Kong during the Golden Week was approximately 540 000, 27.8% up from 423 000 last year. However, it is most significant that the number of tourists coming to Hong Kong under the Individual Visit Scheme has risen 43% to 238 000. In contrast, the number of tourists coming to Hong Kong in tour groups on tourist visas has dropped by 13% to 29 000 or so.

Much effort has been made over the past month. In particular, the information on the disclosure of negative- or zero-fare tours has proved effective and is supported by the China National Tourism Administration. Evident in the analysis from the angles of the Central authorities and Shenzhen that tourists should not opt for zero-fare tour groups or those charging as low as several hundreds of dollars, for travel agents will definitely recover that sum of money from their shopping.

I believe many mainland tourists have become more experienced. Hence, the number of people joining tour groups has dropped. Besides, I have noticed that, despite the fall in the number of people joining tour groups, the number of people joining honest and quality tour groups has increased. It is also evident that the number of tourists joining negative- or zero-fare tours has dropped significantly.

Furthermore, I have deliberately enquired the HKTB about the figure of complaints lodged after the arrival of 540 000 tourists in Hong Kong for shopping. According to the figures handed to me today by the HKTB, a total of 15 complaints have been received, with several of the complaints being related to hotel or airport services. However, I believe complaints about shopping would be a matter of concern to Honourable colleagues. Six of the 15 complaints are related to shopping. Only one of the six complaints is related to the complainant being asked to pay an exceedingly high price when purchasing a camcorder. He was asked to pay \$6,000 more. All of the other complaints are related to the falling off of watch straps or inaccuracy of watches. One complaint is related to a camera. The humid weather might have contributed to blurred lens and poor vision as a result. Refunds have been made after these cases have been dealt with. I believe the tourists would have felt satisfied.

Madam President, looking back at all recent incidents, that is, incidents that occurred after 2 April when I was appointed as Chairman of the HKTB, I have learnt a lot from them and I now realize that some major issues must be clarified. The saying that some consumers have been cheated is actually confined to inbound tour groups from the Mainland. Furthermore, some of them are "arranged shopping" tour groups, and only 20-odd shops are involved. As pointed out by Mr Vincent FANG earlier, there is no way for us to give members of tour groups from the United States or Europe a 180-day shopping guarantee. We think this has to be clarified. As for other shops, whether they bear the "quality tourism" logo, they should have established their own integrity.

While the guarantees offered by some of them are less than 180 days, some guarantees offered may even exceed 180 days. Most tourists visiting Hong Kong for shopping do have confidence in all the brand-name shops in the territory.

I have also noted that there has been a significant increase in the spending by tourists. Actually, they might be truly aware that they will have no trouble buying brand products in Hong Kong. I believe..... Excuse me, I hope publicity can be further stepped up to rid other inbound tour groups, tourists and people invited to Hong Kong of such misunderstanding.

Second, I would like to discuss the issue concerning tour guides. The Liberal Party has also taken note of the complaints lodged by tour guides and therefore offered assistance to them through the TIC. We consider it reasonable for tour guide fees to be offered as wages or remunerations. The TIC has also decided to act in this way. If tour guide fees are not set out clearly, tour guides will be forced to fleece tourists. Furthermore, this is considered inappropriate from the angles of the labour sector and employees. I am very pleased to see that the issue has been dealt with in a positive manner.

As regards the content of the motion, we consider the amendment proposed by Mr SIN Chung-kai to Mr Howard YOUNG's amendment acceptable. However, regarding one of the points raised — Mr SIN Chung-kai is not present at the moment. Perhaps Mr Albert HO of the Democratic Party can listen to me. Concerning the amendment proposed by Mr SIN Chung-kai to amend item (h) which proposes that the TIC install television facilities to publicize tourism information and provide a complaint hotline via mobile telephone short message service, I hope the Democratic Party can note the fact that it is outside the ambit of the HKTB. The HKTB is responsible for the self-regulation of the industry only, and publicity is not included. Actually, I absolutely agree that efforts must be made in this area. However, the HKTB should be responsible. I hope the Democratic Party will support the Government allocating more resources to the HKTB to undertake these tasks and stop calling the HKTB a spendthrift.

Regarding Mr Fred LI's amendment to transfer the function of monitoring the tourism industry to a new statutory regulatory body to avoid the problem of "the industry regulating its own members", we think that if people in the industry are well-versed in the operation of the industry and with appropriate regulation

— in this incident, the Democratic Party criticized the Liberal Party for having too many people in the industry to sit on the HKTB. Actually, we are not responsible for the appointment of people from the industry to the HKTB. Instead, they were elected from among people in the industry before they were appointed. The Chairman of the TIC is one example — this will be helpful to the entire matter. I have now taken note of the views of Mr SIN Chung-kai and Mr Fred LI. I greatly appreciate both of them. The term of several council members of the HKTB will expire by the end of this year. In other words, they have served as council members for six years. I will strongly recommend the two Members to the Secretary for consideration and hope that they can join the HKTB to render us assistance. In so doing, there will be members of the Democratic Party sitting on the HKTB too. Of course, if Mr Albert CHAN objects, I will consider recommending him too. *(Laughter)*

As time is running out, Madam President, I so submit. Insofar as this issue is concerned, I think that the Government and all people in the industry have at least restored tourists' confidence in Hong Kong, given that tourist arrivals have not dropped. Thank you, Madam President.

DR KWOK KA-KI (in Cantonese): Madam President, a number of Members seemed to suggest in their speeches earlier that the problem of unscrupulous shops had been resolved because of the prompt reactions of the territory. As a result, everyone joined in scrambling for credit — with the Travel Industry Council (TIC) and the Hong Kong Tourism Board (HKTB) saying that they have made a lot of efforts. The Government, that is, the Secretary, is also expected to repeat the same thing later on.

However, the efforts to combat these unscrupulous shops are nothing new. Frankly speaking, the problem of unscrupulous shops has existed for such a long time. Nothing was done by the TIC or the HKTB before the incident. It is simply because of a China Central Television (CCTV) programme called "經濟半小時" (Half-hour Economics) that actions are now taken. There should not be a scramble for credit. Those who wish to claim credit, being wise after the event, should have taken actions before the incident, instead of saying that they have done a lot after it. I find those words disgusting because we can see from the whole incident that neither the Government, the HKTB nor the tourism industry has done anything. Actually, such work should have been done before the report by the CCTV.

Some have linked this incident to the practice of zero-fare tours. However, as pointed out by many reports and people in the industry, group tours bringing tourists to unscrupulous shops are not necessarily zero-fare. Some group tours charging ordinary tour fares would also bring their tourists to these shops.

The second point I would like to raise relates to the mechanism of the tourism industry. I support Mr Fred LI's amendment, as mentioned by a number of colleagues just now, because such phenomenon would not have occurred if the tourism industry itself is capable of resolving this problem.

As Members are aware, all trades and industries are characterized by intricate relations and conflicts of interests. Most members of the TIC are operators of travel agents, and they are mostly linked to unscrupulous shops. Frankly speaking, many operators of such travel agents are suspected of engaging in malpractices. Therefore, they have no problem charging lower tour fares because all people in the industry know it very well how these travel agents actually operate. Actually, many operators are members or even key figures in charge of the TIC. I think it is unrealistic to rely on the self-regulation of the industry.

Third, I have heard many colleagues saying complacently that the number of tourists during the Labour Day Golden Week has not fallen, but risen by 27% instead. It sounds like the market is pretty robust. However, it must not be forgotten that many more will still come to Hong Kong for sightseeing in tour groups, and only less than half of the travel agents will organize the so-called "quality tourism" tours. In other words, the problems of unscrupulous travel agents and shops engaging in malpractices will still remain. However, it is now too late to take action. The unscrupulous travel agents and shops have all disappeared lately because of the recent tense situation, report by the CCTV and the combat measures taken by the Government. When Members' attention begins to subside after some time, the scene might be completely different. I have read from the newspapers that the Customs and Excise Department (C&ED) has made some remarkable efforts lately by completing inspections and prosecution within two weeks. This has never been done before. Strangely, why were efforts not made a long time ago if the C&ED and the Government were really so remarkable?

Madam President, it is not the first time the problem of unscrupulous problem is being discussed here. Questions relating to the malpractices of these

unscrupulous shops have been raised numerous times before by Members in the meetings of this Council almost every year. However, the Secretary would invariably reply that remarkable work had been done in this respect. Furthermore, a "quality" logo had been introduced for identification and tourists should also know how to differentiate (if tourists actually knew how to identify the "quality" logo, they should not have entered these unscrupulous shops). It was just unfortunate that some people had troubles. If this was really the case, why could the programme "經濟半小時" (Half-hour Economics) have made such a report and brought Hong Kong into disrepute? Hong Kong, used to be called a shoppers' paradise, has now turned into an "unscrupulous shops' paradise".

I guess Members paying a trip to the shops in San Po Kong or Kowloon Bay will surely ask how those shops can survive if they are not operating unscrupulously. In the past, these shops, where all sorts of strange labels, such as "SECULUS (聖凱萊)", were sold, were not accessible to the man in the street. Any labels one can imagine might probably be found there. Tourists were like being locked and escorted to these shops. The Government and the tourism industry were supposed to be responsible for regulating these shops. However, could they actually do it? The answer is certainly in the negative. The Government has been acting half-heartedly probably because of the fear that the business of the industry might be harmed by undue vigour. As a result, self-regulation of the industry is allowed. However, the industry has failed to regulate itself. Therefore, tourists will become unprotected if the Government continues to allow the industry or the TIC to act in the existing manner. Neither can the tourism industry in Hong Kong uphold its reputation. Under such circumstances, both the industry and individual travel agents will be affected. As Members are aware, there are bound to be good and bad elements in all trades and industries. Should we fail to exercise proper control to ensure the black sheep are regulated by clear legislation or a regulatory regime or subject to legal sanctions, other scrupulous and law-abiding operators and even the tourism industry as a whole, considered a pride of Hong Kong, will suffer.

The fact that the number of tourist rose 27% during the Labour Day Golden Week this year does not mean anything. Members should not think that the tourism industry in Hong Kong will no longer have problems. This is merely a false impression. If we feel good as a result and stop making improvement and introducing better regulatory measures, all trades and

industries in Hong Kong, including the retail sector, hotel industry, and so on, will be victimized. This is undesirable. For this reason, I support this motion and, in particular, Mr Fred LI's amendment. We really need some solutions, not necessarily the setting up a new statutory regulatory body because the Government can actually make use of some existing statutory bodies. Of course, the Government may opt for a new one. However, it must not allow the industry to be regulated entirely by people in the industry. Some members of the public must be involved.

The last point I would like to raise is that what I witnessed earlier was spectacular. The Chairman of the HKTB, Mr TIEN, indicated that those who agreed would be invited to join the HKTB as members. This is not entirely right. The invitation should be open to anyone if he is broad-minded. Thank you, Madam President.

MRS SELINA CHOW (in Cantonese): First of all, I wish to advise Dr KWOK Ka-ki that a great part of his information is completely wrong. When he spoke earlier on, he did not have the slightest idea of what zero-fare tour is. Zero-fare tour does not mean that the tourists need not pay anything. Rather, it means that the local reception agents (RAs) will not receive any money, and this explains why it is called "zero-fare tour". It does not exist in Hong Kong alone. Negative-fare and zero-fare tours are found in many other places, where the RAs actually cannot recover full cost and thus force the tour guides to earn income through commission. In order to earn more, the latter will increase the amount of commission by all means, which may reach as high as 30%, 40%, 50% or 60% of the payment. Mr WONG Kwok-hing said earlier that the tour guides were in a terrible plight — it is true that they are now in a terrible plight as they can no longer earn commission as high as 60%, but their income sometimes amounted to more than \$100,000. At that time, no one lodged any complaint, but now, some people certainly feel upset.

I am not saying that the tour guides should not receive any income. With the introduction of tour guide fees, they are now offered the minimum protection. In my opinion, should the industry move towards the right path with the travel agents genuinely providing services which the visitors expect, that is, services that meet the ethical standards, it will definitely be beneficial to the tour guides. Nonetheless, this is not the case. The problem in hand is indeed pretty new, which Dr KWOK may be unaware of. The problem arises when

the Mainland..... Why was it found in the Mainland alone but not any other markets? Because those markets are mature whereas the mainland market is still new. In fact, there are several reasons accounting for this. Firstly, four travel agents suddenly emerged in 2001 to operate Hong Kong tours. The number has now increased to several hundreds of large, medium and small scale, and all of them operate Hong Kong tours. As a result, competition became very intense all of a sudden. Secondly, the overall market size has significantly increased as a result of the national policy to open up the outbound tour market. The travel agents saw this as an opportunity for them to operate such tours because many mainlanders have never travelled abroad, and they have no idea of what travelling abroad is like. Furthermore, the travel agents also saw the weaknesses of these visitors, and that is, they will, anyhow, join tours that are cheap. As a result, the travel agents have reduced the tour fare as far as possible. In fact, they can reduce the tour fare to a very low level as there is no need for them to pay Hong Kong's RAs. After all, earnings net of cost in the Mainland will be their profits.

Criticisms and remedies can only be made after the problems in the industry are identified. He said that nothing has been done by Hong Kong people, but the problem has actually been raised for discussion by the Government and the Hong Kong Tourism Board with the Trade Industry Council of Hong Kong in these few years. Being the former Chairman, I can tell Members that I had time and again discussed this issue with the Government — previously with Mr HO Kwong-wai. But since the mainland market was still opening at that time, when it was just newly opened, there was no knowing of what "gimmicks" would be employed. The first time I heard of this problem was from the retail industry, and it was around 2002 or 2003. Many members of the retail industry reflected to me that a number of factories in Hung Hom had begun to sell goods direct to visitors by bypassing the shops, and they even made deals with the travel agents. This dealt a heavy blow to the retail industry. At that time, we had to reflect the issue to the State on the one hand, and we had to be mindful of causing any impact on Hong Kong's free market operation on the other. We therefore figured out another solution: Given such a situation, the Quality Tourism Services Scheme (QTSS) was launched to enhance the competitiveness of the good retailers, which has proved to be successful. Through vigorous efforts to promote the QTSS, coupled with the Individual Visit Scheme (IVS) arrangements, it can be seen that during the Golden Week this year, the number of IVS visitors alone has increased by 55.8% while the number of tours has dropped by 10% when compared with the preceding year.

In fact, views on the punishments to be meted out were actually discussed at length. In my opinion, however, it is easy to impose punishments as our focus is now on the group of tour guides or travel agents adopting unethical practices that we do not wish to see. But we should also focus on the assistance to be provided to the tourism industry with a view to enabling it to achieve long-lasting operation and continue to develop healthily. It is undeniable that the travel agents now feel worried. They fear that their reputation will be damaged by the black sheep this time, hence giving the world an impression that our travel agents are very bad. It is evident that the confidence of mainlanders, in particular, in Hong Kong's travel agents has dropped. But, does it mean that the visitors no longer need the services of the travel agents? Of course, it is not so. Since many of them have never been to Hong Kong, neither have they travelled abroad, it is therefore necessary for them to have good travel agents providing the relevant services, as well as good tour guides. Provided that the tour guides are good, they are most willing to pay for their services, and the travel agents for that matter, in order to have a good experience.

I opine that while combating the few unscrupulous shops, it is of paramount importance that other people will not suffer as a result. The industry must be protected. During the outbreak of SARS, Members swiftly approved the funding for promoting our tourism industry. Let me tell Members, we must be cautious this time, and do not think that the problem will be settled by simply punishing the people involved in the incident. As regards promotion, vigorous efforts must be made to convey the message that Hong Kong has actually improved. But improvement must be made and assistance provided to the tourism industry so as to genuinely gain a good reputation at large. Thank you, President.

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

MR BERNARD CHAN: Madam President, I am very glad that I have the chance to speak after the Honourable Mrs Selina CHOW because I am sure she would probably question about my knowledge of the tourism industry. Thanks for clarifying a lot of points. But I must say that my industry, insurance, is also a very cut-throat industry, but I guess the situation is mild compared with the tourism industry. This industry gives transport and the accommodations away

almost at a steep discount, but then it takes the customers to shops and pressures them to buy things — some of which are fakes. This is not really an honest way of making a living, and it damages the reputation of Hong Kong on the Mainland, and probably in other countries. I know this from the fact that many of my Asian friends complain about Hong Kong as well.

However, in most respects — apart from the fake products — this arrangement is not illegal. In many parts of the world, a vacation package often includes a cheap or free tour, and the tour often ends up in shops, and the guide makes a commission. Although our version of this is extreme, you could say that it is partly the fault of mainland tourists for believing that they can have a discounted tour.

I wonder if part of the problem here is that the tourism industry measures its success by the number of visitor arrivals. The idea is that if we get a million more tourists to come in, that is a good thing, but if we have a million less, that is a bad thing.

By focusing on quantity, we lose sight of quality. As it is, mass-tourism from the Mainland can create problems. The tour buses and groups use up space, and in some places, you see mainlanders hawking goods in public areas, and begging, often dressed up in monks' costumes.

Other industries in Hong Kong are going up the value chain, but tourism seems to be doing the opposite.

I also wonder if this focus on numbers is leading us to treat mainland tourists as if they are more important than local residents and consumers. Local consumers have to put up with ingredient labels with not enough information. We see false claims in advertisements for health products. And then, there is sometimes misleading information about the size of new flats.

Mainland tourists do not deserve to be cheated. But if the Government takes action on that, may be it can do the same for us, the local people, as well. Thank you, Madam President.

MS AUDREY EU (in Cantonese): President, the motion topic today is on combating unscrupulous shops. Actually, there are two parts to the problem.

One part is the protection which the law gives to consumers and law enforcement. Mr LAU Kong-wah's original motion suggests some solutions. This problem is in fact not so serious. As an example, the Consumer Council is responsible for work in many areas and many suggestions are made. When such incidents happen, the police or the Customs can take rigorous actions and some effect can certainly be achieved.

So this is not the root of the problem at all. The root of the problem lies in the regulation of the tourism industry. People who come here to shop may actually stay for only a very short time and so even though the laws may be sound, if the shoppers are cheated, it is evident that they do not have either the time or the chance to stay behind and help the relevant agencies take law-enforcement action or institute prosecution. Moreover, as tourists do not know very well the situation in Hong Kong, they may easily become victims and be ripped off. When this happens, it is like there are chances to make fast bucks and so some unscrupulous merchants are tempted to do so. And some tours will bring visitors to shops run by these unscrupulous merchants to do shopping.

The crux of the problem boils down to the contents of the motion we have today. Many of the proposals in the motion are good, such as providing more information, setting up a complaints website, launching a demerit points system, imposing penalties, discussing with the trade on implementing a tour guide fee system, and so on. And many people even point out that this is a labour issue related to the tour guides.

President, we in the Civic Party are in complete agreement with these proposals. However, this is not the crux of the problem. Even if these measures are adopted, the problem cannot be solved. From the perspective of the Government, the focus of attention must be put on looking into the crux of the problem at all times. The crux is found in point (f) in Mr Fred LI's amendment, that is, on the transfer of the TIC's function of monitoring the tourism industry to a new statutory regulatory body to avoid the problem of "the industry regulating its own members". This is the crux of the problem. Once this is solved, all the other problems will be solved in no time.

Currently, the TIC is responsible for monitoring the travel agents. The TIC may handle complaints, sanction non-compliant travel agents and consider appeal cases. Generally speaking and except in special cases, anyone who

wants to get a travel agent's licence must become a member of the TIC in the first place. And travel agents are required to join the eight Association Members of the TIC as an ordinary member or an affiliate member before they can organize tours.

The Board of Directors of the TIC has 25 directors. Of these the Chairman and 16 directors are elected from the industry. In other words, the TIC is composed of members of the industry and exercises self-regulation.

The TIC has to regulate all the travel agents. But as it has to regulate travel agents on the one hand while it has to strive for the advancement of the interests of the industry on the other, there is bound to be some hidden conflict of interest there. This is why, as we have seen over the years, the so-called self-regulation exercised by the TIC has proved to be totally ineffective.

Of course, we are not saying that Mr James TIEN or Mrs Selina CHOW of the Liberal Party has done nothing at all. They and the Hong Kong Tourism Board (HKTB) have indeed done a lot of work for the Government and we do not dispute this point. But the problem of "the industry regulating its own members" has not been solved at all. In addition, when such a large carrot is dangling out there, if there is no independent monitoring by the Government, this becomes not just a problem for the tourists, for many law-abiding businessmen, tours, travel agents or the tourism industry, especially the small and medium enterprises, will all have a lot of grievances to voice.

The solution to the problem is not like what Mr James TIEN has said earlier, that since Mr SIN Chung-kai and Mr Fred LI of the Democratic Party have got so many suggestions to make, they might as well be appointed by the Government to the HKTB and this will resolve all the problems. I do not think the problems will ever go away in this way, for this is not the way to address the problems at all.

If we read volume 893 of the *Next Magazine*, we can find extensive coverage of a story about the Sincere International Travel Service Company Limited — a company jointly owned by Mr NG Kwong-wai and the former Chairman of the TIC, Mr HAU Suk-kei — which were alleged to have organized rip-off tours. A reporter from the *Next Magazine* acted undercover and joined a Hong Kong and Macao tour which lasted for three days and two nights. One

restaurant and three designated shopping locations on the itinerary are found to be intricately related to Mr NG. Mr NG being a director of two of the shops and former tour guides of the Sincere International Travel Service are found to be the directors of two other shops. If the story is true, this will of course prove that there is certainly a problem of "the industry regulating its own members" which I have just talked about.

All the local newspapers have devoted great lengths to exposing the tricks used by these unscrupulous shops in ripping off the tourists. Whenever the tourists have any doubts about the products of these shops, the tour guides or the shop assistants will tell them not to worry as shops in Hong Kong are reliable, that there are the ICAC, the Customs, the police and the Government to oversee such matters. They will say that the monitoring system here is excellent and the customers should rest assured. But the problem is: How can these people bring tourists to such shops so often, knowing that people will be ripped off? When these shops rip off the tourists, they are in effect killing the goose that lays golden eggs. As Mrs CHOW has said earlier, since many of these mainland tourists may have never come to Hong Kong before, they may think that there is sound rule of law and things are under sound regulation here, so they will believe in these tour guides and shops readily.

I hope the Government will not just implement all the good suggestions made in the amendments, it must also solve the problem at root. It must not say to us that the problem can be solved by self-discipline exercised by the tourism industry itself. This is because the experience we have gained over these many years past shows that if the Government does not resume the right to monitor the industry and set up an independent statutory body, these problems will just go on and on. If what is done is just making some contact with Beijing or cracking down on these unscrupulous shops a bit when incidents happen, I do not think the problem will ever be solved. Thank you, President.

MR WONG TING-KWONG (in Cantonese): Madam President, apart from sightseeing, nine out of 10 visitors to Hong Kong would go shopping. Hong Kong has a reputation for being a shoppers' paradise precisely because the goods sold here are inexpensive, attractive and of good quality. Be they photographic equipment, electrical appliances, fashion, jewellery and what not, the same attributes apply. Many visitors even come all the way from the Mainland

specifically to buy medicines, daily necessities and even formula milk for babies. This is because they have trust in the reputation of our shops and that the goods sold here authentic.

Since reporters from the China Central Television (CCTV) have exposed the deplorable practices of unscrupulous shops in Hong Kong ripping off the tourists, the DAB undertook a survey last month on the experience of mainland visitors in Hong Kong. Findings show that 30% of the mainland visitors to Hong Kong have had unpleasant experience such as tour guides keep on persuading them to buy things at the designated shops, or finding out that what they have bought are inferior in quality or they have paid a high price for some allegedly name brand goods only to discover later that it is cheap stuff. Another half of the respondents say that after watching reports on CCTV on shoppers getting inferior quality goods in Hong Kong, their confidence in shopping in Hong Kong has been undermined.

Even if zero-fare tours all disappear, it does not mean that visitors to Hong Kong will never be ripped off again. This problem of unscrupulous shops swindling tourists does not occur just today, for the local media have on numerous occasions made such kind of *exposés*. It was pointed out in the past that shops in some popular tourist shopping areas would employ some unscrupulous practices such as forcing tourists to buy electrical appliances at significantly marked up prices and some dried seafood and Chinese medicine shops would use deceptive means to coerce tourists into buying expensive dried seafood and Chinese medicine. Nowadays, these shops even collude with the travel agents and everything from organizing tours to arranging tourists to visit these shops to be ripped off are all done with meticulous organization and planning. The gravity of the problem indeed warrants our attention.

The fact that the problem of unscrupulous shops ripping off tourists can be so blatant and rampant owes a great deal to the lack of action by law-enforcement agencies like the Customs and the police. To address the problem expeditiously, the short-term measure to be adopted is to step up the law-enforcement action. The most effective method is to increase the number of inspections and give officers the power to undertake undercover operations. These will enable them to carry out routine inspections as well as blitz undercover operations, collect evidence and outlaw such shops. It is hoped that the confidence of visitors coming here to do shopping can thus be restored, hence Hong Kong's reputation as a shoppers' paradise can be maintained.

On the other hand, although there are existing laws on curbing unfair, deceptive or misleading sales practices, the contents of these laws are not comprehensive enough and they lack uniformity. If these scattered pieces of legislation are to be amended one by one, not only will the process of amending them be long and time-consuming, it would also incur huge administrative costs. Therefore, we suggest enacting a Protection of Consumer Rights and Interests Ordinance to consolidate the existing laws related to consumer rights and interests. Sound legal provisions on the subject should be incorporated into that law. This will hopefully serve to plug the loopholes while also protect the rights and interests of consumers and law-abiding merchants.

Now the Individual Visit Scheme is implemented in the major cities on the Mainland, however, people who want to travel to Hong Kong under this Scheme still have to undergo vetting and approval. Those residents of second-tier cities may even find it more difficult to come to Hong Kong on their own. So they can only join tours. If they are required to come to Hong Kong in person to lodge a complaint about shopping or to assist in following up the case concerned, they will have to pay for the travel expenses and spend the time coming to Hong Kong again before they can even get any compensation. Hence the Travel Industry Council of Hong Kong should set up a complaints website to provide a formal channel of complaint for those mainland tourists who have already left Hong Kong and returned to the Mainland. The setting up of such a website will not only facilitate the lodging of complaints by tourists but also deter those unscrupulous shops from harbouring any false hope that the tourists will not bother to complain and so they can get away with their malpractices. Also, information on consumer rights and interests should be widely publicized among tourists so that they can have confidence shopping in Hong Kong and they can know where to lodge a complaint should they run into troubles.

We believe shops that cheat tourists are only a minority after all. But as the saying goes, one piece of rat dropping can spoil a pot of congee, we must handle this problem very carefully, for even if only one shop has been acting unscrupulously and when only one visitor gets any unpleasant experience while shopping in Hong Kong and the event is publicized in the hometown of that visitor, it would spread around like fire to many people. The image of Hong Kong as a tourist destination will be severely affected. As the tourism industry is an important pillar of our economy, we must make serious efforts to take good

care of this smokeless industry which brings in \$100 billion of business a year to Hong Kong.

Madam President, I so submit.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, a television programme lasting just half an hour which was telecast last month on the China Central Television (CCTV) brought before the stunned eyes of viewers across the nation how an unscrupulous shop in Hong Kong had ripped off the tourists. The result was that the tourism industry and the retail sector in Hong Kong had become panic-stricken all of a sudden. The time then was when the Labour Day Golden Week was just around the corner, and people got all very worried that the number of inbound visitors from the Mainland would head for a nosedive.

After the math is done for the Labour Day Golden Week just past, it is discovered to everyone's relief that the number of mainland tourists to Hong Kong has not dropped but on the contrary risen by more than 30% to 540 000. It seems that the impact of that CCTV programme has not been as devastating as it was anticipated. However, if we think about it carefully, we will find that things are not as good as we might have thought.

It is true that the number of inbound mainland tourists during the Golden Week increased, but most of these tourists came here under the Individual Visit Scheme. The number of those on package tours fell by 14% as expected. In addition, even if the tours came to Hong Kong, the members were still very cautious about arranged shopping. Some tour guides said that in the past they used to earn about \$20,000 to \$30,000 each month from the commission they got from arranged shopping. What about now? They can just make about \$2,000 to \$3,000. This is a big drop of 90% compared to previous earnings.

The fact that mainland tourists are ripped off directly shows that the protection of consumer rights and interests must be enhanced. When mainland visitors come to Hong Kong with rolls of banknotes in their pockets, they are doing this because goods in Hong Kong are affordably priced and they are of a good and reliable quality. But if every one of the mainland tourists who comes

here is ruthlessly ripped off, then who else would ever want to come here? The unscrupulous shops only seek excessive profits at all costs, without thinking about the consequences. They must be fixed.

Hong Kong is a place where the rule of law is upheld and so the first thing to be done is to perfect the relevant laws. I agree very much with the proposal made by the Consumer Council to consolidate those provisions found in various laws on the protection of consumer rights and interests into an all-embracing piece of legislation. This will enable people to get a clear idea of what consumer rights and interests they enjoy. Hence the Government should not mind putting more resources in this area.

With the existing consumer protection laws in Hong Kong such as the Trade Descriptions Ordinance, the Sale of Goods Ordinance, the Weights and Measures Ordinance and the Summary Offences Ordinance, what the Government will do is to make specific amendments to particular ordinances to address any change that may arise. The result is that the amendments are all piecemeal and there is absolutely no macro and holistic concept at all. When this is the case, how can we protect consumer rights and interests in an effective manner? And how can we keep the reputation of Hong Kong as a shoppers' paradise and make it go from strength to strength?

Of greater importance is how the law is to be enforced after enactment. If such a law is not enforced, the consumers will still be left at the mercy of these rippers. The CCTV programme in fact serves as a good source of teaching materials. Why do we not send someone as undercover agents to join some of these mainland tours to Hong Kong and go to these designated shopping locations to collect evidence on what these unscrupulous shops are doing to undermine consumer rights and interests?

Means of investigation like sending undercover agents and engaging in undercover operations are commonplace among the law-enforcement departments. Even the China National Tourism Administration also suggests following the example of CCTV and sending someone over to Hong Kong as undercover agents in a bid to crack down on these non-compliant sales practices in the tourism industry. Should the SAR Government not take some active actions?

Earlier on the Travel Industry Council of Hong Kong (TIC) has proposed a number of consumer protection measures, including launching a 100% Refund Guarantee Scheme applicable to goods within six months' of purchase, a demerit points system for shops registered with the TIC and to prohibit shops operating at the same address to change their company names in less than one year. All these are positive steps to take, even though the effectiveness will be difficult to imagine.

Madam President, the leader of our Civic Party has indicated her concern about the regulatory mechanism for the tourism industry. Actually, the present practice of having "the industry regulating its own members" is hardly convincing. There may not be too much of a problem if the industry can regulate itself effectively, but the fact is, the industry is infested with many problems.

Earlier on, there was a case of a tour group being abandoned on the street for not willing to buy at the designated shopping locations. The travel agent involved was only fined \$100,000 and it received a one-month suspension of licence but suspended for one year. The TIC made a fanfare after the ruling, saying that the travel agent had been given a stiff penalty. Just think, can this small fine and this suspended sentence of a one-month suspension of licence be regarded as a stiff penalty? How can people be convinced?

I also agree with Mr Fred LI's amendment when it is proposed that the Government should be urged to set up an independent regulatory body for the tourism industry. Certainly, the industry will come out and say that this will infringe on the self-regulation mechanism which they have been practising all along. Some people may even come out and say, "Miss TAM, the accountancy functional constituency to which you belong also practises self-regulation, then can we urge the Government to set up an independent regulatory body for the accountancy profession?"

It is right to say that a self-regulatory system is practised in the accountancy profession, but there is some difference between accountants and the tourism industry. Accountants can only practise as accountants after passing the professional examinations and the conduct of accountants is regulated by law. All acts of non-compliance are subject to investigation by an independent committee. Furthermore, the Hong Kong Institute of Certified

Public Accountants has governing council members being officials and independent persons appointed by the Government. But does the regulatory system in the tourism industry have the same kind of independence as this?

Madam President, there is no question about the need to combat unscrupulous shops, however, the fact that these shops can rip off tourists in such a massive scale is entirely due to the intricate relations that exist between these shops and the black sheep in the tourism industry. Thank you, Madam President.

MR ALBERT CHAN (in Cantonese): President, I would use "collusion between business and the Government and transfer of benefits" to criticize whenever issues pertaining to the Secretary were discussed in this Legislative Chamber. However, the issue being discussed today is not yet up to this level.

Actually, the existence of unscrupulous shops and the sales of fakes have been taken lightly by the Government for years. It was not until the production of a relevant programme by the CCTV and the expression of views by mainland officials that the Government, as if it was just waking up from a dream, demonstrated a dramatic change in attitude by rigorously enforcing the law and combating the unscrupulous shops. Furthermore, it said that the matter had to be addressed seriously as if it suddenly realized the existence of the problem. Why would the Government act in such a slow and insensitive manner? Actually, this warrants serious consideration and reflection.

I believe these so-called unscrupulous shops and the sales of fakes have existed in Hong Kong for decades. I remember when I was small, many shops of this sort could actually be found in some tourist districts in the territory. Shops targeting tourists, including those selling cameras, audio equipment and technological products, could also be found reaping lucrative profits by employing certain tactics. Actually, years ago, some operators in Tsim Sha Tsui set up a trade association with their own money and hire full-time staff to devise some quality guarantee agreements. I suppose the Secretary is also aware of this. The entrances to these shops were all affixed with signs to show that they were members of the trade association, and all purchases made at those shops could enjoy a return service. Over the past couple of years — I understand that the trade association has existed for more than a decade, right? — people in the industry are actually well aware that some unscrupulous

businessmen and black sheep have been taking advantage of the ignorance of tourists or their brief stay in Hong Kong. Furthermore, some people engaging in the tourism industry, acting as middlemen, help them reap lucrative profits from tourists and in return these middlemen can also gain profits. The so-called contribution made by these people may partly contribute to the prosperity of Hong Kong's tourism industry. Furthermore, the spiralling rents paid by these shops, particular those located in key tourists districts, may also be another factor.

However, as the saying goes, "Fire cannot be covered up with paper". The running of businesses with these means will eventually be exposed. It is most unusual this time that the local media have failed to perform "undercover" operations, probably because the media have grown used to such news and no longer treated it as news. On the contrary, it was exposed by a CCTV programme. The Hong Kong media should really feel ashamed. This is most unusual. In the past, Hong Kong journalists would go to the Mainland to expose the dark side of the country by performing "undercover" operations or reporting. This time, however, it was the CCTV, of our great Motherland, which exposed the dark side of Hong Kong through "undercover" operations. This can be treated as a serious alarm sounded to the media in Hong Kong, that the alertness and proactiveness of the local media have, to a certain extent, degenerated, and the local media have been overtaken by the CCTV. Of course, this might be surprisingly good news to the Mainland. I hope the CCTV will continue to, besides covering news about Hong Kong, expose various problems on the Mainland with this spirit and principle to ensure that the interests and rights of consumers and the public are protected. The performance of CCTV this time is indeed highly commendable. President, I hope you can allow the Legislative Council to criticize the Central Authorities while allowing us to praise it. I am referring to "Long Hair"'s motion, though it is not a question for discussion today.

President, a number of unscrupulous shops are actually operating in a semi-unscrupulous manner. I hope the matter can be further followed up and examined by the Secretary. The so-called unscrupulous shops are but the tip of the iceberg. As Members might be well aware, many so-called prestigious shops in Hong Kong have been selling a combination of authentic and counterfeit goods for years. In other words, some shops might be taking advantage of their prestigious reputation, and only some of the goods sold there are authentic, while the others are counterfeit. Furthermore, such acts are conducted in busy

districts. However, we have never seen the Government take the initiative to systematically expose the undesirable conduct of these shops. Secretary, we must not continue to rely on the CCTV to expose these unscrupulous shops in future.

Over the past year or so, I have received a lot of complaints lodged by mainlanders against hotels in Hong Kong. President, these hotels are also involved in defraud. The ratings of mainland hotels are evaluated under a statutory system. The ratings of hotels in Hong Kong are, however, determined by the hotels themselves. There are no statutory organs whatsoever to determine the ratings of the hotels in the territory. Some self-claimed four-star hotels charging more than \$1,000 a night are even worse than three-star hotels on the Mainland. There is a lack of such basic facilities as broadband Internet access, and even checking of e-mail is impossible. As a result, many mainland tourists have a pretty bad impression of Hong Kong. Not only do they feel that they are cheated during their shopping trips, they also feel the same way during their hotel stay. While the rating system of mainland hotels is guaranteed, the so-called four-star hotels in Hong Kong are a terrible mess. I hope the Secretary can follow up the two issues raised by me earlier while upholding the reputation of our tourism industry. Thank you, President.

MR JEFFREY LAM (in Cantonese): Madam President, I fully support combating shops engaging in illegal and unscrupulous practices, that is, the unscrupulous shops, as they are commonly called, mentioned in today's motion. This is because only in doing so can the interests of consumers at large be protected and tourists' confidence in Hong Kong as a shoppers' paradise be assured. Moreover, the vast majority of honest businessmen in Hong Kong can thus avoid being affected for no reasons, and the business environment can be spared harm.

Regarding the original motion and relevant amendments today, we members of the Liberal Party have already made a detailed response. So, I do not wish to repeat. I would, however, like to focus my discussion on the proposal made by Mr Fred LI in his amendment concerning "studying the transfer of the TIC's function of monitoring the tourism industry to a new statutory regulatory body to avoid the problem of 'the industry regulating its own members'".

I would like to remind Mr LI that a similar amendment was proposed by him at a meeting of the Panel on Economic Services about two weeks ago, that is 23 April. In response to a motion proposed by Mr Howard YOUNG on "urging the Government to enhance measures to uphold Hong Kong's reputation as shoppers' paradise" during the same meeting, Mr Fred LI proposed an amendment requesting the establishment of a new structure separate from the TIC to regulate the tourism industry. Consequently, Mr LI's amendment was negated, whereas Mr Howard YOUNG's original motion was passed.

Madam President, I still remember how the voting was conducted that day. Perhaps Mr LI has forgotten about it. However, I was deeply impressed because Mr LI questioned whether I, as Chairman of the Panel, should vote. Actually, Rule 77(13) of the Rules of Procedure states very clearly that chairman of a Panel can have an original vote and may exercise his right to cast an original vote on matters to be decided by a meeting, alongside other members attending the meeting. I voted against Mr LI's amendment at that time.

Madam President, my opposition to the proposal of setting up a new regulatory organ that day still stands today because it will only lead to duplication and redundancy, and affect the progress of the existing improvement work.

Some colleagues earlier mentioned that the TIC was "regulating its own members" and therefore changes were required. Why? It is precisely these colleagues, coming from the medical, legal and accountancy sectors, who insist on the need for their sectors to regulate their own members. Why? They are inconsistent in their words and deeds. It is precisely because they do not understand the operation of other trades and industries that they cannot regulate them even if they want to. They have already provided the answer, which is very simple indeed. Problems will arise if they seek to regulate industries of which they have no knowledge.

I would also like to emphasize that I attach great importance to combating black sheep engaging in unscrupulous practices and upholding the development of the tourism industry. The TIC, well-versed in the operation of the industry, is able to prescribe the right remedy to address the shortcomings of the industry. There is simply no question of self-regulation. Furthermore, the TIC has achieved remarkable results and made great efforts to get the job done. After the disclosure of the undesirable practices of the unscrupulous shops in Hong

Kong in a CCTV programme, the TIC has taken prompt and effective follow-up actions and work closely with the HKTB, the Tourism Commission and mainland authorities to jointly crack down on unscrupulous shops to restore tourists' confidence. The number of tourists during the Labour Day Golden Week, though generally predicted to be low, has turned out to rise 30%. The results of such efforts are indisputable.

Madam President, I so submit.

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

MR LEUNG KWOK-HUNG (in Cantonese): President, at first glance, the focus of this motion is to debate the combating of unscrupulous shops, as those described in *Shui Hu Zhuan*, a well-known Chinese classic also known as *Outlaws of the Marsh* (水滸傳). So, this motion is most strange indeed.

What is an unscrupulous shop by definition? Unscrupulous shops can be classified into many categories. I think Mr LAU Kong-wah is referring to those shops where tourists of zero-fare tours are forced to make purchases. In fact, what is the cause of this problem? It is the result of the monopolization of information. Mainland tourists visiting Hong Kong do not know what Hong Kong looks like; neither do they know what shops are available in Hong Kong. At first, these tours were not offered at zero fare but at a charge of \$100, for travel agents also needed to cover their costs. In the face of competition, operators discovered that they could earn commission by taking tourists to do shopping at different shops, and a price war was waged over tour fares. The situation is comparable to those excursion tours organized by Members. If the fee for tour A is \$50 per head, tour B will be priced at \$30 per head. By then, the fee for tour A will be lowered to \$20 per head and tour B will turn out to be free and offering complimentary gifts. These cases are common at the district level. This is how zero-fare tours emerged.

If we are determined to stamp out these zero-fare tours or "con tours", we have to enhance the transparency of trading information. Why is there no transparency? Of course, some colleagues may again criticize me for blowing my own trumpet. On the Mainland, the flow of information is blocked. At present, there are 200 000 Internet policemen on the Mainland. That is to say,

200 000 policemen are policing the traffic on the Internet, and they will monitor which webpages certain persons have visited and which they have not, or which webpages they have browsed and what questions they have asked on the Internet. Therefore, there are several solutions to this problem. First, the Mainland should open up its media, allowing an abundance of information about Hong Kong to be posted on the Internet. The authorities concerned must feel at ease and give permission to this, otherwise, the reoccurrence of such incidents will become inevitable, causing a large number of tourists who know nothing about Hong Kong to fall into these traps. Of course, with the strict enforcement of laws at present, these operations can be suppressed in the short term. However, once the efforts in law enforcement are lessened, the problem will come again.

In fact, this problem is not unique to Hong Kong. In the past, when Hong Kong people visited Taiwan or South Korea, zero-fare tours were also available, buddy, am I right? The logic is the same, so Members should not make a mountain out of a molehill. I certainly disagree with such practice and consider the curbing of such practice necessary. However, since the discussion on these unscrupulous shops has become tiresome, and everyone is giving the same opinion, I would rather talk about another kind of unscrupulous shops.

Are unscrupulous shops abundant in Hong Kong? There are surely lots of them. If you shop in Tsim Sha Tsui for electrical appliances, you may come across some extremely cheap offers. But when you ask for the appliance, the shopkeeper will tell you it is out of stock and coerce you into buying appliances of other brands. In fact, these shops also cheat Hong Kong people. Let me cite another example. A friend of mine who is a foreigner had to produce his Hong Kong identity card to show his status as a Hong Kong resident before the shopkeeper was willing to give him a discount. There used to be a lot of shops of this kind, which was exactly the result of underdevelopment in communications. Nowadays, the situation has improved, for many advertisements are posted on the Internet, and the webpage of Gome even displays all kinds of electrical appliances for customers to browse over. Therefore, the monopolization of information is thus one of the major causes of the problem.

However, I am going to talk not about the monopolization of information but other unscrupulous shops emerged under the policy of the Government, I mean unscrupulous companies enjoying a monopolization status. For instance, the two power companies, the Kowloon-Canton Railway Corporation (KCRC)

and the MTR Corporation Limited (MTRCL). There is a groundswell of public discontent with the KCRC and the MTRCL at present. We have made desperate efforts to ask these buddies to do this and that at the time of merger, and Mr LAU Kong-wah often makes such requests. But their replies are always in the negative. They say they are commercial organizations, and the legislation enacted by the Government allows them to monopolize the entire sector. Even if some economics laymen proposed the construction of another railway next to that of the KCRC, this will not be allowed and is doomed to fail, for railway is said to be a natural monopoly. The electricity supply industry is not a natural monopoly originally, but owing to the interconnection arrangement, it has again become a natural monopoly.

Buddy, is Park'n Shop an unscrupulous shop? The word "diarrhea-prone" was simply crossed out from the label of oilfish, and the fish was sold as usual. But to date, the incident remains unsettled. Mr LI even said that the fish was consumed all over the world and queried if the incident was directed against him. These unscrupulous shops are operating as usual day by day. Everyone, grassroots or the middle class, and even wealthy businessman, suffers. Is there any organization in Hong Kong responsible for monitoring these unscrupulous shops? No, there is not. We murmur day after day that these organizations and public utilities should not be monopolized. But has the Government done anything about it? The answer is also in the negative.

The latest examples are the unscrupulous shops under The Link REIT. Buddy, the Government allowed \$60-odd billion assets to be sold at a price of \$20-odd billion and be used as unscrupulous shops. The tenants were the hardest-hit for they were put under The Link REIT at the same time. They want to move out, but they cannot, and staying means hard times. Who will address the problem of these unscrupulous shops? Has the media covered the issue? The media definitely dares not touch on the issue, buddy, for The Link REIT also places advertisements in the media. This is also a case of monopolization of information. The Government is giving free rein to these super-unscrupulous shops to continue to operate. How can it claim there is no collusion between the Government and businesses? Of course, one can say that it is not collusion between the Government and businesses, for this is indeed a transfer of benefits, where no one will be caught red-handed. Corruption is found in Indonesia and Thailand. Where did Thaksin SHINAWATRA get the money he now uses for buying a football club, my buddy? This is how our system works.

Therefore, Honourable colleagues, so long as democracy is not established here in Hong Kong, allowing the legislature to be the highest monitoring authority, the establishment of statutory organizations will be futile. Despite the enactment of legislation, unscrupulous shops will continue to operate. Even WU Song (武松)³ has his hands tied. For this WU Song is now under the effect of three bowls of mind-numbing potion, namely, the ineffectual monitoring of the media, the powerlessness of the Legislative Council and the apathy of the Government, and is thus condoning all these unscrupulous shops to continue to cheat Hong Kong people of their money.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Member wishes to speak, I will now call upon Mr LAU Kong-wah to speak on the amendments. You have up to five minutes to speak.

MR LAU KONG-WAH (in Cantonese): President, I truly admire Mr LEUNG Kwok-hung for his speech is extremely imaginative. We are in fact discussing the problem of unscrupulous shops, and all of us understand it. However, he digressed too much from the topic. A catch-phrase, "collusion between the Government and businesses" will surely be found in every speech he delivered. However, in today's discussion on combating unscrupulous shops, co-operation between the Government and businesses is the focus. In this connection, co-operation among the Government, businesses and the public is essential. I see no question of collusion between the Government and businesses.

With regard to the three amendments, I think the amendment proposed by Mr Howard YOUNG is more professional than mine. I have put forth six points and he added several others. All the points he supplemented are

³ A character in a well-known Chinese-classic, *Outlaws of the Marsh*.

appropriate. Those are measures aiming at combating unscrupulous shops, or new alternatives, and it is crucial to foster co-operation with the Central Government or the relevant mainland sectors. I would like to highlight a point made by Mr Howard YOUNG, which is about allowing the tourism industry or travel agents of Hong Kong to operate on the Mainland. This has all along been the aspiration of the industry, and it has been announced recently that it will be implemented. I think this is also a significant measure. If the Hong Kong tourism industry can really establish a high reputation for Hong Kong on the Mainland, and that the retailing industry or shops in Hong Kong can maintain good reputation and operation, this will certainly help solve the problem.

Regarding Mr Fred LI's amendment, its focus is on a statutory regulatory body. I particularly notice that Ms Audrey EU interpreted this idea of Mr Fred LI from different aspects. She pointed out that regarding the various proposals put forth by either Mr Howard YOUNG or Mr LAU Kong-wah, no significant problems were involved, but the crux of the issue was the establishment of a statutory regulatory body. She suggested that the establishment of a regulatory body would be a panacea for all the problems and everything would be fine upon its establishment. But is this actually the case? Of course, a few colleagues have pointed out earlier the problem of "self-conclusive investigations on one's own peers". A Member from the accountancy sector pointed out that the accountancy sector could conduct "self-conclusive investigations on one's own peers". Members from the legal sector also pointed out that the legal sector could conduct "self-conclusive investigations on one's own peers". However, the tourism industry is not allowed to do so. In some measure, this is a double standard. I surely understand the situation, and Miss TAM Heung-man has explained the case. However, if the explanation is justified, it means regulatory bodies have to be set up for all trades and industries, except the professional sectors. For instance, yesterday, the Independent Commission Against Corruption called on dozens of members of the catering industry. It shows that the catering industry may also be beset by problems and require regulation, and a statutory regulatory body should thus be established. If we adopt such an approach, there will be a lot of problems.

On the other hand, the term statutory body is frequently mentioned in this Council, but statutory bodies may also have problems, they are not perfect. Thus, as to whether or not the establishment of statutory regulatory bodies can definitely solve all problems, I have doubts. It does not necessarily mean that

the problem cannot be solved, or there is no merit in doing so, but whether or not it is a panacea for all the problems, I have grave reservations. Since the proposals put forth by Mr Howard YOUNG and us seek to find the right remedy for the problem through law enforcement and financial or administrative means, I think we have to rely on the co-operation and full support of the Central Government, the SAR Government and the industry, and even this Council. These problems were also found in the past. However, this time around, we can see that all parties are making enormous efforts to address the problem. We hope they do so not only to address the problems arising during the Labour Day Golden Week or to cope with Golden Weeks, but to work pragmatically at the root of various major problems of the industry exposed in the incident in order to find the right remedy.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese) Madam President, first of all I would like to thank Mr LAU Kong-wah for proposing the motion for debate today. I would also like to thank the many Honourable Members who have made a lot of valuable suggestions on combating unscrupulous shops. I would also like to thank Mr Albert CHAN for he has finally stopped talking about "collusion between the Government and business". As for the other type of unscrupulous shops mentioned by Mr LEUNG Kwok-hung, I do not think it can be dealt with in the motion debate today. I would like to point out that most of the merchants in Hong Kong are fair and honest in doing business. Recently, there have been cases in which the shops receiving mainland tour groups misled or cheated visitors. The Government will not tolerate such conduct and will take rigorous actions against them. To this end, relevant government departments have acted in collaboration with the Travel Industry Council of Hong Kong (TIC), the Hong Kong Tourism Board (HKTB) and the Consumer Council and they have been taking a number of initiatives to combat those unscrupulous shops. These recent incidents provide an opportunity for the Government, relevant organizations and the industry to combat such unscrupulous shops, in the hope that the situation can be turned into an opportunity which will strengthen protection for visitors and consumers.

With respect to law-enforcement action, the Customs has conducted blitz operations at retail shops frequented by mainland tour group visitors and a number of undercover operations in April to combat malpractices. In addition,

the police, Customs, Consumer Council and TIC have established a speedy referral system. This enables the relevant parties, who act in accordance with their respective functions, to follow up promptly on complaints and impose sanctions against malpractices such as selling counterfeit goods, false trade descriptions, as well as deceitful and other dishonest sales practices.

If there is evidence of offence, the relevant departments will institute prosecution against the offenders and bring them to justice. On 13 April, for instance, the Customs prosecuted one of the jewellery shops. The law-enforcement agencies are actively following up some suspected cases of non-compliance, including deploying Customs officers to the Mainland to collect evidence direct from visitors suspected of having been cheated. The law-enforcement agencies will certainly press charges given sufficient evidence.

In parallel with more vigorous law enforcement, we have been working hard on enhancing the current consumer protection legislation. The Financial Secretary has indicated in his Budget speech this year that it is necessary to review existing measures to protect consumers in order to boost the confidence of tourists and citizens in shopping in Hong Kong. Together with the Consumer Council, Customs, police, HKTB and TIC, we are making every effort to implement the plan.

We intend to divide the legislative amendment exercise into two stages. At the first stage, we will focus on some misleading and deceptive trade representations, for example, false trade descriptions and luring customers with "baits". We will also pay attention to such sales practices as harassment or coercion. The Economic Development and Labour Bureau has set up a working group (the Group) with members drawn from the Consumer Council, Customs, police, Department of Justice, Tourist Commission (TC), HKTB and TIC. On the basis of complaints received by front-line departments and organizations as well as experience in law enforcement, the Group will identify urgent problems and propose legislative amendments, with a view to enhancing promptly the legislation under which the agencies can enforce the law in a more effective way, thus providing better consumer protection. During the evaluation process, the Group will take reference from overseas consumer protection legislation and also take into account the needs of shop operators in practical operation. The Government will propose specific legislative amendments in the coming months for consultation with the public and the Legislative Council.

Apart from measures directed at tackling the problem of visitors being deceived in shopping, the Government will at the second stage conduct a comprehensive review of the existing measures for protection of consumer rights and interests. At the request of the Government, the Consumer Council has set up a task force to join the Government in launching such work. In the motion, Members have urged that the Government should study the consolidation of the provisions relating to protecting consumer rights and interests in the existing legislation into a Protection of Consumer Rights and Interests Ordinance. This request has been included in the scope of the review we are to undertake. We will draw reference from the practices and experience in other places in assessing the results of the enactment of a new and comprehensive law and other proposals, before recommending a practice which best suits Hong Kong.

As far as regulation of the industry is concerned, travel agents, being TIC members, are bound by the TIC Memorandum and Articles of Association under the existing mechanism. They have to adhere to the codes of conduct and directives issued by the TIC under the Memorandum and Articles of Association. Travel agents which contravene the directives and codes of conduct are subject to disciplinary actions by the TIC, including suspension or revocation of membership, and eventually the revocation of licences by the Travel Agents Registry. For those shops under the Refund Guarantee Scheme, as they are designated to receive tour group visitors, they have to register with the TIC and provide the 100% refund service. If they violate their pledge, they will be given demerits. Registered shops with demerits reaching a specified threshold will be removed from the list of registered shops. Travel agents are not allowed to bring visitors to the shops deleted from the list for shopping activities. To combat the unscrupulous sales practices, the TC, HKTB, Consumer Council and TIC have discussed and reached a consensus on stepping up regulatory measures. To this end, the TIC endorsed the following measures in April:

- (1) tightening the criteria for shops receiving tour group visitors registered under the 100% Refund Guarantee Scheme, including extending the time limit for refund from 14 days to six months to allow visitors sufficient time to make refund requests;
- (2) requesting the registered shops to allow public access so as to enhance their transparency in operation;

- (3) increasing the demerit points for shops on repeated non-compliance of the same nature to tackle non-compliant shops;
- (4) refusing the registration of any shop which has the same registered address and director(s) of a shop deregistered in the preceding 12 months, to prevent the latter from continuing operation easily under another company's name;
- (5) "naming and shaming" registered shops that committed repeated violations and received frequent complaints by uploading such information onto the TIC website, with hyperlinks to the Consumer Council and HKTB websites so as to alert consumers and mainland visitors of such shops; and
- (6) stipulating that Hong Kong travel agents should only receive tour groups organized by mainland outbound tour operators authorized by the China National Tourism Administration (CNTA).

As for Mr Howard YOUNG's proposal to prohibit the imposing of additional charges on tour members for leaving the tour group before completion of the itinerary, the TIC has already issued directives prohibiting travel agents from doing so or they will be liable to sanctions. On the introduction of a tour guide fee system proposed by Mr YOUNG, the TIC and tour guide associations reached a consensus on the tour guide fee issue in April and they will examine the implementation details.

On handling complaints from visitors, the TIC has set up a visitor complaint hotline to handle complaints from visitors. Visitors can also lodge complaints by fax or through the website, which will be actively followed up by the TIC.

As regards publicity and consumer education, we will continue to enhance the publicity on consumer protection for mainland visitors in Hong Kong through our mainland counterparts such as the China Consumers' Association and CNTA, as well as various media. In Hong Kong, we directly distribute pamphlets promoting smart consumption and advice on complaint channels to mainland visitors at border control points and shopping areas.

To capture the mainland market, the HKTB has been promoting the brand image of Hong Kong through various diversified strategies, media and channels.

Apart from making use of television, newspapers and publications as well as mainland websites, the HKTB also adopts different publicity approaches to reach the target consumers, including co-operating with mainland education authorities to promote the characteristics of Hong Kong to students and their parents on the Mainland; collaborating with mainland Public Security Bureau which is the endorsement authority for the Individual Visit Scheme (IVS) to enhance the promotion to IVS visitors as well as launching promotional drives together with credit card companies.

To provide quality choices, the HKTB has introduced "Honest and Quality Hong Kong Tours" in a number of cities covered by the IVS, including Beijing, Shanghai, Nanjing, Hangzhou, Guangzhou and Shenzhen, since the fourth quarter of last year, with emphasis on honest and high quality itineraries featuring "free shopping" in Hong Kong. There will be no compulsory purchases, surcharges or self-paid activities. The HKTB will continue its efforts in promoting these quality tours to more IVS cities this year. It will continue to launch a series of promotional activities on the Mainland to promote "Honest and Quality Hong Kong Tours" and the "Quality Tourism Services Scheme" respectively, with a view to reinforcing the positive image of Hong Kong.

The TIC and tour guide associations will strengthen education on "Honest and Quality Tourism" for tour guides to enhance their recognition of professional ethics, in particular the importance of honest and quality tourism. The TIC will liaise with various tour guide associations and incorporate the modules of "Honest and Quality Tourism" into the newly-revised "Pre-service Tour Guide Training Course" and the "Tour Guides Continuous Professional Development Programme" in the pipeline. In addition, the TIC and the tour guide associations have reached a consensus on tour guide fees. The TIC is examining the implementation details. These initiatives will reduce the dependence on commission paid after shopping visits and this will in the long run raise the service quality of mainland inbound tour groups.

The CNTA recognizes and supports these initiatives, and undertakes to complement our efforts on the Mainland. On 25 April, the HKTB Chairman, Commissioner for Tourism as well as the TIC and Consumer Council representatives held a meeting with the CNTA in Beijing where they discussed in detail plans to publicize and promote the honest and quality tourism scheme on

the Mainland and further regulatory measures against "zero/negative-fare tours". I wish to make use of the opportunity here to thank the new HKTB Chairman, Mr James TIEN. He has demonstrated his capabilities on many occasions after he has assumed office and spared no efforts in working with the industry to combat unscrupulous shops. Immediately after the meeting, the CNTA promulgated eight initiatives to jointly regulate market order with Hong Kong's tourism industry:

- (1) promoting the application of Chinese Citizen Outbound Travel Contract, which sets out all the details of "outbound tour" to Hong Kong to give visitors a full picture of the itinerary, in high quality tour products such as "Honest and Quality Hong Kong Tours";
- (2) establishing a co-ordinating and punitive mechanism to monitor market malpractices in various ways, and enhancing communication between the two sides for joint efforts in imposing punishment;
- (3) reconfirming the lists of tour operators and receiving agents for mainland outbound tours to Hong Kong in order to crack down on travel agents operating Hong Kong tours on an illegal or subcontracting basis;
- (4) striving to promote and publicize rational consumption through various media to mainland visitors;
- (5) jointly promoting high quality tours such as "Honest and Quality Hong Kong Tours";
- (6) strengthening co-operation between the regulatory authorities of both sides, establishing an information exchange mechanism to handle visitors' complaints and tackle illegal/non-compliant travel agents and practitioners in an effective way;
- (7) strengthening communication and co-operation between the Chinese Consumers' Association (CCA) and the Consumer Council; and
- (8) rolling out a six-month programme dedicated to combating zero/negative-fare tours and regulating tourism market order" by the CNTA.

We will endeavour to complement the CNTA's eight regulatory initiatives.

With effect from mid-February, the TIC has made it a mandatory requirement for travel agents to provide inbound group visitors from the Mainland with an itinerary that lays out in clear terms the designated shopping arrangements as well as consumer rights and interests. At the mainland and Hong Kong travel industry joint meeting held in Beijing on 25 April, we also indicated to the CNTA that it was necessary to make it mandatory for mainland tour operators to provide visitors with outbound itineraries, so that visitors could compare different offers and prices to make informed decisions and select the ones that best suit their needs. As such, the problem could be tackled in the source market. To cope with this requirement, the Consumer Council has proposed to the CCA to remind mainland visitors to pay attention to the quality of tour operators, selecting only those which are:

- (a) among the tour operators recognized by the CNTA;
- (b) providing them with outbound itineraries or prices for ease of comparison by consumers; and
- (c) providing them with details of designated shopping such as locations and durations; providing them with the names and licence numbers of the receiving agents in Hong Kong.

The TIC, HKTB and Consumer Council have co-operated with the CNTA to have all their websites connected via hyperlinks. Information of travel agents and shops that have records of repeated non-compliance will be uploaded to alert mainland visitors and local residents of such information and enhance transparency.

I agree with the idea raised by Members earlier that the arrangement for Hong Kong's reputable travel agents to operate Hong Kong and Macao tours in Guangdong Province should be expedited. In fact, the CNTA has already announced the detailed implementation arrangements for such tours after a series of discussions. We believe the measure will not only provide local travel agents with development opportunities but also bring in healthy competition. With Hong Kong travel agents operating quality mainland outbound tours, we can help upgrade the quality of tourism services on the Mainland, which in turn will serve to ameliorate some of the problems we face.

We think these measures are similar in many ways to the recommendations made by many Honourable Members earlier. We will continue to hit hard on unscrupulous sales practices and restore the confidence of tourists coming to Hong Kong for shopping. Of course, all these are not done specifically just for the Labour Day Golden Week. I must stress that we will continue our work on that. In fact, during the Labour Day Golden Week just past, mainland visitor arrivals totalled 540 000, representing an increase of 30% over the same period last year. Among them, visitors under the IVS have increased by over 50%. This shows that mainland visitors recognize our determination in combating unscrupulous shops.

As for the proposal made by Mr Fred LI for setting up a new statutory regulatory body, I would like to point out that we have been keeping a close watch on the performance of the TIC in regulating the operation and conduct of travel agents and we will assist in reforming the relevant framework as well as making improvements in other aspects in line with the needs of the community and the industry's development. The TIC formulates and enforces its directives and codes of conduct in accordance with its Memorandum and Articles of Association. Since 1990, the TIC has been specified as a public body under the Prevention of Bribery Ordinance. It follows that members of its Board of Directors are regarded as public officers and they are all subject to the regulation of the Ordinance. With assistance from the Independent Commission Against Corruption, the TIC has issued a Code of Conduct for Directors which aims at ensuring the honest and faithful discharge of TIC duties by its directors and that priority is given to upholding the overall interest of the tourism industry and protection of consumers. In 2002, we amended the Travel Agents Ordinance to include inbound tour services in addition to outbound tour services in the regulatory framework for travel agents. A review of the relevant regulatory framework was undertaken at that time after extensive consultation with the industry and other related organizations such as the TIC, Consumer Council, the Legislative Council, and so on. Mr Fred LI expressed his views on that. In the end, the amendment was passed in this Council.

Currently, of the 25 members serving in the TIC Board of Directors, eight of them are independent non-trade directors appointed by the Government. They come from various professions and sectors in the community such as the legal and accountancy professions and the academia. This composition enables more views to be heard in the TIC from all quarters. There are specific committees under the Board of Directors, including committees to deliberate on

cases involving tour agents and tour guides. The majority of members in these committees are non-trade members. A few months ago, the TIC established two new committees to cope with the regulatory needs of inbound tour groups from the Mainland. One of them is the Mainland China Inbound Tour Compliance Committee which examines non-compliance cases of inbound tour groups from the Mainland. This Compliance Committee is composed of a majority of non-trade members and its chairman is an independent director of the TIC. Also, the TIC has included representatives from the tour guides in the relevant committees so that their views can be heard. The tourism industry in Hong Kong is always changing and market developments are extremely rapid. As the TIC is composed of both members from the trade and non-trade independent people, hence it is in a better position to understand market operation and needs and to respond rapidly to regulatory needs in the market by way of non-legislative means like the issue of directives. For example, the TIC made a swift response last month to the need to combat sales malpractices in the retail shops by extending the refund guarantee time limit from 14 days to six months, arrived at a consensus with the tour guides on tour guide fees, and so on. The Government will maintain close collaboration with the TIC to ensure that the existing system will respond to market developments promptly and effectively for the protection of visitors and consumers and to facilitate the healthy development of the industry. In my opinion, I do not think a new regulatory body should be set up to take over the role played by the TIC and what we should do now is to keep a close watch on the performance of the TIC and to assist it in its reforms as when necessary.

Madam President, we treasure Hong Kong's reputation as the "shoppers' paradise". We are determined to protect Hong Kong's status as the premier tourist destination and will not tolerate any market malpractices that jeopardize Hong Kong's quality brand name. We will continue to join forces with relevant organizations and the industry in protecting the rights and interests of local consumers and tourists. Despite our confidence in the effectiveness of measures introduced recently, we are committed to continually reviewing the situation and making improvement, as well as stepping up our co-operation with various sectors of the community in order to boost the confidence of tourists and local consumers alike.

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

MR HOWARD YOUNG (in Cantonese): President, I move that Mr LAU Kong-wah's motion be amended.

Mr Howard YOUNG moved the following amendment: (Translation)

"To delete "rising number of" after "in view of the" and substitute with "recent"; to add "which have aroused wide concern" after "shopping in Hong Kong"; to add "On the cooperation with the relevant Mainland authorities: (a) fully implementing the eight regulatory measures promulgated earlier by the China National Tourism Administration, including conducting regular inspections and imposing severe penalties on non-compliant travel agents, so as to thoroughly combat the problems arising from zero-fare and negative-fare tours; (b) prohibiting outbound travel agents in the Mainland from imposing additional charges on tour members for leaving the tour group before completion of the itinerary; (c) vigorously publicizing to tourists the risks involved in 'arranged shopping' tours and the protection available to them;(d) expeditiously allowing Hong Kong's reputable travel agents to operate Hong Kong and Macao tours in Guangdong Province, with a view to upgrading in the long run the quality of tourism services in the Mainland; On the local front:" after "coming to Hong Kong for shopping, including:"; to delete the original "(a)" and substitute with "(e)"; to add "whether there is a need for" after "studying"; 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 add ", and providing tourists with such information as the complaint hotline at border crossing points" after "departure from Hong Kong"; to delete the original "(e)" and substitute with "(i)"; to delete "and" after "travel agents and tour guides;"; to delete the original "(f)" and substitute with "(j) if the complaints are substantiated, "; and to add "; and (k) discussing with the industry the introduction of a tour guide fee system" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Howard YOUNG to Mr LAU Kong-wah's motion, be passed.

PRESIDENT (in Cantonese): I now call upon Mr SIN Chung-kai to move his amendment to Mr Howard YOUNG's amendment.

MR SIN CHUNG-KAI (in Cantonese): President, I move that Mr Howard YOUNG's amendment be amended.

Mr SIN Chung-Kai moved the following amendment to Mr Howard YOUNG's amendment: (Translation)

"To delete "providing tourists with such information as the complaint hotline at border crossing points" after "departure from Hong Kong, and" and substitute with "installing television facilities at border crossing points to publicize tourism information, as well as co-operating with telecommunications companies to provide inbound and outbound tourists with information such as the complaint hotline via mobile telephone short message service"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr SIN Chung-kai to Mr Howard YOUNG's amendment, 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)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mr Howard YOUNG's amendment, as amended by Mr SIN Chung-kai, to Mr LAU Kong-wah's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Mr Fred LI, as Mr Howard YOUNG's amendment as amended by Mr SIN Chung-kai has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you have up to three minutes to explain the revised terms in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

MR FRED LI (in Cantonese): President, I move that Mr LAU Kong-wah's motion as amended by Mr Howard YOUNG and Mr SIN Chung-kai, be further amended by my revised amendment.

Mr Fred LI moved the following further amendment to the motion as amended by Mr Howard YOUNG and Mr SIN Chung-kai: (Translation)

"To add "; (l) in the cases of travel agents incurring demerit points due to non-compliance with the rules, examining how to prevent their directors from evading the penalty by changing their company names to continue operations; and (m) studying the transfer of the TIC's function of monitoring the tourism industry to a new statutory regulatory body to avoid the problem of 'the industry regulating its own members'" after "tour guide fee system"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Fred LI's amendment to Mr LAU Kong-wah's motion as amended by Mr Howard YOUNG and Mr SIN Chung-kai, 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 Fred LI rose to claim a division.

PRESIDENT (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for three minutes, 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 Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr

Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Prof Patrick LAU voted against the amendment.

Mr WONG Yung-kan and Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat and Mr LEUNG Kwok-hung voted for the amendment.

Mr James TIEN and Mrs Selina CHOW voted against the amendment.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, nine were in favour of the amendment, 13 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 21 were present, 12 were in favour of the amendment, two against it and six abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr LAU Kong-wah, you may now reply and you have five minutes six seconds.

MR LAU KONG-WAH (in Cantonese): President, during the short span of 10 days from the report of the CCTV to our debate today, we can see that the

Central Government, the SAR Government, the industry and even the trade unions have all been very co-operative, hoping that efforts can be pooled together to bring benefits to Hong Kong's tourism industry. I greatly appreciate that.

So, at hearing Dr KWOK Ka-ki's blast, I really felt quite uncomfortable — Dr KWOK Ka-ki is not here. I think criticisms are attracted no matter what has been done. Such an attitude of debating politics is no longer feasible today. I think we should give encouragement to each other when we can really afford it.

Just now, a number of Members, as well as the Secretary, all mentioned that the figure of visitors to Hong Kong had not dropped but increased at this stage during the Golden Week. This is certainly good news. But I do not think we should be complacent. Such an increase must not be due to the unscrupulous shops — unscrupulous shops still exist and such a problem can only be resolved by the efforts of all quarters. Such an increase, in my opinion, is largely due to Hong Kong's good reputation which is our biggest asset. Mainland visitors have confidence in goods offered in Hong Kong. So, we have to continue to work hard to protect our reputation of assurance.

Mr James TIEN — he has just left the Chamber — he has become the new Chairman of the Hong Kong Tourism Board. We certainly wish him the best of luck. We have seldom seen him so busy running around. President, he is running around for this matter. Some people told me that he had been seen handing out pamphlets. But this time, it is not for election but for the provision of more information to visitors. I certainly admire him. We can also see that some Members representing the functional constituency, through this experience, have pooled certain forces in the industry to bring their functions into play and launch some measures swiftly. Perhaps this is a kind of value. I also consider this an experience of Hong Kong. At any rate, let us work together to make Hong Kong and the tourism industry better. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Kong-wah, as amended by Mr Howard YOUNG and Mr SIN Chung-kai, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion as amended passed.

PRESIDENT (in Cantonese): Second motion: Improving the planning for Hong Kong and reducing screen-like buildings.

I now call upon Mr WONG Kwok-hing to speak and move his motion.

IMPROVING THE PLANNING FOR HONG KONG AND REDUCING SCREEN-LIKE BUILDINGS

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

Madam President, in order to express for Hong Kong people their hope of improving the planning for Hong Kong and reducing screen-like buildings, I have deliberately put on a blue shirt today to stand for people's craving for an azure sky, fresh air and good air ventilation. I have also deliberately put on a pair of beige trousers to reflect people's yearning that our buildings can all have sunshine and natural lighting.

Madam President, recently, the weather in Hong Kong has been very hot, with the temperature reaching the year-high of 32°C a couple of days ago. Apart from the possible effect of global warming, this also has something to do with our urban design. The reason is that property developers have been constructing many tall, gigantic and dense screen-like buildings with a single-line

array all over Hong Kong, especially along waterfronts, thus producing various negative impacts on the air ventilation, lighting and even temperature of our city.

What is the architectural design characterizing a "screen-like building"? Green Sense, an environmental group, put forward six criteria sometime ago: a distance of shorter than 15 m between buildings, building height over 35 storeys, single-line array of buildings, locations at strategic sites such as waterfronts or breezeways, the wider sides of buildings facing prevailing wind and the existence of shorter buildings near taller ones. According to statistics done by the organization, 104 existing housing estates in Hong Kong meet the six criteria mentioned above and can thus be classified as screen-like buildings.

Madam President, the effects of screen-like buildings on us are not restricted to urban design, architectural aesthetics and views. They also affect our quality of living, environmental efforts and even environmental hygiene. Hong Kong is densely populated. All the different kinds of activities, together with its basically sultry weather, make the urban areas susceptible to the heat island effect, with all the pollutants trapped in a state of stagnancy. In order to reduce the heat in urban areas, fresh breezes must be channelled into their interiors or the inner streets. In the past, urban breezeways were formed basically by the dispositions of streets, open areas and low-rise buildings. However, the large-scale property development and urban renewal projects in recent years have converted our streets into shopping malls, replacing low-rise buildings with skyscrapers. As a result, breezeways are blocked. This, together with the single-line array of new buildings, makes it very difficult for sea breezes to blow inland. According to the information provided by the Hong Kong Observatory, in October last year, when the wind speed exponent of the outer island of Waglan was 17.6 km per hour, those of Tsing Yi and Tsim Sha Tsui were just 11.1 km and 7.1 km respectively. That being the case, it is very difficult to lower the temperature levels in urban areas, and pollutants cannot disperse easily. As revealed by a recent study conducted by the Environmental Protection Department, Causeway Bay, Mong Kok and Yau Ma Tei are worst hit by the heat island effect. Their temperature levels in summer and autumn are higher than those in the rural areas by 2.12°C or 3.04°C on average. As the temperature rises by 1°C, people's electricity consumption will increase by 2.64% to 9.02%. We can thus observe that screen-like buildings have inflicted great losses on the public from the financial perspective and in terms of energy conservation.

Furthermore, screen-like buildings have also affected environmental hygiene. As we all know, the ultra violet waves in sunshine can kill germs. However, high and compact screen-like buildings will block all the sunlight which will otherwise fall on nearby low-rise buildings. Germs and viruses may grow and accumulate more easily in these low-rise buildings which are deprived of any sunlight all the year round, thus adversely affecting people's health. Actually, apart from sunlight, air ventilation may also serve to lower the concentration of germs. According to research findings, if we open the door and windows of a flat for 10 minutes, the concentration of germs in the air inside the flat may go down by 45%. However, if a flat is completely "windless" due to the presence of screen-like buildings, its indoor concentration of germs may rise incessantly, thus increasing the incidence of diseases.

Actually, since the outbreak of SARS, the Government has started to pay more attention to building design and ventilation. In 2003, Team Clean already advised that air ventilation assessments should be taken into account in the planning of large-scale development and renewal projects. In the same year, the Government also incorporated into the Hong Kong Planning Standards and Guidelines (HKPSG) the major urban design considerations set out in the Urban Design Guidelines, including the dispositions of and density of buildings, breezeways and ridgelines protection. In July last year, the Government issued a Technical Circular specifically on air assessments, which has since been followed in large-scale government projects.

Madam President, the Government has made many efforts, that is, it has formulated guidelines and taken the lead in conducting air ventilation assessments, but all these government measures are mere guidelines. They are not mandatory, meaning that they are just a "toothless tiger" with no binding effect. As a matter of fact, after successfully bidding for a land lot at a high price, a property developer will naturally make the optimal use of the plot ratio allowed by the Government in building construction, and it will also fully utilize all exemptions to increase the efficiency rate. If the site is at the waterfront, high-rise buildings with panoramic and sea views for every flat will be constructed. The buildings may even be arrayed like lines of screens, so as to make sure that the flats can be sold at good prices. Property developers sell flats for profits, which is why they will not bother about building dispositions and air ventilation. In the case of Tung Chung, for example, the population there is less than 100 000 people, but the density of private residential buildings is very high. Looking out of the Tung Chung MTR Station, we will see that

more than 20 screen-like buildings are arrayed in one single line, forming something like a wall that allows no air circulation. As for Southeast Kowloon, property developers have swiftly moved in since the demolition of the old airport. Beside the old area near Ma Tai Wai Road comprising the so-called 13 streets, there are now lines of private housing developments. All those new buildings block not only the sea view and onshore breezes but also most of the sunlight that will otherwise fall on the nearby low-rise buildings.

Madam President, I wish to say a few words on the problem of screen-like buildings relating to the housing projects of railway corporations and the Urban Renewal Authority (URA). We all know that railway station facilities are currently exempted for the purpose calculating plot ratios. What is more, development sites at railway stations are mostly long and narrow. As a result, the superstructure property developments along railway lines are usually marked by great building heights and high density, thus producing the wall effect. For example, at Yuen Long Station of the West Rail, there is now a superstructure development plan which will see the construction of nine 47-storeyed screen-like buildings. As early as late 2005, Yuen Long residents already started to oppose the construction of these screen-like buildings. But their opposition has been of no avail. In the future, the railway corporation will continue to construct such screen-like buildings by making use of the plot ratio exemption. Why does the Government turn a blind eye to this? What does it not require the railway corporation to adhere to the urban design and air ventilation guidelines?

Madam President, in the case of the URA, we can cite the seven streets in Tsuen Wan as a typical example of how it has resorted to the construction of screen-like buildings as an approach of urban renewal. In this project, the URA has erected nine adjoining buildings each with 50 to 52 storeys, thus forming a huge "wall" in the town centre of Tsuen Wan. Many Tsuen Wan residents have come here today with a sketch illustrating the screen-like effect, and they have requested us to show it to government officials and Members in the Chamber. What is more, in order to redevelop the streets as one single whole, a podium design is adopted, thus obliterating the existing streets. Without any streets to serve as breezeways, how can there be any air ventilation for the old areas nearby? Worse still, another "wall" — one is not enough for them, and they want to erect another — will be constructed under a project involving the superstructure development of West Rail Tsuen Wan Station and an adjacent site. According to a decision of the Town Planning Board (TPB), on the three sites around Tsuen Wan West Station, it is possible to develop more than 20

residential blocks and hotels, each with 30 to some 50 storeys. Upon the completion of these two "walls", can there be any more winds blowing into the current town centre near Tsuen Wan MTR Station? The URA has pointed out that air ventilation assessments will be conducted for the redevelopment project of Kwun Tong, but this principle will only be applicable to redevelopment projects involving the merging of several sites, the closure of existing streets and the construction of buildings at-grade.

Madam President, from the above, we can see that if we do not impose any effective statutory control on the density and heights of buildings, air ventilation and natural lighting, screen-like buildings will only keep emerging in our city. Some may argue that since the TPB has already adopted the set of guidelines as the criteria governing the approval of development plans, there is in fact an ultimate safeguard. But I am of the view that the problem will continue to emerge. In case a project does not require the TPB's approval, or a site has been sold to a developer and no change in land use is necessary, or a site is not classified as a Comprehensive Development Area, the guidelines will be useless. One example is the waterfront site on Hoi Fai Road in West Kowloon. Environmental groups have already pointed out that the site is the last remaining breezeway in West Kowloon, and they say that air ventilation assessments should be conducted. However, the department concerned has refused to conduct any assessment on the ground that the site measures less than 2 hectares in area. And, it is even stated in the conditions of sale that the maximum building on the site should be 140 m. We can imagine that the developer will certainly take full advantage of the conditions of sale and construct three 40-storeyed buildings there, which will form a still bigger "wall" together with the existing screen-like buildings. In that case, the sea breezes blowing into Kowloon through Tai Kok Tsui will certainly be reduced. In places where pollution is already very serious now, such as Mong Kok, Yau Ma Tei and Sham Shui Po, people will only find it even more difficult to have any fresh air.

Madam President, I hope that the motion today can urge the Government to squarely address the various problems brought about by screen-like buildings in different districts. At the same time, I also hope that the Government can adopt effective measures, such as the enactment of legislation, to regulate land development, building density and heights as well as air ventilation, with a view to perfecting Hong Kong's urban design and stem the construction of any more screen-like buildings.

Mr WONG Kwok-hing moved the following motion: (Translation)

"That, despite the planning guidelines provided in the existing Hong Kong Planning Standards and Guidelines on building density, layout, urban design and air ventilation etc, such guidelines are not legally binding, resulting in the recent emergence of a large number of screen-like buildings, which not only affect the air ventilation and lighting, etc of the neighbouring areas but also bring adverse impact on the planning of ancillary facilities, such as transport and public realm, for the entire community; in view of the above, this Council urges the Government to thoroughly review the Hong Kong Planning Standards and Guidelines, consider introducing legislative measures to regulate the density and height of buildings, air ventilation and lighting, etc, and, at the same time, protect the ridgelines and harbour view, so as to ensure better planning for Hong Kong."

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): Four Members will move amendments to this motion. The motion and the four amendments will now be debated together in a joint debate.

I will call upon Mr Frederick FUNG to speak first, to be followed by Ms Audrey EU, Prof Patrick LAU and Mr LEE Wing-tat; but no amendments are to be moved at this stage.

MR FREDERICK FUNG (in Cantonese): President, last week, when the Chief Executive attended the Question and Answer Session of the Legislative Council, he formally announced his grand plan of "Three Secretaries of Departments and 12 Bureau Directors". The most notable of all Bureaux is of course the Development Bureau. The hottest topic in town is who will be appointed the Secretary for Development. But actually, the most significant task of this Bureau is to bring forth the expeditious implementation of large-scale infrastructure projects. However, some existing projects have led to the "wall effect" due to planning errors, and the daily life of nearby residents is adversely

affected. Should the Secretary for Development deal with this problem? Or, will he have the ability and enterprise to rectify the blunder?

When the Government introduced the policy of "85 000 housing units" many years ago, the Town Planning Board (TPB) approved quite a number of high-density property development projects. One of them is the superstructure development at Nam Cheong Station of West Rail in Sham Shui Po. The site measures 100 m by 400 m, and the plot ratios of commercial and residential buildings at the site are both 1:8. Totally 20 blocks of commercial and residential properties will be constructed, including 10 residential blocks and one commercial building. Gigantic buildings each with more than 60 storeys will be erected before Nam Cheong Estate in a single-line array, preventing temperature regulation by sea breezes and affecting the air ventilation in the district.

However, in Sham Shui Po, there are many old private buildings and highly compact caged dwellings and cubicle apartments. In summer (especially when the weather is extremely hot, just like that of the past two days), all these residential settlements must rely on the southwesterlies blowing from the sea for temperature reduction. If all these screen-like buildings are really constructed, the poor masses, elderly persons and chronic patients in the district who do not have the means to install air-conditioners will all be affected. Besides, the emissions and suspended particulates generated by the traffic on the major roads linking Sham Shui Po to the rest of Kowloon will be trapped in this old district, jeopardizing the health of residents. In case a highly contagious disease like SARS breaks out in the community, the consequences will be beyond imagination.

President, Secretary and Honourable Members, just imagine that you are residents in the vicinity of this old district and you find that a gigantic 60-storeyed building suddenly emerges beside your homes, blocking all sunlight and breezes from the sea and making it all very sultry in the neighbourhood. Will you not voice your opposition and demand to the Government? Will you not be discontented and angry?

In the past few years, the Hong Kong Association for Democracy and People's Livelihood (ADPL) held many discussions on this problem with various authorities (including the KCRC, the Housing, Planning and Lands Bureau, the Environment, Transport and Works Bureau and even the Financial Services and the Treasury Bureau). We met with one Bureau after another, but invariably,

we were told that no Policy Bureau could possibly give any answer as to which Bureau concerned formulated the policy or had the power to amend the development plan. But in the end, I was simply told that since the amendment of the plan would result in a reduction of government revenue, I had better ask the Financial Services and the Treasury Bureau. So, I finally realized that the fundamental problem was again money. Will the new Development Bureau also refer this problem to the Financial Services and the Treasury Bureau? Will the Development Bureau place sole emphasis on expediting the launch of projects? Or, will it instead strive to rectify these planning blunders from the angle of residents? The portfolios of the Development Bureau and the Environment Bureau may clash, but it is also possible for them to complement each other. In the face of this problem, how are these two Bureaux going to co-ordinate their efforts, so as to bring forth a win-win situation and achieve an outcome agreeable to both the Government and the people?

In his election platform, Chief Executive Donald TSANG advocates a "progressive view on development", and it seems that to him, the only way of fostering economic development is to expedite the launch of infrastructure projects and investments. However, can such a development direction really benefit the different strata of society? What should be the role of the Government? All along, government policies have been biased in favour of large consortia and giant enterprises, with the result that property developers can erect skyscrapers along our waterfronts. What is more, property developers all want to maximize the floor areas of their projects, just to make sure that each and every flat can command an unrivalled sea view and profits can thus be maximized. As a result, the buildings designed under such projects are all like walls, springing up along waterfronts without any restrictions. Property developers can of course reap immense profits. But those who suffer are the lower strata of society, whose needs are ignored. And, community environment as a whole also declines in quality.

In December last year, the ADPL moved a resolution in the Sham Shui Po District Council, requesting the Government to reduce plot ratios and enact legislation to implement the air ventilation guidelines formulated by the Planning Department. However, in its reply, the Government simply repeated that the Qualitative Guidelines on Air Ventilation formulated by the Planning Department was still being adopted for the reference of the industries concerned. But it also emphasized that the guidelines were just meant for reference, and it would not enact any legislation on their mandatory implementation. It must be pointed out, however, that the guidelines are applicable only to government buildings,

and even public-sector organizations such as the two railway corporations and the Urban Renewal Authority (URA) are not required to comply. For this reason, the ADPL has proposed an amendment to the motion, in the hope that the Buildings Department (BD) and the two railway corporations can enhance their requirements on air ventilation when vetting building designs, with a view to making sure that large-scale property development projects will not lead to the "wall effect". Some may ask, "How about the URA?" Since the vetting and approval of building plans of the URA must also pass the BD, the proposals in respect of the BD also applies to the URA.

However, the Nam Cheong Station superstructure project is just one of the many problems. There are many other projects, including:

1. the nine railway property development projects involving 73 buildings in Tai Wai, Tseung Kwan O, Wu Kai Sha, Yuen Long and Tsuen Wan, which are either under planning or scheduled to be constructed;
2. the development projects under the URA;
3. other private development projects, such as the site on Hoi Wang Road in the West Kowloon Reclamation which was auctioned yesterday, and also the Hoi Fai Road lot on the Application List. I can tell the President that officials of the Planning Department have disclosed publicly that in case a site measures less than 2 hectares and the building height is lower than 140 m, it will not be necessary to follow the planning guidelines, especially those on the three areas of air ventilation, view corridors and building height. We are extremely worried, because in that case, if there are 10 separate projects involving a single-line array of adjoining sites each measuring just 1.9 hectares, the view of an entire street or the sea view will still be completely blocked. We are extremely worried about this; and
4. public housing design. At present, the Government will conduct microclimate assessments for the redevelopment of public housing estates, so as to ensure that new public housing estates can meet air ventilation requirements to reduce the "wall effect". I think that similar assessments should also be conducted for other development projects in the course of planning.

In regard to the other amendments, the ADPL will support the amendments proposed by Ms Audrey EU and Mr LEE Wing-tat, especially the proposal on increasing the participation of community figures and local residents in the planning process. However, we agree that on the premise of improving the environment in old districts, it may be necessary for the Government to grant land in exchange for urban renewal and various public facilities. We agree to this practice, but we also maintain that the funnelling of commercial benefits must be avoided, so as to make sure that while infrastructure development is implemented, the public interest and the quality of local environments can still be protected.

To sum up, in order to solve the problem of screen-like buildings, the Government must be determined to impose comprehensive control on building density and heights. Existing plot ratios for building construction must be reviewed and reduced. At the same time, it must draw up new planning, consult local residents, listen to their aspirations, increase their participation and prohibit the construction of screen-like buildings along waterfronts where possible.

I so submit.

MS AUDREY EU (in Cantonese): President, first of all, I wish to thank all the Members who have proposed the original motion on "screen-like buildings" and the amendments. This motion is similar to the Legislative Council's discussions on small-class teaching and the debate on university places last week, in the sense that in all these discussions, Members have already reached a consensus, but the Government simply will not listen.

President, one of the main reasons for the emergence of screen-like buildings is of course the policy of high land prices upheld by the Government all along. But why is the problem more serious now than before? One reason is of course the legacy of Mr TUNG's policy of "85 000 housing units" years ago. Under this policy, more flats must be constructed, so housing developments have become increasingly compact. Second, in the past, most housing developments were of the single-block type. Nowadays, however, development sites are getting bigger all the time. Flats are all elevated to the podium level, blocking the views to streets. Building density is affected and all buildings are laid out in a single line.

There is another important reason, one which is related very, very closely to railway development. Actually, all environmentalists will support railway development. But very often, the Government asserts that railway development must be launched on a self-financing basis, or that the MTRCL must subsidize its development by housing or infrastructure development. As a result, MTR stations must be located in places with a considerable level of residents or pedestrians. However, MTR stations are always long and narrow, which is why the MTRCL's housing developments will necessarily take the same shape. This explains why I have set out such a proposal in point (d) of my amendment. Some are worried that the proposal may be too rigid, for it forbids any subsidy for railway developments through land exchange, development rights or additional plot ratio.

This does not mean that we do not support railway development. Nor does it mean that we do not agree to subsidizing railway developments. Only that in our opinion, building designs, especially the designs of MTR superstructure blocks, must be determined in accordance with professional planning standards. The volume of housing construction must be determined by actual need. No residential flats should be constructed simply for the sake of subsidizing railway developments. If there are alternative means of subsidizing MTR developments, whatever the means may be, we will surely render our support. But we do not think that financial considerations should be allowed to influence urban planning.

In his speech just now, Mr Frederick FUNG talked about his experience in trying to discuss MTR superstructure property developments. Actually, my experience was exactly the same as his. It was just like playing merry-go-round with the Secretaries. When I asked Secretary Michael SUEN, he replied that he had nothing to do with the problem, saying that problems connected with the MTR should be referred to Secretary Dr Sarah LIAO. But when I approached her, she also replied that she had nothing to do with the problem, advising me that questions on MTR revenue should be referred to Secretary Frederick MA. In this way, this merry-go-round game went on and on for almost half a year, and every time when I met the Secretary, he invariably told me that good news was forthcoming, but that since the matter involved inter-departmental co-ordination, was very complex, so The problem has not been resolved after such a long time, after so much "inter-departmental co-ordination". I do not know whether the Secretary will give us any reply when he speaks later on at this meeting.

Some may ask me why my amendment is so lengthy. The reason is actually very simple. That day — I think the Secretary can also remember that it was 27 February, when the Legislative Council Panel on Planning, Lands and Works convened a meeting — the representatives of many organizations (including professional bodies) attended the meeting. They were unanimous in their opposition to the construction of "screen-like buildings". My amendment actually combines all their opinions and tells the Secretary that as Legislative Council Members, we are obligated to relay all the opinions we have heard to the Government.

The enactment of legislation is naturally a feasible approach, but before that, many things can still be done. The Government's explanation is always that many guidelines have been issued for the reference of the MTRCL and others. But as clearly pointed out by Mr WONG Kwok-hing just now, property developers are business driven. And, there is also the point that they must be given a level playing field in which they can compete against one another. We cannot possibly argue that they can choose to comply on a voluntary basis. If compliance is not mandatory, who will want to be the first one to suffer losses? Therefore, the Government must play a very important leadership role. The Government has so many infrastructure projects and lands, so it should take the lead. If even the Government tries to make full use of everything, constructing high-rise buildings that block other buildings, no one will be convinced.

President, I do not intend to explain my amendment point by point during the limited time available. If Members can spare any time, they may refer to the proposals made by the many professionals and community representatives present at the meeting that day. I have already incorporated their proposals into my present amendment.

However, I still wish to say a few words on point (i) of my amendment, which mentions making reference to overseas experience. In the past few years, in order to deal with the "slab block" buildings (that is, "screen-like" buildings in our words) along the banks of Suzhou River and Whampao River, Shanghai put in place the "Two I's and Two R's" policy. What is meant by "Two I's and Two R's"? It partly means the reduction of the floor area ratio (that is, our plot ratio) and the total construction volume. What does "Two I's" mean? It means increases in green zones and public realm. And, in 2003 and 2004, the city amended its town planning law and promulgated the "Technical Specifications for Shanghai City Planning Control", which provides that for any

building exceeding 60 m in height, its maximum span shall not exceed 60 m. And, it is also specified that for any building shorter than eight storeys, the maximum span shall not exceed 80 m. The Shanghai Municipal Government also handled 367 cases left over from the past, that is, works projects approved before the amendment of the town planning law, so as to minimize the "wall effect".

At this juncture, I also wish to raise one more point. Every time when we refer to Sun Yuen Long Centre as an example, the Government will reply that approval was already given a very long time ago. Approval was indeed given, but nothing has been finalized so far, I must add. We therefore wish to point out that during his election campaign, when he spoke at the election forum on 15 March, Chief Executive Donald TSANG did publicly undertake that the Outline Zoning Plans for all districts would be reviewed, and that in case any "wall effect" was found, or if the development density was found too high, he would order a fresh round of consultation and planning from the bottom up.

Having said so, he was indeed re-elected. We then noticed that 12 sites in the Government's Land Application List had been triggered for auction. Environmental groups immediately exposed the fact that if the sites were to be auctioned under the existing terms and conditions, screen-like buildings would certainly be constructed. But the Planning Department replied that it was not necessary to conduct any review, and that if a site was smaller than the specified size, all air ventilation guidelines and standards would not apply. Actually, all this can show that the Government has never been true to its words. The important thing is that in many cases, even after a project has been finalized, it must still be promptly reviewed in response to public opinions as long as it has not yet been launched.

I also wish to say a few words on Subchapter 4, Title 27 of New York City's Building Code. This imposes control on heights of buildings and their projections on streets. Besides, in Singapore, there are also stepped height controls over the buildings on both banks of the Singapore River. Radiating from Singapore River as the centre, the whole place is divided into three sections. In the river bank section, no building can exceed four storeys in height. In the buffer section, the limit is 10 storeys. And, the buildings farthest away from the river banks may not exceed 35 storeys in height. Actually, there should be similar design restrictions for buildings on both sides of the Victoria Harbour extending to the ridgelines. But since the sea view is

considered unrivalled, the heights of buildings beside Victoria Harbour have kept on increasing, and the views from the buildings behind them are blocked more and more seriously. This can reflect that we have failed to learn from the good examples of other countries.

Another thing I want to mention is the conduct of micro-climate analyses for the Phase II and Phase III redevelopment of Upper Ngau Tau Kok Estate. In this redevelopment project, the needs for sunshine, lighting and air ventilation were addressed at the planning stage, so the effects of the new buildings on the neighbourhood can be reduced.

If Hong Kong is to improve its town planning, there are actually many good examples overseas. I believe that the professionals in Hong Kong I hope that when Prof Patrick LAU speaks later, he can confirm that there are also many good examples of urban planning by local professionals. Even if we do not follow other countries' examples, I still hope that the SAR Government can refrain from considering problems from the perspective of money all the time. I hope that it can focus on planning and find out how sustainable development can be achieved. In particular, I hope that the Secretary can give us a more satisfactory reply in regard to Sun Yuen Long centre.

Thank you, President.

PROF PATRICK LAU (in Cantonese): President, I am very grateful to Mr WONG Kwok-hing for proposing this motion on screen-like buildings and the urban environment. However, I must clarify that the actual processes of planning and construction are already subject to the existing legislation on planning, lands and buildings. There is no need to give the Hong Kong Planning Standards and Guidelines (HKPSG) binding force in law, because it is stated at the end of Chapter 1 of the HKPSG that standards and guidelines in the HKPSG are neither statutory nor rigid. The purpose is to enable architects to apply the standards and guidelines with flexibility and creativity. Therefore, I maintain that no administrative measures should be adopted to override legitimate contract rights, and that studies should be conducted under the principle of not affecting private development rights.

I agree that the HKPSG should be reviewed and amended to keep abreast of the times. I am grateful to Members for their concern and amendments.

And, this proves that the existing guidelines are not satisfactory enough. But turning some guidelines punctuated by loopholes into an ordinance is certainly no solution.

To solve the problem once and for all, we should make reference to the HKPSG, flexibly formulate Outline Zoning Plans (OZPs) for different districts in the light of their needs and actual situations. This is very important. And, all planned uses and construction guidelines must also be set out clearly. Excessive control will only achieve the opposite result.

Actually, as long as we can focus on the perspective of planning, it will be possible to resolve many policy conflicts. President, I know very well where the problem lies, so please allow me to say a few words on how we can make use of planning as a means of improving our urban development.

First, OZPs are already legally-binding. It is simply not necessary to make anything else so. OZPs already specify that all the architectural restrictions are formulated according to the HKPSG. For this reason, as long as we can perfect the HKPSG and improve the explanatory notes of OZPs, it will be possible to give legal effect to the guidelines, and we can thus avoid making matters worse.

Second, if we focus only on amending the guidelines in total neglect of the OZPs, thus continuing to allow the lack of co-ordination in development density and building heights, all efforts will be in vain. We must realize that the plot ratio of an OZP is actually the crux of the whole problem. The reason is that the plot ratio for a particular zoning may range from zero point something to several hundred percent in the case of high-density developments. The results will be entirely different. Therefore, we must do something with the setting of plot ratios before we can prevent any undesirable outcomes.

Third, height restrictions are no panacea. Harmony with the neighbourhood must be flexibly considered. "Super tall buildings" may seriously affect the ridgelines, but rigid height restrictions and plot ratios for buildings along the shore will achieve the opposite result of obstructing the flow of breezes. Several multi-storey buildings may then become a real "wall". President, with your indulgence, I would like to do a demonstration here. I now ask Mr Abraham SHEK to stand up. Members can see that Please sit down

PRESIDENT (in Cantonese): Prof LAU, you are not permitted to do so. If you want to demonstrate the "wall effect" in the future, you may follow Mr James TO's example.

PROF PATRICK LAU (in Cantonese): I see. In that case, I must ask Members to use their imagination. Just imagine that Mr Abraham SHEK is now standing beside me. He weighs 192 pounds, and I instead weigh more than 200 pounds. I am in fact bulkier than him. But Members can imagine that if there are 10 Mr Abraham SHEK's here, they will certainly form something like a screen. On the other hand, if I am the only one standing here, Ms Audrey EU and Mr WONG Kwok-hing will still be able to see many gaps. This means that even in the presence of a tall building, there will still be many gaps to see through. Therefore, height restrictions are not so much a problem. I just want to do a demonstration here. Members should now understand my point.

Fourth, the large site reduction factor of large development sites is equally important. In housing construction projects, the computation of the plot ratio — the computation of site area is very important — will not count existing roads. Why is there such a problem with large-scale property developments now? All is because it is not necessary to deduct completed roads in the computation of site area. Rather, the plot ratio is computed on the basis of the entire area. For example, in the proposed redevelopment of Kwun Tong, they claim that this and that will be deducted, but all is just a "trick". The reason is that the roads there are not computed as part of the site. In that case, all efforts will be in vain because the plot ratio will be very great in the end. But the whole case will be different if existing roads are deducted, and, we can work out the only true plot ratio by doing so. I hope the President can also note this point. I think we should focus on reviewing this current problem.

Fifth, judgements must be based on the topography of the entire area and the actual situations of different parts of it. Places in Hong Kong lie in different altitudes, and there are both hilly and flat areas. As Members know, the physical settings of Kowloon and Hong Kong Island are also different, as mentioned at length by Mr WONG Kwok-hing just now. In this connection, we should consider the issues of macro-climate and micro-climate. For this reason, three-dimensional physical models of different zonings are very important. Those in the Town Planning Board (TPB) responsible for vetting and approving applications should conduct site visits more often and look at the

models demonstrating future development, because they can make a decision only after understanding the whole situation. This is especially true in the case of Comprehensive Development Areas. Since there are not yet any planning parameters, development plans must be approved by the TPB. Hence, the vetting and approval process is very important. Besides, it is also necessary to take account of provisions on design, planning and height. This can be done through land administration. At present, the DD&H possesses very great powers, but it seldom exercises them. It can prevent design and planning problems; not only this, it may even offer advice on adopting different urban design requirements for the districts.

However, the present situation is not at all satisfactory in some cases. What I mean is that in the same area, there may be two different zonings at the two ends of a street. This is a rather problematic word. It should be an area instead of a zoning. But the land uses referred to in the guidelines do not denote the same. They are about the entire area. Because of this, there is a problem in Happy Valley. This is actually the legacy of history because Hong Kong has all the time been adopting the zoning boundaries formulated in 1966. The zoning boundaries were drawn in 1966 and have since been adopted without any amendments. Development parameters are formulated for, say, Zones 1, 2 and 3. To solve this problem, we must review the zoning boundaries formulated in 1966 in the light of current planning and development needs. If not, it will be difficult to succeed. There will be very great difficulties when one side of a street is put inside Zone 1 and the other side inside Zone 2. People simply cannot understand why there should be such a difference when two zonings are located in the same street.

Actually, when the Chief Executive replied to my question in a election forum, he already promised to enhance the function of OZPs and conduct town planning reviews in the light of the actual situations in different districts, such as the need for appropriately unleashing the potentials of conservation areas. I think the most important thing now should be to rectify the erroneous density zoning system, especially all the outdated guidelines in the HKPSG. If we still refuse to pay any attention to all this, the sustainable development of a modern, compact city will be hindered.

Regarding the amendment of Mr Frederick FUNG, I must say that while I do not agree to the point on legislative control, I also think that we should consider the contract spirit.

Finally, I wish to point out that the most practical step should be a comprehensive review. Studies on "community-based" planning should be conducted. We should start with planning and with the support of architectural design, we will be able to solve the problem of "screen-like buildings" once and for all. Therefore, the Development Bureau to be set up should start afresh with a new approach. It should discard the framework and hindrances of old, adopt a new mindset, introduce a greening ratio, perfect OZPs and foster the new and green development of our city. *(The buzzer sounded)*

Thank you, President.

MR LEE WING-TAT (in Cantonese): Madam President, this is a plan given to us by a petitioning group, and it is very simple. As we all know, we can always see in West Kowloon some so-called high-class harbour view residential buildings blotting out those old residential buildings with a history of 20 to 30 years or even 40 to 50 years behind them. The wall effect is most prominent.

Madam President, according to surveys conducted by environmental groups, of the 138 private housing estates completed over the last decade, more than 70% can be defined as "screen-like buildings". These "screen-like buildings" have affected air ventilation in the district, creating the heat island effect and even aggravating global warming, and the situation is serious.

In the Hong Kong Planning Standards and Guidelines (HKPSG) there is the "Urban Design Guidelines" which cover mainly urban design and air ventilation issues, including massing and intensity in urban fringe areas and rural areas, development height profile, waterfront sites, view corridors, public realm, and so on. The "Qualitative Guidelines on Air Ventilation" provides guidelines on breezeways, street and building orientation, building disposition, building permeability, and so on, with a view to improving the building disposition and air ventilation in urban areas.

Some of the provisions in the "Urban Design Guidelines" will be implemented through statutory and administrative mechanisms. Statutory means include setting limits on, for instance, building heights, plot ratios, and so on, through stipulation in "Notes" of statutory plans (such as OZPs), specifying individual land parcels as "Comprehensive Development Area" on OZPs, and requiring the submission of master layout plans or various plans or documents

for all development projects to the Town Planning Board (TPB) for detailed consideration.

The administrative mechanism includes incorporation of such elements as restrictions on design and disposition of buildings, building heights and types of dwelling, master layout plans, and the requirement of compliance with the Code of Practice and Practice Notes for professionals in the preparation of the lease conditions.

The second point that I would like to make is that the existing monitoring system still has room for improvement. Why do the existing approving and monitoring systems still have room for improvement? Take property development above the Tai Wai Station of the Kowloon-Canton Railway as an example. The development project includes a total of 20 buildings, 12 of which will be developed on sites of "other specified uses" in the statutory plan. The master layout plan is not required to be submitted to the TPB for approval; nor is public consultation required. Despite opposition from the District Council, the development proposals concerning the other eight buildings have still been endorsed by the TPB.

Madam President, the TPB has a very important role to play but its independence has long been questioned by the community. Members of the TPB are all appointed by the Chief Executive and include both official and non-official representatives. But over the years, there have been criticisms that many TPB members have countless ties with property developers. Coupled with the fact that the important posts of the TPB are taken up by official members, the TPB has been criticized as only taking care of the interests of property developers and the Government and often neglecting the views of the people.

Given the rapid economic development and the exorbitant profits involved, the HKPSG and the "Urban Design Guidelines" are often given little weight. According to members of the planning sector, private developers simply do not adopt the relevant standards and guidelines, and even government departments and the TPB sometimes do not follow them either.

The "Qualitative Guidelines on Air Ventilation" applies only to major government projects. Compliance by private developers is not mandatory and so, it has only a very limited part to play in the entire process of urban planning.

In addition, I have also proposed to review the composition and work of the TPB. The Democratic Party has over the years called for a comprehensive review of the composition and *modus operandi* of the TPB and enlarging the representativeness of its membership by including more representatives from non-government organizations and green groups, urban planning experts and directly-elected members of parliamentary assemblies. We have also proposed that some of the seats be opened up to professional institutes or the industry to elect their own representatives to the TPB, rather than maintaining a fully appointed membership. We have also proposed repeatedly that the Chairman of the TPB should be a non-official member and that an independent secretariat be set up to enhance the independence and credibility of the TPB.

Meetings of the TPB should be open to public and uploaded onto the Internet, so that the public can know the details of discussion as well as the decision-making process and justifications. Detailed information of planning applications should also be made public to enhance the transparency of the TPB and hence facilitate public involvement. It is only when the composition of the TPB can better reflect the public's expectations of and their interest in environmental improvement that the TPB will be able to effectively reduce "screen-like buildings" by, among other things, vetoing development projects that will create the wall effect or imposing restrictions on them, requiring the conduct of "air ventilation assessment", and zoning of more areas where screen-like buildings are likely to be developed as "Comprehensive Development Area" and requiring the submission of these development projects for vetting and approval by the TPB.

Moreover, I have also proposed that the Government should review the HKPSG and statutory plans by incorporating more guidelines on design. In such technical documents as the "Urban Design Guidelines" in the HKPSG and the Practice Notes for Professional Persons, many of the chapters and provisions are about building density and height, air ventilation, lighting and conservation of historic buildings, and if compliance with some of the specific, clear and enforceable clauses or procedures in development projects is specified in the statutory plans, the wall effect can be reduced in a more expedient and effective manner and the ridgelines and harbour view can also be protected.

For instance, breezeways should be provided mainly in the prevailing wind direction and air paths intersecting with breezeways should be increased to facilitate effective air flow into the urban area; the height of building clusters in

an area should be gradually reduced towards the prevailing wind direction, and to put it simply, the nearer the buildings to the urban centre, the taller; and the nearer they are to the waterfront, the shorter, so as to facilitate air ventilation. The main axis of buildings should be parallel with the prevailing wind direction to minimize obstruction of air flow; at least 20% of the zone should have its landscape unblocked; taller buildings should be developed in the inland area and the shorter ones at the waterfront, in order to prevent the blocking of landscape and sea breezes; and in respect of conservation of the heritage setting, the height of new adjacent buildings should be gradually reduced towards the direction of the heritage, so that there will not be too big a contrast with the local heritage.

The Government should also review the HKPSG and the Practice Notes for Professional Persons and specify the submission of the master layout plan as a standard requirement in its consideration of development plans, and require private developers to conduct air ventilation assessments for large-scale projects.

Furthermore, insofar as the density of residential development is concerned, the lowering of the maximum plot ratio of 10 times for residential buildings can greatly reduce the development density and mitigate the adverse impact of "screen-like buildings".

Madam President, there are already many high-rise buildings closely packed in many places of Hong Kong, and the lesson of the SARS outbreak in 2003 is exactly one of poor air ventilation in clusters of high-density buildings, and insofar as infectious diseases are concerned, this is a very undesirable environment. The Government absolutely cannot sit idly by. It should actively improve the situation to prevent the continued emergence of "screen-like buildings", in order to improve air quality, protect the health of the people and create a comfortable living environment.

As I still have a little time, I would like to say that we cannot support the original motion because we consider it adequate if things are done according to the existing guidelines and the Practice Notes, and it may not be necessary to enact legislation. We support Ms Audrey EU's amendment, but with regard to item (d), we consider a further debate necessary. But generally speaking, we support Ms Audrey EU's amendment. Thank you.

MR CHEUNG HOK-MING (in Cantonese): Madam President, Hong Kong has all along been "reputed" as a concrete jungle or a cultural desert and yet, we do

not have too strong a feeling about this name over the years. On the contrary, we nevertheless feel somewhat complacent about the hidden connotation of prosperity behind such a name. But as land is limited in Hong Kong while the desire to make money is insatiable, buildings in the urban centre have been competing with each other in terms of height, resulting in a sea of buildings. To members of the public, they are no longer concerned about how they can peek through the sea of buildings to catch a glimpse of the sky. They are concerned that the increasingly serious air pollution in Hong Kong has directly eaten into their health. The Government must take on a steering role in order to improve the overall planning in Hong Kong and hence prevent the emergence of screen-like buildings. As for the spirit of the original motion today, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considers it worthy of support.

As over 70% of land in Hong Kong is country parks, it is unfair and incorrect to say that there is no green belt in Hong Kong. But the crux of the problem lies in the high-density planning in the urban centre. Hong Kong's financial or economic hub concentrates mainly along both sides of the Victoria Harbour. Under the principle of "exchanging space for money", buildings of an ever increasing height have been developed continuously under various projects, in order for the building design to capture as much sea view as possible. We, therefore, see before our eyes a wall of tall buildings, resulting in poor air ventilation in the area, and this is also a reason of deteriorating air quality.

The DAB has consistently stressed the need to strike a balance between development and conservation. We clearly understand that Hong Kong has managed to effectively control the cost-effectiveness of infrastructure because our high-density design has shared the cost of infrastructure. Certainly, if 70- or 80-storey buildings are found everywhere in the entire area, it would only give people a feeling of constriction, and this is perhaps not the best planning approach. But if, in some places, all we can find is only buildings of a few storeys tall, that would not be a correct design approach either, and we would not consider it reasonable going to the extreme by exclusively constructing buildings of only a few storeys tall. In order to strike a balance with public interest, we hope that the Government can expeditiously draw up a set of objective criteria to prevent the emergence of screen-like buildings at the planning stage by, for instance, studying how stepped building design can be adopted to improve air ventilation, so as to provide us with a comfortable and healthy living environment.

In recent years, Madam President, the Government has woken up to horrible fact of buildings arrayed in a single line and has, since July last year, specified air ventilation assessment as a consideration of the Government in planning large-scale works and redevelopment projects. In August last year, the Government also incorporated the "Feasibility Study for Establishment of Air Ventilation Assessment System" into the "Urban Design Guidelines" of the HKPSG. However, the guidelines are applicable only to construction sites measuring over 2 hectares in area, and private developers are only encouraged to adopt the relevant guidelines. I hope that the Government can study an extension of the application of the guidelines.

Madam President, in order to provide a better living environment to our next generation, the DAB supports the original motion of Mr WONG Kwok-hing. We will also support the amendments proposed by Mr Frederick FUNG and Prof Patrick LAU, as they are consistent with the spirit of the original motion.

As regards item (c) of Ms Audrey EU's amendment, particularly the part on calling for a thorough review of all large-scale development projects which have been approved but not yet developed, as far as we understand it, under the existing law, development projects which have been completed or approved are not subject to retrospective effect. In other words, this proposal may be contrary to the spirit of the rule of law and even deal a blow to Hong Kong's reputation as an international financial centre.

Added to this is item (d) of Ms Audrey EU's amendment which stresses that land should not be made a source of funding for railway developments, urban renewal projects and cultural venues. The topic of our debate today is screen-like buildings and in what ways land should be granted. To resolve the problem of screen-like buildings, the key lies in the density of buildings and restrictions on building design. Moreover, the use of land development rights as a way for the Government to provide funding to some organizations has all along operated effectively. For this reason, the DAB will vote against Ms Audrey EU's amendment.

The DAB will cast an abstention vote on Mr LEE Wing-tat's amendment. We consider that insofar as the planning process is concerned, an application is vetted and approved from one level to another, and it is necessary for the plan to be examined by various government departments and submitted to the District

Councils and the Legislative Council for discussion before the Town Planning Board (TPB) makes a decision at the final stage of the whole process. It is indeed unfair to put all the blame of improper planning on the TPB alone. For this reason, we will not support Mr LEE Wing-tat's amendment.

Madam President, I so submit.

DR RAYMOND HO (in Cantonese): Madam President, Hong Kong is a densely populated city where land is scarce, and it has long been a practice to cope with industrial and business development as well as the housing needs of the people by constructing multi-storey buildings. A large number of multi-storey buildings has long earned the name of a "concrete jungle" for Hong Kong. During the '80s in the last century, most skyscrapers of a greater height were mainly commercial buildings, whereas residential buildings were about 20- to 30-storeys tall. But over the last two decades, given the rapid development in Hong Kong, coupled with the advancement in construction techniques, newly-developed buildings have become taller and taller to such extent that even residential buildings can often reach as high as 50 storeys or more. An increasing number of these high-rise buildings has gradually given rise to the problem of screen-like buildings under discussion today. These screen-like buildings have affected the natural environment in terms of the landscape, sunlight, air ventilation, temperature, air quality, and so on.

It is absolutely understandable that this problem has become a concern to the public. Indeed, air quality in Hong Kong has kept on deteriorating and this has become a focus of attention in society. To the general public, maintaining good air flow in the urban area and dispersing pollutants effectively should be the basic requirements insofar as the living environment is concerned. As far as I understand it, the Planning Department conducted scientific studies on air ventilation between 2003 and 2005, and according to its preliminary studies, under the effect of the prevailing wind, the wind speed at grade should at least be 1.5m per second. Now, the Government is exploring the setting of some standards for assessing the impact of large-scale planning and development on outdoor air flow.

Moreover, the Government has proactively taken some steps, including incorporation of the "Qualitative Guidelines on Air Ventilation" into the "Urban Design Guidelines" under Chapter 11 of the Hong Kong Planning Standards and

Guidelines published by the Planning Department in July 2006, initially setting out some non-quantitative design guidelines for compliance by government projects, while proposing the adoption of the parameters of building disposition as a main criterion for comparing the impact of various development proposals on air ventilation. The Housing, Planning and Lands Bureau also issued a Technical Circular in July 2006 to provide guidelines to various government departments on the conduct of air ventilation assessment (AVA) for development projects. In order to obtain a more in-depth understanding of the wind environment, the Government will conduct further studies and assessments, including the formulation of an urban climate map and a set of objective benchmarks and quantitative guidelines.

I hope that the Government can expeditiously review the "Qualitative Guidelines on Air Ventilation" and the result of applying the AVA guidelines to government development projects, and also extend the application of these two guidelines to all new development projects involving screen-like buildings in both public and private sectors, in order to prevent the further worsening of the air ventilation problem in the urban area.

However, during the transitional period before the new standards are established, development projects that have been approved should be allowed to be taken forward, so as to prevent any unreasonable or unlawful intervention. Hong Kong has all along respected the contractual spirit and protected property rights, and we should continue to do so. After the new standards and stipulations have been established, compliance by all new development projects should then be required. As for the completed projects, the Government can study how best remedies can be made and also encourage private developers to take corresponding measures, in order to mitigate the wall effect created by the buildings to the nearby environment.

Madam President, given the shortage of land in Hong Kong, urban development can only proceed with a high-density approach. If an excessively stringent wind velocity rate is adopted as a benchmark indicator for assessing the wind environment, or if the plot ratio for housing development is arbitrarily reduced, it would have an extremely adverse impact on the economic development of Hong Kong. Therefore, in establishing the relevant standards, the Government must have regard to the needs of development in Hong Kong and address the problem of screen-like buildings.

I wish to take this opportunity to urge and suggest enterprises to fulfil their corporate social responsibility by making adjustment and providing support in their project design and planning, with a view to minimizing the wall effect. This can improve the general environmental quality of their development projects which is conducive to increasing the saleable or leasing value of their property. This will also demonstrate the enterprise's commitment to its corporate social responsibility which will in turn heighten its reputation, thus achieving multiple benefits in one stroke.

Madam President, I so submit. Thank you.

MR LEUNG YIU-CHUNG (in Cantonese): President, I notice that in item (i) of her amendment Ms Audrey EU called on the Government to formulate relevant guidelines by making reference to overseas experience to prevent the wall effect. Point (i) under this item says that Shanghai has requirements to limit the width of slab block buildings to not more than 60 m; point (ii) says that New York imposes control on on-street projection area of buildings, so that super tall buildings will not be linked up like the Great Wall; and point (iii) says that Japan and Singapore have included height limits and massing control in the land leases or buildings regulations to prevent the emergence of screen-like buildings. President, I think these few points have been made very clearly, and we should follow suit because these practices are very clear indeed. I hope that the Government can really adhere to these few points.

Yet, I wonder if Ms Audrey EU is aware that in Wan Chai there is a Wanchai Central Building which has a stepped roof. What is a stepped roof? It allows sunlight to reach the lower levels. This will enable sunlight to reach the ground level, while having regard to environmental hygiene because more sunlight means a stronger bacteria-killing effect.

Other than this Wanchai Central Building, we can also find in Jordan similar buildings where the several storeys on the top are built with a stepped design. Why is this design adopted? President, it is absolutely not because the principal owner considered such a design special and attractive to buyers. This is absolutely not the reason. The reason is that there is a provision on sunlight in the Buildings Ordinance enacted in the '60s and as I said earlier on, this is not just an environmental consideration, but also a consideration from the angle of public health, for sunlight can kill bacteria.

But much to our regret, President, this provision was nonetheless repealed in the '70s due to economic development in Hong Kong. Why did I particularly cite item (i) of Ms Audrey EU's amendment just now? While it is proposed that the practices of foreign countries be adopted, it is, in fact, not the case that only foreign countries have noted this problem. Hong Kong also noticed this problem a long time ago. But regrettably, Hong Kong is very weird in that although it was aware of the problem, the problem was knocked into oblivion by economic development, resulting in the repeal of this provision and this, we consider deeply regrettable. Since Hong Kong used to attach importance to this problem, why can we not continue to attach importance to it? This is a question that I would like to raise.

It was mentioned earlier that such an effect will have too significant an impact on the public indeed. As many Members have said, Hong Kong is already very crowded and if there is also the wall effect — we understand that buildings in Hong Kong have a very special feature in that they are made of concrete, and concrete is highly efficient in terms of absorbing and releasing heat. It may not be very hot in a well-ventilated environment, but if air ventilation is poor, the so-called heat island effect would be created. This is why temperature in the urban area is often much higher than that in the rural area. Poor air ventilation aside, the intensity of heat created by buildings also poses a problem.

Therefore, we cannot just set eyes on economic development to the neglect of this problem today, for this would lead to cyclical problems. If the environment is too hot, people will keep turning on the air conditioner, and the result is that the heat hence generated will become more and more intense in cycles, rather than the temperature being lowered. Our temperature now has kept on increasing and this is worrying. I think this problem warrants our serious attention.

On the other hand, we also notice that item (l) of Ms Audrey EU's amendment proposed that the Town Planning Board (TPB) should become independent of the Government and that a reorganization is also warranted — I do not know if it carries this implication, especially as Mr LEE Wing-tat stressed earlier on the need to reconsider the composition of the TPB. It is because the problem that has arisen recently is that, as Mr LEE Wing-tat also said earlier, its members are all appointed by the Government and there are often conflicts

insofar as their roles are concerned. Moreover, another problem is that they are not subject to any monitoring or system of accountability, and this is where the problem lies.

President, why do I mention this point in particular? It is because yesterday I went to the Sun Yuen Long Centre. The biggest problem faced by Sun Yuen Long Centre is the plan of the West Rail to develop around its buildings that double its height. Despite repeated opposition from the residents, as Ms Audrey EU said earlier, the case will eventually be subject to the final scrutiny of the TPB on 25 May as a result of government departments trying to shift their responsibilities to one another. The plan, if approved by the TPB, will definitely go ahead in any case and the "screen", which is very serious indeed, is set to be erected, with the Sun Yuen Long Centre being completely encircled by it.

The residents have, in fact, made a representation to the TPB, but how did the residents feel at the time? While the TPB allowed them an hour or so to express their opinions, some members of the TPB were nevertheless eating peanuts whilst some were dozing off, and they did not take the residents' opinions seriously at all. They acted as if the residents were not there and finally, the voting result gave people the impression that the TPB was only following the Government's decision. With regard to what they have done, firstly, members of the public have the feeling that although the Government seems to have put in place a system, the system turns out to be purely a rubber-stamp which is only a group of people meant to show that the decision is not made by the Government, but a final one made by this group of people. Like the Government, this is, in fact, devoid of credibility.

Meanwhile, nobody can challenge these members of the TPB disregarding how they have behaved, for they are only appointed by the Government and are, therefore, not responsible to anybody. Nor are they subject to monitoring by the public. So, the decision that they made may not necessarily be fair and just. I think a restructuring or even a reorganization of the TPB is warranted, underpinned an examination or review of the entire structure.

Finally, Mr CHEUNG Hok-ming said earlier that item (c) of Ms Audrey EU's amendment left much to be desired, but I think that this is what should be done. If we still do not conduct a full review of the approved projects now and

allow the continuation of these projects, the situation would become even worse. It would be disastrous if things should develop as in the case of the Sun Yuen Long Centre that I mentioned earlier, where the residents would be surrounded by buildings double the height of their buildings, and while they would be denied sunlight, there would also be the problem of air ventilation caused by the wall effect. Their greatest concern is a fire breaking out. What should they do in that event, President?

I so submit.

DR YEUNG SUM (in Cantonese): Madam President, Mr LEE Wing-tat has already stated the position and views of the Democratic Party on this motion earlier. I will focus mainly on the amendments proposed by the several Members.

With regard to Ms Audrey EU's amendment which consists of many detailed proposals, including extending the air ventilation assessment requirement to private developments, reviewing large-scale development projects to ensure their compliance with the requirements of the "Qualitative Guidelines on Air Ventilation", setting out more objective criteria, reducing development density, improving the design, and using three-dimensional physical models during the planning process to assist the public in more easily understanding the impact of development, with a view to preventing or mitigating the wall effect. We generally support these proposals.

But regarding item (d) of the amendment (and I quote), "refraining from subsidizing railway developments, urban renewal projects, cultural venues and other public facilities through land exchange, development rights or additional plot ratio" (end of quote), we have reservations about it, for it will involve land use, and it will have far-reaching implications on those public services with social benefits — I stress, social benefits — but no or not many economic benefits, including railway developments, urban renewal projects, and so on. We consider it necessary to conduct studies and discussion more thoroughly. In many overseas countries, government subsidies are provided for the development of public infrastructure, such as providing subsidies by means of land development, in order to promote public development and conservation in the urban area.

At present, the Government has subsidized infrastructure and public facilities such as railway developments, urban renewal projects as well as cultural and conservation projects by such means as land exchange, development rights or additional plot ratio, but not all of these development projects will produce the wall effect. To infrastructure and public developments, government subsidies are indeed essential. We consider that land exchange, development rights or additional plot ratio can be employed as a means to provide subsidies, as long as clear, objective parameters are set for the provision of subsidies, such as compliance with the requirements of the "Urban Design Guidelines" and the "Qualitative Guidelines on Air Ventilation" in the Hong Kong Planning Standards and Guidelines, the requirement of conducting air ventilation assessment, and prevention of the creation of the wall effect.

The provision of subsidies must be transparent and information should be made public by all means, so as to give the public an opportunity to fully express their opinions on the planning and design of development projects and hence reduce the creation of wall effect.

The provision of subsidies is a financial arrangement for funding infrastructure and public facilities, which should not have any direct relationship with the wall effect. Most importantly, insofar as the planning of development is concerned, it is necessary to expeditiously set out the definition of "wall effect" and how such effect is to be measured, in order to draw up objective criteria for vetting and approving applications. Amendments can then be made to the legislation and regulations, and through incorporating the technical requirements in, for instance, the Practice Notes for Professional Persons, the approving agencies can examine the applications for planning on the basis of the relevant criteria, to ensure that the people's living will not be affected by the wall effect.

In relation to land development and urban design, while professional planning considerations are very important, for they are made from a professional angle with the objective of considering what kind of planning for development and urban design can provide the public with a suitable living environment, the financial considerations relating to the overall social development, such as the use of land to subsidize public developments still cannot be ruled out.

As for Prof Patrick LAU's amendment which calls on the Government to study, under the principle of not affecting private development rights, the expedient introduction of greening ratio and regulation of the density and height of buildings, air ventilation and lighting, I wish to say that in the process of planning, anything which involves restrictions on development, including the density and height of buildings, the plot ratio of construction sites, air ventilation and lighting, and even green measures, will either directly or indirectly affect the interest of private developers in that it may lead to a reduction in proceeds or increase in costs. How is it possible that private development rights will remain unaffected? If we only seek to protect the interest of private development, how can we strike a balance in respect of development to the benefit of members of the community?

Screen-like buildings can be found in many places in Hong Kong, and these buildings do not have the least regard to the quality of the living of nearby residents. This is the case on the Hong Kong Island and in Tsuen Wan; another example is the Yuen Long Station of the West Rail where screen-like buildings will be developed. There will be altogether nine blocks of them, the tallest being 47-storey. Upon completion of these buildings, the Sun Yuen Long Centre would be sandwiched between them, and this would create a wall effect in the district, affecting air ventilation, air flow and even sunlight in the proximity.

A Member has once said that there is no cat that does not eat fish. This precisely speaks the mind of private developers who will undergo as much development as possible where the circumstances permit, in order to maximize their profit. If the Government wishes to protect public interest, how possibly could it act "under the principle of not affecting private development rights" in imposing regulation on planning? For this reason, the Democratic Party cannot support Prof Patrick LAU's amendment.

As for Mr Frederick FUNG's amendment which proposes to strengthen the ventilation requirements of the Buildings Department and the two railway corporations in vetting and approving building designs, this will be conducive to improving air ventilation and air quality, and so, the Democratic Party supports this amendment.

With these remarks, I have presented our views on the amendments. Thank you, Madam President.

DR KWOK KA-KI (in Cantonese): Madam President, I wonder if it is meant to be sarcastic, but Mr WONG Kwok-hing has indeed proposed a very good motion which enables the Government to explain to us here their reasons as well as what they are going to do. But it so happens that yesterday's auction of the site in Hoi Wang Road has generated \$4 billion in proceeds for the Government. To people in West Kowloon, this is disastrous news because insofar as this site in Hoi Wang Road is concerned, it is estimated that firstly, the developers will utilize the plot ratio as fully as possible, and secondly, there will be the "inflating" problem, and the buildings will be very tall in the future and according to the past practices of developers, they will certainly try to capture as much view as possible and so, the buildings to be completed would only resemble a screen.

Earlier on a number of colleagues talked about how the wall effect would affect the city and health, and I do not wish to repeat their points about the heat island effect, air ventilation, the growth of bacteria, and so on. But why has it happened? In fact, the Government was not unaware of the problem. Madam President, this problem was discussed by the Legislative Council Panel on Planning, Lands and Works at its meeting on 27 February this year. The Government stated in its papers that in July 2006, the Housing, Planning and Lands Bureau and the Environment, Transport and Works Bureau jointly issued a Technical Circular on air ventilation assessment. According to this Technical Circular, air ventilation assessment is necessary and also a safeguard of air ventilation in the affected area. However, it appears that not all buildings are subject to this Technical Circular or the requirements. Firstly, take the site in Hoi Wang Road as an example. It does not meet the requirement of measuring 2 hectares or more in area as stated in the Technical Circular last year. In other words, the developer can simply ignore this circular. Secondly, buildings the planning applications of which approved by the Town Planning Board (TPB) will not be included. Thirdly, for many public organizations, especially property developments above stations of the two railway corporations, which we all know are mostly large-scale building developments, the Administration does not plan to re-examine these projects on the basis of these criteria so long as they have been endorsed by the TPB. To put it simply, what the Government has said is just empty talk. Why?

It is because many of the problems now are caused by mistakes made in planning, and these mistakes should have been rectified at the outset. For example, the Tai Wai Depot of the Kowloon-Canton Railway Corporation

(KCRC) is a case in point. At the Tai Wai Depot site, a straight line of large-scale, high-rise buildings will be developed above the Tai Wai Station in the future, and this is set to greatly affect the landscape and air ventilation in Tai Wai. But as the KCRC has already submitted the design of the Tai Wai Depot which has also been approved by the TPB earlier, the Government does not plan to make any changes to it. Another example is Yuen Long. I think many residents living in the Yuen Long town centre are very worried, for nine blocks of screen-like buildings that are 40 to 50 storeys tall will be developed above the Yuen Long Station and yet, the Government does not plan to review it either. Moreover, what will also be excluded from government review is certainly the West Kowloon project, including the land along the waterfront of the site in Hoi Wang Road which was sold in yesterday's auction.

We all know that property developers — as Mr Abraham SHEK, who is not in this Chamber now, has clearly said, whenever we criticized a relationship involving financial interest between the Government and property developers or collusion between the Government and business, that property developers who do not seek to maximize their profit would fail the expectations of shareholders or the boss. We certainly cannot expect the real estate developers association in Hong Kong to have conscience by ceasing the development of screen-like buildings, because when it comes to profit, they must maximize it by all means, and this is the golden rule of the real estate sector in Hong Kong. The Government knows this only too well. But could it be that the Planning Department, the TPB and even the land and planning authorities of the Government know nothing about it? They certainly know it. Since the land has already been granted, they certainly know that they will do so.

However, despite that the grave concern expressed by members of the public about this problem and their hope that the Government can do something in substance, rather than only making empty talk just as it did in the Technical Circular issued in 2006, the Government has no intention whatsoever to make any changes to the disastrous buildings to be developed. For one thing, the Government simply ignores the problem; and regarding the second problem, we have raised it before but it may not be directly related to this motion, and that is, the problem of "inflating" the floor area of buildings. As there is often this problem, and in order to utilize the area to the fullest and capture as much view as possible, these "screen-like buildings" will be laid out in a straight line and hence form a screen. But the Government has paid no attention to this. Nor has it given any response. So, it is very meaningful to raise this problem for

discussion today. However, what the Government has done so far is still distressing.

With regard to the proposals made by Ms Audrey EU in her amendment, I do agree with many of them and in particular, she proposed that firstly, all large-scale development projects which have been approved but not yet developed should be reassessed by the Government. Otherwise, what the Government has said would only be empty talk and proposals that have been endorsed would never take effect. Secondly, it is more important to review afresh all development density in the urban area and new towns. If the Government declines to do so, how can we reduce "screen-like buildings" which will have an extremely great impact on the environment? Thirdly, this is certainly what we have been talking about for a long time, that is, the review of the TPB and the legislation relating to it. As we all know, the TPB is fully controlled by the Government. The Chairman is a government official, and all of its members have countless ties with the real estate sector — I am sorry, not all of them, but many of them; in the TPB there are still many people who are genuinely committed to their work but of course, they are becoming less in number. My apologies, and I wish to make this amendment. Under such circumstance, how can we expect any protection for urban planning? I hope that after this motion is implemented or endorsed, the Government will really learn a lesson from the bitter experiences and rectify its past mistakes, in order that we will have better urban planning.

I so submit. Thank you, Madam President.

MISS CHOY SO-YUK (in Cantonese): President, "screen-like buildings" do not just emerge today. The City Garden and Provident Centre on Hong Kong Island, for instance, are over 20 years old. In these large-scale housing estates, the buildings are built almost just next to each other with little space between the blocks, and in order to capture as much sea view as possible, the buildings in these housing estates are set out in a straight line along the waterfront, which is no different from the "screen-like buildings" that we often mention.

However, with regard to these "screen-like buildings" developed a long time ago, while they are generally considered unsatisfactory, they are not considered unacceptable. I think the reason is that the Government used to enforce a very stringent procedure in granting land, and the plot ratio of

development projects would never be too high. This is why the buildings then would not, in any case, be built at a height of 40 or 50 storeys as they are now. Blocks and blocks of these tall, screen-like buildings which pose obstruction to air flow and sunlight certainly give people a strong feeling of constriction. Moreover, the planning of development in the past tended to attach greater importance to compatibility with the surrounding environment, such as putting emphasis on unblocked ridgelines. So, the overall feeling was more harmonious and there was naturally less dissatisfaction with urban planning.

After the reunification, as some commentaries have pointed out, the SAR Government has extensively launched public works projects and construct buildings at all costs, in order to substantially increase the number of residential units. The planning and criteria of development have become gradually lax, and such considerations as preservation of the ridgelines and compatibility with the surrounding environment have all been thrown away. Under such confusing circumstances, buildings have been built at an ever increasing height and "screen-like buildings" have proliferated over the past few years as their continued emergence has been seen in various districts of the territory.

What has aggravated the problem is the Asian financial turmoil that broke out in 1997 when the local economy and the property market were plunged into a long period of adjustment. Large-scale housing projects were put to a halt one after another. It is only until recent years that an upward trend has been seen and prosperity restored in the market, but this has at the same time intensified the problem of "screen-like buildings".

President, what has happened has happened. Those "screen-like buildings" completed a long time ago simply cannot be pulled down one by one and as a matter of fact, nothing can be done to change these established facts. But I think that it is most important to learn a lesson from past experience. So, I hope that we can all play our humble part, and I call on the community to be of one mind and make concerted efforts to clearly tell the Government that it is not our wish to see the continued emergence of screen-like buildings on the various sites in various districts in Hong Kong, including Hoi Fai Road and Hoi Wang Road in West Kowloon and even the Hung Hom Reclamation Area. Meanwhile, I urge the Government not to be the enemy of the people anymore. Rather, it should play its "gatekeeper" role properly in planning development, so as to rescue this city of Hong Kong which is already suffocated by the polluted air shrouding all over it. Otherwise, if we just sit by condoning the emergence

of "screen-like buildings" blocks after blocks, that would certainly be a huge disaster to this city.

If that happened, even if we would speed up building a few more green roof tops or even carrying out vertical greening work for flyovers and walls, I think that would still be inadequate to counteract the effects of rising urban temperature. Nor would it be possible to reverse the situation where the people have to face health hazards all the time.

President, I think the community's attitude towards the problem of "screen-like buildings" is just the same as that towards the Queen's Pier incident recently. Seeing the demolition of the Blake Pier and Star Ferry Pier, which was indicative of government policies running counter to public sentiments, the public was disappointed and saddened; their discontent began to mount and an opposition force formed to put up a strong defence for the *in situ* preservation of the Queen's Pier. The problem of "screen-like buildings" is also at the crossroads now. At this important juncture, any decision made is crucial. The Government must think twice before it acts, for its choice would ultimately decide which of the two completely different paths the community will take.

On this issue, as there are both good and bad news, I am not entirely pessimistic but I am definitely not very optimistic either. From a more positive point of view, the Chief Executive has admitted in a "Letter to Hong Kong" recently that it is now time for civil servants to change their elite mentality. Meanwhile, under the new governing structure consisting of three Secretaries of Departments and 12 Directors of Bureaus which has just been announced, the Chief Executive has taken on board public opinions by singling out environmental protection to make it an independent policy area under the remit of a dedicated bureau. These seem to reflect that more importance will be attached to the "people-oriented" principle in future governance. But from another angle, "screen-like buildings" is primarily a problem of planning which is within the remit of the Development Bureau to be established in July. It is still unknown as to what this Bureau specifically charged with this responsibility will do to take forward the ambitious initiatives. Meanwhile, the "progressive view on development" advocated by the Chief Executive in his election platform and the remarks that he made when concluding his policy address last year suggesting that "development is of overriding importance" have aroused concern about whether public health would be sacrificed by the Development Bureau in taking forward its grand plans.

President, while we must listen to a person's words, we must also watch his deeds. I urge the Chief Executive and his governing team to address squarely the problem of "screen-like buildings" and formulate a more stringent and effective system to impose regulation on the density and height of buildings, air ventilation, lighting, and so on, in order to put a complete stop to the emergence of "screen-like buildings". President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): Everybody is now saying that Donald TSANG is launching some sort of an "Action Blue Sky" campaign. I do not know whether he has any practical measures to deal with those "screen-like buildings". But last night, as I would like to know what he had said, I browsed his website on electioneering, hoping to remind myself of his "Action Blue Sky" policy, but I found that all the information had been deleted. There was nothing at all, as everything had been deleted without a trace. Frankly speaking, if no newspaper cutting on this subject is kept, it is difficult to look up what promises Mr TSANG has made previously. Everything is gone in a blink of an eye. If a Chief Executive can delete something from his own election website so quickly, it only reflects that our city rejects history. To sum up, this is just an instance of achieving an end by hook or by crook. As we can see clearly, he was elected only on 25 March and it is not yet 25 May today, but all the information is gone. If we wish to look up the undertakings that he has made and ask him to show us what he has done to honour his undertakings, we could hardly find anything.

On the problem of "screen-like buildings", I have come across it in many of the cases handled by me. There are these cases in, for instance, Tai Kok Tsui, Tai Wai, North Point and Hung Hom. They actually share a characteristic and that is, as the property developers are avaricious and set eyes only on profit, they have kept on "playing tricks" on the sites that they have won in auctions by way of, say, the plot ratio, or this and that. However, the Government has not taken this into consideration in the process of planning. In fact, with the present-day technology, a computer model of "screen-like buildings" can be made. For example, what will become of the landscape if "screen-like buildings" are developed above the Tai Wai Station? This is entirely possible, and they can know what will happen. The picture can be portrayed using the rays of sunlight, and it can be done even with the ridgelines. But our Government does not know about it. Its head knows nothing, and its eyes see nothing.

The Town Planning Board (TPB) is ostensibly established to plan urban development in Hong Kong. But as I said before, the TPB was chaired by a veteran subordinate of Secretary Michael SUEN. The Chairman has the power to make the final decision, the power to lead discussions and the power to introduce new rules and regulations. They have to be held responsible for all the blunders made by the TPB, either intentionally or inadvertently, in respect of urban planning over the years and for causing such a serious problem now.

I have once asked the TPB for the town plan involving the "Wedding Card Street" in Wan Chai. I found that there are two sets of plans, each containing seven booklets. With the exception of the front cover which is written in Chinese, the rest of it is all written in English. I asked the reporters to take some photographs but they were not published. How can we monitor those "big brothers" if we do not know English? Because it is all written in English. If such being the case, why do they not write it in Dutch? They might as well translate it into Dutch and say that they have provided it to us. Would it not be better to translate it into Dutch? So, it is a straw in the wind. If the Government is genuinely good to the people, how could it conduct consultation in a language in which not everyone in the community is proficient? This is impossible.

The problem of "screen-like buildings" has now become a disaster because firstly, their demolition is not feasible; and secondly, for those currently under construction, if the developers are not allowed to continue with these projects, they would file a case in Court. What should be done now? My suggestion is: For those that cannot be demolished, nothing can be done about them, and perhaps the Government can buy them and then demolish them, as in the case of the Hunghom Peninsula. Those developers have thought of buying the buildings and then pulling them down for redevelopment.

Insofar as this problem is concerned, it is actually meaningless for Secretary SUEN to sit in this Chamber. It is because firstly, he cannot do anything; and secondly, this is within the remit of Secretary Dr LIAO. Buddy, there are actually international conventions on environmental protection, in which stipulations are made as to whether unsatisfactory air flow can be allowed or whether the lack of sunlight can be allowed in the design of buildings, to ensure that it is humanistic, right? In Hong Kong there is legislation against poor air ventilation even for animals and pets, and a breach of law will be liable for prosecution. From time to time, there are complaints about dogs being

locked up in a place for too long a time or in too bad an environment. But we Hong Kong people have created this unique phenomenon called "screen-like buildings" which is not found anywhere in the world as a result of the avarice of property developers and incompetence or transfer of benefits by the Government.

I said a year ago that our city is a city of tombstones. What is a city of tombstones? It means that this city is so crammed full with buildings that it is like a graveyard. This is a sign of the withering away of the environment in Hong Kong, a sign of decline in the quality of living of Hong Kong people, a sign of Hong Kong people's incompetence in monitoring society, a sign of transfer of benefits by the Government, a sign of avarice of property developers, and also a sign of incompetence of the Legislative Council, for it is incapable of doing anything about the phenomenon of "screen-like buildings" which has emerged in every district. The Queen's Pier is just another chapter beside "screen-like buildings".

So, I think legislation must be enacted against the development of "screen-like buildings". There should be absolute standards in respect of urban planning and they should be enforced stringently. If the Government wishes to show its sincerity, buddy, let the Queen's Pier not be relocated. If even the Queen's Pier is relocated, why should "screen-like buildings" be taken seriously? They are just a few more tombstones, right? So, I hope that the Environmental Protection Department should subject Secretary SUEN to its monitoring. This is it.

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

MR JAMES TO (in Cantonese): President, when I came in just now, I found that the Secretary is not in the Chamber.....

PRESIDENT (in Cantonese): I think he also has needs to be taken care of.

MR JAMES TO (in Cantonese): Quite true.

PRESIDENT (in Cantonese): Please go on.

MR JAMES TO (in Cantonese): OK. President, as I was entering the building to join this debate, some residents gave me this model. In fact, the intention behind this model is self-evident. It mainly describes the scene in Kowloon West including Tai Kok Tsui and Shum Shui Po where there are a lot of old buildings — maybe I should not describe them as old buildings which normally refer to those six-storey tenement buildings. Such buildings usually comprise 10 to 20 storeys — but when reclamation projects took place in front of these buildings, they were completely shielded by blocks of tall buildings which were constructed one after the other around them. They hope that this model can arouse the concern of Members. Besides, there are some photographs here, from them we can see that the new buildings are erected side by side blocking the other buildings behind them completely.

Yesterday, a piece of land in West Kowloon was sold in an auction. Members might be more concerned about the result of the auction and whether the revenue generated was higher than expected or not, and so on. But in fact, as Mr LEUNG Kwok-hung said just now, this is the start of the suffering of those old district residents living behind this site. There is this small amazing story. I recall that there is a developer who likes to invite Members to dinners from time to time. I had also met him once in such a dinner appointment several years ago. Over the dinner, he said something very funny. At that time, he did not have any development project in the area near the Banyan Garden in Cheung Sha Wan. He said the buildings of the Banyan Garden were much too crowded together, and asked me why it had become so. Who can we predict this has happened. Now in West Kowloon, where buildings are erected in a most crowded manner, some of the buildings are developed and constructed by him. Therefore, when he saw what others had done and honestly enough, he wondered why the buildings had been constructed so closely together. But when it involves his own interests, he would also do the same.

Now, I am glad that Mr Abraham SHEK is back in the Chamber. Why? It was because when one of our committees held a meeting recently, the Real Estate Developers' Association (REDA) had written a letter addressing the committee. In it, the REDA made the points in a very frank manner. At first, I still could not realize why the letter could be written in such a plain and direct

manner because such letters are usually courteous and subtle, and sometimes some public relations clichés would be used as well. But, that letter was not presented in the usual way. Instead, it said that if developers did not maximize the potential of the land purchased, make full use of the land and strive for the greatest gain, then they might have failed to fulfil their fiduciary duty to the shareholders. They had deliberately used the legal term "fiduciary duty". What was the intention? It implies that if they did not do that, without — in layman's term — fighting to the utmost, that is, if they did not reap as much profit as they could from the land through selling the properties, then from a legal perspective, shareholders could take actions to sue them. Therefore, they had used the term "fiduciary duty".

In other words, our dear Secretary Michael SUEN, what would our Government do? In particular, Chief Executive Donald TSANG has successfully won a second term of office, and he also said "always people first", can he have the real determination to "get the job done" and solve the problem of screen-like buildings? If we do not enact legislation and adopt strong measures, and if we just rely on some loose regulations or some high-sounding ideals and hope that the developers would act with corporate conscience, then I believe all our efforts will be futile.

I still recall that Mr Abraham SHEK made a famous remark in that committee meeting, "Yes, because there is no cat that does not eat fish." He is in the Chamber now, and he may refute me if I have misquoted him. In that event, I think I can speak even more eloquently. What did he mean when he made that remark? He implied that it is all too logical for developers to make profits; if it is possible for them to construct a building with all the flats commanding a sea view, they will just go ahead doing that. And if this means the construction of buildings side by side, they will just go ahead doing that.

The Government is also very "amazing". I still recall that, last time when Secretary Michael SUEN answered an oral question, we were asking a question on another issue: For those buildings that are constructed so tall and slim like an incense stick, it is an issue that involves the plot ratio. Why could some developers always act faster — they completed the construction of such buildings ahead of others and then the plot ratio was changed. That is, why could they always act faster than others? Secretary Michael SUEN's reply at that time was most unforgettable; I can still remember it to this day. He smiled

— the gentle, easy and calm smile, that was his usual style — and said to this effect, "Yes, we really did not know the background very well, but we made the amendment very quickly to have the loophole plugged." I can never forget that expression of his. In other words, Secretary SUEN's hidden message was: Yes, some problem had occurred, but they had acted quickly and mended the fold just in time.

However, I would like to ask Secretary Michael SUEN and the Government: How do we conduct the air ventilation assessment now? Yesterday, we sold a lot in West Kowloon in an auction. Next, we shall hold another auction in June to sell another lot in Tai Kok Tsui. Too bad. By then, only a gap will be left with two development projects on both sides. On this side is One Silversea — extremely expensive properties — and the Long Beach, the sale of which has not started yet, is on the other side. If even this gap is sealed off, then frankly, the people would have difficulties finding fresh air to breathe. This is natural enough because they will not be able to enjoy sunshine and fresh air anymore.

However, please bear in mind, this piece of land has been triggered and will be auctioned next month. Since an application has already been made, so even if it is sold at the upset price, still it will be sold to the applicant. Therefore, the site will definitely be sold. An exception will only occur if the Government makes a last-minute change of mind. Why is a single air ventilation assessment not made for this piece of land? It was because the site does not exceed 2 hectares, and the immediate waterfront part does not exceed 100 m. But please bear in mind that, if this block in the middle is taken away, then it is less than 100 m. But if this block is built, it will join with some other buildings together to form a wall that will be 600 m to 700 m. It just so happens that the individual sites are less than 100 m. What will be the result eventually? Every single piece of land there does not have to conduct any air ventilation assessment, but they combined will be big enough to seal off the district. Why do we have such stupid regulations? Is it a deliberate attempt to give them a break, so to speak? Or are the officials not clever enough to discern this? In addition, the issue of handling lot number KL1146 in Tai Kok Tsui has been raised for three or four years, and it has been extremely controversial. However, last year, the Government still issued such air ventilation assessment guidelines. Please feel free to comment whether the Government is sincere in improving the environment.

MR ALAN LEONG (in Cantonese): Madam President, in order to solve the problem of screen-like buildings once and for all, the Government must formulate a comprehensive action plan which should cover all the different phases from the planning system to design concepts, and so on, and all the phases should be interrelated without any omission. Even if the Chief Executive does live up to the promise he made in his election campaign that all the Outline Zoning Plans (OZPs) would be subject to consultation again, but if the work is to be carried out by the same group of officials using the old system, it is still an outdated system of town planning that can never keep abreast of the times and cannot cope with the needs of the civil society, then we actually should not hold too much expectation for any good outcome.

According to the town planning system that has operated for nearly 70 years, the significant responsibility of land planning of the entire city is completely controlled by the Town Planning Board (TPB). In theory, it is an independent statutory organization comprising over 30 unofficial members and seven official members, and the Planning Department is responsible for implementing their decisions. On the surface, the composition of the TPB should be sufficient for ensuring that public interest is safeguarded in the management of land and construction of buildings. However, if this is the case, why should there be the emergence of so many screen-like buildings on both sides of the Victoria Harbour?

Madam President, I think there are two critical factors that bear relevance to the problem: First, the attitude adopted by the SAR Government towards land in Hong Kong; and second, the fact that the TPB is dominated by the Government. In fact, it is commonly known that the Government has all along considered land as a very important source of public revenue. We can still recall that last year, that is, the last Session, the surplus of the Treasury far exceeded the Government's original forecast and \$6.3 billion of it was generated from the increase in land revenue. The revenue generated from stamp duty levied on the sale and purchase of properties is equally considerable. It is by no means an exaggeration to say that the Government considers land as its "money-spinner".

As the major landowner, the Government sells land to make profits. Of course, when dealing with developers who offer money to buy land, the Government tends to impose fewer restrictions in order to avoid affecting its ability to command higher prices. This is perfectly understandable.

However, under such circumstances, we have to rely on the TPB to exercise checks and balances in order to prevent our town planning from bending to money-minded values. However, Members may now also realize that the TPB is at the same time controlled by the major landowner, that is, the Government. So, the problem of role conflicts has emerged.

Madam President, why has such a problem arisen? It happens because the Chairman of the TPB is the Permanent Secretary of Housing, Planning and Works, the Secretary of the TPB is the Deputy Director of the Planning Department and the Secretariat of the TPB is staffed by civil servants of the Planning Department. Against such a background, how can it exercise checks and balances effectively? How can the TPB be free from the dominance of the officials?

Yet our civil society can no longer tolerate the bad consequences brought about by this kind of planning mentality, and they have stood up to proclaim that the people, instead of the officials, are the real masters of the land of Hong Kong. The non-government sector does not only strive for the conservation of the "Wedding Card Street", the Star Ferry clock tower, the Star Ferry Pier and the Queen's Pier, but they have also, in such community planning projects like the Oil Street in North Point, successfully persuaded the bureaucrats into agreeing that the floor areas and the height of buildings should be reduced, thus substantially increasing the public open space there.

However, the work of community planning and design is highly professional and complicated. If we just rely on the financial strength and community network of the residents and shop owners, it will be very difficult for us to seek professional opinions independent of the Government and be able to come up with planning blueprints different from that of the Government. Let us take the 12 pieces of land which the Green Sense has proposed for replanning as examples. If the people really proceed with a town planning application and hire town planning experts to launch planning on their own initiative, the costs involved could amount to as much as \$3 million. How can the people in the non-government sector possess such financial strength to undertake such planning initiatives?

Madam President, from the replanning of the Oil Street to the fact that the H15 unofficial planning project has won the Hong Kong Institute of Planners' annual silver award, it is evident that as long as there is professional support,

many planning projects conducted by the non-government sector can be of a very high standard that can come up with land allocation proposals that can better serve the needs of the communities and the sustainable development of Hong Kong. As much as we believe that the people should be entitled to fair legal services, and that we should provide legal assistance to those who need it, our Government should also recognize the people's right of participation in community planning, and we should consider setting up a Planning Assistance Scheme at the community level or providing the various District Councils with resources to employ town planners who will be responsible for keeping watch on any planning applications related to the land in the respective districts as well as organizing residents to express opinions and make suggestions on projects under application.

Of course, we should not forget to focus on the source of the problem, that is, the lack of a town planning system with an effective check and balance mechanism. The Secretariat of the TPB should be independent of the Government and be directly responsible to the TPB, and more members should be appointed from among popularly-elected Members of this Council. When the Government is the major promoter of development applications, it must reform the framework and procedures of TPB, so as to make people have confidence in the TPB as an independent body that is not involved in any conflict of interests. Only by doing so can we make the TPB really capable of discharging its mission of advancing the welfare of the people.

Madam President, I so submit.

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

DR FERNANDO CHEUNG (in Cantonese): President, in recent years, property development projects are named more and more luxuriously. The past trend of naming such projects as "Xx Gardens" has become outdated. We do not know when these development projects have started using names such as "Xx Villa" ("豪庭" meaning "luxurious mansion"), "Yy Shores" ("灣畔" meaning "bayside house") or "Zz Coast" ("海岸" meaning "coastal estate") and such developments have spread to the different parts of the territory. The naming of such private housing estates has exposed the mentality of many parvenus in Hong

Kong. On the other hand, it also reflected that many of these large-scale private housing estates are situated at the waterfront.

The luxurious nature of these private housing estates is attributable to the screen-like layout inside these developments. All the buildings are erected side by side. On the one hand, the developers can make good use of the open and clear views from these flats to maximize their profits, and on the other hand, more space can be reserved for constructing such facilities as swimming pools, gardens and clubhouses, and so on, so as to push up the prices of these flats.

Before we know it, these screen-like private housing estates have occupied the shorelines in different parts of the territory just like the Chinese name of one of such developments, the HarbourSide (君臨天下), which literally means "reigning the world like a king". So people living in such private housing estates can enjoy the superb seaview and the sea breeze every day, but those people who are surrounded by screen-like buildings, including those who do not have the means to move out of the urban centre and old districts, will have to put up with the suffering caused by the stuffy and stiff hot air.

According to a survey conducted by the Green Sense, West Kowloon is the hardest hit area of screen-like buildings which have seriously weakened the cool wind blowing into old districts such as Jordon, Yau Ma Tei, Tai Kok Tsui and Shum Shui Po. It is forecast that more screen-like buildings will be constructed along the rail lines on top of railway stations such as the Tai Wai Station, Nam Cheong Station and Yuen Long Station, and so on, thus making screen-like buildings further consolidated in different districts of Hong Kong and become the unique city landmarks of Hong Kong.

However, in the face of large developers' selfish designs, though the Government may not be guilty of being the promoter, it has adopted an attitude of indifference without doing anything. Just like the abovementioned developments on top of railway stations, since most of such sites are narrow and elongated in shape and the platforms and the lobbies of the stations have already made the bases of such developments rise by at least 10 m to 40 m, so the likelihood of constructing screen-like buildings is obviously higher. In order to subsidize the expenditure of constructing the West Rail and the Ma On Shan Rail, the Government has approved property development projects one after the other along the rail lines. But the TPB has not stipulated any specific limitation

in the conditions of grant. The Kowloon-Canton Railway Corporation (KCRC) has even made use of the TPB as the excuse for shirking its responsibility by claiming that the design has been approved by the TPB without any amendment.

Basically, apart from specifying the plot ratio and the height limit, the Government has not imposed any other restrictions in the current conditions of sale of land. Even such restrictions are rather lenient in terms of standard. If the plot ratio is 8 and the height limit is 140 m, the developers can then construct buildings of at least 40 storeys. In addition, LEUNG Chin-man, the former Director of Buildings, implemented an "excellent measure" with the developers — both green facilities and public facilities were exempted in the calculation of floor area. With such exemption, the floor area could easily be boosted by 20% and the actual plot ratio could reach 9 or more. Under the situation in which "flour is more expensive than bread", that explains why the developers always exert their utmost in bidding land with high prices.

In fact, the Planning Department does require that buildings erected along the waterfront should be low-rise. But such a requirement is not binding at all. Even the KCRC, a corporation wholly owned by the Government, does not heed this requirement. An even greater problem lies in the planning procedure which does not have any consultative mechanism. So long as the site in question does not require a change in land use, or the change is within the restriction scope of Outline Zoning Plans (OZPs), or the site is originally designated as "other specific uses", the developer can even save the trouble of going through the TPB. Hence, most of the residential projects are not required to seek approval of the TPB, and naturally, no open consultations are required.

At present, developers absolutely do not have any responsibility to publicize their plans. Even if developers are willing to take the initiative of explaining their cases to the District Councils, the decisions of the latter absolutely will not affect the developers at all. Consequently, it was not until screen-like buildings are erected one after the other that residents nearby start realizing that they have been kept in the dark all along.

Very often, urban renewal has also become the culprit of screen-like buildings. When several old districts previously split by the streets are combined together to form an extensive redevelopment site, the scale of the development project on this site will expand correspondingly. Let us take the

Yue Man Square as an example. The streets account for 40% of the entire site. Therefore, by just relying on the plot ratio and height limit to regulate the development scale, it can by no means reflect the great changes that will take place before and after the implementation of the redevelopment project.

As the URA often has to pay compensation for the repossession of premises and to cope with the changes in the property market, so it always maximizes the permitted plot ratio. For example, in the Phase I of the redevelopment project of Tai Yuen Street, three high-rise buildings have already been constructed. In the Yeung Uk project in Tsuen Wan, several high-rise buildings are erected side-by-side, and the base alone is already as tall as those surrounding old buildings. In Mong Kok, the previous "Birds' Street" has already been converted into today's Langham Place. It is a giant project that appears all of a sudden in central Mong Kok, and one of its blocks is even a 70-storey skyscraper. On the one hand, it is a "monster" that emerges suddenly in Mong Kok, and on the other, the Langham Place does not really match well with the rest of the community. It even blocks the west winds from blowing into Mong Kok, thus making the air within the urban centre even stuffier.

President, town planning cannot be considered as completed just after the conclusion of negotiation between the Government and the developers on the conditions of sale of land. Apart from reviewing the planning standards that have been in use for a long time, the Government should try its best to encourage the people's participation in the entire planning process. For example, it should put greater emphasis on the medium of communicating with the people, instead of using complicated language and plans to deter them from participating in the process. Should there be any large-scale development projects that would have a great impact on buildings nearby, it should hold residents' meetings; and no projects should proceed unless they have secured the agreement of the people. President, I so submit.

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

MR JAMES TIEN (in Cantonese): Madam President, a problem will arise when we consider town planning together with those issues that we start feeling

concerned about due to the change of time. Why do I say this? Because the issues of common concern to the people will change every several years. For example, several years ago, the people did not have too much opinion about the Queen's Pier, but today they have a lot to say.

Today, after the term of "screen-like buildings" has emerged to describe the construction of tall buildings, the people become concerned about this issue. But on the contrary, some 10 years ago, people were concerned about the redevelopment of the old districts. As the old districts became increasingly derelict, the people would find the facilities there very poor if such districts were not redeveloped. From the perspective of redeveloping the old districts, old buildings with only several floors naturally had to be demolished. People hoped that taller buildings could be erected, so that more open space could be reserved. At that time, the people hoped that, with more open space, swimming pools, tennis courts and football pitches could be provided in all housing estates. If we do not put up tall buildings, how can we enjoy such facilities?

Nowadays, having adopted new viewpoints, the people stress air ventilation and lighting of buildings, and so on. In fact, we may consider adopting certain measures mentioned in item (i) of Ms Audrey EU's amendment. For example, Shanghai has some provisions to limit the width of slab block buildings to not more than 60 m, whereas New York imposes control on street projection of buildings. There are some other different practices adopted by Japan and Singapore.

However, I must mention one point. Ms Audrey EU must be aware that, if we wish to copy another city, we must copy the entire package, instead of copying a bit from here and a bit from there and consolidating all the measures for use in Hong Kong. However, if we follow her advice and implement everything in Hong Kong, we will not be able to construct any building here. Therefore, we should follow the practices of others wholesale, not a bit here and a bit there. For example, we should not adopt the 60-m limit from Shanghai, the street projection control from New York and some other measures from Japan and Singapore for preventing the emergence of screen-like buildings.

In fact, developers also have lots of difficulties in many aspects. Let us take yesterday's land auction as an example. Some said that the price was too

low, and it was not desirable. But what if the price did hit a high position? Some people would still say that there was a problem as they said that this had pushed up property prices in the market. If we adopt the approach of the selling land to the highest bidder..... Of course, from the perspective of taxpayers, or from the perspective of the Government, if there is high transparency, the land should be sold to the highest bidder. This is the principle which Hong Kong has been upholding all along. Or on the contrary, should we follow the practice of Singapore, where they do not sell land to the highest bidder? If so, Members would again criticize the Government of practising the rule of man, instead of the rule of law. If a piece of land is not sold to the highest bidder, then the Government really needs to reassess the situation. Or in another example, if someone offers \$4 billion for a piece of land, but the Government thinks that an alternative design is more beautiful or better, so even the highest bidder cannot get the land. If the Government really acts in this way, then it will have to prepare itself for answering another series of questions that will come its way.

Nowadays, I find buildings in Hong Kong..... Sorry, Madam President, I should make a declaration of interests. It seems that I have forgotten this. I also have some ongoing property development projects. Many Hong Kong buildings are constructed in a rather stereotyped manner. Why are all the buildings constructed in a more or less standardized pattern? It is because we have something called plot ratio. For example, we have a piece of land of 100 000 sq ft, but only 25% is allowed for constructing buildings. So, only 25 000 sq ft can be used for construction. So they have to decide whether all the buildings should be built side by side or in a row. So far there is no restriction on this. But, such a restriction is in place in some other places, such as a building has to be erected at a certain distance away from the site boundaries and it cannot be built immediately adjacent to the streets. I think this point is relevant insofar as lighting angles are concerned. So, the provision that buildings cannot be erected immediately adjacent to the streets is made to ensure that sunshine will not be blocked completely from the streets. In fact, we already have such requirements in place.

Besides, there are also the mass ratio (sic), and the height limit of 140 m, and next is the height of each floor of certain buildings, that is, there is the height limit of 3.5 m of each floor. Therefore, many modern commercial buildings have to extend the height of each floor for installing more optical fibres. This has posed many limitations to information and technology companies. Why are

most buildings constructed in a uniformly rectangular shape without any novelty? It is because, unlike such places as New York and London, exemptions are not granted in Hong Kong. Even if the Government does possess the discretionary power, the officials are scared by Members of the various political parties and groupings in the Legislative Council and dare not grant any exemption. In short, an official would not be seen as having committed any error if he does not grant any such approval at all. If no error is committed, he would not be subject to any criticism. This explains why the designs of many buildings do not have any originality at all, and all the buildings seem to be constructed in the same mould.

With regard to wall effect, I think the Government should take this into consideration. If the site area is large enough and is rectangular in shape, then they can have a choice: Either four blocks of buildings are constructed in the middle, or as an alternative, all the four blocks of buildings could be built facing the harbour. Of course, when developers are bidding for the site, all of them must have different designs which would enable them to offer higher prices. For example, for certain projects of the two railway corporations, like the recent West Rail project near Tsuen Wan, the piling works are nearly completed. So developers are subject to certain constraints, unable to give full play to their creativity. Whoever awarded the tender would build seven blocks of 40-storey buildings all facing the same direction. And the Government also thinks that, under such circumstances, developers would submit more or less the same tenders. Regarding the West Kowloon site tendered yesterday, there are less restrictions. However, in constructing buildings, developers would naturally identify the option that would provide the best views. If screen-like buildings exist nearby, of course they would not erect their buildings right behind them. Instead, they would look for alternative ways of erecting their own buildings.

I do agree with one point, that is, the present screen-like buildings do affect the air quality of many old districts. I think the authorities should go on doing more in proceeding with urban renewal, so as to make the affected old districts attain the effect of urban renewal as soon as possible.

Madam President, I am afraid we cannot agree with one of the points raised by Ms Audrey EU, that is, item (c) in her amendment which says that the Government should thoroughly review all large-scale development projects which have been approved but not yet developed. Ms EU should know this

involves the contractual spirit or the spirit of the rule of law. The pieces of land have been purchased for one or two years, with the premiums paid, contracts signed and the relevant plans approved. How can the Government ask them to stop all the works right away and have all the projects comprehensively reviewed? Is this reasonable from the perspective of private ownership of property? Can the developers sue the Government in return?

Therefore, in general, the Liberal Party would like to support Prof Patrick LAU's amendment, that is, it is most important that, under the principle of not affecting private development rights, the Government should formulate the requirements in respect of greening ratio, height of buildings, air ventilation and lighting, and so on.

MS MIRIAM LAU (in Cantonese): Madam President, the air quality of Hong Kong has been deteriorating in recent years. Let us take the past few days as an example. Although it was the Mainland's "1 May Golden Week Vacation", our air pollution index had kept staying at a high level. For this reason, I understand why the people are increasingly concerned about the problem of screen-like buildings. It is because, apart from generating the heat island effect that affects air ventilation and lighting of the living space of the people or even affect the people's health, it would also consume more electricity. Consequently, it would just lead to a vicious cycle. We consume more electricity because we find it hot and turn on the air conditioners; this will worsen air pollution, thus leading to a vicious cycle, and the air quality will become even worse.

Thus, we understand the people's concern about the problem of screen-like buildings. In fact, many Honourable colleagues have put forward a lot of opinions today, and many proactive proposals have also been suggested in the amendments. Earlier on, Mr James TIEN also said that some of the opinions put forward by certain Members were rather ambitious, and they had included all the possibly relevant practices in the world and wished to have all of them implemented in Hong Kong.

However, the problem is, though we are very anxious about the problem and attach great significance to the problem of screen-like buildings, and we strongly hope that it could be resolved as soon as possible and thus have put

forward a lot of ambitious suggestions, those suggestions in fact have very far-reaching implications. Allow me to put aside several examples cited by Mr James TIEN earlier; I would like to discuss one of the suggestions, which is about the railway. The suggestion expresses the hope that the Government should refrain from subsidizing railway developments, urban renewal projects, cultural venues and other public facilities through land exchange or development rights. I wish to discuss this issue.

As we all know, the MTR Corporation Limited (MTRCL) has been making use of the revenue generated from the superstructure developments on its stations to subsidize its railway development. The KCRC has been doing the same to a certain extent, in order that its railway expenditure and development can be subsidized. Such a mode has been highly praised by people in different parts of the world, and different cities in the world all hope to learn from our experience in this regard. Although they want to learn from us, usually they cannot do so because their actual circumstances are different. There is no reason for us to say that we should change this system and tamper with this success factor just because of the screen-like buildings problem without fully considering all the factors concerned.

Recently, the Integrated Rail-Property Development Study Team of The Hong Kong Polytechnic University has analysed 10 cities with mass transit railway systems, including New York, London, Tokyo, Singapore and Shanghai, and so on. All its members are of the opinion that, since Hong Kong's MTR has to compete with other public bus services, so it cannot completely be considered as a private organization. The MTR can operate without direct subsidies from the Government just because it can concurrently proceed with property development over its railway stations. When compared with the mass transit railways of other cities, Hong Kong's MTR has performed excellently. As such, the Study Team proposes that no change should be introduced, nor should this practice be discouraged.

On the other hand, let us take a look at the situation of the West Rail. The construction of the West Rail costed over \$40 billion, and the Government had injected \$29 billion into it because the Government retained the development rights along the West Rail. This has created a problem, that is, the Government has missed the best opportunity for launching property developments. We all know that, after the commissioning of the West Rail, since the property

development projects still had not been launched, the passenger volume had been affected, thus affecting the overall service performance of the West Rail.

The lack of co-ordination between West Rail's property developments and the railway commissioning timetable has not only affected the supply of patronage to the new railway line, but also caused great financial burden to the corporation. Even Secretary Dr Sarah LIAO once said in this Council that the experience of the West Rail served as a classic lesson to be learned. Such an outcome has also illustrated that, if the MTRCL did not have the subsidies from property developments, it might end up having the same problem as the West Rail now. So we must caution ourselves against such danger.

If there were no subsidies from property development, the fares must be subject to certain pressure. In 2004, the MTRCL recorded a deficit of \$317 million in its railway operation and \$16 million in 2005, and in 2006, it finally managed to achieve a small surplus. With regard to the KCRC, its railway operation of last year was in the red. It eventually reported a surplus of some \$300 million just because of the appreciation of its investments and properties. Without the subsidies from its properties, it is very likely that the KCRC would really be subject to very strong pressure for introducing fare rises. If property development rights are not provided in future, it would definitely have a very substantial impact on the development and operations of the two railway corporations.

With regard to Prof Patrick LAU's amendment, he proposes that, under the principle of not affecting private development rights, the Government should study the expedient introduction of greening ratio and regulation of the density and height of buildings, air ventilation and lighting, and so on, and, at the same time, protect the ridgelines and harbour view, so as to ensure better planning for Hong Kong. I strongly agree with this point.

Actually, the Government is also doing some work and tackling some problems, in the hope that Many restrictions could have already been imposed on new sites recently put up for auction by the Government, but in fact it is also doing some work in existing developed old districts. Some time ago, some Members present today and I handled a complaint lodged by the representatives of owners of Winfield Gardens in the Happy Valley and 18 buildings nearby. They complained that the Government had specifically

amended the OZP in phases and limited the plot ratio of their development to five times, whereas other buildings in neighbouring areas have plot ratios 8.10 times. In fact, the streets immediately in front of them or behind them all have a plot ratio of 8.10 times. But only their piece of land or the several pieces of land, their plot ratio is confined to five times. This has led to a most unfair or unjust situation and created some difficulties for the residents in making the area a better place to live in or in improving the air ventilation or making the heights of buildings in the area more uniform. This is because the Government has not enforced the policy in a uniform manner. Instead, the policy is enforced in a piecemeal and fragmented manner. I believe such a practice can help neither Hong Kong people nor the people in the area affected by the policy. Nor will it help solve the air quality problem or the screen-like buildings problem we are facing.

We find that Prof Patrick LAU's proposal can enable us to see the problem in a comprehensive, fair, legal and reasonable manner. This is a desirable approach. Therefore, we shall support Prof Patrick LAU's amendment.

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

MR ALBERT CHAN (in Cantonese): President, I had time and again raised the issue of wall effect in the meetings of the Panel on Planning, Lands and Works in December 2001, May 2003 and January 2004, and also pointed out that such a problem did happen with many buildings in various districts including Hung Hom, Tung Chung, Tsuen Wan and Tseung Kwan O, thereby causing great adverse effects on the districts in respect of cityscape and air quality. However, I am disappointed with the responses provided by government departments. The Government has time and again reiterated the planning procedure, and pointed out that it was not suitable to impose too many restrictions on the design of buildings, lest it might suffocate the creativity of developers.

President, please take a look at the city of Hong Kong now. Many of the districts are surrounded by these screen-like buildings which block air ventilation and create catastrophic impact on the cityscape. These are the consequences of the Government's claimed intention of not suffocating the creativity of developers.

Let us review the entire planning procedure now. In particular, the town planning procedure before the last amendment made to the Town Planning Ordinance, in terms of law and system, is completely tilted in favour of the interests of developers. We all know that nearly all major developers in Hong Kong have employed some former Secretaries of Departments and Directors of Bureaux to act as their non-executive directors or consultants. They have also employed many retired senior government officials from the Lands Department, the Architectural Services Department and the Planning Department as their direct employees or consultants. With such strong support, we can say that they enjoy overwhelming advantages in handling the application procedures. Therefore, screen-like buildings have emerged one after the other, and in the past, many applications originally submitted for serviced apartments were subsequently changed into those for private buildings for sale. Even officials of the Lands Department said that someone had taken advantage in certain cases and said such cases would not be approved in future.

These problems have adequately revealed the loopholes both in the system and in law. The Government is partly responsible for such loopholes. Of course, another major reason is the lack of any strong monitoring voices in this Council for holding officials accountable. We all know that, within this Council, apart from Mr Abraham SHEK who is officially representing the interests of the developers, many political parties or organizations have all kinds of connections with the developers. There are also some who rely heavily on the developers for the provision of financial or business support. Therefore, under such a situation, it is very difficult for us to fight any battles against the developers. The mass media in Hong Kong are also tilted towards them. There are many so-called "rice newspapers", which rely heavily on the developers' advertising revenue to survive.

Just like Mr Abraham SHEK's famous remark, they would definitely exploit everything to the maximum. If we want to solve this problem, it would be futile if we do not introduce any changes to the relevant policies or the measures, while just keep saying that we must take public interests into consideration. It simply does not work. The Government must change the policies. Therefore, I hope the Secretary can really consider the issue carefully. In future when the Government sells land, especially in open land auctions, including property developments over KCR or MTR stations, it should make reference to the mode of tender for the Government Headquarters. The mode of tender adopted for the Government Headquarters does not only consider

the bidding price Of course, the bidding price covers the construction costs but not the premium. In future, all tender exercises may adopt this overall assessment approach which combines the weightings of both the land bidding price and the design. So, the Government may choose a 70:30 proportional assessment approach in which the land bidding price may carry a weighting of 70%, whereas the design 30%. Alternatively, the proportion could be 60:40 or 50:50. This would compel the developers to consider the impact on cityscape, the wall effect, and the air ventilation factor. Due to such considerations, the Government may lose some public revenue because a good design may bring about good air ventilation and good impact on the cityscape, but the premium it can command may be lower as it would involve higher costs. However, if this can bring about a comprehensive improvement to the overall town planning in Hong Kong, that is, there would be a general improvement to the cityscape, and the wall effect could also be dealt with thoroughly, then I believe the people would be prepared to accept the loss in public revenue. Therefore, if we just keep on criticizing the developers without changing our mentality and strategy They have paid the premium, but we do not allow them to construct buildings, then I feel that, in view of the system and the pressure exerted by the developers who possess overwhelming influence now, it is very difficult for us to strike a right balance.

As we look at the situations in many countries and places, they all attach great significance to the concept of public realm. Basically, Hong Kong people do not have too strong a concept about public realm, which can be reflected in the way they play mahjong and enjoy smoking — someone advising others not to smoke could end up being beaten up. Therefore, when the concept of public realm is not mature enough, it could lead to many shortcomings in overall town planning. If our policies can be changed, I absolutely believe that, in terms of design, If developers are willing to do better in the aspect of design, they would be able to do it, and we can see their main efforts. If they are required to design something luxurious, they can come up with a design that is even more luxurious than a palace, and they can get better returns as a result. Therefore, in the aspect of land auctions, the Secretary may ask the MTRCL and the KCRC to do this on a trial basis. Alternatively, the Government may designate one or two sites (already earmarked for sale) as a precedent or for such purpose on a trial basis and see what kind of outcome it would bring about. If the new approach is worthy of our support, we can adopt it as a permanent policy.

President, I support the original motion, but oppose the amendments.

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

MR ABRAHAM SHEK: If I have not listened wrongly this speech by CHAN Wai-yip, I think he was not laying blame on the property developers, he was laying blame on the system. This is the first time I know he is speaking from his heart.

Madam President, property development provides a constant source of income for Hong Kong through land sales. It enables spending in welfare, health, education and other essential services. Property development is one of the growth engines which spearheaded Hong Kong's economic recovery in the last couple of years. Property development provides accommodation for over 1.2 million private home owners and over half of our population residing in government rental housing. Property development creates thousands of jobs every year through its development and stimulates economic growth in other industries. Just imagine, if there is no new property development, what effect will that have on our economy? Do you all remember Mr TUNG's 85 000 policy? Those were the dark hours of our history.

Today's motion is moved by the Honourable WONG Kwok-hing. It is about screen-like buildings, not property development, and the effect they bring to the area.

Today's motion actually brings about interesting debates and creates awareness among the population to the forms and structures of our built environment in Hong Kong. Some misguided people attributed the blames to the property developers. But even Mr WONG Kwok-hing earlier in his speech said, why should the developers be blamed? They are building what they have paid for. They are building what they are required to do under the law. They are not building an inch more or an inch less. They are building what they have to build.

The source of the problem lies not with the construction of these screen-like buildings, but rather with poor planning by the Planning Department. Madam President, I support fresh thinking in urban planning. Incorporating "green" considerations will improve our living conditions and provide our future generation with more sustainable development. In fact, the Administration shoulders the ultimate responsibility for our urban and rural planning and construction projects. It monitors land resources, formulates urban planning,

draws up blueprints on agreed plot ratio. Every development must adhere to the relevant restrictions and regulations. While urban planning is the main consideration in land developments, land utilization would also affect the value of land, and ultimately, as I said earlier, our public revenue. The Administration must strike a right balance before it puts up a site for tender, to be tendered by the developers.

To be honest, the Administration, the railway corporations and the URA are the real masterminds behind the construction of the so-called "screen-like" buildings. Only the Government and the railway corporations own large sites which are big enough for erecting huge buildings which form "screens". To maximize their revenues, both parties grant out extremely large land sites, resulting in the erection of more and more "screen-like" buildings. It is high time, I think, that we should revisit the funding method for this type of corporation.

At the same time, the Administration, having realized the problem of "screen-like" buildings, has adopted new measures to offset the negative effects of "screen-like" buildings. For instance, the Administration has incorporated the guidelines of the Feasibility Study for Establishment of Air Ventilation Assessment System (the AVA Study) into the Hong Kong Planning Standards and Guidelines. The AVA Study was completed in 2005 and its guidelines have recommended on how building mass, height, disposition and permeability can improve air ventilation in the pedestrian wind environment. In July 2006, the Administration issued a Technical Circular specifically on air ventilation, which was formally recognized as one of the considerations in the planning of major government developments and redevelopment projects.

Introducing measures to regulate the density and height of buildings, air ventilation and lighting, as suggested in the motion, is neither an appropriate nor a practical choice. Our inner city structure is complicated. Particularly, our road system is narrow and requires highly flexible urban planning. Unnecessarily rigid legislation would hinder urban planning and redevelopment of old districts, and jeopardize private development rights. I think, at this stage, we should conduct an overall review of the outdated Hong Kong Planning Standards and Guidelines: introducing greening ratio and regulating the density and height of buildings, air ventilation and lighting. Any legislation should only be introduced after reviewing the implementation of the above measures. It is premature to introduce legislative measures. What we need now is

pragmatic and good planning, respecting the spirit of contract under land lease. The major culprit in bad planning is, I think, and I agree with Audrey EU, the Planning Board. The Planning Board should be reformed; the Chairman and the Secretariat should be made independent of the Government. Only in this way can the Government introduce better planning.

With these words, I support only the amendment of Mr LAU Sau-shing. Thank you.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you may now speak on the four amendments. You have up to five minutes to speak.

MR WONG KWOK-HING (in Cantonese): Madam President, first of all, I would like to thank Mr Frederick FUNG, Ms Audrey EU, Prof Patrick LAU and Mr LEE Wing-tat for proposing amendments to my motion. And I am also grateful to the 18 Members who have spoken in this debate. Mr Frederick FUNG added that the air quality in such old districts as Sham Shui Po and Yau Tsim Mong has deteriorated, and requested the Buildings Department to lay down some ventilation requirements in vetting and approving building designs. I strongly agree with him. With regard to the 12 amendments Ms Audrey EU has proposed, I agree to most of them with the exception of item (d) "refraining from subsidizing railway developments, urban renewal projects, cultural venues and other public facilities through land exchange, development rights or additional plot ratio" about which I have some reservation.

Frankly speaking, there are many screen-effect problems in the developments above railway stations and URA projects. I have already mentioned this in my speech earlier on. However, if we cancel across the board all the incentives for developers in building cultural and public facilities, I think we had better think about it more seriously. As I have said in my earlier speech, the purpose of developers in putting up buildings is to make profits. If developers are required to cut the number of floors in a building and reduce its

size substantially, so as to reserve some area and space for constructing a bus terminal or some cultural facilities, or even for conserving built heritage, will they be willing to do so? You all know the answer. Even if the authorities are willing to compensate them by providing some additional floor area, the developers may still be unwilling. Of course, I also do not wish to see the recurrence of the Grand Promenade incident in which discretion was exercised abusively to provide compensatory plot ratio for the construction of a transport interchange there. However, I think if such incentives and compensations are deleted, developers may become unwilling to provide public facilities and eventually the Government may have to identify the sites and public funds for the provision of such public facilities. In fact, there have been many good examples of providing additional public realm through the adoption of the above method. For example, in the redevelopment of the HSBC Headquarters, the Government used the compensatory approach to make the ground floor lobby of the HSBC Headquarters become a public passage. This has on the one hand provided great convenience to the public, and on the other, facilitated good air ventilation from the waterfront to Queen's Road Central. Therefore, in my opinion, what the Government should do is not to abandon such a practice, but to strengthen the supervision, thus making the entire process live up to the principles of openness, fairness and impartiality. For example, is the discretion of granting additional compensation explicit enough? There should be supervision on the height and density of buildings after additional area has been granted; and the post-amendment orientation and ventilation of the buildings should also be explicitly stated in the land grant provision. For this reason, I can only abstain from voting on Ms Audrey EU's amendment.

With regard to Prof Patrick LAU's amendment, since he has deleted the sentence of "such guidelines are not legally binding" and the phrase of "consider introducing legislative measures to regulate", I think it is one step more backward than the wordings proposed by me. Therefore, I also cannot support Prof LAU's amendment. Finally, I support Mr LEE Wing-tat's amendment because his wordings include "strengthen legislation". Although by "strengthen legislation", it means tightening or reducing the scope, it still promotes the use of the Hong Kong Planning Standards and Guidelines and relevant documents in statutory plans. So I think it is consistent with my viewpoint. Therefore, I shall also support Mr LEE's amendment. Although Mr LEE said that he would not support my motion, I now openly lobby Mr LEE Wing-tat and other Members of the Democratic Party for their support: Can they be more broad-minded and support my motion? Can they stop acting mechanically by

withholding their support for my motion just due to the discrepancies in our political stances? Therefore, may I appeal to all Members of the Democratic Party to support my original motion, thereby bringing Hong Kong people the blue sky, good ventilation of fresh air and lighting as well as better planning to enable everyone to lead a happy and contented life with less illness and better health? Therefore, I hope all the Members of the Democratic Party can support my original motion. Thank you, Madam President.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, totally four Members have proposed amendments to Mr WONG Kwok-hing's motion today. Although the amendments proposed by Members vary slightly, they are nonetheless underlined by a common concern over the issue of screen-like buildings. I am grateful to them for the motion today, which gives me the opportunity of explaining our relevant policy and efforts to the Legislative Council and the general public.

As we all know, Hong Kong is a highly compact city and we naturally want to put the scarce land resources to optimal use, and this explains why we have resorted to a compact form of development to cater for the housing and social needs of our population and economic growth.

In recent years, as our development matures, we have grown increasingly concerned about our cityscape. Despite all the social demands, our town planning mechanism has nonetheless been able to perform its desired function, allowing us to review the established restrictions governing land use and development, particularly the density and height of development and various other aspects such as design, layout, massing, air flow, permeability and connectivity of development as well as provision of open space. Through the statutory procedure set out in the Town Planning Ordinance, existing Outline Zoning Plans (OZPs) are reviewed, amended and updated and new ones are formulated. In these OZPs, the development parameters on designated uses and other aspects, such as plot ratios and building heights, can provide open, clear and specific guidelines for compliance by all. Such is a highly flexible mechanism. As a matter of fact, for decades, Hong Kong's land development has hinged on this mechanism which has facilitated the implementation of effective changes and ensured that land use planning and the various development parameters can keep abreast of the times and cope with the prevailing needs of social progress and people's aspirations.

The basis on which we formulate the various land uses in our OZPs is precisely the Hong Kong Planning Standards and Guidelines (HKPSG) mentioned in the motion.

The HKPSG aims to provide a set of basic planning standards and design guidelines for the purpose of balancing social and economic needs on the one hand and their impacts on the urban environment on the other. Besides, the HKPSG also sets down guidelines on development scales and density, construction site requirements and various support facilities in respect of environmental planning, the conservation of natural landscape and the preservation of cultural heritage as well as the cityscape, with a view to upgrading Hong Kong people's quality of life. The HKPSG is admittedly not a legally-binding document, but its usefulness has already been reflected in statutory OZPs and the Town Planning Board (TPB)'s procedures of vetting and approving individual development projects. Therefore, its actual legal effect can thus be reflected.

Many Members hold that since the HKPSG is not legally-binding, it cannot impose any control on private development planning and reduce the construction of screen-like buildings. This is actually the result of an inadequate understanding of our planning mechanism. To begin with, as I heard from Members just now, there is no uniform definition of screen-like buildings. Therefore, we must accept the fact there is no uniform and scientific definition of screen-like buildings. But we do understand that people's concerns relating to this topic are the density and heights of buildings and their impacts on the cityscape, air flow, the environment and traffic. Actually, we have all along sought to control development density by imposing appropriate restrictions in terms of plot ratios and building heights in the statutory OZPs formulated under the Town Planning Ordinance.

Generally speaking, through the formulation of plot ratios, we will specify the development density of individual districts, so as to make sure that their basic facilities, environment, air flow and traffic can cope with the demands generated by their respective development density. On the other hand, our purpose of setting height restrictions for buildings is to protect major ridgelines, the view on the harbour and those on other precious geographical features.

Actually, in the case of certain sites with unique characteristics, such as Comprehensive Development Areas, the TPB will vet the projects concerned in

greater depths and impose stricter control. In such cases, before the development project can proceed, it will be necessary to obtain the TPB's approval of the master layout plan which sets out building dimensions, the floor area of each land use, the schedule of construction, the layout of individual buildings and other details as may be required by the TPB. Furthermore, where a site is particularly prone to cause environmental impacts, the TPB will also request the Planning Department to formulate a planning brief, setting out the various planning requirements such as development density, building height and urban and landscape design outlines. The TPB may further require the project proponent to submit environmental and sightline impact assessment reports, so as to ensure that the scale of development will not adversely affect the environment and sightline.

In cases where no development restrictions are set out in the OZP and the development concerned does not require the TPB's approval, development density and building heights are regulated by the specific provisions under the relevant leases or the plot ratio and site coverage specified for each range of building height in Schedule 1 to the Building (Planning) Regulations under the Buildings Ordinance, whichever are the lower in case of inconsistency. The aim is to impose control on building dimensions and the open space surrounding buildings and streets, so as to cope with the various problems mentioned by Members, such as sunlight.

Members have expressed various views regarding the effects of the new planning parameters on future development. I wish to point out that generally speaking, development projects which are already completed or approved will not be affected by the new planning parameters. However, the redevelopment of existing buildings will have to be based on the relevant development parameters or the dimensions and heights of the existing buildings (whichever are the greater).

In regard to urban design guidelines and air ventilation assessments, the Government will from time to time review and revise the HKPSG in response to policy adjustments and ever-changing social aspirations. The review is conducted on an ongoing basis. Since 2002, the reviews of 32 items have been completed, covering the planning standards in a wide range of areas and leading to the addition of many new guidelines.

One of these new guidelines has already been mentioned by Members. It is the Urban Design Guidelines announced in 2003 following a thorough public consultation exercise. This set of guidelines sets out the major urban design considerations, including general massing and disposition of building developments, stepped height profile for the protection of the ridgelines and the harbour view and the provision of breezeways, view corridors and setback of buildings at street level.

In 2006, the Planning Department incorporated the Guidelines on Air Ventilation into the HKPSG, and the Housing, Planning and Lands Bureau and the Environment, Transport and Works Bureau jointly issued a Technical Circular specifically on air ventilation assessments, requiring departments/Policy Bureaux or the authorities responsible for major government projects to undertake air ventilation assessments and ensure that air ventilation impact is given due consideration in the planning and design of projects. Besides, we will also conduct air ventilation assessments for government sale sites, so as to assess the impacts of developments on the wind environment of pedestrian walkways. Such assessments can indirectly improve the designs of pedestrian walkway levels and their dispositions. As people all know, we have recently reduced the plot ratios and building heights applicable to several government sale sites.

The development projects of quasi-government organizations such as the Urban Renewal Authority all adhere strictly to the HKPSG in planning and design. The Guidelines on Air Ventilation will be taken into account in the planning stage of a project, with a view to fulfilling people's environmental expectations. One example is the Kwun Tong Town Centre redevelopment. What is more, when planning and designing railway property development projects which have not yet been awarded to developers, the MTRCL will also consider the adoption of the air ventilation guidelines. We know that the railway corporation has been maintaining contact with District Councils, so as to listen to their views on individual development projects.

We have learnt that some Members hope to make the conduct of air ventilation assessments mandatory for all private developments. However, at the present stage, we do not intend to implement the Qualitative Guidelines on Air Ventilation on a mandatory basis, nor do we intend to enact any legislation on this. Let me offer an explanation here. Our main consideration is that the guidelines involve many non-quantifiable aspects of planning and design.

Before such guidelines can be adopted, due consideration must be given to the uniqueness of the site concerned and all the relevant circumstances of its surrounding areas. It is therefore not appropriate to enact any legislation to mandate their enforcement at this stage. However, the Planning Department has already launched the "Urban Climatic Map and Standards for Wind Environment — Feasibility Study" to identify climatically sensitive areas, so that air ventilation standards appropriate to their unique climatic conditions can be established for adoption in any future air ventilation assessments. The study will explore, among other things, whether it is possible to establish a greater number of quantifiable criteria/standards in respect of the wind environment, so as to provide a basis on which we can consider how the Guidelines on Air Ventilation can be extended to private developments.

I have explained how the statutory town planning procedures impose regulation and restrictions on development projects at different levels. Some Members propose that we should review whether or not the composition and operation of the TPB can cope with our needs. I wish to point out that the TPB is a statutory body established under the Town Planning Ordinance. It is widely representative, as it is mainly composed of non-official members representing the commercial, industrial, legal, architectural and engineering sectors. Currently, the TPB is made up of 31 non-official members (one of whom is appointed Vice-chairman) and six official members. We are of the view that its composition can already ensure extensive and balanced public participation. It is also a highly efficient arrangement to put the Planning Department in charge of supporting the work of the TPB, as the Department is well-versed in the Town Planning Ordinance and the related procedures.

Naturally, we will review the arrangement from time to time, so as to ensure that it can cope with ever-changing demands. I wish to point out that we have recently reviewed and updated the Town Planning Ordinance. Following the amendment of the Town Planning Ordinance in June 2006, the public may now inspect announced plans and planning applications and express views on them. They may even suggest amendments to plans for the TPB's consideration. All the meetings of the TPB are open to the public except for those parts of meetings held for deliberation for making a decision or under special circumstances. All minutes of meetings, including those on the parts of meetings held for deliberation for making a decision, are uploaded onto the website of the TPB for public inspection. The measures mentioned above can

all enhance the effectiveness and transparency of the planning mechanism and public consultation procedures. We think that it is necessary to accumulate experience in the implementation of the Ordinance, so as to enable the new mechanism to function more effectively.

The five Members who have proposed the motion and the amendments and also other Members have expressed various views on how we can improve our living environment through urban planning. We appreciate and agree to all the public expectations regarding the improvement of their quality of living and better building dispositions and design. As a matter of fact, we have made huge efforts through the town planning procedure and other channels. We will continue to "plan with the people", co-operating and joining hands with various stakeholders, professional bodies and the general public in an open and transparent process that can gauge public opinions, so as to foster sustainable development and build a satisfactory living environment for all of us.

Thank you, President.

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

MR FREDERICK FUNG (in Cantonese): President, I move that Mr WONG Kwok-hing's motion be amended.

Mr Frederick FUNG moved the following amendment: (Translation)

"To delete "despite" after "That," and substitute with "since"; to delete ", such guidelines" after "air ventilation etc"; to delete "resulting in" after "legally binding," and substitute with "it has resulted in"; to add "and result in deteriorating air quality in areas farther away from the coastline (such as the old areas of Sham Shui Po and Yau Tsim Mong)," after "neighbouring areas"; and to add ", strengthen the ventilation requirements of the Buildings Department and the two railway companies (i.e. the MTR Corporation and the Kowloon-Canton Railway Corporation) in vetting and approving building designs" after "review the Hong Kong Planning Standards and Guidelines"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Frederick FUNG to Mr WONG Kwok-hing'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 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, Dr Philip WONG, Mr WONG Yung-kan, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Prof Patrick LAU voted against the amendment.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr CHEUNG Hok-ming and Mr Albert CHENG voted for the amendment.

Mr James TIEN and Mrs Selina CHOW voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 10 were in favour of the amendment and 12 against it; while among the Members returned by geographical constituencies through direct elections, 18 were present, 15 were in favour of the amendment and two against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

MS MIRIAM LAU (in Cantonese): Madam President, I move that in the event of further divisions being claimed in respect of the motion on "Improving the planning for Hong Kong and reducing screen-like buildings" 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 "Improving the planning for Hong Kong and reducing screen-like buildings" 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): Ms Audrey EU, you may now move your amendment.

MS AUDREY EU (in Cantonese): President, I move that Mr WONG Kwok-hing's motion be amended.

Ms Audrey EU moved the following amendment: (Translation)

"To delete "despite the planning guidelines provided in" after "That," and substitute with "since"; to delete "on building density, layout, urban design and air ventilation etc, such guidelines" after "the existing Hong Kong Planning Standards and Guidelines"; to delete "resulting in" after "legally binding," and substitute with "it has resulted in"; to delete ", consider introducing legislative measures to regulate the density and height of buildings, air ventilation and lighting, etc, and, at the same time, protect the ridgelines and harbour view" after "review the Hong Kong Planning Standards and Guidelines" and substitute with "and adopt

the following measures"; and to add ": (a) extending the application of the Technical Circular on Air Ventilation Assessment (TC1/06), currently applicable to government building only, to all projects of the Urban Renewal Authority (URA), developments above railway stations and private developments; (b) taking a leading role to immediately and thoroughly review the design and scale of all current large-scale development projects, particularly the redevelopment projects of URA and the development projects above railway stations of wholly Government-owned railway corporation, so as to ensure compliance of all development projects with the requirements of the 'Qualitative Guidelines on Air Ventilation' in the 'Urban Design Guidelines' under Chapter 11 of the Hong Kong Planning Standards and Guidelines, and the requirements of the Technical Circular on Air Ventilation Assessment, and reducing development density or improving design to prevent the occurrence of wall effect; (c) thoroughly reviewing all large-scale development projects which have been approved but not yet developed, in order to minimize the impact of wall effect by improving their designs, such as increasing the distance between buildings, creating view corridors and breezeways, setting back developments from site boundaries, and enhancing the provision of public realm at ground level; (d) refraining from subsidizing railway developments, urban renewal projects, cultural venues and other public facilities through land exchange, development rights or additional plot ratio, because the density of land development in various districts should be based on professional planning decisions and not financial considerations; (e) thoroughly reviewing the development density of all districts including the metropolitan area and the new towns, in order to avoid the emergence of screen-like buildings, particularly at the ventilation points, such as harbour-front areas or areas facing large open spaces; Government land located in high density districts should not be sold for property development, and should be reserved for low density development or used as open space, so as to alleviate the increasing development density of private properties in the same district; newly planned sites should not be over-sized and should be separated by view corridors and breezeways to improve air ventilation at ground level; the amalgamation of sites should also be limited to mitigate wall effect; (f) amending existing legislation, such as section 16 of the Buildings Ordinance, or stipulating more objective guidelines through Practice Notes, to provide a clearer basis for the Building Authority and the industry, so as to avoid the construction of buildings, such as screen-like buildings, which will bring

adverse ventilation impact on neighbouring buildings; (g) reviewing the various existing mechanisms and guidelines to avoid any unnecessary wall effect, such as over-sized car-parking podium, or the emergence of screen-like buildings due to lack of co-ordination among departments; (h) abandoning the current two-dimensional approach to town planning and replacing it with a three-dimensional approach; using three-dimensional physical models to assist in design during the planning process and as a means to communicate with the general public, so as to envisage at an early stage whether the development density, building mass and disposition will cause wall effect; apart from the existing Outline Zoning Plans and General Building Plans, district-specific Urban Design Guidelines should also be drawn up; (i) formulating relevant guidelines to prevent wall effect by making reference to overseas experience: (i) Shanghai has requirements to limit the width of slab block buildings to not more than 60 metres, etc; (ii) New York imposes control on street shadow area for buildings, so that super high buildings will not be linked up like the Great Wall; and (iii) Japan and Singapore have included height limits and massing control in the land leases or buildings regulations to prevent the emergence of screen-like buildings; (j) conducting assessment on sunlight, wind tunnel and micro-climatic analysis, etc, with reference to examples like the Ngau Tau Kok Upper Estate redevelopment project, while planning for new large-scale development sites, so as to minimize the adverse impact of new developments on the community; (k) increasing the participation of non-government professionals and the community in the planning process, and considering the introduction of a 'Planning Aids Scheme' to assist the public in lodging planning applications when necessary, so that affected residents and shop operators can obtain independent and professional advice more easily, in order to ensure that the aspirations of the community can be taken care of in the planning process; and (l) in the long run, restructuring the Town Planning Board to ensure its independence from the Government; the current situation whereby the Government benefits from the sale of land on the one hand and takes charge of the town planning process on the other has inevitably led to conflicts of interest, and it is difficult to ensure that the Town Planning Board can make planning decisions impartially for the benefit of the community at large" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Ms Audrey EU's amendment to Mr WONG Kwok-hing'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 Audrey EU rose to claim a division.

PRESIDENT (in Cantonese): Ms Audrey EU 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, Dr Joseph LEE, Dr KWOK Ka-ki and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Prof Patrick LAU voted against the amendment.

Mr WONG Kwok-hing 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, Ms Emily LAU, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung and Mr CHEUNG Hok-ming voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, seven were in favour of the amendment, 14 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 20 were present, 12 were in favour of the amendment and seven against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Prof Patrick LAU, you may now move your amendment.

PROF PATRICK LAU (in Cantonese): President, I move that Mr WONG Kwok-hing's motion be amended.

Prof Patrick LAU moved the following amendment: (Translation)

"To delete ", " after "layout" and substitute with "and"; to delete "and air ventilation etc, such guidelines are not legally binding, resulting in the recent emergence of" after "urban design" and substitute with ", "; to add "still emerge in recent years" after "screen-like buildings"; and to delete "consider introducing legislative measures to regulate" after "review the Hong Kong Planning Standards and Guidelines," and substitute with "and, under the principle of not affecting private development rights, study the expedient introduction of greening ratio and regulation of"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Prof Patrick LAU's amendment to Mr WONG Kwok-hing's motion be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for 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:

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Prof Patrick LAU and Miss TAM Heung-man voted for the amendment.

Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Mr WONG Kwok-hing voted against the amendment.

Ms LI Fung-ying abstained.

Geographical Constituencies:

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Ms Audrey EU, Mr Alan LEONG and Mr CHEUNG Hok-ming voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Albert CHAN, Mr Frederick FUNG, Mr LEE Wing-tat, Mr LEUNG Kwok-hung and Mr Albert CHENG voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 18 were in favour of the amendment, three against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 10 were in favour of the amendment and 13 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr LEE Wing-tat, you may now move your amendment.

MR LEE WING-TAT (in Cantonese): President, I move that Mr WONG Kwok-hing's motion be amended.

Mr LEE Wing-tat moved the following amendment: (Translation)

"To add ", while the Town Planning Board (TPB) fails to meet the public's expectation in preventing or minimizing such adverse impact" after "entire community"; to add "the composition and modus operandi of TPB with a view to enhancing public involvement and TPB's public representativeness; review relevant documents such as" after "thoroughly review"; and to delete ", consider introducing legislative measures to regulate the density and height of buildings, air ventilation and lighting, etc," after "the Hong Kong Planning Standards and Guidelines" and substitute with "and the Practice Notes for Professional Persons; strengthen legislation, including specifying the adoption of specific, clear and enforceable clauses, development parameters or procedures in relation to the density and height of buildings, air ventilation, lighting and conservation of historic buildings, as stated in the applicable chapters of the Hong Kong Planning Standards and Guidelines and relevant documents, such as the Practice Notes for Professional Persons, for land parcels in different zones on the statutory plans that carry legal effect, in order to reduce wall effect in an expedient and effective manner;". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr LEE Wing-tat's amendment to Mr WONG Kwok-hing's motion be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai's response is really quick. No sooner had I finished speaking than he stood up. *(Laughter)* Mr SIN Chung-kai 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 Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Prof Patrick LAU voted against the amendment.

Mr WONG Yung-kan 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, Ms Emily LAU, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW and Mr CHEUNG Hok-ming voted against the amendment.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk and Mr TAM Yiu-chung 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, nine were in favour of the amendment, 14 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 15 were in favour of the amendment, three against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you may now reply and you have one minute 56 seconds.

MR WONG KWOK-HING (in Cantonese): Madam President, in view of the voting results, I believe it is very likely that the final voting on the original motion will bring about the situation of all five proposals coming to naught. However, I will persevere in my efforts and help the public campaign for blue skies and fresh air by wearing blue tops and beige trousers more often.

I am also disappointed by the response given by the Secretary just now. The Secretary proposed various measures and methods, but his conclusion was that he did not want to be a "tiger with bite". I find this most regrettable. Had the Secretary's proposals been effective, screen-like buildings in Hong Kong would not have been built one after another. Therefore, I find the response given by the Secretary extremely regrettable.

Madam President, I have lived in North Point for a long time and two developments in North Point can serve as typical examples. One of them is the screen-like Provident Centre and the other is the former North Point Estate. The North Point Estate is a collective memory for all members of the Hong Kong public. Although the North Point Estate was a public housing estate and although it was built at the seafront, there was no lack of sunshine and air in it,

moreover, there were lots of shady trees. Why can the Government not give the Hong Kong public sunshine and air?

The SAR Government of the third term will establish a Development Bureau. I hope that when the Development Bureau, in overseeing urban planning and land development in Hong Kong, will convey a greater vision to the public by restricting screen-like buildings. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mr WONG Kwok-hing's motion be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr WONG Kwok-hing rose to claim a division.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing 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 WONG Yung-kan, 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, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Prof Patrick LAU voted against the motion.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr CHEUNG Hok-ming voted for the motion.

Mr James TIEN, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Dr YEUNG Sum, Ms Emily LAU, Mr LEE Wing-tat and Mr Albert CHENG voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, eight were in favour of the motion and 16 against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, 13 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 16 May 2007.

Adjourned accordingly at thirteen minutes to Seven o'clock.

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Education and Manpower to Dr KWOK Ka-ki's supplementary question to Question 2**

As regards in the past five years, who was responsible for auditing the two Faculties of Medicine; if committee meetings were held, how many meetings had been held so far; what had been done by the relevant committees? According to The Chinese University of Hong Kong (CUHK) and the University of Hong Kong (HKU), the accounts and financial operation of the two universities, including their Faculties of Medicine, are subject to annual audit by external accounting firms. In addition, the Audit Committees under their respective Councils are responsible for reviewing the effectiveness of the universities' financial and risk management to ensure effective use of resources and compliance with the standards of corporate governance.

In the case of CUHK, its Audit Committee is chaired by a lay Council member and consists of external members and lay Council members. The Committee meets once to twice a year, and there have been five meetings since its establishment in October 2004. The Administrative and Planning Committee under the Council of CUHK also reviews from time to time policies and practices on private clinical practices of the Faculty of Medicine. The Administrative and Planning Committee usually meets once every two weeks.

Regarding the HKU, its Audit Committee is chaired by a lay Council member and all members of the Committee are external members. The Committee meets once every three months and has met 14 times since its establishment in early 2004.

Appendix II

WRITTEN ANSWER

Written answer by the Secretary for Education and Manpower to Dr Fernando CHEUNG's supplementary question to Question 2

As regards whether the staff of either Faculty of Medicine have personally received funds obtained from private consultation service in the past five years; if yes, how much, and what is the percentage; overall, how much income was generated by private consultation service in the past five years? According to The Chinese University of Hong Kong (CUHK), the total amount of income generated from private consultation services for all departments under CUHK's Faculty of Medicine, the amount of income credited into staffs' accounts in accordance with relevant university regulations, and the percentage of such amount against the total income from private consultation services for the departments in the past five years are set out in the table below:

<i>Year</i>	<i>2001-2002</i>	<i>2002-2003</i>	<i>2003-2004</i>	<i>2004-2005</i>	<i>2005-2006</i>
Total income from private consultation services for all departments under CUHK's Faculty of Medicine (\$ million) (a)	38.6	43.2	33.4	41.3	45.3
Amount of income credited to staff accounts (\$ million) (b)	8.9	10.4	8.8	10.9	9.9
Staff's share of the income (b)/(a)	23.1%	24.1%	26.3%	26.4%	21.9%

As regards the University of Hong Kong (HKU), there is no income-sharing arrangement with the clinical staff of its Faculty of Medicine and all income generated from private consultation services will be used by the Faculty of Medicine and/or allocated to the related departments for academic purposes. The income from private consultation services received by all departments under the HKU's Faculty of Medicine over the past five years is set out as follows:

<i>Year</i>	<i>2001-2002</i>	<i>2002-2003</i>	<i>2003-2004</i>	<i>2004-2005</i>	<i>2005-2006</i>
Total income from private consultation services for all departments under the HKU's Faculty of Medicine (\$ million)	20.1	27.8	25.4	34.3	36.6

Appendix III**WRITTEN ANSWER****Written answer by the Secretary for Home Affairs to Mr SIN Chung-kai's supplementary question to Question 6**

As regards information on the payment of variable pay to the management of the Kowloon-Canton Railway Corporation (KCRC), the relevant information is attached at Annex for Members' reference.

Annex

Payment of variable pay to the management of the KCRC

The KCRC introduced the variable pay scheme in 2005. Under the scheme, members of the Management who participate in the scheme contribute a defined percentage of their total annual remuneration to establish a corporate pool. The Managing Board evaluates the overall annual performance of the KCRC against the performance targets established at the beginning of the year in order to determine the amount of variable pay to be distributed. In gist, if the overall performance of the KCRC fails to meet the targets, no variable pay would be distributed to members of the concerned Management; if the KCRC's performance just meets the targets, those concerned in the Management would receive no additional payout; if the KCRC's performance exceeds the targets, the Management's members would receive additional payout in accordance with the extent to which the targets are exceeded. The actual amount to be received by each participant depends on his or her individual performance.

In 2007, the Managing Board assessed the performance of the KCRC in 2006 in accordance with the performance targets established in early 2006, in order to decide the amount of variable pay to be distributed. As for the year 2006, since the KCRC's overall performance exceeded the predetermined targets, the Managing Board agreed to distribute additional payout to the Management who participated in the scheme according to the extent to which the targets were exceeded. The total amount of the variable pay distributed was some \$5 million out of which around \$600,000 was additional payout contributed by the KCRC, while the remaining payout was the participants' remuneration reserved in the corporate pool under the variable pay scheme.

WRITTEN ANSWER — *Continued*

Since the variable pay scheme is part of the terms of the employment contract executed between scheme participants and the KCRC, any changes to the mechanism require the consent of the participants. Under the current terms of the employment contract, the Managing Board has no discretion in the distribution of the variable pay. However, taking into account that the Management should be held responsible for the serious corporate governance problems in 2006, the Government suggested that the scheme participants should consider retaining only the portion of their own contribution to the variable pay pool, and return the KCRC's additional payment to the Managing Board. However, the participating members of the Management considered that as they had already given up the additional payment in 2005, despite the corporate governance incident occurred afterwards, this should have addressed concerns from the public. They therefore decided that the practice adopted in 2005 should not be followed.