

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 11 July 2007

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

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

THE HONOURABLE WONG YUNG-KAN, S.B.S., 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, J.P.

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

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

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

THE HONOURABLE ALBERT JINGHAN CHENG, J.P.

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

MEMBERS ABSENT:

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

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

THE HONOURABLE CHIM PUI-CHUNG

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.
THE FINANCIAL SECRETARY

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

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

THE HONOURABLE FREDERICK MA SI-HANG, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE STEPHEN LAM SUI-LUNG, J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

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

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

THE HONOURABLE DENISE YUE CHUNG-YEE, G.B.S., J.P.
SECRETARY FOR THE CIVIL SERVICE

THE HONOURABLE TSANG TAK-SING, J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

PROF THE HONOURABLE CEAJER CHAN KA-KEUNG, S.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE MRS CARRIE LAM CHENG YUET-NGOR, J.P.
SECRETARY FOR DEVELOPMENT

THE HONOURABLE EDWARD YAU TANG-WAH, J.P.
SECRETARY FOR THE ENVIRONMENT

THE HONOURABLE EVA CHENG, J.P.
SECRETARY FOR TRANSPORT AND HOUSING

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Building Management (Third Party Risks Insurance) Regulation.....	146/2007
Shipping and Port Control (Ferry Terminals) (Amendment: Fee Reduction) Regulation 2007	147/2007
Merchant Shipping (Local Vessels) (Fees) (Amendment: Fee Reduction) Regulation 2007	148/2007
Merchant Shipping (Prevention of Air Pollution) Regulation.....	149/2007
Road Traffic (Construction and Maintenance of Vehicles) (Amendment: Maximum Permitted Smoke or Visible Vapour Emissions) Regulation 2007	150/2007
Road Traffic (Construction and Maintenance of Vehicles) (Amendment: Requirements for Speedometers and Speed Display Devices) Regulation 2007	151/2007
Road Traffic (Construction and Maintenance of Vehicles) (Amendment: Safety Requirements for Passenger Seats in Student Service Vehicles) Regulation 2007	152/2007
Road Traffic (Traffic Control) (Amendment: Addition of Traffic Signs) Regulation 2007.....	153/2007
Solicitors (Professional Indemnity) (Amendment) Rules 2007	154/2007

Other Papers

- No. 103 — Report by the Commissioner of Correctional Services on the administration of the Prisoners' Welfare Fund for the year ended 31 March 2007
- No. 104 — Hong Kong Trade Development Council
Annual Report 2006-2007
- No. 105 — Hong Kong Export Credit Insurance Corporation
Annual Report 2006-2007
- No. 106 — Report of the Independent Police Complaints Council 2006
- No. 107 — Report of the J.E. Joseph Trust Fund Trustee, and Audited Statement of Accounts and Auditor's Report for the Fund, for the year from 1 April 2006 to 31 March 2007
- No. 108 — Report of the Kadoorie Agricultural Aid Loan Fund Committee, and Audited Statement of Accounts and Auditor's Report for the Fund, for the year from 1 April 2006 to 31 March 2007
- No. 109 — Sir David Trench Fund for Recreation
Trustee's Report 2006-2007
- No. 110 — Report of the Public Accounts Committee on Report No. 48 of the Director of Audit on the Results of Value for Money Audits and Supplemental Report of the Public Accounts Committee on Report No. 47 of the Director of Audit on the Results of Value for Money Audits
(July 2007 — P.A.C. Report No. 48)

Report of the Finance Committee on the examination of the Estimates of Expenditure 2007-2008

Committee on Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region — Progress Report for the 2006-2007 session (13 July 2006 to 11 July 2007)

Report of the Panel on Manpower 2006-2007

Report of the Panel on Commerce and Industry 2006-2007

Report of the Panel on Public Service 2006-2007

Report of the Panel on Administration of Justice and Legal Services
2006-2007

Report of the Panel on Transport 2006-2007

Report of the Panel on Housing 2006-2007

Report of the Panel on Security 2006-2007

Report of the Panel on Constitutional Affairs 2006-2007

Report of the Panel on Food Safety and Environmental Hygiene
2006-2007

Report of the Panel on Education 2006-2007

Report of the Panel on Planning, Lands and Works 2006-2007

Report of the Panel on Information Technology and Broadcasting
2006-2007

Report of the Panel on Economic Services 2006-2007

Report of the Bills Committee on Hazardous Chemicals Control Bill

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Dr LUI Ming-wah will address the Council on the Report of the Independent Police Complaints Council 2006.

Report of the Independent Police Complaints Council 2006

DR LUI MING-WAH: Madam President, on behalf of the Independent Police Complaints Council (IPCC), may I present the Report of the IPCC 2006.

The IPCC is an independent body, members of which are appointed by the Chief Executive. Its main duty is to monitor and review the investigation conducted by the Complaints Against Police Office (CAPO) of the Hong Kong Police Force into complaints against the police to ensure impartiality and thoroughness. When examining the investigation reports, the IPCC can ask the CAPO to clarify areas of doubt, or request the CAPO to reinvestigate into a complaint if it is not satisfied with the investigation result. Where necessary, the IPCC may also interview witnesses including complainants, complainees and professionals such as forensic pathologists, for further information or expert advice. A case will not be finalized until the IPCC has endorsed the CAPO's investigation result.

In 2006, the IPCC reviewed and endorsed a total of 2 114 complaint cases involving 3 518 allegations, a decrease of 714 cases, and 1 177 allegations, when compared with the corresponding figures of 2 828 and 4 695 in 2005. Allegations of "Assault", "Misconduct/Improper Manner/Offensive Language" and "Neglect of Duty" constituted 84.4% of the total allegations, representing an increase of 0.5% when compared with the figure of 83.9% recorded for 2005. Of the 3 518 allegations endorsed, 40 were classified as "Substantiated", 60 were "Substantiated Other Than Reported", four were "Not Fully Substantiated", 610 were "Unsubstantiated", 187 were "False", 152 were "No Fault", seven were "Curtailed", 1 140 were "Withdrawn", 579 were "Not Pursuable" and the remaining 739 allegations, which were of a very minor nature, such as "Impoliteness", were resolved by "Informal Resolution", that is, mediation by a senior police officer at Chief Inspector of Police or above rank in the complainee's formation. The substantiation rate in relation to the 1 053 fully investigated allegations in 2006 was 9.9%.

In 2006, the IPCC raised 829 queries or suggestions on the CAPO's investigation reports, asking for clarifications on ambiguous points or questioning the results of investigations. Subsequently, the results of investigation of 44 allegations were changed. Arising from the investigation results endorsed by the IPCC in 2006, criminal proceedings, disciplinary and other forms of internal actions were taken against 114 police officers. The IPCC also suggested improvements to police procedures where appropriate.

To provide a high level of service, the IPCC has promulgated a set of performance pledges in terms of standard response time in handling public enquiries and monitoring complaints against the police. In 2006, 99.5% of normal cases were endorsed within the pledged period of three months. In

addition, 99.8% of complicated cases and 93.9% of appeal cases were endorsed within the pledged period of six months. There is a decrease in percentages within the performance targets in respect of the monitoring of normal, complicated and appeal cases in 2006, as compared to 2005. This is because during the initial period of the Personal Data Leakage Incident (the Incident) which came to light in March 2006, which I will refer to later, the IPCC Secretariat's existing manpower resources were internally redeployed to follow up matters arising from the Incident. As a result, normal complaint case examination work was protracted. With additional manpower and the resumption of normal business, the IPCC is on track to attain a high level of performance in the coming year.

Although the IPCC plays no part in the actual investigation, its Members and Lay Observers, through the IPCC Observers Scheme, can observe the conduct of investigations and interviews by the CAPO on a scheduled or surprise basis. In 2006, 317 observations were arranged under the IPCC Observers Scheme. After each observation, the Observers report to the IPCC as to whether the CAPO has conducted the investigation in a thorough and impartial manner. Their feedback has been useful for the IPCC in monitoring complaint cases.

In 2006, the IPCC continued to organize talks at secondary schools as part of its ongoing publicity programme.

Having dealt with the 2006 monitoring of complaint investigation work, I would like to, on behalf of the IPCC, take this opportunity to refer to the Incident which came to light in March 2006. The Incident came to light more than a year ago, and had a tremendous impact on the normal work of the IPCC, and on the image of the IPCC. We have given a full account of the Incident, and the IPCC's response and actions taken in Chapter 2 of the report. I would like to highlight that soon after the Incident came to light, the IPCC took the responsible approach of setting up a Task Force to look into the Incident, and published an open report in April 2006 setting out the material facts which led to the leakage, and making various recommendations on tightening up the internal security measures in handling personal data by the IPCC Secretariat and in offering redress to the affected persons. We have implemented a series of internal security measures aimed at tightening up the handling of classified information containing personal data, and have complied with the Enforcement Notice issued by the Privacy Commissioner for Personal Data on the Incident. We have also

met with over 90 concerned citizens, and relayed their concerns and requests, and those of other concerned citizens who have written in, to the Administration for consideration. We trust the Administration will deal with them expeditiously.

The Incident was most unfortunate for all concerned and presented valuable lessons to be learnt. The IPCC is grateful for the Administration's provision of additional staff and resources to the IPCC Secretariat to help it handle the extra workload and meet the additional expenses arising from the Incident.

Madam President, to sum up, 2006 was a busy and tumultuous year for the IPCC. We hope to rebuild the public's confidence in the IPCC by remaining focused on our mandate, which is to closely monitor and review the investigations conducted by the CAPO. We will maintain a high degree of thoroughness and impartiality in our monitoring and review work. We understand that the Administration plans to reintroduce a bill to the Legislative Council today to make the IPCC a statutory body. We look forward to the Bill giving adequate powers to the Council to carry out its mandated work.

Thank you.

PRESIDENT (in Cantonese): Dr Philip WONG, Chairman of the Public Accounts Committee, will address the Council on the Committee's Report No. 48.

Report of the Public Accounts Committee on Report No. 48 of the Director of Audit on the Results of Value for Money Audits and Supplemental Report of the Public Accounts Committee on Report No. 47 of the Director of Audit on the Results of Value for Money Audits (July 2007 — P.A.C. Report No. 48)

DR PHILIP WONG (in Cantonese): Madam President, on behalf of the Public Accounts Committee (PAC) I have the honour to table today the PAC Report No. 48 (Report). The Report corresponds with Report No. 48 of the Director of Audit on the Results of Value for Money Audits (Audit Report), which was tabled in the Legislative Council on 18 April 2007.

At the time when the PAC Report No. 47 was tabled, the PAC was still deliberating the subject "Administration of short term tenancies". A full report on this chapter was therefore deferred. The PAC has now concluded its deliberations and has tabled the supplemental report on this chapter together with the Report.

On the Audit Report, the PAC has, as in previous years, selected for detailed examination only those chapters which, in our view, contained more serious allegations of irregularities or shortcomings. The Report tabled today covers the process and result of our deliberations on the two chapters selected.

I first report the main conclusions and recommendations of the PAC on the subject "Administration of short term tenancies".

On the administration of rent arrears, the PAC is astonished and seriously dismayed that once a tenant of a short term tenancy (STT) had commenced legal proceedings against the Government, the Lands Department (LandsD) had difficulties in recovering the rent arrears. The tenant could continue occupying the sites without paying rent for a lengthy period. The LandsD had difficulties in repossessing the sites even after termination of the tenancies because of the ongoing legal proceedings. Moreover, the LandsD's practice of not issuing rent demand notes to a STT tenant while there were ongoing legal proceedings between the tenant and the Government might create an impression that a tenant could avoid paying rent by taking legal action against the Government.

Regarding the enforcement action on unauthorized use of sites for car-park purposes, the PAC is gravely dismayed and finds it unacceptable that three non-car-park STT tenants had breached the tenancy conditions by using the sites as fee-paying car-parks, and there were variations among different District Lands Offices (DLOs) in taking enforcement actions against tenants in breach of STT conditions. Although inspections carried out outside office hours were more effective for obtaining evidence of unauthorized use of sites for car-park purposes, the LandsD guidelines did not require the DLOs to carry out site inspections outside office hours.

In addition, the PAC finds it unacceptable and inexcusable that the LandsD had failed to take rigorous enforcement action against the unauthorized use for residential purposes of an STT site in Sha Tin granted under three STTs, which were under the LandsD's administration between April 1982 and August 2006.

The circumstances are as follows: the tenant was found during seven site inspections by the LandsD to have breached the tenancy conditions by using the site for residential purposes. The tenant was found during six inspections by the LandsD to have occupied the adjoining Government land without approval. Despite the repeated breaches of the tenancy conditions at the site, in June 1993, the Sha Tin DLO approved the granting of a new tenancy to the tenant without submitting the case to the District Lands Conference for making a recommendation. In making the decision, the Sha Tin DLO had attached a greater weighting to the need to avoid leaving the site vacant as it would cause management problems and a loss of rental income, than the need to enforce tenancy conditions by terminating the tenancy. Also, although the tenant had repeatedly breached the tenancy conditions, the LandsD had not implemented additional measures, such as increasing the frequency of inspections or terminating the tenancy, to ensure that the tenant would not use it for residential purposes. Moreover, the LandsD's copy of the STT 3 agreement had not been signed by the Government's representative.

The PAC finds it equally unacceptable and inexcusable that, as revealed by the above Sha Tin STT case, the LandsD's inspection of STT sites was not effective for checking if there was unauthorized use of the sites for residential purposes. This is because, despite the fact that the tenant had a past record of tenancy breaches, the LandsD gave prior notification to the tenant before inspecting the site. The LandsD did not have specific guidelines on the circumstances under which an STT site should be regarded as being used for residential or storage purposes. As a result, the LandsD staff who inspected the site had to make subjective judgement as to whether there was any breach.

Furthermore, some LandsD staff who conducted site inspections adopted a lenient standard in judging whether there was a tenancy breach. For example, the Sha Tin District Lands Officer who inspected the Sha Tin STT site on 4 December 2002, which was shortly after an inspection by another LandsD staff on 22 October 2002 when the site was found to be used for residential purposes, considered that the site was used for storage in accordance with its permitted use. However, photographs taken during the inspection on 4 December 2002 showed that the furniture and fixtures on the premises were substantially the same, except that some were stacked up or covered up by plastic sheets. The PAC finds the Sha Tin District Lands Officer's judgement unacceptable because the inspection on that day was conducted at the request of the tenant, the plastic sheets covering the furniture and fixtures could easily be removed, the furniture

and fixtures could easily be reinstated for residential purposes, the tenant had a past record of tenancy breaches, and the tenant had even applied for regularizing the domestic use of the premises previously.

The PAC strongly urges the Director of Lands to ensure that all LandsD staff will strictly comply with the LandsD's guidelines and instructions on the enforcement of tenancy conditions, including those on site inspection, and provide adequate training to LandsD staff who are responsible for carrying out inspection of STT sites.

I now turn to the administration of the Hong Kong Applied Science and Technology Research Institute Company Limited (ASTRI). In respect of corporate governance, the PAC is seriously concerned and finds it unacceptable that the Board of Directors of the ASTRI (Board), which is responsible for giving strategic direction to the ASTRI regarding its research and development (R&D) programmes and monitoring the performance of the ASTRI management, has not performed its responsibilities effectively, as reflected by the following: Firstly, the failure of the Finance and Administration Committee (FAC) of the ASTRI Board to follow the meeting requirement in the ASTRI Corporate Governance Manual, coupled with the problems and deficiencies revealed in the ASTRI's finance and administration matters, call into question the FAC's effectiveness as an overseeing body. Secondly, during the periods when no FAC meeting was held, discussion papers were circulated to the Directors for information and decision, but the ASTRI did not keep documentation to record the comments and decisions of the Directors in response to these papers. Thirdly, despite the Board's decision in December 2001 that all Directors should sign a non-disclosure agreement (NDA) relating to individual R&D projects, of the 67 projects undertaken by the ASTRI since December 2001, only some Directors signed the NDAs for 11 projects. Since December 2002, no Director had signed any NDA.

The PAC is also seriously concerned and finds it unacceptable that the two government Directors appointed to the Board, that is, the then Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) and the Commissioner for Innovation and Technology, have not detected the problems of the ASTRI in governance and management, reflecting that they did not perform their monitoring role effectively. The senior management team of the ASTRI, headed by the former Chief Executive Officer, has failed to adopt the principles of good corporate governance in managing the ASTRI, and has demonstrated a lack of internal control and compliance with the

procedures and requirements stated in the ASTRI Corporate Governance Manual and other guidelines in areas of human resources management, project management, project cost control and administration.

The PAC recommends that the Administration should review the role and responsibility of the government officials appointed to sit on the governing bodies and committees of statutory bodies or publicly-funded organizations, and ensure that they are able to perform their role and responsibility. In appointing government officials to sit on the committees under the governing bodies of any statutory bodies or publicly-funded organizations, the Administration should pay due regard to the terms of reference of the committees and the expertise of the officials, so as to ensure that the officials can properly perform their responsibilities.

Regarding the problems and deficiencies of the ASTRI in the areas of remuneration and recruitment, project management and project cost control, the PAC is seriously dismayed and finds these unacceptable.

Moreover, the PAC is dismayed that the ASTRI did not, in the course of the audit study or in response to the draft Audit Report, provide to the Audit Commission explanations for some of the problems identified. On some occasions, the information provided by the ASTRI to the Audit Commission was incorrect. For example, the ASTRI did not inform the Audit Commission of the fact that three of the seven entertainment functions, at which the guests entertained were significantly outnumbered by ASTRI staff, were only "working lunches". Also, the reasons for not filing patent application for some completed projects were not provided to the Audit Commission, and some data presented by the ASTRI to the Audit Commission on patent application was incorrect.

The PAC is disappointed that the ASTRI Board Chairman chose to counter some of the audit findings through the press after, instead of at, the PAC's public hearings.

In considering the management of government fresh food wholesale markets (wholesale markets), the PAC is seriously concerned that four of the five piers at the Western Wholesale Food Market (Western Market) had been unused for more than five years, with one having never been used since the commissioning of the Western Market in October 1991. Although the four piers have been idle for a long time, the Agricultural, Fisheries and Conservation Department has only recently set up an ad hoc group with other relevant

government departments to identify a final proposal for using the piers, and the Director of Agriculture, Fisheries and Conservation only expected the ad hoc group to come up with a preliminary report by the end of October 2007. In this connection, the PAC urges the Director of Agriculture, Fisheries and Conservation to expedite the work of the ad hoc group to identify a final proposal for using the piers without delay.

Regarding the reprovisioning of outdated wholesale markets, the PAC is seriously concerned and finds it unacceptable that despite that in 1997, the PAC had urged the Administration to expedite the development of the Cheung Sha Wan Wholesale Food Market (CSW Market) Phase 2 project and, in particular, the reprovisioning of the Yau Ma Tei (YMT) Fruit Market, there was little progress in the implementation of the Phase 2 project. Furthermore, although in 2004, the Administration had undertaken to keep the Panel on Food Safety and Environmental Hygiene (the Panel) informed of the development of the CSW Market Phase 2 project, the Administration had not made any report to the Panel on the matter until 30 April 2007, which was the date of the PAC's public hearing on the Audit Report.

The PAC notes that the Administration is considering the construction of a new wholesale market for fresh fruits in part of the CSW Market Phase 2 site for relocating the YMT Fruit Market, and will discuss the proposal with the relevant District Councils, fruit traders and related trades through District Officers. The PAC strongly urges the Secretary for Food and Health to provide a definite timetable for relocating the YMT Fruit Market to the PAC by mid-January 2008, so as to ensure that the traffic and environmental hygiene problems caused by the operation of the YMT Fruit Market to residents in the neighbourhood can be resolved early.

Madam President, as always, the PAC has made its conclusions and recommendations in the Report with the aim of ensuring the achievement of value for money in the delivery of public services.

I wish to register my appreciation of the contributions made by members of the PAC. Our gratitude also goes to the representatives of the Administration and the ASTRI who have attended before the PAC. We are grateful to the Director of Audit and his colleagues, as well as the staff of the Legislative Council Secretariat, for their unfailing support and hard work.

Thank you.

PRESIDENT (in Cantonese): Ms Emily LAU will address the Council on the Report of the Finance Committee on the examination of the Estimates of Expenditure 2007-2008.

Report of the Finance Committee on the examination of the Estimates of Expenditure 2007-2008

MS EMILY LAU (in Cantonese): President, in accordance with Rule 71(11) of the Rules of Procedure, the President referred the Estimates of Expenditure 2007-2008 to the Finance Committee (FC) for examination. On behalf of the FC, I now submit the Report of the FC on the examination of the Estimates of Expenditure.

As in the past, the FC held public meetings to examine the Estimates. Detailed study was made on various items of expenditure of the Administration for 2007-2008 to ensure that the Administration was seeking a provision no more than was necessary for the enforcement of various government policies. The FC held a total of six special meetings in 20 sessions from 19 March to 22 March.

To facilitate the smooth conduct of business, members of the FC were invited to submit written questions on the Estimates to enable the Administration to submit written replies before the special meetings were held. Last year, there were reports in the press that some public officers made the criticism that there were duplications and even alleged copying in questions raised by Members on the Budget. The criticism is in my opinion extremely unfair. In respect of the Budget this year, for example, a total of 2 715 written questions were received from members of the FC. All these questions were asked about the aims, targets and effectiveness of the expenditure Estimates, and many were asked on areas in the Budget which were vague. Problems were pointed out clearly, such as on unchanged Estimates in expenditure despite a drop in demand for certain services. President, questions like these facilitated follow-up work on matters deserving attention of members during the limited timeframe of the special meetings. It would not be surprising to have the same issues attracting the attention of different Members. As agreed with the Administration, priority would be given to the first 1 200 questions received. As in the past, we tried our best to put questions which did not duplicate others to the first 1 200 before they were forwarded to the Administration. This was done for better and more

efficient use of government resources. I am pleased to see that the Administration had given replies to all of the some 2 700 written questions before the special meetings were held. The electronic version of these replies was made available on the Council's website for browse by the public.

Concerns expressed by members in the meetings have been put down in detail from Chapter II to Chapter XXI of the Report. Members were particularly concerned this year about the fact that provisions made to certain departments were not fully utilized by the Controlling Officers concerned. Members considered that if the authorities did not attach due importance to this state of affairs, it would be likely that when the Budget was being compiled, excessive amounts of resources would be earmarked for work which was not required while the public might be denied provision of certain services for lack of resources despite ardent demand for them. Members therefore made detailed analyses during the special meetings of the situation in every specific policy area where provisions made the year before were not fully utilized.

Moreover, members were concerned in particular about whether or not the \$29 billion earmarked for infrastructure projects each year as pledged by the Administration was fully utilized. In view of serious unemployment in the construction industry, members were of the view that the authorities should expedite the public works projects programme to create more employment opportunities in the local construction industry and respond to public aspirations for facilities at the district level. The FC will continue to follow up work by the Administration in this respect to ensure that public works projects commence as soon as possible.

President, some members were of the view that since the economic conditions had fared better, the Administration should put in more resources to improve people's livelihood, such as reviewing the standard rate Comprehensive Social Security Assistance payments and the Social Security Allowance payments and relaxing the 240-day permissible limit of absence from Hong Kong for Old Age Allowance recipients, so as to ensure that the assistance offered could better meet the needs of the recipients. Some members also called upon the authorities to offer public transport fare concessions to people with disabilities to facilitate their full integration into society. In education, members urged the authorities to implement small-class teaching in all primary and secondary schools. With respect to the protection of labour rights, members thought that the authorities should look into the arrangements for the employment of non-civil

service contract staff with a view to converting non-civil service contract staff posts with proven long-standing operational needs into civil service posts. When open recruitment was to be carried out, priority should be given to employing non-civil service contract staff with relevant experience.

President, the Appropriation Bill 2007 has been passed by this Council on 18 April 2007. This Report sets out the views of members on the current Budget which should serve as a point of reference to the Administration when compiling the Estimates of Expenditure in the coming year and in the enforcement of the policies concerned.

President, I am grateful to members for their enthusiasm in taking part in this year's special meetings of the FC as well as the positive response made by the Administration. I would also like to make use of this opportunity to express my thanks to colleagues in the Financial Services and the Treasury Bureau as well as the staff of the Legislative Council Secretariat for their unfailing support given to the work of the FC.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): Mr LAU Chin-shek will address this Council on the Report of the Panel on Manpower 2006-2007.

Report of the Panel on Manpower 2006-2007

MR LAU CHIN-SHEK (in Cantonese): President, in my capacity as Chairman of the Panel on Manpower, I now submit the Report of the Panel on Manpower during the Session of 2006-2007 and highlight the major areas of work of the Panel.

Some members commented that the launching of the Wage Protection Movement (WPM) for employees in the cleansing and guarding services sectors was a tactic to delay the introduction of legislation on minimum wage as the Administration would only consider the need for legislation after October 2008, pending the outcome of the review to be conducted by the Labour Advisory Board (LAB). As at end June 2007, only 955 enterprises/organizations have joined the WPM. In members' view, the WPM was ineffective to protect the interests of the low-income groups and legislation on minimum wage should be

introduced as soon as possible. In addition, they expressed concern about the criteria used by the LAB in conducting the review.

Some other members, however, considered that sufficient time should be allowed for the WPM to prove that the purpose of providing wage protection for cleansing workers and security guards could be achieved without enactment of legislation.

The Panel passed a motion requesting the Government to use, among others, the number of workers benefited from the WPM and whether the wages offered by employers had met the requirement under the WPM as the criteria for conducting the mid-term review of the WPM. Consideration should also be made of the findings of the mid-term review to introduce a piece of legislation on minimum wage immediately.

Default on payment of wages by employers is one of the concerns of the Panel. Some members expressed concern about the financial position of the 22 problematic restaurants which had been put under Operation COMBAT and were still in operation. They suggested the Administration to closely monitor those restaurants identified as being at high risk of closure to prevent them from evading their wage liabilities. They also pointed out that it was difficult to control and monitor wage payments to construction workers, given the problem of multi-layered subcontracting continuing to prevail in the construction industry. They asked the Administration to adopt more effective measures to tackle wage offences.

Some members were of the view that the penalty levels for wage offences failed to have a deterrent effect on employers. They suggested that a fixed penalty system be established for employers defaulting on wage payment to the effect that the fine should be commensurate with the outstanding amount of wages owed. These members suggested that section 64B of the Employment Ordinance (EO) should be amended to the effect that a director who had no reasonable excuse would be liable for a wage offence committed by his limited company.

The Administration stated that the suggestion to impose a fixed penalty system to combat defaults on wage payment was a completely novel concept and an amendment of section 64B of the EO was complicated and had far-reaching implications; it was necessary to seek the advice of the Department of Justice. The Administration would revert to the Panel in due course.

The Panel was briefed on the progress of the implementation of the Employees' Compensation Insurance Residual Scheme (the Scheme). Some members expressed concern that the premium benchmark rates of some high-risk groups were too high. These members pointed out that workers might be forced to become self-employed if employers intended to evade the statutory responsibility to take out ECI because of high premium. As such, these workers would not have any ECI cover. They considered that the premium rates for different high-risk groups under the Scheme should meet the basic criteria of affordability.

Some members supported setting up a central ECI scheme, as all parties concerned would benefit from better protection under such a scheme. They also suggested that the Administration should review the existing policy so as to ensure that the self-employed were covered by the Employees' Compensation Ordinance (ECO).

The Administration explained that in situations where an employer was suspected of having forced his/her employees to become self-employed as a means to evade the responsibility of taking out ECI, the Court would consider and decide whether an employer-employee relationship existed having regard to the facts of the case. If the Court ruled that it was a false self-employment, the employees concerned would be fully protected under the ECO and compensation should be paid. The Administration undertook that it would continue to study the feasibility of setting up a central ECI scheme.

Some members expressed concern about the effectiveness of the measures taken by the Labour Department (LD) to combat illegal employment. They pointed out that despite the increase in workplace inspections conducted by the LD and joint operations with other enforcement authorities in the past four years, the problem of illegal employment continued to exist widely. They suggested that the authorities should analyse the distribution of illegal workers arrested, in terms of the types of jobs undertaken by them, so as to formulate more effective measures to combat illegal employment at source.

On sentencing, a member was of the view that the Court should impose heavier penalties on employers of illegal workers in order to achieve the desired deterrent effect.

I would like to take this opportunity to thank members for their contribution made to the Panel as well as colleagues from various departments of

the Secretariat who have worked so hard all through these years. Without their support for the work of the Panel, I believe we could have achieved half the result with double the efforts. Thank you.

PRESIDENT (in Cantonese): Mr Vincent FANG will address this Council on the Report of the Panel on Commerce and Industry 2006-2007.

Report of the Panel on Commerce and Industry 2006-2007

MR VINCENT FANG (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Commerce and Industry, I now submit the Report of the Panel for the current Session and speak on the major areas of deliberations made by the Panel.

The Panel kept a close watch on the role played by Hong Kong in the World Trade Organization (WTO). The relevant multilateral trade negotiations of the WTO had once been suspended, and later resumed in February 2007. Members were pleased to note that during the period of suspension, Hong Kong had played a constructive role in pushing for the resumption of talks. Since the success of the Doha Round would bring about economic benefits to Hong Kong, members called on the Administration to step up its efforts as a middleman between opposing groups of WTO Members so as to facilitate the successful conclusion of the Doha Development Agenda negotiations.

The Panel was pleased to note that, according to a recent study conducted by the Administration on the impact of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) on Hong Kong economy, tremendous benefits were brought by CEPA on the economy of Hong Kong. The Individual Visit Scheme (IVS) in particular had brought about the most direct economic benefits to Hong Kong as IVS visitors had generated an additional tourist spending of \$22.7 billion between 2004 and 2006. To help various local industries tap the opportunities of and benefit fully from CEPA, the Panel also called on the Administration to continue to further broaden and deepen the CEPA liberalization measures and where possible, to work out measures to provide greater facilitation to local trades.

Since the hosting of conventions and exhibitions could bring about significant direct economic benefits to the economy in relation to tourism and

retail, and in view of the increasing regional competition in convention and exhibition services and the rise in the number of exhibition facilities in the neighbouring regions, members supported the Administration's proactive measures to strengthen and promote Hong Kong's position as an international convention and exhibition centre. Members called on the Government to be forward looking in making advance planning for exhibition venues. The Administration assured the Panel that it would monitor closely the demand for exhibition infrastructure and its ancillary facilities to ensure the smooth running of events held in Hong Kong.

Protection of intellectual property rights is one of the matters to which the Panel attached great importance. The Panel acknowledged the Administration's efforts to provide a robust copyright protection regime in order to facilitate the sustainable development of creative industries in Hong Kong. Further to the introduction of an enhanced and more flexible regime by way of the Copyright (Amendment) Bill 2006 passed in the Legislative Council on 27 June 2007, the Administration launched a public consultation exercise on issues relating to copyright protection in the digital environment. In this respect, the Panel reminded the Administration that, while enhancing the protection of intellectual property rights in the digital environment, efforts must be made to ensure the free dissemination of information, protection of personal privacy, and to protect the daily activities of members of the public from adverse impact. The Administration assured the Panel that adequate consultation would be made on all the issues involved before coming up with any plan to enact legislation, in addition to consulting the Panel again.

On the proposed funding requirement of \$100 million to support the operation of the Hong Kong Design Centre (HKDC), the Panel supported in principle the proposal as members generally considered that it would be conducive to the development of local enterprises as well as the long-term economic development of Hong Kong. In addition to promoting design, members were also keen to ensure that safeguards would be put in place by the HKDC to protect the intellectual property of designers and their products, as well as to raise their awareness of intellectual property rights. The Administration also assured the Panel that the HKDC would continue to provide assistance to the design industries on this front.

As for the other areas of work done by the Panel during the current Session, they have been set out in the written report submitted. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Howard YOUNG will now address this Council on the Report of the Panel on Public Services 2006-2007.

Report of the Panel on Public Service 2006-2007

MR HOWARD YOUNG (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Public Service, I submit the Report of the Panel during the Session of 2006-2007 and I will speak on a number of major items of work of the Panel.

Civil service pay had always been one of the major areas of concern of the Panel. In 2006-2007, the Panel continued to monitor the progress of the development of an improved civil service pay adjustment mechanism.

With respect to Pay Level Surveys (PLS), the Panel held a meeting in May 2007 to receive a briefing by the Administration on the results of the 2006 PLS. The Panel noted that all the civil service pay scales should remain unchanged since, according to the PLS results, the difference between the civil service and private sector pay indicators for all job levels was within the acceptable range of plus/minus 5%. Some members pointed out that while the salaries for some civil service jobs were apparently higher than those in the private sector, the PLS did not reveal such disparity, and hence the methodology of the PLS might need to be refined to enable more precise comparison of the pay levels of comparable jobs in the private and public sectors.

On 15 May 2007, the Chief Executive in Council endorsed the findings of the 2006 starting salaries survey (SSS) and the application of its results to the Civil Service. Of the 12 existing qualification groups (QGs) in the Civil Service, the new starting salaries for nine QGs would be increased by one to five pay points while the new starting salaries for the remaining three QGs would remain unchanged. The Panel generally welcomed the application of the findings to new appointees to the Civil Service, but some members thought that the proposal could have been improved. The Panel later passed a motion to urge that the new benchmarks for the 12 QGs should be further improved. In addition, some members also thought that it was unfair and unreasonable for the Administration to adopt the normal conversion arrangement for adjusting the salaries of civil servants and teachers in government aided schools appointed to entry ranks on or after 1 April 2000. They urged the Administration to review the arrangement on the basis of years of service on appointment to service.

The Panel was consulted on the 2007-2008 civil service pay adjustment. Some members welcomed the Administration's proposal, as civil servants could rightly share the fruits of the improved economy. Some members however relayed the concern that the proposed rates of pay increase might be too high when compared with the private sector and that the annual pay adjustment mechanism for civil servants lacked the flexibility to allow differential pay adjustment based on the performance of individual civil servants. During the course of discussions, members urged the Government to put in place an appropriate control mechanism to deal with the pay adjustment matters of non-civil service contract (NCSC) staff and subvented staff.

The Panel had reviewed the impacts of the five-day week operation on members of the public. Members urged the Administration to ensure that the overall level and efficiency of government services would be maintained and that emergency and essential services would not be affected.

In December 2006, the Administration briefed the Panel on the findings of the special review of the employment of NCSC staff. The Panel noted that as at 31 March 2006, there were 16 488 full-time NCSC staff employed in 68 bureaux/departments (B/Ds). But the Administration only intended to convert some 4 000 NCSC positions to civil service posts, having regard to the findings of the special review. The Panel also passed a motion, expressing its dissatisfaction that the findings of the review of the employment of NCSC staff had failed to treat fairly the NCSC staff who had been employed for a long period of time, and requested that serving NCSC staff should be converted to civil servants by "through train".

The Panel also met with the management of the eight main NCSC staff user B/Ds in turn and received views from the concerned staff associations so as to better understand the employment situation of NCSC staff in these B/Ds. The Panel subsequently passed another motion, urging government departments to accord priority to NCSC staff with relevant working experience in conducting open recruitment for pensionable civil servants.

Madam President, the above is a brief description of the work of the Panel during the current Session.

I would like to take this opportunity to thank members as well as the Administration for their contribution to the work of the Panel during the past year. Thank you, Madam President.

PRESIDENT (in Cantonese): Ms Margaret NG will address this Council on the Report of the Panel on Administration of Justice and Legal Services 2006-2007.

Report of the Panel on Administration of Justice and Legal Services 2006-2007

MS MARGARET NG: Madam President, in my capacity as the Chairman of the Panel on Administration of Justice and Legal Services (the Panel), I briefly report on the major work of the Panel in the 2006-2007 Session.

The Panel was updated on the implementation of a five-day week in the Judiciary by three phases. Phase I commenced on 1 July 2006 and covered court sittings and back offices. Phase II commenced on 1 January 2007 and covered offices with a public interface. The Panel noted that libraries were covered under Phase II as their usage rates on Saturdays were on the low side. The Panel requested the Judiciary to take into account other considerations, such as the needs of small law firms and junior members of the Bar, in determining the opening hours of libraries. The Judiciary had subsequently agreed that the High Court Library would not be covered under Phase II and the situation would be reviewed by July 2007.

The Panel also urged the Judiciary to seriously consider the needs of court users in deciding whether a five-day week should be implemented for court registries or offices which would be covered under Phase III. The Panel expressed concern about the impact of a five-day week on the operation of statutory and court procedure time limits and requested the Judiciary to consider whether amendments should be made to the Interpretation and General Clauses Ordinance to provide for extension of a time limit which expired on a Saturday, as in the case of a public holiday.

In response to the request of the Panel, the Judiciary had reviewed the fees for transcript and record of proceedings. Under the new arrangement and as far as transcript fee was concerned, the charging basis would be changed from "per page" to "per English word and per Chinese character". In addition, the Judiciary would charge only the photocopying fee if the transcripts concerned had already been produced, and allow parties to reproduce the transcript or its copy for the purpose of pursuing the relevant legal proceedings. The new

arrangement, which would allow litigants to benefit from a more equitable fee charging basis and more affordable fees, was supported by the Panel and implemented with effect from 1 February 2007.

In the last Session, the Panel requested the Administration to consider deterrent measures, including prosecution and introducing legislation to regulate the operation of recovery agents, that is, organizations which assisted victims to recover damages, usually arising from personal injury cases in return for a fee as a percentage of the recovered damages. The Panel noted the actions taken or considered by the Administration to enhance public awareness of the risks of the activities of recovery agents, such as putting up posters or notices at government offices where serious touting activities had been carried out by recovery agents, and the broadcast of Announcements of Public Interest on radio and television. The Panel expressed disappointment about the lack of progress in tackling the issue of recovery agents since it was first discussed by the Panel in November 2005. The Panel considered that to safeguard public interest, the Administration should take prosecution action against recovery agents. In the event that the police encountered difficulties in taking enforcement action under the existing law, legislation should be introduced. The Administration would report further developments to the Panel.

The request for a comprehensive review of the criminal legal aid fee system (that is, the system of payment of fees to lawyers in private practice engaged by the Legal Aid Department to act as defence lawyers in criminal legal aid cases) was raised by the two legal professional bodies in 2003. The request was supported by the Panel, the Legal Aid Services Council and the Chief Justice. The Administration agreed that there was room for improvement in the current system, and had since March 2006 engaged stakeholders in a comprehensive review. The Panel noted that the Administration had reached a broad consensus with the two legal professional bodies on the proposed structure of the new fee system which would operate on a marked-brief basis. However, the review had reached an impasse in discussion on the proposed rates for the new system. The Law Society of Hong Kong considered the proposed rates offered by the Administration totally unacceptable as they did not in reality represent any significant improvement to the existing fee system, given that many lawyers at present took up criminal legal aid work on a charitable or *pro bono* basis. The Panel requested the Administration to continue discussion with the legal professional bodies with a view to reaching a mutually acceptable solution and reporting to the Panel on the way forward.

The Administration sought members' views on the approach for the 2007 five-yearly review of the criteria for assessing financial eligibility limits of legal aid applicants. The Panel pointed out that there was a consensus among the legal professional bodies, the Law Reform Commission, the Legal Aid Services Council and the Panel that the scope of the Supplementary Legal Aid Scheme (Supplementary Scheme) should be expanded to address the demand of the middle class for legal aid services. The Panel requested the Administration to consider expanding the scope of the Supplementary Scheme, extending the present scope of legal aid from litigation to legal advice, and the appropriateness of having a one-line financial eligibility limit for all types of cases. The Administration agreed that it would formulate more specific proposals for the five-yearly review, and examine whether there was scope of improving the Supplementary Scheme without undermining or jeopardizing the financial viability of the Supplementary Scheme.

In May 2007, the Panel discussed the proposed transfer of the legal aid portfolio from the Administration Wing of the Chief Secretary for Administration's Office to the Home Affairs Bureau. Notwithstanding the Administration's explanations, some members remained of the view that the proposed transfer of the legal aid portfolio to a Policy Bureau would undermine the independence of the legal aid administration which was an integral part of the administration of justice, and therefore a retrogression. The proposal also raised the question of whether the Legal Aid Department would be subject to tighter control under the new set-up in respect of legal aid in cases against the Government or in respect of allocation of resources to the Legal Aid Department. The Panel noted that the Legal Aid Services Council would step up its supervisory role to ensure that the provision of legal aid services was undertaken professionally and objectively without interference after the transfer. As the Council had recommended to the Chief Executive the establishment of an independent statutory legal aid authority in 1998, it would review the subject again in the current year. The Panel agreed to follow up the relevant issues in due course.

I take the opportunity to thank the Clerk of the Panel and her colleagues for their dedicated and unstinting support. In this I am sure I speak also for the members of the Panel.

Madam President, these are my short remarks on the report. Thank you.

PRESIDENT (in Cantonese): Mr Andrew CHENG will address this Council on the Report of the Panel on Transport 2006-2007.

Report of the Panel on Transport 2006-2007

MR ANDREW CHENG (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Transport, I now submit the Report of the Panel on Transport 2006-2007 and speak on the major areas of work of the Panel.

Madam President, road safety had always been the primary concern of the Panel. During the Session, the Panel reviewed the effectiveness of the road safety legislation implemented in the past few years.

The Panel also discussed a Members' Bill proposed by me. The Bill sought to improve road safety by implementing a number of measures, including introducing mandatory installation of reversing video device on goods vehicles; raising the penalty for causing death by dangerous driving; strengthen measures against drink driving; mandating repeated traffic offenders to attend Driving Improvement Course; and lowering to 55 the age for submission of medical examination report when applying or renewing driving licences. Having considered members' views, the Administration agreed to propose a series of improvement measures to combat drink driving and further enhance road safety. The Administration will introduce the relevant amendment bill to this Council for examination.

The Panel also passed a motion during the Session urging the Government to immediately implement measures to enhance the safety of franchised bus operations, which should include the introduction of legislation to require bus passengers to wear seat belts, and requirement of franchised bus operators to install seat belts on their buses and improvement of the working schedule and rest-break arrangements for their bus captains, and so on, to ensure the safety of bus passengers.

Madam President, the Panel was gravely concerned about the traffic impact associated with the commissioning of Shenzhen Bay Port (SBP) and its impact on traffic in Northwest New Territories as well as matters such as public transport services for new boundary crossings, and the cross-boundary vehicle quota system. The Panel called on the Administration to expedite the construction of strategic transport networks in Northwest New Territories to

address the traffic problem in the area. The Panel also requested the Administration to formulate a strategy to divert traffic flow from Tuen Mun Road to Route 3 in order to achieve a more even distribution of traffic.

In view of the impending opening of the Lok Ma Chau Spur Line, the Panel made a site visit last week to understand the operational readiness and tests of the Spur Line. In reviewing the fare structure for the Spur Line, the Panel passed a motion, urging the Government and Kowloon-Canton Railway Corporation (KCRC) to conduct a comprehensive review of the rail fare policy, in particular, the issue of cross-boundary passengers subsidizing domestic passengers, and to study the provision of concessionary fares and monthly ticket schemes for passengers who frequently use cross-boundary railway service. We hoped that the Spur Line would be opened soon so that cross-boundary passenger movement at the Lo Wu control point could be reduced. We also urged the KCRC to build screen doors on the platforms to enhance rail safety.

Madam President, the Panel had also examined the layout design of the public transport interchanges and transport arrangements at the two new boundary crossings. It also met with various transport trades to listen to their views. The Panel urged the Administration to monitor closely the traffic situation at the new boundary crossings upon their commissioning, and review the need and feasibility of adjusting the public transport services provided thereat jointly with the mainland authorities.

When consulted by the Administration on the proposed application by the Hong Kong and Kowloon Ferry Limited (HKF) to increase the fares of its three licensed ferry services for Lamma Island, the Panel considered that the weighted average rate of increase of 12.2% was too high, taking into account the public acceptability of the proposed fares. The Panel urged the Administration and the HKF to review the fare increase application. The Panel urged the Administration to introduce a series of measures to strengthen the ferry operators' capability to generate non-fare box revenue and to implement cost-cutting measures. The Administration agreed to approve the HKF to increase its fare by an average rate of 7.3%, which was 31% lower than the 12.2% it had applied for, with effect from 13 May 2007.

Madam President, as in the past, the Panel had set up a subcommittee to follow up matters relating to railway planning, implementation and operation. In the current Session, the Subcommittee continued to monitor the planning of the Shatin to Central Link, the West Island Line, the Hong Kong section of the

Guangzhou-Shenzhen-Hong Kong Express Rail Link and the Northern Link. The Subcommittee urged the Administration to speed up the related projects to meet the transport needs of the public.

The Subcommittee also reviewed with the two railway corporations major railway incidents that happened in the year. The Subcommittee called on the Administration and the two railway corporations to review the root causes of the incidents and put in place adequate improvement measures to prevent the recurrence of similar incidents in future.

Madam President, the above is my brief description of the work of the Panel in the current Session.

I would also like to make use of this opportunity to thank the members and the Secretariat, as well as the Administration, for their contribution to the Panel during the past year. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr LEE Wing-tat will now address this Council on the Report of the Panel on Housing 2006-2007.

Report of the Panel on Housing 2006-2007

MR LEE WING-TAT (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Housing, I now submit the Report of the Panel on Housing 2006-2007 and brief Members on the major areas of work of the Panel.

The provision and management of retail and car-parking facilities in public housing estates after divestment by the Housing Authority (HA) remained a major concern of the Panel during the Session. Complaints concerning rent increases on shop premises and management problems in the properties continued to arouse public concern. The Panel therefore met with representatives from The Link Management to discuss related issues. Members expressed deep disappointment about substantial rent increases by The Link Management on premises and its refusal to renew existing tenancies resulting in closure of businesses. Moreover, the increasing trend of The Link Management to lease premises to chain stores had given rise to concern about monopolization of the shopping centres by large shops. Members expressed grave concern about adverse impact on nearby public rental housing (PRH)

tenants in terms of reduced choice of goods and services and higher prices. The Link Management was urged to look into these matters seriously, and improve transparency and enhance communication with commercial tenants in its daily operation. In reply The Link Management highlighted its commitment to bring more shopping and leisure choices to customers and PRH tenants. Results of independent consumer opinions surveys revealed that enhancement projects in The Link's shopping centres were well-received by customers. Respondents believed that the enhancement works had benefited nearby residents and found that prices of goods in the shopping centres were affordable to them. The Link Management was mindful of the need to enhance communication with tenants. It would step up liaison with parties concerned in discussion of leasing matters and asset enhancement plans. Members further urged the Administration to play a more active role in monitoring The Link Management's operation. The Administration said it would also review the divestment policy of the HA's asset facilities in the light of experience of the divestment exercise of The Link REIT.

Noting the high vacancy rate of Housing for Senior Citizen (HSC) units, the Panel discussed with the Administration measures to improve the utilization of these units. Members considered that the Administration should step up converting HSC units into normal PRH flats and to speed up the construction of self-contained small flats for the elderly; provide more incentives to tenants; and encourage these tenants to move out of HSC units.

On addressing the problem of under-occupied households in PRH flats, members discussed with the Administration and called on it to adopt a more flexible approach in handling under-occupation cases involving elderly and disabled residents. They agreed with the Administration's guiding principle that households with these tenants would come last on the list of under-occupied households to be transferred. The Administration undertook to consider providing removal allowance and take vigorous measures addressing tenants' adjustment problem arising from moving to a new environment.

The Panel welcomed the HA's enhanced measures under its housing allocation policy in support of the Government's policy of fostering harmonious families. The measures included those which would reduce the minimum waiting time for applicants with elderly family members and relax the restriction on the applicants' choice of district and transfer. Members stressed the importance of ensuring consistency among the enhanced measures and also suggested increasing the annual quota flats in the urban district set aside for implementing the revised Enhanced Transfer Scheme.

Recognizing the importance of providing prospective buyers with accurate property information to make informed purchase decisions, the Panel followed closely issues relating to sale arrangement for first-hand residential units. Members discussed with the Administration and relevant parties including the Real Estate Developers Association of Hong Kong (REDA), the Consumer Council, the Estate Agents Authority measures to improve sale arrangement for first-hand residential units. In respect of the need to put in place statutory measures for governing the sale of residential properties in protecting the interests of buyers, the Panel held discussions and passed a motion requesting the Administration to reopen the discussion on the Sales Descriptions of Uncompleted Residential Properties White Bill. There were also suggestions to include compliance with the REDA's guidelines as a requirement of the Consent Scheme, to make sales brochures issued by developers legally binding, and to require developers to post sales information such as the price lists for units on their websites to enhance market transparency. The Panel discussed with the Hong Kong Institute of Surveyors (HKIS) enhancing transparency in the disclosure of floor area information in residential sales descriptions, including the provision of components of saleable area (SA) and the Gross Floor Area of individual unit in sales brochures, providing legal backing to the definition of SA, and requiring developers to specify per square foot price of SA of the unit in the price list and the provisional Agreement for Sale and Purchase. The Administration undertook that it would continue to keep the existing regulatory regime under review and follow up the proposals made by the HKIS with all relevant parties.

The Panel discussed with the Administration the supply of private housing and development trend of property price. While according to the Administration the growth of the property price had been steady, some members were concerned that the small and medium flats available in the private market were increasingly beyond the affordability of the middle class. They urged the Administration to step up the provision of related information, such as statistics on the supply of private residential properties and transactions, to enhance market transparency. In view of rising property price in the private market, some members considered it timely for the Administration to critically examine the need of reviving Home Ownership Schemes and the Tenants Purchase Scheme to meet the property ownership aspirations of the sandwiched class and aspiration of PRH tenants for improving their living conditions.

As for highlights in other areas of the work of the Panel, they have been set out in the Report submitted. Madam President, I so submit.

PRESIDENT (in Cantonese): Mr LAU Kong-wah will now address the Council on the Report of the Panel on Security 2006-2007.

Report of the Panel on Security 2006-2007

MR LAU KONG-WAH (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Security, I now submit the Report of the Panel on Security 2006-2007 and speak on several major areas of work of the Panel.

The Panel discussed the manpower deployment of the Immigration Department (ImmD) and received views from the staff associations/unions of the Department. Members expressed concern about whether the existing establishment of the ImmD was sufficient to cope with the increased workload arising from the growth in visitors to Hong Kong. Members noted with concern about the accumulated leave balance of front-line immigration staff. According to the ImmD, as at September 2006, the average number of accumulated leave of all immigration staff of the rank of Chief Immigration Officer and below amounted to 116 days, and the average number of accumulated leave of officers with longer years of service stood at about 129 days. The accumulated leave balance of about 45% of rank and file staff and about 65% of staff of officer grade were close to the upper limit. Members pointed out that with the opening of the two new control points, at Shenzhen Bay and the Lok Ma Chau Spur Line, the recruitment of 500 additional immigration staff might still be inadequate, as the opening of more control points tended to attract more passengers. Therefore, the additional manpower may not cope with the increased passenger flow. Members considered that approval should be given to recruit additional staff when the circumstances warranted.

In addition, members expressed concerned that many immigration counter staff had been suffering from strain disorder of the arms and shoulders because of the outdated design of the immigration counters, and they suggested that improvement to the design of the immigration counters should be made. Members also suggested that improvements should be made to create a more comfortable environment at the arrival hall of control points for the staff and passengers.

Members expressed concern that the age of young drug abusers was getting lower and there was an increasing number of persons crossing the

boundary to abuse drugs on the Mainland. They enquired whether the Administration had established any mechanism to provide rehabilitation service to Hong Kong residents arrested for drug abuse on the Mainland.

The Administration advised that the police had been working closely with the mainland authorities to combat the problem of Hong Kong residents crossing the boundary to abuse drugs on the Mainland. Besides meetings at the top management level, communication was maintained between the Narcotics Bureau of the police and the relevant mainland authorities. Meetings were held whenever necessary to discuss specific cases and exchange intelligence. A mechanism had been established whereby the police would liaise with social workers to provide service to Hong Kong residents arrested for drug abuse on the Mainland when they returned to Hong Kong.

Over-crowdedness at the penal institutions remained a concern of the members. Members noted the serious shortfall in penal places in maximum security prisons, female institutions and remand facilities. In the case of male institutions, the occupancy rate was 95%; however, there was a shortfall of 462 places in remand facilities and maximum security prisons. In the case of female institutions, the occupancy rate was 106%, with a shortfall of 114 places. Members expressed concern about what plans the Administration had to tackle the overcrowding problem at the penal institutions.

The Administration advised that besides minor works and small-scale projects which would provide more places in existing penal institutions, the Lo Wu Correctional Institution was being redeveloped and the feasibility of developing the two existing institutions at Chi Ma Wan was being explored. It was anticipated that these projects would help upgrade the prison facilities and relieve the overcrowding problem in penal institutions. The Administration undertook to report to the Panel the findings of its feasibility study on the redevelopment of penal institutions at Chi Ma Wan.

In connection with the incident on 9 February 2007 where a police officer dropped his handgun, Members queried whether the police would conduct an investigation into the incident, even if no complaint had been received. They considered that the Administration should provide the Panel with the investigation results.

The Administration assured the Panel that it attached great importance to the incident. The Administration would have started an investigation into the

incident and a review of relevant matters even if no members of the public had lodged a complaint. The police had received a public complaint on the incident and had started an investigation. The police were also conducting a review of related matters including any improvements which should be made to minimize the chances of recurrence of similar incidents. The Administration undertook to report to the Panel the outcome when available.

Some members pointed out that the proposal of merging the Tseung Kwan O Division and Sai Kung Division into a Police District had been discussed many times at meetings between Members and Sai Kung District Council members. As the police-to-population ratio of Tseung Kwan O Division was particularly low, they considered that there was a genuine need for the proposed merger. They hoped that a plan for the merger could be drawn up within the current financial year.

The Administration responded that in view of Tseung Kwan O's relatively large and growing population in absolute terms, the police saw a *prima facie* case of eventually merging the Tseung Kwan O Division with an adjoining area and upgrading the combined area into a Police District. The police would draw up the implementation plan, taking into account the future developments in the Kowloon East Region as a whole. The police would consider all the views and suggestions of members.

On the Interception of Communications and Covert Surveillance Ordinance passed last year, members were concerned about the implementation of the Ordinance. Members noted that the Commissioner on Interception of Communications and Surveillance was to submit his first annual report covering 9 August 2006 to 31 December 2006 to the Chief Executive by the end of June 2007. The Panel would hold discussions to follow up the report.

Lastly, members welcomed the co-location of immigration and customs clearance arrangements at the Shenzhen Bay control point to facilitate passenger and goods clearance.

I would like to make use of this opportunity to thank members for their support of the work of the Panel. I would also like to thank on behalf of members the Legislative Council Secretariat for the hard work and dedication shown in supporting the work of the Panel during the past year. Thank you, Madam President.

PRESIDENT (in Cantonese): Dr LUI Ming-wah will now address the Council on the Report of the Panel on Constitutional Affairs 2006-2007.

Report of the Panel on Constitutional Affairs 2006-2007

DR LUI MING-WAH (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Constitutional Affairs, I now report on the highlights of the work of the Panel during the Session.

The Panel was briefed on the key electoral arrangements for the third term Chief Executive Election which would be held on 25 March 2007. Members discussed whether it was appropriate to conduct the Chief Executive Election at the Asia World-Expo at Chek Lap Kok and whether the time for the first round of voting was too short. The Panel was concerned about whether any mechanism existed which would make a Chief Executive seeking re-election separate the resources spent on his duties as the Chief Executive from his election expenses. Some members requested the Administration to consider whether the subscription requirement for the Chief Executive Election should be brought in line with that for other elections and review the existing statutory requirement for the Chief Executive-elect to relinquish his political affiliation.

During the 2006-2007 Session, the Panel continued to monitor the progress of discussions of the Commission on Strategic Development (the Commission) on electing the Chief Executive and forming the Legislative Council by universal suffrage. Some members expressed dissatisfaction on a number of occasions that the Administration was sidelining the role of the Legislative Council by entrusting the Commission to study models for implementing universal suffrage.

The Panel noted that different views were put forward to the Administration and the Commission on the models for implementing universal suffrage, including proposals put forth by some political parties and 22 pan-democratic members for electing the Chief Executive and forming the Legislative Council by universal suffrage. The Panel also received views from organizations/individuals on the models, roadmap and timetable for electing the Chief Executive and forming the Legislative Council by universal suffrage at its meeting in May 2007.

The Chief Executive undertook during his election campaign that a green paper on constitutional development (the Green Paper) would be published after the third term Government had been formed in July. The Panel had different views on the three-month consultation period. Some members requested the Administration to consider extending the three-month public consultation period as it would coincide with the summer recess of the Council and many members of the public would be away from Hong Kong in the summer. Some other members considered that a three-month public consultation period was acceptable.

The Panel noted that the Administration would set out in the Green Paper different views put forth by the Commission and the community on the models, roadmap and timetable for implementing universal suffrage, and present the relevant views as three types of options to facilitate public discussion. Some members were concerned that the three types of options included in the main text of the Green Paper would be formulated by mixing and matching the components of different proposals. They strongly objected to such an approach and considered that any proposals included in the Green Paper for public consultation should be presented in their entirety.

Following the announcement by the Chief Executive on 3 May 2007 to reorganize the Policy Bureaux of the Government Secretariat with effect from 1 July 2007, the Panel held five special meetings in May 2007 to discuss the relevant proposals and issues and received views from organizations/individuals.

Some members supported the reorganization proposal. Other members raised a number of issues pertaining to the proposed reorganization, including the grading and ranking of a few individual posts, the titles of a few bureaux, and the distribution of some policy portfolios among bureaux under the new set-up.

The 2007 District Council (DC) Election will be held on November 2007. The Panel discussed some proposals made by the Administration, such as extending the arrangement to allow the printing of names, emblems and photographs on ballot papers, to introduce a financial assistance scheme for candidates of the DC Election and a proposal regarding election expense limit.

The Panel also discussed a Consultation Document entitled "Further Development of the Political Appointment System" published in July 2006. The proposals in the Consultation Document sought to create new positions within the Government, namely Deputy Directors of Bureau and Assistants to

Directors of Bureau, with the aim of strengthening support for Principal Officials in carrying out political work. Some members were concerned about how the proposals could achieve the objectives of improving administration, providing better service to the community, providing a more comprehensive career path for political talents and enhancing the relationship between the executive and the legislature. Other members were concerned about how to ensure a clear delineation of role and responsibilities between the political tier and the Civil Service; and how to guard against conflict of interest of political appointees during office and after their retirement.

Madam President, I so submit.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG will now address the Council on the Report of the Panel on Food Safety and Environmental Hygiene 2006-2007.

Report of the Panel on Food Safety and Environmental Hygiene 2006-2007

MR TOMMY CHEUNG (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Food Safety and Environmental Hygiene (the Panel), I present a report to the Legislative Council on the work of the Panel in the 2006-2007 Session and give a brief account on the deliberations of the Panel concerning food safety.

Upon the discovery of Sudan Red in hen and duck eggs, the Panel immediately held a special meeting to discuss with the Administration the measures and plans to be taken to prevent the recurrence of such incidents. The Administration advised that it had reached an agreement with the State General Administration for Quality Supervision, Inspection and Quarantine to strengthen control on the quality of poultry eggs supplied to Hong Kong and health certificates would be issued for poultry eggs and egg products exported to Hong Kong.

The Panel welcomed the Mainland's measures to strengthen control of poultry eggs supplied to Hong Kong. However, Members were of the view that the Administration should put in place complementary measures. To ensure food safety "from farm to table", the Administration should conduct more inspections of registered poultry egg farms in the Mainland and carry out more

sample testing of poultry eggs. The Administration was considering introducing a more comprehensive regulatory framework to regulate all levels of the supply chain of poultry eggs by the end of 2007.

Following a series of food incidents related to the discovery of malachite green and nitrofurans in aquatic products, the Panel discussed with the Administration the ways to enhance the food safety of fish and aquatic products. Members expressed dissatisfaction at the slow progress in improving the regulatory framework for aquatic food products. Some members were of the view that the Administration should enhance the source management and accord high priority to food surveillance and inspection of aquatic products imported, particularly shellfish.

The Administration planned to apply the same regulatory model proposed for regulating imported poultry eggs to control farmed aquatic products. Some Panel members suggested that the Administration should consider affixing seals to conveyance vessels to ensure the food safety of fish during shipment. The Administration agreed to discuss with the mainland authorities the feasibility of implementing such a measure.

Regarding fresh vegetables and fruits, as the mainland authorities had implemented enhanced inspection and quarantine measures for leafy vegetables supplied to Hong Kong on 1 April 2007, the Panel discussed with the Administration the measures for the regulation of imported vegetables and fruits. Members also criticized the absence of complementary measures to strengthen the control of the importation of vegetables and fruits. The Administration advised that the Centre for Food Safety was preparing a new piece of legislation on the regulation of pesticide levels in food. The legislative proposal would be finalized and introduced into the Legislative Council within 2007.

The Panel was given to understand that the Administration was working on a new Food Safety Bill. However, it would not be introduced into the Legislative Council until the end of 2008. The Bill is designed to regulate gradually food items such as vegetables and fruits which had a higher food safety risk or of wide public concern. Once the law was enacted, all imported food must be imported via registered importers.

In the interest of food safety and public health, the Panel urged the Administration to expedite the drafting of the new Food Safety Bill and submit it

to the Legislative Council for scrutiny expeditiously. Some members also stressed the need to strike a balance between the interests of the public and small traders in drafting the legislative details of the food recall mechanism.

Finally, I take this opportunity to thank members for their support for the work of the Panel in the past year.

Madam President, I so submit.

PRESIDENT (in Cantonese): Mr Jasper TSANG will address the Council on the Report of the Panel on Education 2006-2007.

Report of the Panel on Education 2006-2007

MR JASPER TSANG (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Education (the Panel), I present a report to the Legislative Council on the work of the Panel in the 2005-06 Session.

I will highlight three major tasks of the Panel.

First, academic freedom and institutional autonomy of higher education. Pursuant to the allegations made by the former Vice President of The Hong Kong Institute of Education (HKIED) concerning interference with academic freedom and institutional autonomy of HKIED by senior Government official(s), the Panel held a series of meetings to examine the issue from a wider perspective and received views from academics, organizations and student unions.

Having regard to the allegations made by some academics and deputations, the Panel passed a motion on 28 February 2007 proposing the setting up of a select committee by the Legislative Council to inquire into the alleged infringement of academic freedom and institutional autonomy of higher education.

The proposal was voted down by the House Committee after discussion. Subsequently, the Panel decided to follow up the matter at its regular meetings, and seven major areas were identified for detailed examination. These included (a) the role, functions and composition of the University Grants Committee (UGC); (b) funding and research grants for the UGC-funded institutions;

(c) governance of the UGC-funded institutions; (d) employment of staff; (e) redress mechanism; (f) commissioning of consultancy studies, projects and programmes; and (g) institutionalized protection of academic freedom and institutional autonomy.

At the request of the Panel, the Research and Library Services Division of the Legislative Council Secretariat conducted a research on academic freedom and institutional autonomy of higher education in the United Kingdom, New Zealand and Hong Kong. The Panel will continue to explore this key issue in the coming year.

The second issue of concern to the Panel is early childhood education. Members of the Panel welcomed the Government's proposal to subsidize early childhood education by way of a voucher system beginning in the 2007-2008 school year. The Panel had also received views from 32 organizations on the proposal. Members considered that one of the objectives of an education voucher system was to increase choices for parents. The prescribed prerequisite that only non-profit-making kindergartens charging tuition fee not more than \$24,000 a year would be eligible for redeeming the voucher would therefore limit parents' choice in choosing kindergartens suitable for their children.

Having considered the views of members and the stakeholders, the Administration decided to modify the proposed voucher scheme. A transitional period of three years until the end of the 2009-2010 school year would be allowed for all eligible kindergartens to redeem the vouchers.

The third issue of concern to the Panel is the new academic structure for senior secondary education and higher education. Although the final versions of the Curriculum and Assessment Guides for the four core and 20 elective subjects under the "3-3-4" structure had been sent to schools in April 2007, members remained concerned about the introduction of Liberal Studies as a core subject. The Administration explained to members the various support measures already implemented or to be implemented in this respect. These included the provision of three-year professional development programmes for serving teachers who would teach Liberal Studies; the setting up of a web-based resource platform to provide the basic knowledge which underpinned the Liberal Studies curriculum; and the establishment of an association of Liberal Studies teachers. The Hong Kong Examinations and Assessment Authority (HKEAA) would also develop the level descriptors and sample examination papers for

Liberal Studies to facilitate understanding of the standards expected and the format of questions that would be set in the Hong Kong Diploma of Secondary Education (HKDSE) Examination.

As many Hong Kong students would go overseas for further studies, members expressed concern about the international recognition of the HKDSE. The HKEAA assured members that the HKDSE would be comparable to the Hong Kong Certificate of Education Examination and the Hong Kong Advanced Level Examination in terms of its recognition by overseas institutions for admission purpose.

Lastly, I would like to take this opportunity to thank members for their support of the work of the Panel over the past year. I am also thankful to officials of the Education Bureau for their co-operation with the Panel.

Madam President, I so submit.

PRESIDENT (in Cantonese): Mr LAU Wong-fat will address the Council on the Report of the Panel on Planning, Lands and Works 2006-2007.

Report of the Panel on Planning, Lands and Works 2006-2007

MR LAU WONG-FAT (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Planning, Lands and Works, I present a report to this Council on the work of the Panel in the 2006-2007 Session and briefly highlight several major items of work of the Panel.

In this Session, the Panel deliberated a number of planning items. On the planning for Kai Tak, in October 2006, the Administration presented to the Panel a revised Preliminary Outline Development Plan (PODP) for Kai Tak. Members in general appreciated the Administration's adoption of a planning approach which emphasized community participation. Members expressed concern about several issues including transport facilities, pedestrian links, the visual and environmental impacts of the proposed heliport and the proposed tourism-related development housing an observation gallery, the location and scale of the proposed multi-purpose stadium complex and metro park and the incorporation of various environmental protection measures into the planning for the Kai Tak area.

Regarding the Wan Chai Development Phase II (WDII) project, the Administration presented to the Panel a Recommended Outline Development Plan for WDII in May 2007. The Recommended Outline Development Plan was prepared on the basis of the adoption of Tunnel Option for the construction of the Central-Wan Chai Bypass (CWB). Under this option, the minimum extent of reclamation required is 12.7 hectares.

Members expressed diverse views on the need of constructing the CWB. Those who were in support of the construction of the CWB urged the Administration to implement the project as soon as possible. Some other members maintained that the Administration had yet to convince the public that it had thoroughly explored alternatives other than reclamation for the construction of the CWB and prove that these alternatives could not solve the traffic congestion problem.

The land formed consequential to the construction of the CWB would provide opportunities for providing waterfront open space in Wan Chai and in North Point. Members in general supported the proposal of creating a vibrant and attractive waterfront that was continuous and easily accessible for all, and called for the early implementation of the enhancement measures.

In May 2007, the Administration briefed the Panel on the revised Concept Plan for Lantau (Revised Concept Plan). Members in general supported the overall planning vision and broad development concept under the Revised Concept Plan. Members urged the Administration to take forward the projects to improve the vibrancy of Mui Wo and Tai O swiftly. They also called for early implementation of the recreational facilities and conservation-related facilities, as these projects were not controversial and could bring direct benefits for the general public.

During period from September 2006 to April 2007, the Panel held a series of discussions with the Administration, relevant local professional bodies and interested groups and individuals on planning issues relating to the preservation of the old Star Ferry Pier and Queen's Pier in Central.

In September 2006, the Panel passed a motion urging the Government to defer its plan to demolish the existing Star Ferry Pier and its clock tower in Central and to incorporate, upon extensive public consultation, the existing clock tower together with the relevant building structures into the future new

development plan for Central District, with a view to preserving, on a people-oriented basis, the historical traces that form part of the collective memory. Another motion urging the Government to immediately suspend the demolition works of the Star Ferry Pier and expeditiously convene an experts meeting, so as to examine the various preservation options, was passed at a Panel meeting in December 2006.

The Administration reiterated that the old Star Ferry Pier would be affected by the public works projects. All these projects had to commence according to programme and the contracts awarded. Hence, the old Star Ferry Pier had to be demolished as planned. The Administration subsequently informed members that the clock tower had been disposed of at public fill reception facilities. However, the faces and the mechanical parts of the old clock had been preserved. The Administration promised that the clock would be reassembled and re-erected on a new clock tower to be constructed at a suitable location. Some members expressed strong dissatisfaction with the Administration's swift actions to demolish the clock tower despite the growing sentiments within the community for the preservation of the clock tower.

On issues relating to the preservation of the Queen's Pier, the Administration considered that preserving the above-ground structure of the Queen's Pier as far as practicable for reassembling in close proximity to its original location or at another appropriate location was a practical way forward, with relatively less delay to the Central Reclamation Stage III works and less cost implications. Some members expressed strong reservations about the Administration's proposed preservation arrangements. At the Panel meeting on 23 April 2007, after discussion, the Panel decided by voting that it supported the Administration in submitting to the Public Works Subcommittee the relevant funding proposal based on the foregoing proposed preservation arrangements.

In view of growing public concern about a number of new developments causing serious blockage to breezeways and air paths within the built environment, in February 2007, the Panel discussed relevant issues with concern groups and individuals and the Administration. Members generally held the view that there was an urgent need for the Administration to devise a package of measures to prevent the emergence of further new developments creating the "wall effect". They urged the Administration to obligate all statutory bodies to comply with the air ventilation guidelines laid down in the Hong Kong Planning Standards and Guidelines when planning new developments, and to make it a statutory requirement to conduct air ventilation assessment for all development

projects. In the longer term, nevertheless, some members pointed out that given the peculiar characteristics of Hong Kong, there might not be an easy panacea for the "wall effect" problem. The authorities had to consider the relevant measures cautiously to ensure that those measures were founded on objective criteria and would not affect approved development projects.

In this Session, the Panel reviewed the work of the Urban Renewal Authority (URA) since its establishment in May 2001. Members in general were dissatisfied with the slow progress of the URA in the implementation of redevelopment projects. Some members criticized that the URA had not put in adequate efforts in listening to stakeholders and concern groups and in conciliating their conflicts, and that it had not done enough to conserve heritage buildings and local characteristics in implementing redevelopment projects. Some members called on the Administration to conduct a comprehensive review of the Urban Renewal Strategy, as the results and implementation process of the URA's projects fell far short of realizing the URA's vision of creating quality and vibrant urban living in Hong Kong and the promise of the URA to adopt a "people-centred" approach in carrying out urban renewal.

The other deliberations of the Panel include the latest position with regard to the development and implementation of Greening Master Plans, the results of the public consultation on mandatory building inspection and the plan to put in place the proposed Scheme, the proposal to introduce a minor works control system, the progress of the registration of construction workers under the Construction Workers Registration Ordinance, and so on. The details have been set out in the report and I am not going to recap them here.

Madam President, I so submit.

PRESIDENT (in Cantonese): Mr Albert CHENG will address the Council on the Report of the Panel on Information Technology and Broadcasting 2006-2007.

Report of the Panel on Information Technology and Broadcasting 2006-2007

MR ALBERT CHENG (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Information Technology and Broadcasting, I now submit the Report of the Panel in this Session and briefly highlight some major issues discussed by the Panel.

Subsequent to the earthquakes off Taiwan on 26 and 27 December 2006 which had resulted in severe telecommunications disruptions in Hong Kong, the Office of the Telecommunications Authority (OFTA) had, in the wake of the incident, immediately established working groups with the industry to review and improve the existing outage reporting mechanisms. Nevertheless, the Panel considered the OFTA's failure to take the initiative during the incident in making early notification and timely dissemination of information to the public to alleviate public anxiety highly inappropriate. Therefore, the Panel has urged the OFTA to re-examine its role and responsibilities, and to report to the Panel its contingency plan for dissemination of information to the public in the event of similar emergency in future. Moreover, the Panel was also concerned that small and medium-sized enterprises (SMEs) had suffered considerable losses during the incident, and therefore, has requested the Administration to offer proactive assistance to SMEs.

In view of the Government's appointment of the Committee on Review of Public Service Broadcasting in Hong Kong (the Review Committee) in January 2006 to undertake a fundamental and critical review of public service broadcasting (PSB) and its future development, the Panel considered it necessary to conduct a study on the development of PSB in Hong Kong. Following an overseas duty visit to Canada, the United States and the United Kingdom, the Panel published a report in October 2006 on its observations and recommendations on the way forward for PSB in Hong Kong with a view to providing useful reference on how PSB could be taken forward in Hong Kong. In addition, subsequent to the submission of the Report to the Chief Executive by the Review Committee in March 2007, the Panel held a meeting to exchange views with the Review Committee on its findings of the Report. Members expressed grave concern about the Review Committee's recommendation against the transformation of Radio Television Hong Kong (RTHK) into a public broadcaster. Noting that the Administration would, in the light of the Review Committee's recommendations, issue a public consultation paper in the second half of 2007 setting out the Administration's views on the way forward, the Panel requested that the Administration should include the option of RTHK's transformation into a public broadcaster in the consultation paper to gauge the views of the public on this issue. The Panel would continue to follow up the development of PSB in Hong Kong.

The Panel was pleased to note that the two domestic free television programme service licensees would commence digital terrestrial television

(DTT) in Hong Kong in the last quarter of 2007 and has urged the Administration to co-ordinate publicity efforts with organizations such as the Consumer Council in launching a comprehensive promotion and publicity programme nearer the time of the launch of DTT to provide the public with information about the requirements for and availability of receiver products to enable consumers to make informed purchase choice. Furthermore, the Administration took on board members' suggestion and undertook to make a decision on the timing of the analogue broadcasting switch-off on the basis of objective criteria to ensure that the public would not be adversely affected in the reception of free television programmes.

The Panel welcomed the Administration's proposal to provide Wi-Fi facilities free of charge on major government premises with high public patronage such as public libraries, museums, large parks, and so on, as this could offer convenience and affordable Internet access to the public, as well as facilitating visitors in their business and leisure activities during their stay in Hong Kong which would help project a positive image of Hong Kong and uphold its status as a leading digital city. The Panel has reminded the Administration that in implementing the proposed Wi-Fi Programme, it should be mindful of avoiding competition with the private sector. In addition, measures should be put in place for assessing the cost-effectiveness of the Programme.

The Panel considered that the Administration's proposal to inject \$300 million into the existing Film Development Fund (FDF) for financing small-to-medium budget film productions would be conducive to fair competition and healthy development of the film industry. Moreover, a strong local film industry would benefit Hong Kong's tourism industry, hence its contribution to the overall economy of Hong Kong. The Administration undertook to ensure that the criteria for financing film productions made under the FDF would not give rise to content censorship or script restrictions and creativity would not be stifled.

Finally, an account of other areas of work of the Panel in this Session is given in the written report. I wish to take this opportunity to express my heartfelt thanks to Panel members and other colleagues of the Legislative Council for their active participation in the work of the Panel, as well as for the professional services provided by the Secretariat.

With these remarks, Madam President, I conclude my speech.

PRESIDENT (in Cantonese): Mr Jeffrey LAM will address the Council on the Report of the Panel on Economic Services 2006-2007.

Report of the Panel on Economic Services 2006-2007

MR JEFFREY LAM (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Economic Services, I present a report to this Council on the work of the Panel in the 2006-2007 Session and briefly highlight several major items of work of the Panel.

The tourism industry is one of the four main economic pillars of the Hong Kong economy. The Panel continues to monitor closely the operation of new tourism infrastructure projects. The Panel was concerned that during the first year of operation of the Hong Kong Disneyland (HKD), the visitor figure had fallen short of the original projected figure. The less than satisfactory performance of the HKD had adversely affected the investment return for the Government. Members called on the theme park to increase transparency in operation and provide more information on its financial performance. Members suggested that the HKD should step up its promotional and marketing efforts. To enrich visitor experience and encourage them to come again, members welcomed the HKD's expansion projects to add three new attractions by mid-2008.

Since its commissioning in mid-September 2006, the Ngong Ping Skyrail had drawn much public concern over several occasions of suspension or disruption of service. The Panel urged the Skyrail to make improvement on the reliability of the cable car service and the public notification mechanism and to strengthen contingency arrangements to facilitate evacuation of passengers in case of suspension of cable car service. The incident of the fall of a cabin of Ngong Ping Skyrail in June 2007 aroused the great concern of the Panel over the safety of the cable car system. The Panel held a special meeting immediately with the Administration, the MTRCL and the Skyrail to follow up the matter. Members supported the immediate suspension of cable car service until the cause of the incident was identified and remedial actions taken. The Panel considered there was an urgent need for the Government to undertake an independent investigation into the incident covering all aspects in order to restore the confidence of visitors. The relevant parties should also step up publicity on Hong Kong's multi-faceted appeal to tourists so as to minimize possible impact of the incident on tourism and related sectors. The Panel welcomed the

appointment of an independent Expert Panel led by two renowned overseas experts in the ropeway industry and investigations of ropeway accidents to look into the incident and to identify remedial and improvement measures required for the safe operation of the system. It would take about two to three months for the Expert Panel to complete the task. The Panel would continue to monitor the development and discuss with relevant parties.

The Panel has been urging the Administration to take active steps in developing new cruise terminal facilities in Hong Kong. The Panel welcomed the Government's plan to develop the facilities at the former runway at Kai Tak and the approach of implementing the project through open tender. Members called on the Administration to provide adequate transport infrastructure to enhance the connectivity of Kai Tak. As regards the development timeframe, members urged the Administration to expedite the programme with a view to advancing the commissioning of the first berth ahead of the target of 2012 to enable Hong Kong to establish a competitive advantage as early as possible to meet the challenges of increasing competition from neighbouring cruise centres. The Panel is also concerned about the mode of development for the cruise terminal, therefore, it would make an overseas duty visit to Europe and the United States jointly with the Panel on Commerce and Industry in August this year to study the development of convention and exhibition facilities and cruise terminal facilities in these countries.

Complaints from mainland inbound tour groups about forced shopping at designated shops, as well as reports on incidents where mainland group visitors were suspected of being cheated while shopping in Hong Kong sparked off wide public concern. The Panel met with representatives from organizations of the retail and travel trades at two meetings to discuss measures to restore visitors' confidence in travel to Hong Kong. To tackle the problems concerned, Panel members noted the initiatives of the Travel Industry Council of Hong Kong (TIC), to impose heavier penalties on non-compliance with rules and regulations committed by travel agents; to set up dedicated committees for making recommendations on long-term solutions and to provide continuing education scheme for tourist guides. Some members urged the Administration to undertake a comprehensive review of the regime and consider setting up an independent statutory body to regulate the industry. The Panel also urged the TIC to explore means to enhance the transparency of the commission system and to review the salary structure for tourist guides, so as to help reduce their dependency on sales commissions as income. The Panel expressed support for

the Administration in stepping up enforcement action to crack down on the illegal practices of deceiving visitors by shops and to review relevant consumer protection law with a view to combating misleading and undesirable sales practices.

In examining the development of aviation support services, the Panel stressed the importance of stepping up air traffic management service by the Administration to ensure safe air traffic and efficient operation of the Hong Kong International Airport (HKIA). In this regard, the Panel supported the funding proposal for replacing the existing air traffic control system and the related staffing proposal. The Panel also supported in principle the proposal to develop a new integrated Civil Aviation Department headquarters on the Airport Island. Furthermore, members stressed the need to enhance airspace management and to step up liaison with civil aviation authorities on the Mainland and Macao with a view to improving the use of airspace and co-ordination of air traffic management in the Pearl River Delta region.

The Panel has all along attached great importance to promoting an environment of fair competition in the market in order to benefit the business sector and consumers. While some members indicated full support for introducing a new cross-sector competition law in Hong Kong, some members had reservation about this and were worried that the new competition law might affect small and medium enterprises (SMEs), increase compliance cost and hinder the operation of the business sector. The Panel considered it necessary for the Administration to continue to engage SMEs to allay their worries, and urged the Administration to ensure the new law would balance the interests of relevant stakeholders and would not affect Hong Kong's status as a free market. It was the Administration's target to introduce the relevant bill into the Council by end 2007. The Administration further undertook that reference would be drawn on overseas jurisdictions which had enacted competition laws when formulating and implementing the new regulatory regime.

The other major items of work of the Panel have been set out in gist in the report submitted. Madam President, I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Dividend Income Tax

1. **MR LAU CHIN-SHEK** (in Cantonese): *President, last month, the former Financial Secretary released the Final Report of Public Consultation on Tax Reform, concluding that public awareness on the deficiencies of a narrow tax base had been raised. However, the Report did not put forth any concrete options for broadening the tax base. As many large companies have allotted their shareholders hundreds of millions of dollars of dividends because of favourable results in recent years and that dividends are the main source of income for the major shareholders of many large companies, will the Government inform this Council whether it will consider introducing a tax on dividend income of significant amounts, for example, a hundred million dollars or more, so as to broaden the tax base and generate substantial revenue; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the Administration issued a Consultation Document on Tax Reform in July 2006. During the consultation, members of the public generally agreed that Hong Kong's tax base was narrow, and had expressed various views on how to broaden our tax base. In response to the question raised by Mr LAU Chin-shek, I will focus on the proposal to introduce dividend tax.

During the consultation, there were divergent views on whether dividend tax should be introduced. Those in favour of this option consider that as dividend income is taxed in many overseas economies, Hong Kong could follow this common practice. However, those opposed to the proposal are concerned that the introduction of dividend tax would easily lead to double taxation on corporate income. To avoid double taxation and effectively prevent tax avoidance, complex legislation and tax credit mechanisms would be required. This would complicate our simple tax system and would not be conducive to Hong Kong's long-term development. Besides, some doubt if dividend tax can provide a significant and stable revenue source for the Government. Under Hong Kong's territorial source principle of taxation, the tax would only apply to dividend paid by Hong Kong companies, and investors may choose to invest in overseas companies in order to avoid the tax. Revenue from dividend tax is also easily affected by economic cycles and corporate dividend policies. Generally speaking, dividend payout will decrease during economic downturns,

when corporate profits are lower. On the other hand, even if companies have made profits, some of them may choose to re-invest their profits instead of paying out dividends. In considering the proposed introduction of dividend tax, whether to be levied on all dividend income or only on dividend income of significant amounts, due regard should be paid to the abovementioned pros and cons.

Although members of the public have generally gained a better understanding of the problem of our narrow tax base in the consultation exercise and they agreed that the problem should be addressed, there have not been any clear inclination or mainstream views on which options, including the introduction of dividend tax, should be adopted to broaden our tax base. As the introduction of any new tax would have important and far-reaching impact on people's livelihood and the business environment of Hong Kong, further in-depth discussions would be necessary.

As stated in the Final Report of Public Consultation on Tax Reform, the Government will continue to study options for broadening the tax base and take into full account the views collected in this consultation exercise. We will consult the public further on those options which are more practical at a suitable time in the future.

MR LAU CHIN-SHEK (in Cantonese): *Given the widespread public concern about the presence of a very serious wealth gap, major consortia will assume a greater share of social responsibility if dividend tax is levied on them. The main reply has apparently widened the scope of dividend tax, but I was referring to dividend income of \$100 million or more collected by major consortia. I would like to narrow the scope before putting another question to the Secretary. Will the Government seriously consider the feasibility of levying dividend tax on major consortia and give us a definite report when the Budget is released?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): If we are to consider levying income tax on dividends, we will have to examine the taxation system and methods in a holistic manner. As I said earlier, in considering the levying of dividend tax, we have to make reference to the practices of other economies to consider the need to establish tax credit mechanisms to avoid double taxation on the same item of revenue. Regardless of the amounts involved, these issues must be considered.

In considering introducing a tax, we also have to consider the scope of taxation, tax rates, and so on. In considering all available options, we must consider whether the dividend tax will bring substantial and stable revenue, whether the tax base can really be widened, and whether Hong Kong's business environment will really be affected.

MR LAU CHIN-SHEK (in Cantonese): *He has not replied whether a definite report will be given when the Budget is announced.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I would like to thank Mr LAU for this supplementary question.

After the consultation on reviewing the tax base, the Government will continue to examine different options. During the last consultation, a lot of opinions, including those on dividend tax and other taxes, were collected. In introducing every tax item, we actually have to examine how to avoid some of the negative impacts mentioned by me earlier, the amount of revenue collectable, whether substantial revenue can be brought, and so on. This proposal and the ones raised in other options will be given joint consideration. When we consider that a relatively feasible option is available, we will raise it again for public consultation at a suitable time.

PRESIDENT (in Cantonese): Since a total of eight Members are waiting in the hope of putting supplementaries, so will Members who have the opportunity to ask questions please try to be as concise as possible to allow several more Members to raise supplementaries.

MR ALBERT CHENG (in Cantonese): *I would like to ask the Secretary a question concerning the last part of the second paragraph of the main reply. It states that, generally speaking, dividend payout will decrease during economic downturns, when corporate profits are lower. On the other hand, even if companies have made profits, some of them may choose to re-invest their profits instead of paying out dividends. May I ask the Secretary if this is the Government's main consideration in opposing the introduction of dividend tax? Actually, during economic downturns, all government revenues will drop*

proportionally. As an economist, the Secretary should have a clear idea about this. May I ask the Secretary if the Government discourages enterprises from re-investment?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Thanks for the question.

In considering introducing any tax types for broadening the tax base, we will certainly ask whether the objective of widening the tax base can thus be achieved to generate stable and substantial revenue for the Government. We will consider each and every one of the options to examine whether its expected objective can really be achieved.

As regards dividend tax, the act of paying out dividends by enterprises is their option. The timing and amounts of dividend payouts will be governed by the profits of enterprises as well as their revenue consideration. Therefore, on the basis of generating stable revenue and broadening the tax base, dividend tax itself is cyclical by nature. Furthermore, enterprises may opt to lower their dividend payouts as a contingency measure in the face of the taxation system. This makes it difficult for us to calculate the amount of tax collectable.

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

MR ALBERT CHENG (in Cantonese): *Yes, President. The Secretary has not answered it. I would like to thank the Secretary for giving us a lecture. However, I would like to tell the Secretary that he has actually not answered two questions, including my supplementary question. Is the Government worried that inadequate revenue will be collected from dividend tax during economic downturns and is the Government discouraging enterprises from re-investment? Generally speaking, the Secretary has not replied to these two questions. I hope he will not lecture me again.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): The Government certainly needs to consider the impact of each type of tax on the economy and, in practice, the stability of revenue from different tax

types in times of economic cycles, such as when the economy is going downhill. All these, including the issue of dividend tax, have to be taken into consideration by the Government in evaluating all tax revenue.

Another problem is that we do not discourage corporate investment. I merely wish to point out that the paying out of dividends by enterprises is their own choice, which is made in the light of taxation. As a result, the expected result of revenue collection may not be achieved.

MR VINCENT FANG (in Cantonese): *The Government has recently introduced a producer responsibility scheme proposing to levy a tax on manufacturers and consumers. May I ask if this is one of the Government's options for broadening the tax base?*

PRESIDENT (in Cantonese): Mr Vincent FANG, the main question is about dividend tax. What is the relationship between your supplementary question and dividend tax?

MR VINCENT FANG (in Cantonese): *I was referring to a method of broadening the tax base.*

PRESIDENT (in Cantonese): In that case, you might have to wait until the next Legislative Session to raise your question about the broadening of the tax base.

MR JAMES TIEN (in Cantonese): *President, Mr LAU Chin-shek pointed out in the main reply that dividends are the main source of income for the major shareholders of large companies. Does the Government agree that major shareholders are allocated dividends because they are not given wages and bonuses. On the contrary, if dividend income is taxed, major shareholders might pay themselves \$100 million in wages and \$100 million in bonuses. Will small shareholders in turn suffer?*

PRESIDENT (in Cantonese): What is your supplementary question?

MR JAMES TIEN (in Cantonese): *Sorry, does the Government agree with me? (Laughter)*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): The issue of how enterprises will cope with a new tax regime is relatively complex. As far as we know, when a new revenue policy is proposed, enterprises will employ a variety of methods to deal with it. A relatively proven method adopted in Hong Kong, which is our pride, is our simple tax regime. According to the principle of a simple tax regime, corporate revenue is not subject to double taxation, and the relevant tax regime is easy to implement. In introducing dividend tax, we have to consider a host of issues. For instance, the one mentioned earlier and other issues have to be taken into joint consideration.

MR LEUNG YIU-CHUNG (in Cantonese): *In responding to Mr LAU Chin-shek's main question, the Secretary mentioned that there are views for and against the introduction of dividend tax, and further discussion or study is therefore necessary. President, there will definitely be pros and cons whenever a new tax regime emerges. However, the crux of the issue mainly hinges on how to choose between the pros and cons before drawing the conclusion. Regarding the pros, the Secretary has not mentioned that dividend tax can actually help narrow the wealth gap. In this connection, may I ask the Secretary whether a mechanism for choosing between the pros and cons, including the principle of facilitating the narrowing of the wealth gap, will be established?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Thanks for the supplementary question.

In considering establishing a tax regime for dividend income, we certainly do not merely look at the tax itself. In addition, we would have to consider how to levy the tax and under what regime the tax would be levied. Insofar as the design of the regime is concerned, as I pointed out earlier, consideration must be given to tax rates, deduction mechanisms and whether there will be double taxation on corporate income. The amount of tax collectable can only be ascertained upon the completion of these designs. Regardless of whether the

pros or cons are being examined, we must evaluate the stability and abundance of government income in levying the tax and prevent investors from evading tax while implementing the mechanisms. This is quite complicated. All this, as well as the pros and cons, must be evaluated.

At present, we are studying every option we have seen before. We will continue to study what approach should be taken to enable the pros to outweigh the cons. For the time being, we still have not come up with a suitable concrete proposal or answer telling us how to proceed. In this aspect, we will continue with our study and launch another consultation in due course.

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

MR LEUNG YIU-CHUNG (in Cantonese): *The Secretary has not answered this question raised by me: How will he establish a mechanism to choose between the pros and cons? Does the mechanism embrace the principle enabling the narrowing of the wealth gap?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): The Government certainly has a lot of financial considerations, with the major one being the Government's source of revenue. In determining the overall design of the tax regime, the Government will certainly have to consider the affordability of society as a whole and whether various social strata are capable of bearing the tax suitably.

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

MR LEE CHEUK-YAN (in Cantonese): *After listening for 16 minutes, I have only heard the Secretary say that he has to examine everything. Can the Secretary tell us clearly whether he will really study the introduction of dividend tax because he kept saying just now that he would consider this and that? I would like the Secretary to tell us clearly whether the Government will conduct an in-depth study. I have used the wordings "in-depth study" because he has*

not mentioned in his main reply that an "in-depth study" will be conducted. Can the Secretary tell us in public whether the introduction of dividend tax will be studied in depth? Of course, the amount of revenue must be examined if dividend tax is to be introduced. As such, in carrying out the in-depth study, will the Government study how the revenue of the coffers in Hong Kong will be affected as a result of the levying of dividend tax on all major consortia? Will the study be commenced immediately on all fronts?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, we have suggested to the Government to continue with its study on its previous consultation on tax reform, and the issue of dividend tax is not the only subject of the study. After the previous consultation, the public in general have actually expressed many views, including different approaches to broadening the tax base. Each option contains elements worthy of reconsideration. Of course, we will also have to evaluate whether each element, including dividend tax, is capable of achieving our expected objectives of broadening the tax base, generating stable revenue for the Government, and paying due regard to the popular mandate of Hong Kong people and the views of professionals. All this will be included in our study. My answer is: After the previous consultation, the Government has come to the view that the issue of our narrow tax base has gained public recognition. However, a mainstream direction has not taken shape as regards the way forward. We will continue studying this issue and the views expressed during the consultation.

MR LEE CHEUK-YAN (in Cantonese): *The Secretary has still failed to answer whether an in-depth study will be conducted. What I actually asked was whether an in-depth study would be conducted, and yet the Secretary replied that he would study everything. As a Secretary, he will certainly have to study everything. I only want an answer about the in-depth study.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the views expressed in the previous consultation and various options will be studied jointly in an in-depth manner.

PRESIDENT (in Cantonese): Second question.

Youth Drug Abuse

2. **MR JAMES TIEN** (in Cantonese): *President, it has been reported that in the middle of last month, four schoolgirls at a secondary school in the North District in the New Territories felt unwell and were taken to hospital after taking drugs supplied by a fellow schoolmate. The principal of the school believed that its students were able to come into contact with soft drugs because the school was near the Mainland. It has also been reported that due to geographical convenience, many youngsters in the North District go north to the Mainland to take drugs and bring drugs back to Hong Kong to sell in schools. In this connection, will the Government inform this Council:*

- (a) *of the number of young drug abusers in the past three years, broken down by the 18 administrative districts in Hong Kong, and whether there is a trend of youngsters abusing drugs at a younger age;*
- (b) *whether it has studied the situation of youngsters in the North District and other districts along the railway alignments abusing drugs and trafficking drugs in schools; if so, of the details; if not, whether it will conduct such a study; and*
- (c) *whether it will further enhance the targeted measures at the school level and the co-operation with the authorities concerned on the Mainland (particularly Shenzhen), in order to combat the problem of cross-boundary drug trafficking and drug abuse?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, to monitor the drug abuse situation and draw up anti-drug measures, the Action Committee Against Narcotics (ACAN) and the Government all along collect and publish two sets of data about the number of drug abusers and other information, that is, information and data from the survey of drug use among students conducted once every four years and the Central Registry of Drug Abuse (CRDA). The information reveals that although the total number of abusers has been decreasing, the number of young abusers in the past two years reversed the declining trend of 2000 to 2004 and began to rise. We are very concerned about the situation and have taken various measures in response. For details of the figures and measures, please refer to the paper we provided to the Panel on Security in February this year. We will continue to monitor the situation closely, tap the views of the ACAN, anti-drug workers and the public, and

enhance our partnership with various sectors of the community, including schools, parents, social workers, medical workers, academia and the media, in the fight against drugs.

- (a) According to the CRDA, the number of reported young drug abusers aged under 21 and the average age of drug abuse in the past three years were as follows:

	2004	2005	2006	2006 <i>1st Quarter</i>	2007 <i>1st Quarter</i>
Number of abusers	2 186	2 276	2 549	903	994
Average age of abuse	17	17	17	17	17
Average age of first abuse	16	15	15	15	15

The number of young drug abusers broken down by the 18 administrative districts is at the Annex.

The reporting network of the CRDA is extensive, covering law-enforcement agencies, treatment and rehabilitation organizations, welfare agencies, tertiary institutions, hospitals, and so on. As information is submitted by the reporting agencies to the CRDA voluntarily, the CRDA figures do not represent the total number of abusers but they do reflect the trends of abuse.

As regards the survey of drug use among students, the last survey was conducted in 2004. Results revealed that about 3.4% (that is, 17 300) of the secondary students had ever abused heroin or psychotropic substances in their lifetime, of which about 0.8% (that is, 4 300) of the secondary students had abused these drugs in the 30 days prior to the survey.

- (b) As can be seen from the figures at Annex, currently there are no indications that the number of young drug abusers has risen more significantly in the North District and other districts along the railway than in other districts. However, we agree that when drawing up anti-drug measures, we should take into account the district situation as far as possible. We have therefore taken a series of measures to combat the youth drug abuse problem in collaboration with the District Councils, District Fight Crime Committees and district organizations:

- (i) The Beat Drugs Fund has provided funding support to a research study on the drug abuse pattern of drug abuse patients of the New Territories East (including the North District) using the latest technology.
 - (ii) Individual districts have conducted surveys on the youth drug abuse situation, youngsters' attitude and knowledge on drugs and service needs.
 - (iii) Cross-sectoral meetings (including youth service organizations, schools, social workers, police, Social Welfare Department, and so on) have been held to discuss the youth drug abuse problem and map out collaboration programmes.
 - (iv) Workshops and focus group discussions have been organized to enable exchange of views on how to tackle the youth drug abuse problem. We have also held school talks and other preventive education and publicity activities to educate youngsters on the harmful effects of drug abuse, build up a positive and healthy lifestyle, enhance the drug knowledge of teachers and parents, heighten their awareness of signs of drug abuse, and upgrade their skills in handling drug abuse cases.
 - (v) Funding support has been provided to a number of organizations to run anti-drug projects at districts, including school talks and early intervention measures to help young drug abusers.
 - (vi) The police have strengthened liaison with schools to collect intelligence for the provision of immediate assistance to schools and law-enforcement actions.
- (c) As regards the problem of cross-boundary drug trafficking and drug abuse, we will spare no efforts to combat the problem on all fronts:

Co-operation with the mainland authorities

- (i) The Administration has maintained close liaison with the mainland authorities on formulating strategies to tackle the

problems of cross-boundary drug trafficking and Hong Kong residents abusing drugs in the Mainland. We will enhance information and intelligence exchange with mainland law-enforcement agencies on cross-boundary crimes including cross-boundary drug abuse, draw up operational directions and take joint actions to interdict drug trafficking activities.

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

The police will continue to conduct education and publicity activities at the boundary crossings, and join hands with the community leaders of the District Councils and District Fight Crime Committees to distribute leaflets there about the harmful effects of drug abuse to people going to the Mainland.

At the school level

- (iii) We have launched a new drug education kit recently for teachers to disseminate anti-drug messages in schools and the consequences of cross-boundary drug abuse. The kit is designed for use by Primary Four to Six for the curriculum of General Studies, and Secondary One to Three for Personal, Social and Humanities Education Key Learning Area.
- (iv) We will organize seminars, district networking and workshops to enhance the drug knowledge of teachers and social workers, and upgrade their skills in identifying drug abusers, handling drug abuse cases in school and collaborating with non-governmental organizations and the police.
- (v) We will work with the Parent-Teacher Associations Federation, and will organize talks and activities to engage

parents actively in drug prevention education for their children.

- (vi) We have launched the "Sponsorship Scheme on Anti-Cross-boundary Drug Abuse Projects" which provides funding to 18 projects on anti-drug activities targeting young people, in schools, districts and at the boundary.

Annex

Number of Young Drug Abusers Broken down
by the 18 Administrative Districts

<i>District of Residence</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2006 1st Quarter</i>	<i>2007 1st Quarter</i>
Central and Western	28	46	32	12	10
Wan Chai	23	24	17	6	6
Eastern	82	122	128	45	39
Southern	190	188	199	97	138
Yau Tsim Mong	111	114	119	33	34
Sham Shui Po	71	74	111	23	43
Kowloon City	51	41	54	21	17
Wong Tai Sin	147	113	97	23	39
Kwun Tong	127	134	177	50	45
Kwai Tsing	165	167	194	43	95
Tsuen Wan	87	34	56	9	15
Tuen Mun	133	191	230	102	61
Yuen Long	181	147	212	76	147
North	239	284	290	137	104
Tai Po	106	128	175	74	25
Sha Tin	106	140	242	81	59
Sai Kung	99	89	83	18	31
Islands	103	93	88	31	45
Total	2 049	2 129	2 504	881	953

Note: The above figures exclude persons with unknown district of residence.

Source: CRDA

MR JAMES TIEN (in Cantonese): *President, first of all, I wish to thank the Secretary for providing such a detailed reply. In part (b) of the Secretary's*

main reply, it is mentioned that there has not been any significant increase in the number of young drug abusers in the North District and other districts along the railway. However, it can be observed from the Annex that between 2004 and 2006, there was an overall increase of 20% in the number of young drug abusers in Hong Kong. I also notice that there was an increase of 70% in Tai Po, and in Sha Tin, the number of cases went up from 106 to 242, meaning a rise of almost 240%. I therefore think that the situation may be more serious in the North District, New Territories East and Tuen Mun.

My specific question is about the source of drugs. I am referring to point (ii) under Co-operation with the Mainland Authorities in part (c) of the main reply. Many efforts have been made, but they are all about exchanges of information and sharing of experience. May I ask the Secretary whether, apart from exchanges of information and sharing of experience..... It is of course impossible to reveal too much confidential police information to us. However, are there any concrete measures to deal with the problem at source, that is, to impose heavier penalties on arrested drug traffickers, thus cutting the supply of drugs to students and making it impossible for them to obtain any drugs for re-sale to their schoolmates in Hong Kong?

SECRETARY FOR SECURITY (in Cantonese): Madam President, the fight against drug trafficking has always been a key task of the police. Efforts are made not only to deal with youth drug abuse. We are equally concerned about drug abuse among adults and children. In this connection, the law-enforcement authorities of the two places, namely, Guangdong and Hong Kong, and Macao will hold seminars on a frequent basis. In respect of law enforcement, we do frequently exchange intelligence and information and conduct joint operations from time to time. Whenever we receive any intelligence that some drug traffickers will smuggle drugs into Hong Kong or take any drugs into the Mainland via Hong Kong, we will enhance our co-operation and conduct joint operations.

If my memory is correct, in the past 12 months, there were several cases in which the co-operation between the law-enforcement agencies of the two places resulted in the successful interception of drugs. Sometimes, we even made use of the information supplied by the law-enforcement agencies of third countries. The United States and Australia, for example, also provided us with intelligence that enabled us to seize some drugs in Hong Kong. These are examples of how the problem is dealt with at source.

Of course, any sole reliance on interception at the law-enforcement level may not necessarily enable us to eradicate the problem of youth drug abuse, because it is actually a very complex social problem that must require the efforts of all, including schools and social workers. And, parents must also play their role properly. All in society must make joint efforts before we can successfully clamp down on and eradicate the problem of youth drug abuse.

PRESIDENT (in Cantonese): Since the Secretary gave quite a long reply just now and as many as 11 Members are waiting for their turns to ask supplementary questions, I shall exercise my discretion and slightly lengthen the time for asking supplementary questions on this oral question. But I would still like to ask Members who have a chance of doing so to keep their questions as concise as possible.

MISS CHAN YUEN-HAN (in Cantonese): *Last week, at the request of organizations engaged in the provision of the relevant services, the Legislative Council Panel on Welfare Services held a joint meeting with the Panel on Security to discuss the problems relating to drug abuse. The deputations present at the meeting remarked that the statistics supplied by the Government's CRDA were different from those collected by them. Besides, they all hoped that the survey on student drug abuse to be conducted by the Government could achieve something — they hoped that they could take part in the survey and be allowed to know its contents.*

Madam President, I now come to my question. I observed at the meeting that whenever schools were mentioned, the Government would often talk about publicity, but it did not do so when it came to other areas. Some deputations pointed out that while international schools could detect student drug abuse at an early time, ordinary schools were generally slower in noticing the problem. Early detection is very important to the health of youngsters, and this involves resource injection by the Government. Given non-government organizations' different view on handling the problem, may I ask the Government whether it will agree that international schools can indeed detect student drug abuse at an earlier time than ordinary schools? If yes, will the Government devote any resources to the work in this respect?

SECRETARY FOR SECURITY (in Cantonese): Madam President, as I pointed out when replying to Mr TIEN's question just now, the Security Bureau

is not the only Policy Bureau responsible for handling youth drug abuse. It is a cross-bureau issue. As also mentioned by Miss CHAN, schools and social workers are also involved. Therefore, the Government hopes to adopt a cross-sectoral, cross-bureau and cross-department approach to the problem. When it comes to schools, I must hold further discussions with the Education Bureau because schools must rely on the Education Bureau for the provision of information.

As mentioned by Miss CHAN just now, the numbers of youth drug abuse cases revealed by non-government organizations' surveys are larger than those supplied by the CRDA. In this connection, I have already pointed out in my main reply that since information is submitted to the CRDA on a voluntary basis, CRDA figures do not represent the total number of abusers but they do reflect the trend. We will conduct a territory-wide survey once every four years to ascertain the number of secondary student drug abusers in particular. As mentioned in my main reply, according to the last survey, the number of young people who had ever abused drugs was more than several thousand, amounting to nearly 20 000, that is, some 17 000.

Miss CHAN also mentioned that international schools were able to detect student drug abuse at an early time. I agree with her. We therefore frequently say that early detection will make early intervention possible. This is also our strategy. However, if all schools must mandate their students to undergo urine tests, we must hold discussions with the Education Bureau because this will be outside the portfolio of our Policy Bureau. I agree that early intervention is a very effective means of enabling young drug abusers to return to the right path as early as possible.

MR CHEUNG MAN-KWONG (in Cantonese): *President, as mentioned in the main reply, there are no indications that the number of young drug abusers has risen more significantly in the North District than in other districts. It must be noted that the Government is talking about the "rate of increase". But it is clearly indicated in the Annex that the absolute numbers of young drug abusers in the North District were the highest among all districts in Hong Kong for three years in a row from 2004 to 2006. In other words, the North District was the "champion" for three years. Is there actually a trick in the main reply to avoid mentioning the problem and conceal the serious problem of youth drug abuse in the North District? And, is the problem of youth drug abuse in the North*

District related to the convenience of going north to Shenzhen from there? How is the Government going to curb the trend of youngsters crossing the boundary for drug abuse?

SECRETARY FOR SECURITY (in Cantonese): Madam President, all districts are different in terms of demographic composition and the proportion of youngsters. There is no doubt a larger youth population in the North District, but this does not mean that we will watch the rise in the number of young drug abusers there without doing anything. Mr CHEUNG has pointed out that the number of young drug abusers in the North District was 290 in 2006. This was indeed the highest number in all districts. And we cannot deny it. As I mentioned in the main reply, to deal with these young drug abusers, we must formulate strategies according to the special circumstances in the district concerned. First, we must find out whether there is a particularly large number of drug traffickers in the district. Second, we must also ascertain whether there are any undesirable elements in schools. Third, we must further explore whether there are more single-parent or problem families, and whether the number of entertainment establishments and electronic games centres there is especially large. I think we must formulate a strategy specifically for the district concerned. In the case of the North District, as mentioned in my main reply, we will hold discussions with local schools, social workers and non-government organizations, with a view to formulating a strategy for the district that can tackle the related problems.

MR CHEUNG MAN-KWONG (in Cantonese): *President, the Secretary has obviously avoided the main point in my question. The absolute number of drug abusers in the North District was the highest for three consecutive years. Is this related to the fact that it is convenient for youngsters in the North District to go to Shenzhen for drug abuse? How is the Government going to combat cross-boundary drug abuse among young people? Why does the Secretary shift the responsibility to the community?*

SECRETARY FOR SECURITY (in Cantonese): My simple answer to Mr CHEUNG's question is that we do not have any evidence to prove that the seriousness of youth drug abuse in the district is related to cross-boundary drug abuse.

MR ALBERT CHAN (in Cantonese): *President, the "three-year champion" record of the North District may well be broken by Yuen Long and Tin Shui Wai. President, as shown in the Annex, in the first quarter of 2007, Yuen Long recorded the highest number of young drug abusers among all districts. The number was 147, far larger than that in the North District. In recent years, we have observed a problem in Yuen Long and Tin Shui Wai especially — the deterioration of youth drug abuse. This is partly caused by the fact that many primary students in the past have by now entered their adolescence, thus leading to a huge expansion of the teenage population there. When faced with problems with their studies, employment and families, many teenagers may start abusing drugs. Will the Secretary state clearly..... He has already remarked that the problem actually involves several Policy Bureaux and departments. Will he tell us clearly whether they are going to set up a special committee with real powers and resources and comprising representatives from various Policy Bureaux such as the Security Bureau, Education Bureau, Food and Health Bureau, Labour and Welfare Bureau and Homes Affairs Bureau, so as to alleviate and tackle the problems related to drug abuse, especially youth drug abuse?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, there is already a co-ordination body within the Government now, namely, the Narcotics Division under the Security Bureau. This Division is responsible for co-ordinating the efforts of all government departments to clamp down on and prevent the problem of drug abuse among all people (not just youngsters). In this regard, I think it is indeed necessary for us to enhance the existing mode of operation and fight for more resources and support to enhance our work.

MR ALBERT CHAN (in Cantonese): *President, he has not answered my supplementary question. May I ask the Secretary whether they will set up an inter-departmental working group with real powers and sufficient resources?*

SECRETARY FOR SECURITY (in Cantonese): There are already real powers. But as I have just mentioned, there is still room for improvement in regard to the enhancement of co-ordination.

PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Last supplementary question.

MR JAMES TO (in Cantonese): *President, the Chief Executive claims that he will reach out to the community in administration. I understand that the ACAN already comprises a very wide range of professional representatives. But will the Government still consider one more thing, or will the Secretary for Security even recommend this idea to the Chief Executive? In 1995 and 1996, there was a certain Summit on Drugs held by the then Governor. At that time, many people put forward their ideas and dozens of policies were implemented. Some results were subsequently achieved. Will he request the Chief Executive to hold a similar summit, so as to mobilize society as a whole to improve the work of anti-drug abuse, especially among young people?*

SECRETARY FOR SECURITY (in Cantonese): Madam President, all along, we have been adopting a multi-pronged approach to implementing the existing anti-drug policy. Let me now repeat this approach once again. First, we have legislation and enforcement. Second, there are addiction treatment and rehabilitation services. Third, there is education and publicity. And, fourth, we also conduct research and engage in outside co-operation. We attach very great importance to the co-ordination among different sectors. In this connection, everybody is just facing the same problem.

In the course of formulating measures, we will consult the ACAN and the Drug Liaison Committee. And, discussions on combating drug abuse are also held in Fight Crime Committees. Members of the ACAN will attend meetings of the Fight Crime Committees in different districts from time to time, so as to know the situations in the districts concerned. The ACAN has also set up a working group with sole responsibility for formulating a three-year plan on addiction treatment and rehabilitation services in Hong Kong. Various industries and front-line anti-drug workers are consulted for the formulation of a strategy for addiction treatment and rehabilitation services in Hong Kong in the coming three years. Cross-sectoral and cross-organization channels are already in existence for the conduct of negotiations and discussions on drug abuse. At this stage, we do not see any need for any special summit. But we do welcome all sectors to give us their views on tackling the problem of drug abuse.

MR JAMES TO (in Cantonese): *President, my supplementary question is on whether a summit will be called by the Chief Executive. Does the Secretary mean that he has already raised the idea with the Chief Executive? The idea is*

actually raised for the first time by me today. I wonder whether any other people in society or any other Members have ever raised the idea. Am I correct in saying that the Secretary has given a right-away "no" to the idea? Or, should I personally write a letter to the Chief Executive?

SECRETARY FOR SECURITY (in Cantonese): Madam President, we have already considered this idea. We do not see any need to hold any Chief Executive's summit for the time being.

PRESIDENT (in Cantonese): Third question.

Patients to Purchase Medical Items at Their Own Expenses

3. **DR YEUNG SUM** (in Cantonese): *It is learnt when patients undergo Percutaneous Transluminal Coronary Angioplasty (commonly known as "balloon angioplasty") in public hospitals, they have to purchase at their own expenses membrane stent to be implanted into the body. In this connection, will the Government inform this Council:*

- (a) *of the number of balloon angioplasty carried out in public hospitals and the average amount spent by each patient on purchasing the surgical implants in each of the past five years, as well as the factors that should be considered by front-line doctors in deciding whether or not to carry out balloon angioplasty on a patient;*
- (b) *apart from balloon angioplasty, of the number of patients who received treatment of cardiovascular diseases in public hospitals by drugs and other surgical operations in each of the past five years; and whether these patients were required to purchase at their own expenses the relevant drugs and surgical implants; and*
- (c) *of the number of cases in which the patient received financial assistance from the Samaritan Fund to purchase surgical implants related to balloon angioplasty, as well as the amount involved, in each of the past five years; the reasons for requiring patients to purchase the relevant medical items at their own expenses; as well*

as the mechanism and criteria adopted by the Hospital Authority (HA) for determining the addition of items to, or removal of items from, the list of medical items to be purchased by patients at their own expenses?

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

- (a) The number of balloon angioplasty carried out in public hospitals and the average amount of expenses by each patient on the necessary surgical implants in each of the past five years are set out in the table below:

	2002	2003	2004	2005	2006
No. of balloon angioplasty cases	Statistical data not available	3 904	4 894	4 784	5 099
Average cost of consumables per case (\$)*	29,825	30,547	32,708	35,199	Data not available

Note* Figures calculated on the basis of financial year.

Coronary heart disease is a disease resulting from the narrowing of coronary arteries caused by the deposit of atherosclerotic plaque. Generally speaking, in deciding whether to carry out balloon angioplasty on a patient with coronary heart disease, the doctor's main factors of consideration are the clinical condition of the patient and the risk of the procedure, including:

- the onset time;
- whether the patient has experienced any shock or unstable angina pain;
- whether there is any new change in the patient's electrocardiogram;
- whether there is any recurrent ischemia after intensive anti-ischemia treatment;
- any rise in troponin level;
- the suitability for surgery in view of the pathological conditions of the patient's coronary artery; and
- whether the patient has any serious co-morbidity.

Where it is considered, on the basis of clinical conditions, that a patient is suitable for balloon angioplasty, the doctor will clearly explain both the benefits and the risks of the procedure to the patient. However, it is the patient's decision whether to undergo the procedure or not.

- (b) Generally speaking, all patients with coronary heart disease receive drug therapy to prevent deterioration and arterial blockage. Currently, the HA does not routinely collate statistical information on the number of patients with coronary heart disease receiving drug therapy in the HA or the amount of cost on the relevant drugs and surgical implants.

Apart from drug therapy, two forms of invasive therapies, namely balloon angioplasty and Coronary Artery Bypass Grafting (CABG), are available to patients with coronary heart disease. By comparison of the two procedures, balloon angioplasty is less invasive and of lower risk. The patients' recuperation time is shorter and it is less painful for the patients. The choice between balloon angioplasty and CABG is dictated by the clinical condition of the patient concerned, such as the pathological conditions of the arteries and the number of arteries involved, and the risk of the procedure to the patient. The number of CABGs performed in the HA in each of the past five years is as follows:

	2002	2003	2004	2005	2006
No. of CABG cases	500	436	533	594	574

Drugs required by patients with coronary heart disease are covered by the HA's Drug Formulary. Patients have access to these drugs at the standard medical fees of the HA. However, if a patient's condition does not meet the clinical guidelines on the use of certain special drugs in the Drug Formulary, but the patient wishes to use such drugs at his own choice, then he would have to purchase them at his own expenses.

As for the invasive therapies for coronary heart disease, patients undergoing balloon angioplasty have to bear the cost of the surgical consumables used in the procedure (for example, catheter and vascular stent), whereas such expenses do not arise in CABG.

- (c) The number of cases in which patients received financial assistance from the Samaritan Fund or other charitable funds for consumables related to invasive heart surgeries (including balloon angioplasty) and the total amount of funding support provided in each of the past five years are set out in the table below:

	2002	2003	2004	2005	2006
No. of assisted cases	1 597	1 523	1 779	1 724	1 720
Amount involved (\$)	44,527,400	43,682,870	50,479,140	52,948,237	57,762,650

At present, hospital maintenance fees or out-patient consultation fees in public hospitals/clinics are heavily subsidized by the Government and cover a wide range of medical services, procedures and consultations. However, patients are required to purchase certain medical items which are not covered by the standard medical fees of the HA. These privately purchased medical items include surgical implants/prostheses and consumables, items purchased by patients for home use, such as wheelchairs and home use ventilators, as well as costly medical procedures not available in public hospitals, such as gamma knife surgery and harvesting of bone marrow outside Hong Kong.

The main rationale for including surgical implants and consumables on the list of medical items to be purchased by patients at their own expenses is that such items are implanted into the body of individual patients or can only be used on a patient once. As public resources are limited, it is imperative for the Administration to prioritize on services that can benefit the greatest number of patients under the targeted subsidy principle. Those patients, who require the use of such surgical implants and consumables and have the financial means, should pay for the relevant expenses themselves. Those who have financial difficulties may apply for assistance under the Samaritan Fund. Eligible applicants may be given full or partial assistance of the cost, depending on their financial situation.

Under the "user pays" principle, and having regard to the introduction of efficacious but expensive new medical technologies, the HA adopts the following criteria when deciding whether certain medical items should be purchased by patients at their own expenses — evidence-based medicine, rational use of public resources,

targeted subsidies, opportunity cost and facilitation of patient choice. If the new medical technology item involve is a pharmaceutical product, the assessment will be made by the HA's Drug Advisory Committee. For other new medical technology items (that is, other than pharmaceutical products), consideration will be made on a case by case basis by the Quality and Safety Division of the HA, having regard to the safety, efficacy, clinical effect and cost-effectiveness of the new medical technology item concerned. Subject to available resources, the HA will migrant certain privately purchased medical items to within the scope of the HA's subsidized service or the safety net established for such items in its Annual Plan. The Government will be consulted in the process.

DR YEUNG SUM (in Cantonese): *President, from the reply given by the Secretary, I find that the number of balloon angioplasty cases has grown in each of the past few years, that is, from 3 904 cases in 2003 to 5 099 in 2006, and the average amount spent by each patient on purchasing the surgical implant at their own expenses rose from some \$20,000 to some \$30,000. This is a rather common operation, but quite costly. Would the HA consider paying these surgical implants for better protection of the patients' health?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, as I have said in the main reply, these items are very expensive and under the "user pays" principle, we hope that some patients can pay for part of the surgical expenses themselves and we only charge the expenses for those disposable items, that is, consumables. All other expenses are actually paid by the Government. So before there is a better health care financing scheme, this should be regarded as an effective approach for the time being, for it can enable patients with financial difficulties to apply for assistance under the Samaritan Fund to meet full or part of the cost. This would also ensure that those Hong Kong people in need of assistance can receive such treatment and attention.*

MISS TAM HEUNG-MAN (in Cantonese): *President, with respect to the last part of the main question, I wish to seek a clarification from the authorities on this point. Does the HA amend on a regular basis or as it thinks fit this list of medical items to be purchased by the patients at their own expenses? Is there*

any upper limit to the amount of medical items in such a list or does the list only get longer and longer all the time? How much saving in costs would this list give the HA?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, there are actually a few questions here. First of all, I wish to say that before the HA makes any decision, not only will consent have to be sought from the relevant committee but it also has to be vetted by the board of directors of the HA. The Food and Health Bureau, that is, the former Health, Welfare and Food Bureau, will also join in their consideration of whether any items should be added. During the past few years, it was only when some new technologies were introduced that more items were added to the list. We would not add items under the existing technologies to the list. An example is we would include some new drugs for treatment of cancer to the list. So some cancer patients may also get assistance from the Samaritan Fund. In this regard, our expenditures are increasing all the time.

MR TAM YIU-CHUNG (in Cantonese): *President, some studies have shown that patients using regular stents have a higher possibility of a relapse six months after the surgery than those patients using drug-eluting stents, that is, stents coated with drugs. In view of this, would the HA consider switching to using drug-eluting stents for all such patients in order to reduce the possibility of a relapse? Would consideration be given to financing patients through the Samaritan Fund so that patients can use drug-eluting stents without having to wait until they have a relapse after regular stents are used?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as far as I know, doctors will decide on the type of stents to be implanted into the body of a patient that best suits his or her clinical conditions. In this connection, many new technologies would be introduced. However, other recent studies have shown that better results can be achieved by implanting frozen stents. We know that this is all a matter of professional judgement and the Quality and Safety Division of the HA would see if such technologies merit support. In the past, the earliest stents used did not have any drugs coated on them, but now most stents in use are coated. This has greatly reduced chances of complications and relapses. I am sure new technologies would be introduced by

and by and the HA would decide on the adoption of such new technologies depending on the efficacy of such technologies and other factors. We would not decide on something now and leave it as it is forever, but new technologies will be introduced as when necessary. The HA will consider adopting technologies having regard to their greater efficacy and cost-effectiveness as compared to others.

MR LAU KONG-WAH (in Cantonese): *President, according to figures on balloon angioplasty cases provided by the Secretary, there is a substantial increase in the figures almost every year. In 2006 as compared to 2003, the number has increased quite considerably. When this is read together with the problem of child obesity which the Secretary discussed with us last week and the relevant figures for which are also rising from year to year, it seems that cardio-vascular diseases are getting more and more serious in society and they have become an acute social problem. Has the Secretary ever estimated that, with the increase in balloon angioplasty cases, whether the number of specialist doctors would be able to meet the demand, especially when so many specialist doctors have left?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we would focus our discussion here on heart specialists. This is because the patients we are talking about are mostly treated by heart specialists. In Hong Kong, heart specialist service and operation theatres known as "cath lab" are provided in all of the seven hospital clusters. Specialist training is also offered. As far as I know, the number of specialists has always been increasing. The increase in the number of doctors, however, does not necessarily mean that the number of patients has increased. This is because many diseases can be detected at an early stage and the use of these technologies has become increasingly safe. It follows that these procedures are applied in order that early intervention may cure these patients and it does not imply that the number of patients has risen sharply. Just how many patients need to undergo such a procedure? In the past, it might be that three out of 10 patients would need to undergo such a procedure. But now it could be five out of every 10 patients would need such treatment. Such things do happen. And so we should look at this trend with a balanced approach. We should not just look at patients of the HA but also those in the private sector. The Government plans to introduce a territory-wide computerized medical history scheme in the hope that all public

and private sector medical service providers can take part. This would put us in a better position to gauge the trends regarding the incidence of diseases in Hong Kong.

MR ALBERT CHENG (in Cantonese): *President, I would like to ask the Secretary about the part on money mentioned in his main reply. Actually, the amount involved is quite large and he keeps on talking about resources and financial problems. May I ask if there are any patients in public hospitals who are unable to get balloon angioplasty because they cannot afford the cost?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, perhaps I can give a detailed reply to this. In our assistance cases, the number in each of the recent years is about 1 700, of which about 1 200 are granted full assistance. If in the view of the medical social workers, the financial circumstances of a patient are such that he or she cannot afford the expenses, then the Samaritan Fund would pay for the expenses in full. So if Hong Kong residents have medical problems that would require such a treatment, it does not matter if they are rich or poor, we would provide it to them. In the past, about 1 200 people did not have to pay for such expenses.

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

MR ALBERT CHENG (in Cantonese): *President, he has not answered my supplementary question. He only said that 1 200 people got full assistance for the operation that they had undergone. The question I wish to ask is: Has ever any person been unable to undergo such an operation on account of his or her financial problems?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, put simply, my answer is no.

PRESIDENT (in Cantonese): Fourth question.

Allocation of Student Places to UGC-funded Institutions

4. **MS AUDREY EU** (in Cantonese): *President, it has been reported that, in a hearing conducted by the Commission of Inquiry on Allegations relating to The Hong Kong Institute of Education, the former Permanent Secretary for Education and Manpower said that the proposal to the University Grants Committee (UGC) in 2004 to reduce The Hong Kong Institute of Education (HKIEd)'s places for Certificate of Early Childhood Education from 200 in 2005-2006 school year to zero in 2007-2008 school year was merely a result of internal communication problems within the Education and Manpower Bureau and had nothing to do with interference in academic autonomy. In this connection, will the Government inform this Council:*

- (a) *of the specific procedures and factors for consideration of the authorities concerned in the periodic allocation of student places to local tertiary institutions funded by the UGC; and*
- (b) *regarding the above incident of the reduction of HKIEd's student places, whether the Government has examined the causes of the alleged internal communication problems in the Education and Manpower Bureau and whether it has adopted improvement measures after the incident to prevent the recurrence of similar incidents; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Cantonese): President,

- (a) First of all, I wish to emphasize that the allocation of student places to institutions funded by the UGC is the duty of the UGC. Since the public sector is the major employer of certain professions, the Administration will provide advice on the manpower requirement of these disciplines and professions (such as doctors, nurses, social workers, teachers, and so on) for reference by the UGC, so as to ensure an adequate supply of these professionals in the community. However, the Administration's advice is on the overall manpower requirement of the professions concerned, rather than the allocation of student places to individual institutions.

In practice, the Education Bureau will be responsible for co-ordinating the views of relevant bureau/departments on the manpower requirement of the professions under their purview.

Upon endorsement by the Executive Council, the Education Bureau will put forward its advice to the UGC for reference by the UGC-funded institutions, as they start their academic planning and prepare their Academic Development Proposals (ADPs).

The institutions will set out the details of their curriculum planning, distribution of student places, and so on, in their ADPs. The UGC, after considering the ADPs, the Administration's advice on manpower requirement, the roles and development needs of individual institutions, as well as the overall strategic development of the UGC, and so on, will provide individual institutions with the Committee's advice on the allocation of student places and academic planning. The Education Bureau will then submit the UGC's recommendations to the Executive Council for consideration, and usually the recommendations on allocation of student places will all be accepted. The overall approved student numbers will also be stated in the funding proposal submitted to the Legislative Council.

Throughout the academic planning process, the UGC and the institutions will be in close contact. Where necessary or when there is disagreement, the UGC will liaise with the Education Bureau on the allocation of student places in individual areas. In fact, the Administration has previously revised its recommendations on manpower requirement in response to comments from the UGC.

- (b) The planning for early childhood teacher education places involves mainly two divisions of the Education Bureau. In working out the number of early childhood teacher education places for the 2005-2006 to 2007-2008 triennium, the two divisions had made a mistake in communication. The division responsible for co-ordinating the Bureau's input had the wrong impression that as the policy target had already been reached, there was no longer a demand for in-service early childhood teacher education places in 2007-2008. They had overlooked the training needs of those early childhood education teachers who wanted to further their studies and had the potential to become principals.

We are sorry about the mistake. Fortunately, in the process of academic planning, the Education Bureau, UGC and related institutions had been in close contact, so that when the mistake was

discovered, we could promptly liaise with the UGC and the institutions and rectify the problem in time. To avoid the recurrence of similar incidents, we have, apart from requesting colleagues to be more alert, made systemic improvements to the planning process for teacher training places in particular. We will enhance communication among different divisions, as well as arrange discussions and adopt verification procedures to ensure that views and information are accurately conveyed.

MS AUDREY EU (in Cantonese): *President, there are discrepancies between the reply given by the Secretary and the evidence collected at the hearing. First, the Secretary said that it was the problem of the UGC and its duty, in this way, the ball was passed to the UGC. But during the hearing, Mr STONE from the UGC said that the number of student places they suggested was 100, only that the Education and Manpower Bureau did not agree and insisted that it should be zero.*

In addition, the Secretary said in the main reply that the two divisions had made a mistake in communication. But that was impossible and it did not tally with the hearing evidence either. Because it was an internal matter and obviously those people who wanted to apply for the Certificate of Early Childhood Education course had to be put on a long waiting list. Only 18% of the kindergarten teachers may enrol in this Certificate course and they have to wait in a very long queue. It can be seen that the course is very popular. But what the authorities wanted was to cut the student places for that course to zero. Moreover, we can also see from the hearing that approval has to be given in person by Mrs LAW and so it cannot be such a simple matter as a communication problem between two divisions.

Therefore, may I ask the Secretary if an investigation will be undertaken into this event? Because if we read the hearing report, we are still not clear as to what has led to a problem like that and it is simply impossible that zero student places can ever appear. May I ask the Secretary whether he would pledge to investigate into that problem to see who should be held responsible for this incident?

SECRETARY FOR EDUCATION (in Cantonese): *President, as a matter of fact, with respect to the question raised by Ms Audrey EU, we have made an*

internal examination in the hope of finding out what had gone wrong. That is why a reply can be given today.

President, let me make this clear here. We can divide the entire process into a few parts. First, as I have said in the main reply, since the public sector is the employer of certain professions, such as doctors, nurses, social workers and teachers, we think there is a need for us to make an estimate of the manpower requirement of these professions and then provide advice on the findings for reference by the UGC. So every year we would provide information such as in the case of teachers, the kinds of teachers required and the overall number of teachers required in certain particular years, and so on, to the UGC.

The procedure in this case is no different. We would not designate the number of student places for each institution. For example, we need 1 000 persons in a certain year and we would give this number to the UGC. Then the UGC will ask institutions interested in offering such a course to submit proposals, that is, the ADPs. The institutions will each put forward their own ADPs in the light of our requirement. In the case of a manpower requirement of 1 000 persons which I use as an illustration, institution A may say it wants to offer training to 500 persons out of this group of 1 000; institution B may say it wants to train 300; and another institution may want to train 400 persons, and so on. Upon receipt of these ADPs, the UGC will study how the matter is to be handled. If the student places proposed in the ADPs exceed the number required, some selection will be undertaken. If the student places proposed do not meet the number required, then a solution will have to be found. It is after a process like this is complete that the number of student places for the next academic year will be finalized and a decision will be made on which institutions are to offer the relevant courses and how they should be offered. This is the general situation.

Coming back to the particular case we have now — regarding early childhood education, as the Education Bureau is the Bureau in the Government responsible for such work — so in this work process we had played two roles. First, in communicating with the UGC, this mechanism was used to provide information on manpower requirement in various government departments to the UGC. As for problems about teachers, since work is undertaken by another division in the Education Bureau, so these two divisions are responsible for different aspects of the work. This was where the mistake we are talking about took place, that is, two different divisions had made a mistake and the main cause

for it was like what I have said that in terms of manpower requirement. As this early childhood education course was offered initially for application by principals, when working out the number of places, they were under the wrong impression that after all these many years, there was no longer a demand for such places as most of the principals had already completed the relevant training and so there would not be any demand for it in the last year of the triennium.

However, they had overlooked what we have said here, that is, every year there would be principals who retire and there are teachers who want to further their studies and have the potential to become principals and they would actually be promoted to the rank of principal because some principals have retired or left the service. As they had overlooked demand in this respect and consideration was merely made with respect to manpower requirement, a mistake was made. After the mistake was discovered, we rectified the problem in time.

MS AUDREY EU (in Cantonese): *President, the Secretary has given a lengthy reply but, sorry, he has not answered my supplementary question.*

Actually, I was not asking about the situation in manpower requirement at all and his reply about manpower requirement is not correct either. This is because I can see from the report compiled by the Government that principals who applied for the course accounted for only 10.4% of the applicants and teachers only 18.3%. It is clear that the places could not be fully subscribed in this way. President, my supplementary question is not about the number of people, but student places. In the main reply given by the Secretary, it is stated that the student places are determined by the UGC. But I do not think it is the case, for Mr STONE from the UGC had said in the hearing that their suggested number of student places was 100 but the Education and Manpower Bureau did not agree to that and wanted to reduce the number to zero. So this cannot be a problem on the part of the UGC.

Second, the Secretary has shifted the problem to those two divisions, but Mrs LAW admitted in the hearing that approval in this respect was given by her. She could not have been wrong in this as the Certificate of Early Childhood Education course was immensely popular and applicants had to be put on a long waiting list. So with respect to the zero places issue, how could it be zero places? No explanation is given even after the hearing. This is why I have asked the Secretary this question. Would he after his recent assumption of office look into this issue which is far from being clear?

SECRETARY FOR EDUCATION (in Cantonese): President, the incident took place in 2004 and at that time consideration was given to the manpower requirement for the next triennium, that is, 2005 to 2007. There were no such things as vouchers or other relevant measures in place. Since the voucher system was introduced this year, so the issue of the qualifications of early childhood education teachers has come to our attention. Now, our expectations for early childhood education teachers have risen significantly and we also require all teachers to hold such qualifications. So I think it would not be appropriate at all if we use the standards today to measure the consideration made at that time. From now on, we have set aside 1 000 student places for teacher training each year.

As for what Ms EU has said about what Mrs LAW said during the hearing, sorry, I do not have any information on that. Moreover, I have not talked with Mrs LAW about her personal involvement in this affair. What I am talking about is the system and what we can see from the papers is that this was how the decision was made at that time.

Ms EU is right when she talked about the student places mentioned by Mr STONE. That was a fact. It was because we had made a mistake in the basis of our calculations that the number of student places we provided was zero. They then talked to the institutions and after consideration by the institutions, they found our zero places proposal not acceptable. After working out the number of places, they thought that it should be 100 and so they raise this with us.

As I have said in the main reply, under such unusual circumstances and since disagreements arose, the UGC liaised with us and the problem was rectified in time. In that process, they thought that zero places was not possible, hence we had re-examined the matter and, as I have said in the main reply, we came up with the conclusion that we had made a mistake. The number of places should be 100. The reason for such a mistake is, as I have said in the main reply, they had not considered certain factors.

PRESIDENT (in Cantonese): This exchange of questions and answers between Ms Audrey EU and the Secretary for Education has used up more than 15 minutes. As there are nine Members waiting for their turns to ask supplementary questions, I would exercise my discretion to allow two to three Members at most to ask supplementary questions.

MR JASPER TSANG (in Cantonese): *President, the Secretary says in part (b) of the main reply that the mistake concerning course places was rectified in time. But as a matter of fact, the zero places issue had led to worries in some of the teaching staff of HKIED and subsequently became proof of interference made to the autonomy of the institution concerned and academic freedom. In the light of these, would the Secretary still think that it was really "in time"? Would there still be any room for improvement with respect to what is said in the main reply that close contact had been kept with the institutions?*

SECRETARY FOR EDUCATION (in Cantonese): President, of course what is meant by "in time" refers to no more than the fact that a rectification was made before the UGC made the final decision. There is a process between the forecast on manpower requirement we make and discussing it with the UGC and the institutions. As I have just explained, some disagreement appeared. At that time we insisted that the number of places should be zero. But after some strong arguments were advanced, we went back and considered them and found out that we had made a mistake in working out that number which should be 100. This is what I mean by rectifying the problem in time. We made a rectification in that and when we submitted the figures for approval, the number of 100 places was found in our submission. Of course, such a process could not have been completed in just a matter of days, but it took months to do so. It was unfortunate that in that process, this disagreement evolved into the incident later.

MR LEUNG KWOK-HUNG (in Cantonese): *President, the Secretary points out in the main reply: "Throughout the entire academic planning process, the UGC and the institutions will be in close contact. When necessary or when there is disagreement, the UGC will liaise with the Education Bureau on the allocation of student places in individual areas. In fact, the Administration has previously revised its recommendations on manpower requirement in response to comments from the UGC." The Secretary also says that after receiving the advice from the UGC, the number of places was worked out. May I ask the Secretary this question: When the UGC told you that there could be no reasons accounting for such a great difference as between 100 and 0 places, did the persons in charge at that time, that is, Arthur LI and Fanny LAW of the Bureau, give any instructions? Did they give any instructions or make any comments? The Secretary has just said that the process took months to complete. During that period lasting a few months, did they make any comments or give any instructions?*

SECRETARY FOR EDUCATION (in Cantonese): President, we cannot see that from the papers. Actually, as seen in the papers, it was the consideration made by colleagues at a lower level. As I explained, what was needed was some estimate on manpower requirement and when the estimate had been made and even if that was wrong, it was not discovered. As in the usual practice, it was submitted to the UGC. In the course of the discussion between the UGC and the institutions, they discovered something which in their opinion was unusual. At that point they inquired us about it. After meetings were held between the parties concerned, it was considered that we had made a mistake and that is why I said that we had rectified the problem there in time. That was undertaken at the operational level and from the papers I cannot see any involvement of any person higher up in this.

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

MR LEUNG KWOK-HUNG (in Cantonese): *No, President. The Secretary says that he cannot see that from the papers. But what I asked is whether or not any instruction was given. If he cannot give a reply today, can he give a written reply to this Council confirming that the former Secretary Prof Arthur LI and the former Permanent Secretary Fanny LAW had never made any intervention in this incident? Can he do that?*

SECRETARY FOR EDUCATION (in Cantonese): President, after all these years, I think the only thing I can see and which is really there for us to see is the evidence as found in the papers. I think I have done enough and this serves fully the purpose of my giving a reply to this oral question today. I do not think I am prepared to do anything other than that.

PRESIDENT (in Cantonese): Last supplementary question.

DR FERNANDO CHEUNG (in Cantonese): *President, the incident was a mistake, the Secretary has so admitted it. As he has explained, the reason was that when working out the estimates of the manpower requirement, factors like*

principals leaving service or some other people would resign or that demand would be so great might have been overlooked.

President, I would think that the situation is quite scary. What we are talking about is how a scientific method can be used to make forecasts on university places and manpower requirement, but how in a well-established system is there nothing in it to work out things even like people leaving the profession concerned? May I ask the Secretary, about this mistake — he has admitted in his main reply that it was a mistake — was it man-made or was it a system failure? If it is man-made, what can be done to follow up? What kind of punishment will those involved in the mistake get? If it is a system failure — what the Secretary has said is that it was a mistake in the system — then it would be a grave mistake indeed. Now that after improvement is made, is there sufficient transparency so that the same mistake will not happen again?

SECRETARY FOR EDUCATION (in Cantonese): President, it was definitely a man-made mistake. This is what I have said. As to whether or not punitive action will be taken, as far as I know, the related officers have retired since then.

PRESIDENT (in Cantonese): Fifth question.

Employees Retraining Levy

5. **MRS SELINA CHOW** (in Cantonese): *President, with effect from October 2003, employers of foreign domestic helpers (FDHs) in Hong Kong have to pay the Employees Retraining Levy (the levy) of \$400 per month to the Government for the purpose of providing training and retraining to local employees. Subsequently, in view of the application for judicial review against the imposition of the levy lodged by some FDHs, the levy collected has not been utilized so far. However, the FDHs concerned have all along not lodged any appeal with the Court of Final Appeal after the dismissal of their case by the Court of Appeal in July last year, and the time limit for lodging appeals has already expired. In this connection, will the Government inform this Council:*

- (a) *of the situation of the collection of the above levy since October 2003 and the amount accumulated so far;*

- (b) *why it has so far not utilized the levy collected, as well as when and how it intends to utilize that amount of money; and*
- (c) *whether it has assessed if the amount of levy accumulated so far is sufficient to meet the needs for providing training and retraining to local employees for a certain period of time in the future; if the assessment results are in the affirmative, whether it has plans to reduce or even abolish the levy, so as to ease the burden on employers of FDHs?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, it is the established policy of the Government that employers hiring low-skilled imported labour should contribute towards the training and retraining of the local workforce. In line with this policy, all employers of imported labour under the labour importation schemes designated under the Employees Retraining Ordinance (the schemes) have since the commencement of the Ordinance in 1992 been required to pay the levy. The levy goes to the Employees Retraining Fund, which is administered by the Employees Retraining Board (ERB), for providing training and retraining to local workers. In February 2003, the Executive Council approved the recommendation of the report of the Task Force on Population Policy that same as employers of imported labour under other schemes, employers of FDHs should also be required to pay the levy with effect from 1 October of that year.

My replies to the various parts of Mrs Selina CHOW's main question are as follows:

- (a) From 1 October 2003 to 30 June 2007, the levy collected from employers of FDHs amounted to \$3.26 billion.
- (b) As Members may know, the report released earlier by the Commission on Poverty has recommended the Government to review holistically and further enhance its training and retraining efforts, and to make the best use of the resources available, including the levy collected from employers of FDHs, to provide the needy with targeted training and employment assistance. The Labour and Welfare Bureau will actively follow up the recommendations of the Commission on Poverty in concert with other relevant departments and organizations. We will explore how to provide quality and effective "one-stop shop" training and

employment services, and encourage those with abilities to work to move from "welfare to self-reliance". Moreover, the ERB is conducting a strategic review on its current operation and scope of services as well as its future role and responsibilities. The review will also cover the use of the levy. The Government will carefully consider the recommendations of the Commission on Poverty and the outcome of the review, and discuss with the ERB when and how the levy collected from employers of FDHs should be used.

- (c) To maintain its economic vibrancy and competitiveness, Hong Kong must possess quality human resources. While the economic situation has improved in recent years, we still face problems of economic restructuring and manpower mismatch. The Government needs to ensure that the local workforce receives suitable training and retraining in order to enhance their employability and equip them to rise to the challenges arising from a knowledge-based economy. The Government, therefore, considers that there is a need to maintain the existing arrangement of collecting the levy from employers of FDHs, and that it would not be appropriate to reduce the levy amount. This will help ensure the stable and sustainable development of our training and retraining services.

MRS SELINA CHOW (in Cantonese): *President, first of all, I must say that back in 2003, the Liberal Party actively supported the collection of the levy by the Government for training and retraining purposes. But the Secretary's main reply today is very disappointing to me. He said in part (b) of the main reply that studies on the use of the levy are conducted only now. I do not understand at all why this can happen.*

The levy has been collected since 2003, and were it not for the judicial review, the levy should have been put to use already. Can the Secretary explain to us why only now studies are conducted on how the levy should be utilized, instead of telling us in detail how the levy has been used, such that we can monitor whether or not the authorities have used the levy appropriately?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, first of all, I thank the Liberal Party very much for supporting the Government's decision to collect the levy a few years ago.

I wish to emphasize that over the past couple of years, we have actually faced a great challenge. Why? Because after the collection of the levy had been endorsed, a judicial review was filed, and I think Members may be aware of this. Before the uncertainties revolving around the judicial review are cleared, it is inappropriate to utilize the levy or to plan on its use. No doubt the situation has been changing and the picture has become clearer now and so, we have decided that a dual-track approach be adopted with the ERB conducting a holistic review in tandem with the latest recommendations made by the Commission on Poverty.

The ERB has already commenced the review. We expect the Executive Director of the ERB to submit the recommendations to the ERB at around the end of the year, and the ERB, after discussion, will submit the recommendations to the Government. We hope to map out comprehensive plans having regard to the series of recommendations of the Commission on Poverty, rather than making plans in a fragmentary manner.

As Members may know, the Labour and Welfare Bureau is set up precisely with the objective of improving the work of the Government in respect of employment, training and manpower development and providing "one-stop shop" services, and in particular, enhancing the competitiveness of Hong Kong and providing assistance to grassroots workers by implementing measures to encourage and promote employment. So, I think we fully appreciate the views expressed by Mrs Selina CHOW earlier. But I can reassure Mrs Selina CHOW that we will work in accordance with the timetable and we hope that the levy can be utilized effectively to serve useful purposes as soon as possible after results came out of the review.

PRESIDENT (in Cantonese): A total of 15 Members are waiting to ask supplementary questions. I would like to tell Members that this is a record. Will Members who have the opportunity to ask supplementary questions please be as concise as possible.

MR JEFFREY LAM (in Cantonese): *When taking questions relating to employers, it always seems that the Secretary has not answered the question even though he has given a reply. I hope that he can change a little bit or even shift his affection to the other side, rather than just falling for the side to which he was attached before.*

In his main reply the Secretary said that the levy revenue has already accumulated to \$3.2 billion but no plan has yet been made on its use. Since he has yet made any plan on how it will be used, may I ask whether the collection of the levy can be suspended or even abolished?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): With regard to Mr LAM's supplementary question, I wish to emphasize that firstly, I am a very, very fair person, and I am absolutely unbiased. I am walking on a balance beam, as I will take care of the interests of both sides, and this is also the most important thing that I must do as an official of the Labour and Welfare Bureau, that is, I must be impartial, just, open and fair.

Mr LAM's supplementary question was about whether or not we can stop collecting the levy. The crux of the question is that we are now poised to take off. Why do I say so? Because we will have a very important review, a strategic review. As I said earlier, we must have regard to the cause of poverty alleviation, but I would also like to share with Members some statistics. As some people may not know, with regard to the current unemployment rate of 4.3%, does it show an improvement of the employment situation of low-skilled workers? Judging by the figures, 4.3% is the overall unemployment rate but the unemployment rate of low-skilled workers is 6.7% whereas that of workers with tertiary education is 2.3%, which means that polarization is still very serious.

Another problem is that there are at least 155 500 unemployed workers, and this is the latest figure. Some 90 000 of them are below the age of 30 whom the ERB is unable to take care of. As we all know, the threshold of ERB services is basically set at unemployed workers aged 30 with educational attainment below Secondary Three. In order to truly and strategically upgrade the skills of the unemployed and enhance their competitiveness in Hong Kong and promote employment, they must be properly equipped. If this age threshold is changed in the future, the number of workers who will benefit from the service will increase by many folds, and the pressure will be enormous. Therefore, I must stress that I hope Members can look at this with an open mind at the present stage and give us some room and time to conduct the review.

Moreover, we will study the recommendations of the Commission on Poverty comprehensively, exploring and co-ordinating all channels and means to see how we can facilitate employment effectively. So, I hope that Mr LAM will give us a little time to accomplish this task.

MR JEFFREY LAM (in Cantonese): *President, how much time does the Secretary think he will need.....*

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

MR JEFFREY LAM (in Cantonese): *The Secretary did not tell me whether the levy of \$400 will be abolished. He only said that he needed time to look into it. May I ask how much time he will need? Will he consider abolishing this levy of \$400? The Secretary has not given me an answer.*

PRESIDENT (in Cantonese): I think he has already answered it. But I had better leave it to the Secretary.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): My reply was very clear. I said in the main reply that as we have to map out plans at this stage and we need to do replanning work for many things and also conduct a holistic, strategic study, this arrangement must be maintained and it is inappropriate to make any adjustment to the amount of the levy. This is the position of the Government.

MR WONG KWOK-HING (in Cantonese): *President, unemployment is now very serious among middle-age women with low educational attainment, and the problem of working poverty is also alarming. Many women have told us that it is not easy to find even a job as a domestic helper, and the statutory "418" requirement has deprived them of protection. So, may I ask the Secretary through you, President, how many people have received retraining from the ERB to be domestic helpers? That is, excluding the number of trainees who have undergone repeated training, how many people have been retrained? How many of them can truly join the labour market? If, according to the Secretary, a strategic study will be conducted, will he further provide assistance to local women or middle-age workers with low educational attainment and make use of this levy to create more employment opportunities? I hope the Secretary can give us a satisfactory answer.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Mr WONG for his question.

The training of domestic helpers is a major area of work of the ERB. In fact, security guards, property attendants and domestic helpers are the job types which account for the largest share of the training programmes.

We do understand and attach great importance to the situation of unemployment among women. The ERB has, through the "competency card" system, issued competency cards to those who have completed professional training for domestic helpers as proof of their job skills. Over 100 000 domestic helpers have been trained, and a large number of them have successfully landed jobs. In general, the rate of successful employment is as high as 80% and so, this is a huge market and we are making vigorous efforts to promote it.

As I said earlier on, apart from looking into its *modus operandi*, the ERB will, in the course of the review, also examine comprehensively the targets of its service as well as the employment prospects of the retrainees, and we will work out comprehensive support measures. So, after the review is completed and having regard to the recommendations made by the Commission on Poverty, we will make holistic, strategic planning, in the hope that the measures taken to promote employment will serve more useful purposes and be more successful.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not answered as to how the levy will be properly utilized.*

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

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, in order to put the levy to good use, two levels of work are involved. On the first level, we hope to truly equip the trainees, so that they can acquire a job skill. Let me cite a simple example. At present, the training of domestic helpers is very modernized and our trainees are trained in a simulated five-star hotel environment, which means that apart from equipping them to take up jobs as domestic helpers, they can also work as room attendants or cleansing workers

in hotels. In other words, they have reached a certain standard and they have the flexibility for horizontal development in the job market and to change jobs.

The second level is that employers must be willing to employ these trainees and offer them jobs. I always stress that insofar as employment is concerned, continued employment is most important, and short-term opportunities are undesirable. This is why I said that the measures must serve useful purposes, so that the trainees can work in their posts continuously and upgrade their skills continuously. Only in this way can workers be truly helped in employment.

MR SIN CHUNG-KAI (in Cantonese): *President, unlike the Liberal Party, the Democratic Party did not support the collection of the levy by the Government back then, for we considered the levy somewhat discriminatory.*

Anyhow, since the Government started collecting the levy, we have given the Government four years' time, as it has been four years since 2003. I wish to point out that all governments must strictly refrain from levying harsh and onerous taxes on the people. The Government has a surplus of over \$50 billion this year. In fact, the levy has only been accumulated, not put to any use at all. Should the Government not abolish the levy now? Although the Secretary has explained the Government's position in his reply earlier, will the Government reconsider abolishing this levy?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, I have actually answered Mr SIN's question earlier on. Our position is clear, and for the reasons mentioned by me earlier, such as the fact that a strategic study is underway, the recommendations made by the Commission on Poverty, and the need to make overall planning, we must carry out all the work as a package. However, we will consider the opinions voiced by Members.

I must stress that obviously there is a need to maintain the existing arrangement and it is inappropriate to make any adjustment.

MR SIN CHUNG-KAI (in Cantonese): *I asked my supplementary question earlier out of the consideration of such a huge surplus in the Treasury. The Secretary mentioned training in his reply but did not mention such a huge surplus*

amassed by the Government. My supplementary question is this: Will the Government, in view of such a huge surplus, reconsider abolishing the levy, rather than focusing on training strategies as mentioned by the Secretary earlier? In fact, when the Government is rich, it is unnecessary to collect the levy.....

PRESIDENT (in Cantonese): Mr SIN, you have already stated your follow-up question and that will do. I hope that a few more Members can ask questions. Secretary, do you have anything to add?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, I have nothing to add. I only wish to say that the levy and the Government's financial position are two different matters, because this levy of \$400 already existed when foreign labour was imported in 1992, and all the employers of imported workers involved in the construction of the New Airport had paid this levy. We only require all employers of imported low-skilled workers, disregarding the forms of employment, to share the responsibility for retraining local employees, thereby upgrading the competitiveness and standards of the local workforce. This is a major principle.

MS MIRIAM LAU (in Cantonese): *May I ask the Secretary whether this \$3.2 billion is now kept in the Treasury or the Employees Retraining Fund? Besides, \$3.2 billion is a lot of money. Has it been used for investment purposes? How much is the return of investment? If no investment has been made, what is the reason for that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): This sum of money is kept in the Employees Retraining Fund, not in the Treasury. The ERB has handled the Fund very carefully. The money is deposited in the bank to earn a stable rate of return from interest. So far, an interest return of \$175 million has been yielded and together with the levy which now amounts to \$3.26 billion, actually over \$3.3 billion has been accumulated. We must utilize this sum of money with great care.

In conducting the strategic review, we will consider how further investments can be made in future, and this is also one of the details that must be considered.

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

MR HOWARD YOUNG (in Cantonese): *Madam President, as the Deputy Chairman of the Liberal Party said earlier on, we support the collection of the levy, but it does not mean that we support the Government accumulating the money. Although the Secretary said that a review would be conducted, the review may be time-consuming. May I ask whether a few essential areas of work can be chosen right away, before the completion of the review, in order to broaden the coverage? Otherwise, it would be meaningless only to accumulate the money.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Madam President, I thank Mr YOUNG for his suggestion. We will certainly utilize this sum of money with a focused approach to ensure that useful purposes can be served, rather than just accumulating the money, and it is, after all, not our objective to keep on accumulating the money. As Members may understand, what has happened to the levy is most unfortunate and beyond our control. It is all due to the objective circumstances, as a court case is involved and many obstacles have thus emerged, that we are prevented from putting this sum of money to use.

Now that we are given a little bit of time to reposition ourselves and make planning. This may not necessarily be a bad thing.

PRESIDENT (in Cantonese): Last oral question.

Cabin Crash Incident of Ngong Ping Skyrail

6. **MR JEFFREY LAM** (in Cantonese): *Madam President, exactly one month has passed since the cabin crash incident of the Ngong Ping Skyrail. In this connection, will the Government inform this Council:*

- (a) *of the work progress of the Expert Panel appointed by the Government, including the progress in identifying the causes of the incident and the date to submit the report; as well as the estimated time when the Skyrail service can resume;*

- (b) *whether it has estimated the losses suffered by the local tourism industry and the commercial tenants of the Ngong Ping Village since the suspension of the Skyrail service; if it has, of the amount of losses; and*
- (c) *what improvement works have been carried out by the Skyrail operator and what measures the operator has put in place to restore the confidence of the public and tourists in taking the Skyrail?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Madam President, I will first reply to part (a) and (c) of Mr LAM's question.

(a) and (c)

The Government takes a very serious view of the incident of the falling of a cabin of Ngong Ping Skyrail on 11 June 2007. After the incident, the Electrical and Mechanical Services Department (EMSD) immediately ordered the MTR Corporation Limited (MTRCL) to investigate into the incident, conduct a comprehensive review and then submit a report. The MTRCL also set up an investigation team and invited overseas cableway consultants to render professional assistance in and advice on the investigation, including the operation, design, maintenance and management of the cable car system. The MTRCL will submit a report to the EMSD. The MTRCL has pledged to conduct the investigation in a serious and professional manner and will strive to restore public confidence in the cable car system.

At the same time, the Government appointed on 15 June 2007 an Expert Panel, led by independent overseas experts, to investigate into the cause of the incident, and also to recommend proposals for enhancing the safety of Ngong Ping Skyrail's operation. Two internationally renowned experts in ropeways have been appointed as the Panel Chairman and Vice-chairman respectively to conduct the investigation jointly with the EMSD. The investigation is progressing well. The Expert Panel has completed site inspection of the damaged cable, ropes and braking system, and is conducting a

detailed analysis of the data and information collected (including computer records). The Expert Panel's report is expected to be available in or before September 2007. As the investigation is now underway, it is not appropriate to speculate on the cause of the incident at the present stage.

The Government will carefully consider the respective reports of the Expert Panel and the MTRCL, and, having regard to the cause of the incident, formulate the necessary remedial and improvement measures. Thereafter, the cable car system will be tested and its safe operation certified by an independent surveyor of the MTRCL. Only after its safety and reliability have been confirmed will the EMSD allow the Ngong Ping Skyrail to resume its service, so as to ensure the safety of the passengers and the general public.

The safety of the Ngong Ping Skyrail has always been our top priority. As the investigation by the Government's Expert Panel is now underway, it is not appropriate to estimate when the cable car service can resume at this stage. We will however continue with our work to promote Ngong Ping Village and the neighbouring attractions, with a view to preparing for the reopening of the cableway.

- (b) I now reply to part (b) of Mr LAM's question. While the initial operation of the Ngong Ping Skyrail was not entirely smooth, subsequent improvements were made in light of experience. Before the incident, this tourism attraction was very well received by visitors and recorded more than 1.5 million passengers during the nine-month operation period, which exceeded the average visitation of 1 million per year to the Giant Buddha. Before resumption of the cable car service, the tenants of Ngong Ping Village would certainly suffer, though we are not able to estimate the financial loss. The MTRCL has been liaising closely with the tenants and providing assistance to them, with a view to minimizing their loss. Measures include waiving the rental for the tenants during the suspension period, and working with the New Lantao Bus Company Limited (NLB) to provide connecting transport arrangement for staff working in the Village.

At the same time, the Government and the Hong Kong Tourism Board (HKTB), the travel trade, the MTRCL and Skyrail have actively discussed how to continuously attract visitors to the Ngong Ping Village. Measures which have been implemented at present include:

- (i) Skyrail offers to visitors concessionary rides on the MTR and the NLB;
- (ii) Skyrail offers to travel agents special packages including free admission to the Monkey's Tale Theatre for group visitors;
- (iii) Skyrail provides free shuttle service plying between Ngong Ping Village and Po Lin Monastery;
- (iv) most shops and restaurants in Ngong Ping Village offer various concessions;
- (v) Ngong Ping Village organizes special programmes to attract visitors, for example, carnival parades and street performance, in addition to the existing Chinese acrobatic displays and tea cultural feature performance; and
- (vi) The HKTB will, through various channels, promote to the travel trade Ngong Ping Village and itineraries covering other attractions in the vicinity, including the Giant Buddha, Po Lin Monastery, Wisdom Path, Tai O, Mui Wo, and so on.

In addition, the MTRCL and Skyrail plan to launch more concessions and activities to step up its support for the tenants and promotion of the Ngong Ping Village. These will be announced once confirmed and the HKTB will assist in promoting the incentives.

Hong Kong enjoys rich and diverse tourism assets, and Ngong Ping 360 is one of our wide array of attractions. After the incident, the HKTB and the travel trade have immediately adjusted the related promotion activities and itineraries of visitors. As a whole, it is believed that the cable car incident will not have long lasting impact on the tourism of Hong Kong. The Government, the HKTB and

the travel trade industry will continue to work together to step up efforts to promote and publicize Hong Kong, enhance the appeal of our tourist attractions and upgrade the service standard of the travel trade industry, so as to maintain Hong Kong's position as Asia's World City and facilitate the steady growth of the tourism and related trades.

MR JEFFREY LAM (in Cantonese): *Madam President, the Secretary mentioned in his reply that the investigation would cover the management of the cable car system. The Secretary should be aware by now that many members of the public in Hong Kong have lost confidence in the Skyrail. Some members of the public and even some visitors said that even if the cable car system resumed operation, they might not dare take a ride on it. Moreover, the former Secretary, Mr Stephen IP, also said that he would not rule out the possibility of replacing the management of the Skyrail. May I ask the Secretary if the Government, as the major shareholder of the MTRCL, has considered the termination or early termination of its contract with the Skyrail or the replacement of the existing management?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Mr LAM, as I said just now, safety is our prime concern. At the present stage, we will not speculate on the causes of the incident, however, we will not rule out the possibility of taking any further action. All will depend on the outcome of the investigation. If it is found that the incident has to do with the management and operation of the cable car company or the arrangements relating to repairs and maintenance made by the cable car company, the Government will deal with this in accordance with the law.

PRESIDENT (in Cantonese): A total of 11 Members are waiting in the hope of asking supplementaries.

MR WONG TING-KWONG (in Cantonese): *Since the opening of the Ngong Ping 360, the facts have shown that it has become a fairly popular and important component of the tourism infrastructure in Hong Kong. Unfortunately, throughout this period, the company operating the Skyrail service frequently*

made one mistake or another that finally cumulated in the present suspension of the cable car service. May I ask the Government if it has calculated the approximate loss resulting from the suspension of the cable car service? Will the cable car company assume responsibility for the loss?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): In fact, loss can be considered in a number of ways. Firstly, in terms of tourism, some visitors to Hong Kong will not have the opportunity to take a ride on the Ngong Ping Skyrail and that is a loss for Hong Kong. However, I do not think any visitor would come to Hong Kong for the sole purpose of taking the Ngong Ping Skyrail because there are also many other scenic spots for them to visit. From this angle, the financial loss is probably slight.

I also pointed out in the main reply just now that the commercial tenants are also suffering losses. I went there to talk with the commercial tenants on Sunday and it is undeniable that their business has been seriously affected. Although the MTRCL has taken many relief measures, frankly speaking, the number of people who went there was far lower than it would otherwise be on Sundays. That is one kind of loss. Of course, the MTRCL and the operator of the cable car system are also suffering losses because they do not have any income.

Therefore, from several perspectives, this incident involving the cable car system has indeed led to a series of losses, however, I believe it is difficult to quantify the actual amount of loss. However, precisely for these reasons, the Government hopes that the causes of the incident can be identified as soon as possible and it will examine what remedial measures should be taken.

MR ANDREW LEUNG (in Cantonese): *The Secretary said just now that the Expert Panel's report was expected to be available only in mid-September. This means that the cable car may not be able to resume operation in the next two or three months. In fact, for several months prior to this incident, the commercial tenants could not make any profit and they managed only to cover their costs. At present, there is no customer and even though the Government has done a great deal to contain the damage, that is by no means enough to..... even though their rental has been waived, the commercial tenants still have to bear all kinds*

of costs such as utility bills (if Members are involved in doing business, they will understand). In view of this, has the MTRCL ever engaged them in thorough discussions on a compensation package? Since there are three months to go before the cable car can resume operation, many commercial tenants have said that they could not hold out for three months and some owners of small and medium enterprises even said that they would be better off to wind up their businesses. In view of this, has the MTRCL had direct discussions with them concerning a compensation package?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Mr LEUNG, first, as I said in the main reply, we hope that the report will be available in September or earlier. In fact, we also hope that the Expert Panel will complete its work as soon as possible, however, their work must be comprehensive and thoroughgoing, so we will not push them. In this way, it is hoped that they will prepare a very comprehensive report to enable the Government to understand the actual situation.

As regards the commercial tenants, as I have said, I also understand that their businesses are suffering losses. As far as I know, since contractual relationships exist between the MTRCL and the commercial tenants, there is a great deal of communication between them. When I talked with the commercial tenants on Sunday, they also fully understood why the cable car could not resume operation before the investigation had been completed. I believe the MTRCL will continue to communicate with them to see how they can be assisted.

MR FRED LI (in Cantonese): *President, after the incident on 11 June, the person-in-charge of the Skyrail came out quickly to say that the incident had nothing to do with the operation and this apparently implied that the cable car or the weather was to blame; that all in all, this incident had nothing to do with management. However, at that time, no investigation had yet been launched. Subsequently, representatives of the MTRCL said in a special meeting of the Economic Affairs Panel of the Legislative Council that they were satisfied with the performance of the Skyrail. That was the direct reply given by them. Could the Secretary tell us if the scope of the investigation carried out by the experts will cover the role of the Skyrail in operation and its performance? This is because when reading your report, I found that apparently, the party that will undertake the work in this regard was the MTRCL, whereas you have*

commissioned experts to look at the technical aspect. Since the MTRCL and the Skyrail have entered into a contract, we are concerned that the Skyrail and the MTRCL will protect each other. In view of this, how can the Secretary ensure that the investigation will be fair and impartial and let us see that it is credible?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Concerning Mr LI's supplementary, the report of the Expert Panel will cover all aspects and it definitely will not look at just a single aspect. As I said just now, the investigation will cover various aspects such as the entire cable car system and its operation. Therefore, Members can rest assured because our investigation will cover all aspects.

MR DANIEL LAM (in Cantonese): *President, the Secretary said that the investigation report would be available only in mid-September. Can the Secretary tell us whether this means that after the authorities have considered the report carefully, the cable car service will resume in September or later? When will the service resume?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Madam President, as I said just now, when we said that the report would be completed in September or earlier, it was implied that it would be completed in September at the latest. However, we cannot tell those experts to hurry up for fear that their report would not be comprehensive enough due to the time constraint. We have to investigate this matter thoroughly. I will not rule out the possibility that the report can be completed before the end of September, however, all of us understand that safety is the top priority and we hope that the report submitted to us by the experts will be a very thorough one. I hope Members will understand.

MR CHAN KAM-LAM (in Cantonese): *President, we also noticed the problems that occurred since the inauguration of the Ngong Ping 360. Recently, in Taiwan, a cable car system of a similar model also commenced operation and major problems also occurred on the first day. May I know if the Government will investigate the safety issues involved and the degree of safety in continuing to operate this kind of cable cars in Hong Kong when investigating this accident?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): In response to the supplementary raised by Mr CHAN, the experts will conduct a comprehensive review to examine all the issues mentioned by Mr CHAN just now.

MS EMILY LAU (in Cantonese): *President, the Secretary said that the MTRCL had promised to handle this matter in an earnest and professional manner in order to do its utmost to restore public confidence in the cable car system. When this incident happened in June, many members of the public were shocked. They wondered how it was possible for an entire cable car cabin to fall down. They were very scared. May I ask if the Secretary has any idea of how to restore public confidence in the future? Has he looked at overseas examples to see if there was any instance of an entire cable car cabin falling down, which is what happened in our case? How was public confidence subsequently restored in those countries? Will the Secretary and the Chief Executive take the cable car together? How can we instil confidence in the public, so that they will have the courage to take the cable car again?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I can promise Members for sure that on the day the cable car resumes operation, I will be the first one to take it. *(Laughter)*

Concerning the restoration of confidence, frankly speaking, it is necessary for the public to know everything about this incident, therefore, our report will be a fairly thoroughgoing one. We will then make announcements to the public to explain why this incident happened. In this way, the public will have confidence in taking the cable car. Furthermore, if we want to instil confidence in the general public, it is of course necessary to launch a publicity drive and let the public know what improvements measures we have taken. We will definitely undertake the work in these several aspects then. Therefore, after the investigation report has been published, we will see what follow-up actions should be taken and plan our next step of work accordingly.

MS EMILY LAU (in Cantonese): *President, the Secretary did not reply as to whether he has made reference to overseas experience and whether there was any horrifying instance like ours in which the entire cable car cable fell down. After the cable car system had been fixed, what did they do to restore public confidence?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): The Chairman and Vice-chairman appointed by the Government are both from overseas and they have quite a lot of professional knowledge of ropeway systems, therefore, I believe they will definitely make reference to overseas experience.

PRESIDENT (in Cantonese): We have spent more than 18 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Arrangements for 2008 Legislative Council Election

7. **DR PHILIP WONG** (in Chinese): *President, with the business relationship between Hong Kong and the Mainland growing increasingly closer, many members of the public may often have to work outside Hong Kong for a short period of time. On the other hand, in the service-based economy of Hong Kong, quite a number of people have to work on Sundays. In this connection, will the Government inform this Council whether it will introduce new measures (such as advance polling arrangement) in the 2008 Legislative Council Election, to facilitate electors who are not in Hong Kong or cannot find time to cast their votes on the election day in exercising their voting right; if it will, of the relevant details; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): President, in the Legislative Council (Amendment) Bill 1999, the Administration proposed to introduce a pilot scheme of advance polling arrangements for the 2000 Legislative Council Election. Under the proposed arrangements, an advance polling day would be specified before the general polling day. Electors who could not vote on the general polling day could cast their votes on the advance polling day at a specified polling station. However, some Legislative Council Members pointed out that if the results of exit polls conducted on the advance polling day were released by polling agencies or the media before the general polling day, such results might affect electors' voting behaviour on the general polling day, and might hamper the fairness of the election.

All along, through its guidelines on election-related activities, the Electoral Affairs Commission (EAC) has been appealing to the media and

relevant organizations not to release exit poll results before the close of poll on the general polling day. In case the media or relevant organizations do not comply with these guidelines, the EAC may make a reprimand or censure in a public statement. There were views that if advance polling arrangements were to be introduced, given the relatively long period between the advance polling day and the general polling day, the current practice of appealing through the guidelines might not be adequate to ensure that exit poll results would not be released by the relevant organizations before the close of poll on the general polling day. In order to ensure fairness in the election, there were suggestions that legislation should be introduced to prohibit the release of exit poll results before the close of poll on the general polling day. However, there were opinions that such a legislative proposal might violate the principle of freedom of expression. After considering the views of Members, we agreed that as such an important issue could not be resolved, advance polling arrangements should not be introduced in the 2000 Legislative Council Election.

As to whether the introduction of advance polling arrangements could be considered for the 2008 Legislative Council Election, the question of how to prevent the release of exit poll results before the close of poll on the general polling day remains unresolved. Since our primary concern is to ensure that the election is conducted in a fair and just manner, we do not consider it appropriate to introduce advance polling arrangements in the 2008 Legislative Council Election before this critical problem is resolved satisfactorily.

At present, the polling date of the Legislative Council election is normally announced about half a year before the polling day in order to help electors plan their time to cast their votes. Polling is also conducted on a Sunday, on which more electors do not have to work. In addition, polling is conducted from 7.30 am to 10.30 pm. These arrangements would help electors make their arrangements to participate in voting on the polling day.

Within our objective to ensure that elections would be conducted in a fair, open and just manner, we will continue to improve the electoral arrangements, in order to help electors exercise their right to vote and fulfil their civic obligations.

Private Roads Within Private Housing Estates

8. **DR DAVID LI:** *President, will the Government inform this Council:*

- (a) *of the names of the private housing estates in Hong Kong having, within their boundaries, private roads the total length of which*

exceeds 3 km, together with the total length of private roads within each of these estates; and

- (b) *whether the police are authorized to enforce the provisions in the Road Traffic Ordinance (the Ordinance) (Cap. 374) on these roads?*

SECRETARY FOR TRANSPORT AND HOUSING: President,

- (a) According to available information, private housing developments in Hong Kong with private roads of a total length of more than 3 km within their boundaries, and their respective lengths, are as follows:

<i>Private Housing Development</i>	<i>Approximate Length of Private Roads (km)</i>
Fairview Park, Yuen Long	25.7
Palm Springs, Yuen Long	6.1
Royal Palms, Yuen Long	5.1
Hong Lok Yuen, Tai Po	9.0
Discovery Bay, Lantau	14.0

- (b) A number of provisions in the Ordinance apply to private roads as they similarly apply to public roads. Section 117 of the Ordinance sets out the specific sections that equally apply to private roads. The police can take enforcement actions in respect of traffic offences committed on private roads under these sections, which cover safety-related offences including, but not limited to, careless driving, speeding, dangerous driving, dangerous driving causing death and drink driving. Apart from that, section 118 of the Ordinance further stipulates that unless otherwise specified, all regulations made under the Ordinance (except those relating to parking) shall apply to private roads.

Under the Road Traffic (Parking on Private Roads) Regulations (Cap. 374O), the owners of private roads are empowered to impound and/or tow away any vehicle that fails to be parked properly in designated areas of the private roads. Under section 4 of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237), the police can also take enforcement action against vehicles left standing on private roads which cause unnecessary obstruction or danger to other persons using the road.

Civil Service Disciplinary Mechanism and Procedures

9. **MR TAM YIU-CHUNG** (in Chinese): *President, regarding the civil service disciplinary mechanism and procedures, will the Government inform this Council:*

- (a) *whether civil servants being alleged of misconduct (hereinafter as "the officers concerned") bear the burden of proving their innocence in formal and informal disciplinary proceedings;*
- (b) *whether the officers concerned have the right to request the management to let them peruse all information in relation to their alleged misconduct, including letters of complaint with the complainants' names and other personal particulars obliterated, so that they can grasp all the facts relevant to the allegations and make full preparation for their defence; if not, of the justifications;*
- (c) *whether the management is obliged to disclose to the officers concerned all the evidence relevant to the allegations (including evidence for or against them), and whether the officers concerned are given sufficient opportunities to defend themselves; if not, of the reasons for that; and*
- (d) *of the criteria adopted by the management for determining whether a particular case should be referred to the police for criminal investigation?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): President, our reply to the four-part question is summed up as follows.

According to the civil service disciplinary procedures, it is the duty of the departmental management to substantiate the alleged misconduct with evidence and to provide the officer concerned with adequate opportunity to defend his case. The officer, on the other hand, has the right to defend himself or furnish justifications to support his claim of innocence to the departmental management.

The officer concerned has the right to ask the departmental management for the materials related to his alleged misconduct. For summary disciplinary action, the departmental management will disclose as appropriate to the officer concerned the relevant materials in support of the disciplinary charge(s) made

against him, so as to facilitate the making of his own defence. Where disciplinary proceedings are instituted under the Public Service (Administration) Order, the officer concerned will be provided, at least 14 calendar days before the hearing, with the evidence to be used in support of the disciplinary charge(s) made against him, together with a list of proposed witnesses to be called. In the hearing, the officer may put up a defence or produce evidence before an independent inquiry officer or committee appointed to conduct the disciplinary hearing. He also has the right to question the management's witnesses, to call his own witnesses, to present evidence and to make statements, and so on.

If a disciplinary case reveals suspected crime, the departmental management will refer the case to the Independent Commission Against Corruption or the Hong Kong Police Force for follow-up action.

Investigations Conducted by SFC

10. **MR ALBERT HO** (in Chinese): *President, will the Government provide a breakdown of the cases on which the Securities and Futures Commission (SFC) completed inquiries or investigations in each of the past five financial years by the following:*

- (a) *the types of individuals/corporations (for example, various types of intermediaries conducting regulated activities, listed companies, officers-in-charge of listed companies, and so on) who/which were the subjects of the inquiries or investigations; and*
- (b) *the non-statutory requirements or the provisions of the Securities and Futures Ordinance (Cap. 571) (SFO) concerned in respect of the suspected misconduct under the SFC's inquiry or investigation?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, according to the SFC, the statistics on completed inquiries or investigations in the past five financial years as far as they are available are set out below:

- (a) Breakdown of cases relating to intermediaries, listed companies and their directors and key officers who/which were the subjects of the inquiries or investigations (Table 1)

	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
1. Securities Dealers/ Representatives	96	57	77	65	69
2. Investment Advisers	4	8	14	11	18
3. Futures Contract Traders	2	6	10	10	9
4. Leveraged Foreign Exchange Traders	5	2	6	7	9
5. Listed Companies, Their Directors and Key Officers	15	16	32	38	44
Total	122	89	139	131	149

- (b) Breakdown of entities relating to breaching non-statutory requirements or the provisions of the SFO (Table 2)

	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
1. Number of licensees disciplined for breaching Code of Conduct requirements (Note)	86	78	78	98	80
2. Number of licensees successfully prosecuted for breaching SFO provisions (Note)	0	2	24	11	20
3. Number of listed companies, their directors and key officers successfully prosecuted/found liable for breaching provisions of the SFO	8	0	13	10	15
Total	94	80	115	119	115

Note - The statistics contained in Table 2 refer to those substantiated cases out of Table 1. These statistics are shown by entity and there could be several entities involved per case as recorded above.

The aggregate totals in both tables do not include cases concerning disclosure of interests and market manipulation, which are not readily available.

Pregnancy Discrimination in Employment

11. **MR ABRAHAM SHEK:** *President, it has been reported that there was a tremendous increase in the number of cases of pregnancy discrimination in employment last year. Rather than being dismissed, pregnant employees were advised to resign or forced to resign by being transferred to work in a poor environment or given extra workload. In this connection, will the Government inform this Council whether:*

- (a) it knows the total number of complaints of alleged pregnancy discrimination received by the authorities concerned from January 2006 to May 2007;*
- (b) it will consider raising the penalty for breaching the relevant legislation in order to enhance the deterrent effect against pregnancy discrimination; and*
- (c) the authorities concerned will step up public education concerning pregnancy discrimination and alleged discriminatory acts?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS:
President,

- (a) According to the Equal Opportunities Commission (EOC) which is responsible for investigating complaints of alleged pregnancy discrimination, 167 of such complaints were received during the period from January 2006 to May 2007 (with 115 complaints in 2006 and 52 complaints in the first five months of 2007).
- (b) Under the Sex Discrimination Ordinance and the Family Status Discrimination Ordinance, the remedies for victims of discrimination are mainly civil in nature. Hence, the question of increasing the statutory penalties under these Ordinances as a deterrent against pregnancy discrimination does not arise.
- (c) The EOC has been taking proactive steps in promoting public awareness against discrimination, including discrimination on the ground of pregnancy discrimination. Since January 2006, it has produced a television drama-documentary, staged drama performances and published a number of articles in newspapers and in the EOC's own newsletter. These drama productions and

written articles all focused specifically on pregnancy discrimination. During the same period, it has also organized a total of 230 workshops and briefings for various organizations on subjects relating to the existing anti-discrimination ordinances. Where appropriate, the themes of some of these workshops and briefings also cover pregnancy discrimination. The EOC will continue to adopt a multi-pronged approach in eliminating pregnancy discrimination through education and promotion, complaints investigation and conciliation, and providing legal assistance if necessary.

Youth Mental Health Problems

12. **DR FERNANDO CHEUNG** (in Chinese): *President, regarding the mental health problems of children and youths (C&Ys) aged 19 or below, will the Government inform this Council whether it knows:*

- (a) *the following in each of the past six years:*
 - (i) *the respective numbers of C&Ys aged five or below, six to 12 and 13 to 19, who sought consultation at the psychiatric specialist out-patient service of public hospitals, and the respective numbers of the C&Ys diagnosed as suffering from mental health problems;*
 - (ii) *the respective numbers of attendances of new cases seeking psychiatric specialist out-patient services for C&Ys in each hospital cluster, the average waiting time and attendances for first appointment and scheduled appointments (including urgent and non-urgent cases), and the percentage of C&Ys who did not turn up for follow-up consultations;*
 - (iii) *the respective numbers of admissions of C&Ys to mental hospitals, half-way houses, supported hostels and long-stay care homes;*
 - (iv) *the respective numbers of doctors and clinical psychologists working in psychiatric out-patient clinics of public hospitals and mental hospitals at the end of the year, and a comparison of the number of cases for treating C&Ys and adults suffering from various mental illnesses;*

- (v) *the number of cases handled by school social workers involving mental health problems of C&Ys, with a breakdown of the cases by the types of disorder behaviour or illnesses (such as suicide, attempted suicide, depression, phobia, Internet addiction and other types of addictive behaviour, and psychosis); and*
- (b) *the number of cases handled under the Child and Adolescent Mental Health Community Support Project, the number of psycho-educational activities held and the number of counselling sessions provided, in each of the past two years?*

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

- (a) (i) In each of the past six years, the number of out-patients seen by specialists on child and adolescent psychiatry of the Hospital Authority (HA), as broken down by age groups of five and below, six to 12, and 13 to 19 respectively, is given in the table below:

<i>Age</i>	<i>2001-2002</i>	<i>2002-2003</i>	<i>2003-2004</i>	<i>2004-2005</i>	<i>2005-2006</i>	<i>2006-2007</i>
0-5	833	903	882	899	899	873
6-12	3 094	3 539	3 552	3 942	4 329	4 840
13-19	3 528	3 952	3 971	4 185	4 425	4 673

The number of patients within the age groups of six to 12 and 13 to 19 has increased in recent years. This can be attributed to new programmes on child and adolescent mental health services (for example, the Early Assessment Service for Young People with Psychosis) offered by the HA and Social Welfare Department (SWD). These programmes facilitate the early identification of mental illness suffered by children and adolescents, so as to allow early intervention by parents and social workers and referrals of those in need of medical attention to the HA for follow-up by specialists on child and adolescent psychiatry. The HA is therefore of the view that the increase in the number of young psychiatric patients can be attributed to an improvement to the rate of identification of mental health problems among children and adolescents.

- (ii) The HA does not have a breakdown of the waiting time for first appointment at its psychiatric specialist out-patient clinics by the age of the patients. The overall number of patients with first consultations in each of the past six years as well as the median of their waiting time are set out in the table below:

	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
Number of patients with first consultations	32 097	35 523	31 421	35 288	36 216	35 380
Waiting time (week)	3	4	4	5	4	5

The medical staff of the HA arrange for date of follow-up consultations on the basis of the patients' clinical conditions. It does not involve any "waiting time".

The HA does not have a breakdown of the default rate (that is, the proportion of cases where the patients failed to attend their appointed consultation) of psychiatric patients by their age. The overall default rate of psychiatric out-patients in each of the past six years is given in the table below:

	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
Default rate	12.4%	12.2%	13.2%	12.3%	11.9%	12.1%

For the default cases, the psychiatric specialist out-patient clinics will, depending on the situation, proactively contact and follow up the patients, so as to ensure that they would follow the schedule and receive treatment.

- (iii) The number of discharges of young psychiatric patients (that is, those 19 years of age or below) from public hospitals in each of the past six years is set out in the table below:

	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
Number of discharges	747	895	992	1 295	1 245	1 001

The HA is of the view that the increase in the number of young psychiatric in-patients in recent years can be attributed to newly added services on child and adolescent mental health.

Mental health patients in rehabilitation who would like benefit from subsidized residential services of the SWD have to be 15 years of age or above. In each of the past six years, the respective number of mental health patients in rehabilitation, who were between 15 and 19 years of age and admitted to half-way houses, supported hostels and long-stay care homes, is given in the table below:

	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
Supported homes	1	0	0	0	1	1
Half-way houses	13	12	14	6	11	13
Long-stay care homes	2	2	1	1	1	0

- (iv) The HA does not have a breakdown of the manpower of psychiatrists and clinical psychologists by specialist out-patient and in-patient services. The estimated manpower for the HA's child and adolescent psychiatric services is given in the table below:

<i>Cluster</i>	<i>Psychiatrists</i>	<i>Clinical Psychologists</i>
Hong Kong East	0.4	0.4
Hong Kong West	3	0.2
Kowloon East	2.5	0.8
Kowloon Central	-	-
Kowloon West	6.5	2.8
New Territories East	4.75	0.2
New Territories West	3	1
Total:	20.15	5.4

Note: above figures in full-time-equivalent basis. Apart from psychiatrists and clinical psychologists, the provision of children and adolescent psychiatric services also involve other supporting health care staff, including psychiatric nurses, medical social workers and occupational therapists, and so on.

As both the nature and treatment method of the mental illness of young persons are different from that of adults, it is not appropriate to make direct comparison between the number of

such mental illness cases or the health care manpower responsible for them.

- (v) In the past four academic years (that is, 2002-2003 to 2005-2006), the number of primary students diagnosed to have mental problems (for example, depression, schizophrenic psychosis and other mental disorders), as reported to the Education Bureau by the students' counsellors, is as follows:

<i>Academic year</i>	<i>2002-2003</i>	<i>2003-2004</i>	<i>2004-2005</i>	<i>2005-2006</i>
Number of cases	148	142	147	79

The Education Bureau does not have the figures for these cases for the 2000-2001 and 2001-2002 academic years.

As for secondary schools, according to information reported by non-governmental organizations to the existing statistical information system of the SWD between 2002-2003 and 2006-2007, amongst the cases of secondary students handled by school social workers, the number of times such cases involving emotional or psychological health problems was between 21 000 and 26 000 per year. Emotional and psychological health problems encompass various types of emotional, mental, behavioural and interpersonal problems. However, a detailed breakdown is not available from the information collected from the non-governmental organizations. As certain students had emotional and psychological needs at the same time, there was some double-counting in the figures quoted above.

- (b) In order to facilitate the early identification of mild to moderate mental health problems of children and adolescents aged between six and 18, so as to enable the provision of appropriate intervention services, the SWD and the HA's child and adolescent psychiatric team have in collaboration launched the Child and Adolescent Mental Health Community Support Project in late 2005. The Project commenced full operation in April 2006. As at 31 March 2007, the Project handled a total of 686 cases (including counselling and consultation cases) and organized 127 public education

functions (for example, seminars and workshops) on child and adolescent mental health, providing schools, youth centres and other community organizations with relevant consultation services and training. In addition, through collaboration with community organizations and establishment of community support networks, the Project provides child and adolescent mental health patients with appropriate and personalized rehabilitation services as well as training and activities relating to living and vocational skills, so as to help them overcome the adverse impact of mental illness and develop a positive living for their mental health.

Hollow Wooden Doors of PRH Flats

13. **MR LAU KONG-WAH** (in Chinese): *President, in reply to a Member's question, at the Council meeting on 9 October 2002, on replacement of hollow wooden doors of public rental housing (PRH) flats, the Government advised that hollow wooden doors used in 380 000 old PRH flats did not comply with the fire resistance requirements for residential flat doors stipulated in the revised Code of Practice for Fire Resisting Construction issued under the Buildings Ordinance in 1996. The Government planned to replace the flat entrance doors for PRH flats mainly located at "dead ends" of fire escape routes in old PRH estates as well as for some flats sold under the Tenants Purchase Scheme with solid-core doors that could resist fire for at least half an hour, and review the effectiveness of the replacement programme in 12 to 18 months' time. In this connection, will the Government inform this Council:*

- (a) *of the outcome of the above review; and*
- (b) *whether the authorities concerned will consider replacing the hollow wooden doors of the remaining PRH flats, so that the flat entrance doors of all PRH flats will have the same level of fire resistance; if not, of the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): *President, the Housing Authority (HA) commissioned a professional fire consultancy firm in 2002 to assess the overall fire risk of PRH flats completed in or before 1996. The consultancy report found that all the flats met the fire safety standards. To enhance the fire safety level of the flats along one-way fire escapes (also known*

as "dead ends"), the report suggested replacing the hollow core flush doors of these units with solid core flush doors which are more fire resistant. The replacement programme was completed in March 2006. The flush doors of over 100 000 flats along one-way fire escapes were replaced.

To further improve the facilities of old PRH flats, the Housing Department (HD) has earmarked funds to replace the flush doors of other flats on a need basis. Under the HD's ongoing "Total Maintenance Scheme", technical staff will inspect and carry out maintenance works for all PRH flats in Hong Kong. They will check if the facilities in the flats operate properly, including checking whether the flush doors are damaged or dilapidated and therefore require replacement. If replacement is necessary, the HD will arrange for replacing the flush doors of the flats concerned with solid-core ones. The HD will also arrange for replacement with solid-core doors during refurbishment of vacant flats and when it receives requests from residents for replacement of damaged or dilapidated flush doors.

Cross-boundary Heliport

14. **MR LEUNG YIU-CHUNG** (in Chinese): *President, regarding the services and operation of the cross-boundary heliport in Hong Kong, will the Government inform this Council:*

- (a) *of the amount of rental paid by the operator of the above heliport to the Government and the passenger volume of the heliport in each of the past three years, and how such rental level compares with that laid down in the tenancy agreement for the heliport which has come into effect since July this year;*
- (b) *given that in reply to my question at the Council meeting on 2 May this year regarding the granting of tenancy agreement for operating the above heliport and in the reply dated 5 June this year to my letter, the Government pointed out that the Civil Aviation Department (CAD) would monitor the operation and charges of the above heliport operator in accordance with the tenancy agreement to ensure fair and equal access to the heliport by all helicopter service operators, and the arrangement for services of the heliport operator must be to the satisfaction of the CAD, of the details of the relevant agreement terms, the specific criteria for the CAD to*

measure the degree of its satisfaction, as well as details of the relevant monitoring and complaint mechanism;

- (c) *given that the above heliport is currently the only cross-boundary heliport in Hong Kong, of the measures to prevent the single cross-boundary heliport operator from monopolizing the market; and*
- (d) *given that the above heliport is primarily for use by twin-engine helicopters flying between Hong Kong and Macao, and the site earmarked at the Kai Tak Development for the development of a second cross-boundary heliport is not located in the central business district (CBD), whether the Government will identify another site in the CBD, for relocating the heliport at Tamar Site which was closed in 2003, to be used by single-engine helicopters, which represent 85% of the total number of helicopters in the world, in order to provide domestic helicopter services within the territory and helicopter services between Hong Kong and the Pearl River Delta Region; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President,

- (a) In the past three years, the rent paid to the Government by the operator of the cross-boundary heliport at the rooftop of the Sheung Wan Macau Ferry Terminal was 4.5% of the annual ticket revenue of the helicopter service provided at the heliport. Given that ticket revenue is commercially sensitive information, it is not appropriate for the Government Property Agency to disclose the actual rent paid without the consent of the operator. The relevant figures for passenger volume are set out below:

<i>Year</i>	<i>Annual passenger volume</i>
2006	107 114
2005	93 968
2004	106 058

Under the new tenancy agreement that has taken effect since 1 July 2007, the operator shall pay a fixed annual rent of \$1.8 million to the Government in the first five years. For the remaining 13 years,

the rent payable by the operator will base on (i) an annual rent of \$605,000, (ii) 5% of the total revenue of heliport operation, or (iii) the passenger throughput at the heliport (\$800 per passenger), whichever is higher.

- (b) The new tenancy agreement stipulates that the landing and parking charges levied on helicopter service operators proposed by the heliport operator must be reasonable and non-discriminatory. The heliport operator must consult the heliport users and obtain the agreement of the CAD before levying these charges. The tenancy agreement also requires that the heliport operator set the relevant charges based on objective criteria such as the weight of the helicopter and its length of stay at the heliport. The above arrangements should prevent the heliport operator from levying excessive charges.

To promote competition, the new tenancy agreement further stipulates that the heliport operator shall make the services and facilities of the heliport available for use by all helicopter service operators on a fair and equal basis. Helicopter service operators who want to operate at the heliport shall submit their operation plans to the heliport operator prior to commencement of service. The heliport operator must publish details of the plans and arrange for the landing and taking-off of the helicopters concerned on a fair and equal basis. The CAD will follow up any complaint and will decide on whether the arrangements made by the heliport operator are fair and equitable.

- (c) Cross-boundary heliport is an important transportation infrastructure that is open for use by all helicopter service operators. The heliport operator does not have any right to monopolize the use of the heliport. To cater for future demand for cross-boundary helicopter service, the Government has already reserved a site in the Kai Tak Development Area for future construction of the second cross-boundary heliport in the urban area.
- (d) The Central Heliport at Tamar that was decommissioned in 2003 had provided landing facilities for helicopter service operators to operate domestic services. The Government plans to build a government helipad at the north-east corner of the Hong Kong

Convention and Exhibition Centre for emergency and official operations of the Government Flying Service. The Government has proposed that when there is no government operation the helipad will be open for helicopter service operators to provide domestic services from the CBD. This helipad will provide for the operation of both single-engine and double-engine helicopters.

As regards cross-boundary helicopter service, the site reserved in the Kai Tak Development Area for cross-boundary heliport development is on ground level and thus can allow operations of both single-engine and double-engine helicopters. The expanded cross-boundary heliport at the rooftop of the Sheung Wan Macau Ferry Terminal and the site reserved in the Kai Tak Development Area for cross-boundary heliport development should be sufficient to cater for future demand for cross-boundary helicopter service between Hong Kong, Macao and the Pearl River Delta Region.

Provision of Sale Information to Prospective Property Buyers

15. **MR LEE WING-TAT** (in Chinese): *President, I have received complaints from quite a number of prospective buyers and owners of private properties alleging that when property developers and estate agents promote the sale of properties, they often provide information on the sale situation and prices of flats only verbally. In this connection, will the Government inform this Council:*

- (a) of the number of relevant complaints received by the authorities concerned in the past three years;*
- (b) whether it will require representatives of property developers and estate agents to keep audio records of their discussions with prospective buyers, so as to facilitate follow-up action by the authorities concerned on the complaints received; and*
- (c) whether it will consider requiring property developers to erect an information board measuring at least 5 ft tall by 5 ft wide at a prominent location of their sale sites to display the latest information about the sale situation and prices of flats, and to update such information at hourly intervals?*

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

- (a) Over the past three years, we have received two complaints concerning the verbal release of false sales figures or prices of units by estate agents. The Estate Agents Authority (EAA) has, after investigating both cases, issued letters to the estate agents concerned, reminding them of the need to follow the practice circulars issued by the EAA when dealing with sale of properties. There were three other complaint cases concerning the speculation about future prices of other units of the developments by the representatives of the developers. These cases, however, could not be followed up since the matters did not relate to the actual sales or prices.
- (b) Estate agents and representatives of developers may discuss with a considerable number of prospective purchasers regarding transactions of individual units in their day-to-day operations. It is impractical to require audio records be kept of all the conversations with prospective buyers. To assist purchasers in knowing more about how to protect their own interests, the Consumer Council and the EAA have jointly published the "Notes to purchasers of first-hand properties" (the Note) which set out the things requiring purchasers' attention in buying first-hand residential properties. The Note reminds consumers that they should ensure that any important matters explained or guaranteed by the developers' staff or other persons are written in the provisional and formal agreements for sale and purchase (ASP) to form part of the contract. If a purchaser has any doubt about the ASP, he should consult a lawyer for professional advice.
- (c) The Administration has to strike a balance between protecting consumer interests and minimizing intervention in the free market operation. We would not consider at this stage requiring developers to display sales information at sales offices in a prescribed format. However, to enhance transparency and accuracy of sales information, the Real Estate Developers Association of Hong Kong has implemented a number of improvement measures at the Government's request, for example, including the prices of a minimum number of units in the first price

list issued by the developer, providing and posting at sale offices the price lists of the subsequent batches of units on offer prior to the commencement of their sale, standardizing the definition of "sales" to refer to the signing of a provisional ASP, and ensuring that sales figures disclosed are accurate. The EAA has also issued new practice circulars stipulating that estate agents must provide accurate sales information to prospective buyers and should not publish price lists without the consent of the developers.

Rent for Rental Units of Hong Kong Housing Society

16. **MR LI KWOK-YING** (in Chinese): *President, with the passage of the Housing (Amendment) Bill 2007 by this Council last month, the Hong Kong Housing Authority (HA) will establish a mechanism which provides for both upward and downward rent adjustments for public rental housing (PRH). The HA will also reduce the normal PRH rent by 11.6% across the board from next month. The rent after the above reduction will be the starting point for the rent under this new mechanism. In this connection, will the Government inform this Council whether it knows if the Hong Kong Housing Society (HS) will follow the HA's move and reduce the rent for the rental units in its housing estates; if the rent will not be reduced, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the HA and the HS are two different organizations. The HA was established under the Housing Ordinance (Cap. 283) which regulates its functions. The HS was incorporated by the Hong Kong Housing Society Incorporation Ordinance (Cap. 1059), and provides the Hong Kong community with housing and related services. The provisions in the Housing Ordinance regulating rental adjustments do not apply to the HS. The HS has all along had its independent rental policy.

As we understand it, the HS determines the rental levels of its rental estates based primarily on the development and operating costs of the estates, so as to follow the principle of prudent financial management and ensure sound finances. When the rental estates were developed, the HS paid land premium to the Government at one third of the market value.

Regarding the Mr LI's question, the HS indicated that since most of its rental estates were built in the '70s and '80s, and the buildings are relatively old,

the HS has to constantly put in resources to improve the facilities and living environment of the estates, such as installing additional lifts, improving power supply facilities and security systems. The rehabilitation and improvement works have started in phases. The HS expects a deficit in its rental estate accounts in the coming one or two years.

In order to relieve the tenants' financial burden, the HS has frozen the rents for 10 consecutive years since 1998. The HS has also waived the rents for a month in February this year as a goodwill to the tenants. In accordance with its established policy to conduct annual rent review, the HS will review the rental levels of its rental estates early next year. The HS will not follow the HA in reducing rents for the time being.

Linkage Between Pharmaceutical Patents and Drug Registration

17. **MR JAMES TO** (in Chinese): *President, the Registration Committee (the Committee) under the Pharmacy and Poisons Board (PPB) deregistered 19 generic drugs in January this year on the grounds that the Committee could not contact the three companies holding the registration certificates of these pharmaceutical products. It has been reported that these companies have allegedly infringed the patents held by others. In this connection, will the Government inform this Council:*

- (a) *of the measures currently in place to follow up the applications for registration of drugs which might have infringed intellectual property;*
- (b) *why the Government has not followed the practices of the authorities in United States, Singapore and the Mainland to enact legislation to establish linkage between pharmaceutical patents and drug registration, so as to ensure that approval for registration is granted only to the drugs which do not infringe any patent; and*
- (c) *of the measures currently in place to check the background and financial position of the companies which lodge applications for drug registration (hereinafter as "the relevant companies") and their persons-in-charge, to ensure that affected patients and medical practitioners may seek compensation for losses from the relevant companies in the event that the drugs are deregistered or recalled,*

and to ensure companies whose pharmaceutical patent rights have been infringed have the right to demand the relevant companies to recall the drugs concerned?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the deregistration of drugs as mentioned in the question must be referring to the incident that took place in January this year. The Committee under the PPB came to know that the holders of the registration certificates of 19 pharmaceutical products no longer ran their business at the addresses stated on the registration certificates and had made many attempts to contact the three companies and the persons concerned, but to no avail. Acting on legal advice, the Committee deregistered the pharmaceutical products. The deregistration had nothing to do with drug safety or patent infringement. My reply to the three parts of the question is as follows:

- (a) At present, the drug registration system and the patent protection system in Hong Kong provide respectively assurance of safety, efficacy and quality of drugs in the local market and protection for technical innovation by granting the inventor a patent for his invention.

Under the Pharmacy and Poisons Ordinance (PPO), all drugs are required to be registered before sale in Hong Kong. The purpose of the legislation is to protect public health and drug safety. The PPB will grant approval for registration of drugs which comply with the scientific criteria of safety, efficacy and quality.

On the other hand, the Patents Ordinance and its subsidiary legislation provide for the registration and protection of patents in Hong Kong. Our patent protection system is administered by the Intellectual Property Department and is in full compliance with the requirements under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) of the World Trade Organization (WTO). Patent owners have the right to prevent third parties from, among other things, making, putting on the market, using, importing or stocking patented products without their consent. Patent owners may institute civil proceedings in Courts against infringers of their rights and seek remedies, including an injunction restraining the defendant from any of the abovementioned

patent infringement acts; an order requiring the defendant to surrender or destroy any patent-infringing products; damages in respect of the infringement; an account of the profits derived by the defendant from the infringement; and a declaration that the patent is valid and has been infringed by the defendant.

The rights of patent owners to civil remedies are not affected by the PPB's registration of the relevant drug. In addition, the TRIPs of the WTO does not require the linkage of patent considerations with registration of drugs.

- (b) "Patent linkage" generally refers to the linkage of patent with registration of drugs, that is, a drug is not to be registered if it may infringe a patent.

The drug registration system in Hong Kong is established for the protection of public health and does not deprive patent owners of any protection under the Patents Ordinance. We also note that the "patent linkage" proposal could cause unnecessary delay in the process of drug registration because of patent reasons and hence affect the availability of drugs. As there is already a well-established patent protection system in Hong Kong, the drug registration system should focus on the safety, efficacy and quality aspects. That said, we will keep track of the overseas developments in drug registration and consider reviewing the existing system when appropriate. At present, the drug registration systems of the European Union (27 countries in total) do not take patent into account.

- (c) In the course of processing applications for drug registration, the PPB will require applicants to submit the business registration certificates of their companies. The PPO also stipulates that only companies holding a wholesale poisons licence issued by the PPB's Licensing Committee may import or distribute the drug after its registration. If a drug is deregistered or recalled on grounds of public health, importers and distributors would be responsible for the recall. Individuals such as patients or doctors may seek compensation from the wholesalers. Patent owners may institute civil proceedings against any suspected infringement of their patents and seek remedies.

Dental Grants for CSSA Recipients

18. **DR KWOK KA-KI** (in Chinese): *President, at present, Comprehensive Social Security Assistance (CSSA) recipients who wish to apply for grants to cover costs of dental treatment (dental grants) are required to approach clinics designated by the Social Welfare Department (SWD) for an estimate of cost at their own expense (the fee being \$40 to \$120) and then submit the estimate to the SWD Social Security Field Unit in their own district to apply for the grant. The whole process takes four weeks to three months. In this connection, will the Government inform this Council:*

- (a) *of the total amount of dental grants disbursed by the SWD and the number of beneficiaries in each of the past five years;*
- (b) *of the reasons for allowing only those CSSA recipients who are old, disabled or in ill health to apply for dental grants;*
- (c) *of the respective numbers of the SWD designated clinics which are operated by non-profit-making organizations and privately-run; and*
- (d) *given an upward trend in the number of low-income and poor people in recent years, whether it will review the relevant policy and consider providing dental grants to people who are not CSSA recipients; if so, when the review will be conducted?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): *President, under the CSSA Scheme, CSSA recipients who are old, disabled or medically certified to be in ill health are given dental grants to cover the actual expenses of the relevant treatment. The maximum grant is the ceiling amount of the treatment items (dentures, crowns, bridges, scaling, fillings and root canal treatment) set by the SWD in consultation with the Department of Health (DH).*

Under the existing arrangements, eligible CSSA recipients may seek services from 36 dental clinics designated by the SWD. They are entitled to a special grant to cover the cost (the registration and check-up fee is normally less than \$50 at designated clinics) of registration and check-up (including the cost of obtaining an estimate of cost). They may also apply for an advance payment of this grant, if necessary.

Currently, 13 SWD-designated dental clinics do not require any prior appointment. These clinics can provide the recipients with dental check-up and an estimate of cost on the same day. In most cases, the waiting period for the remaining 23 designated dental clinics which require prior appointment does not exceed seven working days.

After the check-up and upon the receipt of an estimate of cost from a designated dental clinic, the CSSA recipient may apply for the dental grant from the SWD. Upon receipt of the estimate of cost application and the completion of the vetting process, the SWD will normally disburse the dental grant within seven working days. The CSSA recipient, upon receiving approval of the dental grant, is free to call on a registered dentist of a non-designated clinic for the same service.

My replies to the specific questions raised by Dr KWOK Ka-ki are set out below:

- (a) Under the CSSA Scheme, the total amount of dental grants disbursed by the SWD and the number of grant recipients over the past five years are tabulated below:

<i>Year</i>	<i>Total Amount (\$ Million)</i>	<i>Number of Recipients</i>
2002-2003	10	2 570
2003-2004	11	2 800
2004-2005	14	3 320
2005-2006	15	3 720
2006-2007	16	4 050

- (b) For able-bodied CSSA recipients aged below 60, they may use the emergency dental services (that is, pain relief and extraction of teeth) provided free by the DH to the public. In cases where the recipients are in genuine financial hardship and unable to afford the dental expenses, the Director of Social Welfare may consider, depending upon the merits of individual cases, a discretionary payment of special grant for the expenses.
- (c) At present, the 36 dental clinics designated by the SWD are all run by voluntary agencies. (see Annex)

- (d) The Government's policy on oral health is based on prevention and seeks to promote public awareness through publicity and education. At the same time, the Government provides free emergency dental services for persons with urgent and special needs. There are also a number of private and non-governmental organizations providing dental services for the public at a reasonable fee. The Government thus has no intention of changing the existing arrangements for the disbursement of dental grants to eligible CSSA recipients.

Annex

List of designated dental clinics under the CSSA Scheme

1. St James Settlement Dental Clinic
2. Yang's Memorial Methodist Services Centre Yang Dental Clinic
3. The Methodist Church, Hong Kong Yang Dental Clinic, Asbury Clinic
4. Caritas HK
 - Caritas Caine Road Dental Clinic
 - Caritas Ngau Tau Kok Dental Clinic
 - Caritas St Godfrey's Dental Clinic
5. Kiangsu & Chekiang Residents (HK) Association Kiangsu Chekiang Medical Centre
6. United Christian Nethersole Community Health Service
 - Sau Mau Ping Community Health Centre
 - Bradbury Kwong Tin Community Health Centre
 - Wo Lok Community Health Centre
 - Fu Heng Community Health Centre
7. Tsim Sha Tsui District Kai Fong Welfare Association Dental Clinic
8. Project Concern Hong Kong
 - Choi Wan Clinic
 - Tsz Wan Shan Clinic
 - Pak Tin Clinic
 - Lei Cheng Uk Clinic

- Chai Wan Clinic
 - Tin Yuet Estate Clinic
 - Tung Chung Clinic
9. Haven of Hope Christian Service
- King Lam Bradbury Clinic
 - Hau Tak Bradbury Clinic
10. Chai Wan Baptist Church Dental Clinic
11. HK & KLN Senior Citizens' Welfare Association Dental Clinic
12. Christian Concern for the Homeless Association Dental Clinic
13. Yan Oi Tong
- Yan Oi Tong Dental Clinic
 - Yan Oi Tong Tin Ka Ping Medical Centre
 - Yan Oi Tong Tse Ng Tsui Ha Medical Centre
14. Emmanuel Church Emmanuel Medical Mission
15. The Stewards' Co. (HK) Ltd. Peace Dental Clinic
16. Chi Lin Dental Clinic
17. The Pentecostal Holiness Church Fung Tak Medical Centre
18. Christian Family Service Centre Lee Cheung King Wai Dental Clinic
19. S.K.H. Lady MacLehose Centre Dental Clinic
20. The Lok Sin Tong Benevolent Society, Kowloon
- Lok Sin Tong Mongkok Dental Clinic
 - The Medical Clinic of Lok Sin Tong (Dental Division)
 - Lok Sin Tong Wong Siu Sang Polyclinics, Tai Po

Nuisance Caused by School Broadcast

19. **MR ALBERT CHAN** (in Chinese): *President, recently, quite a number of members of the public have complained to me that the morning assembly*

broadcast in many schools has caused serious noise nuisance to residents nearby. In this connection, will the Government inform this Council:

- (a) of the number of such complaints received in each of the past three years, the noise levels involved in such cases, the names and locations of the schools concerned, and the number of cases in which the nuisance caused by excessively loud broadcast had been ameliorated; and*
- (b) whether it will adopt measures to reduce the noise nuisance caused by broadcast from schools to residents nearby; if so, of the details; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Chinese): President,

- (a) According to the records of the Education Bureau, there were five, 14 and 13 complaint cases about noise nuisance to residents nearby caused by the broadcast in schools in the 2004-2005, 2005-2006 and 2006-2007 school years respectively. To handle these cases, we would request the Environmental Protection Department to measure the noise level of the school broadcast, if necessary. Among the abovementioned cases, six have undergone the measurement of noise level and all of them were found to be within the acceptable sound level. The number and location of those schools involved are set out in the Annex. We do not consider it appropriate to provide the name of individual schools.

After the follow-up actions, the situations of all the abovementioned cases have been ameliorated. The schools involved have done their best to adopt improvement measures, including reducing the volume of the public address (PA) systems, adjusting the direction of the speakers, turning off those speakers near residential blocks, and so on, to mitigate the effect of noise on residents.

- (b) To further minimize noise nuisance that schools' PA systems might cause to residents nearby, we provide schools under the Year 2000 School Design with conduits to connect their classrooms with their PA systems so that students can stay in the classrooms to listen to

the announcements. In addition, we have installed low-volume speakers at different locations of these schools to replace the high-volume speakers and replaced the traditional ringing bells with musical bells.

Other aided and government schools with earlier designs may also apply for funding from the Education Bureau to install the facilities mentioned above so as to reduce the overall noise level, if necessary.

Annex

Number and Location of Schools Involved
in Noise Nuisance to Residents Caused by School Broadcast
in the 2004-2005, 2005-2006 and 2006-2007 School Years

<i>School Year</i>	<i>Number of Schools</i>	<i>District</i>
2004-2005	1	Kwun Tong
	1	Sai Kung
	1	Wong Tai Sin
	1	Sha Tin
	1	Tai Po
2005-2006	2	Southern
	2	Hong Kong East
	1	Kwun Tong
	4	Sai Kung
	1	Wong Tai Sin
	1	Yau Tsim Mong
	1	Tsuen Wan
	2	Yuen Long
2006-2007	1	Hong Kong East
	2	Kowloon City
	2	Kwun Tong
	2	Sai Kung
	1	North
	1	Tsuen Wan
	2	Tuen Mun
	2	Yuen Long

Breach of Lease Agreements by Environmental Protection Land Lessees

20. **MISS CHOY SO-YUK** (in Chinese): *President, it has been reported that in recent years, in order to promote environmental protection and encourage waste recycling, the Government has been leasing vacant Government land (hereinafter as "environmental protection land"), on short-term leases and at extremely low rental, to waste collectors for handling wastes. However, because of the lack of monitoring by the Administration, many lessees of such environmental protection land breached the lease agreements. Not only have they altered, without authorization, the types of wastes handled, but they have also sub-leased such land to other waste collectors at high rates for profiteering. In this connection, will the Government inform this Council:*

- (a) *of the current number of pieces of such environmental protection land in Hong Kong which have been leased to waste collectors and the average rental per sq ft of such land, and in respect of each piece of such land, the location, area, types of recycled materials handled by the lessee concerned, the rental and the lease period;*
- (b) *of the average number of inspections conducted in each month last year by the Administration to monitor the lessees' compliance with the conditions laid down in the lease agreements of the above environmental protection land; and the number and nature of the breaches found during such inspections, particularly the sub-leasing of the environmental protection land by the lessees to other waste collectors; and how the Administration dealt with such breaches and whether it had penalized the lessees concerned; and*
- (c) *whether it will step up its monitoring of the lessees of the above environmental protection land; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): *President,*

- (a) *The Government caters for the needs of the recycling industry by identifying and offering suitable short-term tenancy (STT) sites to the industry, with the objective of promoting its development by providing suitable land resources at affordable rents. At present,*

there are 36 pieces of such kind of land across the territory, covering a total area of about 800 000 sq ft. The area of each site varies from approximately 2 000 sq ft to 110 000 sq ft. The term of tenancy ranges from six months to seven years. The types of recyclables include metals, waste paper, plastics, glass, wood, tyres and textiles.

All the above sites are granted by way of open tender. In vetting the tenders, the Government will assess the rents with reference to the market rentals of STT sites leased out for the same purpose and will award the sites to the highest bidders. The rents for different sites vary significantly, with monthly rents ranging from \$0.5 per sq ft to nearly \$9 per sq ft, depending mainly on the location, the term of tenancy, types of recyclables, ancillary facilities (for example, the availability of berths) and actual usable area (for example, the shape of the site and the existence of slope or undemolishable ground structure).

Please see the Annex for detailed information on the leased sites.

- (b) Once an STT site is leased out for recycling operations, the Environmental Protection Department (EPD) will conduct site inspections to see if the operations and waste recycling activities are in compliance with the STT conditions. On average the EPD inspects each site four to six times a year. Upon receiving a complaint or discovering during an inspection any breach of tenancy conditions on the part of the lessee, the case will be referred, in light of the actual circumstances, to the related District Lands Office for taking appropriate action in accordance with the relevant provisions set out in the tenancy agreement.

In 2006, there were two cases of breaching the conditions on waste recycling operations. One case involved a site laid idle without any recycling activities at the beginning of the tenancy term. The recycler rectified the irregularity after being warned. The other case involved a recycler who handled an inappropriate type of waste and the related District Lands Office terminated the STT as a result.

All STT sites for recycling operations are let by open tender and the rents are determined with reference to the market rentals of STT

sites leased for the same purpose. Since the rents reflect the market rentals of these sites, there is not any favourable condition or incentive for profiteering through sub-leasing. As for a recent press report on a suspected case of sub-leasing a site on Sung Wong Toi Road, Kowloon City, the Kowloon East District Lands Office and the EPD have confirmed after investigation that there is no sub-leasing involved.

- (c) As usual, the EPD will continue to monitor the operations and waste recycling activities on all STT sites for recycling purpose to ensure that they are in compliance with the tenancy conditions. The general public and the recycling industry should report any suspicious case to the EPD for follow-up action.

Annex

STT Sites for Waste Recovery/Recycling/Reprocessing Operation
(as at June 2007)

	<i>Location</i>	<i>Site Area (sq ft)</i>	<i>Tenancy Start Date</i>	<i>Term</i>	<i>Major types of recyclable handled</i>	<i>Yearly Rent (HK\$)</i>	<i>Monthly Rent per sq ft (HK\$)</i>
1.	Wing Yip Street, Kwai Chung	21 000	November 2006	Three years certain and renewable quarterly	Metals and Plastics	921,600	3.7
2.	Area 78, Wan Po Road, Pak Shing Kok, Tseung Kwan O	30 000	September 2006	Up to December 2008 and renewable quarterly	Metals and Wood	600,000	1.7
3.	Area 78, Wan Po Road, Pak Shing Kok, Tseung Kwan O	22 000	September 2006	Up to December 2008 and renewable quarterly	Metals, Plastics and Wood	432,000	1.7
4.	Area 78, Wan Po Road, Pak Shing Kok, Tseung Kwan O	14 000	May 2006	Up to December 2008 and renewable quarterly	Metals, Plastics and Wood	420,000	2.5

	<i>Location</i>	<i>Site Area (sq ft)</i>	<i>Tenancy Start Date</i>	<i>Term</i>	<i>Major types of recyclable handled</i>	<i>Yearly Rent (HK\$)</i>	<i>Monthly Rent per sq ft (HK\$)</i>
5.	Area 78, Wan Po Road, Pak Shing Kok, Tseung Kwan O	17 000	September 2006	Up to December 2008 and renewable quarterly	Paper and Plastics	124,800	0.6
6.	Area 78, Wan Po Road, Pak Shing Kok, Tseung Kwan O	13 000	September 2006	Up to December 2008 and renewable quarterly	Plastics and Glass	399,960	2.7
7.	Area 78, Wan Po Road, Pak Shing Kok, Tseung Kwan O	48 000	May 2006	Up to December 2008 and renewable quarterly	Metals	300,000	0.5
8.	Wai Lok Street, Cha Kwo Ling	108 000	July 2006	Up to December 2008 and renewable quarterly	Non-Ferrous Metals and Paper	2,100,000	1.6
9.	Sung Wong Toi Road, Kowloon City	50 000	June 2006	Up to December 2008 and renewable quarterly	Plastics and Glass	600,000	1.0
10.	Dai Kwai Street, Tai Po Industrial Estate	54 000	January 2006	Up to September 2008	Tyres	393,440	0.6
11.	Ming Yin Road, Fanling	22 000	December 2005	Five years certain and renewable quarterly	Paper	252,000	0.9
12.	Wing Lap Street, Kwai Chung	7 000	September 2005	Five years certain and renewable quarterly	Paper, Plastic and Textile	480,000	5.7
13.	Dai Kwai Street, Tai Po Industrial Estate	47 000	September 2005	Up to September 2008	Tyres	300,000	0.5
14.	Dai Kwai Street, Tai Po Industrial Estate	54 000	April 2005	Three years certain and renewable quarterly	Paper	440,000	0.7

	<i>Location</i>	<i>Site Area (sq ft)</i>	<i>Tenancy Start Date</i>	<i>Term</i>	<i>Major types of recyclable handled</i>	<i>Yearly Rent (HK\$)</i>	<i>Monthly Rent per sq ft (HK\$)</i>
15.	Chi Wa Lane, Fanling	22 000	February 2005	Two years certain and renewable quarterly	Plastics	123,600	0.5
16.	Container Port Road South, Kwai Chung	42 000	December 2004	Five years certain and renewable quarterly	Tyres	960,000	1.9
17.	Chi Wa Lane, Fanling	51 000	August 2004	Two years certain and renewable quarterly	Metals and Paper	372,000	0.6
18.	Yan Yue Wai, Yau Tong	23 000	February 2004	Three years certain and renewable quarterly	Metals	2,412,000	8.9
19.	Po Wan Road, Sheung Shui	47 000	December 2003	Five years certain and renewable quarterly	Plastics	588,000	1.0
20.	Kwai Wo Street, Kwai Chung	6 000	July 2003	Three years certain and renewable quarterly	Paper	370,272	5.3
21.	Pai Chong Road, Cheung Chau	4 000	May 2001	Seven years certain	Metals and Paper	30,000	0.7
22.	Chong Fu Road, Chai Wan	27 000	May 2000	One year certain and renewable quarterly	Paper	600,000	1.8
23.	Area 85, Tseung Kwan O	3 000	January 1999	Six months certain and renewable monthly	Metals and Wood	21,200	0.6
24.	Area 85, Tseung Kwan O	3 000	January 1999	Six months certain and renewable monthly	Metals and Wood	20,400	0.6
25.	Area 85, Tseung Kwan O	2 000	January 1999	Six months certain and renewable monthly	Metals and Wood	15,760	0.6

	<i>Location</i>	<i>Site Area (sq ft)</i>	<i>Tenancy Start Date</i>	<i>Term</i>	<i>Major types of recyclable handled</i>	<i>Yearly Rent (HK\$)</i>	<i>Monthly Rent per sq ft (HK\$)</i>
26.	Area 85, Tseung Kwan O	2 000	January 1999	Six months certain and renewable monthly	Metals and Wood	15,840	0.6
27.	Area 85, Tseung Kwan O	2 000	January 1999	Six months certain and renewable monthly	Metals and Wood	15,920	0.6
28.	Area 85, Tseung Kwan O	2 000	January 1999	Six months certain and renewable monthly	Metals and Wood	16,000	0.6
29.	Area 85, Tseung Kwan O	2 000	January 1999	Six months certain and renewable monthly	Metals and Wood	16,080	0.6
30.	Area 85, Tseung Kwan O	2 000	January 1999	Six months certain and renewable monthly	Metals and Wood	16,160	0.6
31.	Area 85, Tseung Kwan O	3 000	January 1999	Six months certain and renewable monthly	Metals and Wood	18,880	0.6
32.	Area 85, Tseung Kwan O	2 000	January 1999	Six months certain and renewable monthly	Metals and Wood	16,320	0.6
33.	Hong Chuen Road, Tui Min Hoi, Sai Kung	30 000	March 1996	Three years certain and renewable quarterly	Glass	192,000	0.5
34.	Cha Kwo Ling, Kowloon	7 000	January 1989	Three months certain and renewable monthly	Paper	342,500	3.9
35.	Cha Kwo Ling, Kowloon	3 000	January 1989	Three months certain and renewable monthly	Paper	121,600	3.9
36.	Lam Tei DD 130	2 000	1 July 1988	One year certain and renewable quarterly	Metals	16,720	0.7

STATEMENTS

PRESIDENT (in Cantonese): Statement. The Chief Secretary for Administration will make a Statement on "Green Paper on Constitutional Development".

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

Green Paper on Constitutional Development

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the HKSAR Government will publish a "Green Paper on Constitutional Development" (the Green Paper) later today to consult the public on the models, roadmap and timetable for electing the Chief Executive and for forming the Legislative Council by universal suffrage. This represents a significant milestone of Hong Kong's constitutional development.

Since 2004, the people of Hong Kong and the community have been discussing widely and expressing views on the issue of constitutional development. This bottom-up approach of public engagement has provided a solid foundation for the public consultation on the Green Paper to be launched today.

The Basic Law prescribes the ultimate aim of implementing universal suffrage for the Chief Executive and Legislative Council in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The Basic Law has prescribed this aim for Hong Kong, which must be, and will be, attained.

To take forward Hong Kong's constitutional development towards the aim of universal suffrage, the Chief Executive initiated the discussion on universal suffrage through the Commission on Strategic Development (the Commission) in November 2005. The Commission comprises representatives of different sectors of the community, including professionals, academics, businessmen, representatives from different political parties, Legislative Council Members,

trade unionists and businessmen, and so on. The Commission has provided an open forum for taking forward discussions within the community.

During his election campaign early this year, the Chief Executive had made it clear that he would endeavour to take forward discussions within the community on the issue of universal suffrage. He had also undertaken to publish the Green Paper in mid-2007 to consult the public for three months on the options, roadmap and timetable for implementing universal suffrage.

The new term of the HKSAR Government has just been formed on 1 July. Its first major task is to initiate and promote formal discussion on universal suffrage by the community. By the time we publish the Green Paper today, we have already been discussing various proposals for implementing universal suffrage in the Commission for 20 months. The Hong Kong community will already have an appreciable level of understanding of the issues involved, and this will provide a good basis for carrying out the public consultation exercise.

Madam President, let me briefly introduce the content of the Green Paper.

The Green Paper has been prepared on the basis of the discussions of the Commission and the community in the past 20 months. All proposals received are covered by the Green Paper. At this stage, the HKSAR Government has not formed any specific views on the way forward or ruled out any options.

To facilitate public discussion, we have categorized the proposals received and have presented them in the Green Paper as three types of options for implementing universal suffrage for electing the Chief Executive and for forming the Legislative Council respectively. In formulating the options, our considerations are that the coverage of the options should be sufficiently wide to help facilitate public understanding of the issues involved, provide broad scope for discussion, and enable consensus to be formed.

We should understand that any practicable option for implementing universal suffrage must comply with the requirements and principles of the Basic Law. Therefore, before discussing the options for implementing universal suffrage for the Chief Executive and Legislative Council, the Green Paper sets out the requirements that need to be complied with and the principles and considerations that need to be taken into account when designing the universal suffrage models under the framework of the Basic Law.

Regarding the models for electing the Chief Executive by universal suffrage, the Green Paper sets out three key issues that need to be considered: (i) composition and size of the nominating committee; (ii) method of nomination; and (iii) method for selecting the Chief Executive by universal suffrage following nomination.

Regarding the composition and size of the nominating committee, we have categorized the relevant proposals as three types of options: First type of option: forming the nominating committee by less than 800 members, which involves the proposal to form the nominating committee by 60 Legislative Council Members; second type of option: forming the nominating committee by 800 members. Most proposals put forth suggested modelling on the existing Election Committee, with the size of the nominating committee set at 800 members; and third type of option: forming the nominating committee by modelling on the Election Committee, but with the membership expanded to 1200 to 1600.

Regarding the method of nomination, any option must comply with Article 45 of the Basic Law that Chief Executive candidates are "nominated by the nominating committee in accordance with democratic procedures". Under the current system of Election Committee, there can be eight candidates at most taking part in the Chief Executive election. The Green Paper presents the options relating to the method of nomination on the basis of the number of candidates available after nominations by the nominating committee. The three types of options are: First type of option: 10 candidates or more; second type of option: eight candidates at most; and third type of option: two to four candidates at most.

The Green Paper also covers other related issues relating to the method of nomination, including whether an upper limit should be set on the number of subscribers which a Chief Executive candidate can obtain, and whether a candidate should be required to obtain a certain number of nominations from each sector or from some specified sectors of the nominating committee.

As for the method of universal suffrage after nomination, the community generally acknowledges that after the nomination of candidates, the Chief Executive should be elected by universal suffrage on the basis of "one person, one vote". Other related issues that need to be considered include whether one or more rounds of election should be held after nomination, and whether the election proceedings should continue if there is only one candidate.

Regarding the model for implementing universal suffrage for the Legislative Council, one key issue is how the existing functional constituencies (FCs) should be dealt with. In considering the issue, we have to take into account the political reality that 30 out of the 60 Legislative Council seats are returned by FCs. As any amendment to the electoral method for Legislative Council requires the endorsement of a two-thirds majority of all the Members of the Legislative Council, in practice, this means that the endorsement and support of Members returned by FCs as well as those returned by geographical constituencies through direct elections will be required.

As a matter of fact, the Commission has discussed in detail the issue of whether the FCs should be abolished, but differences still remain. Nonetheless, we have categorized the proposals received relating to the models for implementing universal suffrage for Legislative Council as three types of options: First type of options: replacing FC seats with district-based seats returned through direct election; second type of options: retaining FC seats, but changing the electoral method; and third type of options: increasing the number of seats representing District Councils in the Legislative Council, and all Legislative Council seats would then be returned either through direct or indirect elections.

The Green Paper also covers the proposals relating to attaining universal suffrage for the Legislative Council in phases, for example, there are suggestions that FC seats can be abolished in three phases.

In relation to the roadmap and timetable for implementing universal suffrage, quite a number of Members have expressed concern about whether the Green Paper will set out clearly the timetable for implementing universal suffrage for discussion by members of the public. As the Chief Executive said here last Thursday, we cannot avoid the issue of timetable if we are to deal with the issue of universal suffrage satisfactorily. The Green Paper presents three types of options relating to the roadmap and timetable for implementing universal suffrage for electing the Chief Executive and for forming the Legislative Council respectively.

Regarding the roadmap and timetable for implementing universal suffrage for the Chief Executive, the three types of options are: First type of option: forming the nominating committee directly in 2012 to attain universal suffrage; second type of option: going through a transitional phase and attaining universal

suffrage in 2017; and third type of option: going through a transitional phase and attaining universal suffrage after 2017.

Regarding the roadmap and timetable for implementing universal suffrage for Legislative Council, the three types of options are: First type of option: attaining universal suffrage in one go in 2012; second type of option: attaining universal suffrage in phases in 2016; and third type of option: attaining universal suffrage in phases after 2016.

In the discussion of the roadmap and timetable for implementing universal suffrage, the Green Paper also covers the issue as to whether universal suffrage for the Chief Executive should precede that for the Legislative Council, as proposed by some, for discussion.

Following the publication of the Green Paper today, we will proceed with the three-month public consultation. The public consultation should be open and transparent, and can enable the Government to reach out to the community. Copies of the Green Paper are available at District Offices. The Green Paper has also been uploaded onto the website.

We will listen to the views of Legislative Council Members, District Council members, individuals of different sectors and strata, as well as district personalities actively through meetings, public forums, and so on. We will also welcome different sectors of the community to put forth their views through written submissions or emails on or before 10 October.

Madam President, the Green Paper is promulgated with a clear objective in mind, that is, to identify for the community a set of solutions on how and when universal suffrage should be implemented. We hope the Green Paper and the ensuing public consultation would serve to forge broad consensus on the issue of universal suffrage within the community. After the close of public consultation, we will summarize the views received from the community and assess whether a mainstream view could be formed as the basis for taking forward the work to the next phase. The Chief Executive will submit a report to the Central Authorities to reflect faithfully any mainstream views formed during the public consultation and other views expressed.

I would like to reiterate that the Government is as sincere as it is determined to implement universal suffrage. We hope that the issue of

universal suffrage can be resolved in a satisfactory manner, which would be conducive to the progressive development of Hong Kong's political environment. We cannot afford to allow the issue of universal suffrage to polarize the community any longer. The attention and energy of all those participating in public affairs should be more productively invested in the betterment of our economy and the livelihood of our citizens. To build a harmonious society, the interests of the people should always be our priority.

The people of Hong Kong rightfully expect the Government and Legislative Council to demonstrate leadership in the discussion, and to help forge consensus within our community. I call upon political parties and groups, as well as different quarters of our community to keep an open mind and be accommodating. It is only through rational and pragmatic public discourse that we can forge consensus on the future constitutional development of Hong Kong.

Thank you, Madam President.

PRESIDENT (in Cantonese): A total of 16 Members have indicated their wish to ask short questions for the purpose of elucidating the contents of the speech made by the Chief Secretary for Administration just now. Members should have in hand a copy of the speech of the Chief Secretary for Administration. When you are later called upon to seek elucidation, please specify the relevant paragraph of the speech to facilitate Members' understanding.

MR CHEUNG MAN-KWONG (in Cantonese): *President, it is pointed out in paragraph 13 that for the purpose of electing the Chief Executive by universal suffrage, the candidates are "nominated by the nominating committee in accordance with democratic procedures". Can the Government elucidate that the so-called "democratic procedures" for nomination do not mean procedures for political screening or imposing obstacles by setting a very high threshold or deterring the democratic camp or the minority from taking part in the election, or even procedures to deny people of the chance to make a choice by way of universal suffrage? To put it more plainly, can he elucidate that "democratic procedures" will not become obstacles to the public, for they allow universal suffrage by "one person, one vote" and allow people to choose different political forces, including the democratic camp and the minority, to be their representatives to contest in the election of the Chief Executive?*

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, based on the contents of the speech of the Chief Secretary for Administration, I suggest that you consider rephrasing your question in the following way: You may ask the Chief Secretary for Administration whether the Green Paper has explained how nominations will be made by the nominating committee in accordance with "democratic procedures" and what is included in these "democratic procedures".

MR CHEUNG MAN-KWONG (in Cantonese): *Yes, President, that is fine. I was only asking the Government to elucidate "democratic procedures" so as to allay my concern about them, and this is why I made those ensuing remarks.*

PRESIDENT (in Cantonese): I think he got it, but I can only allow requests for elucidation of the contents of the speech made by the Chief Secretary for Administration and so, I must rephrase your question into one seeking elucidation of the contents of his speech. Do you agree?

MR CHEUNG MAN-KWONG (in Cantonese): *OK.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, with regard to "democratic procedures", the Government is open about them and does not have any specific position on this. However, Article 45 of the Basic Law has indeed provided that Chief Executive candidates shall be nominated by the nominating committee in accordance with "democratic procedures". So, in the consultation to be conducted, we sincerely hope that all sectors of the community can provide more input on "democratic procedures" for our reference. I very much hope that we can collect more views in this respect, in order to form a mainstream view.

MR ALAN LEONG (in Cantonese): *President, I would like to seek elucidation from the Chief Secretary on paragraph 25 which says that "After the close of public consultation, we will summarize the views received from the community and assess whether mainstream view could be formed as the basis.....". Does "basis" here refer to the 60% of public support as the Chief Executive suggested during the election? If so, how will an assessment be made to ascertain whether or not there is this basis? If there is no such basis, what will the Government do as the next step?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, in the three-month public consultation exercise to be conducted, we very much hope that through facilitation by the SAR Government, and with the assistance and facilitation of all Members of the Legislative Council, discussion can be initiated in the community and a consensus be forged, so as to enable the Government to form a mainstream view at the end of the three-month consultation period.

Certainly, I cannot speculate now as to whether or not a mainstream view can be formed three months later, but I think it is most important for us to keep an open mind and promote discussion, with a view to forging a consensus in the community. So, on the question asked by Alan earlier, I do hope that we can reach a consensus, because this issue has actually been discussed in the community for years, and I believe that, like the Government and all Members of the Legislative Council, the majority of Hong Kong people also hope that a consensus can be reached as soon as possible on dual elections by universal suffrage, so that we can have an agreement in this respect.

This consensus must of course have majority support in the community on the one hand, as the Chief Executive also said that 60% of public support is required, but on the other hand, we must consider the requirements that this proposal must be endorsed by two thirds of all Members of the Legislative Council with the consent of the Chief Executive and finally, it has to be reported to the Standing Committee of the National People's Congress for record or approval. So, in considering any option, these principles and requirements must be taken into account and consideration should be made along this line.

MR FREDERICK FUNG (in Cantonese): *President, my question is related to paragraphs 13, 14 and 15. I actually wish to ask a question on the method of nomination.*

In reply to Mr CHEUNG Man-kwong's question earlier, Chief Secretary Henry TANG mentioned that with regard to paragraph 13 which stated that nominations shall be made by the nominating committee in accordance with democratic procedures, the Government is open about this and has no specific position and so, he has not proposed any specific method. But when he mentioned in paragraphs 14 and 15 whether an upper limit should be set on the number of subscribers which a candidate can obtain, he did set out other possible

options, and when he mentioned the election of the Chief Executive by universal suffrage in paragraph 15, he also set out other options, including whether one or two rounds of election should be held. I would like to ask the Chief Secretary this: In paragraphs 14 and 15 he stated some possible options but he stated none in paragraph 13 and this, as the Chief Secretary concluded, is because the Government has adopted an open mind. Then, does it mean that the Government does not keep an open mind on the issues mentioned in paragraphs 14 and 15? Otherwise, why did it not present the views of the Commission in paragraph 13? For instance, the candidates shall be screened and selected by the nominating committee, and as some members of the Commission suggested, a candidate who has obtained 100 nominations can contest in the election. These are actually some possible options, but why were they not mentioned in paragraph 13? Does it mean keeping an open mind when the options are not set out and not keeping an open mind when the options are set out?

PRESIDENT (in Cantonese): Mr Frederick FUNG, Members can only seek elucidation on the contents of the Chief Secretary's speech, but you have asked a question. I will give you some time to think about it and after I have asked two other Members to seek elucidation from the Chief Secretary on the contents of his speech, I will let you state again the part of his speech on which you wish to seek elucidation.

MR HOWARD YOUNG (in Cantonese): *President, I would like to seek elucidation from the Chief Secretary on the point relating to the options for electing the Chief Executive. How many options are there? I notice that in paragraph 9 the Chief Secretary said that three types of options are presented in the Green Paper but he went on to say in paragraphs 12, 13, 14 and 15 that each of these.....for instance, regarding the size, there are three types of option; regarding the method, there are also three types of option; regarding whether or not an upper limit should be set, there are two options; regarding whether or not there should be an upper limit and whether or not nominations should be sector-specific, there are also two options; regarding whether one or two rounds of election should be held, there are two options. Such being the case, while the Chief Secretary said that there are three types of option, when it comes to the number of options there are, should he.....perhaps if we do some simple calculations, it is actually three multiplied by three and two and two and two, and it equals to at least 72 different combinations of option. Is it justified for me*

to understand it this way? If yes, and if the views received are quite even, the option supported by most people may only have 5% of public support and in that case, there will simply be no consensus to speak of.

PRESIDENT (in Cantonese): Mr Howard YOUNG, you were also asking a question, not seeking elucidation. If you would like to seek elucidation, you should only ask how many individual options are included in these three types of option. Can you rephrase your question in this way?

MR HOWARD YOUNG (in Cantonese): *If the three types of options include many options, is it justified for me to understand it by multiplying three by three and two and two and two?*

PRESIDENT (in Cantonese): I think you are not asking him how he understands it. Anyway, that would do. Chief Secretary for Administration, do you understand his question?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, Mr YOUNG is obviously faster than me in computation of figures. Three multiplied by three and two and two and two equals to 72.

We will conduct the public consultation exercise in this manner mainly because many opinions have been summarized during discussions over the past 20 months or even a longer time. There have actually been a number of crucial discussions, that is, discussions on the timetable and the roadmap. So, in devising this consultation document we started by setting the parameters and that is, the parameters of amending Annexes I and II to the Basic Law. Within these parameters there are a number of key issues, including when the Chief Executive will be elected by universal suffrage, when the Legislative Council will be formed by universal suffrage, and the composition of the nominating committee, and we hope that public discussion can be more focused in this way. I think this is the best approach in order to achieve the objective of dual elections by universal suffrage as soon as possible and to make this consultation exercise meaningful and enable more focused public discussion of these issues.

MR LEE CHEUK-YAN (in Cantonese): *President, in reply to Mr CHEUNG Man-kwong's question earlier, the Chief Secretary said that the Government keeps an open mind on democratic procedures, that the Government has no specific position, and that public consultation would be conducted. I would like the Chief Secretary to elucidate why it is necessary to conduct public consultation. Why? President, all.....I wonder if the Chief Secretary will agree that all.....I would like to seek elucidation from the Chief Secretary on.....*

PRESIDENT (in Cantonese): You are seeking elucidation.

MR LEE CHEUK-YAN (in Cantonese): *Yes, I am seeking elucidation.*

PRESIDENT (in Cantonese): On which paragraph are you seeking elucidation?

MR LEE CHEUK-YAN (in Cantonese): *On paragraph 13 concerning democratic procedures, that is, the paragraph about democratic procedures. Perhaps let me ask my question again. The Chief Secretary said in paragraph 13 that "any option must comply with Article 45 of the Basic Law that Chief Executive candidates are 'nominated by the nominating committee in accordance with democratic procedures' ". The parameter cannot be clearer. I would like the Chief Secretary to elucidate whether the many options that he classified into the first, second and third types of options in paragraphs 12, 13, 17, 20 and 21 all comply with Article 45 of the Basic Law. If they are all in compliance with Article 45 of the Basic Law, why is it necessary to conduct consultation on democratic procedures?*

PRESIDENT (in Cantonese): It is really difficult for me to help you with this question. I cannot think of a way to rephrase your question into one seeking elucidation from the Chief Secretary. You have actually asked a question.

MR LEE CHEUK-YAN (in Cantonese): *Perhaps let me put it this way. I would like the Chief Secretary to elucidate whether it is superfluous to conduct consultation on democratic procedures. It is because all the options are compliant with democratic procedures. Since all the options are compliant,*

why is it still necessary to conduct consultation? I was asking him to elucidate why consultation would be necessary. Perhaps let me put it this way. Can the Chief Secretary elucidate why it is necessary to conduct consultation? Since all the options are in compliance with democratic procedures, it follows that public consultation will be unnecessary.

PRESIDENT (in Cantonese): I really cannot quite catch your logic. Mr LEE Cheuk-yan, let us do it this way. Like Mr Frederick FUNG, you can have a second chance.

MR LEE CHEUK-YAN (in Cantonese): *President, I wish to seek elucidation from the Chief Secretary on another point right now.*

PRESIDENT (in Cantonese): Alright.

MR LEE CHEUK-YAN (in Cantonese): *Can the Secretary elucidate this: He said that public consultation would be conducted on democratic procedures. But why does he not conduct consultation in the same manner by setting out three types of options, instead of adopting an open mind on it?*

PRESIDENT (in Cantonese): This is not elucidation. You asked him why he did not do that. If you wish to seek elucidation, you should ask a question such as "does it include this and that and so on", and only this is considered as seeking elucidation. You were asking him why he did not do that. Mr LEE Cheuk-yan, your question was not seeking elucidation from the Chief Secretary. Perhaps you can sit down for the time being and think about it.

MR FREDERICK FUNG (in Cantonese): *Thank you, President. Perhaps both LEE Cheuk-yan and I would like to ask the Chief Secretary about the same issue.*

President, can the Chief Secretary elucidate whether it will be more difficult to conduct consultation if no options are set out in respect of the nominating committee?

PRESIDENT (in Cantonese): Nominating committee?

MR FREDERICK FUNG (in Cantonese): *It says here in paragraph 13 that the candidates are nominated by the nominating committee in accordance with democratic procedures, but unlike other issues for which the first, second and third types of option are presented to consult the public, no option is suggested in this respect. The Commission has actually suggested some options. As the Chief Secretary has not set out these options, I would like him to elucidate how members of the public can express opinions on this issue?*

PRESIDENT (in Cantonese): Are you asking the Chief Secretary how he will enable the public to express their opinions?

MR FREDERICK FUNG (in Cantonese): *I would like him to make elucidation because what he said in this paragraph about consultation is very different from the others which set out the first type of option, second type of option and third type of option to consult the public. The Chief Secretary said earlier that it would be an open consultation exercise and so, no options are set out. I would like the Chief Secretary to elucidate why two different methods are adopted for conducting public consultation.*

PRESIDENT (in Cantonese): Mr Frederick FUNG, if you read paragraph 13 more clearly, you will see that it also sets out the first type of option, second type of option and third type of option. You are only referring to a line of this paragraph which mentions Article 45 of the Basic Law and that candidates are to be nominated in accordance with democratic procedures and you would like the Chief Secretary to elucidate.....

MR FREDERICK FUNG (in Cantonese): *In reply to Mr CHEUNG Man-kwong's question earlier on, the Chief Secretary said that consultation on the nomination procedure will be open and transparent and that the Government has no specific position on it. I would like the Chief Secretary to elucidate why this approach of consultation of not having any specific position is different from the others which set out the first, second, third and fourth type of options?*

PRESIDENT (in Cantonese): You may sit down first. *(Laughter)*

I have to chair the meeting in accordance with the Rules of Procedure, but I wish to give you an opportunity to ask your question and so, I will try my best to help you with it. You should put your question this way: On the point concerning the nomination of Chief Executive candidates by the nominating committee in accordance with democratic procedures, can the Chief Secretary elucidate whether the Green Paper has not set out any option, in order to enable the public to freely express their opinions? Is this what you mean?

MR FREDERICK FUNG (in Cantonese): *OK.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Thank you, Madam President.

Under Article 45 of the Basic Law, the Chief Executive shall be elected "in the light of the actual situation and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures". Insofar as these procedures are concerned, we have not formed any specific view on them. Nor do we have any specific option in mind. Given that this is a requirement of the Basic Law, it is very difficult for us to determine at this point in time what democratic procedures mean. So, I would like to listen to as many opinions as possible and I hope that there can be more focused discussion.

MR LAU KONG-WAH (in Cantonese): *President, I would like the Chief Secretary to elucidate the part on the Legislative Council in paragraph 17. Under the second type of option, the Chief Secretary said that functional constituency (FC) seats would be retained but the electoral method would be changed. I would like the Chief Secretary to elucidate in what way the electoral method would be changed. Moreover, is the retention of FC seats compatible with the ultimate aim stipulated in the Basic Law, that all Members of the Legislative Council shall be elected by universal suffrage?*

PRESIDENT (in Cantonese): Mr LAU Kong-wah, I think you have also asked a question, rather than seeking elucidation from the Chief Secretary. Elucidation

means asking a further question on the contents of his speech, such as asking the Chief Secretary whether what he had said includes something, and only this is considered as seeking elucidation.

MR LAU KONG-WAH (in Cantonese): *President, I asked my question according to your rules. In relation to the second type of option, especially the part involving the retention of FC seats, I would like him to elucidate whether it complies with the Basic Law. I asked him to elucidate this point because it is provided in the Basic Law that all Members of the Legislative Council shall be elected by universal suffrage and so, I hope he can elucidate this point by replying "yes" or "no". Besides, on the point concerning changing the electoral method, I do not quite understand it and so, I would like him to elucidate this point too. I am entirely compliant with your rules, President.*

PRESIDENT (in Cantonese): It means that you are asking him whether the second type of option as set out in paragraph 17 complies with the Basic Law and whether the Green Paper has pointed out the manner in which the electoral method will be changed.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the Green Paper has devoted some parts to the question of whether or not the electoral method can be changed. For instance, with regard to the existing corporate votes, should they be changed into director's votes or individual votes or other ways? So, in the Green Paper, the FC seats are retained but the electoral method is changed.

MR LAU KONG-WAH (in Cantonese): *President, he did not tell me whether or not it is consistent with the Basic Law.*

PRESIDENT (in Cantonese): His question is whether the second type of option is consistent with the Basic Law.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Yes, it is, Madam President.

MS EMILY LAU (in Cantonese): *President, I would like to follow up the Chief Secretary's reply to "mathematics expert" Mr Howard YOUNG. What the Chief Secretary had said was very.....I hope that you will allow me to seek elucidation on his reply. He said that the most important issues are actually the timetable, roadmap, the timing of the election of the Chief Executive, the timing of the election of the Legislative Council, and the electoral methods. He said that his objective is to facilitate focused discussion on these issues. The Green Paper has not put forth the issues in a focused way to enable members of the community to tell the authorities what they would like to see. Rather, it sets out 70-odd to 100-odd possible answers and the Government will then summarize them to form an answer which may not even be found in Heaven. I would like the Secretary to elucidate whether this is the case.*

PRESIDENT (in Cantonese): Ms Emily LAU, I think it is more appropriate for you to ask this question at the meeting of the Panel on Constitutional Affairs to be held next Monday, as you were not seeking elucidation, but asking a question instead.

MS EMILY LAU (in Cantonese): *President, I was seeking elucidation from him. He said so many things and as these are the most important issues, I only wished to clarify that there is nothing in the Green Paper that can help the Government identify the answers, and that is all. He spoke of the timetable and the roadmap, telling us when it should take place and this and that, but he did not clearly present options one, two, three and four for people to choose and instead, it transpires that there can be 70-odd or 90-odd options, as Mr Howard YOUNG has said, which will then be summarized slowly, and that is all, President. President, do not be too harsh to us. Our questions are all very simple and straightforward.*

PRESIDENT (in Cantonese): Indeed, it is precisely because your questions are too straightforward, not seeking elucidation from the Chief Secretary. I do not wish to be too harsh, just that there is this rule in the Rules of Procedure. I would feel more relieved if the Rules of Procedure can be amended. Ms Emily LAU, are you actually asking him to elucidate how members of the public can express their opinions in a focused manner when so many possible combinations are proposed in the Green Paper?

MS EMILY LAU (in Cantonese): *Yes, thank you, President.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I am sure that this Green Paper can help the public understand all the current discussions on constitutional development and facilitate more focused public discussion on some key issues, so that a timetable and roadmap can be worked out for the constitutional system to develop towards the objective of dual elections by universal suffrage.

The current discussions are actually about no more than several major issues. Let me cite some examples. The several major issues are: the model for electing the Chief Executive by universal suffrage, the composition and size of the nominating committee, the number of candidates, the model for electing the Legislative Council by universal suffrage, the timetable for the election of the Chief Executive and formation of the Legislative Council by universal suffrage, and whether or not universal suffrage for the Chief Executive should precede that for the Legislative Council. So, the discussions are all about these issues. On these several issues, the Green Paper has clearly set out some options for, say, the timetable, proposing that the Chief Secretary can be elected by universal suffrage in 2012, 2017 or after 2017; and concerning the timetable for forming the Legislative Council by universal suffrage, there are such options as 2012, 2016 and after 2016. So, the public can conduct more focused discussions on these key issues.

MR LEUNG KWOK-HUNG (in Cantonese): *I hope that the Chief Secretary will listen to my question very carefully. I would like him to elucidate whether there are typographical errors throughout his speech. Are there typographical errors in paragraph 12 and in the conclusion? I said so because it is common sense that in most cases of nominations for the head of state, a member of the public can contest in the election of the Chief Executive once he has canvassed the support. This is an international practice. Besides, most issues relating to the right of initiative of millions of people are also resolved by referendum. Is it because you were in too much haste and you forgot it that there are these typographical errors in this script of your speech and you have omitted these two essential and reasonable arrangements? Can the Secretary please elucidate whether such omission is intentional or is it because he is too nervous when he is here in this Council that he forgot to say it as a result? I am seeking elucidation from him, because there may be typographical errors or omission.*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, you mentioned paragraph 12 earlier and then you referred to the conclusion which should be paragraphs 25 and 26. Which particular paragraph do you wish to refer to?

MR LEUNG KWOK-HUNG (in Cantonese): *I refer to both. The conclusion is in paragraph 25, and the case of paragraph 12 is similar to that of paragraph 25. President, let me say it again.*

PRESIDENT (in Cantonese): Paragraph 12 concerns the nominating committee.

MR LEUNG KWOK-HUNG (in Cantonese): *Yes, paragraph 12 relates to the right of nomination. According to my shallow understanding — I read many books yesterday — in most democratic countries, apart from the nominating committee, they generally also have the.....*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, you had better let the Chief Secretary answer the question.

MR LEUNG KWOK-HUNG (in Cantonese): *Does he remember it? He does not remember it, does he? OK.*

PRESIDENT (in Cantonese): Sit down please.

MR LEUNG KWOK-HUNG (in Cantonese): *I would like to seek elucidation from the Chief Secretary.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, we have not omitted anything.

The Basic Law clearly provides that universal suffrage is the way to achieve the ultimate aim of the election of the Chief Executive and the formation of the Legislative Council. We very much hope that we can form a mainstream view on universal suffrage which can have the support of the majority of the

people, the support of two thirds of Members of this Council and the consent of the Chief Executive, and which the Central Authorities are willing to consider positively for the record or approve.

On this major premise, basically, as long as an option is in compliance with the Basic Law, we would include it in the Green Paper. So, we very much hope that the community can conduct in-depth, rational, accommodating and sincere discussions on this issue.

MR LEUNG KWOK-HUNG (in Cantonese) *President, I have heard the elucidation made by the Chief Secretary, but I also wish to elucidate that this proposal is a fake; it is a bogus consultation.*

PRESIDENT (in Cantonese): This is out of order.

MR JAMES TO (in Cantonese): *President, it is said in paragraph 9 that there are three types of option in the Green Paper, and in paragraph 10 it is said that any option should comply with the requirements and principles of the Basic Law. These are paragraphs 9 and 10, and then there are three types of option, another three types of option and another three types of option and another two types of option, and so on. I would like the Chief Secretary to elucidate whether the three types of option mentioned in paragraph 9 are those three types of option mentioned in paragraph 12? Do these options all comply with the requirements and principles of the Basic Law? Certainly, we in the pan-democratic camp are most keen on the replacement of all FC seats by directly-elected geographical constituency seats, or as the Chief Secretary has put it, achieving universal suffrage in 2012. Are the options mentioned in paragraph 9 in compliance with the Basic Law and practicable?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, basically, we have included in the Green Paper all the options which in our view are not contrary to the Basic Law.

PRESIDENT (in Cantonese): We have spent 27 minutes on seeking elucidation on this Statement. In fact, the Chief Secretary only spent something more than

11 minutes, or let us round it up to 12 minutes, on his Statement, but Members have spent more than double the time on seeking elucidation. Now we come to the last question to seek elucidation. Many Members are still waiting but as I have promised Mr LEE Cheuk-yan a second chance, I have no other choice. Other Members who are still waiting will not have the opportunity to seek elucidation from the Chief Secretary.

MR LEE CHEUK-YAN (in Cantonese): *In reply to Ms Emily LAU's question earlier the Chief Secretary stressed the need to be focused. He said that there are primary issues and also secondary issues. I would like him to elucidate how many issues there are in the Green Paper. How many of them are primary issues and how many are secondary issues? For instance, are those issues mentioned in paragraph 14 secondary issues? Many issues are put forward in that paragraph but they are not options.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, we have not divided the issues into primary or secondary issues. In fact, dual elections by universal suffrage is a very solemn objective, and the community has reached a consensus on this, hoping that a proposal can be finalized as soon as possible for discussions to be conducted. So, in the Green Paper we have not divided the issues into primary or secondary issues. All the issues are important.

MR LEE CHEUK-YAN (in Cantonese): *He did not tell me how many issues there are. Has he counted the number of issues? I hope he can elucidate this point.*

PRESIDENT (in Cantonese): Chief Secretary for Administration, do you know how many issues there are?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I do not know if LEE Cheuk-yan is an expert in mathematics or not. Even if he is not, he can start counting it from "1", and the Green Paper has set out the issues quite clearly. So, with regard to how many issues there are, he can count them himself.

PRESIDENT (in Cantonese): A total of nine Members have asked questions to seek elucidation on the contents of the Statement made by the Chief Secretary for Administration. Another 11 Members are still waiting, and I hope that they can gain a further understanding of the Green Paper through the meeting of the Panel on Constitutional Affairs to be held next Monday on 16 July.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

PREVENTION OF BRIBERY (AMENDMENT) BILL 2007

INDEPENDENT POLICE COMPLAINTS COUNCIL BILL

CLERK (in Cantonese): Prevention of Bribery (Amendment) Bill 2007
Independent Police Complaints Council Bill.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

PREVENTION OF BRIBERY (AMENDMENT) BILL 2007

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I move the Second Reading of the Prevention of Bribery (Amendment) Bill 2007 (the Bill).

The HKSAR Government is committed to maintaining a clean society in Hong Kong. Our anti-corruption regime is more stringent than those at many other places and the results are obvious. In order to put into thorough practice

the Chief Executive's determination to maintain Hong Kong's integrity, the Administration has drafted the Bill to proscribe even more stringent anti-corruption stipulations to govern the office of the Chief Executive within the framework of the Basic Law.

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

At present, the Chief Executive is prohibited from offering or accepting bribes under the common law offence of bribery. Furthermore, under Article 47 of the Basic Law, he must be a person of integrity, and shall declare his or her assets to the Chief Justice of the Court of Final Appeal. An impeachment mechanism is provided under Article 73(9) of the Basic Law to handle charges of serious breach of law or dereliction of duty by the Chief Executive. Notwithstanding the existing anti-corruption regime, the Chief Executive has agreed to take the extra step of extending the application of certain provisions of the Prevention of Bribery Ordinance to himself within the framework of the Basic Law, in order to demonstrate the Government's commitment to a clean government.

In considering the extent to which the POBO provisions could be extended to apply to the Chief Executive, we have to consider the unique constitutional status of the Chief Executive under the Basic Law. The Chief Executive is appointed by the Central People's Government and is both the head of the Hong Kong Special Administrative Region (SAR) and the SAR Government. He is accountable to the Central People's Government and the SAR in accordance with the provisions of the Basic Law.

We propose to introduce legislative amendments to sections 4 and 5 of the POBO so that they apply to the Chief Executive. Under the amended section 4, the Chief Executive commits an offence if he, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his acting in his capacity as the Chief Executive. Under the amended section 5, the Chief Executive commits an offence if he, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his giving assistance in regard to public sector contracts. Anyone who offers any bribe to the Chief Executive in the foregoing circumstances also commits an offence.

Section 10 of the POBO is applicable to the Chief Executive. We also propose to amend section 10 of the POBO so that it applies to the Chief Executive. If there is sufficient evidence to prove that any Chief Executive or former Chief Executive maintains a standard of living above that which is commensurate with his present or past official emoluments; or that he is in control of pecuniary resources or property disproportionate to his present or past emoluments, and he is unable to give a satisfactory explanation to the Court, the Chief Executive or former Chief Executive commits an offence.

Pursuant to Article 47(2) of the Basic Law, the Chief Executive, on assuming office, shall declare his or her assets to the Chief Justice. This declaration requirement under the Basic Law will provide useful information in determining whether the Chief Executive or the former Chief Executive is maintaining a standard of living or controlling property disproportionate to his emoluments. We therefore propose to specify in the Bill that should any Chief Executive or former Chief Executive be accused of having committed an offence under section 10, the Court shall take into account the assets declared by the Chief Executive or former Chief Executive to the Chief Justice.

We propose that a new provision be added to the POBO to provide that when, upon investigation by the Independent Commission Against Corruption (ICAC), there is reason to suspect that the Chief Executive may have committed an offence under the POBO, the Commissioner, ICAC may refer the matter to the Secretary for Justice. Where, as a result of such a referral, the Secretary for Justice has reason to suspect that the Chief Executive may have committed an offence under the POBO, he may refer the case to the Legislative Council for it to consider whether to take any action under Article 73(9) of the Basic Law.

This new provision is essential to ensuring that the Secretary for Justice be given power to refer corruption complaints against the Chief Executive and the findings of ICAC's investigation to the Legislative Council. Under section 30 of the POBO, a person who, knowing or suspecting that an investigation in respect of a POBO offence alleged or suspected to have been committed under Part II of the POBO was taking place, without lawful authority or reasonable excuse, discloses the subject or details of the investigation commits an offence. The proposed provision ensures that the Secretary for Justice would not be prevented from referring corruption complaints against the Chief Executive and the findings of ICAC's investigation to the Legislative Council by section 30 of the POBO. It enables the Legislative Council to obtain the essential facts of a

complaint against the Chief Executive so that Members may consider invoking the mechanism of investigation under Article 73(9) of the Basic Law.

Deputy President, the Bill will make improvements to our anti-corruption regime significantly. Furthermore, clause 10 is a highly effective anti-corruption measure that puts in place the most comprehensive safeguards against the acceptance of any advantage by the Chief Executive. This provision is very stringent and is not common in other anti-corruption regimes. After amendment, the POBO will subject the Chief Executive to comprehensive regulation and prohibit the Chief Executive from soliciting or accepting advantage or possessing and managing unexplained property. On the one hand, the Bill reflects the importance attached by the SAR Government to combating corruption, and on the other, we have taken into account the unique constitutional status of the Chief Executive under the Basic Law.

I sincerely hope that Members will support the passage of the Bill. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Prevention of Bribery (Amendment) Bill 2007 be read the Second time.

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

INDEPENDENT POLICE COMPLAINTS COUNCIL BILL

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I move the Second Reading of the Independent Police Complaints Council Bill (the Bill).

The police complaints system, which dates back to 1977, has been operating for 30 years. Over the years, taking into account developments of society and comments from different sectors, we have been making continuous improvement to better the procedures and practices involved. By now, we have built up a two-tier system which is widely used and accepted by the public, that is, the Complaints Against Police Office (CAPO) of the police is responsible for handling and investigating complaints, and the Independent Police Complaints Council (IPCC) monitors and reviews the investigations. The CAPO is

independent from other formations of the Police Force and handles complaints in an impartial and fair manner. IPCC Members are all non-officials appointed by the Chief Executive. They directly monitor CAPO's investigations objectively and are supported by a full-time secretariat. This system has been operating effectively, ensuring that public complaints against the police are handled appropriately, independently and equitably. To enhance the effectiveness of the IPCC's monitoring function, we introduced the Observers Scheme in 1996 under which IPCC Members and observers from different sectors of the community may participate in scheduled or surprise observations of the interviews and scene visits conducted by the CAPO during investigations.

With a view to more clearly defining the IPCC's functions, enhancing and reinforcing its status so as to increase the transparency of and public confidence in the police complaints system, we suggest establishing the IPCC as a statutory body.

Taking into account the results of the public consultation exercise in 2002 and the IPCC's views, we have drawn up the new Bill to turn the IPCC now established on an administrative basis into a statutory body, and to provide for its composition, powers and functions, so as to reflect the IPCC's mode of operation comprehensively under the law. The major provisions of the Bill are as follows.

In relation to the IPCC's functions, the proposed main functions of the IPCC under the Bill include:

- (i) to observe, monitor and review the manner in which complaints are handled or investigated by the police and to make recommendations in respect of the handling or investigation of complaints;
- (ii) to monitor actions taken or to be taken in respect of a member of the Police Force by the Commissioner of Police in connection with any reportable complaint and advise on its opinion on such actions; and
- (iii) to identify any faults or deficiencies in practices or procedures adopted by the police leading to complaints and to make recommendations in this regard.

In relation to the IPCC's powers, the main powers of the IPCC for discharging its functions provided in the Bill are:

- (i) to require the police to provide information or materials relating to complaints and clarify the facts or discrepancies;
- (ii) to require the police to investigate or re-investigate complaints;
- (iii) to interview persons for considering the police's investigations in carrying out its reviews;
- (iv) to require the police to provide explanations in relation to any disciplinary actions taken or to be taken in respect of a member of the Police Force;
- (v) to require the police to submit reports on any actions taken or to be taken by the police in respect of the its recommendations;
- (vi) to require the police to compile and submit to it statistics of the types of conduct of members of the Police Force that has led to complaints;
- (vii) to employ its own staff and other technical and professional persons;
and
- (viii) to report to the Chief Executive.

Regarding the police's obligations, the Bill provides that the police must, upon completion of investigation of complaints, submit to the IPCC investigation reports containing the findings of facts and supporting evidence, classifications of the complaints and the reasons for the classifications, actions taken or to be taken by the police and other relevant information. If the police have not completed the investigation within six months after the date of receipt of the complaints, they shall submit to the IPCC interim investigation reports explaining the progress of the investigation and the reasons for not being able to complete the investigation within six months. The Bill also expressly provides that the police shall comply with the requests made by the IPCC.

The police complaints system covers complaints against the conduct of any member of the Police Force while on duty or in the execution or purported execution of his duties; the conduct of any member of the Police Force who identified himself as such a member while off duty; or any practice or procedure adopted by the police.

Having operated for a number of years, the Observers Scheme is already part and parcel of the police complaints system. The Bill provides for the appointment, powers and responsibilities of the observers.

In drawing up the Bill, we have incorporated many comments received over the years, including those of the IPCC and other organizations and groups. We have of course also taken into account comments made by the then Legislative Council Bills Committee on the then Bill in 1996. When compared with the then Bill, the Bill currently tabled to the incumbent Legislative Council has made clearer and more detailed provisions on the IPCC's functions, powers, operation, resources and requirements on the police, so as to further strengthen the IPCC's independence and transparency. Members of the public should have higher confidence in the IPCC's capability in effectively monitoring the police's handling of complaints.

There have been suggestions that the IPCC be empowered to determine the results of the police's investigation of complaints, or to conduct its own investigation when it is not satisfied with the police's investigation reports. We have looked at the police complaints systems of a number of countries and places. Their practices vary substantially. It is not unique for Hong Kong to have a monitoring body without investigation power. For Hong Kong, we consider it important to maintain the IPCC's monitoring and review functions and the police's investigation role separate, in order to sustain the effectiveness of the existing two-tier handling system. Therefore, the new Bill has not provided the IPCC with investigation power. However, the Bill already gives considerable powers to the IPCC to interview witnesses, observe the police's interviews, require the police to provide information and explanations, require the police to re-investigate a particular complaint, and to make recommendations to the police in respect of the manner in which complaints are handled or investigated and the practices and procedures adopted by the police. In addition, the IPCC may report to the Chief Executive as it considers necessary.

We have also received suggestions of appointing the IPCC Chairman or Members on a full-time basis. The Bill contains no restriction on the time that IPCC Members should devote to discharging their duties. Indeed, all along, we have been appointing talents committed to public service from different sectors of the community to the IPCC. Their professional knowledge, extensive experience and excellent analytical power have greatly facilitated the IPCC's monitoring function. If we were to mandate that the IPCC Chairman or Members must not engage in other businesses, the pool of candidates suitable for

the IPCC's work and willing to give up their original professions would shrink substantially. Moreover, the IPCC will continue to be supported by a secretariat and a sufficient number of observers. In view of this, we consider it unnecessary to make rigid provisions for the appointment of the IPCC Chairman or Members on a full-time basis.

Overall, the Bill provides a statutory basis for the police complaints system, and sets out clearer functions and powers of the IPCC. We are confident that the Bill meets Hong Kong's present needs and can ensure that complaints against the police are handled in a fair and just manner.

With these remarks, Deputy President, I urge Members to support the Bill.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Independent Police Complaints Council Bill be read the Second time.

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

Resumption of Second Reading Debate on Bills

DEPUTY PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Hazardous Chemicals Control Bill.

HAZARDOUS CHEMICALS CONTROL BILL

Resumption of debate on Second Reading which was moved on 24 May 2006

DEPUTY PRESIDENT (in Cantonese): Miss CHOY So-yuk, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MISS CHOY SO-YUK (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Hazardous Chemicals Control Bill, I now report on the deliberations of the Bills Committee.

The Hazardous Chemicals Control Bill (the Bill) mainly seeks to regulate the manufacture, export, import and use of non-pesticide hazardous chemicals (including those that are subject to the regulation of the Rotterdam Convention and the Stockholm Convention).

Given the health and environmental hazards of hazardous chemicals, the Bills Committee generally supported the Bill to impose regulation on these chemicals. However, members were concerned that in order for the two Conventions to apply to Hong Kong, the Administration has only included a general reference clause to the Conventions, unlike the prevailing practice of expressly setting out the relevant parts of an international agreement which have the force of law in Hong Kong in local legislation. As the general reference clause does not provide for a clearly defined scope, and the relevant provisions under the two Conventions applicable to Hong Kong are not set out in the Bill, members were concerned that this might create uncertainty and ambiguity, and that the affected trades might have difficulties in identifying the requirements of the Conventions. In response to the views of the Bills Committee, the authorities will move Committee stage amendments (CSAs) to delete the general reference clause in relation to the two Conventions in the Bill.

The Bill applies the same control regime to both convention and non-convention chemicals. As Hong Kong is under an obligation to regulate convention chemicals, Members raised no objection to the use of negative vetting procedure for amendments involving convention chemicals. They, however, held the view that amendments involving non-convention chemicals should be introduced by way of positive resolution to allow more time for scrutiny by the Legislative Council. The Administration has accepted the view of the Bills Committee and will move CSAs to this effect.

The Bill regulates the manufacture, export, import and use of scheduled chemicals, but given the lack of control over the "possession" of these chemicals in the Bill, members were concerned about the potential dangers associated with negligence on the use or possession of these chemicals. They also queried how the Administration could deal with circumstances where scheduled chemicals from unknown source are kept together with products containing such chemicals if possession of scheduled chemicals is not subject to control under the Bill. The Administration explained that such situation will be a suspected case of illegal use of scheduled chemicals and in that case, the Administration can take action to follow up the case and conduct investigation into it. Subject to further evidence being collected, prosecution may be instituted.

The Bills Committee had studied the binding effect of the Bill on the Government as well as the liability of the Government and public officers in the event of non-compliance with the provisions in the Bill. According to the Administration, the Government's legal policy is that criminal liability is not imposed on the Government and public officers in respect of regulatory offences, and that in the absence of an express provision, a public officer will enjoy immunity if it can be established that compliance with the statute would prejudice the Government.

Members pointed out that as set out in the paper submitted by the Panel on Administration of Justice and Legal Services to the House Committee on 7 July 2006, the issue of criminal liability is a matter of policy and not a matter of constitutional or legal principle. Therefore, individual Bills Committees may decide whether immunity from criminal liability should be included in the Bill. If so, this should be clearly spelt out in the Bill concerned. In response to members' view, the Administration agreed to include an express provision on the immunity of the Government and public officers to criminal liability, modelled on the CSAs to the Unsolicited Electronic Messages Bill. An express provision on the immunity of public officers to civil liability is also included in the Bill.

The Bills Committee was concerned that the Bill will impose strict liability on the employer who will be held liable for the acts of the employee who acted without his authority. Members pointed out that under the common law, an employer will be held liable for the acts of the employee only if they are wrongful acts authorized by him. In response to members' concern, the Administration agreed to move CSAs to the effect that if an offence against this Bill is committed by an employee, the employer could also be held liable for that offence. It shall be a defence for the employer if he proves to the satisfaction of the Court that the offence was committed without his knowledge or consent, and that he had exercised all reasonable due diligence to avoid the commission of such an offence.

Deputy President, as the Administration has accepted the proposals of the Bills Committee, I now propose that the Second Reading debate on the Bill be resumed.

Deputy President, I also wish to take this opportunity to briefly explain the views of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) on the Bill.

First of all, the DAB supports the enactment of the Bill. As I said earlier, the Bill seeks to regulate the manufacture and use of hazardous chemicals in Hong Kong. Meanwhile, under an international convention, Hong Kong is required to observe and carry out work in line with this international convention and so, we support the Bill. In the course of the scrutiny of the Bill, the DAB also raised dozens of questions. The Government has given satisfactory answers to some of the questions, and amendments have been made accordingly in other areas. So, generally speaking, we have no objection to the Bill.

Yet, I wish to express some personal views on the scrutiny of the Bill or on the Bill itself.

Firstly, the Bill regulates the manufacture or use of hazardous chemicals in Hong Kong. As the representatives of the Government repeatedly told us during the scrutiny of the Bill, there is only a small number of these companies in Hong Kong because manufacturing plants are basically few in number, and there is no chemical manufacturing plant in the territory, let alone factories manufacturing hazardous chemicals. In fact, I think it is unlikely to see any factory manufacturing hazardous chemicals in Hong Kong in the next decade. So, the enactment of the Bill or otherwise does not affect Hong Kong much.

Certainly, it gives no cause for criticism to enact legislation in compliance with international conventions. But I wish to point out that many environmental laws enacted over the past few years have nothing much to do with Hong Kong and they are of very little significance. Even for ordinances relating to VOC (volatile organic compounds) which may slightly affect Hong Kong, or those relating to endangered species of animals and plants, their impact on Hong Kong is still minimal but the Government had spent all its time and effort on them.

On the other hand, there are many laws which indeed have far-reaching impacts on Hong Kong, and their enactment is imperative, for example, the producer responsibility scheme, the waste disposal problem, air pollution problem, land pollution problem, environmental protection and conservation, and water pollution problem, which we have always mentioned, as well as many other laws relating to environmental protection. We all hope that the Administration could deal with these issues expeditiously, whether by amending laws or enacting new legislation. But over the years, we have not seen anything done by the Administration at all. Whenever a piece of legislation was tabled in the Legislative Council, I would invariably feel very happy, only to find out later that it was of little significance to Hong Kong.

I hope that the new Secretary will listen to our views, and that he will really do something seriously to address the very pressing environmental problems. Certainly, we have no objection to this Bill today, but almost 80% of the laws that we have dealt with before fall into this category, and since the reunification, there has actually been just one ordinance which is truly useful or has substance. As for this Bill, it was originally scheduled for enactment before the reunification, just that the scrutiny work subsequently came to a halt. So, insofar as this direction is concerned, I hope the Government can pay attention to it.

Moreover, as I pointed out earlier on, during the initial stage of the scrutiny of the Bill, regarding the proposal that the Bill will cover two types of hazardous chemicals, one being those regulated by the Conventions, and the other being hazardous chemicals outside the scope of the Conventions that the Director is empowered by the Bill to regulate when the Government considers regulation necessary, members have no objection to this point.

However, the biggest problem is that the Government proposed the use of negative vetting procedure for these two types of hazardous chemicals. This has reminded me that on several occasions when handling legislation on environmental protection, the Government invariably proposed the use of negative vetting procedure and as we all know, such procedure will only allow a very short time for scrutiny by the Legislative Council, and we cannot raise objection; nor can we support the Government because of the many differences in our opinions on the contents; nor do we have the opportunity to propose amendments.

Certainly, with regard to the chemicals regulated by the Bill, after discussion with the Legislative Council, the Government agreed to classify the chemicals into two types: first, for convention-regulated chemicals, negative vetting procedure will apply; second, chemicals not regulated by the conventions will be subject to positive vetting. I have particularly made this point because we have seen that when the Government proposed the introduction of the producer responsibility scheme in respect of waste disposal, it proposed that primary legislation be enacted to put in place the producer responsibility scheme and that negative vetting procedure would be used for the levy on plastic bags, the surcharge on tyres, and so on, which are consequential to the enactment of legislation. This is undesirable, as it gives the impression that the authorities are trying to circumvent the scrutiny of the Legislative Council and to prevent

the Legislative Council from making amendments or engaging in a longer examination of the proposals.

So, I would like to tell the new Secretary here that I am very concerned about this, and I hope that the Government, when enacting legislation in future, will not subject the scrutiny of proposals to negative vetting because, if this procedure is adopted, as we may not agree to the proposals and the Government will often make amendments or shelve the proposals, we still cannot propose any amendment and we can only rely on the Administration to do so. If the Government is inclined to enact legislation in this direction, I hope it will change its mind. I hope it will strive to correct mistakes, if any, while trying to do better when there is none, because it is not viable to apply negative vetting all the time.

Thirdly, another problem with the Bill is that in order to extend the international conventions to Hong Kong, the Government proposed at first to make general reference to the Conventions. In other words, the Government will make reference to the Rotterdam Convention and the Stockholm Convention in examining whether or not to issue a permit. This, we think, gives cause for concern because, considering the extensive scope of the Conventions covering different situations of many countries and the flexibility of the Convention requirements, if general reference is made to these Conventions in the local legislation, the local industries or stakeholders will not know clearly when they may fall foul of the law or when they are considered to be acting in compliance with it.

So, when it is necessary to adapt provisions of international conventions in any new legislation in future, we hope that the Secretary will clearly specify the provisions to be incorporated into local legislation. Otherwise, the Administration should delete the general reference clause, just as what it has done now. As I see the same problem on several occasions when the Government enacted laws on environmental protection, I, therefore, wish to particularly make this point here, and I hope the Government can understand our concern.

Deputy President, I so submit.

MR ANDREW LEUNG (in Cantonese): Deputy President, as the Chairman of the Bills Committee said earlier on, this Hazardous Chemicals Control Bill (the

Bill) provides the relevant legislation for Hong Kong to discharge its obligations under the two international conventions, namely, the Stockholm Convention and the Rotterdam Convention, imposing restrictions on the manufacture, use, import and export of hazardous chemicals, including persistent organic pollutants, toxic chemicals and pesticides. During the scrutiny of the Bill, we unanimously agreed on the major legislative principle, just that our views were diverse on some provisions about how we can improve the effectiveness of and facilitate law enforcement by government departments, and the Administration has made amendments accordingly in response to our views and proposals. Therefore, the Liberal Party supports the Bill as well as the amendments to be proposed by the Secretary today.

Deputy President, being the representative of the industrial sector, I am particularly concerned about two points, namely, the addition of new convention and non-convention chemicals to the regulatory regime in the future and the liability of employers under the legislation.

On the inclusion of convention chemicals to the list of scheduled chemicals, the Liberal Party and I consider that as Hong Kong has the obligation to regulate this type of chemicals, we support the use of negative vetting procedure, but as Miss CHOY So-yuk said earlier, regarding non-convention chemicals, we share the concern of members of the Bills Committee and oppose the Government's proposal. We hope that positive resolution can be used to allow more time for the Legislative Council to examine the addition or removal of chemicals from the relevant list. This proposal has been accepted by the Administration, and the Secretary will move amendments to this effect on behalf of the Government.

Besides, with regard to the liability of employers, the Blue Bill provides that the employer is held liable for acts of his employee who has acted without his authority. The drafting of this provision has indeed aroused grave concern in the commercial sector. We have also questioned the provision that an employee who acts outside his course of employment to use a hazardous chemical in the possession of his employer may rely on the defence that he does not know the chemical is a scheduled chemical. However, if the employer knows the chemical is a scheduled chemical, and even if his employee has used and manufactured such chemical not knowing that the chemical is a scheduled chemical, the employer cannot argue on the ground that he is not aware of such acts of his employee and use this as a defence. If the employer will be held

liable for such acts of his employee, it means that the employer should be prepared for being held liable anytime for the acts of his employee. We consider that the drafting of this provision represents a double standard for the employee's liability, and there should not be this standard.

On behalf of the Liberal Party, I have reflected the concern of employers to the Administration at the meetings and on other occasions, and we are glad that the Bureau has listened to us with an open mind. It has taken on board the views of the Liberal Party and made amendments to the effect that if an offence against the Ordinance is committed by an employee, it will be a defence for the employer as long as he can prove to the satisfaction of the Court that the offence was committed without his knowledge or consent, and that he had exercised all reasonable due diligence to avoid the commission of such an offence. We consider that this can allay the concern of employers, so that they do not have to operate in fears and anxieties all the time.

With these remarks, Deputy President, I support the Bill and the amendments proposed by the Secretary today.

MS AUDREY EU (in Cantonese): Deputy President, on behalf of the Civic Party, I speak in support of the resumed Second Reading debate on the Hazardous Chemicals Control Bill (the Bill).

The Bill seeks to provide, by way of legislation, the relevant statutes in Hong Kong to comply with two international conventions, namely, the Stockholm Convention which was adopted by China and Hong Kong in 2004 and the Rotterdam Convention adopted in 2005, as also mentioned by colleagues earlier on. The two Conventions aim to achieve enhanced co-operation in the international community, with a view to imposing control on chemicals that are harmful to human health and the ecology.

The first batch of persistent organic pollutants regulated by the Stockholm Convention covers 12 chemicals, which include eight pesticides (including dichlorodiphenyltrichloroethane or DDT), two industrial chemicals, namely, hexachlorobenzene (HCB) and polychlorinated biphenyls (PCB), and two industrial by-products, namely, dioxins and furans. The Rotterdam Convention aims to promote the sharing of relevant information among the contracting parties, facilitate compliance by exporters of hazardous chemicals with the

statutory labelling system, provide correct handling methods and notify buyers of the relevant restrictions and injunctions.

Under the Stockholm Convention, persistent organic pollutants, or POPs in short, are toxic and not easily degradable. They are bio-accumulate and can be transported across boundaries by atmospheric and water pathways and migratory species. They can be deposited in places distant from their original point of release and accumulated in land and sea ecology, which will have an adverse impact on human health in the long term.

Certainly, we are now living in the 21st century when the world has entered the era of global village. Environmental problems have been globalized and concerted efforts from every parts of the world are required to solve the problems, in order to safeguard human health and protect the environment from the hazards of pollution. This is also the spirit advocated in the Rio Declaration of the Earth Summit 1992. As a member of the international community, Hong Kong certainly has the obligation to assume its international duty which will, in turn, help protect the health of Hong Kong people.

Under the existing law of Hong Kong, domestic legislation must be enacted in order to apply international conventions to Hong Kong. This is why this Bill is introduced today. Basically, it would not have been necessary to hold so many meetings on this Bill had we not encountered a problem that we were unable to resolve despite discussion in many meetings. The problem, which is also common to the Legislative Council, is in what way we should apply an international convention to Hong Kong when the convention is to be adopted in Hong Kong.

In fact, we have held many meetings on this issue. The Government and Legal Adviser of the Legislative Council were insistent on their views and neither side was willing to give in. Under the original proposal of the Government, the Bill would make reference to the relevant agreement, so that the Director will have the power to adopt or make reference to the international convention. But which part or which provision of the convention shall the Director make reference to? We had asked government officials to explain this to us, but they could tell us nothing.

This is a very serious problem, because it is not the case that the entire convention will apply to Hong Kong. However, there is a provision in the Blue Bill that the Director can make reference to the entire international convention.

In that case, to ordinary citizens or the commercial sector about which Andrew LEUNG is most concerned, how can they know which part of the international convention the Director will make reference to in his consideration?

Moreover, international conventions can be amended from time to time but they will not automatically apply to Hong Kong. If legislation will be enacted in this way, it would mean that the Director can make reference to a particular part of the convention anytime and that particular part of the convention can automatically apply to Hong Kong without having to go through legislative procedures in Hong Kong. This is why we were locked in arguments over this issue for a long time.

We had once thought that we already reached some common understanding with the Government. But the Government denied, and even for the minutes of meetings, we had to discuss over and over again what exactly we had agreed at the meetings. I hope that such a situation can be reduced, and I also hope that on the question of legislation, especially in respect of how an international convention will apply to Hong Kong, a consensus can be reached between the Government and the Legislative Council, instead of wasting time whenever this issue arises.

While the Government eventually agreed to delete the provision and that is, the amendment to be proposed later will delete the reference to the international conventions in the Bill, the Government still insists that it can make reference to the conventions. Certainly, I understand that as long as the Bill does not provide that no such reference can be made, the Government may still make reference to the conventions to some degree but certainly, such reference must not go beyond the scope of domestic legislation. But a very important question remains. When we enact legislation to confer powers on government officials (such as the Director), how far can he exercise such powers when issuing, cancelling or amending the terms and conditions in the permit? If this is not expressly stated, his views on certain issues may be influenced by the latest practices and consensus in the international community.

Certainly, to some extent, I understand that as technology advances, the Government has to progress with the times, but it does not mean that the Government should be empowered to defy all laws and arbitrarily adopt provisions which have not been applicable to Hong Kong and incorporate them into domestic legislation. So, I hope that on these issues, we can reach more

understanding with the Government, so as to prevent the recurrence of similar problems.

Another issue worthy of concern is that the chemicals regulated by the Bill also cover chemicals outside the coverage of the two Conventions. The Government considers that as the convention-regulated chemicals are reviewed only at a five-year interval, it will allow greater flexibility and provide greater protection to the community if the Director of Environmental Protection is empowered to regulate non-convention chemicals.

Members of the Bills Committee considered that although we agreed to such arrangement, amendments involving non-convention chemicals should be subject to positive vetting. The Government has taken on board our view and amendments will be made accordingly to this effect.

Another issue of concern is the meaning of the word "manufacture" in the Bill, especially whether, in the context of "causing the chemical to be manufactured", it will give a wrong impression that the Bill will cover chemicals produced unintentionally as by-products during a manufacturing process, such as dioxin or furans. In this connection, the Government should clarify the definition of "manufacture", so that people who have unintentionally produced scheduled chemicals as by-products will not inadvertently fall foul of the law.

Deputy President, we certainly appreciate that, as Miss CHOY So-yuk said earlier on, the Bill may not involve a lot of problems because the manufacturing industry has almost become extinct in Hong Kong and so, not many businesses and people will be affected. In spite of this, we still have the international obligation to expeditiously enact legislation for the purpose and so, I am very glad to see and very much welcome the tabling of the Bill to the Legislative Council.

However, this does not mean that we do not wish to see the making of other legislation relating to environmental protection, and as Miss CHOY So-yuk has mentioned this point earlier, I am not going to repeat what she has said. I hope that the new Secretary will table other environmental legislation to the Legislative Council as soon as possible.

Recently, the *Metro Daily* has interviewed some people concerned in respect of environmental problems over the last decade. I can see that the different people interviewed happen to share quite similar views, as they think

that although the Government has indeed done something for environmental protection, it has failed to address the more important aspects. I very much hope that the Secretary can work harder in this regard. Thank you, Deputy President.

MR JAMES TO (in Cantonese): Deputy President, the Democratic Party has along been concerned about the issue of environmental protection. We share the views expressed by the two Members, Miss CHOY So-yuk and Ms Audrey EU, in their speeches earlier that over the past few years, with regard to the most pressing environmental issues raised by Members of this Council and environmental groups for which the enactment of legislation is warranted, the Government has invariably dragged its feet or failed to do anything.

This, we certainly understand, but it does not mean that the Government is right. Why? Perhaps after the march on 1 July 2003 and the subsequent replacement of the Chief Executive, the Government has been like a guardian government, choosing not to do anything on the more controversial issues. Added to this is the magnitude of the portfolio of the Bureau, and this would also depend on the competence of the then Director of Bureau who was nevertheless incapable of coping with such a wide scope of responsibilities, but having said that, she still would not be able to manage it however competent she may be, not to mention that she is not at all competent and so, she simply could not make it.

So, as Miss CHOY So-yuk said earlier — with regard to the many pressing environmental issues proposed by the Democratic Party, the Government has done nothing at all. This is not just the case of the Environment Bureau. The Security Bureau is all the same, as it has done nothing to address the more controversial issues. Insofar as international conventions are concerned, I wonder if it is because they are lazy that they have only copied everything. This is what happened when we enacted legislation relating to terrorism, and we had to examine the whole Bill all over again. According to the authorities, it was just a simple matter, suggesting that we could simply keep the original provisions. But the wordings do not fit in with the common law originally used for law drafting or the laws previously in force in Hong Kong and so, we had to study it again for a long time before we could understand the meaning of a particular word. Besides, as the international conventions are applicable to many countries, it is impossible for the wordings to be tailor-made for us.

The Department of Justice should draw up provisions tailor-made for Hong Kong in accordance with the requirements of international conventions for which legislation must be enacted in order to extend them to Hong Kong, rather than just copying everything from them. When interpretation is necessary, they do not know how to interpret the provisions. Nor is there any precedent to make reference to because the wordings used are different. So, in this regard, since transport and some other matters have already been taken out from the ambit of the existing Environment Bureau, which is now a bureau overseeing environmental issues only, the incumbent Bureau Director is duty-bound to do something, rather than acting in a way as his predecessor did. In the past, we could still defend the Bureau on account of the extensive coverage of its portfolio. With regard to those very pressing issues and particularly as the Government will not be a guardian government in the next five years, it should build up a strong leadership and make vigorous efforts to strive for improvement, rather than dwelling in complacency over its mediocrity. If it fails to perform even this role, I think the consequences might be too dreadful to contemplate. In tendering this piece of advice to the new Secretary, I hope that he will work hard to this end.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Secretary for the Environment to reply. This debate will come to a close after the Secretary for the Environment has replied.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, as a number of Members have said in their speeches earlier, the Hazardous Chemicals Control Bill (the Bill) mainly serves to regulate the import, export, manufacture and use of non-pesticide hazardous chemicals which have potentially harmful or adverse effects on human health or the environment, with a view to safeguarding human health and protecting the environment.

(THE PRESIDENT resumed the Chair)

The Bill was tabled before the Legislative Council for First Reading on 24 May 2006, followed by the commencement of the Second Reading debate. First of all, I wish to take this opportunity to thank the Chairman of the Bills Committee, Miss CHOY So-yuk, and all members of the Bills Committee for their very detailed scrutiny of the Bill over the past year and also for the many opinions put forward by them. I also thank Miss CHOY So-yuk and the several Members who have given us their opinions and earnest advice on the problems arising from the drafting of the Bill and the legislative exercise as well as other environmental protection measures outside the scope of legislation.

With the enactment of the Bill, the Hong Kong Special Administrative Region (SAR) will have the necessary legal framework to effectively implement two international conventions, namely, the Stockholm Convention on Persistent Organic Pollutants (the Stockholm Convention) and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the Rotterdam Convention).

Our country, the People's Republic of China, is a contracting party to these two international conventions. The Stockholm Convention aims to restrict the manufacture and use of persistent organic pollutants with a view to ultimately eliminating them, in order to protect human health and conserve Mother Nature. The Stockholm Convention has since 11 November 2004 been applied to the SAR. The Rotterdam Convention aims to restrict the international trade of certain hazardous chemicals and pesticides among the contracting parties. The Rotterdam Convention has not been applied to the SAR as we still do not have the necessary legislation for its full implementation.

The non-pesticide hazardous chemicals listed in Schedules 1 and 2 of the Bill are chemicals regulated by the Stockholm Convention and the Rotterdam Convention. The Bill, if enacted, will allow sufficient flexibility for regulating certain non-convention chemicals in future.

Under the Bill, the Environmental Protection Department (EPD) will set up and enforce an activity-based permit system. Each permitted activity (that is, import, export, manufacture or use of scheduled chemicals) will be specified in a permit which is generally valid for 12 months. Unless the requirements which are explicitly stipulated in the Bill are met, the Bill prohibits the import, export, manufacture and use of any of these chemicals.

As mentioned by Miss CHOY So-yuk earlier, there may not be many chemical manufacturing facilities or plants in Hong Kong but as Hong Kong is a trade centre and a metropolis, the import, export and even use of these chemicals which pose environmental or health hazards may somehow be involved. Therefore, we believe the Bills Committee will support the enactment of this Bill to regulate the import, export, manufacture and use of these chemicals.

An import/export licence is also required to be obtained under the consignment-based licensing system under the Import and Export Ordinance for the import/export of any non-pesticide hazardous chemical. In the course of consultation on the proposed legislation, the shipping sector expressed concern about the difficulty in complying with the import/export licensing requirements relating to transit and air transshipment cargo. In view of their comments, we propose that carriers will not be required to apply for import/export licences under the Import and Export Ordinance. But in order to comply with the regulatory provisions of the two conventions mentioned earlier, carriers will still need to obtain import/export permits under the Bill and they will need to obtain permissions from both export and import countries. They will also need to notify the EPD within a period of seven days of arrival of the cargo the details of the cargo with relevant documents.

Madam President, during the scrutiny of the Bills Committee, we had held in-depth discussions with members on several major areas of the Bill. First, the Bills Committee expressed reservations about the Bill making reference to the two Conventions in some of its clauses but without a clearly defined scope. Our original intent of making express reference to the requirements of the two Conventions in the provisions of the Bill is to impose a statutory duty on the Director of Environmental Protection to have regard to the requirements of the two Conventions when exercising his powers under the Bill, and to require the Director to exercise those powers in a manner consistent with the two Conventions. But given that the Bills Committee was inclined to support the deletion of the general reference to the Conventions and the fact that the Director may still perform his statutory functions having regard to and in a manner consistent with the Convention requirements even without any express reference in the legislation, we agreed to move CSAs to amend the relevant provisions and delete the said reference. As we have explained to members of the Bills Committee, while the Director will be given broad discretionary powers in issuing, renewing, suspending or cancelling permits, he is required to exercise his discretion within the powers conferred upon him by the Bill. Moreover, in

making reference to Convention requirements, he cannot act beyond the express provisions of the legislation.

Second, the Bills Committee has put forward proposals on the legislative procedure to be used for amendments to Schedules 1 and 2 of the Bill. The Bills Committee agreed to using negative vetting procedure for amendments to Schedules 1 and 2 involving only chemicals regulated by the Stockholm Convention or the Rotterdam Convention (convention chemicals), but for amendments involving non-convention chemicals, the Bills Committee was of the view that they should be subject to positive vetting, for this can allow more time for scrutiny of the proposals by Members of the Legislative Council. The Government shares the view of Members and to this effect, we will propose CSAs to these provisions.

Third, the Bills Committee was concerned about the lack of control over the possession of scheduled chemicals in the Bill. It has been our established policy intent to regulate the import, export, manufacture and use of non-pesticide hazardous chemicals. This is consistent with the scope of regulation of the Stockholm Convention and the Rotterdam Convention, as neither of the two conventions seeks to prohibit the mere "possession" of hazardous chemicals. Overseas experience also shows that the scope of regulation primarily covers the import, export, manufacture and use of these chemicals. Therefore, we do not consider it necessary or appropriate to expand the scope of regulation under the Bill to cover possession of the scheduled chemicals. Besides, as possession of any scheduled chemical is an integral component of the four regulated activities, namely, import, export, manufacture and use of chemicals, the permits to be issued under the Bill will contain conditions relating to the proper possession and handling of the chemicals. Environmental pollution caused by improperly stored or handled chemicals is actually dealt with under the existing environmental legislation.

Fourth, the Bills Committee was concerned about the liability of the Government and public officers under the Bill. It has been the legal policy of the Government that criminal liability is not imposed on the Government and public officers in respect of regulatory offences, which is consistent with the practice of other common law jurisdictions in handling contravention of regulatory provisions by government departments or public officers. Most overseas common law jurisdictions have retained the concept of not imposing criminal liability on the Government and public officers. In view of Members' concern about the need for clarity, we agreed to move CSAs to expressly provide

for the immunity of the Government and public officers from criminal liability, modelled on the relevant provisions of the Unsolicited Electronic Messages Bill, as mentioned by Miss CHOY So-yuk earlier on. The amendments also include an express provision on the immunity of public officers from civil liability, similar to the general provision in existing environmental legislation which provides for the test of "honest belief" as a condition for immunity.

Fifth, the Bills Committee was concerned that the Bill will impose strict liability on employers for contravention of the provisions of the Bill by employees without providing a statutory defence for employers. This, the Bills Committee considered inappropriate. In response to the concern of the Bills Committee and in order to better balance the interests of employers and employees, the Government agreed to move CSAs to provide statutory defence to employers in respect of offences committed by their employees in the Bill. Mr Andrew LEUNG has also mentioned this point earlier.

Sixth, the Bills Committee was concerned about whether failure to receive a notice served by the Director according to the mode of service prescribed by the Bill is a defence, given that non-compliance with any of the directions given by the Director is a strict liability offence under the Bill. Although the Bill does not provide any statutory defence to the above offence, the common law defence of "honest and reasonable belief" is applicable to the offence. To establish such a defence, a person charged has to produce sufficient evidence to prove that he reasonably and honestly believes that no such directions had been imposed on him or he had already complied with such directions.

The Bills Committee had also proposed minor amendments to the technical aspects of some provisions in the Bill. I will explain these amendments at the Committee stage later.

Madam President, the Bills Committee has expressed support for the resumed Second Reading debate on the Bill. I urge Members to pass the Bill. Thank you, Madam President, and I also thank the Bills Committee for their assistance.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Hazardous Chemicals Control Bill.

Council went into Committee.

Committee Stage

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

HAZARDOUS CHEMICALS CONTROL BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Hazardous Chemicals Control Bill.

CLERK (in Cantonese): Clauses 3, 5 to 9, 12, 14, 15, 17, 18, 20, 24, 25, 26, 30, 32 to 40, 42, 43, 45, 46, 49 and 51.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 2, 4, 10, 11, 13, 16, 19, 21, 22, 23, 27, 28, 29, 31, 41, 44, 47, 48 and 50.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now, as printed on the paper circularized to Members. I would briefly explain the amendments now.

In response to the concern of the Bills Committee, new clause 2(3) provides that in this Ordinance, a scheduled chemical is not regarded as having been manufactured if it is produced incidentally in the course of the manufacture of any other thing. In other words, under such circumstances, a permit is not required to be obtained for the manufacture of the scheduled chemical in question under the Ordinance.

Clause 4 is amended to provide for immunity of the Government and public officers from criminal liability. The amendments to clauses 10(3) and (4), 11(2) and (3), 13(2) and (3), 19(1)(d), 22(2) and (3), 23(2) and (3), 27(1)(d), and 47(3) and (4) seek to delete the general reference to the provisions of the Stockholm Convention and the Rotterdam Convention in the Bill in response to the suggestion of the Bills Committee.

The Bills Committee considered it necessary to set a time limit for the return of the permit to the Director by permit holder. In response to the concern of the Bills Committee, we propose to amend clauses 16(2), 21(1), 29(1), 31(3)(a) and 31(4)(a) to provide that the permit shall be returned to the Director within 10 working days.

Clause 41 is amended mainly to provide defence to the employer in any proceedings for an offence under this Ordinance brought against him in respect

of an act or omission by his employee. Under the amended clause 41, a defence can be established for the employer if he can prove that the act was done or the omission was made without his knowledge or consent, and that he had exercised all reasonable due diligence to prevent the employee from doing the act or making the omission in the course of his employment.

The amendments to clauses 44(a)(i), 44(b)(i) and 44(c)(i) are introduced with the purpose of expressly stating that a notice or document required to be served under this Ordinance must be addressed to the Director of Environmental Protection or the individual or body corporation concerned.

Clause 50 is amended at the suggestion of the Bills Committee to provide that an order to make any amendment to Schedule 1 or 2 that relates to any convention-regulated chemical only should be subject to negative vetting by the Legislative Council, whereas any other amendment to Schedule 1 or 2, such as the addition of a list of non-convention-regulated chemicals, should be subject to the approval of the Legislative Council in the form of a resolution using the positive vetting procedure; and if the amendments involve both convention-regulated chemicals and non-convention-regulated chemicals, the Secretary for the Environment may, where he thinks desirable, table the order to the Legislative Council in the form of a resolution using the positive vetting procedure.

Besides, some minor and technical amendments are also proposed to clauses 1, 2, 28 and 48 of the Bill. These amendments have obtained the support of the Bills Committee. We implore Members to support and pass these amendments.

Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex I)

Clause 2 (see Annex I)

Clause 4 (see Annex I)

Clause 10 (see Annex I)

Clause 11 (see Annex I)

Clause 13 (see Annex I)

Clause 16 (see Annex I)

Clause 19 (see Annex I)

Clause 21 (see Annex I)

Clause 22 (see Annex I)

Clause 23 (see Annex I)

Clause 27 (see Annex I)

Clause 28 (see Annex I)

Clause 29 (see Annex I)

Clause 31 (see Annex I)

Clause 41 (see Annex I)

Clause 44 (see Annex I)

Clause 47 (see Annex I)

Clause 48 (see Annex I)

Clause 50 (see Annex I)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 2, 4, 10, 11, 13, 16, 19, 21, 22, 23, 27, 28, 29, 31, 41, 44, 47, 48 and 50 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 50A Protection of public officers.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): I move that new clause 50A be read the Second time, so as to include an express provision on immunity of public officers from civil liability under the Bill, subject to the "honest belief" test. I have already explained the reasons for introducing the new clause to Members during the resumed Second Reading debate earlier, and the new clause has obtained the support of the Bills Committee. I implore Members to support this new clause. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 50A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 50A.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Madam Chairman, I move that new clause 50A be added to the Bill.

Proposed addition

New clause 50A (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 50A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 1, 2 and 3.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That Schedules 1, 2 and 3 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

HAZARDOUS CHEMICALS CONTROL BILL

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Madam President, the

Hazardous Chemicals Control Bill

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Hazardous Chemicals Control Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Hazardous Chemicals Control Bill.

MOTIONS

PRESIDENT (in Cantonese): Motions. Three proposed resolutions under the Mass Transit Railway Ordinance. First motion: Approving the Mass Transit Railway (Amendment) Bylaw 2007.

I now call upon the Secretary for Transport and Housing to speak and move her motion.

PROPOSED RESOLUTION UNDER THE MASS TRANSIT RAILWAY ORDINANCE

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I move that the resolution as set out under my name on the Agenda be passed.

Following the passage of the Rail Merger Bill on 8 June 2007, the railway corporations need to exercise their powers under the relevant ordinances to amend some of their existing bylaws for the implementation of the rail merger. The four resolutions that I will move today involve amendments to four sets of bylaws.

Amendments to each set of bylaws require a separate resolution. Therefore, I will move four resolutions for decision today. I will first give an overall introduction to this bylaw amendment exercise, and then focus on introducing the first resolution. I will then deal with the three other resolutions when I speak again later.

The bylaw amendment exercise seeks to modify or expand the existing bylaws made under the Mass Transit Railway Ordinance (MTR Ordinance) as necessary for the implementation of the rail merger, using the existing Mass Transit Railway By-laws (MTR Bylaws) as the basis, such that the post-merger corporation (MergeCo) can operate both the MTR and KCR systems under one uniform set of bylaws. As for the Light Rail and the bus services of the Kowloon-Canton Railway Corporation (KCRC) in the North-west Transit Service Area (TSA bus services), as they are now covered by a separate set of North-west Railway By-laws (NWR Bylaws) made by the KCRC, the MTR

Corporation Limited (MTRCL) will use this set of bylaws as the basis to formulate the Mass Transit Railway (North-west Railway) Bylaw under the empowering provision of the amended MTR Ordinance for the operation of the Light Rail and TSA bus services by MergeCo after the rail merger.

The House Committee of the Legislative Council has set up a subcommittee in end May to study these sets of bylaws in draft. In this connection, I would like to extend my sincere gratitude to the Chairman of the Subcommittee, Ms Miriam LAU, the Deputy Chairman, Mr TAM Yiu-chung, and all the other members of the Subcommittee, for the valuable time and effort they have spent in the exercise. The two railway corporations have been able to make reference to Members' valuable comments made, after in-depth discussion, on individual provisions in the draft bylaws in finalizing the proposed amendments. Taking into account the Subcommittee's suggestions, the railway corporations have made suitable amendments to the draft bylaws. These sets of bylaws now tabled to this Council have already incorporated all such amendments.

It is the common view of many members of the Subcommittee that the framework for operating the MTR has been well established for years and its implementation is smooth and acceptable to the public. As regards penalty provisions, it is noted that the maximum levels of penalties under the bylaws of the two railway corporations are not entirely the same, with the penalty levels under the MTR Bylaws being lighter in general. The Subcommittee considered it more desirable to adopt the penalty levels stipulated in the existing MTR Bylaws after the rail merger, whereas for the additional proposed provisions to be brought across from the Kowloon-Canton Railway Corporation By-laws (KCRC Bylaws), the existing penalty levels applied by the KCRC Bylaws can be adopted. The suggestion has been accepted by the MTRCL.

In addition to the necessary amendments to the bylaws as a result of the rail merger, some members also suggested that considerations should be given to amend certain existing provisions of the MTR Bylaws, for example, the possibility of reducing the maximum level of penalty for illegal hawking on railway premises in this exercise. But it is noted that some other members have expressed reservation about this suggestion. On the other hand, one member proposed at a Subcommittee meeting that those existing bylaws which are not related to the rail merger should also be jointly reviewed and considered for amendment in this exercise.

After listening to members' views, the MTRCL agreed to review such other existing provisions from an overall perspective taking into account members' suggestions. The MTRCL has undertaken to conduct a comprehensive review on the bylaws in the light of the views expressed by members of the Subcommittee. The review will be completed after it has gained experience in operating the integrated railway system and the Corporation will put forward detailed amendment proposals to the relevant panel or committee within 12 months of the merger. The Subcommittee has indicated agreement to the MTRCL's proposed arrangements and timetable for the comprehensive review, taking into consideration that MergeCo should be given time to familiarize itself with the operation of the integrated railway system such that MergeCo can make reference to the actual experience in the review.

I have just explained to Members the overall purposes of this bylaw amendment exercise. Now, I would like to turn to the first resolution that I am going to move.

This resolution deals with amendments to the existing MTR Bylaws. The objective of the MTRCL's proposed amendments is to bring across the relevant existing provisions of the KCRC Bylaws that are required for the operation of the KCRC railways to the MTR Bylaws, as there are no corresponding provisions in the existing MTR Bylaws. The amendments mainly fall into three categories:

First, the existing provisions of the KCRC Bylaws relating to intercity passenger and freight service and provisions that cater for the unique features of the KCRC's operation, such as the existence of first class compartments, will be brought across to the MTR Bylaws.

Second, the Chinese title of the MTR Bylaws will need to be changed from 《地下鐵路附例》 to 《香港鐵路附例》 as a consequence of the change of the Chinese name of the MTRCL from "地鐵有限公司" to "香港鐵路有限公司" upon the merger. Reference to the Chinese name of the Corporation in the MTR Bylaws will need to be amended accordingly as well.

The last set of amendments are other consequential amendments.

With regard to the concern expressed by the Subcommittee over the penalty level under this set of bylaws, I would like to supplement that they represent the maximum levels of penalty for contravention of the relevant bylaws, whilst it would remain a matter for the Magistracy to decide on the

actual penalty to be applied in each case based on the circumstances of the individual cases. The MTRCL has accepted the suggestion of the Subcommittee to continue to adopt the existing penalty levels under the existing MTR Bylaws after the merger. As for the additional provisions which are not contained in the existing MTR Bylaws, they will apply the existing penalty levels for the corresponding provision in the KCRC Bylaws. The Subcommittee acknowledged the principle adopted by the MTRCL that provisions on imprisonment as a penalty will be retained if the contravention of the relevant provisions have railway safety or security implications.

The two railway corporations have also explained to the Subcommittee that as their established practice in enforcing the bylaws, they would first seek to obtain the co-operation from the person concerned by giving advice, and it is only when this is not effective that they would take further actions such as issuing warnings. MergeCo will adopt the same enforcement approach.

Subject to Members' approval of this resolution today, the proposed amendments to this set of bylaws will come into operation on the date of merger implementation. I hope that Members will support the resolution.

Madam President, I beg to move.

The Secretary for Transport and Housing moved the following motion:

"RESOLVED that the Mass Transit Railway (Amendment) Bylaw 2007, made by the MTR Corporation Limited on 20 June 2007, be approved."

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

PRESIDENT (in Cantonese): Mr James TO has given notice to move three amendments to this motion. The motion and the three amendments will now be debated together in a joint debate.

I now call upon Mr James TO to speak on the motion and his amendments; but no amendments are to be moved at this stage.

MR JAMES TO (in Cantonese): President, I reckon a number of colleagues will ask these questions: Why is the MTRCL not given more time as it has indicated its intention to conduct a 12-month review, as mentioned by the government official in her speech earlier? Why do we have to hurry?

I think that the MTRCL is shameless in acting in this manner because it has abundant resources. It has been years since the Government's announcement of its plan to undertake this task, that is, since the departure of the former Chief Executive, Mr TUNG Chee-hwa, because of leg ailment. It has also been several years since the Secretary's official announcement that the Panel on Transport of this Council will be consulted. Until recently, even though a controversy has been stirred up by the Government over the bylaws, and it is generally held that the provision on the use of abusive language is controversial, a review could still be conducted during the several months available.

It is wrong for the Government and the MTRCL not to take prompt action to tackle the controversial issues, given the resources they possess. They cannot say that, for the purpose of the merger, either one of the two sets of bylaws should be chosen by examining which one is unsuitable or inconsistent. I hope Members will bear in mind that, if the matter is dealt with in this manner, then there must be problems with the mentality of the Government and the MTRCL. Why? Even if we brush aside the issue of penalty for the time being, how much will be fined? Does the penalty refer to one or three months? If we are talking about the period for claiming lost property, will the period expire in one or three months? Simply put, this should not be regarded as penalty — of course, it can be said that people failing to claim their lost property should be penalized for their negligence.

The convenience of the MTRCL, not the public, is the Government's consideration. I say so because the Government has chosen one month, even though two options, namely one and three months, are available. Let us consider this. The MTRCL will easily adopt the mentality of maximizing their benefits since it is allowed by the Government to do so. Even though the MTRCL has made enormous gains from superstructures, it is not willing to keep the lost property for two more months. Furthermore, 95% of lost property was claimed within a month. In other words, lost property was rarely kept for two months. Yet, the MTRCL has refused to make even a little bit of effort for the convenience of the public. Regarding this viewpoint, Mr WONG Kwok-hing

(and other colleagues) expressed strong support in the Subcommittee. I hope he can speak on this issue later. Why should a review be conducted if the Government and the MTRCL will not make any concession even on such a simple matter? Why would the situation as a whole be affected with a slight move in one part? Therefore, there must be something wrong with their mentality. The MTRCL is an independent kingdom; even the Government cannot do anything about it. Since it is hoped that the MTRCL be allowed to develop in this manner, the matter can only be dealt with in this way.

Hence, it would be meaningless for us to say anything today. The Government has already made some calculation to ensure enough votes for the passage of the bylaws. I would like to make it clear to Members that I have been asked by colleagues why some amendments are related to the MTR while others are related to the North-west Railway. The answer is that I am restricted by the Rules of Procedure. Actually, there are lots of amendments I wish to propose. However, because of the limitation imposed by the Rules of Procedure, I cannot possibly do so. Members should bear in mind that proposing these amendments should be the responsibility of the MTRCL and the Government, not mine. Nevertheless, I have referred to a lot of information within a short period of time so that I can engage in a thorough debate with Members. Members are most welcome to point out the deficiencies of my amendments. With its enormous manpower and resources, the MTRCL should have been able to mobilize 100 or even 1 000 lawyers. However, nothing was said in the Bills Committee. I think our Government or a major public body, such as the MTRCL, is doing Hong Kong people a disservice should they adopt such a mentality during the deliberations, because such an attitude is simply irresponsible.

I would like to come back to some concrete problems arising out of the amendments to the MTR Ordinance. I propose to add "with the exception of accident or other emergency" in section 8(b) simply because I have originally agreed that a person interfering with the door of a train should be penalized for security consideration. However, if in the case of an accident or other emergency, such as his child is in danger of death for being trapped by the train door, he will certainly have to pry open the train door to save his child. Right? This situation is actually very simple. Any ordinances should have contained such exceptions. It is most ridiculous that the MTRCL has added another provision stating under what circumstances a person should leave a train. Of

course, no one can leave or board the train while it is in motion, though it is stated that accidents or emergencies are treated as exceptional cases. Certainly, passengers might have to leave the train in case of accident or other emergency because they have to run for their lives. The MTRCL will definitely be allowed to introduce a provision in this area should it propose to do so. However, the proposal of adding a provision to section 8(b) has been rejected by the Government without any reasons. Hence, the matter is very simple. We can see that the Government is determined to act in an arbitrary manner. There is no need for the Government to give reasons so long as there are enough votes.

Another amendment is related to section 18. According to the drafting of the new by-law 32A, any persons using articles intended for the purpose of publicity or advertisement may be penalized. However, Members should bear in mind that there are numerous live examples in many circumstances. Even Mr LEUNG Kwok-hung has cited such examples as the 1 July march or the campaign for vindication of the 4 June incident. We might even cite an extreme case in which some people express support for the excellent administration of the SAR, adding that we should celebrate for we have spent the first several years in the SAR happily under the leadership of TUNG Chee-hwa and two happy years after Donald TSANG took over the reins. All this can also be considered as advertisement or publicity. If such advertisements or publicity materials are found within the MTR precincts, the relevant persons should theoretically be penalized. However, we are told that this is not going to happen, and no one will act indiscriminately. Even if this is stated in the legislation, they will act purely according to the instruction of the enforcement authorities. Despite the assurance from the MTRCL that its staff will not act indiscriminately, this is still not a good piece of legislation, for this represents the rule of man, not the rule of law.

Hence, I propose to draw a line so that only a person with the intent to act for the purpose of commercial advertisement or commercial publicity without approval will be penalized. Of course, the MTRCL is a profit-making body. It must impose some sort of control for maintaining order, especially protecting its profits. If the general public or hawkers are allowed to sell things or conduct publicity within the MTR precincts, then the MTR advertising space will sell poorly. Right? Therefore, nothing can be done in this aspect. If activities intended for the purpose of commercial advertisement or commercial publicity are conducted without approval, they should be restricted.

In its response, the MTRCL mentioned some non-commercial circumstances, such as the holding of a painting exhibition not for the purpose of sales but for public appreciation only. However, there is no cause for fear even if someone acts in this way, because the MTRCL is conferred a general power by a bylaw made under the MTR Ordinance to expel illegal intruders or activities. Generally speaking, a person committing a non-commercial but illegal act of intrusion may be expelled. He is actually not penalized for his intention to engage in commercial activities without paying advertisement rents for profit-making purposes. This balance is perfect, since not only the MTR can be protected, illegal activities, such as improper non-commercial activities, can also be expelled.

The third point is related to the deletion of section 21, which is also relevant to the issue raised by me earlier concerning whether one or three months should be chosen. Despite its claim that 95% of lost property would be claimed within a month, the MTRCL has still decided to shorten the period for claiming lost property to one month. In other words, 5% of lost property kept by the MTRCL for one to three months might already be sold or destroyed by the MTRCL. However, Members should bear in mind that what we are talking about is not perishable food such as bananas or tomatoes — it is covered by another provision stipulating that the one-month waiting period does not apply in that case.

Therefore, I would like to cite an example. We are actually requesting the relevant authorities to provide the public with greater convenience. I think tourists might probably have come into Members' minds. Perhaps let me cite an embarrassing example of mine. Sometimes, it may take more than a month before one will realize or suspect that he has left something somewhere. I had once left a mobile phone in Heathrow Airport. However, I did not realize that my phone was lost until I had returned to Hong Kong. I was not even sure of where I had lost it, wondering if it was left on the plane. As my whole trip covered a number of places, I could only check with the places I had visited, such as hotels, venues, and so on. It did not occur to me that my phone might have been forgotten in the Airport. After checking different places one by one like a detective, I was finally left with the option of checking with the Airport.

As a result, I tried to make an enquiry by long-distance call and found that there was a hotline for the lost and found department of the Airport (this is a pretty good arrangement). When I was asked when my phone was lost, I was

able to tell the exact date by referring to my boarding pass. After providing details on the brand and model of my mobile phone, I was given a positive reply within a second after the operator had pressed a search button and identified a lost property similar to the one described by me. I then asked him to activate the phone and check the greeting message. Having checked with the phone and found that it matched perfectly with my description, the operator told me that I could claim it back immediately. As I did not know when I would make another trip to Europe, I decided to ask a friend of mine to claim the phone for me. To do so, I was required to give him the original copy of my authorization and send it to him by DHL courier. As he happened to have no plan to make a special trip to the Airport when he received my authorization, I could only ask him to bring me back the phone when he happened to visit Hong Kong on his future trip. Under such circumstances, the waiting period might probably take one to two months, right?

I really cannot quite understand why the MTRCL has to be so mean in calculating the retention period with the public regarding the remaining 5% of lost property pending claim. It must be borne in mind that the retention period imposed by one of the two former railway corporations was three months. Why should it be changed now? The course of our discussion at that time was amazing. Some colleagues suggested that a decision be made after the review. If it was considered after the review that a three-month period should be imposed, a trial could be conducted before another review is conducted. If the three-month retention period was really considered to be infeasible, the period could then be reverted to one month. However, some colleagues reminded other Members not to do so or listen to my nonsense because no one would be willing to change the period from one month to three months. However, we are doing this for the convenience of the public. This is indeed very strange: Why would some colleagues think in this way? Is it because they would like to be directors of the MTRCL? Why?

What we are dealing with at the moment is just a very, very minor improvement. Under the present circumstances, there is no need to deal with it alongside other bylaws. But yet, this cannot be done for the convenience of the public. Some Members still insist on arguing and defending their suggestion that a 12-month review must be conducted. It is simply unnecessary to spend 12 months dealing with this provision. Hence, the mentality adopted by the Government and the MTRCL in dealing the merger legislation and treating the public is indeed evident.

MS MIRIAM LAU (in Cantonese): Madam President, in my capacity as Chairman of the Subcommittee to Study the Draft Subsidiary Legislation Relating to the Rail Merger (the Subcommittee), I report on the work of the Subcommittee.

The House Committee agreed at a meeting held on 25 May this year to set up a Subcommittee to study eight items of draft subsidiary legislation relating to the rail merger. Four items of the subsidiary legislation which are subject to the negative vetting procedure were laid on the table of the Legislative Council on 13 June 2007, and dealt with by the House Committee on 15 June. As regards the four remaining items of merger-related subsidiary legislation which are subject to the positive vetting procedure, the Secretary for Transport and Housing has already moved four relevant motions at today's meeting — perhaps one should be moved first, with the remaining three to follow.

The Subcommittee has held a total of seven meetings. It was noted by the Subcommittee that, subsequent to the rail merger, certain amendments must be made to existing legislation to cover the relevant matters concerning the railway and bus operation of the Kowloon-Canton Railway Corporation (KCRC). During the deliberation, concerns were raised about the maximum levels of penalty for various offences. After deliberation, the MTR Corporation Limited (MTRCL) agreed to adopt the vast majority of members' recommendations and introduce consequential amendments to the relevant bylaws. The motions tabled to this Council today have actually covered the recommendations of the Subcommittee.

Furthermore, some members were concerned that the drafting of certain provisions in the bylaws are already obsolete. Some members held that some existing provisions are not clearly defined, and hence the general public may inadvertently be caught by the provisions. In this connection, the MTRCL has undertaken that a comprehensive review of the bylaws will be conducted after the merger, and the review result will be reported to the Legislative Council within 12 months after the rail merger. However, the Subcommittee has also noted Mr James TO's view that the MTRCL should, before the rail merger, review the relevant bylaws. As Mr TO has explained his view in detail earlier, I will not repeat it here.

Madam President, I wish to spend the rest of the time on expressing the view of the Liberal Party on the three amendments proposed by Mr James TO to the Mass Transit Railway (Amendment) Bylaw 2007.

In his first amendment, Mr TO proposes to add paragraph (3) to section 8(b) providing that paragraphs (1) and (2) do not apply in case of accident or other emergency. In other words, Mr TO implies that, in case of accident or other emergency, anyone can board or leave the train after the doors are closed, or anyone can tamper with any doors or gates within the railway premises, so long as there is an accident or emergency. I believe regular MTR commuters would often witness some extremely dangerous situations where some people might charge forward preventing the closing doors from closing or force open the doors in a moment of desperation because they have almost forgotten to alight. These situations are indeed quite dangerous.

I appreciate the good intention of Mr TO. Could we stop people from leaving in the case of accident or emergency? Actually, under by-law 28C, no person shall enter or leave any train except in case of accident or other emergency. However, bylaw 28C only deals with the action of leaving or entering a train, not the act of tampering with railway facilities. I would like to request Mr TO to note that some amendments have been made to bylaw 28A requiring that certain passengers are not allowed to operate, move, or interfere with certain facilities, such as electronic and electrical facilities, or machinery. In bylaw 28A(2), certain exceptions are mentioned regarding the actions that can be taken in cases of accident or other emergency. However, Members must examine carefully what passengers are allowed to do: Passenger may, in cases of accident or other emergency, work any machinery, such as switch and lever, upon which is displayed a notice that it is intended to be operated in cases of accident or emergency.

After reading these provisions, Members will actually be able to draw the conclusion that such railway facilities as doors, electronic facilities or machinery have safety implications. Actually, inadvertent interference or interference under unsafe conditions will not only pose danger to the person committing such an act, other passengers or railway facilities might also be endangered. The message now is quite clear. No one shall board or alight from the train or tamper with the train doors or gates while the train doors are closing. Passengers have all along been clearly informed of the message that no one shall commit gate-crashing, cause accident or obstruct the train doors for access to or from the train car while the train doors are closing. Actually, all these actions are extremely dangerous, and someone might get hurt. Even if people are allowed to touch certain machinery and, as is provided clearly in bylaw 28A,

press or operate certain switches under emergency circumstances, they are only allowed to do so after it is considered safe to do so.

Although Mr TO might be well-intentioned, I think the hasty addition of paragraph (3) stipulating that paragraphs (1) and (2) do not apply in case of accident or other emergency might be a bit too hurried and might send an entirely wrong message. Nevertheless, I understand that this amendment proposed by Mr TO, as well as his other amendments, is actually well-intentioned. We agree, and the Subcommittee has also noted, that the drafting of these provisions is not entirely satisfactory. However, a merging exercise is now underway. If the two railway corporations have similar provisions, we will choose either one while avoiding substantial changes by all means. However, it does not mean that we are satisfied. The MTRCL has undertaken to conduct a full review of all bylaws within 12 months to ensure the amendments proposed are compatible with safety requirements and public views. After listening to the MTRCL's explanation, the Subcommittee accepted the MTRCL's proposal, and the Subcommittee on Matters Relating to Railways will also actively follow up the relevant matters. Hence, it is simply unnecessary to wait for 12 months or 12 months after the merger before we will see a new set of bylaws. I believe many rounds of discussion will be conducted in the interim, and the public will even be consulted on the contents of the new bylaws.

In his second amendment, Mr TO mentions the display of information for advertisement purposes. Actually, the requirement that the MTRCL's approval must be sought before publicity materials can be displayed within the railway area aims to ensure the smooth operation or safety of railway services. According to Mr TO's proposal, however, only commercial exhibitions will not be approved. Just now, he also mentioned other art pieces which, according to his view, should be permitted. If approval should not be granted, such art pieces can be removed. In the absence of this provision, however, does it mean that everyone can purely exhibit art photos or organize a painting exhibition not intended for commercial purposes?

It is even more worrying that lifting all restrictions might lead to chaos. For instance, community groups might as well display their mobile panels within the railway premises to inform people of their activities. Even political groups can promote their activities there. As a result, a lot of events will probably take place there. The order within the railway premises will be disrupted if frequent actions have to be taken to drive the groups away. Nevertheless, as I pointed

out earlier, Mr TO is well-intentioned. If the drafting of the provisions is not satisfactory, we will request the two railway corporations to study and examine the matter again within 12 months, and evaluate if the provisions are too strict or too loose, or if the drafting can be further improved. This is what should be done. However, I believe imposing a restriction at this stage to strictly commercial publicity will give rise to much confusion. Not only will there be chaos within the railway premises, what we are more concerned is that the safety of passengers will be affected should there be disorder within the railway premises. This is definitely what we do not want to see.

The third amendment proposed by Mr TO is related to the disposal of lost property. This is actually a very minor issue. Therefore, members of the Subcommittee have not expressed at the meetings of the Subcommittee definite views to show whether they support a one-month or three-month retention period. As far as I understand it, members are relatively open-minded about this. The present problem mainly lies in the fact that, under the present requirements, the MTRCL has to keep lost property for three months, while the retention period for the KCR and the Light Rail is one month only. During the merger, it is unanimously hoped that the retention period can be aligned to one month. Nevertheless, according to Mr TO's present proposal, if the retention period is to be aligned, it should be three months instead of one month. This is actually no big deal. Only that I think Members should listen calmly and patiently to some of the arguments put forward by the MTRCL. It is pointed out that, according to the past records of the MTRCL and the KCRC, more than 95% of lost property was claimed within one or two weeks. In the case of the KCRC, there was not a single case of lost property being claimed after three weeks over the last two years. In most cases, the lost property was claimed within three weeks. Of course, we cannot rule out the situation cited by Mr TO earlier in which a mobile phone was left behind in Heathrow Airport. This is not impossible. However, we understand that the railway corporations are not concerned about anything like the mobile phone mentioned by Mr TO. The KCRC, in particular, has actually once found some strange lost articles within the railway premises, including a Buddhist statue measuring two to three feet high and a large box of paper products (its exact contents are not known). At present, these found articles must be kept for one month. It is pointed out that, if the retention period is to be changed from one to three months, the railway corporations will have to study and evaluate whether some large-size lost property will cause problems to their arrangements. Hence, the two railway corporations have requested us to give them some time to study the matter. The

MTRCL has undertaken to consider within 12 months, according to its operational experience, whether changes need to be introduced in this area.

The bylaws relating to the present amendments proposed by Mr TO have actually been in operation over the past two decades or so. Because of the present merger, certain provisions relating to the KCRC must be incorporated into the bylaws of the MTRCL to enable MergeCo to continue with its operation according to these bylaws. Over the past two decades or so, no significant problems have actually been caused. Of course, I do not mean that amendments are not needed so long as there are no significant problems. However, against this background, coupled with the MTRCL's commitment that the matter will be dealt with proactively within a short period of time (within 12 months) — I hope the matter will not be dealt with after 12 months — we think the present approach is relatively pragmatic and compares better than the present well-intentioned proposals which might produce yet another kind of negative effect. To act hastily might not be what Members want because they have not been able to see clearly what consequences will be caused if some amendments are really made. Members will definitely not want to see any negative results thus brought.

Under such circumstances, we support the Government's amendments but cannot support Mr TO's amendments.

MR ANDREW CHENG (in Cantonese): Madam President, the legislative process of the rail merger is already near the end. Only the bylaws and regulations relating to the two railway corporations are under discussion at the moment. Madam President, you need not worry because Members will each have only 15 minutes for their speeches today, though several items of subsidiary legislation are to be covered. But I still wish to take this opportunity today to speak, on behalf of the Democratic Party, for the first time to express our position towards the Mass Transit Railway (Amendment) Bylaw 2007 (the MTR Bylaws) and supplement the reasons for Mr James TO moving his amendments.

Madam President, according to the initial proposals made by the MTRCL in tabling the Mass Transit Railway Ordinance (MTR Ordinance) and the North-west Railway By-laws (NWR Bylaws) to this Council, it is the hope of the MTRCL that the penalty provisions can be aligned, with the heavier penalties to be adopted. This has resulted in some controversial but disturbing penalty

provisions, such as imprisonment for using abusive language in the train. Later, with the Subcommittee's campaign and heated debate, the two railway corporations finally agreed to compromise on part of the subsidiary legislation and adopt lighter penalty provisions.

Our stance towards the bylaws of the two railway corporations is that the railway corporations should be conferred appropriate power to ensure effective railway operation, on condition that members of the public will not be criminalized for no reason. Hence, the most important condition is that it is inappropriate for members of the public to be criminalized for no reason, unknowingly or due to the presence of a grey area. After the rail merger, all railways in Hong Kong (including the KCR) will be operated in the manner of a private enterprise. In our opinion, prudence must be exercised in empowering a private enterprise to make bylaws relating to penalty provisions to, in particular, ensure that there are no unreasonable requirements or ambiguous provisions which may make the general public easily fall into the dragnet.

Just now, Ms Miriam LAU repeated numerous times that the drafting of the provisions was unsatisfactory. I hope Ms Miriam LAU, as Deputy President of the Legislative Council — Madam President, I feel very uneasy if Members of this Council insist on supporting the Government by passing provisions considered to be unsatisfactory, on the ground that there will be no fare reductions if the merger is not implemented. Just now, Mr James TO was enraged. Given his personality, he will speak out to fulfil his duty should he find anything unreasonable or the drafting not good enough. However, he was finally given this advice by pro-government Members, "Right, you have acted out of good intention and fulfilled your duty. But, sorry, I will still support the Government, not you." Hence, Madam President, I am deeply grieved to see that Members of this Council have lost their most fundamental essence of properly performing their bounden duty in enacting legislation.

Madam President, some people opined that, should Mr TO's amendments be passed, inconsistent penalty provisions and standards might appear in the bylaws of the two railway corporations. Given that the MTRCL has undertaken to complete its review within 12 months, the Corporation should be allowed to complete the review first. However, as mentioned by Mr TO just now, and as is generally understood, and as colleagues who have been following up the relevant legislation and railway issues should also recall, it has taken so many years since the announcement by the former Chief Executive, Mr TUNG

Chee-hwa, of the rail merger plan. With the lapse of so many years, is the MTRCL responsible, and given ample time, to conduct a full review of the MTR Bylaws over the past years? If we call for a review because we note that different penalties were imposed in the past — of course, I must admit that a compromise has been made during this discussion. However, the compromise made during the discussion is obviously unwarranted. The railway corporation should have known a long time ago that it is the hope of the public that the penalty provisions of the two railway corporations, particularly some outdated penalty provisions, can be reviewed. Even if we as lawmakers have overlooked these, particularly the original provisions relating to the use of abusive language, feet placed on seats, and so on, should the offences be taken so seriously that a six-month imprisonment has to be imposed, though we certainly disapprove of such behaviour? These issues should have been reviewed by the MTRCL a long time ago. However, a compromise was eventually made only upon our repeated requests. Even though Mr TO has now identified some more problems, the MTRCL has once again replied with the excuse that a review will be conducted in the future, given that the standards are varied.

Hence, should the MTRCL blame its failure in completing the review on inadequate time, the only explanation we could have is that it simply has no intention to conduct the review. Madam President, why would I say something like this? In connection with a meeting to be held by the Subcommittee on Matters Relating to Railways next Monday, I have received some documents relating to toilets over the past couple of days. Madam President, this matter will be debated again next Monday. The document I mentioned is not entirely different from the one presented by the MTRCL to this Council for discussing the subject of toilets. It is still insisted that sites will continue to be identified near MTR stations for the installation of toilets. The MTRCL has continued to adopt a delaying tactic since Honourable colleagues voted against it during the last voting. Given its firm belief that the MTRCL will conduct a review, this Council has failed to do anything for the convenience of the public at large. Being a man of pure sentiments, I certainly hope that the MTRCL will really conduct the review.

Nevertheless, frankly speaking, Members have chosen to give up even though today's voting is binding. Can we expect the non-binding Subcommittee to be capable of making the MTRCL to conduct a review? Madam President, I am worried. Who dares to guarantee that the two items of subsidiary legislation to be tabled to this Council again for discussion 12 months later will meet our

request? Hence, Honourable colleagues, if it is said that Mr TO's amendments, if passed, will render the bylaws of the two railway corporations inconsistent, this is actually attributed to the constraint imposed by the existing system, as Mr TO can only propose amendments to some of the proposed amendments introduced by the MTRCL. Furthermore, it will also be difficult for Members to introduce comprehensive amendments to subsidiary legislation in the future by way of Members' Bills because of the framework established by Article 74 of the Basic Law. Madam President, this is indeed a tragic framework.

Madam President, I must point out once again that the entire deliberation process of the relevant bylaws has fully reflected the fact that the MTRCL and the Government do not quite heed the views of this Council. This Council has been given a month only to deal with the provisions of the bylaws. At the same time, I also learned at a meeting held by the Subcommittee that representatives of the MTRCL had refused to provide further information and consider revising the provisions on the excuse that the questions raised by members' were unrelated to the revised provisions of the MTR Bylaws. The crux of the problem still hinges on the fact that all legislation relating to the rail merger must be dealt with before the conclusion of the meeting held by this Council today. Even if the drafting of the relevant legislation is unsatisfactory, this Council is still required to complement the Government and the MTRCL in meeting the deadline for the merger. This is really ridiculous. We as Members of the Legislative Council have even given up our legislative rights and obligations for this reason.

Madam President, I still wish to ask this question: If the MTRCL considers certain provisions in the bylaws improper or ambiguous, should the bylaws be amended before being tabled to this Council? Why must the entire legislative process be completed by today? Of course, I expect that the Government (especially the new Secretary) will give us a response similar to the standard reply given by the former Secretary, that is, the merger must be expedited so that fare reductions can be implemented as early as possible. Furthermore, the MTRCL has agreed to complete the review in 12 months' time, and so there is no need to deal with the matter now.

Honourable Members might need to consider the point that a number of colleagues might be concerned that Mr TO's amendment is related to minor issues only, such as disposal of lost property. When I listened carefully to the example cited by Mr TO in relation to Heathrow Airport, I saw Mrs CHOW laugh on several occasions. I have no idea why she should be laughing.

Perhaps she was thinking that such trivial matters did not deserve mentioning. In my opinion, however, the reason for Mr TO to cite this reason and a real case was precisely to show why he thought that the MTRCL's requirement to keep lost property for three months should not be aligned with the KCRC's one-month retention period. While the MTRCL has been able to act in that manner all along, why does the existing legislation opt for measures and policies which are not entirely convenient for the public and commuters instead? Very often, Hong Kong people lose their property because of crowdedness or they are in a hurry. Apart from railways, I have also been told that the lost property found in public libraries — some of the lost property might even be quite shocking. In addition to wallets or telephones, I have even heard of pillows, which are really ridiculous. Some people will even forget bringing their pillows with them — there is indeed a wide range of lost property.

Hence, I hope Members will understand that Mr TO does not mean to be fastidious. The lost property disposal period is not conceived by Mr TO himself; it is adopted by the MTRCL at the moment. So, why should the one offering more convenience to the public not be adopted? This shows that the MTRCL is evidently indifferent to the public, despite its claim that in dealing with the rail merger, matters pertaining to passengers will be treated with great prudence. It simply does not wish to spend time and make an effort to deal with lost property considered by it to be meaningless. I find it most strange that Honourable colleagues do not support the amendments just because they believe a review will be conducted by the MTRCL. Let me wait and see if the MTRCL will review this issue and change the period back to three months. Madam President, I dare say the period will definitely not be revised.

Madam President, the examples cited above should not be debated repeatedly today. However, from the past to present, as well as from the previous enactment of primary legislation to the present enactment of subsidiary legislation today, we can see that our Government is characterized by strong governance. Because of the Government and the MTRCL, this Council has paled in significance in both enacting and amending legislation. Actually, I am most concerned that this mindset and attitude will only aggravate the distrust between the legislature and the executive and deepen the misunderstanding of this seemingly irreconcilable conflict, as well as underlining the uncompromising stance and misunderstanding between the MTRCL and us over these issues. As the saying goes, one cannot get blood from a stone. Today's amendments might not have been thoroughly debated. However, the Legislative Council has

done nothing wrong. The problem is that the Government is determined to complete all the enactments relating to the rail merger today, thus forcing us to get our job done hastily. As matters relating to toilets, screen doors and railway safety are still outstanding, I hope the MTRCL can conduct a review. Should the MTRCL insist on adopting such a tough attitude and the Government is willing to act accordingly, thus rendering it necessary for the legislative assembly to act accordingly, it would be extremely unhealthy.

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

MR CHEUNG HOK-MING (in Cantonese): Madam President, it was pointed out by the relevant authority in tabling the subsidiary legislation to the Subcommittee that the relevant draft subsidiary legislation carry technical changes meant to dovetail with the rail merger, and no material change is proposed. According to the explanation given at that time, the objective of the current exercise is to introduce amendments where necessary for implementing the rail merger. At the same time, the authority has undertaken that a comprehensive review of the relevant bylaws would be conducted, taking into account the experience of operating the integrated railway system after the merger as well as members' views expressed at the meetings, and the details of the proposed amendments would be reported and submitted to this Council within 12 months of the rail merger.

In principle, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) agrees that the relevant authority should spend time to conduct a comprehensive review of the relevant legislation, for the rail merger is understood to be a major operation. In the course of integration, the authority should examine if there are obsolete provisions or provisions required to be added or deleted to cope with operational needs. However, the authority appeared to be quite conservative in introducing technical changes. In dealing with penalties for relatively minor offences, if the maximum fine imposed under the Mass Transit Railway (Amendment) Bylaws 2007 (MTR Bylaws) is not the same as that under the Kowloon-Canton Railway Corporation (Suspension of Bylaws) Bylaws 2007 (KCRC Bylaws), the maximum fine will be aligned to the level of fine imposed under the KCRC Bylaws, whereas imprisonment will be retained for offences not involving the safety and security of railway operation. However, the authority has neither put forward justifications nor explained its policy.

Madam President, after listening to the views expressed by various parties, the authority has introduced corresponding amendments to maintain the maximum fine at the level prescribed in the MTR Bylaws and decided not to impose imprisonment for offences not involving the safety and security of railway operation. For instance, the use of abusive language on MTR, though very unpopular, is subject to a maximum fine of \$5,000, but not imprisonment. This amendment is welcomed by the DAB.

At the same time, Mr James TO has also proposed a number of amendments to the MTR Bylaws and the North-west Railway By-laws (NWR Bylaws).

In proposing amendments to the MTR Bylaws, Mr TO proposed to amend a provision governing the unauthorized display of materials for advertisement purpose under by-law 32A. According to Mr TO's proposal, only commercial advertisement or promotional materials cannot be displayed. This is what he has cited to justify himself: Can a person wearing a T-shirt commemorating the 10th anniversary of the reunification be prohibited from entering the MTR premises? For the same reason, Mr TO has also proposed to amend section 26(b) of the NWR Bylaws. However, wearing a T-shirt to enter a MTR or Light Rail station is a far cry from wearing a T-shirt for advertisement purpose. I believe a person will not be interfered if he is not lingering or posing in a MTR or Light Rail station, thus impeding the flow of passengers. On the contrary, does it mean that everything can be displayed as long as it is not intended for advertisement or publicity purpose? If this is allowed, everyone can bring their personal treasures to MTR or Light Rail stations for display, regardless of the size and quantity of the treasures. This will not only impede the control of passenger flow, but also affect the operation of MTR or Light Rail stations.

Madam President, Mr TO has also proposed the addition of by-law 9(3) to the MTR Bylaws to stipulate that the provisions governing the interference of train doors and platform screen doors do not apply in case of accident or other emergency. I am extremely puzzled by this amendment proposed by Mr TO. I believe he would not be unaware of the existence of a defence of necessity in common law, namely it is not an offence to engage in an act of necessity in case of emergency. Therefore, we think that this amendment proposed by Mr TO is unnecessary.

Another amendment proposed by Mr TO deals with section 22(1)(a) of the NWR Bylaws. Insofar as this amendment is concerned, I would like to compare it to the amendment to section 28. A common point of these two amendments lies in the introduction of other criminal elements and the abolition of penalties which causes much confusion to the sentencing principle. Section 22 is made for the regulation of nuisance. The purpose of proposing this provision is to prescribe minor offences for the purpose of regulating the safety and security of Light Rail facilities. Therefore, a maximum fine of \$5,000 will be imposed should this provision be contravened. However, the criminal elements of section 17B of the Public Order Ordinance will be introduced with the amendment of section 22(1)(a) by Mr TO. Upon revising the schedule to the NWR Bylaws, the offence committed by a person behaving in a noisy or disorderly manner, or using threatening, abusive or insulting words will attract no penalty instead of the original penalty of a fine \$5,000 and 12-month imprisonment. It is most ridiculous that Mr TO has once proposed adding section 22(3) requiring that the person contravening section 22(1)(a) be delivered into the custody of the police to be dealt with according to law. Now, with the abolition of penalties, how can the matter be dealt with according to law? It is most puzzling that a person behaving in a noisy or disorderly manner outside the Light Rail area might be sentenced to imprisonment, and yet he will be fine if he is in the Light Rail area. The Light Rail has thus imperceptibly become a haven for criminals. Hence, the DAB finds it impossible to support this amendment.

As regards the abolition of the penalty for the use of abusive language, this has been discussed enthusiastically by members in the Subcommittee. While some members felt that the use of abusive language should not be curbed, some felt that punishment had to be imposed under all circumstances, or complaints could not be lodged. I still recall in February this year, our colleague, Miss TAM Heung-man, saw a young man talking on the telephone inside a MTR train. As the telephone conversation was loaded with abusive language, Miss TAM tried to dissuade the young man from using abusive language, but to no avail. Eventually, she was forced to seek assistance from the police. As the young man denied using abusive language, the case was later taken to Court. Even after the incident, Miss TAM felt that a person using abusive language in a MTR train should be punished given that a lot of abusive language is insulting to women and may constitute sex harassment. Furthermore, other passengers will also be affected by the use of abusive language in the train. Nevertheless, even Miss TAM agrees that the issue of whether the penalty should be raised can be studied again. Given that the responses of members of the community to the

use of abusive language in a train are not entirely the same, whether or not they approve of raising the penalty, there will naturally be a diversity of views on the penalty provisions. Therefore, we should spend more time studying and considering the issues relating to penalties.

Similarly, Madam President, Mr TO has also proposed amending section 28 with respect to the regulation and prohibition of loitering and, by introducing the basic criminal element prescribed in section 160 of the Crimes Ordinance, turning an offence punishable by two-year imprisonment into an offence with no penalty provision. In doing so, the issue will become even more complicated as the penalties of all the relevant offences might have to be reviewed simultaneously. The DAB is of the opinion that the relevant amendments must be carefully considered to avoid compromising the principle of making penalties commensurate with the severity of offences.

Regarding the proposal of retaining section 41(1)(c) of the MTR Bylaws and amending the provision on disposal of lost property in section 36(1)(b) of the NWR Bylaws, Mr TO proposed that the retention period of lost property be aligned to three months. However, according to the information provided by the authorities, more than 95% of lost property was claimed within one or two weeks. Hence, it seems that there is no urgent need for this provision to be amended.

Mr TO has also proposed another amendment to the effect that a new section 42, a sunset clause, be added to the NWR Bylaws requiring that the provision will cease to take effect, by resolution of this Council, 15 months after enactment. As already pointed out by us, since the two railway corporations have undertaken to present detailed amendment proposals to the relevant panels of the Legislative Council within 12 months of the rail merger, it seems a sunset clause is unnecessary.

Since there is no need for the other amendments proposed by Mr TO to be introduced immediately, we consider that the amendments can be followed up again after the comprehensive review for the avoidance of conflict with the existing provisions.

Madam President, the DAB supports the resolutions proposed by the Administration and opposes Mr TO's amendments. Thank you, Madam President.

DR RAYMOND HO (in Cantonese): Madam President, I am glad to see that the legislative amendment procedure relating to the rail merger has already entered its final stage. After numerous rounds of discussion by the Subcommittee, the contents of the four resolutions mentioned by the Secretary just now have been accepted by the vast majority of members of the Subcommittee. Hence, I support the passage of these resolutions to enable the MTRCL to make arrangements for a general meeting to be held for small shareholders to facilitate the passage of the proposed merger.

As a member of the Subcommittee, I have attended a number of meetings held by the Subcommittee and understood that the two railway corporations have to consolidate their respective bylaws to pave the way for the rail merger to take effect in the future. Most importantly, the MTRCL has listened attentively to the views expressed by members on the bylaws. For instance, in respect of penalty provisions, the MTRCL has acceded to members' proposal of adopting an attitude of meting out punishment according to actual needs and suitably revising provisions relating to imprisonment.

Meanwhile, it has also come to the attention of the Subcommittee that the existing bylaws might not be entirely satisfactory. Furthermore, as the two sets of legislation are not entirely consistent, the MTRCL has been requested to give detailed explanation. Though it is imperative for the MTRCL to make improvement in many areas, it is time-consuming to do so. Furthermore, detailed and careful consideration must be given to how to proceed with the revision or amendment exercise.

Madam President, I think it is appropriate of the MTRCL to, after making reference to the views expressed by members during this period, conduct a comprehensive review of the entire set of bylaws. Insofar as this particular area is concerned, the MTRCL has undertaken to submit detailed amendment proposals to this Council for consultation within 12 months of the rail merger. I think this is a pragmatic approach.

As regards the several amendments proposed by Mr James TO for the time being, I think that the existing bylaws have been put into actual operation for quite some time and the two railway corporations have performed generally well in enforcing the bylaws. Therefore, except for the provisions required to be consolidated because of the rail merger, we cannot say that an immediate

overhaul is absolutely necessary. Hence, I can hardly support the various amendments proposed by Mr James TO before the comprehensive review is conducted and individual provisions for the entire set of bylaws are proposed.

Given that the two railway corporations have repeatedly undertaken to explain to this Council the result of the review and amendment proposals within 12 months of the merger, we have every reason to believe that the MTRCL will actively undertake this exercise, bearing in mind its past performance and reputation.

I also do not consider it necessary to introduce a sunset clause to make these bylaws automatically disappear 15 months later, because it is impractical to impose such a time limit. Furthermore, the opposite effect might be achieved and, as a result, this Council and members of the public will not have ample time to conduct in-depth discussions on the details of the amendment bylaws for a consensus to be reached.

With these remarks, Madam President, I support the resolutions proposed by the Government and oppose the amendments. Thank you.

MR JAMES TO (in Cantonese): President, when may I make a clarification if my speech has been misunderstood?

PRESIDENT (in Cantonese): You may clarify now. Which part of your speech has been misunderstood by Dr Raymond HO?

MR JAMES TO (in Cantonese): No. I was misunderstood by Mr CHEUNG Hok-ming.

PRESIDENT (in Cantonese): You are late. You should have risen immediately to make clarification after he finished his speech.

MR JAMES TO (in Cantonese): OK.

MR LEUNG YIU-CHUNG (in Cantonese): President, the subject being discussed today is the MTR Bylaws. In principle, we should express our views on the bylaws. However, I think that the significance of expressing our views on the bylaws does not matter most. Why? Because a prerequisite is indispensable to stipulating the contents of the bylaws, and our prerequisite is that the bylaws should be passed expeditiously. It is the view of the MTRCL and some colleagues that it does not matter even if other problems remain unresolved because we will have 12 months to conduct a review. Even if there are any problems, they can still be reviewed later.

President, given this prerequisite, I find that two issues warrant discussion. First, it is wrong to think that the bylaws should be passed expeditiously by ignoring everything to ensure that this exercise is completed. President, if completing the exercise expeditiously is the sole objective, who will bear responsibility should anything go wrong? In the end, those responsible for passing the legislation today would have to be held responsible. Can we then bring the matter to an end simply by saying "let us forget about it"? This is the first issue.

As for the second issue, some people think that the bylaws can be passed first, given that a 12-month review will follow. However, President, I cannot help asking this question: Even if it is decided that the bylaws should be passed first, why should the more stringent instead of the less stringent legislation be passed first? This is extremely important. As a review could be conducted later, the less stringent legislation should be adopted on a trial basis. The bylaws can be tightened if they are found to be problematic. This is how we should act. It makes no sense to try the more stringent legislation first, and the bylaws would be relaxed should they be found to be too stringent. President, this situation is very rare. I wonder what problems will arise, given the stringency of the bylaws. If the legislation is to be relaxed because of the emergence of problems in the future, is it fair to passengers who have been punished as a result of the excessively stringent bylaws? Even if the bylaws might be relaxed in the future because problems have arisen as a result of the excessive stringency of the bylaws, some people would have already been victimized and sacrificed. What are the justifications for doing so? President, I think that it will not work.

Just now, several colleagues kept mentioning the principle that there was nothing wrong in passing the bylaws first because a review could be conducted

12 months later and discussion could still be held after the review. I really think that it is extremely irresponsible to do so, because they know very well that the bylaws are far from clear and comprehensive — I recall Ms Miriam LAU made a similar point earlier — but they still think that it does not matter and the bylaws can still be passed first because there will be a review period. They simply see the transitional and review periods as their protective shield. However, the transitional period is not a cure-all; nor can it resist everything. What can be done if problems arise? It is most important that we should know what can be done. When we see that passengers might be made scapegoats, will we just sacrifice them in that way without doing anything? President, this is the crux of the issue.

Hence, I think it is meaningless to discuss details, regardless of how they are discussed, because the prerequisite is overriding. It does not make any sense to discuss other matters if we have already put on such a straitjacket.

The fact that the 12-month review period has been used to tackle everything has posed yet another problem which is even harder to tackle. Just now, I heard a number of colleagues quoting Mr James TO's words in relation to the retention of lost property. Purely from the angle of retaining lost property, we can see that the retention period may last three months. So, why should the period be shortened to one month? Apart from the prerequisite that a 12-month review will be conducted, offering convenience to the MTRCL and safeguarding its interest have also contributed to the passage of the bylaws expeditiously and the tightening of the bylaws. It is as simple as that. If the period for handling lost property can be shortened, that is, if the retention period can be shortened to one month, less space and manpower will be needed.

To put it bluntly, the 12-month review period is simply used as a shield to protect the interest of the railway corporations. Hence, the first issue to be tackled is to pass the bylaws expeditiously to fulfil the wish of the Chief Executive, and ensure that the matter can be properly dealt with expeditiously for actual implementation. The second issue is that the interest of the railway corporations must be safeguarded in every way.

Given this prerequisite, we are being forcibly requested to pass the bylaws as if we are being coerced into submission. Is the Administration now calling the shots for it can do whatever it likes after securing enough votes, and it can even defy social equity and justice? What matters most is that passengers will

thus be forced to become scapegoats and sacrifices. How can we answer ourselves in our social conscience by handling the matter in this way? Hence, President, I think that we can absolutely not act in this way.

Furthermore, these bylaws give us an impression that the corporations are taking charge of everything, including big or small matters. It seems that passengers are being put into a "straitjacket" in the sense that they must act like robots when travelling on trains in the future. In other words, they cannot do anything except boarding or alighting the trains. There will be a risk of being punished should they speak a little bit louder. The fear of punishment is really frightening to passengers. Although imprisonment might not be imposed for the use of abusive language for the time being, a fine of \$5,000 will still be imposed.

President, as teachers or members of the community, we might need to advise the general public what is considered abusive language and warn them against using it. Owing to the existence of a grey area in abusive language, the public might not be able to tell what expressions are considered abusive. No one can tell whether or not certain ordinary expressions are acceptable because there is a lack of definitions. We can only consult some experts, though we have no idea whom can be treated as an expert in abusive language. I wonder which abusive language expert can be invited to Court in the future to ascertain whether a certain expression is abusive. I really have no idea how this can be done.

As passengers, we all the more have no idea what language should be considered abusive. Some words might not be quite appealing but can still be generally acceptable. Should these words be treated as abusive?

PRESIDENT (in Cantonese): Mrs Selina CHOW, is it a point of order?

MRS SELINA CHOW (in Cantonese): President, yes, a point of order. Are we debating the provisions relating to the use of abusive language?

PRESIDENT (in Cantonese): Certainly not. Mr LEUNG Yiu-chung, you must strive to speak on the three amendments.

MR LEUNG YIU-CHUNG (in Cantonese): President, I was just citing an example.

PRESIDENT (in Cantonese): I understand that you were citing an example.

MR LEUNG YIU-CHUNG (in Cantonese): I was citing an example to illustrate that, insofar as these bylaws are concerned.....

MRS SELINA CHOW (in Cantonese): I simply wish to clarify because we will conduct a debate on the relevant provisions later. Does it mean that we cannot mention it again later if we have talked about it now or we cannot talk about it now and can only do so later?

PRESIDENT (in Cantonese): You should wait and speak later because the relevant provisions will be debated later.

MR JAMES TO (in Cantonese): President, actually several Members have already spoken on it just now. However, I am a very obedient person. I will not talk about the provisions which will be debated later here.

PRESIDENT (in Cantonese): Yes, I see. I had not paid attention probably because no one reminded me at that time. However, never mind, Mr LEUNG Yiu-chung, you may speak on the three amendments. If you have already finished your speech, I may let you speak again later.

MR LEUNG YIU-CHUNG (in Cantonese): Thank you, President.

I was only trying to make a point of fairness. I was just following someone who had said something like that. I was just offering someone's ideas as my own.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, I have made myself very clear. You cannot take advantage of the mistake made by the President and keep doing the wrong thing.

MR LEUNG YIU-CHUNG (in Cantonese): Never mind, President. You have reminded me. I am OK. *(Laughter)* I will wait and discuss in detail the issue of abusive language later. I merely wish to talk about the prerequisite, or the major principle. I find it very problematic for the 12-month review period to be used as a protective shield to stifle everything. Should we pass the bylaws in this manner, the freedom of passengers will be restricted. I find this hard to accept because passengers will thus be completely deprived of their basic rights.

Nonetheless, President, I would like to leave the remaining part to the subsequent debate. I shall stop here.

I so submit.

MRS SELINA CHOW (in Cantonese): President, just now we heard several Members, particularly Mr Andrew CHENG (he is unfortunately not present now), refer to our views on the relevant provisions. Regarding the viewpoint of the Liberal Party, Ms Miriam LAU has already clearly stated our position towards the three provisions.

However, we have a very important principle. I think Mr James TO should wait patiently and there is no need for him to get agitated. He might not have attended the meeting when the granting of the 12-month review period was discussed. Therefore, he might not be aware that his party comrade, Mr Andrew CHENG, had actually clearly indicated his approval of the 12-month review period.

With this 12-month review period, a number of key points which are not perfect or totally satisfactory can be reviewed within 12 months. Why do we want to do this? It is not because, as alleged by Mr LEUNG Yiu-chung, we just want the bylaws to be passed first or, as stated by Mr Andrew CHENG, we are being irresponsible without considering whether or not it is appropriate to pass all the bylaws in unclear circumstances.

We have definitely not adopted such an attitude. We think this is insulting to Members who have participated in examining the provisions, including Mr LEUNG himself and Members of other political parties and groupings.

Actually, we were keenly aware that some provisions are far from satisfactory and perfect and, therefore, we requested changes. For instance — I

hope the President will not say that I am digressing — the issue of toilets was raised in our discussion. The Liberal Party pointed out very clearly that the problems must be resolved, and the relevant policies must be changed. However, we will not, like the Democratic Party, opt for the approach of proposing amendments to revoke the relevant exemptions, that is to say, disallow the MTRCL from enjoying exemptions. In our opinion, the issue of provision of toilets cannot be thus resolved. Even if the exemptions are revoked, it does not mean that toilet facilities will be provided tomorrow. It just means that the rules of the game are changed to the effect that, with exemptions, the MTRCL will immediately break the law.

This example is cited to illustrate that the Liberal Party really hopes to resolve the problems for the benefit of the public. We are not seeking to display an attitude to assert our authority at the first encounter with the MTRCL by revoking their exemptions just because we have the power to do so. This is not going to resolve the problems. These amendments before us now have actually been discussed in detail before. We hope that they can be re-examined during the 12-month review period.

Just now, Mr Andrew CHEUNG declared very loudly that he thought that the one-month or three-month period would certainly not be changed. Why would he be so certain? I have no idea why he would have drawn such a conclusion. I hope the MTRCL can revise the period to three months when the review is presented to this Council upon its completion in 12 months. However, it does not mean that the period can be revised today to three months without regard to management problems or the review.

Given that we have agreed that a review is necessary — why did we agree then? Because adjustments had to be made in management, implementation and making arrangements.

As regards Heathrow Airport, first, it is not necessarily appropriate to use an airport for comparison; and second, here is Hong Kong and Heathrow is in Britain. We have inspected the actual circumstances to study whether people in need can truly receive assistance. As it is found that this is not the actual circumstances, then the actual need cannot be met even if we act in that way. We can definitely find more examples, for the period of certain airports might even last six months. *(Laughter)*

MR JAMES TO (in Cantonese): President, I have been misunderstood again. When should I make clarification?

PRESIDENT (in Cantonese): You should clarify after she has finished her speech.

MR JAMES TO (in Cantonese): Yes. I am afraid I will miss the opportunity again.

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

MRS SELINA CHOW (in Cantonese): The issue raised by Mr LEUNG Yiu-chung earlier regarding whether the period should last one or three months has nothing to do with stringency. President, it is just because the period is not consistent at the moment. As a step forward, we hope to achieve consistency to give the railway corporations some time to consider the matter. I have all along believed that it is our hope that the three-month period can be accepted after the review. If it is eventually indicated that this is unacceptable and the one-month period has to be adopted, then a very convincing explanation must be offered. Nonetheless, this point can be dealt with later.

Throughout the process, however, I have hoped that Members can refrain from being too imaginative by describing certain trivial matters as serious problems. Regarding the earlier remark made by Mr LEUNG Yiu-chung that the public will be made scapegoats, what does he mean? Would he be exaggerating the matter?

I can absolutely not share this point made by Mr Andrew CHENG, Mr James TO and a few Members earlier: Why can we not give ourselves more time to fine-tune everything instead of acting so hastily before implementing the merger? The people would not mind when the fare reductions will be effected. I am afraid Members have been generous at the expense of others. I hope they can tell the public clearly that, because of their pursuit of perfection, and coupled with the fact that the MTRCL has to conduct a 12-month review, they consider

that everything must be settled properly before the merger can be considered. They have to tell the public clearly that they believe this solution can solve the problems.

We certainly do not think in this way. The vast majority of members of the Subcommittee who have participated in the deliberation share the view that the major problems should be tackled first. At the same time, we should allow some room for some minor problems, though we strove to resolve them in the process. We definitely were aware of the nature of these minor problems. We have deliberated these problems one by one and are keenly aware of their nature. However, we will absolutely allow some room, especially in dealing with the rail merger being discussed at the moment. We will allow room for inconsistencies or areas where the public consider some room should be given. This is what we consider the best approach in balancing public interest because it will, on the one hand, enable the public to benefit from fare reductions expeditiously and, on the other, enable consideration to be given in the process for adjustment to be made.

I certainly understand that Mr TO, Mr CHENG and the Democratic Party share the view that their amendments can resolve a lot of problems. However, we do not agree with this. I hope that, even if our opinions differ, Members will never pin labels by criticizing colleagues with different views for sacrificing public interest or failing to put time to good use in the course of the deliberation, thus sacrificing some of the perfect provisions the public deserve. We do not agree with this. On the contrary, we think that if the merger is delayed by us, we will really be sacrificing public interest. Thank you, President.

PRESIDENT (in Cantonese): Mr James TO, do you wish to clarify the part of your speech which has been misunderstood?

MR JAMES TO (In Cantonese): Yes, President, I have two points to make.

First, I have cited Heathrow as an example to show that there are indeed some circumstances where 5% of the passengers have failed to claim their lost property within one month. This point has been raised by the MTRCL too. Perhaps I was among the 5% of passengers who would claim lost property between one to three months. If the retention period is aligned to one month, the property I wish to claim might have already been disposed of or sold when I

wish to do so. Hence, I would never be able to claim it back. This is just an example. Of course, some colleagues might think that airports are different from railways. Nevertheless, lost property should be treated in the same way. The time required to claim lost property in airports does not necessarily have to be longer.

Second — perhaps Mrs Selina CHOW was not in the Chamber when I was delivering my speech — given the manpower and resources possessed by the MTRCL, a comprehensive review could still be completed within a short period of time, despite concerns raised by Members. Frankly speaking, from a number of previous cases, we can see that they can manage it if they are really determined to do so. The crux of the problem is that they simply do not have the intention to do so, and so they have merely asked for 12 months' time. I must point out that we do not mean to call for a slow approach or a deliberate delay.

MR ALBERT CHAN (in Cantonese): President, my position is very clear. I think that the interest of Hong Kong people has been sacrificed as a result of the entire legislation relating to the rail merger and the rail merger exercise itself, though this was repeatedly denied by Mrs Selina CHOW just now.

The present situation is strikingly similar to The Link REIT incident. As Mrs Selina CHOW delivered her speech just now, I recalled what they had said in support of The Link REIT at that time. It was proved afterwards that the hasty listing of The Link REIT, the failure to carefully consider the numerous problems encountered during the listing, and the failure of certain Members to raise any questions on the listing have all contributed to the spate of disasters subsequently. Actually, some Members, including Mr Tommy CHEUNG of the Liberal Party, warned at that time that problems would arise. However, the advice was not heeded by many royalist Members who believed in the Government, thus leading to the outbreak of The Link REIT disaster. Although this distinct problem has yet been resolved, it seems that Members and the Government have not learned a lesson from history and from the past experience of hastily.....

PRESIDENT (in Cantonese): Mr Albert CHAN, we are not debating the rail merger at the moment.

MR ALBERT CHAN (in Cantonese): I know. President, I know.

PRESIDENT (in Cantonese): We are now discussing the three amendments. Please come back to the amendments.

MR ALBERT CHAN (in Cantonese): President, I am now dealing with the point that members of the public are being sacrificed. I am responding to the point raised by a Member earlier that public interest is being sacrificed.

President, the problems relating to the bylaws are actually a continuity of the disaster brought about by the rail merger. I did not have the opportunity to speak during the previous discussion on the rail merger because I was out of town. Before that, however, I had already indicated in unequivocal terms my opposition to the rail merger. The bylaws attached to the rail merger actually represent a continuity of the privilege bestowed on the MTRCL.

I have pointed out during the previous discussions on the legislation relating to the rail merger that the MTRCL, formerly a statutory corporation wholly owned by the Hong Kong Government, has now turned into a listed corporation or a private institution. Although the Government still has a certain stake in the Corporation, it is absolutely inappropriate to allow the Corporation to possess a power similar to the power of pressing criminal charges. The power bestowed by the bylaws is indeed a privilege.

President, the privilege is so powerful that disorderly manner and the like.....I am not going to talk about loitering. Simply put, a person may be fined for such behaviour as placing feet on seats, playing radios or cassettes, failure to queue, using abusive language, or failure to deliver lost permit upon discovery.....

PRESIDENT (in Cantonese): The provisions being debated at the moment are not the ones mentioned by you just now. You may wait and express the views put forth by you just now when the second resolution is discussed later.

MR ALBERT CHAN (in Cantonese): OK, President, thank you for reminding me. I just hope to finish my speech in one go without expressing my views item by item.

PRESIDENT (in Cantonese): There is nothing we can do about it because we are governed by the relevant rules.

MR ALBERT CHAN (in Cantonese): I see, President. I was hoping that I would not need to speak on each occasion after I had finished my speech here. After the President's reminder, however, I will focus my speech on this area by all means.

President, basically, I am talking about the principle only because the problems relating to the bylaws are largely absurd, unjustified and barbaric. It is absolutely inappropriate for a private listed corporation to be bestowed power by legislation. This problem has continued from the colonial period, as well as from the eight-year catastrophe caused by TUNG Chee-hwa. There is simply no reason for us to retain these catastrophic proposals left behind by the tyranny of the former government, right? Now that TUNG Chee-hwa has been forced to step down, we have no reason to continue to accept the subsidiary legislation handed down from TUNG Chee-hwa to bestow the MTRCL privileges.

Therefore, I hope, in deliberating these issues, Members can..... Of course, the individual provisions contain a lot of absurdities, which can be clearly revealed only when the special features of individual provisions are discussed. However, there is a fundamental principle I hope Members can reconsider. These listed companies..... I have always described the MTRCL as an alien, which can swallow a mother's body without any traces of bones. It is utterly inhuman. Furthermore, the acid emitted by it can destroy everything. Therefore, the public will definitely be devastated should this alien be allowed to survive.

The rail merger, the bylaw amendment exercise and relevant discussions have exposed the tyranny of the MTRCL over the past two decades, as well as its unreasonableness. Under these criticisms (some royalist Members have also done it a great favour by scolding it slightly), the MTRCL appears to have shown some restraint. Generally speaking, however, the bylaws are still unreasonable, and the authorization is inappropriate.

Generally speaking, President, I oppose the entire set of bylaws proposed by the Government. Despite my failure in opposing the rail merger, opposing

the bylaws is also an attitude, a value judgement. Through the opposition, I hope it can be proved that Members supporting the rail merger and these bylaws have once again made another mistake in history should the MTRCL continue to act in the tyrannical manner like The Link REIT in the future.

Thank you, President.

MR ABRAHAM SHEK: Madam President, with the passage of the Rail Merger Bill on 8 June 2007, the advent of the rail merger is just a step away. There is thus an imperative need to formulate a uniform set of bylaws to replace the two different sets of bylaws of the MTR and the KCR.

First, I must express my gratitude to the Chairman and members of this Subcommittee. Rome was not built in one day, and the same is true of the bylaws. Their efforts during our discussions have enhanced the bylaws, despite the tight schedule for the reviewing process. Still, its mission is not over. Only by constantly examining the performance of the MergeCo can we ensure that the railway company provides the best services to passengers. Likewise, once the MergeCo starts operating, if we discover any loopholes or inconvenience caused by the bylaws, we should not hesitate to resolve them.

Bylaws are necessary for the MergeCo to exercise its authority after the merger, so that it can maintain the railway services in a proper, orderly and quality manner. On the other hand, bylaws should be precise and easily enforced. They are subject to social changes as some rules remain useful, others become obsolete, and still others become impediments to passengers. In this regard, I express my acknowledgements to the MTRCL for listening to the many recommendations of the Subcommittee and also the public, and promising to undertake a comprehensive review of the existing bylaws, with a view to wiping out those unreasonable and outdated clauses to reduce inconvenience to passengers. This will be carried out 12 months after the merger. My recommendation for the MTRCL is that it should review earlier and bring a final solution of the bylaws to this Legislative Council for information.

Penalty provisions is the area with the most contention. We generally accept that the new bylaws should be based on the existing MTR Bylaws. If there is a discrepancy on a penalty provision between the MTR Bylaws and the

KCRC Bylaws, the one with a lighter penalty will be adopted. For KCRC penalty provisions which are currently missing in the MTR Bylaws, the KCRC Bylaws will be used. Moreover, the existing KCRC Bylaws and the North West Railway Bylaws will be suspended during the service concession period, while the corresponding MTR Bylaws will come into effect in place of the KCRC ones, as the provision of the KCRC railway services will stop and be taken over by the MTRCL in that period. This concession period is crucial for the MergeCo to examine the effectiveness of the integration of the bylaws. The fusion will be deemed successful if no flaw appears during that period; otherwise, we need to further review the bylaws.

The enforcement of the bylaws during the concession period should be treated carefully. The MergeCo has promised to scrutinize the proceedings of the integration during that period as a means to review the bylaws. However, if the MergeCo takes a more lenient approach in enforcing the bylaws, it is likely that fewer cases will be reported, and *vice versa*. Hence, the MergeCo should ensure that it is consistent in enforcing the bylaws during and after the concession period, such that the standard is more or less at the same level, and passengers are not confused. To this end, the MergeCo should compare and contrast the enforcement approach of the KCRC and the MTRCL, especially for those bylaws which are newly added into the MergeCo. Briefing and guidelines should also be given to the front-line staff with a view to standardizing the enforcement approach, ensuring all passengers will be treated equally under the same scenario.

Madam President, I appreciate the efforts by the Honourable James TO. His amendment demystifies quite a number of vague terms in the existing bylaws. To my mind, the MTRCL ought to study meticulously his amendments. However, I urge James to exercise patience and trust the MTRCL for it will take considerable time for the MTRCL to carry out a clause-by-clause study of the amendments and digest them. Also, it will take time for the MergeCo to review the effectiveness of the execution of those bylaws after the integration. I sincerely hope that upon the release of the final resolution by the MergeCo, probably a year after the realization of the rail merger as promised by the MTRCL, there will be a comprehensive set of bylaws which is beyond argument, and which can balance the interests of both the passengers and the railway company.

Madam President, with these words, I support the resolution.

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 now call upon the Secretary for Transport and Housing to speak on the three amendments.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, Mr James TO has proposed to amend the two sets of bylaws made for the MTRCL. The relevant amendments have actually been discussed in great detail in the Subcommittee. The vast majority of members of the Subcommittee have accepted the MTRCL's open undertaking that a comprehensive review of all the relevant bylaws will be conducted within 12 months of the rail merger and detailed amendment proposals will be submitted to the Legislative Council during the period. The MTRCL is solemn, sincere and responsible in conducting the review. It is the view of the Government that, before the conclusion of the comprehensive review to be conducted by the MTRCL, it is inappropriate to make a final decision on whether or not and how to amend the provisions mentioned by Mr James TO. For these reasons, the Government cannot support the amendment proposals made by Mr TO.

Just now, a Member asked why the review of the bylaws is not conducted until now, even though the issues have been discussed for years. While I greatly appreciate the intention of Members, we also have to understand the position of the MTRCL. We should allow the MTRCL to, with reference to its experience of jointly operating the KCR system, complete a comprehensive review of all the relevant bylaws within 12 months of the rail merger.

The Subcommittee has certainly repeatedly discussed the three amendments proposed by Mr TO. Furthermore, we have also heard Members express diverse views and concerns on the amendments. This has precisely demonstrated that the railway corporations should be given time and space to conduct a comprehensive review of the relevant provisions with reference to their experience of operating the integrated railway network.

Madam President, I implore Members to vote against the amendments to the relevant motion.

PRESIDENT (in Cantonese): I now call upon Mr James TO to move his first amendment to the motion.

MR JAMES TO (in Cantonese): President, I move the amendment to the Secretary for Transport and Housing's motion, in order to amend section 8(b) of the Mass Transit Railway (Amendment) Bylaw 2007.

Mr James TO moved the following amendment:

"RESOLVED that the motion to be moved by the Secretary for Transport and Housing under section 34 of the Mass Transit Railway Ordinance (Cap. 556) at the Legislative Council meeting of 11 July 2007 be amended -

- (a) by deleting "be approved." and substituting "subject to the following amendments, be approved -";
- (b) by adding at the end -

"in section 8(b), by adding -

"(3) Paragraphs (1) and (2) do not apply in case of accident or other emergency."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to the Secretary for Transport and Housing's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Ms Miriam LAU rose to claim a division.

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

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

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

Functional Constituencies:

Ms Margaret NG, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Vincent FANG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr KWONG Chi-kin voted against the amendment.

Geographical Constituencies:

Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr Alan LEONG and Mr Ronny TONG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying, Mr CHEUNG Hok-ming 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, four were in favour of the amendment and 18 against it; while among the Members returned by geographical constituencies through direct elections, 22 were present, 10 were in favour of the amendment and 11 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): President, I move that in the event of further divisions being claimed in respect of the motion on the Mass Transit Railway (Amendment) Bylaw 2007 or any amendments thereto, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): 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 the Mass Transit Railway (Amendment) Bylaw 2007 or any amendments thereto, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr James TO, you may move your second amendment.

MR JAMES TO (in Cantonese): President, I move the amendment to the Secretary for Transport and Housing's motion, in order to amend section 18 of the Mass Transit Railway (Amendment) Bylaw 2007.

Mr James TO moved the following amendment:

"RESOLVED that the motion to be moved by the Secretary for Transport and Housing under section 34 of the Mass Transit Railway Ordinance (Cap. 556) at the Legislative Council meeting of 11 July 2007 be amended -

- (a) by deleting "be approved." and substituting "subject to the following amendments, be approved -";
- (b) by adding at the end -

"in section 18, in new by-law 32A, by deleting "for the purpose of advertisement or publicity" and substituting "with intent to do so for the purpose of commercial advertisement or commercial publicity".". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to the Secretary for Transport and Housing'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)

PRESIDENT (in Cantonese): I think the question is not 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 negatived.

PRESIDENT (in Cantonese): Mr James TO, you may move your third amendment.

MR JAMES TO (in Cantonese): President, I move the amendment to the Secretary for Transport and Housing's motion, in order to delete section 21 from the Mass Transit Railway (Amendment) Bylaw 2007.

Mr James TO moved the following amendment:

"RESOLVED that the motion to be moved by the Secretary for Transport and Housing under section 34 of the Mass Transit Railway Ordinance (Cap. 556) at the Legislative Council meeting of 11 July 2007 be amended -

- (a) by deleting "be approved." and substituting "subject to the following amendments, be approved -";
- (b) by adding at the end -

"by deleting section 21."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to the Secretary for Transport and Housing'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)

PRESIDENT (in Cantonese): I think the question is not 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 negated.

PRESIDENT (in Cantonese): I now call upon the Secretary for Transport and Housing to reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I have briefed Members on the motion just now, and I have nothing to add. I implore Members to support my motion.

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

(Members raised their hands)

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

(Members raised their hands)

Ms Miriam LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Miriam LAU has claimed a division. The division bell will ring for 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.

Mr James TIEN, Dr Raymond HO, Dr LUI Ming-wah, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr Albert CHENG and Mr KWONG Chi-kin voted for the motion.

Mr LEUNG Yiu-chung and Mr Albert CHAN voted against the motion.

Mr Fred LI, Ms Margaret NG, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr Alan LEONG, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man abstained.

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

THE PRESIDENT announced that there were 43 Members present, 30 were in favour of the motion, two against it and 10 abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

PRESIDENT (in Cantonese): Second motion: Approving the Mass Transit Railway (North-west Railway) Bylaw.

I now call upon the Secretary for Transport and Housing to speak and move her motion.

PROPOSED RESOLUTION UNDER THE MASS TRANSIT RAILWAY ORDINANCE

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I move that the second motion as set out under my name on the Agenda be passed.

I have already given an overall introduction to the resolutions relating to the rail merger when I was moving the first one relating to the Mass Transit Railway (Amendment) Bylaw 2007.

The resolution I am now moving is the second of the four items of this amendment exercise, which mainly deals with the Light Rail and Transit Service Area (TSA) bus services. As I explained earlier, these services are covered by a separate set of North-west Railway By-laws made by the KCRC. The MTRCL has used this set of existing bylaws as the basis to formulate the Mass Transit Railway (North-west Railway) Bylaws under the amended MTR Ordinance, which is basically the same as the North-west Railway By-laws made by the KCRC and be used to manage Light Rail and TSA bus services after the merger.

Subject to Members' approval of this resolution today, the proposed bylaws will come into operation on the date of merger implementation. I hope that Members will support the resolution.

Madam President, I beg to move.

The Secretary for Transport and Housing moved the following motion:

"RESOLVED that the Mass Transit Railway (North-west Railway) Bylaw, made by the MTR Corporation Limited on 20 June 2007, be approved."

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

PRESIDENT (in Cantonese): Mr James TO has given notice to move seven amendments to this motion. The motion and the seven amendments will now be debated together in a joint debate.

I now call upon Mr James TO to speak on the motion and his amendments, but no amendments are to be moved at this stage.

MR JAMES TO (in Cantonese): President, first, there are several amendments that I wish to propose and I will talk about them *seriatim*. That the Public Order Ordinance is applicable to the premises of the MTRCL is in fact beyond doubt. Just now, I heard Mr CHEUNG Hok-ming say that their staff (I do not know if they are research officers) believe that the MTR would become a haven for criminals because after criminals had entered its premises, the provisions of the Public Order Ordinance would not be applicable and they could only be convicted of lesser offences or what they did would not constitute an offence at all. However, this is totally incorrect.

Similarly, two decades ago, as the offence of loitering under section 160 of the Criminal Offence Ordinance violated personal freedom, the Government tasked the Chief Secretary for Administration (rather, the post was called the Chief Secretary then), Sir David Robert FORD, to make amendments after engaging the entire society in a study (I believe the President in particular has a vivid recollection of this matter). Therefore, the offence of loitering is applicable to the MTR. In the Public Order Ordinance, the offence of loitering refers to any act that is intended or is an attempt to breach the peace, so it is in fact entirely applicable to the MTR. It is a provision that is absolutely adequate for the purpose of regulating order, safety and peace and there is not any loophole.

Some Honourable colleagues really do not understand this, so they asked me why I wanted to lay down section 17B, which is similar to the provision in the Public Order Ordinance, in my amendment. This is precisely because I was careful and thoughtful in my consideration of this matter. I believe that if I do not lay down this provision, we have to rely solely on section 101 of the Criminal Procedure Ordinance (that is, what is commonly called the "101 Citizen Arrest") to make arrests. In view of this, I believe that in that period of time, it may still be necessary to give the MTRCL the power to detain, so I added clause 22(3) to the amendment to confer on it the power to detain. Of course, the MTRCL can remove the person concerned, however, if the conduct of that person is really over the top, instead of removing him, he can be detained until police officers come to the scene to deal with the matter in accordance with the law. This

amendment shows that in all aspects, it was drafted carefully with special regard to order and effective management. Of course, I am grateful to Members who could perceive this and, to Mr Abraham SHEK, in particular. He expressed his appreciation for me in view of what he had perceived, so I wish to thank him. To other Honourable colleagues, the issues that this point involves are probably rather complicated and I myself have gained an understanding only after following this matter up for some 10 to 20 years. However, given the financial strength and resources of the MTRCL, it is absolutely capable of doing so.

On the second point, at this juncture, let me show Members a notice. A number of former Secretaries have seen it before but the new Secretary has not. What is mentioned in this notice carries penalties and the offences are criminal. It reads, "Please do not bring these items into the MTR". However, we have no idea what the items refer to and we can only see some diagrams. In the English version, it is not specified what the "items" refer to either and there are also only some diagrams. Of course, these diagrams are very small but there is nothing one can do as these small diagrams are provided by the MTRCL. In these diagrams, there is a cross and something that resembles a roast pig, there is a round figure that resembles a balloon, as well as an item that resembles a potted plant. That day, I asked the MTRCL, "Since these signs of yours involve criminal liability and as Mr Andrew CHENG said, it is necessary for them to have certainty because, even though people who violated these provisions of a criminal nature do not have to go to jail, they may still be fined. My question is: Since a roast pig is a prohibited item, are other kinds of roast meat also prohibited? Is roast goose allowed? The pig in this diagram has got a tail and it looks somewhat gleeful. All right, if potted plants are not allowed, this diagram only shows a pot of tangerine, so are other potted plants allowed?"

Frankly speaking, if one does not want to express something in words, one may as well do away with them, however, if penalties for criminal offences are involved, one cannot simply express things in this way. Other people may not know what you are talking about. For this reason, in a case of obtaining benefits through public office, which went all the way to the Court of Final Appeal, the Judge was of the view that no matter how serious or minor a criminal offence is, it is necessary to let people know clearly what penalties they carry.

In addition, what this notice says is "please do not", whereas some other notices are OK. For example, this notice says, "Emergency exit, no

obstruction. Offenders may be prosecuted.". This means that there are penalties. Another notice states explicitly that the fine is \$2,000 or \$5,000 or three months of imprisonment, and so on. However, this notice does not say so. It only says, "please do not", however, it turns out that "please do not" is a warning against criminal acts. In view of this, since they can charge people with certain offences when they say "please do not", may I ask how people should regard other notices such as "Hold the handrail"? I have just attended a meeting of a bills committee and I came here by the MTR. The notice that says "Hold the hand rail" is in the imperative form, whereas "please do not" only advises people against doing such and such a thing, however, it turns out that one can be held criminally liable, whereas one would not be prosecuted for acting against the advice of holding the handrail. In view of this, what acts constitute an offence and what acts do not? Such is the present state of affairs.

I also asked them, "Since one can be convicted of an offence if one acts against the advice of such a notice, may I know in how many cases were people convicted in the past? Does the number stand at 500 or 1 000 cases? Will you please provide a table to me?" However, they could not do so. Can you see what a terrible state of affairs this is? The MTRCL is unable to tell us what sort of conduct is regarded as criminal offences, so what sort of organization is this? We want to give it the power to make by-laws but it has made such a mess. This is an outright disgrace, is this not? If the corporation had conducted a detailed study, it would surely have been able to see all this. It would have been impossible that it could not see this. If it could not even do such a simple thing properly, the legal adviser concerned should really be fired.

Moreover, some Honourable colleagues maintained that the so-called "sunset clause" was unnecessary. Please let me explain to Members a little bit. It does not matter if you do not support me because the voting is carried out in groups, however, you should at least support the "sunset clause". Why? Because at present, even the power to make amendments has been approved — if the amendments proposed by me cannot be passed, that means their original motion will be passed. You said that you trusted them and I also assume that you trust them. All right, after one year, they will come back here to listen to your views seriously, then they will say, for example, that bylaws 1, 7, 8, 9 and 10 have to be amended but there is no need to amend bylaws 2, 4 and 6. In that event, it is impossible for Members of this Council to amend bylaws 2, 4 and 6. Why? This is because in law, if they do not amend them, it is not possible for us to propose any amendment (in proposing the amendments on this occasion, I

had to seek the approval of the President, and I had to obtain legal advice beforehand). However, please remember that this is not our usual practice in dealing with legislation.

In fact, it is really necessary to give Members of this Council a completely free hand and let Members point out what they think is unsatisfactory. This is a responsibility that Members of the Legislative Council should assume. Members can have different views, however, the function of Honourable colleagues making amendments in the review on this occasion should be retained so that we can make amendments and prescribe provisions that we consider right. There is no reason to allow others to vanish without a trace. Even if they do come back, they can still point out selectively that there are certain provisions that they consider not quite all right. If they think that all the provisions are fine, no amendment will be made. In that event, what can we do? I do not want to put this in very vulgar terms, but what I want to say are those four words. I do not want to put it so vulgarly, so let us just say that we can do nothing about them! Well, since I do not want to use such a vulgar turn of phrase, I can only say I can do nothing about them. If they do not make any amendment, there is nothing you can do about them. This is why some of the provisions cannot be amended in the scrutiny on this occasion.

Some Honourable colleagues (for example, Dr Raymond HO) also said that it would not do to give them just 15 months of time as doing so would backfire. If they do not have enough time, how can they do a proper job? My answer is very simple: if my amendment is passed, the provisions will cease to be effective automatically after 15 months — please remember, you said 12 months but I now give them 15 months. This is being generous, is this not? However, this is a piece of subsidiary legislation and if they really think there is not enough time to do their work, do you think they will feel the pinch and will they be concerned about the order? Of course they will! What will they do? Of course, they will make amendments to the bylaws proposed by me which were passed just now. How would they go about it? They would change the period of 12 months, which I have mentioned, to 24 or 30 months, however, remember that if they want to make such an amendment, it must be passed by this Council because they are the one requesting an amendment. In that event, this Council really will have to consider if they have made efforts in honest belief. If they have really made efforts, this Council will give them a few extra months and this is only fair. Perhaps the views would even be divergent and numerous in this Council.

However, if we do not have this provision, even if they do not come here, there is nothing we can do about them. Or, if they do come, they will only amend bylaws 1, 4, 7, 8 and 10 but not bylaws 2 and 3, in that case, what then? Just now, some Honourable colleagues of mine expressed strong views on this, however, we just cannot do anything about them. In fact, what I want to do is to preserve the power of this Council to make amendments and this is only normal. I am only considering this matter from the angle of the responsibilities of the 60 Members of this Council. I am not doing so in respect of individual provisions or for the sake of any political party or grouping. If even such an idea is not supported, I really do not understand it. In that event, if the Liberal Party suggests all of a sudden that the provisions relating to toilets or a certain provision are perhaps not all right and those people just refuse to make any amendment, there is nothing we can do. Or, if those people have lobbied one or two political parties successfully into supporting a certain provision and another political party or two into supporting another amendment, in sum, if they do not make any amendment to all the provisions, so long as they can secure the support of some political party or grouping, it would be impossible for us to make any amendment and as a result, none of the provisions will be amended. Therefore, on this issue, I hope Honourable colleagues can look further ahead. Even though all the important parts of the legislation were drawn up in very haste, this provision must still be retained to give this Council the power to make amendments for 15 months and this is in fact most appropriate.

In addition, concerning intoxicated persons, honestly, I hope the Secretary can listen carefully. If an intoxicated person enters the premises of the MTR, how can he be charged with a criminal offence? He was already intoxicated, however, if it is maintained that he was not and that it is possible to bring criminal prosecution against him, in that event, it will not be possible to prosecute him for being intoxicated. The interesting thing about this Bylaw lies in the fact that such instances are considered criminal offences. This is very odd because there is no such provision. In that case, what is the only thing that one can say? The MTRCL can only say that it has the power to remove him or assist him in leaving. This is a fit and proper power, however, such conduct should not be liable to a fine of \$5,000, as is the case now. This is really a very odd situation. Furthermore, concerning things such as commercial purposes or intent, since I have talked about them before, I am not going to repeat them now.

Finally, I wish to talk in particular about that point concerning abusive language. I think the provision limiting the use of abusive language is really too

broad. Although I heard some Honourable colleagues say that this provision may be a little bit controversial, I implore Members to think about this and they have to remember that some people use abusive language for the purpose of self-amusement, while some people may use abusive language as expletives in greeting close friends — in saying so before the camera of the television station, I am not calling on people to use abusive language, however, Members must remember that such conduct may not be entirely unrelated to the background in which someone grew up and his education, is this not so? Moreover, this may have to do with his personality or his habitual use of a certain kind of language when being together with his friends, so this is a habit. If he did not disturb other people's peace when using abusive language, nor did he insult or offend other people, is it necessary for us to draft the provision in the present way?

Furthermore, as we all know, outside the premises of the MTR and the West Rail, doing so is not an offence at all and such matters can only be dealt with in accordance with section 17B of the Public Order Ordinance. Why is the state of affairs like this within the premises of the MTR? The cases that occurred in the past were largely instances of abusing the legislation. How was it abused? There was a very typical example. An old woman offended a police officer — of course, the piece of legislation in force at that time was an old one and it had to do with a similar provision relating to the airport — the wooden cart of the old woman bumped into a police officer. Originally, that old woman did apologize to that police officer, however, the latter heaped abusive language on her, so the old woman also retorted him with an abusive phrase because she too was very angry. As matters stood, it was not possible for the police officer to lay any charge against the old woman — could she be charged with assaulting a police officer? She only bumped into him inadvertently — however, the superior of the police officer said that perhaps one could lay charges against her in accordance with the bylaw of the airport, which was the same as the present Bylaw. In other words, this provision can be invoked to bring prosecution in this sort of cases at any time. I think doing so is most unfair.

In addition, there are also other scenarios. For example, someone may be quarrelling with his interlocutor on the phone and that interlocutor may be berating him with abusive language — this is nothing strange and in a quarrel, things can be like this — if that person is taking the MTR, what should he do? In that case, he can only put up with this. Does one mean that he has to say to the other party that he is sorry but he cannot berate him right now and can do so only later? This is a really strange situation, is this not? Even if he uses

abusive language on the premises of the MTR, he does not affect other people, nor has he insulted other people, so how can he be prosecuted on account of this? However, I know that in these circumstances, it is not always necessary for us to prosecute him. If necessary, we can remove him on the ground that he is causing a nuisance. We can invoke section 17B, which is a provision at a lower level — that is, apart from bringing prosecution against him, there is also the power to remove him in accordance with the legislation relating to the MTR. In fact, I have always been mindful of the need of the MTRCL to handle various situations as well as the need to maintain order effectively.

The final point has to do with the point concerning one month or three months. This is because a similar provision exists, so I also want to talk about this. Some Honourable colleagues said just now that lost property could include large figures of Buddha and even various weird objects that were 2 ft or 3 ft tall — maybe this is because the KCRC provides cross-boundary train service — however, Members have to understand that if we want to act in honest belief, we have to understand that clearly, the MTRCL is willing to keep lost property for three months. Honestly, if we really want to maintain the *status quo*, we should draw a map according to the original precincts of the MTRCL and specify the area in which lost items will be kept for three months, whereas those found in the precincts of the KCRC will be kept for one month. Of course, I think this is not desirable either. However, if we really want it to keep the items and not, as Mr LEUNG Yiu-chung said, focus only on the benefits after the merger — Members have to remember that the MTRCL is really over the top in terms of its mentality, because after the merger, it immediately proposed the heaviest possible penalties in law, whereas our proposals are intended just to make things easy for the public. But it tightened things up immediately by cutting the period to one month. If it sticks to such a mentality or is willing to make changes only when some Honourable colleagues (including those of the royalist camp) say that there is really something wrong, how can it be considered a public organization with a conscience?

Therefore, in these circumstances, if it really wants to maintain the *status quo*, it is absolutely in a position to do so. Then a review can be conducted 12 months later to look at the way forward. However, this is not the present situation and the period is changed to one month all of a sudden, thus curtailing this right within the premises of the MTR immediately.

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

MS MIRIAM LAU (in Cantonese): Madam President, first, I will give a general response. Earlier on, Mr Andrew CHENG criticized me, saying that I, as the Chairman of the Subcommittee and the House Committee, was very slipshod in dealing with these several pieces of subsidiary legislation and I let them through even though I knew full well that some wordings had left much to be desired.

In fact, Mrs Selina CHOW has already given an account of some of the procedures in the Subcommittee at that time. When Mr Andrew CHENG criticized me and other Subcommittee members, he was also criticizing himself because he also played a part in the decision to allow the MTRCL to improve the relevant by-laws within 12 months after the merger and the problems relating to the by-laws are not major ones because in the past 20 years or so, no major problem has arisen. This is the first point. The second point is that the railway corporation has to draw on actual experience. To take the Light Rail as an example, the MTRCL has never been involved in its operation and it must be given time to draw on actual experience and make amendments to the by-laws. We think that this is reasonable and justified. However, Mr Andrew CHENG has criticized me or other Subcommittee members on the basis of this reasonable and justified arrangement. I think it is rather unfair. Therefore, I have to make corrections or clarifications concerning what actually happened.

Mr James TO mentioned the time limit for handling lost property. He said the MTRCL should adopt the time limit of three months while the KCRC or the Light Rail should adopt the time limit of one month. In fact, apart from having a penchant for "sunset clauses", insofar as a number of amendments are concerned, he also has a penchant for "one company, two systems", that is, the MTRCL can adopt one system and the Light Rail, another. This time, he has proposed seven amendments relating to the Light Rail. If his amendments are passed, since there are also many similar provisions for the MTRCL, if his amendments.....

MR JAMES TO (in Cantonese): President, I wish to clarify.

PRESIDENT (in Cantonese): Fine, perhaps you can do so later.

MR JAMES TO (in Cantonese): All right.

PRESIDENT (in Cantonese): Ms Miriam LAU, please go on.

MS MIRIAM LAU (in Cantonese): Yes. If the amendments proposed by Mr TO are passed, the relevant provisions in the bylaw for the Light Rail will be different from those in the bylaw for the MTRCL, consequently, there will be two sets of bylaws. Mr TO asked, "What is wrong with having two sets of bylaws? Since there are two sets of bylaws, just have them scrutinized by two groups of people.". However, being employees of the same corporation, the employees of the MTRCL may be transferred to the Light Rail Division. In that event, they will find on being transferred to the Light Rail Division that the by-laws are different. As the by-laws are enforced by employees, this will create a great deal of confusion and difficulty for employees. This is a consequence that we do not wish to see.

In addition, Mr TO has also proposed a number of amendments. In fact, I believe that in the debate conducted earlier on, Mr TO had good intentions, however, I have dropped the words before "good intentions" as sometimes, we may do a disservice out of good intentions, that is, as we have not considered something thoroughly, we are not aware of the consequences. At this stage, we still cannot see them clearly. If we really accept Mr TO's amendments in these circumstances, we are probably not being responsible because we cannot see the consequences clearly as yet and we have not yet had detailed discussions or conducted any comprehensive study. Therefore, at present, I do not mean that the proposals put forward by Mr TO are not worth considering and in fact, the views of various parties have to be considered and reference should be made to all bylaws in a review. Finally, it will be more desirable if, 12 months after the merger, a set of consistent bylaws that can be applied to the three railways in the same corporation, be it the MTR, the KCR or the Light Rail, are put in place.

I will now talk about the individual amendments proposed by Mr TO. On compliance with notices, in fact, there are similar provisions in both the MTRCL and the KCRC. If we accept Mr TO's amendments relating to the Light Rail, the provisions in the bylaw for the Light Rail will be different from those for the MTR. In that event, the bylaw for the Light Rail will have to be published in the Gazette whereas that for the MTR do not. As a result, employees will feel confused as to which bylaw has been published in the Gazette and which has not. We believe that the MTRCL or MergeCo should have the power to issue some notices because they are responsible for the safety of the crowds and the control of crowds. Moreover, passengers are not allowed to interfere with certain

facilities on railway premises. In festive seasons, when the crowd is particularly large, it is necessary to issue notices concerning crowd control and safety. There is a need for MergeCo to do so and we must empower it to do so because it has to protect passenger safety and ensure the smooth operation of the railways, so it is impossible for it to operate without such a power.

However, I also agree that in scrutinizing the provisions, we also have to scrutinize the relevant diagrams. At present, some of the notices of the railway corporations are not as clear as they should be, in particular, if the act in question may lead to prosecution, it should be set out clearly in the notice. In the Subcommittee, we also had a thorough discussion on this, so the railway corporations should conduct a comprehensive review to examine whether these notices can convey the information appropriately, so that passengers can get a clear message and know what the consequences are. If we adopt the approach of gazettal, as suggested by Mr TO, I have no objection to doing so, nor did the Subcommittee object to the railway corporations carrying out a study as doing so is highly preferable. However, in the event that a temporary notice has to be issued, since publication in the Gazette will take at least several days at the earliest, we are somewhat concerned about whether it will be impossible to issue a temporary notice. Will it be impossible to make use of notices to help ensure order and safety? This is just one aspect to be considered and I am not saying that Mr TO's proposal is unacceptable. However, some time is needed for considering what the consequences will be if the notices have to be published in the Gazette. Will the consequences be unacceptable to us?

The second amendment proposed by Mr TO relates to the prevention of nuisances, in other words, the use of abusive language. First, the MTRCL has in fact heeded everyone's views (including those of the public and Members) and now the punitive provision of imprisonment has already been removed and only that of a fine is retained. In fact, the space on a train is small and when there are a lot of people in train compartments, if someone sitting next to you keeps using abusive language, there is really nowhere to escape to. Do you mean that when someone is using abusive language, one should get off and wait for the next train? In these circumstances, I think it is most unfair to those people who have to listen to such abusive language. Mr TO is a man, however, I have contact with many women and I know that in some situations, they would feel very bad if they have to listen to the constant use of abusive language by other people. This part can also be controversial and the original proposal prescribed imprisonment. The bone of contention is: Why is it necessary to impose the penalty of

imprisonment? However, after the provision on imprisonment was removed, I have not heard any strong view on the penalty of a fine from the public.

Of course, if we want to explore this issue or consult the public again, this is something that should be done in a future review. However, we should not put up with this sort of thing just because such a subculture has developed in Hong Kong. I believe we have to ask women if they think such subculture should be tolerated. In particular, the confines of a train compartment are different from other public places in general. If we are at a public place where someone is using abusive language nearby, we can go away if we do not like this. However, in a train compartment, it is impossible to leave and one is forced to listen. Do all people like to hear such language and can everyone tolerate the language of such subcultures? In this regard, I believe it is really necessary to conduct a round of public consultation before conclusions can be drawn. One cannot act rashly because in reality, the public will be affected, so what views do they have in this regard? In fact, insofar as I am concerned, my many female friends still have strong views on this. I believe that if we ask Miss TAM Heung-man, she would also believe this to be wrong and that punishment should be meted out. I do not know what her view is because she has not spoken today. However, women are probably more sensitive about this. In society, men and women account for roughly half of the population respectively and one cannot say that since men do not take issue with this, the penalties should be abolished. If women have strong views on this, we should also respect their views.

In addition, this is also a problem of "one company, two systems". If changes are made here so that the use of abusive language will not be penalized and one can only remove.....if we take the course of action as suggested in Mr TO's amendment, this is how it would be like with regard to the Light Rail, but not with the MTR. If one does this in the MTR, one will still be penalized. In that case, in what circumstances will it be necessary for employees to enforce penalties and in what circumstances are penalties not warranted? They will certainly feel very confused. Why not conduct a comprehensive review of the approach in dealing with this? At the same time, the public should be consulted as far as possible at this stage on what they think such so-called subcultures should be dealt with within the setting of the railway. Is it always necessary to call in the police in accordance with section 160 of the Public Order Ordinance, as suggested by Mr James TO, and if it is proven that someone has disturbed public peace.....in order to request police intervention in accordance with

section 160 of the Public Order Ordinance, an incident must be very serious in nature and must be found to have disturbed public peace, rather than merely involving the use of abusive language. Can we only invoke such a provision and cannot resort to other ways in handling or deterring such behaviour on railway premises, so as to protect other passengers from being subjected to the nuisance of such language? In this regard, it is necessary to carry out a careful study.

The third amendment proposed by Mr TO relates to a state of intoxication. Concerning this issue, Mr TO's amendment is rather strange in that he says that employees of the MTRCL can only remove but not penalize persons under the influence of alcohol or drugs. However, I notice that there is no record of the MTRCL imposing penalty on anyone in the past, but the deterrent effect of the penalty is still there. Mr TO refers only to people under the influence of alcohol and drugs, however, are people intoxicated by substances other than alcohol and drugs not included? This provision is probably not very clear in this aspect. Even if such people are included, since Mr TO also talks about prejudicing the safety of other people, what about these people prejudicing their own safety? Is prejudicing one's own safety not included? How will such situations be handled? In fact, if we follow Mr TO's line of thinking, it is also necessary to make some amendments to his amendments. It may be necessary to consider making further improvements to the amendments proposed by Mr TO before they can be adopted.

Another amendment proposed by Mr TO is about commercial advertisements on railway premises. Earlier on, I have expressed our views on the bylaw for the MTR, so I am not going to repeat them now. As regards the issue of loitering, Mr TO mentioned section 160 of the Crimes Ordinance. If someone loiters on railway premises, the MTRCL can only remove him. However, the amendment proposed by Mr TO has in fact adopted elements of section 160 of the Crimes Ordinance, for example, the acts of the person concerned on railway premises such as loitering with intent to commit an arrestable offence, obstructing any person using the railway premises and causing any person reasonably to be concerned for his safety or well-being. According to the Crimes Ordinance, these three kinds of conduct constitute the offence of loitering and are liable to a fine of \$10,000 and imprisonment for six months. If someone causes any person reasonably to be concerned for his safety or well-being, he shall even be liable on conviction to imprisonment for two years. However, after introducing these elements, Mr TO prescribes that

the MTRCL cannot do anything and can only remove him. I wonder if we should do so. I am not saying that it is not necessary to consider how the present offence of loitering should be dealt with in view of the amendment to the Crimes Ordinance, however, can we take on board all that is proposed by Mr TO by incorporating the important elements but in the event that an intent to commit an arrestable offence really arises, law-enforcement officers can only remove the people concerned? In this regard, I believe that such a situation should not be dealt with in this way.

As regards the act of loitering, Mr TO will probably say that the railway corporations have been given very great power because it is possible someone walking to and fro on railway premises would also be charged. However, when I look up the files, I found that in the past two years, no prosecution had been initiated by the MTRCL and the KCRC in this regard.

Concerning the "sunset clause", if we look at overseas examples, "sunset provisions" are used to deal with temporary legislation, that is, emergency laws or legislation that had not been carefully scrutinized, for example, the Patriot Act of the United States, which was enacted in an emergency situation. As a result, it was necessary to lay down a sunset provision. The sunset provision in the United States also lasted four years, that is, it came into effect in 2001 and the sun only set in 2005. However, a sunset provision is not a tool used to mandate that certain matters be dealt with. I think the major underlying reason for proposing this provision is mistrust of whether the MTRCL will fulfill its promise. In this regard, in the Subcommittee, it seems that we were more inclined to believing that the MTRCL would keep its promise and that it would discuss the relevant provisions with us again after a period of time. If a sunset clause is adopted, this Bylaw will disappear automatically after 15 months. If there is not any new bylaw, this will really lead to a legal vacuum. Such a situation is probably not very desirable and in overseas countries, sunset provisions are not adopted in any situation similar to the one before us now. I have looked for overseas examples but found that there is not any similar situation.

Therefore, I think that under these circumstances, we will trust the MTRCL and hope that it will not disappoint us. We hope that it will revert to us 12 months or less than 12 months after the merger, as it has promised. We will then draw up two sets of well-conceived bylaws applicable to the operation of the MTRCL and the Light Rail together. Thank you, Madam President.

PRESIDENT (in Cantonese): Your speaking time is up. Mr James TO, do you wish to clarify?

MR JAMES TO (in Cantonese): President, there are several points that have been really gravely misunderstood. Perhaps you can just continue to listen and I am not going to talk about them in particular.

First, just now, a Member queried whether I distrusted the MTRCL. Just now, I said that it was not true that I distrusted it, rather, even if I really believe that it will come back to the Legislative Council, if it does not raise certain provisions for discussion in the Legislative Council, it will not be possible to amend them and there is nothing we can do. Therefore, this is not a question of whether we trust it or not, but a technical issue.

Since everyone says that the Bylaw is not well-conceived, only a temporary piece of legislation has been drawn up as a substitute. A number of Members, even those who support the government motion or those who oppose it today, all consider it necessary to raise and discuss this matter again in the Legislative Council. Therefore, the Bylaw that we give the MTRCL is in fact temporary in nature.

The second point is.....

PRESIDENT (in Cantonese): Please come back to the part that you said had been misunderstood.

MR JAMES TO (in Cantonese): OK. The second point is that, in fact, after Mr CHEUNG Hok-ming misunderstood what I had said, I have already made an explanation, however, little did I expect that Ms Miriam LAU would also misunderstand me. They were probably misled by the same person. Section 160 of the Public Order Ordinance is in fact applicable to any place, including the premises of the MTR, therefore, it is not true that it is only possible to remove the people concerned, rather, it is actually possible to charge them with loitering in accordance with the Public Order Ordinance, OK? Similarly, the offence of loitering prescribed by section 160 of the Crimes Ordinance and section 17B of the Public Order Ordinance are also fully applicable to MTR premises. Therefore, I thought that only Mr CHEUNG Hok-ming had been misled. But why was Ms Miriam LAU also misled?

PRESIDENT (in Cantonese): In any event, you only have to talk about the part that was misunderstood.

MR JAMES TO (in Cantonese): Yes, I was misunderstood.

PRESIDENT (in Cantonese): You believe that others have misunderstood what you said, but that is another matter.

MR JAMES TO (in Cantonese): Yes, I suspect that there is a black hand behind the scenes that misled them.

In addition, thirdly, what I am afraid Ms LAU has misunderstood is that in my amendment, intoxication is mentioned. If someone is intoxicated and puts himself at risk, frankly speaking, why is it necessary to penalize him? This is just impossible. She really has misunderstood me because my amendment has not covered such a situation. Even suicide has been decriminalized, not to mention.....therefore, I hope Members will not misunderstand me on this point.

The last point has to do with gazettal. In fact, at present, there are some emergency situations in which it is actually possible to.....

PRESIDENT (in Cantonese): Mr James TO, you are supposed to clarify the part of your speech that has been misunderstood, however, what you said just now are the reasons that she opposed your amendment. You cannot debate with her now because this is not permitted by the Rules of Procedure.

MR JAMES TO (in Cantonese): What I originally said was that..... since gazettal can be in the form of publishing notices of standard formats and be it words or logos that are displayed in the notices, they can all be expressed clearly. If they are general in nature, for example, if they are published in the Gazette as a matter of usual practice, it would not be necessary to publish them in the Gazette when an emergency arises and this is what I mean. Therefore, I was misunderstood in this regard.

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 on the Secretary for Transport and Housing to speak on the seven amendments.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, concerning the seven amendments moved by Mr James TO on the Mass Transit Railway (North-west Railway) Bylaw, I wish to reiterate that, as I said in my speech on Mr James TO's amendments to the Mass Transit Railway (Amendment) Bylaw 2007, the MTRCL has undertaken to review the bylaws relating to the railways very solemnly, sincerely and in a responsible and comprehensive manner by making reference to the views raised by the Subcommittee and various members. It will also table its proposed amendments to the Legislative Council within 12 months after the merger. Therefore, we think that at this stage, it is inappropriate to amend individual existing provisions without going through a detailed and thorough review and discussion.

In view of this, I implore Members to vote against the amendments.

PRESIDENT (in Cantonese): I now call upon Mr James TO to move his first amendment to the motion.

MR JAMES TO (in Cantonese): President, I move the amendment to the Secretary for Transport and Housing's motion, in order to amend section 18 of the Mass Transit Railway (North-west Railway) Bylaw.

Mr James TO moved the following motion:

"Resolved that the motion to be moved by the Secretary for Transport and Housing under section 34 of the Mass Transit Railway Ordinance (Cap. 556) at the Legislative Council meeting of 11 July 2007 be amended -

(a) by deleting "be approved." and substituting "subject to the following amendments, be approved -";

(b) by adding at the end -

"in section 18, by adding -

"(1A) The Corporation may, by notice published in the Gazette, declare any notice and indicator that shall be complied with within the railway premises.

(1B) The notice published under subsection (1A) shall specify the date on which a notice or indicator is to take effect."". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to the Secretary for Transport and Housing'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 James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr KWOK Ka-ki and Dr Fernando CHEUNG voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU and Mr KWONG Chi-kin voted against the amendment.

Geographical Constituencies:

Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat and Mr LEUNG Kwok-hung voted for the amendment.

Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr LI Kwok-ying 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, 20 were present, four were in favour of the amendment and 16 against it; while among the Members returned by geographical constituencies through direct elections, 18 were present, nine were in favour of the amendment and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on the Mass Transit Railway (North-west Railway) Bylaw or any amendments thereto, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): 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 the Mass Transit Railway (North-west Railway) Bylaw or any amendments thereto, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr James TO, you may move your second amendment.

MR JAMES TO (in Cantonese): President, I move the amendment to the Secretary for Transport and Housing's motion, in order to amend section 22 of and the Schedule to the Mass Transit Railway (North-west Railway) Bylaw.

Mr James TO moved the following motion:

"RESOLVED that the motion to be moved by the Secretary for Transport and Housing under section 34 of the Mass Transit Railway Ordinance (Cap. 556) at the Legislative Council meeting of 11 July 2007 be amended -

- (a) by deleting "be approved." and substituting "subject to the following amendments, be approved -";
- (b) by adding at the end -

"-

- (a) by deleting section 22(1)(a) and substituting -

"(a) behave in a noisy or disorderly manner, or use threatening, abusive or insulting words, with intent to cause a breach of the peace on the railway premises, or whereby a breach of the peace on the railway premises is likely to be caused;"

- (b) in section 22, by adding -

"(3) Notwithstanding the provisions of section 39(4), an official shall have power to detain any person who contravenes subsection (1)(a) until he can be delivered into the custody of a police officer to be dealt with according to law.";

- (c) in the Schedule, in the entry relating to section 22, in the first column, by deleting "22" and substituting "22(1)(b), (c), (d) and (e)".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to the Secretary for Transport and Housing'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)

PRESIDENT (in Cantonese): I think the question is not 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 negatived.

PRESIDENT (in Cantonese): Mr James TO, you may move your third amendment.

MR JAMES TO (in Cantonese): President, I move the amendment to the Secretary for Transport and Housing's motion, in order to amend section 23 of and the Schedule to the Mass Transit Railway (North-west Railway) Bylaw.

Mr James TO moved the following motion:

"RESOLVED that the motion to be moved by the Secretary for Transport and Housing under section 34 of the Mass Transit Railway Ordinance (Cap. 556) at the Legislative Council meeting of 11 July 2007 be amended -

- (a) by deleting "be approved." and substituting "subject to the following amendments, be approved -";

(b) by adding at the end -

"-

(a) by deleting section 23 and substituting -

"23. Prohibited persons

An official may refuse the admission into or remove from the railway premises -

- (a) any person whom he believes or is given reasonable cause to believe is under the influence of alcohol or drugs or in a state of intoxication resulting from consuming or abusing medicine;
- (b) any person whom he believes or is given reasonable cause to believe is suffering from a contagious disease; or
- (c) any person whom he believes or is given reasonable cause to believe may prejudice the safety of railway premises.";

(b) in the Schedule, by deleting -

"23 Passengers in unfit \$5,000 fine". ". "
or improper
condition entering
railway premises,
etc.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to the Secretary for Transport and Housing'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)

PRESIDENT (in Cantonese): I think the question is not 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 negatived.

PRESIDENT (in Cantonese): Mr James TO, you may move your fourth amendment.

MR JAMES TO (in Cantonese): President, I move the amendment to the Secretary for Transport and Housing's motion, in order to amend section 26(b) of the Mass Transit Railway (North-west Railway) Bylaw.

Mr James TO moved the following motion:

"RESOLVED that the motion to be moved by the Secretary for Transport and Housing under section 34 of the Mass Transit Railway Ordinance (Cap. 556) at the Legislative Council meeting of 11 July 2007 be amended -

- (a) by deleting "be approved." and substituting "subject to the following amendments, be approved -";
- (b) by adding at the end -

"in section 26(b), by deleting "for the purpose of advertisement or publicity" and substituting "with intent to do so for the purpose of commercial advertisement or commercial publicity"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to the Secretary for Transport and Housing'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)

PRESIDENT (in Cantonese): I think the question is not 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 negatived.

PRESIDENT (in Cantonese): Mr James TO, you may move your fifth amendment.

MR JAMES TO (in Cantonese): President, I move the amendment to the Secretary for Transport and Housing's motion, in order to amend section 28 of and the Schedule to the Mass Transit Railway (North-west Railway) Bylaw.

Mr James TO moved the following motion:

"RESOLVED that the motion to be moved by the Secretary for Transport and Housing under section 34 of the Mass Transit Railway Ordinance (Cap. 556) at the Legislative Council meeting of 11 July 2007 be amended -

- (a) by deleting "be approved." and substituting "subject to the following amendments, be approved -";

(b) by adding at the end -

"(a) by deleting section 28 and substituting -

"28. Loitering prohibited

An official may request a person to leave, or remove the person from, the railway premises if he believes or is given reasonable cause to believe that the person, while in or upon any part of the railway premises, is -

- (a) loitering with intent to commit an arrestable offence;
- (b) loitering in any way as to wilfully obstruct any other person using the railway premises; or
- (c) loitering, and his presence in the railway premises, either alone or with others, causes any other person reasonably to be concerned for his safety or well-being.";

(b) in the Schedule, by deleting -

"28 Loitering \$2,000 fine".."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to the Secretary for Transport and Housing'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)

PRESIDENT (in Cantonese): I think the question is not 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 negated.

PRESIDENT (in Cantonese): Mr James TO, you may move your sixth amendment.

MR JAMES TO (in Cantonese): President, I move the amendment to the Secretary for Transport and Housing's motion, in order to amend section 36(1)(b) of the Mass Transit Railway (North-west Railway) Bylaw, which relates to the difference between one month and three months.

Mr James TO moved the following motion:

"RESOLVED that the motion to be moved by the Secretary for Transport and Housing under section 34 of the Mass Transit Railway Ordinance (Cap. 556) at the Legislative Council meeting of 11 July 2007 be amended -

- (a) by deleting "be approved." and substituting "subject to the following amendments, be approved -";
- (b) by adding at the end -

"in section 36(1)(b), by deleting "1 month" and substituting "3 months"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to the Secretary for Transport and Housing'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 James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, please vote.

(Mr CHAN Kam-lam pressed the button to vote)

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr KWOK Ka-ki and Dr Fernando CHEUNG voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU and Mr KWONG Chi-kin voted against the amendment.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat and Mr LEUNG Kwok-hung voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr LI Kwok-ying 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, 20 were present, four were in favour of the amendment and 16 against it; while among the Members returned by geographical constituencies through direct elections, 18 were present, 10 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): Mr James TO, you may move your seventh amendment.

MR JAMES TO (in Cantonese): President, I move the amendment to the Secretary for Transport and Housing's motion, in order to add section 42 to the Mass Transit Railway (North-west Railway) Bylaw.

Mr James TO moved the following motion:

"RESOLVED that the motion to be moved by the Secretary for Transport and Housing under section 34 of the Mass Transit Railway Ordinance (Cap. 556) at the Legislative Council meeting of 11 July 2007 be amended -

- (a) by deleting "be approved." and substituting "subject to the following amendments, be approved -";

(b) by adding at the end -

"by adding immediately after section 41 -

"42. Cessation of the Bylaw

This Bylaw shall cease to have effect upon the expiry of 15 months immediately following the Merger Date."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TO to the Secretary for Transport and Housing'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 James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO 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:

Mr SIN Chung-kai, Dr KWOK Ka-ki and Dr Fernando CHEUNG voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU and Mr KWONG Chi-kin voted against the amendment.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat and Mr LEUNG Kwok-hung voted for the amendment.

Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Mr LI Kwok-ying 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, 19 were present, three were in favour of the amendment and 16 against it; while among the Members returned by geographical constituencies through direct elections, 17 were present, 10 were in favour of the amendment and six 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): I now call upon the Secretary for Transport and Housing to reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have already explained our position clearly, so I have nothing to add. I implore Members to support my motion.

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

(Members raised their hands)

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

(Members raised their hands)

Ms Miriam LAU rose to claim a division.

PRESIDENT (in Cantonese): Ms Miriam LAU has claimed a division. The division bell will ring for 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.

Dr Raymond HO, Mr LEE Cheuk-yan, Dr LUI Ming-wah, Mrs Selina CHOW, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr LEUNG Yiu-chung, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Kong-wah, Ms Miriam LAU, Miss CHOY So-yuk, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr LI Kwok-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr Fernando CHEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Mr Albert CHENG and Mr KWONG Chi-kin voted for the motion.

Mr LEUNG Kwok-hung voted against the motion.

Mr Fred LI, Mr James TO, Mr SIN Chung-kai, Ms Emily LAU, Mr Andrew CHENG, Mr LEE Wing-tat and Dr KWOK Ka-ki abstained.

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

THE PRESIDENT announced that there were 36 Members present, 27 were in favour of the motion, one against it and seven abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

PRESIDENT (in Cantonese): Third motion: Approving the Mass Transit Railway (Transport Interchange) (Amendment) Bylaw 2007.

I now call upon the Secretary for Transport and Housing to speak and move her motion.

PROPOSED RESOLUTION UNDER THE MASS TRANSIT RAILWAY ORDINANCE

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I move that the third resolution, as set out under my name, be passed.

The purpose of this resolution is to make some technical and consequential amendments to the existing Mass Transit Railway (Transport Interchange) Bylaw. According to the Rail Merger Ordinance, the Chinese name of the MTR Corporation Limited will change at the rail merger from "地鐵有限公司" to "香港鐵路有限公司" and the Chinese title of the Mass Transit Railway Ordinance (MTR Ordinance) will also change from《地下鐵路條例》to《香港鐵路條例》. As a result, the Chinese title of the Mass Transit Railway (Transport Interchange) Bylaw made under the MTR Ordinance has to change to《香港鐵路(運輸交匯處)附例》accordingly. All references to "地鐵有限公司" in this set of bylaws will need to be amended to refer to the new Chinese name of the Corporation accordingly.

This set of bylaws has been scrutinized and agreed by the Subcommittee. I hope that Members will support this resolution.

Madam President, I beg to move.

The Secretary for Transport and Housing moved the following motion:

"RESOLVED that the Mass Transit Railway (Transport Interchange) (Amendment) Bylaw 2007, made by the MTR Corporation Limited on 20 June 2007, be approved."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution under the Kowloon-Canton Railway Corporation Ordinance to approve the Kowloon-Canton Railway Corporation (Suspension of Bylaws) Bylaw 2007.

I now call upon the Secretary for Transport and Housing to speak and move her motion.

PROPOSED RESOLUTION UNDER THE KOWLOON-CANTON RAILWAY CORPORATION ORDINANCE

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I move that the resolution, as set out under my name on the Agenda, be passed.

The purpose of this resolution is to suspend the operation of the existing Kowloon-Canton Railway Corporation By-laws (KCRC Bylaws) and the North-west Railway By-laws (NWR Bylaws) made under the Kowloon-Canton Railway Corporation Ordinance (KCRC Ordinance) during the service concession period.

During the service concession period, the MTR Corporation Limited will be responsible for the operation of the railway and bus services of the Kowloon-Canton Railway Corporation (KCRC), while the KCRC will cease to operate these services. This Council has endorsed just now amendments to the Mass Transit Railway By-laws (MTR Bylaws) to the effect that those existing provisions in the KCRC Bylaws, which are necessary for the operation of the KCRC railways, will be brought across to the MTR Bylaws, and also endorsed the enactment of the Mass Transit Railway (North-west Railway) Bylaws which are broadly the same as the existing NWR Bylaws. Accordingly, the existing KCRC Bylaws and NWR Bylaws made under the KCRC Ordinance will be suspended during the service concession period.

This set of bylaws has been scrutinized and agreed by the Subcommittee. I hope that Members will support the resolution.

Madam President, I beg to move.

The Secretary for Transport and Housing moved the following motion:

"RESOLVED that the Kowloon-Canton Railway Corporation (Suspension of Bylaws) Bylaw 2007, made by the Kowloon-Canton Railway Corporation on 15 June 2007, be approved."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

I now call upon Mr Jasper TSANG to speak and move his motion.

PROPOSED RESOLUTION UNDER THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

MR JASPER TSANG (in Cantonese): President, I move that the resolution on amending the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be passed.

The Committee on Rules of Procedure (CRoP) has reviewed the speaking order of designated public officers during motion debates initiated by Members.

Under the current arrangement, a designated public officer attending a motion debate will usually speak only towards the end of the debate to respond to Members' views expressed during the debate.

The CRoP proposes that a designated public officer attending a motion debate initiated by a Member should speak twice during the debate, that is, in the early part of the debate to state or explain the Administration's stance on the motion and the amendments, if any, and towards the end of the debate to respond to Members' views expressed during the debate, so that the debate would be more focused and meaningful.

The CRoP's proposed amendments to the Rules of Procedure are set out in the resolution. The House Committee has accepted these proposed amendments. I therefore call upon Members to support the resolution.

Thank you, President.

Mr Jasper TSANG moved the following motion:

"RESOLVED that Rule 33 of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be amended -

- (a) in subrule (3A), by repealing "When" and substituting "Subject to subrule (3B), when";
- (b) by adding -

"(3B) Except in the case of a motion moved by a designated public officer or under Rule 13(1) (The Chief Executive's Policy Address) or Rule 16(4) (Motions for the Adjournment of the Council), the President shall call upon designated public officers attending the debate to speak -

- (a) before any Member who indicates his intention to speak is called upon to speak; and

- (b) when no more Member indicates his intention to speak or, in the case of a joint debate on the motion and its amendments, after the mover of the motion has been called upon to speak on the amendments and has spoken."."

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

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Jasper TSANG 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 passed.

PRESIDENT (in Cantonese): Proposed resolution under the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region.

I now call upon Ms Miriam LAU to speak and move her motion.

PROPOSED RESOLUTION UNDER THE RULES OF PROCEDURE OF THE LEGISLATIVE COUNCIL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

MS MIRIAM LAU (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

On 13 June 2007, the Council passed a resolution on the reorganization of the Policy Bureaux in the Government Secretariat with effect from 1 July 2007. In view of the changes in the responsibilities of the various Policy Bureaux, the Committee on Rules of Procedure (CRoP) has reviewed the impacts of the reorganization of Policy Bureaux on the 18 panels of the Legislative Council and submitted its recommendations to the House Committee.

The House Committee agrees with the CRoP that a complete realignment of the policy areas of panels based on the new schedule of responsibilities of the Directors of Bureaux would lead to significant changes to the panel structure and membership, and such changes will make it difficult for individual panels to monitor and follow up specific policy issues in the last Session of the current term of the Legislative Council. Therefore, Members agree that the present panel structure should be maintained with suitable modifications to the names and terms of reference of some panels, as follows:

- (i) the Panel on Planning, Lands and Works will be renamed as Panel on Development, and the Panel on Economic Services will be renamed as Panel on Economic Development, to match the names of their corresponding Policy Bureaux; and
- (ii) new policy areas, namely poverty, social enterprises, creative industry and sustainable development, will be placed under those panels which already have them covered by their respective terms of reference.

Members also agree that a review should be conducted towards the end of the 2007-2008 Session to examine the panel structure and the placement of the seven policy areas which do not fall directly within the portfolio of one panel,

with a view to proposing a panel structure for the Legislative Council of the next term.

Madam President, to implement the changes approved by Members, I now move the following motion in my capacity as Chairman of the House Committee. If the resolution is passed, the changes will take effect on the day when the next Session of the current Legislative Council commences.

Ms Miriam LAU moved the following motion:

"RESOLVED that the amended terms of reference and list of corresponding bureaux/bodies set out in the Schedule, as recommended by the House Committee, be approved in respect of the existing 18 Panels formed by resolutions made and passed by this Council at its meetings of 8 July 1998, 20 December 2000 and 9 October 2002; and that the amendments so approved shall take effect on the day when the 2007-2008 session of the Council begins.

SCHEDULE

<i>Panel on</i>	<i>Corresponding Bureau/Body</i>	<i>Policy Areas</i>	<i>Terms of Reference</i>
1. Manpower	(a) Labour and Welfare Bureau (b) Education Bureau	labour, manpower planning, vocational training and education, and qualifications framework	Part 1
2. Commerce and Industry	Commerce and Economic Development Bureau	commerce, industry, business and services promotion, innovation and technology, intellectual property protection and inward investment promotion	Part 2
3. Public Service	(a) Civil Service Bureau (b) Financial Services and the Treasury Bureau	matters relating to the civil service and Government-funded public bodies, and other public service organizations	Part 3
4. Administration of Justice and Legal Services	(a) Judiciary (b) Department of Justice (c) Administration Wing of the Chief Secretary for Administration's Office (d) Home Affairs Bureau	matters relating to the administration of justice and legal services	Part 4

<i>Panel on</i>	<i>Corresponding Bureau/Body</i>	<i>Policy Areas</i>	<i>Terms of Reference</i>
5. Home Affairs	(a) Home Affairs Bureau (b) Constitutional and Mainland Affairs Bureau (c) Labour and Welfare Bureau (d) Development Bureau	district, community and rural matters, human rights, civic education, data protection, press freedom, building management, youth and women matters, the provision of leisure and cultural services, development of arts and culture, public entertainment, sport and recreation, and heritage conservation	Part 5
6. Transport	Transport and Housing Bureau	transport	Part 6
7. Housing	Transport and Housing Bureau	private and public housing	Part 7
8. Security	(a) Security Bureau (b) Independent Commission Against Corruption	security, public order, public safety, corruption-related matters, nationality and immigration	Part 8
9. Constitutional Affairs	Constitutional and Mainland Affairs Bureau	matters relating to implementation of the Joint Declaration and the Basic Law, relations between the Hong Kong Special Administrative Region Government and the Central People's Government and other Mainland authorities, electoral matters and district organizations	Part 9
10. Food Safety and Environmental Hygiene	Food and Health Bureau	food safety, environmental hygiene, agriculture and fisheries	Part 10
11. Financial Affairs	Financial Services and the Treasury Bureau	financial and finance matters	Part 11
12. Education	Education Bureau	education	Part 12
13. Development	Development Bureau	lands, buildings, planning, water supply, Public Works Programme and other works matters	Part 13
14. Welfare Services	(a) Labour and Welfare Bureau (b) Home Affairs Bureau	welfare, rehabilitation services, poverty and social enterprise	Part 14
15. Information Technology and Broadcasting	Commerce and Economic Development Bureau	information technology, telecommunications, broadcasting, film services and creative industry	Part 15
16. Economic Development	(a) Commerce and Economic Development Bureau (b) Transport and Housing Bureau (c) Environment Bureau	matters relating to economic infrastructure and services, including air and sea transport facilities and services, postal and weather information services, energy supply and safety, consumer protection, competition policy and tourism	Part 16
17. Health Services	Food and Health Bureau	medical and health services	Part 17
18. Environmental Affairs	Environment Bureau	environmental matters, conservation and sustainable development	Part 18

Part 1

Legislative Council

Panel on Manpower

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to labour, manpower planning, vocational training and education, and qualifications framework.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 2

Legislative Council

Panel on Commerce and Industry

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to commerce, industry, business and services promotion, innovation and technology, intellectual property protection and inward investment promotion.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 3

Legislative Council

Panel on Public Service

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to the civil service and Government-funded public bodies, and other public service organizations.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 4

Legislative Council

Panel on Administration of Justice and Legal Services

Terms of Reference

1. To monitor and examine, consistent with maintaining the independence of the Judiciary and the rule of law, policy matters relating to the administration of justice and legal services, including the effectiveness of their implementation by relevant officials and departments.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 5

Legislative Council

Panel on Home Affairs

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to district, community and rural matters, human rights, civic education, data protection, press freedom, building management, youth and women matters, the provision of leisure and cultural services, development of arts and culture, public entertainment, sport and recreation, and heritage conservation.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 6

Legislative Council

Panel on Transport

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to transport.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy area prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 7

Legislative Council

Panel on Housing

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to private and public housing.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 8

Legislative Council

Panel on Security

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to security, public order, public safety, corruption-related matters, nationality and immigration.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 9

Legislative Council

Panel on Constitutional Affairs

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to implementation of the Joint Declaration and the Basic Law, relations between the Hong Kong Special Administrative Region Government and the Central People's Government and other Mainland authorities, electoral matters and district organizations.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 10

Legislative Council

Panel on Food Safety and Environmental Hygiene

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to food safety, environmental hygiene and agriculture and fisheries.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 11

Legislative Council

Panel on Financial Affairs

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to financial and finance matters.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 12

Legislative Council

Panel on Education

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to education.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy area prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 13

Legislative Council

Panel on Development

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to lands, buildings, planning, water supply, Public Works Programme and other works matters.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 14

Legislative Council

Panel on Welfare Services

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to welfare and rehabilitation services, poverty and social enterprise.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Legislative Council

Panel on Information Technology and Broadcasting

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to information technology, telecommunications, broadcasting, film services and creative industry.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Legislative Council

Panel on Economic Development

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to economic infrastructure and services, including air and sea transport facilities and services, postal and weather information services, energy supply and safety, consumer protection, competition policy and tourism.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 17

Legislative Council

Panel on Health Services

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to medical and health services.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Part 18

Legislative Council

Panel on Environmental Affairs

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to environmental matters, conservation and sustainable development.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

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

First motion: Rights and interests of ethnic minorities. I now call upon Mr Fred LI to speak and move his motion.

RIGHTS AND INTERESTS OF ETHNIC MINORITIES

MR FRED LI (in Cantonese): Madam President, I am very glad that Secretary Stephen LAM can be back in time for the debate. Hence, Secretary TSANG Tak-sing needs not stand in for him now.

Since the reunification 10 years ago, the Government has been positioning Hong Kong as "Asia's World City". When Chief Executive Donald TSANG was still the Chief Secretary for Administration, he already made various remarks on many international occasions, saying that Hong Kong aimed to become the most pluralistic and open city in Asia with an abundance of opportunities. However, such remarks are just an irony to the hundreds and thousands of ethnic minorities making Hong Kong their home.

Based on the number and population size of ethnic minorities in Hong Kong, Hong Kong is no doubt an international city. There is a recent news story in the *Time Magazine* of the United States, in which it is pointed out that just in Chung King Mansions, a famous building in Tsim Sha Tsui, one can already find residents of at least 120 nationalities. The Chung King Mansions has been voted by the *Time Magazine* as the "Best Example of Globalization in Action". But does this thus mean that Hong Kong is indeed pluralistic and open? Obviously not. The reason is that Hong Kong as a society has so far failed to respect and accommodate people of different races and cultures. Hong Kong has so far failed to provide different peoples with equal development opportunities. Some ethnic minorities at the lower strata of society are still caught in a disadvantageous position, facing problems in education and social adaptation and integration. Their rights and interests are not given any protection.

According to government statistics, about 280 000 ethnic minorities were living in Hong Kong in 1996. In 2001, the number rose to 340 000, accounting for 5.1% of Hong Kong's total population. We believe that at the present time, the number of ethnic minorities should be close to 400 000. Of all these ethnic minorities, more than 70% are South Asians from the Philippines, Indonesia, India, Thailand, Nepal and Pakistan, and more than 10% of them were born in Hong Kong. Most of them have already settled down in Hong Kong, living mainly in Yau Tsim Mong, Kwai Tsing and Yuen Long. South Asians have already become a stable community in the population of Hong Kong.

If ethnic minorities are given sufficient development opportunities, Hong Kong will be able to benefit from the contribution of talents from different backgrounds in its endeavours to enhance its connections with the outside world, especially the neighbouring regions. This will be conducive to enhancing Hong Kong's competitiveness. If the development of ethnic minorities are stifled, thus trapping them permanently at the lower strata of society and making it

impossible for them to integrate into mainstream society, to the extent that they must even rely on social welfare, they will all become social baggages. And, this will breed grievances and discontent with the unjust social system. Social problems are bound to result in the future.

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

Unfortunately, what most ethnic minorities are facing now is precisely the thwarting of their development opportunities everywhere. Owing to the barriers caused by cultural and language differences, they encounter difficulties in many ways. Hong Kong people in the mainstream of society come across ethnic minorities every day, but they just turn a blind eye to them. It rarely occurs to Hong Kong people that they need to understand the life and cultures of ethnic minorities. Sometimes, they even treat ethnic minorities with discrimination and ostracism. And, the assistance to ethnic minorities from the social environment and government administration is also severely inadequate. As a result, even though ethnic minorities have lived in Hong Kong for many generations, they still cannot integrate into society. They still encounter many difficulties in education, employment, daily life and access to public services or other forms of assistance. Despite all their efforts, there is still no way out for them.

Ethnic South Asians in Hong Kong also face the problem of employment segregation. The fact that they are mostly engaged in several types of low-skilled jobs as construction workers, security guards, and so on, is an apt reflection of how their development opportunities have been thwarted. Instead of seeing any alleviation over all these years, such employment marginalization has simply passed down from one generation to another. A couple of days ago, when I was viewing a television programme, I was deeply impressed and touched by one scene. There was this young ethnic South Asian, a boy, whose grandfather and father all earned a living as a "gunman". Members will all understand that I am talking about security guards. As a third-generation descendant of his family in Hong Kong, however, he finally succeeded in becoming a salesperson in a fashion shop. To most Hong Kong people in mainstream society, there may not be anything so special about this job. But to him, this represented a cause he had been trying to achieve for four decades, and he must also rely on the assistance of non-governmental organizations before he could avoid the fate of becoming a "gunman", formally integrate into mainstream

society and escape marginalization. The experience is indeed very harsh to them.

The discrimination and prejudice of mainstream society against ethnic minorities and employers' refusal to take on ethnic minorities for racial instead of ability reasons are also a main reason for their marginalization. When recruiting employees at all levels (not just non-skill posts), employers will require applicants to know Chinese. Frankly speaking, this poses another barrier, or even amounts to discrimination. In order to promote equal opportunities for ethnic minorities, the Democratic Party and many non-government organizations have been urging the Government to legislate against racial discrimination for many years. However, the Race Discrimination Bill put before this Council by the Government contains many exemptions. For example, cases that may "incur additional expenditure" may be exempted. For this reason, it will be lawful for hospitals to refuse to provide translation services. And, it is also lawful for schools to refuse to provide bridging courses on Chinese. In brief, the Race Discrimination Bill put forward by the Government is unable to provide comprehensive protection. We hope that the Bills Committee concerned can make appropriate amendments to the Bill in the course of scrutiny.

Discrimination aside, the education system is unable to provide ethnic minorities with a ladder of upward social mobility. This is also the main reason for their inability to extricate themselves from poverty. Chinese-medium education is by far the greatest obstacle standing in their way. Since the reunification 10 years ago, Hong Kong has been implementing mother-tongue education. Increasing importance has been attached to Chinese, thus making it even more difficult for ethnic South Asian students to pursue their studies.

To non-Chinese people, Chinese is a language which is very difficult to learn. Actually, the inability of ethnic minority students to catch up with curriculum requirements already start to surface as early as their primary schooling. In recent years, the Government has been allowing ethnic South Asian students to study in mainstream schools. But support services have been inadequate. For example, there are no curriculums and teaching materials that are geared to the needs of ethnic South Asian students. As a result, ethnic minority students admitted to mainstream schools are unable to catch up with others. After taking the Hong Kong Certificate of Education Examination, these students basically do not have any more chances of further studies. Those

who have any chances of further studies are mostly from well-off families, international schools or English-medium schools. As for admission to tertiary institutions, there is usually just one successful applicant in several years. The main reason is that ethnic minority students are unable to get a pass in Chinese. While their chances in the formal education system are limited, they also have very few opportunities to receive vocational training. What is more, since most courses are conducted in the medium of Chinese, there are very few courses suitable for ethnic South Asian young people. Since non-Chinese speaking students cannot surmount the obstacle posed by Chinese-medium education programmes, it is very difficult for them to have any chances of making a mark in society.

The difficulties faced by ethnic minorities are not limited to education and employment. Rather, they encounter difficulties in practically all aspects of their life. Owing to the language barrier and different cultural customs, simple matters like seeking treatment or delivering babies in hospitals turn out to be very inconvenient and difficult for them. In the South Asian culture, the status of women is low and they do not have strong networks of community connections. If these women do not know English, it will be impossible for any information on social support such as family services to reach them. This further weakens their ability to cope with adversities. Difficulties resulting from language barrier and the lack of policy support and services for them are just numerous.

As an international city, Hong Kong still has a very long way to go in the provision of development opportunities to ethnic minorities. In order to foster social inclusion for all, we should provide venues and facilities to ethnic minorities by all means, so that they can organize cultural and religious functions and build up their networks of community connections. At the same time, we should encourage them to reach out to beyond their communities. In this way, with more contacts and greater understanding, we will be able to foster mutual understanding and respect between mainstream society and ethnic minorities. What is more, in view of the alienation they face as a result of language barrier, the authorities should expend more resources on providing them with stronger assistance in respect of education, employment and access to public services. And, because of the special circumstances of ethnic minorities, the language requirements of employment and education should be made more flexible for them. This will not only enable them to give full play to their potentials but also help Hong Kong nurture a wider range of talents, thus adding to its competitiveness.

My purpose of moving this motion on behalf of the Democratic Party today is to urge the Government to adopt a series of measures to protect the rights and interests of ethnic minorities. It is hoped that mainstream society — all of us, in other words — can show more concern about the needs of ethnic minorities such as South Asians and contribute to fostering an inclusive society. I hope that Members can render their support. Later on, Miss CHOY So-yuk will move an amendment. I shall spend another five minutes on my reply to her amendment.

With these remarks, I move the motion.

Mr Fred LI moved the following motion: (Translation)

"That, as the Administration has failed to provide the necessary support and protection for some 300 000 ethnic minorities in Hong Kong, and many of them have encountered difficulties on various fronts, creating barriers to their development and integration into the Hong Kong community, this Council urges the Administration to adopt measures to protect the rights and interests of ethnic minorities, including:

- (a) on the education front, allocating additional resources to increase the number of designated schools in various districts which admit more non-Chinese speaking primary and secondary students and to provide appropriate support to the schools concerned and, at the same time, offering a curriculum and public examination for the subject of Chinese Language which are suitable for students of ethnic minorities, so that such students who are not proficient in Chinese can have equal opportunities to further their studies in schools, especially universities, and in employment;
- (b) on the employment front, conducting vocational training courses and trade tests in English or the languages of ethnic minorities according to their needs, relaxing the entry requirement in respect of Chinese proficiency in the recruitment of staff by the Government and public sector organizations, and arranging for suitable posts to be filled by ethnic minorities as far as practicable, and also providing information on job vacancies in both Chinese and English and setting up a dedicated employment counter by the Labour Department to assist ethnic minorities visiting the Department in seeking employment;

- (c) on the public services front, providing free interpretation service for ethnic minorities using public services, such as public healthcare, social and employment services, etc;
- (d) on the religion and culture fronts, providing venues and other facilities in the districts in which a larger number of ethnic minorities resided in for conducting religious and cultural activities and, at the same time, enhancing civic education to promote public understanding of and respect for the cultures of ethnic minorities;
- (e) ensuring, by means of comprehensive legislation and complementary measures, that ethnic minorities are not discriminated against; and
- (f) formulating a well-thought out policy to facilitate the integration of ethnic minorities into the Hong Kong community."

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

DEPUTY PRESIDENT (in Cantonese): Miss CHOY So-yuk will move an amendment to this motion. The motion and the amendment will now be debated together in a joint debate.

I now call upon Miss CHOY So-yuk to speak and move her amendment to the motion.

MISS CHOY SO-YUK (in Cantonese): Deputy President, I move that Mr Fred LI's motion be amended.

Although Hong Kong is an international city, its population is predominantly Chinese. Since we share the same culture and speak the same language, we naturally do not face any language barrier or have any communication problems in our daily life. Therefore, it is quite easy for us to overlook the fact that people who were not born and brought up locally actually

face many difficulties in social integration. Another point is that many of the policies implemented by the Government of the Special Administrative Region (SAR) are unable to meet the needs of ethnic minorities. As a result, in their daily life, they frequently run into many problems with education, housing, medical care, and so on. They frequently find that they have no channels to redress their grievances. This is also the case with immigration matters.

The Legislative Council is scrutinizing the Race Discrimination Bill. We think that this is a good start for our efforts to enhance the protection of ethnic minorities' rights and interests. But the ambit of the Bill is rather restricted, so it can only provide a general direction for solving the problem. As a result, we must still make use of other channels in order to offer concrete and integrated assistance to ethnic minorities. One example of such channels is this motion debate today.

Deputy President, the DAB strongly supports the various proposals in the original motion. Our amendment is just meant to add in the things that are lacking. Of all the difficulties faced by ethnic minorities, the education policy is certainly their greatest concern, because it concerns the development and future of their children. Many issues related to the policy have in fact aroused extensive concern and discussions, some examples being the lack of uniform standards among schools for teaching Chinese to non-Chinese speaking students, whether there is any widespread recognition of the General Certificate of Secondary Education awarded specifically to ethnic minority students, the Chinese language requirement for admission to university, whether it is necessary to set aside a certain percentage of university places for non-Chinese speaking students and support for teaching Chinese to non-Chinese speaking students.

However, while paying attention to all these issues, Members must not overlook other equally important issues. It appears that the SAR Government is very concerned about the rights and interests of ethnic minorities. Many community activities are organized and many APIs and even television programmes are produced to promote racial harmony and inclusion. But the SAR Government's handling of this problem is marked by one fundamental inadequacy: a severe lack of statistics relating to ethnic minorities.

Deputy President, what is the rate of ethnic minority youngsters who can enter tertiary institutions or universities? How do they perform academically in

secondary and primary schools? How many ethnic minority people have received full secondary and primary education in Hong Kong? What are the employment and unemployment situations of ethnic minorities belonging to different age brackets? How many of them are in receipt of Comprehensive Social Security Assistance (CSSA)? How many of them can receive or are denied public health care services? What is the distribution of religious beliefs among ethnic minorities? The SAR Government does not seem to have any answers to all these questions.

The reason for this is that all the present government statistics relating to the ethnic minority population were compiled on the basis of the Census in 2001. And, the Census concerned mainly covered South Asians and Southeast Asians living in Hong Kong. It did not include Japanese, Koreans and persons with mixed blood, nor did it cover foreign domestic helpers. Besides, the relevant statistics have not been updated on a regular basis, and the various Policy Bureaux and departments have never conducted any in-depth surveys on ethnic minorities.

In the absence of accurate statistics, how can the SAR Government formulate appropriate policies and measures to meet their needs? It is small wonder that the Education Bureau and even other government departments have so frequently overlooked the practical needs of ethnic minorities in the course of policy formulation. They have never attempted to understand their difficulties, nor have they ever considered the provision of special services to ethnic minorities.

At the same time, owing to the lack of any detailed information on the religious and cultural backgrounds of these people, it is also very difficult for the SAR Government to ascertain precisely what types of venues and other facilities should be provided to ethnic minorities for the organization of religious and cultural activities. This is clearly not conducive to the development of our policy on ethnic minorities and will not help promote cultural integration or enhance society's awareness of the need to reach out to, accept, understand and respect ethnic minorities.

Therefore, the DAB thinks that the SAR Government must promptly set up a database on ethnic minorities. All Policy Bureaux and departments should be required to treat ethnic minorities as a special group of service targets and collect

information on their employment, education, use of public services and religion and culture in a systematic and focused manner. It is only after collecting all such information that we can make accurate assessments and formulate satisfactory policies to help them integrate into our society.

Another proposal in the DAB's amendment seeks to assist some ethnic minority youngsters who missed formal education in obtaining the minimum academic qualification of secondary education, so that they can upgrade their employability and even extricate themselves from poverty. Many young people of ethnic minorities in Hong Kong missed the chance of receiving complete schooling because they once went back to live in their home countries and did not return to Hong Kong until their teens. Even if these young people want to complete secondary education, it is very difficult for them to enrol in any schools because their qualifications are lower than those of local students and they are already over the age of 15. As a result, many young people in their twenties cannot even obtain the minimum academic qualification.

For this reason, one of the points in my amendment proposes the Government to allocate more resources for providing these young people with appropriate assistance and support, so as to help them obtain qualifications equivalent to secondary education as much as possible. It is also proposed that voluntary organizations or training bodies such as the Vocational Training Council should run courses especially designed for ethnic minorities, with a view to upgrading their vocational skills and assisting them in securing employment.

Besides, in order to provide stronger support for ethnic minorities visiting the Labour Department for assistance, we propose to set up dedicated counters to receive their enquiries on labour laws and workers' rights and interests. This can help them understand labour laws and their legitimate rights and interests through a formal channel, thus making sure that no unscrupulous employers can take advantage of their unfamiliarity with labour laws and thus treat them unfairly or even threaten to dismiss them due to minor mistakes.

While we should help them satisfy their basic needs of food and accommodation, we must, more importantly, bear in mind that if we are to effectively encourage them to integrate into society, we should give them opportunities to contribute their talents to society, so that they can develop a stronger sense of belonging to society and treat Hong Kong as their real home.

The DAB is of the view that since the Home Affairs Bureau has already been drastically increasing the representation of women in advisory committees in recent years in order to incorporate women's views in the course of policy formulation, the same practice should be adopted for ethnic minorities. Ethnic minorities should similarly be given more opportunities of participation in public service, and more people of ethnic minorities should be appointed to public organizations or advisory bodies. As a start, they should at least be appointed to some public organizations closely affecting their life, such as the Equal Opportunities Commission, so that their views and opinions can be adequately reflected.

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

Miss CHOY So-yuk moved the following amendment: (Translation)

"To add "(b) in respect of young people of ethnic minorities, allocating additional resources to strengthen social services for young people of ethnic minorities, and assisting those who are beyond school age to complete secondary and vocational education;" after "in schools, especially universities, and in employment;"; to delete the original "(b)" and substitute with "(c)"; to add "and making enquiries about labour laws as well as workers' rights and interests" after "ethnic minorities visiting the Department in seeking employment"; to delete the original "(c)" and substitute with "(d)"; to delete the original "(d)" and substitute with "(e)"; to add "(f) appointing ethnic minorities with ability to public organizations or advisory bodies, such as the Equal Opportunities Commission, so as to reflect the aspirations of ethnic minorities;" after "respect for the cultures of ethnic minorities;"; to delete the original "(e)" and substitute with "(g)"; and to delete the original "(f)" and substitute with "(h) setting up a comprehensive database to collect, in a systematic and focused manner, data relating to ethnic minorities in such areas as employment, education, use of public services, religion and culture, with a view to understanding their needs and thereby"."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss CHOY So-yuk to Mr Fred LI's motion, be passed.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, I rise to speak in support of the original motion and the amendment. I believe that all Members are of one heart in urging the Government to make more efforts for ethnic minorities. The Hong Kong Confederation of Trade Unions (CTU) has always maintained the position of opposing all forms of discrimination. It believes that there should never be any discrimination, whether in respect of sex, disability, race, age, sexual orientation, political conviction or creed. Unfortunately, however, the Government and the Secretary has been adopting a piecemeal legislative approach. It was only after dealing with sex discrimination that it proceeded to handle disability discrimination and then family status discrimination. I am certainly very glad that it has now turned to race discrimination after completing the work on dealing with family status discrimination. But can the authorities just put forward a bill covering all forms of discrimination instead of adopting such a piecemeal approach? I have asked this question because we have not yet dealt with age discrimination and sexual orientation discrimination. But I do realize that the focus today is on ethnic minorities.

The Race Discrimination Bill has been introduced, but during the discussions on the Bill, we have noticed many policy problems. The reason is that the Bill provides for many exemptions. If all these exemptions proposed by the Government are passed and subsequently applied to the circumstances concerned, ethnic minorities will still fail to enjoy equal opportunities in the end. We very much hope that instead of simply enacting legislation for the sake of enacting legislation, the Government can really seek to provide ethnic minorities with genuine equal opportunities. If ethnic minorities are really to be provided with equal opportunities, there are two points to note. First, there must be no discrimination against them. Second, there must be a greater number of support measures to offer them assistance and foster their social integration. All this will require many positive policies. We may of course try to eliminate discrimination by adopting negative and deterrent measures. However, we hope that apart from deterrent policies, the Government can at the same time introduce a greater number of positive measures to enable ethnic minorities to integrate into society.

I wish to make special mention of several issues. The first one is education. This is in turn divided into two areas, the first one being secondary and primary education. As we can observe from all the discussions with the Government, it very much hopes that ethnic minorities can be integrated into the

mainstream education system. This is certainly a well-intentioned hope. However, in many cases, ethnic minority students admitted to mainstream schools are unable to meet curriculum requirements. Because of their family background, they do not know any Chinese. Their family members do not speak any Chinese either. Instead of their mother tongue, Chinese is just their second language. For this reason, they must learn both English and Chinese in school. In many cases, they simply fail to catch up. In regard to those ethnic minority students having to study in large classes in mainstream schools, will the authorities give them any substantial assistance, so that they can catch up with others in Chinese-medium classes?

Speaking of mainstream schools, I must point out that we have been advocating the implementation of small-class teaching. But this has not yet been put into practice. For this reason, mainstream schools are simply unable to give ethnic minority students any assistance. However, if ethnic minority students already lag behind others at the very beginning, it will be very difficult for them to catch up later. Therefore, concerning the first part of the education issue, I think ethnic minority students admitted to mainstream secondary and primary schools should be given more care and attention. Support measures should be provided to them, so that they can meet curriculum requirements.

As for the second part of the education issue, we have all along failed to work out a solution throughout all the discussions on the Bill. This concerns tertiary education. A pass in Chinese Language as a mandatory requirement for university admission will, in many cases, pose difficulties to ethnic minorities. Throughout the discussions, we have been exploring why it is impossible to make a pass in GCSE Chinese Language of the United Kingdom as an entrance requirement of local universities. In other words, we may actually offer them an alternative. The reason is that in the United Kingdom, GCSE Chinese Language is meant for students who study Chinese as their second language. And, Chinese is precisely the second language of ethnic minorities. Why is it impossible to offer them such an alternative, so that they can be admitted to local universities?

We have been discussing the possibility of this in the relevant Bills Committee. But there has been no outcome so far. We are still waiting for the Government's reply. Is it possible to offer them this alternative? I believe that this alternative is actually the only solution to the problem. I believe the Government is also very concerned about inter-generational poverty. But how

can we solve this problem? Education is the only solution. It is only by enabling the children of ethnic minorities to move upward in society that we can succeed in eliminating inter-generational poverty.

The second problem is health care. Deputy President, we are also very concerned about discrimination in respect of language. Ethnic minorities often say that if they do not speak either Chinese or English, it will be very difficult for them to tell what ailments they are suffering from when seeking treatment in hospitals. In the end, hospitals will be unable to give them any treatment. This is really a matter of life and death, I must say. That being the case, will the authorities consider the provision of more language services? Unfortunately, the Hospital Authority is so far reluctant to provide such services. Is the provision of such services really so complicated? Will it really involve so much resources? We are not asking for the permanent stationing of interpreters in hospitals. But is it possible to compile a list of interpreters with contact telephone numbers, so that interpreters can be sent for over the phone when there are ethnic minority patients? This will only involve the charging of fees on a piece-rate basis. There will be no need for the permanent stationing of an interpreter in a hospital. Is it possible to do so?

The third problem is vocational training. When it comes to adult education, we actually think that the Employees Retraining Board, the Construction Industry Training Authority and the Vocational Training Council have all been paying inadequate attention to ethnic minorities. We hope that the Government can make more efforts, especially in the construction industry because many Nepalese are engaged in this industry. I hope that the Government can adopt the required support measures and provide them with training assistance.

Lastly, Deputy President, I still wish to say a few words on foreign domestic helpers. In this regard, there is actually a discriminatory requirement, one which has not been tackled in the legislation put forward this time around. Under the Bill, exemption is granted to immigration matters. The discriminatory requirement is about the so-called "two-week regulation". What is it all about? Well, while an expatriate employed to work in Hong Kong can change their jobs at any time they like, foreign domestic helpers can only stay in Hong Kong for two weeks. If a foreign domestic helper cannot find a new job within two weeks, she must leave Hong Kong. For this reason, many Indonesian or Filipino domestic helpers never dare to lodge any complaints even

when they are unfairly treated, or even abused, by their employers. Because once they lodge any complaints, they may be dismissed, in which case they may even have to leave Hong Kong after two weeks. Why is it impossible to treat them fairly? Why is it impossible to let them stay in Hong Kong for a longer period to look for a new job, so that they do not have to leave Hong Kong after two weeks, so that they can be encouraged to lodge complaints?

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

DEPUTY PRESIDENT (in Cantonese): Time is up.

MR LI KWOK-YING (in Cantonese): Deputy President, ethnic minorities have all along been overlooked in Hong Kong. As a result, their rights and interests are not given any comprehensive protection, and they cannot enjoy the same legitimate civil rights enjoyed by their local counterparts. It was not until the end of last year, when the Government finally submitted the Race Discrimination Bill to the Legislative Council, that ethnic minorities in Hong Kong could ever hope that after the passage of the Bill, they could receive more comprehensive legal protection of their rights and interests and free themselves from discrimination. However, legal protection aside, the Government's administration is also inadequate in many ways, thus rendering ethnic minorities unable to integrate into society and plunging them into a marginalized position.

At present, there are some 300 000 people of ethnic minorities in Hong Kong. This is only a very small portion of the Hong Kong population. But a more important point is that since ethnic minorities are often regarded as sojourners, social agencies are generally reluctant to spend any resources on them. However, once we place our focus on these ethnic minorities, such as the Indian, Pakistani and Nepalese communities, we will discover that most of these people were actually born and brought up in Hong Kong. They have made Hong Kong their home for generations. That being the case, we must of course assist them in integrating into society, so that they can live and work here happily.

The fact is that since society generally does not know too much about ethnic minorities, they do encounter many difficulties in their life in Hong Kong.

In regard to education, only a few schools are run especially for ethnic minorities, thus many ethnic minority students must travel a long way to and from school. Although integration programmes are available in mainstream schools, the schools concerned mostly lack any in-depth understanding of the religions and cultures of ethnic minorities. Language barrier is by far the greatest difficulty. Chinese is no doubt taught to ethnic minorities in some schools, but there are no central guidance and uniform standards, so students are unable to learn the language well. This is not conducive to their integration into mainstream schools.

With respect to employment, ethnic minorities often encounter difficulties in getting a job because they do not know any Chinese. According to a survey on local employers' opinions about taking on ethnic minorities, employers often recruit ethnic minorities through three main channels, namely, employees' referrals, friends' recommendations and newspaper advertisements. However, ethnic minority communities are rather enclosed. What is more, information about job vacancies on the website of the Labour Department is mostly published in Chinese. And, no interpretation services are currently provided at the counters of the Labour Department. As a result, the employment needs of ethnic minorities are often overlooked. In a way, employers are unable to reach ethnic minorities through the normal channels of newspaper advertisements and the Labour Department.

Cultural differences are another employment obstacle faced by ethnic minorities. I once heard an example of how a person of ethnic minorities was discriminated against when seeking employment. The employer concerned agreed to take on this person of ethnic minorities. But since he kept a very long beard, the employer asked him to shave before really employing him. The employer did not realize that from the standpoint of the religion concerned, the longer a person grows his beard, the stronger his religious conviction will be. Cases like this one will plunge ethnic minorities into a dilemma of having to choose between employment and creed.

Besides facing setbacks and discrimination in seeking employment, ethnic minorities are also easily exploited by employers because they have a language barrier and thus cannot understand very well the protection accorded by local labour laws. Most ethnic minorities are currently employed in non-skilled jobs, and their wages are calculated on an hourly or daily basis. This affects the relative stability of their incomes and even makes them face a more serious problem of working poverty than local grass-roots people.

What I have mentioned are mainly about the needs of ethnic minorities living in Hong Kong and the difficulties they face. Actually, the unique features of their respective ethnic groups have also led to some hidden, deeper-level, social problems which add to social instability. According to a survey on the life of ethnic minorities in Hong Kong conducted earlier this year, most women of ethnic minorities would tend to tolerate domestic violence. Only less than 7% of the respondents said that they would report such cases to the police. Their reluctance to seek help from professionals is actually understandable. Local people do not have a deep understanding of ethnic minorities' cultures. What is more, language problems still pose a major obstacle faced by ethnic minorities in their communication with local people. For all these reasons, how can these women have any confidence in seeking help from local professionals?

Deputy President, language barrier can be described as the main factor preventing ethnic minorities from integrating into local communities. They thus do not have access to the information they should obtain. This is not conducive to their communication with the wider community. In recent years, the Government has indeed invested huge resources in promoting ethnic minorities' integration into local society. But the only measure that is worth mentioning is just publicity. Apart from this, there have been no concrete measures. For this reason, it is very difficult to change local society's deep-rooted prejudice against ethnic minorities. It is hoped that for the sake of genuine social harmony, society as a whole can pay more attention to the interests of ethnic minorities, so that they can in time become one of us.

I so submit.

MR WONG KWOK-HING (in Cantonese): Deputy President, Hong Kong is a famous city in the world and a signatory to the International Convention on the Elimination of All Forms of Racial Discrimination (Convention). Under the Convention, States Parties are obligated to take measures "to prohibit and to eliminate racial discrimination in all its forms". However, Hong Kong has all along been lagging behind the rest of world in the implementation of the Convention and the protection of the rights and interests of different peoples. At present, the Race Discrimination Bill is still undergoing the process of scrutiny in the Legislative Council, meaning that for the time being, there is not yet any law on protecting the rights and interests of ethnic minorities.

Meanwhile, however, the 300 000 or so ethnic minorities living in Hong Kong are faced with varying degrees of difficulties in their daily life. Of all the problems they face, the most serious ones are those connected with education, employment and use of public services.

As shown by the statistics on education, on average, some 400 to 600 non-Chinese speaking children are admitted to local primary and secondary schools every year. According to conservative estimates, there are some 8 000 ethnic minority students in our schools during any one school year. But these students experience immense difficulties in language learning because they are mostly South Asians and learning Chinese is rather difficult for them. Some concern groups on ethnic minorities have also pointed out that owing to the Government's existing policy on language education, many ethnic minority students who fail to get a pass in Chinese Language in the Hong Kong Certificate of Education Examination (HKCEE) are forced to cease their studies. In 2006, only 23 out of the 450 ethnic minority HKCEE candidates were admitted to the Sixth Form. Currently, all other related courses, such as those offered under Project Yi Jin and by the Hong Kong Institute of Professional Education and the Vocational Training Council, are conducted in the medium of Chinese, with the result that ethnic minority students are unable to improve their employment prospects. Deputy President, in other places of the world, such as New York City, local education authorities will organize suitable English language courses especially designed for new immigrants of different origins, so that they can integrate into the communities. However, in Hong Kong, ethnic minorities are not provided with any induction courses on Chinese. This makes it even more difficult for them to integrate into society.

Deputy President, with regard to employment, it must be pointed out that many people of ethnic minorities face the problem of unemployment. The problems arising from the registration of construction workers can best illustrate the unfair treatment accorded to ethnic minorities seeking employment. Under the construction workers registration system, all construction workers applying for registration are required to attend specified training courses. Such courses are mostly offered by the Construction Industry Training Authority (CITA) or some specified organizations. In most cases, courses in the medium of English are not provided. What is more, some people of ethnic minorities know neither Chinese nor English. They speak only the languages of their origins. But the CITA does not provide any translation services for course participants.

Consequently, many South Asians are unable to take such courses, thus being barred from registration under the system. Consequently, they are not permitted to work in construction sites. But the organizations and government departments concerned have not yet provided South Asians with any English courses or translation services. This produces a great impact on their employment prospects.

Deputy President, public services cater for many daily-life needs of Hong Kong people. However, ethnic minorities face many difficulties in using public services. A local university and the HKSKH Lady MacLehose Centre conducted a survey from August to October last year, during which 109 Pakistani women aged between 18 and 59 were interviewed. Ninety-three percent of the respondents said that they would go to public hospitals for treatment in case of need. However, 43% of the respondents also remarked that they had a language barrier problem when seeking treatment. Forty-four percent of them maintained that there were communication difficulties. From this, it can be observed that different racial backgrounds and language barrier have affected ethnic minorities' use of public services rather greatly.

Deputy President, in recent years, many people living in remote areas or new towns are faced with a shortage of community facilities. The shortage is rather acute. And, ethnic minorities living in remote areas find this problem even more acute. According to statistics, at present, roughly 4% of the residents in Tung Chung are South Asians and ethnic minorities. Language barrier and the severe shortage of community facilities make it very difficult for them to integrate into the community. This sows the seeds of many more social problems in the course of community development. Therefore, the Government is obligated to invest more resources in helping ethnic minorities to integrate into society and in constructing more community facilities for residents.

With these remarks, Deputy President, I support the original motion and the amendment.

DR KWOK KA-KI (in Cantonese): Deputy President, Hong Kong often claims itself as an Asia's world city. Such a description sounds very appealing because it means that there is a very powerful force of integration in Hong Kong which can make different peoples with different cultures and backgrounds live happily.

Members may no longer remember the Government's promotional footages about the reunification, but in some of the footages, ethnic minorities can be seen singing and dancing happily, telling of how they welcome the 10th anniversary of the reunification amidst laughter. But if we talk to these ethnic minority people in private, we will learn that their real situation is just like the real situation of Hong Kong people in many ways — the real situations are completely different from what are depicted in all the footages.

Members will understand what I mean if I cite several concrete figures. A survey on ethnic minorities has been conducted recently. Many of them are permanent Hong Kong residents. How many of them think that they are being discriminated against? Almost 60% of them think that way. Their unemployment rate is far higher than that of local Hong Kong people, amounting to nearly 40%. About 60% of them experienced unemployment at different times during the past one year. Some 7 000 ethnic minority children are studying in local secondary and primary schools. But more than half of these children have difficulties in learning, especially in the subject of Chinese Language. More than 80% of the ethnic minority students have difficulties in learning Chinese.

Members all know that in any metropolises, any international cities, such as Hong Kong and those in North America, the first and foremost task of the authorities must be the provision of assistance to ethnic minorities to help them integrate into society and in turn stand on their own feet. If, at the very initial stage, that is, during the stage of schooling, they are unable to receive any good education, how can we expect them to make a mark in society and climb up the social ladder?

Most of these children, with the exception of those studying in Sir Ellis Kadoorie Primary School who can receive comprehensive government assistance — these students can learn in the company of many other ethnic minority students and the support facilities in school can also provide them with a better and reasonable language learning environment — are scattered all over Hong Kong, basically unable to receive any assistance in their education. But such assistance is precisely what matters most. The reason is that if they cannot receive the required assistance in primary school, they will not be able to perform well in secondary school. Even if they can somehow complete secondary education, what will happen to them when they seek university admission?

At present, one of the entrance requirements of all local universities is that an applicant must hold a pass and attain a satisfactory level in Chinese. This requirement alone already sentences ethnic minority students to death because most of them have difficulties in learning Chinese even in primary school. It will thus be very difficult for them to satisfy the Chinese language requirement for university admission.

Many people have therefore indicated their wish to help ethnic minority students. As Members are aware, the Professional Teachers' Union has actually tried to help them by requesting universities to accept a pass in an intermediate Chinese language examination, that is, the GCSE, for the purpose of satisfying the entrance requirement. However, the latest situation is that most local universities have not yet agreed to relax this requirement. They are still very insistent on this. Such is the situation in the education sector. How about the situation in the health care sector?

Many of our fellow health care workers in public hospitals have had some unforgettable experience in dealing with ethnic minority patients. Doctors are simply unable to treat these patients when they come for treatment. The fact is that it is impossible to communicate with them, whether in Chinese or English. In Hong Kong, ethnic minorities account for only 5% of the total population, but roughly 30% of them are unable to speak and write Chinese or English fluently. The number of such ethnic minorities is still very large.

The Government does not seem to notice the existence of all these people. They are simply marginalized. Well, most of them are just grass-roots people living in poverty, so the Government may not bother about their votes. But when the Government behaves like this, how can Hong Kong live up to the reputation of being Asia's world city? How can ethnic minorities integrate into this city called Hong Kong?

It must be realized that if ethnic minorities cannot receive satisfactory education in school, they will face immense difficulties in securing employment. In the end, they may fail to stand on their own feet and may be forced to rely on financial assistance from society. The Government's policy may well create a situation like this. But this situation will also increase mainstream society's discrimination against them. I therefore maintain that the Government is duty-bound to take actions now.

Deputy President, the health care workers in the Paediatrics Department of Tuen Mun Hospital have recently made some efforts. They have made all these efforts under extremely difficult circumstances. There are no translation services in the hospitals, so they have made some cards to assist themselves in their work. They have done their most already. But this is only the voluntary action of one single department in one single hospital. Most other public hospitals have not done so. I also work in the health care sector, so I of course know the situation.

If an ethnic group is a comparatively wealthy people, there will naturally be no problem at all. They can always go to private hospitals. In these hospitals, translation services for people who speak Japanese, Korean and Arabic will be provided without any difficulties. Such services are for the rich only; they are very expensive. But the numerous ethnic minorities in Hong Kong do not go to hospital for any luxury service; they just want to save their own lives.

Just imagine how we will feel if a patient cannot be resuscitated in time due to language barrier. Can we accept this? Or, will we be happy to see that they are thus denied medical care? I therefore very much hope that in respect of education and health care, the Government can, first and foremost, provide a satisfactory language environment for ethnic minorities. According to survey statistics, most ethnic minorities (as high as 90%) want to learn Chinese well. But there is not enough support in the market, and there is also a shortage of textbooks, courses and counselling personnel. In that case, how can they learn Chinese well?

Finally, therefore, besides supporting Members' original motion and amendment today, I also hope that the Government can do something concrete to enable ethnic minorities to really integrate into our society and live and work here happily.

I so submit. Thank you, Deputy President.

MR RONNY TONG (in Cantonese): Deputy President, Hong Kong is a metropolis. Unfortunately, however, the problem of racial discrimination has still remained unresolved after so many years.

Deputy President, we are scrutinizing the Race Discrimination Bill these days. In this course, however, we have indeed come across things that are most

astounding. It is particularly worth mentioning that many people are not yet quite so clear about the clauses in the Race Discrimination Bill. The Government must really make stronger efforts to publicize the possible effects of these clauses on society.

However, most importantly, it must be pointed out that the legislation will not be binding upon the Government. During the scrutiny of the Bill, we discover to our horror the long-standing position of the Government. The reason is that through this Bill, the Government has made clear its intention that it does not want to be bound by the ordinance concerned. The Government stipulates clearly in the Bill that the discriminatory acts specified in the ordinance shall not apply to the Government in the course of its policy execution. This is exactly what is meant by the saying, "Magistrates are free to burn down houses, while the common people are forbidden even to light lamps." When drafting the Bill, the Government already tried to place itself above the law. This is a very dangerous idea, one which is absolutely unacceptable and against the rule of law.

What is more, we also observe from the Race Discrimination Bill introduced by the Government that it lacks the sincerity to tackle the problem thoroughly. I think that if the Bill really permits the Government to treat ethnic minorities unfairly or even discriminate against them in the course of policy formulation, and if the Bill does not allow the public to do the same on the other hand, the Government must offer an appropriate explanation not only to Hong Kong people but also to the international community.

The Government has repeatedly explained that there is a need for such exemption in different areas. And, the government officials responsible for the Bill also pointed out time and again in the Bills Committee that the Government must reserve such a right, so as to combat terrorism acts and the like. Such a viewpoint can itself point to the crux of the problem. This means that the Government actually wants to incorporate some racial discrimination considerations as the basis of policy formulation. Under the anti-terrorism laws of foreign countries, ethnic minority citizens are singled out as the targets of covert surveillance and security measures. But many of such laws have already been brought before Courts of human rights. Although the governments concerned all state national security as a defence, they cannot possibly avoid losing their cases. And, such laws have also led to huge reverberations in society.

We agree that national security is important. But this does not mean that we should be so unreasonable as to suspect certain peoples more than others on the ground of their ethnic origins, let alone resource considerations in other policy areas. The Race Discrimination Bill should aim to ensure that different groups in society will not be accorded different treatments for reasons of their ethnic cultures and language backgrounds. If the Government can place itself above the law for reasons of certain needs, what is the point of having this piece of legislation?

What is even more infuriating, Deputy President, is that when explaining the Race Discrimination Bill, the Government makes it very clear that new immigrants from the Mainland will not be covered. It explains that since these new immigrants belong to the same race as local Chinese, they should not receive protection under the Race Discrimination Bill. Deputy President, this argument runs counter to the common law definition of "race". According to the verdict passed down by the highest court in the United Kingdom, one definition of "race" is a group of people having distinct historical and cultural backgrounds for prolonged periods. In other words, yellow skin is not the only criterion of determining whether any people should belong to the same race.

The Government therefore knows that it is in the wrong. Precisely for this reason, the Government has inserted clause 8 into the Bill. This clause aims precisely to grant exemption to discriminatory acts against new immigrants from the Mainland. This clause is yet another proof that the Government has been engaged in certain discriminatory acts and hopes to continue to go scot-free, escaping the ambit of the law. This violates not only the principle of no discrimination against ethnic minorities and groups but also the rule of law.

I do not know whether Secretary Stephen LAM watched the programme "News Magazine" last Saturday. The programme was about the discrimination against new immigrants in Hong Kong. New immigrants who were public rental housing tenants, women battered by the failure of their marriages with Hong Kong husbands and also intellectuals were interviewed in the programme. I was touched most deeply when an intellectual from the Mainland said that the Race Discrimination Bill should also accord protection to new immigrants from the Mainland because they were faced with various forms of discrimination. In the whole programme, these new immigrants kept explaining how they tried incessantly to stand on their own feet and avoid becoming a lazybones in the eyes

of Hong Kong people. Even though they fell into the CSSA net due to accidental injuries, they still hoped that they could earn their own living again as soon as possible.

Why did they say so? The reason is that for many years, the SAR Government has been trying very hard to depict new immigrants from the Mainland as "parasites" in the most discriminatory fashion. It even says that in Tin Shui Wai, there are many idle immigrants from the Mainland, whose sole occupation during the day is going to a Chinese restaurant for tea and dim-sum. What are the causes all these problems? The answer is that there is discrimination against new immigrants in Hong Kong. Many people have already forgotten that their parents, grandparents and even the generation before their grandparents were also immigrants from the Mainland. Very few Hong Kong people do not originate from the Mainland indeed. But once new immigrants are in Hong Kong, they are Hong Kong residents. We should not look at them through discriminatory eyes.

The Government should take the lead and pluck up the courage to recognize the problems with our society on this particular issue. Through the enactment of the Race Discrimination Bill, it should eradicate all such violations of human rights. Some years ago, there was a Chinese publicity slogan of the Equal Opportunities Commission which reads "歧視不存在，世界更可愛" (Without discrimination, the world will be a lovelier place to live in). I now wish to advise the Government to adopt a new slogan: "禁止歧視，由政府開始" (Anti-discrimination starts with the Government).

Thank you, Deputy President.

MR JAMES TO (in Cantonese): Deputy President, I am a directly elected Member from the Kowloon West, which is inhabited by an especially large number of ethnic minorities. Some 33% of the Nepalese in Hong Kong live in Yau Tsim Mong. Thirty-eight percent of the Indians in Hong Kong live in Western Kowloon. And, 13.2% of the Pakistanis in Hong Kong also live in Western Kowloon.

In regard to the location of workplaces, 29.2% of the Indians in Hong Kong work in Yau Tsim Mong. And, 21.5% of the Pakistanis and 16.2% of the Nepalese also work in this district.

And, the number of ethnic minority students in this region is even larger in terms of schooling. According to the statistics for 2006, half of all the ethnic minority secondary students in Hong Kong studied in Yau Tsim Mong. And, 30% of all the South Asian primary students lived in Western Kowloon.

Western Kowloon is an area where ethnic minorities gather, live, work and study. If we are to reach out to the South Asians, get to know their life, cultures and difficulties and help them build up their social support networks and integrate into the local communities, Western Kowloon, especially Yau Tsim Mong, will be a very important starting point. On the other hand, if South Asians are excluded from the services provided to residents of the district and deprived of any appropriate assistance, the district will easily turn into a place marked by mounting discontent and hostilities and also various illegal activities.

In May this year, I raised an oral question in this Council, asking the Government to inform this Council of the current numbers of social worker teams, community centres and non-governmental organizations that offer employment assistance to the South Asians living in Western Kowloon. The Government answered, "There are a total of 20 Intensive Employment Assistance Projects 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. The Labour Department 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." What all this means is that services are already available, and like other residents of the district, ethnic minorities have the right to use such services. But the point is that many ethnic minorities do not know any Chinese. According to the statistics for 2000, 11.2% of the ethnic minorities claimed that they knew Chinese, and 60.4% said that they knew English. Besides, since ethnic minorities are not familiar with the situation in Hong Kong, they do not know how to make use of the services provided for local people. Or, they can manage to use such services only after overcoming many difficulties. Moreover, most of the problems faced by ethnic minorities are not the same as those encountered by local people in mainstream society. Therefore, the usual services available may not necessarily help them.

Actually, most social services are marked by the same problem. Publicity leaflets, for example, are published in Chinese and English only. This is very inconvenient to ethnic minorities, not at all user-friendly. The only

exception was found during the SARS outbreak. At that time, the Government published information especially for ethnic minorities because it was afraid that once ethnic minorities were infected, the virus would spread very quickly. That was why it invested huge resources in the massive publication of leaflets for ethnic minorities. Social workers of Hong Kong Unison, an organization dedicated to serving ethnic minorities, have even disclosed that South Asian youths are not welcomed in some youth centres in Yau Tsim Mong. If the authorities allow the present situation to continue, with the result that ethnic minorities are ostracized by mainstream society, discontent and a whole series of social problems may result.

Crimes in Western Kowloon involving ethnic minorities have indeed increased in number. The behavioral problems of youths have aroused the concern of local residents. South Asian youngsters cannot receive adequate support; their education and employment prospects are stifled; and, they do not have any way out, so, it is only understandable that they may easily develop behavioural problems.

Therefore, it is necessary to introduce services tailor-made for ethnic minorities.

Yau Tsim Mong is a most complicated district. The law and order situation in this district is worse than those of other districts in general. Last year, there was a 10% increase in the number of arrested ethnic minorities. Such arrests accounted for 8% of the overall crime rate, and the ethnic minorities concerned were arrested for crimes involving theft, narcotic drugs, assault, vandalism, and so on. Because of physical and cultural differences and also language barrier, ethnic minorities may often complain about unfair treatment by the police. For example, they are frequently stopped and searched because ethnic minorities look very much alike in the eyes of local people and they may be mistaken for criminals. Many people of ethnic minorities can only remain silent in the face of police authority. But I am afraid that over time, such pent-up discontent may become a potential cause of social conflicts. The police should take early actions to tackle the hard feelings arising from local people's lack of knowledge of ethnic minorities. Police officers, in particular, must be given relevant training on the languages and cultures of ethnic minorities. Interpretation services must be strengthened. And, more South Asians should even be recruited as police officers and employed to assist the police in their work. I believe that all this will help alleviate the problems.

DR FERNANDO CHEUNG (in Cantonese): Deputy President, more than a decade ago, when I was still in the United States, I did a lot of work of protecting the rights and interests of ethnic minorities. Due to my work involvement, the fact that I had been the Executive Director of some social services organizations had given me many opportunities to take up public appointments which were related to the protection of the rights and interests of ethnic minorities. In their communities, there were serious conflicts among different ethnic groups. Therefore, it was very important to maintain a society with pluralistic ethnic groups and cultures. Little did I expect that I would return to Hong Kong later. At that time, we worked for many Chinese who came from different parts of China or other regions or even Hong Kong as well as many Asians. We worked with the objective of protecting Asians and enabling them to enjoy an equal status and relationship in the mainstream society of the United States.

After I have returned to Hong Kong, here, the Chinese people are the mainstream. Over 90% of the population is Chinese, whereas ethnic minorities just constitute a very small group. It is the general opinion in our mainstream society that racial discrimination is not a very serious problem here in Hong Kong, and that the problem is only serious in the United States. But this is not how I feel about the situation.

In fact, our racial discrimination is very serious indeed because our mainstream society is too bloated and is in full control of the situation, thus making ethnic minorities unable to make any noise, and it is even more difficult to find the right balance. Let us take as examples the most basic services, such as education, medical services, housing, employment, and so on, which are all issues involving basic human rights. We have heard too many such examples, in which ethnic minorities are unable to receive these basic services just because of the language and cultural differences.

In certain cases, even after ethnic minorities had reached the hospitals, as Dr KWOK Ka-ki has pointed out that, they absolutely could not communicate with others. Even when they used the English language, they often could not communicate with others because front-line workers usually do not have the proficiency in this language.

It is even more disheartening on the education front. For many ethnic minorities, the current generation in Hong Kong is not their first in the respective ethnic groups in the territory. Their next generations actually grow up in Hong Kong, but their introvert cultures make it an uneasy task for them to integrate

into the mainstream society. Their language skills are mediocre, especially in reading and writing. As for ordinary daily exchanges, many ethnic minorities can manage. But in reading and writing, they seriously lack the linguistic ability in using Chinese. Just as the figures quoted by Mr James TO earlier on, some 60% of them regard themselves as proficient in the English language, whereas only 10% of them consider themselves proficient in the Chinese language, and over 30% do not have any knowledge of the language at all.

In Hong Kong, we need to take the Hong Kong Certificate of Education Examination in our secondary schools, and before entering universities, local students are required to pass both subjects of Chinese and English. But students coming from overseas countries to study here or students studying in local international schools are not required to sit for the examination on the Chinese Language. On this point alone, Deputy President, we have doubted whether there have ever been any ethnic minorities who have successfully gained admission to local universities through studying in local secondary schools. We had asked the authorities to provide us with the figures in this regard, that is, whether there had been any ethnic minorities who had gained admission to local universities. But the authorities could not provide any.

In fact, when the people of a race or an ethnic group are unable to rise beyond a certain educational level, and have come to a standstill, it is indeed a very heavy blow to the entire ethnic group. We have trapped them in a predicament with no way out but poverty.

As evident in those examples mentioned by Mr Fred LI, generations of Pakistanis have all been working as security guards or home delivery boys; and many Nepalese are doing all sorts of manual labour in construction sites. They have absolutely no prospects. They face very great discrimination in seeking employment. After being subject to the exploitation by principal contractors, subcontractors and sub-subcontractors, the wages they receive are exceptionally low, and their treatments are exceptionally bad. Sometimes information is not even circulated to them.

In fact, there is one axis for all of these problems, Deputy President, that is, the language barrier. Language discrimination is very significant. However, it just so happens that our Racial Discrimination Bill has excluded language. In other words, if someone is treated differently just because of different languages, it is not racial discrimination. This is simply ridiculous.

Deputy President, when I was living overseas, the government there made it clear that it was the responsibility of public services to provide the people with such the need with a kind of suitable language that they can use for communication. It is by no means difficult to solve this problem — all that is required is just the provision of a language bank, a place which pools together people speaking different languages. Whenever any language problem arises, such as in hospitals, or other places, when front-line staff members on duty do not speak the language of someone who seeks medical treatment, they may make a telephone call to the language bank to find an interpreter to come to the scene to interpret for them on the spot or over the telephone. Then the problem is solved. In our case, the number of languages involved is not too many. When compared to the situation in the United States, the number of languages involved is not so "ridiculously" many, why can we not face it squarely?

Today, the Racial Discrimination Bill, that is, the proposed Bill, protects the Government in all aspects, so that it does not have to allocate any additional resources for the purpose. In other words, the mainstream society does not have to make any changes. The ones who need to make changes are none other than the ethnic minorities themselves. We should not use the concept of a melting pot to treat ethnic minorities. Instead, we should use the concept of salad, that is, all the elements can co-exist while all of them can at the same time maintain their respective unique characteristics.

Therefore, I hope the Government can change its mindset and do not lag behind. In the past, the mainstream society enjoys all the priorities, and ethnic minorities have to follow them. Now, we want co-existence, we want mutual respect, and we want to incorporate language into the Racial Discrimination Bill. Thank you, Deputy President.

MR LEUNG KWOK-HUNG (in Cantonese): When a historian commented on the situation in the 19th century when some weaker peoples were enslaved, he said this, "Those who have enslaved other peoples will themselves be enslaved eventually." This remark is still valid nowadays. If we, the citizens, tolerate the Government's act of discriminating against other ethnic minorities, we ourselves may also end up becoming the victims of discrimination.

Mr Ronny TONG just now gave us a detailed account of the rationale involved, saying that in formulating the relevant legislation on racial discrimination, the Government had used all sorts of tricks to make itself exempt

from all sorts of responsibilities. In other words, even if the Government has committed any acts of discrimination, we cannot say anything. Even if we take the Government to Court and apply for a judicial review, it still enjoys full exemption. The Government may apologize and admit that it has been wrong, but it does not have to be held responsible. So even if it has committed errors, it does not have to rectify them.

In fact, the situation of allowing the Government to discriminate against other ethnic groups did happen in this Chamber in the past, that is, in the "right of abode" issue. In this Chamber, we allowed government officials to do that. Although some of such officials were forced to step down disgracefully after the 1 July march in 2003, they did collaborate with the media in exaggerating the number of Hong Kong people's children or direct dependents living in the Mainland who might come to Hong Kong. They voted in favour of the officials, allowing them to discriminate against those children or direct dependents of Hong Kong people.

The Government must have its own justifications in not counting new immigrants from the Mainland (that is, our own compatriots) as ethnic minorities because they would keep coming to Hong Kong. If the Government includes them into the category of ethnic minorities, even if it enjoys the exemption protection, it will still be subject to endless moral condemnations.

Honourable colleagues, let us consider this: This society allows the majority to discriminate against, despise and trample on the minority in an unnecessary manner, will we be despised and trampled in return? Of course we will. Let us take a look at the Green Paper released by the Government today. There are dozens of proposals. But in fact only one of them is more balanced, that is, the one advocating the implementation of dual elections by universal suffrage in 2012. All the others are discriminatory in nature. If you are not favoured by the Government, or not the rich ones, and so on, you may be subject to limitations in campaigning, nomination or running in the elections.

Our Government limits the political rights of Hong Kong people. In fact, it is creating discrimination, though not against ethnic minorities. This is in fact an irony. Our Government always says that it aims at promoting harmony, which is equivalent to racial inclusion. But in fact it just pays lip-service to this cause. The Government also seeks exemption for creating inequality in political rights. The Government says, "Buddies, I am not responsible for this

because it requires two thirds of votes from all the Legislative Council Members before it can be passed. In other words, if there are Members of the Legislative Council who do not support this universal and fair principle without any discrimination, then it is the Legislative Council that has committed the act of self-victimization."

However, the Legislative Council is operating under a system, in which half of the Members enjoy more privileges than the other half because they are not elected by "one person, one vote". Is this not the greatest farce in the world? Our political system and our power framework are already creating inequality, which is proven. Such a system keeps forcing Hong Kong people to rubber-stamp such inequality time and again in such a handicapped legislature. In view of this, how can we criticize some Hong Kong people as harbouring the concept of inequality?

Honourable colleagues, since the Government has been promoting such inequality, we cannot expect a system that promotes absolute inequality in political rights can sincerely legislate and fight for the rights of ethnic minorities. Honourable colleagues, and the Hong Kong people, if we allow the Government to ban a certain type of persons, certain people, such as those not favoured by the Central Authorities, and so on, from taking part in election to which everyone is entitled, then when this principle is violated, we would definitely be degraded in our daily life as the temporary minorities and be trampled.

Therefore, during the next three months starting from today, all Hong Kong people are left with only one option, that is, to opt for the implementation of full universal suffrage in 2012, so as to facilitate the emergence of a political power organ with equal participation, and to enact fair bills for ethnic minorities in furtherance of equal rights.

Thank you, Deputy President.

MR TOMMY CHEUNG (in Cantonese): In recent years, an increasing number of South Asians from Indian, Pakistan and Nepal have come to live in Hong Kong. According to the findings of the 2006 By-census, the population of South Asians in Hong Kong is 47 505, representing 14% of the non-Chinese population in Hong Kong. How we can help them integrate into society has become an issue which the people are increasingly concerned about. The

original motion and the amendment have put forward a number of proposals for helping ethnic minorities to better integrate into society on several fronts, such as education, employment, public services and legislation, and so on. The Liberal Party is supportive of the spirit of helping the disadvantaged. However, we think it is necessary to further examine the feasibility of some of these proposals.

For example, one of the proposals suggests increasing the number of designated schools in all the various districts which should accept more students of ethnic minorities. However, students of ethnic minorities are not distributed evenly across the territory. Instead, they may concentrate in some specific areas. Therefore, is it really necessary to set up these designated schools in all the various districts? Is this practice cost-effective? We also worry that this will dilute the available resources, and contrary to the original intention, assistance to students of ethnic minorities cannot be provided effectively. For this reason, instead of aiming at quantity but overlooking appropriateness, we should prefer quality and effectiveness. It may be more practical to step up support and assistance in several areas.

Another example is related to the provision of retraining programmes. In certain industries, adequate teaching materials and teachers may not be available to cope with such programmes. If English or other languages of ethnic minorities were to be used mandatorily as the media of instruction, it would be a very unreasonable requirement indeed. For example, for courses in construction, specialized skills and cookery, and so on, how can we identify all these instructors who can use English, Indian or Pakistani as the media of instruction?

Frankly speaking, with our increasing commercial activities with the Mainland, the use of the Chinese language will become more and more prevalent. Therefore, we can see that more and more foreigners, including, in some instances, senior management from multinational companies, are actively learning Chinese. Some of them even speak Putonghua more fluently than I do. Therefore, instead of the proposed relaxation of the entry requirement in respect of Chinese proficiency in recruiting staff, a more proactive approach should be adopted in designing effective and appropriate Chinese language programmes to prevent the emergence of the situation in which students of ethnic minorities still cannot make adequate progress in their Chinese proficiency after completing years of primary and secondary education. Meanwhile, consideration should be given to provide ethnic minorities with more courses in practical Chinese and

English languages. Furthermore, the Government may consider the provision of language courses for professional purposes by the Vocational Training Council exclusively for ethnic minorities, with a view to increasing their chances of securing employment.

As long as we can provide adequate language training for ethnic minorities, there will be no need to provide free interpretation service in various public services, because talents for providing such services are hard to come by. Furthermore, having a team of interpreters who are proficient in different languages for providing services on a round-the-clock basis is hardly justifiable in terms of cost-effectiveness, nor is it necessary. On the contrary, suitable expert assistance should be requested only in case of genuine communication problem, and this will be a more reasonable practice.

Deputy President, Hong Kong upholds and protects religious freedom. We respect the religions and cultures of different racial groups. Different religions have always co-existed peacefully in Hong Kong, and rarely do we have religious conflicts. As far as I know, certain town halls or community halls do accommodate the needs of ethnic minorities for conducting religious activities. However, if it was made compulsory that venues must be provided for conducting different religious activities, or that temples of different religions should be built with our assistance, then this would pose major problems.

As regards the enactment of legislation against racial discrimination, the Liberal Party supports the Government in adopting the proposals made by relevant committees of the United Nations for enactment of legislation against racial discrimination, so as to protect the interests of all racial groups and ethnic minorities.

However, we are concerned that if the provisions of the legislation are unclear, the employment policy of enterprises will be negatively affected. The issue of preventing abuse of the legislation must be handled with caution. As a matter of fact, according to the findings of a consultation exercise conducted by the Home Affairs Bureau in August 2003, the business and industrial sector held divergent views on this issue. We hope that when this piece of legislation is enacted in future, it will not be a complete replica of some overseas practices with the introduction of a quota system for employment, because that would run contrary to our time-honoured *laissez-faire* policy, and it would only hinder our economic development.

In fact, racial discrimination is not a serious problem in Hong Kong. During the past five years, only a total of 179 such cases have been reported. In the past two years, the average number of such cases was 22 to 27 per annum, which represents a reduction from the average number of 30 to 52 cases per annum as recorded in the past. Given this, is it necessary to rush for enacting legislation? If the provisions of the legislation against racial discrimination are overly stringent, people may easily full foul of the law, and it may give rise to some negative results, such as triggering people's discontent sentiments against ethnic minorities.

It takes more than one single department or one single piece of legislation to resolve the problems faced by ethnic minorities. Promotion of harmony among different racial groups through education, together with the co-operation of the people as a whole, remains the most important task which is indeed most imperative.

Deputy President, I so submit.

DR YEUNG SUM (in Cantonese): Deputy President, many of the more than 200 000 ethnic South Asians living in Hong Kong are grassroots. No matter how hard they work all their lives, they may not be able to get rid of poverty. With patience and perseverance, they take things as they are, and they pin their hopes on their children, hoping that their children will have the chance to make a mark in society. However, under the existing education system, their hopes will, more often than not, be blighted in the end. For grass-roots ethnic South Asians, there are lots of obstacles on their path of pursuing education. Consequently, most of them are unable to receive higher education. In the end, they can only repeat what their fathers have gone through and work jobs for which not much skill is required. Some youngsters may even end up becoming "non-engaged youths".

(THE PRESIDENT resumed the Chair)

Ethnic South Asian students have been denied good education for two major reasons, namely, discrimination and the language barrier. Since neither Chinese nor English is their mother tongue, for example, their language of

habitual use is Indian or Pakistani, when they are enrolled at local schools, they will find it hard to understand the lessons taught due to the language barrier. As a result, many local schools are unwilling to offer admission to these students. With the exception of a handful of students from wealthy families, who can afford to study in schools operating under the Direct Subsidy Scheme or international schools, or who may even pursue further studies abroad, in many instances, ethnic South Asian students will only be enrolled at schools that are less popular or schools that are on the verge of closure due to insufficient student intake. They stand a very slim chance of being enrolled at schools with better academic results. Yesterday, the allotment results for admission to secondary schools were released. It is a matter of great concern to parents of local students, and the parents are ready to do all they can to make sure their children can be allocated a place in Band One schools, because this will have a significant impact on the further studies as well as the development opportunities of their children in future. However, insofar as ethnic South Asian students are concerned, in particular those from grass-roots families, their opportunities have all been stifled, as if their future has already been decided now. Hong Kong has failed to offer equal opportunities to ethnic minority youngsters, a fact that is very upsetting to us.

At present, thousands of ethnic South Asian students of Indian, Pakistani and Nepalese origin are scattered in about 40 secondary schools and 150 primary schools. Among them, only 10 schools have a relatively greater intake of ethnic South Asian students. Schools with a greater intake of ethnic South Asian students have more access, more experience and are more capable of developing curriculum specifically catering to the needs of such students; or they may recruit ethnic South Asian teachers. Therefore, their students have relatively fewer adaptation problems.

With regard to other schools, the Government has been promoting integrated education during the past few years, and ethnic South Asian students are also allowed to take part in the central allocation exercise. However, due to insufficient support facilities, in many cases, only several ethnic South Asian students can be enrolled at such individual schools. Actually no additional resources have been made available to address the learning problems of these ethnic South Asian students. Professional support is not available either; by this, I mean training for teachers to help these students to integrate into mainstream schools. As a result, although these students may have been enrolled at mainstream schools, they simply cannot integrate into the school life;

nor can they catch up with what are being taught in school. With the implementation of mother tongue teaching, it is even harder for them to be enrolled at schools using English as the medium of teaching. Generally speaking, in many schools, Chinese is used as the medium of teaching, so all subjects are fairly hard for these students, simply because they do not have an adequate command of the Chinese language. Many of these students can be described as wasting their time in school. Maybe they can only learn several Chinese characters throughout their primary education, and for this reason they are doomed to fail in public examinations.

Madam President, among all the subjects, the subject of Chinese language poses the biggest obstacle to these ethnic South Asian students on their way to pursue further education. To any non-Chinese people, the Chinese language and the Chinese characters are difficult to learn. Let us take some ethnic South Asian students we have met as examples. Some of them scored an A in the subject of English language, and they could also achieve good gradings in other subjects. But simply because they had failed in the subject of Chinese language, they were not eligible for studying at Secondary Six. Since both Project Yi Jin and IVE require a pass in the Chinese language, these students are not eligible for enrolment on these programmes. With regard to other vocational training courses, they are basically taught in Chinese. The Vocational Training Council explained that it is very difficult to recruit sufficient English-speaking teachers to conduct teaching in English, so only nine safety training courses for the construction industry can satisfy the requirement of using English as the medium of teaching.

Madam President, such cases are only the tip of the iceberg. Basically, these students cannot make their way to universities. Even if they do attend vocational training courses, these courses do not cater to their needs because most of them are taught in Chinese, and very rarely are they taught in English. Madam President, these are not isolated cases. Each year, about 500 ethnic minority students take part in the Hong Kong Certificate of Education Examination, but only less than 30 of them can get a place in Secondary Six, presumably because many of them have failed in the subject of Chinese language. Even if some of them do manage to get a place in Secondary Six, since the Chinese language is a compulsory subject, non-Chinese students would find it extremely hard to get a pass in this subject in their matriculation course. Let us take a look at this: I have been teaching at the University of Hong Kong for many years and there are hardly any grass-roots ethnic South Asian students

who can get a pass in the Chinese language in the A-Level examination, so as to qualify them for admission into the University of Hong Kong or The Chinese University of Hong Kong. No wonder why it takes several years before we can see one ethnic South Asian student gaining admission to a tertiary institution through the matriculation course — just one in several years, how regretful it is.

Ethnic South Asian youngsters can generally speak fluent Cantonese, because they were born in Hong Kong. Even if their capabilities in reading and writing Chinese is not as good as local residents, but if they have attained good results in the subject of English language, coupled with their knowledge in other languages and cultures, they should have certain competitive edges in the labour market too. However, the subject of Chinese language represents a host of hurdles for these ethnic South Asian students on their way to getting further education, which further affects their employment prospects and other development opportunities due to their lack of recognized academic qualifications. As a result, they could only work as watchmen, construction workers or menial labourers. Joining the Police Force or the Civil Service would be extremely hard for them, because they do not have a pass in the subject of Chinese language. As a result, many youngsters will face unemployment, and other youth problems may ensue. The Government should address their situations squarely, especially at a time when we are fighting against race discrimination. If faulty policies on education hinder the youngsters in the entire community from making progress or even have them trapped in a vicious cycle of poverty for many generations, it would be a waste of our human resources. We should not let this happen in Hong Kong.

Recently, the Hong Kong Professional Teachers' Union and the Hong Kong Unison have jointly conducted a survey, in which many teachers indicated the many difficulties they faced in teaching ethnic minority students, such as the lack of suitable textbooks, their difficulties in compiling suitable teaching materials, as well as the failure of the Education Bureau to provide a Chinese language curriculum and examination guidelines specifically for ethnic minority students. In this connection, Madam President, the Democratic Party suggests that the Government should proceed with the formulation of long-term planning for its educational policy, and provide enhanced support and a curriculum using Chinese as the second teaching language. Furthermore, additional resources should be allocated to schools with ethnic South Asian students for organizing Chinese language programmes. The Government has already introduced the British GCSE Chinese Language examination into Hong Kong, so that these

students can take this examination in Hong Kong. I hope the universities in Hong Kong can recognize this Chinese course as satisfying the Chinese language requirement for the purpose of gaining admission to the universities. This will give these students an opportunity to receive university education after completing their secondary school programme, thus helping them to move upwards on the social ladder.

Madam President, I so submit.

PRESIDENT (in Cantonese): It is now just past 9.00 pm in the evening. I think we shall not be able to finish all the items on the Agenda this evening. Therefore, after completing this motion debate, I shall suspend the meeting. The remaining motion debate shall be conducted tomorrow.

MS MARGARET NG (in Cantonese): President, some describe ethnic minorities of a society as the cherry topping a cherry cake. Although they are the minority, they add substance to an otherwise ordinary cake.

President, I wish our society could have treated ethnic minorities this way. But contrary to my wishful thinking, ethnic minorities in Hong Kong are subject to very serious discrimination. Naturally, the way as I see it, ethnic minorities should also include new immigrants from the Mainland, but this idea is not agreed by the Government. Apart from rejection and discrimination, ethnic minorities suffer from unfair treatment too. Apart from facing unfair treatment in society in general, ethnic minorities have also been made subjects of discrimination by the Government insofar as its treatment of them is concerned. In particular, in allocating resources and formulating policies, the Government has neglected the needs of ethnic minorities.

Therefore, on the surface, no written words are used to discriminate against ethnic minorities, but in fact, at the policy level, their needs are ignored, to the effect that they are made second-class citizens. Some of the most obvious examples can be found in education, employment (including training), medical care and other services. President, just now several Members have already mentioned several aspects of these issues, so I will not go into the details. I just wish to provide some information.

We all know that if we can pass some comprehensive legislation to ban racial discrimination, the situation can be improved. However, the Race Discrimination Bill we are now deliberating is very incomprehensive, thus making us gravely worried. President, the Bills Committee responsible for examining the Bill has convened a total of 11 meetings, during which Members have expressed their concerns clearly and in great detail. In this regard, we endorsed a paper in the last meeting with a view to reviewing the progress of our deliberations. In a rather unusual manner, we invited Members present to give their endorsement for consulting the views of the majority of Members.

President, please allow me to briefly explain how relevant the contents of the report is to the debate this evening. First of all, most of the members of the Bills Committee were not happy with the way the Bill was drafted, because the application of the Bill is very narrow, and many exemptions have been drafted. Members were of the opinion that the drafting of the Bill revealed that the Administration was not committed to resolving the problem. Although the Bill stipulates that certain types of racial discrimination are illegal, it does not forbid the long-standing discrimination by public bodies when it comes to implementing government policy and public measures.

In this connection, the majority of members were concerned that the many exemptions provided for in the Bill might produce an undesirable result, namely, legalizing discrimination based on race. President, this is the biggest dilemma faced by the Bills Committee now, because not only is the Race Discrimination Bill to be passed not good enough, it will also allow the Government to publicly commit certain acts of discrimination. Although everyone regards such acts as acts of discrimination, nothing can be done insofar as the legislation is concerned.

President, members have expressed concern for four major areas, which are very similar to the contents covered in the discussion this evening. First of all, by virtue of clause 3 of the Bill, the application of the Bill to the Government is very narrow, and that is, the Bill is applicable to the Government only if an act of the Government is of a kind similar to an act of a private person. Second is about clause 4 of the Bill regarding the definition and differentiation of direct discrimination and indirect discrimination. Third is about clause 8 of the Bill regarding new immigrants from the Mainland, that is, the problem of new immigrants from the Mainland not covered by the Bill. President, the Government has publicly admitted that these new immigrants have been subject

to serious discrimination, that these people are being discriminated against even under the existing government policy, but the Government insists that these people should not be classified as a racial group, and therefore, there is no need to protect them by way of legislation. We found these arguments highly unacceptable.

Lastly, it is about clause 58 of the Bill, which provides for exemption cases in the aspect of languages. As several Members mentioned just now, and some examples were cited in the Bills Committee as well, some ethnic minorities could not receive timely treatment due to the language barrier or the lack of interpretation service at hospitals. President, this is not about whether it is necessary to use seven different languages for grocery shopping. This is about somebody unable to receive urgent medical service due to the language barrier.

Another example is about the stipulation that local students must get a pass in the subject of Chinese Language at the Hong Kong Certificate of Education Examination in order to be eligible for admission to universities. This practice has put ethnic minorities students, who are non-Chinese speaking persons, at a very disadvantaged position. This has been a major area of concern highlighted by Members in the discussion just now. One of the points in clause 58 of the Bill in particular mentions some exceptional cases in respect of languages. With regard to this provision, the majority of members believed that measures ensuring equal rights must be stipulated with respect to any bill relating to education, so as to ensure that ethnic minorities can have equal opportunities in receiving education, in particular university education and vocational training. However, in the face of such a vocal demand from members, the authorities appeared to be reluctant to make any concession. They even indicated that they were not in favour of making communication in a specific language mandatory. Or they may think measures ensuring equal opportunities are unlawful. Responses like these upset us very much.

President, today's debate highlights that these are real, concrete concerns. I very much hope that the Bureau can consider these very carefully during the recess, so that they can propose some amendments, thereby making Members gladly endorse this Bill, which can reduce the difficulties faced by ethnic minorities.

Thank you President.

MR JASPER TSANG (in Cantonese): President, several years ago, a primary school in Yau Ma Tei was nearly closed down by the education authorities due to insufficient student intake. Subsequently, the Board of Governors of the school came up with an idea. They started admitting ethnic South Asian students, and the intake of these students has kept increasing since then. By now, the entire primary school is like one that is specially established for ethnic minority students. I visited the school two months ago and talked to parents of the students. They seemed to be very happy, though they had naturally expressed lots of opinions and thought there was still room for improvement. But generally speaking, the atmosphere and morale at the school were fairly good, irrespective of the fact that the school building was of poorer conditions, because it is an old school, not a new school built in 2000.

This school is not a unique case. A secondary school in Kwun Tong is in a similar situation. It used to be a mainstream school (a traditional school), but was not doing too well. So, it started admitting ethnic minority students, and now it no longer has the problem of inadequate student intake.

Besides, there is another school undergoing transition. This school started admitting ethnic minority students only two years ago. At that time, it did not have sufficient intake of Secondary One students. So it started admitting a small number of ethnic minority students into their Secondary One classes. The number of these students increased gradually in the following year. Now, there are one or two classes of ethnic minority students in both Secondary One and Secondary Two, and the number of these students is also increasing slowly.

In such schools, the government policy governing the use of medium of instruction does not apply. Why? First, mother tongue teaching is not practiced in these schools, because the students are either Urdu or Hindi, so it is absolutely impossible to implement mother tongue teaching. The medium of instruction must be English. The Education Bureau has originally stipulated that, if a school is to adopt English as the medium of instruction, the teachers must have attained certain standards, and so must the students. But if these schools were to be assessed by applying such standards, then the teaching must be stopped, because the students definitely cannot attain such standards. To these students, it is very difficult to learn Chinese. Using English is a bit easier, but their English standards are not good enough to enable them to use it fluently in learning.

As regards teachers, no offence, but in our conversation, they did indicate they had problems. It is because they were not prepared to teach in English in the first place, and some of them had to quit and take up teaching posts in other schools in the middle of a school year. Under such circumstances, these several schools may have achieved success in some ways. However, I think it is necessary for me to clarify that, these schools are operating in this way not because they are required to do so under the government policy, nor is it an established policy of the Government that education has to be made available to ethnic minority students. In operating in this way, these schools are dictated by the circumstances, and what they have done is driven by market forces. Yet, in terms of school curriculum, they still have not designed a good curriculum suitable for these students. There is still much room for improvement in areas such as extra-curricular activities, and so on.

What do I want to illustrate in citing these examples? In fact, I am trying to highlight once again Miss CHOY So-yuk's amendment to Mr Fred LI's original motion. I think the problem before us is: The Government does not have a complete and comprehensive policy for ethnic minorities.

Education problems are quite tedious, and the Government has made a number of attempts on this front as well. Two years ago, the Government tried..... but some parents of ethnic minority students complained that the authorities had assigned all their children to a limited group of six or seven schools and denied them access to elite schools in the respective districts. As a result, the authorities allowed these parents to choose schools of their preference for their children, but all the same, it also triggered many complaints and grievances. On the one hand, the schools are unable to cope with the situation. On the other hand, individual students who managed to get admitted to the so-called mainstream schools are unable to catch up with the teaching. In spite of the many attempts made, nothing has yet proved to be feasible.

As a matter of fact, on the issue of languages, some places, such as the United States, also have the same problems. I visited some local schools in the United States more than a decade ago. However, probably because their problem is much larger in scale and longer in history, they have gained some experience and come up with some solutions. Although their solutions may not be entirely suitable for use in Hong Kong, at least we can draw some reference from their practice. Let us take Australia, the United Kingdom and some

European countries as examples. They also have to handle immigrant problems, that is, the problems of ethnic minorities. In fact, they have accumulated certain valuable experience in this respect. We have conducted some studies and found that they do have a comprehensive policy for this.

President, our problem is: We do not even have accurate information in our hands. Although ethnic minorities are mentioned in Mr Fred LI's original motion, ethnic minorities in Hong Kong actually comprise many different racial groups. Perhaps all those who are not Chinese can be called ethnic minorities. So, that includes the white people and the Europeans, whereas there are also lots of Australians and New Zealanders living in the territory. Even among the ethnic South Asians, there are some members of the Indian racial group who have been living in Hong Kong for two or three generations, and they have built up their business here with huge success. Have these people ever complained about the so-called racial discrimination problem? The answer is in the affirmative. But the subjects of their complaints are entirely different from what we have been discussing just now. A fairly affluent Indian businessman once complained to me, that when his daughter first entered a kindergarten, the other kids instantly covered their noses with their hands upon seeing her. He found that a great insult, and he thought we should do something on the education front, and I agreed with him on this point.

However, the so-called discrimination or difficulties he had faced was totally different from the ones we have been discussing with respect to the problems of ethnic minorities. We have been talking about the problems of the Nepalese or Pakistanis living in Tin Shui Wai, Tai Po, and Tseung Kwan O. For example, they have problems in finding schools for their children, or their children may be forced to stop schooling after completing primary education, or they may not have any prospects after completing schooling. If we take a look at Tin Shui Wai, we will find there is always a large congregation of Pakistanis and Nepalese in the morning. These are parents who are unable to get any job, and they have to live on the Comprehensive Social Security Assistance. As such, their kids do not stand much of a chance, nor do they have any hope. To them, inter-generational poverty is their destiny. As such, how can they become striving and enterprising persons? How can they integrate into society? Besides, there are also differences arising from all sorts of habits of living, religious beliefs and diets, and so on. Adaptation has been very difficult for them.

Very often, government data would include foreign domestic helpers, Europeans, Asians and even successful businessmen in a category which is generalized as "ethnic minorities". President, if there is no distinction, then there will not be any policy. This is why we must first build up a comprehensive and accurate database, and this will be the first step of formulating policies.

Thank you, President.

MR ALBERT HO (in Cantonese): President, I would like to talk specifically about the situation of ethnic minorities in my constituency.

The New Territories West, in particular the Yuen Long District, is an area where many ethnic South Asians congregate. The Nepalese make up the largest group, accounting for 33.9% of them, whereas the Indonesians account for 9.3%; and the Pakistanis 8.8%. They all live in Yuen Long.

Among the ethnic South Asians, the Nepalese have particularly severe adaptation problems. Generally speaking, the Indians have a better command of English, and most Pakistanis are well-versed in Cantonese — if one only listens to their conversation without taking a look at their faces, there is hardly any difference in the way they speak when compared to the Chinese people. As regards the Nepalese, most of them can speak neither Cantonese nor English. In some instances, they do not even understand these two languages.

Each of these ethnic South Asian groups has their respective support networks. For example, the Pakistanis are supported by the Islamic community, in which the connections are close and intimate. The Indians are also very united with a lot of mutual assistance groups. Most of the Nepalese come from the grassroots, whose support networks are weaker by comparison.

Many of the Nepalese living in Hong Kong are former "Gurkhas" or their descendants, who came to Hong Kong as a mercenary force. After the reunification, most of them chose to stay in Hong Kong. These Nepalese people staying in Hong Kong generally take up low-income, labour-intensive menial jobs. Those who can speak better English or Putonghua will work at construction sites. According to media reports, their wages are only two thirds

of those of the local workers, which has become a "convention". Because of the low income they make, they usually live in areas where rents are lower, such as local villages in Yuen Long and Kam Tin. Those are areas where rents are lower; they are near their workplaces too, so they can save up some transportation expenses. However, living in these remote areas makes it even harder for them to have social support. In villages of indigenous inhabitants, Nepalese people looking for places to hold their religious ceremonies often meet with opposition from local villagers, so they cannot even hold gatherings for worshipping activities.

All in all, the situation of Nepalese is the worst among the communities of ethnic South Asians. I hope the Government can pay special attention to this. As a result of lack of education and employment opportunities, young Nepalese are deprived of adequate education (sic). If they are not offered admission by any schools, coupled with the language barrier, they will find it even more difficult to get a job. So they would become the abandoned group, and these young people will gang up, loiter around in the community and easily go astray.

From our experience gained in our contact with them, Nepalese youngsters are generally tough in character. That explains why they or their predecessors would have come to Hong Kong as members of the mercenary force. Maybe this has something to do with their character or physique. However, due to the language barrier, they are marginalized financially. This makes them vulnerable to temptations by unruly elements, who would induce them to conduct illegal activities, such as selling soft drugs, selling pirated video discs, or even engaging in prostitution and gang fights, and so on. As a result, these unfortunate young people are often forced to join the crime syndicates. I am saying these because I hope that these Nepalese young people would not be specifically discriminated against. I truly believe they are living in hardship and being marginalized, and they are exposed to greater risks. We should look at them from such a perspective. I stress that in handling matters of ethnic South Asians, the Government should take special care of the Nepalese. In my opinion, more resources should be allocated to helping Nepalese young people living in remote areas. This is very important, because I really can see some hidden dangers there. The Government needs to help them integrate into society. Assistance should be given to their families as well, so that members of these families can stay united, because kids with difficulties of this nature would very often run away from their own families. In doing so, the

Government can help to improve their lives in their respective communities, and it may even improve the overall law and order situation of the communities as well. However, let me stress once again, that different peoples will face very different difficulties and challenges. But most unfortunately, these Nepalese people are really caught in such predicaments.

Moreover, I would like to emphasize that among members of the ethnic South Asians, women are particularly the disadvantaged group. Many women married to Hong Kong from other places, including those ethnic South Asians, have records of attempted suicide. They are plagued by family problems. Some front-line social workers said that domestic violence is becoming a serious problem in families of ethnic minorities. According to the findings of a survey jointly conducted by Hong Kong Christian Service and Hong Kong Polytechnic University, among the ethnic South Asian women, 16.4% of them, together with their family members, had been battered by domestic violence. They have to put up with this in silence. Traditional customs dictate that they cannot work outside, and they can speak neither Chinese nor English. Given the lack of support for these families, they do not have any access to professional assistance. In the event of an eruption of domestic violence, crises will surface. I hope the Social Welfare Department can take special care of these disadvantaged groups of women.

MR FREDERICK FUNG (in Cantonese): President, the 1 July march held last Sunday was an attempt made by the pan-democratic camp and other people to convey to the authorities our demand for universal suffrage. During the march, I met some ethnic South Asian participants. They painted their hands and faces in red, and offered to shake hands with the people in the street. However, many people refused to shake hands with them. I do not know if that was "coloured discrimination" — I had that feeling myself, and I worried that Hong Kong people would treat people of different colours differently. Offering a handshake with people in the street was just a minor gesture made by the ethnic South Asian participants, but it did reveal that they were subject to rejection in society. The Hong Kong Association for Democracy and People's Livelihood (ADPL) believes that the Government should enhance its measures to assist ethnic minorities better integrate into society, with special attention being paid to education, employment and community facilities.

With globalization, people of the world are constantly on the move. Findings of the 2006 By-census reveal that there are 340 000 non-Chinese ethnic minorities living in Hong Kong, accounting for 5% of the Hong Kong population; among them, 80% are South Asians or Southeast Asians. They have come to Hong Kong for different reasons. Women from the Philippines or Indonesia have come here predominantly as foreign domestic helpers. People of the Indian, Pakistani or Nepalese ethnic groups are mostly the descendants of former generations of immigrants, born locally in Hong Kong. Or they may have come to Hong Kong for family reunion.

Members of the ADPL and I frequently come into contact with ethnic South Asians in the districts of Shum Shui Po and Tuen Mun. As a result of language barrier and cultural differences, they have many obstacles and are being discriminated against in their daily life. Let us take the existing school allocation mechanism as an example. On the surface, it seems that the system provides ethnic minority students with a choice for admission to mainstream schools that use Chinese as the medium of instruction. In this way, they are no longer confined to schools that use English as the medium of instruction, or schools that are specialized in accepting non-Chinese students. However, the actual situation is that certain mainstream schools do not have enough experience or adequate resources to render assistance to these students. Due to the lack of support facilities, ethnic minority students are unable to integrate into the campus, nor can they catch up with the teaching progress of the school. Some of these students have even become victims of campus bullies. Furthermore, under the government policy of closing down schools with insufficient student intake, primary schools whose Primary One student intake is less than 23 will have to close down. Some irresponsible schools seek to offer admission to ethnic minority students just for the purpose of meeting the minimum number of student intake in spite of insufficient support facilities. I believe this is similar to the situation described by Mr TSANG just now. As a result, some schools are able to continue their operation even though there is insufficient support for ethnic minority students. However, due to the lack of matching teaching support, we can never assume that these schools have offered admission to ethnic minority students with the purpose of giving them proper education.

Although the authorities indicated that on-site support would be given to some schools to assist them in teaching the Chinese language to ethnic minority students, at present only 10 primary schools and five secondary schools are provided with this support, which is hardly sufficient. The authorities should

expand support service expeditiously, so that all schools that have enrolled ethnic minority students can be given equal support.

On the employment front, I frequently receive complaints from ethnic South Asians living in the district, accusing employers of refusing to employ them simply because they do not have any knowledge in the Chinese language. The jobs in question are usually those that do not require much skill, such as stevedores and cleansing workers, and so on, which does not require a high level of linguistic capability at all. However, from the complaints we received, their cultures and religious beliefs are also not accepted by employers; for example, they have to pray at specific times of the day. Some employers may dislike the way they dress, and others even dislike their body odour. Therefore, it is evident that ethnic minorities have been marginalized on a long-term basis, not because they are lazy or not enterprising, but because we have not given them any chance at all.

With regard to their work, most of them are engaged in jobs that require physical labour or jobs that do not require much skill, such as construction workers, construction site labourers, or watchmen. According to the 2001 Census, almost 50% of the ethnic Nepalese or ethnic Pakistanis were semi-skilled labourers who earn less than \$10,000 a month. Those are insecure low-income jobs with long working hours, without any job security or promotion prospects. Given the rampant discrimination against them in society, how can they possibly improve their lot through work? As there is no comprehensive policy on education, how can their children get out of this predicament and vicious cycle through education? Furthermore, with social prejudice at work, they are made to take up low-skilled jobs, and this is in fact a waste of their talents and specialties, thereby letting go some talents who should have made their fair share of contribution to society. This is a lose-lose-lose situation to ethnic minorities, their families and society as a whole.

The ADPL suggests that the Government should address the special needs of ethnic minorities with their cultural and linguistic background in mind and take the lead in providing more suitable facilities and community support in districts like Shum Shui Po, Tuen Man and Yuen Long, and so on. The authorities may also step up co-operation with District Councils and discuss with people conversant with local affairs on how to utilize local resources, so as to ensure that, on the one hand, resources allocated can cope with local needs, and on the other, such resources can benefit the ethnic minorities.

As a matter of fact, the Commission on Poverty (CoP) published a document in November last year to discuss the government support for ethnic minorities. However, the CoP did not explore the causes contributing to the poverty problems of ethnic minorities, nor did it discuss whether the services available to them were sufficient or met their needs. The report of the CoP simply "photocopied" the suggestions made by the Government, which had been accepted by members of the CoP to become a report of the CoP. Most regrettably, the CoP has now been dissolved without accomplishing anything. The problems of ethnic minorities have been left unresolved for a number of years now, and I hope that Chief Executive Donald TSANG can lead the new Government to actively promote measures for the alleviation of poverty, including measures for providing ethnic minorities with suitable support and protection so as to address the problems, hardships and discrimination they face as I have outlined just now.

With these remarks, President, I support the motion and the amendment.

MS EMILY LAU: Madam President, I rise to speak in support of the motion moved by the Honourable Fred LI and the amendment by the Honourable CHOY So-yuk.

This morning, members of the Society for Community Organizations (the SOCO) came to the Legislative Council to present a petition on behalf of the ethnic minorities. Also included in the SOCO delegation were local residents of Nepalese origin, refugees, and asylum seekers from Africa. They all want us to urge the Administration to eradicate racial discrimination. According to the petitioners, there is such rampant racial discrimination against them mainly because of their very vulnerable and inferior status.

Madam President, according to the SOCO, ethnic minorities do not have equal access to health services. This is mainly because many of them do not speak Chinese and interpreters are seldom available. A survey conducted by the SOCO in 2004 found that more than one third of the ethnic minority respondents have communication problems with hospital and medical staff. The survey also found that not only do those who do not speak Chinese have communication problems, but also, even those who do speak English cannot communicate with many of the hospital and medical staff. So, we must ask

ourselves, if the patients cannot communicate with the medical staff, what kind of help can they expect?

Madam President, the right to health care is a basic human right, and the ethnic minorities are also human beings. Some of them are Hong Kong permanent residents, some are not, but I think they should be entitled to the same treatment. Some of my colleagues have already spoken on the lack of interpreters. I do not think it is a very difficult problem to solve.

I certainly hope that the new Secretary, now in charge of racial discrimination as well, will do his best to overcome this problem. As a world city, Hong Kong cannot afford to tell the world that "Well, you do not speak our lingo, if you come to our hospitals and clinics, you are on your own, mate." I think this is utterly disgraceful, Madam President.

Another issue raised by the SOCO, Madam President, which some of my colleagues have not raised, is access to vocational training for refugees, asylum seekers and torture claimants. According to the SOCO, there are only about 30 refugees and about 100 asylum seekers and torture claimants in Hong Kong. They are mostly aged between 18 and 25. None of these people are allowed to receive vocational training, or to take part in the initiation program provided by the public schools for ethnic minorities. The refugees and asylum seekers are keen to receive vocational training because that would help them to secure a better job, no matter where they eventually settle. They are eager to learn more so that they can have a brighter future, as many of my colleagues just said.

So, why does the Hong Kong Administration which claims to be a compassionate government deny these people of such a right? It is not as if we are being inundated with refugees and asylum seekers, and even if we are, and we were not too many decades ago, Madam President, many of us in this society said we should help them. Why? Because we were a land of refugees and immigrants. Many of our parents and grandparents came here to seek refuge from the British, many of them stayed and prospered. These weak and vulnerable people are now coming to us, to our shores for help, and what has our Government done for them?

Madam President, I think we can, and we should, do more for these people. I certainly hope that Mr Stephen LAM would look at this issue afresh

and try to allocate resources to look after these people. As for education for the local ethnic minority children, Madam President, my colleagues have already said it all. This whole chapter is disgraceful. The fact that so many of them fail to finish secondary school, and only a tiny handful make it into the universities, is nothing but a blot on Hong Kong. We cannot claim to be Asia's world city if we treat our own people in such a disgraceful way. We in this Council have had endless meetings, urging the Administration to do more, but all our efforts seem to have fallen on deaf ears.

Madam President, I guess it is not too late, and it cannot be too late, if we are talking about the fate of more than 300 000 people and their descendants. So now that we have a new Secretary, we hope we would have a new start. I hope Mr Stephen LAM can give us a very responsible and, hopefully, an optimistic answer.

With these remarks, I support the motion and the amendment.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, according to the latest figures released by the Census and Statistics Department (C&SD) in February, there are over 342 000 ethnic minorities living in Hong Kong, accounting for 5% of the population of the territory. When the C&SD conducted the last Census five years ago, it released a theme report on ethnic minorities living in Hong Kong, which stated in detail the special characteristics, educational levels and employment situations of different ethnic groups. The data are very useful and detailed.

Of these 342 000 ethnic minorities, Filipinos make up the largest group, accounting for about 33% (that is, 110 000 persons). Indonesians rank second, accounting for 26% (87 000 persons). Japanese account for 4% (13 000 persons). There are more Indians as they account for 6% (20 000 persons). Regarding Nepalese, they account for 5% (16 000 persons). Pakistanis account for 3% (11 000 persons). I have provided so many figures just to reflect the number of ethnic minorities in Hong Kong.

According to the figures provided by the C&SD five years ago (I can only quote figures of five years ago because the C&SD has not provided the latest theme report on ethnic minorities), among Asians in Hong Kong, Japanese and Koreans, due to their good educational standards and financial situations, do not

face too many problems. However, from the figures provided by the C&SD, we can find that other ethnic minorities are facing three problems, namely, education, employment and financial income. They are relatively poor in these three aspects.

First of all, in the age group of 17 to 18 (that is, the age for matriculation education), the territory-wide participation rate is 71%, whereas the corresponding rate of ethnic minorities is only 66%, showing a difference of 5%. In the age group of 19 to 24, the age for university education, the territory-wide participation rate is 28%. So what is the participation rate for ethnic minorities in this age group? Only 13%, which represents a difference of 15%.

From this, we can see that the rates of ethnic minorities in receiving matriculation and tertiary education are very low when compared with those of Hong Kong people. This is largely attributable to the Government's mandatory requirement of a pass in Chinese Language or a certain level of attainment in open examinations conducted for university admission. Many ethnic minorities like Indians and Pakistanis cannot receive tertiary education exactly because they cannot satisfy this examination requirement.

This issue has been repeatedly discussed in the meetings of the Bills Committee responsible for examining the Racial Discrimination Bill in the Legislative Council. One of the focal points was: Would it constitute racial discrimination in requiring ethnic minorities to sit for the Chinese Language examination? The authorities said that they needed to study the issue. We are still awaiting the Government's reply. I agree with Mr Fred LI's point in the motion, that we must enable ethnic minorities students, who are not proficient in Chinese, to enjoy equal opportunities in pursuing further education and finding employment.

In fact, when the eight local universities recruit overseas elite students or exchange students, there is no requirement that they must be proficient in Chinese, still less that they must pass the examination for Chinese Language. Why should we impose this mandatory requirement of a pass in the Chinese Language on the ethnic minorities in Hong Kong? If this university admission requirement in respect of the Chinese Language for the ethnic minorities is relaxed, they would be able to receive higher education to change their fate; then, in the long run, it would help them a long way in tackling the inter-generational poverty problem.

In respect of employment, according to the figures released by the C&SD, in the ethnic minorities workforce, over 60% of them have a monthly income of less than \$4,000, with the majority working as domestic helpers. Besides, 17% of them are in a better situation, earning between \$4,000 and \$9,999 a month. From these figures, we can see that ethnic minorities are unable to secure good jobs because of their inadequacy in educational attainment and professional skills, thus trapping them in the lower stratum of society and making them unable to move upwards on the social ladder.

In fact, the Hong Kong Unison, an organization which is concerned about the rights and interests of ethnic minorities, has received many cases. When many ethnic minorities applied for jobs such as delivery workers and trucking helpers, and so on, they were rejected because the employers said they were not proficient in the Chinese Language. Some job vacancies registered with the Labour Department are only displayed in Chinese without any English version. This has posed even greater difficulties to them in finding jobs. Therefore, we think that the Government and public organizations should relax the Chinese Language requirement in job applications, so as to enable ethnic minorities to take up jobs suitable for them without compromising the quality of services provided for the public. The Labour Department should use both Chinese and English in providing information on job vacancies, so that these people can have access to more information in finding jobs.

Madam President, I support both Mr Fred LI's motion and Miss CHOY So-yuk's amendment. Thank you, Madam President.

MR LEE WING-TAT (in Cantonese): President, I believe Mr Fred LI and other colleagues of the Democratic Party must have already talked a lot about the policy aspect. However, I had originally expected Secretary TSANG Tak-sing to be responsible for this policy area. But earlier on, I found that it was Secretary Stephen LAM who was responsible for this. Of course, I now know he is responsible for this aspect.

Just now when I was chatting with Mr Fred LI, I thought of a question. Usually the enforcement and improvement of many policies needs the support of various departments. As in our discussion on education, there are many I shall cite several examples later on, and Members will know what I mean. In implementing education initiatives, we need to have the resources of the

department responsible for education issues, whereas the Labour Department will be responsible for employment issues. And when ethnic South Asians want to apply for the use of venues to conduct religious worshipping, then some other departments will have to handle the issue. I believe many of the issues that the Secretary needs to find solutions fall into such a category. So, not only are there inadequacies at the policy level, there are also inadequacies in enforcement. Let me cite some examples.

First, in fact many colleagues have already mentioned this. The children or the youngsters of ethnic minorities have encountered a lot of difficulties in schooling. I have seen some examples in which many ethnic minorities do not know Cantonese very well. For Indians, Pakistanis and Nepalese, if they were born in Hong Kong or if they have grown up in Hong Kong, they will soon learn to speak Cantonese, and gradually they will learn to read Chinese. However, if they arrive in Hong Kong when they are already well over 10 years old, it would take a long time for them to adapt to the environment of Cantonese, and worse still, they cannot read Chinese. We also know that the Education Department once provided some adaptation classes to enable them to learn Chinese and Cantonese, but the courses are very short. I have handled the complaints lodged by some Tung Chung residents. They do not know Chinese, so they need to take these courses. But if they want to enrol on such courses, they have to go to Shum Shui Po or even Kowloon Bay to attend the classes. In fact, the authorities should mobilize educational resources to the relevant communities, so as to facilitate the adaptation of these children on the education front and to give them the opportunities to learn Chinese and Cantonese, thereby facilitating their integration into society and then they can go and get a job.

However, I worry a lot about how the Secretary can do this? Since he is a Bureau Director, of course, he can discuss this issue with the Education Bureau. But if he has to take this up with Secretary Prof Arthur LI — No, it is not Arthur LI now. Instead, it is Michael SUEN now, who is better — in discussing this issue I do not miss him. The incumbent Secretary is Michael SUEN. This is an issue that the Secretary has to deal with.

Secondly, we have received another type of requests, that is, these ethnic minorities want to conduct worshipping ceremonies. In layman's term, they want to have a place to "worship god". To them, many religions do not necessarily have their own churches, such as Sikhism and Muslim. For example, how can ethnic minorities living in Kwai Tsing conduct their

worshipping ceremonies? They can only ask all the followers of their religions to contribute some money for leasing a 1 000 sq ft-flat on the second floor of a private building, in which they can congregate to conduct their worshipping ceremonies and allow their children to study the *Koran* there. Such examples exist in both Tsuen Wan and Kwai Tsing.

Recently, I have handled a case. Some Sikhs want to have a venue to conduct their worshipping ceremonies, but no such venue is available in Tung Chung. This example has left me with a profound feeling: That if the government department concerned is not doing its job properly, a lot of time can be wasted. One year ago, I had arranged a meeting with — not the Secretary's department — the Home Affairs Department (HAD) to discuss an actual case. They said that an application had to be submitted. But after an application letter had been submitted, there was absolutely no progress after a full year. This year, we had held another meeting to ask them why there had been no progress at all. We then found out that all that official had done was just to forward the Sikhs' letter, which contained their opinions and requests, to the Lands Department. It was not a very proactive attitude. Although all that the Sikhs are requesting is just a short term tenancy for a piece of land, it involved both the HAD and the Lands Department. We all know that it is very difficult to secure land by way of a short term tenancy. The attitude of the HAD in dealing with such issues reminds me of the way they handled the issue of owners' corporations — I find that they handled both issues in very much the same way. If we ask colleagues from different parties and groupings: Do they think that the HAD had done a good job in handling the issue of owners' corporations? If 30% of the colleagues think that they had done a good job, I can buy them as many good meals as they like, because in fact they had really done a very bad job.

Now the ADPL not the ADPL, but the HKHS..... Now the Hong Kong Housing Society has taken over from the HAD many of the work in respect of owners' incorporations. If we ask colleagues' opinion now in this regard again, their feedback would be very different. In other words, if the HAD is given the responsibility of handling the work of owners' corporations, it would be very time-consuming; it will also trigger a lot of grievances among colleagues from different parties and groupings. For example, they may accuse the HAD of "not assisting their development after the initial creation of such owners' incorporations, which are treated like orphans. People complained that the HAD does not care about them, even if complaints are lodged. They only send

a representative to attend the meeting when a owners' general meeting is convened. If someone asks the representative questions about law, he would reply that he does not know the answer as his duty is just to attend the meeting.

The examples cited by me are by no means new, and I have held many discussions with the HAD. Secretary, I am sorry. Although I will not make a fuss in rage, these examples make me feel that the departments are not proactive at all. The Education Department is not proactive in such issues, whereas the HAD is also not proactive in other issues. In future, Of course, this is not the work of the Labour Department. As some colleagues have pointed out: Has the Labour Department made available Indian and Pakistani versions of its recruitment notices? If the Indians and the Pakistanis understand neither Chinese nor English, how can they understand such recruitment notices? I believe many of them are still at a loss even now. Is such a task very complicated? In fact, it is not. Is it very easy? It is really not too difficult. Is such a task being done now? No, not yet. I find these departments not very proactive. They may think that, in a Chinese society, the ethnic minorities are not the mainstream population, which just number several hundreds thousands. And Hong Kong is also not a foreigners' society in which English is spoken most of the time. Therefore, the priority accorded to them is rather low.

Therefore, I am worried about the Secretary. Of course, the Secretary will give us a reply today, and the reply will be very proactive. However, how will the Secretary mobilize the resources of the departments? I hope he can give some thought to this question. However, regarding these questions, all the front-line departments are not under his command. The HAD is not under him, nor are the resources of the Education Bureau at his dictation. The Labour Department is also not within his portfolio. Of course, with some positive thinking on my part, I hope I can tentatively place some trust on him, and I believe he would do these things. However, within one year, when we ask him about the progress, how much new work will he have finished? Will those departments have improved the implementation problems that we had seen in the past? For those tasks that we consider to be delayed, postponed all the time and wasting the time of everyone, can they be speeded up? I hope the Secretary can think about this: When he does not have these enforcement departments under him, what kind of methods can he use when he performs his co-ordination task? How can he pool these resources? With regard to the questions raised by colleagues, some of them are by no means major ones, and they can be addressed immediately. Thank you, President.

MR SIN CHUNG-KAI (in Cantonese): President, actually my colleagues have already expressed their view on this subject one after the other. I just wish to discuss one issue, that is, public service broadcasting (PSB). I know the Legislative Council has already drafted a report, which mentions that PSB should provide multi-language broadcasting, particularly many non-English speakers and non-Cantonese speakers living in Hong Kong do have such a need. Of course, we already have Putonghua broadcasting. But there are still some people who speak other languages. It is relatively difficult for them to obtain information in Hong Kong.

Certainly, the ideal situation would be, after digital broadcasting has been introduced in future, each language can be allocated a channel, and they can produce their own programmes, or they may even invite people from their own communities as guest hosts. Allowing them to produce programmes for their own communities can in fact facilitate their integration into society of Hong Kong. In short, I think the problem of television broadcasting is relatively easier to be resolved because right now we have many pay television services, and some of them have even set up Filipino language channels for viewing by Filipino maids. There are also some pay television channels for South Asians. However, with regard to PSB, since radio stations rely on advertising for revenue instead of charging fees for the provision of services, so there is no incentive for the broadcasting companies to provide services for such ethnic minorities as South Asians, Nepalese, Filipinos or even South Koreans and Japanese. However, they do have the need for information.

The radio spectrum that can be allocated for radio broadcasting in Hong Kong is limited. If digital broadcasting is launched, requirements in this regard could be relatively easier to satisfy. Before digital broadcasting is adopted, we can still introduce the broadcasting of certain programmes on a time-sharing basis, such as for news reports, and so on. There is indeed a demand for this, and it may fulfil the function of disseminating information. I hope while the Secretary is concerned about this issue, he can hold discussions with the provider of public broadcasting service, that is, Radio Television Hong Kong, to find out whether there are any other alternatives.

Of course, the ideal option is — though a much larger topic to deal with — the implementation of digital broadcasting, so that we can have more options, and we may allow them to produce their own programmes, that is, we can have a

so-called public channel to let them broadcast their own programmes. However, this will be another subject. Mr Fred LI's original motion has actually mentioned social services and public services. I believe these are already included in such aspects.

I so submit.

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

MR ALBERT CHAN (in Cantonese): President, the rights and interests of ethnic minorities are essentially related to discriminatory attitudes. In fact, there can be many different levels of discrimination. Some deep-level discrimination is already deep-rooted in the entire culture, values and institutions. With our chauvinistic Chinese culture, we are full of discrimination against many other ethnic groups, customs and religions. Government policies also consist of a substantial amount of discriminatory elements. Otherwise, the legislation for protecting the rights and interests of ethnic minorities would not still be uncompleted after so many years, and that the scope of exemption in the relevant legislation is even greater than the scope of protection. This is an extremely ridiculous situation. If discrimination is to be banned, but there are thousands of exemption clauses, then in other words, this is in fact a racial discrimination policy, instead of being a policy protecting the rights and interests of ethnic minorities.

President, earlier on, I felt slightly disappointed at the fact that the Government had placed the issue of the rights and interests of ethnic minorities in the portfolio of the Constitutional and Mainland Affairs Bureau. I am not discriminating against "Eunuch LAM". All along, I have had lots of clashes with him, but I do not have any expectation of him. He has made absolutely no progress in constitutional development. Things would end up in disasters if the rights and interests of ethnic minorities are advocated in the same way as was our constitutional reform. President, my finger is not pointing at you. I am sorry. If he once again holds several rounds of consultation after putting forward many many proposals on the rights and interests of ethnic minorities, then in fact he is moving backwards all the time, and he has not made any improvement to our society. Yet, he pockets several million dollars a year in salary. This is really very shameful.

Therefore, based on the progress he has made and the approach he has adopted in constitutional development, I believe we should not have any expectations of him in fighting for the rights and interests of ethnic minorities. On the issue of the rights and interests of ethnic minorities in Hong Kong, there were past examples filled with discrimination. Let us skip discussing the aspect of languages used in daily life. Several years ago, many people opposed the planning for a mosque in North District. However, even the Government did not entertain the opposition view eventually and approved the planning instead. Yet, the construction of the mosque keeps postponing due to many technical and financial reasons.

Over the years, I have helped many Pakistanis in identifying venues for their religious gatherings. Before Mr FISHER of the Housing Department was transferred, I had held meetings with him to collect information on vacant venues from the Housing Department. However, the Department has a weird policy, which stipulates that such venues cannot be leased for religious purposes, even if the lessees are non-profit-making organizations. The Department says that these venues can be leased for use by some women's clubs, youth centres or other services. But if the venue is leased for use by non-profit-making organizations, then it cannot be used for religious purposes. However, on the other hand, the Government does provide a lot of convenience to Christian and Catholic organizations. While providing services on the one hand, these organizations are also allowed to use the venues for religious purposes. But Muslim organizations are not. As many Muslim organizations are registered as service and religious organizations, so the Department said that they could not lease the venues in the name of non-profit-making organizations. I think, in terms of system and policy, obviously discrimination is at work.

I have been providing services in Tin Shui Wai and Tung Chung for many years, and have made great efforts in trying to assist these Pakistanis in identifying venues for religious purposes, but I have been to no avail to date. This is in fact very ridiculous. Tin Shui Wai is a community with a population of 300 000. Besides, this reflects that the Government's planning is full of discrimination. The Government has not reserved any land for religious purposes in its planning. Although Tin Shui Wai has a population of over 300 000, in the planning of the entire town, not a single piece of land has been earmarked for religious purposes. The Hong Kong Government may not have any religious inclination, and Donald TSANG himself lives in the Mid-Levels, so he finds it very convenient in travelling to a church. Just a short car trip of

five minutes will bring him there. Therefore, he does not think that religious sites are required in planning. But poor luck for people living in Tin Shui Wai and Tung Chung, for they cannot find any venues that can be used for religious purposes. Yet, Christian and Catholic churches may, because of their own services, use leased venues in shopping centres to conduct Christian worshipping ceremonies. In the case of Catholic schools, they may use the school premises for religious gatherings. But for other ethnic minorities, such as Pakistanis or other ethnic minorities of Muslim faith, they do not have such special arrangements in terms of both services and facilities.

Apart from these, we have the education problems. Before the stepping down of Arthur LI, I had discussed this with him on several occasions. I even had some extremely unpleasant discussions with Fanny LAW on this issue. The education system of Hong Kong practises Chinese chauvinism. In short, all ethnic minorities have to study in mainstream schools and follow the practices in such schools. I had repeatedly requested the authorities to set up some special primary and secondary schools for ethnic minorities in New Territories West such as the area near Tin Shui Wai and Tung Chung, so that they can choose to study in their own schools according to their own religions and preferences. However, this request had been turned down for many times. I hope after the assumption of office by Mr SUEN, we can see the emergence of new attitudes and changes.

President, all in all, the Government has not shown any concern for the rights and interests of ethnic minorities over the years. And it is still so. I hope there can be some changes to this attitude. But I do not have too high expectations. All I hope to see is, things would not develop like the constitutional development, which is messy and a complete disaster. Thank you, President.

MR ALAN LEONG (in Cantonese): Madam President, according to the Population By-census 2006, there are altogether 342 000 non-ethnic Chinese residents in Hong Kong now. Among them, nearly 260 000 persons (about 75%) are Southeast Asians or South Asians, including Filipinos, Indonesians, Indians, Nepalese, Thais and Pakistanis.

In fact, Hong Kong was originally an immigrants' society. Nearly all the residents or their fathers or grandfathers had migrated to Hong Kong from other

places. Be they the mainstream Chinese residents or be they ethnic minorities residents, we have all become members of this city, common masters of this city. Living in such an international cosmopolitan city that takes pride in the harmonious integration of the Chinese and Western cultures, we must build up in society a culture with racial inclusion and equal treatment. As for our Government, it has the responsibility of protecting the basic rights of all the citizens, and safeguarding the equal opportunities for all the ethnic groups, irrespective of their races.

All Hong Kong people, regardless of their races, are generally concerned about employment and education as the former has a direct bearing on the livelihood of a person as well as his family, and the latter on the well-being of his next generation. Yet, in these two aspects, the difficulties faced by ethnic minorities are far greater than those faced by mainstream ethnic Chinese. At present, the unemployment rate of the South Asians is as high as 40%. According to the last Census, among ethnic minorities aged between 19 and 24, only 13.4% are still studying in schools, whereas the territory-wide schooling rate of young people aged between 19 and 24 is 28%. As our society is in the process of developing towards a knowledge-based economy, the problem of non-engaged young people among ethnic minorities is even more obvious and more difficult than that of other people.

Madam President, some may have the misconception that ethnic minorities cannot achieve success in schools or workplaces just because they are not working hard or are unwilling to adapt to society of Hong Kong. However, my personal experience does not tally with such allegation at all. I still recall that I had a chance to visit a primary school in Yuen Long specially for Nepalese students. Among all the 109 students, I can see that some were enthusiastically learning languages, mathematics and liberal studies, while others were concentrating happily on learning drawing, tribal dancing and writing Nepalese poems.

This is the only Nepalese primary school in Hong Kong. It is in fact operating on the second floor of a shopping arcade in Yuen Long, with the physical premises of the school formed by connecting the space of several shops together. So there are some facilities, so to speak, such as classrooms, a computer room, a library and a 400-sq ft activity room. That is all it has got. Nowadays, when all the schools are advocating life-wide learning, providing all kinds of excellent teaching facilities, these Nepalese students continue to do their best in learning in spite of the environment with a relative shortage of resources.

In fact, it is never the school's intention of not making any improvement. The school has applied to the Government repeatedly for leasing some school premises, but it was refused time and again. All along, the Government has insisted that students of ethnic minorities may study in ordinary schools or certain international schools with stringent admission requirements. For this reason, the Government has not rendered vigorous assistance to certain schools specifically catering to the needs of individual ethnic groups. However, as pointed out by many colleagues, under the present system, the medium of instruction as well as other arrangements absolutely cannot help students to integrate into the schools and the curriculums. If the Government continues to adopt a couldn't-care-less attitude towards ethnic minorities schools, it will only aggravate the learning difficulties of ethnic minorities students and stifle their learning opportunities altogether.

Madam President, if ethnic minorities students are forced to waste their valuable learning time, it will be very difficult for them to improve their lot through employment after growing up, or they may even be trapped in inter-generational poverty. As released in the 2001 Census, nearly half of the Nepalese can only take up non-skilled manual jobs, and their incomes fall below the level of median personal income. Since the competitiveness of the ethnic minorities has been undermined by the quality of education they receive, together with the prejudices held by some employers, the phenomenon of ethnic minorities being target of rejection has become all the more evident.

In order to rectify such structural social rejection, undoubtedly the Government must ban racial discrimination, which is an unreasonable phenomenon, by way of legislative measures, so as to ensure equal opportunities for ethnic minorities. However, in the meantime, the Government should also understand that equality does not simply mean that, through granting the same treatment to everyone in terms of both quality and quantity, the job is done. In fact, it also involves adjusting both the education and employment institutions in a fair manner, so as to take account of the special needs of ethnic minorities in such aspects as language and culture.

Recently, the Employees Retraining Board has organized an English retraining course, which is a breakthrough ethnic minorities have waited for many years. I hope the authorities can continue making improvement in this regard, and do not just stop there. In the long run, the Government should

consider the proposals contained in both the original motion and the amendment, namely, to establish special benchmarks for the Chinese Language in the design of the curriculums of primary and secondary education as well as in employment, so as to enable ethnic minorities, who are not native speakers of Chinese, to enjoy the same equal opportunities as the local people.

Madam President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, then I now call on Mr Fred LI to speak on Miss CHOY So-yuk's amendment. You have up to five minutes to speak.

MR FRED LI (in Cantonese): President, my speech is very simple. Miss CHOY So-yuk proposes to strengthen social services for young people of ethnic minorities, to appoint ethnic minorities to public organizations and to set up a database, and so on, and finally Mr Jasper TSANG has also made some supplementary input. All these are detailed proposals for taking care of ethnic minorities. The Democratic Party welcomes all these proposals, and also calls on Members to support this amendment.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Madam President, Hong Kong is a cosmopolitan city and confluence of people from a diversity of culture and racial origins. The Government is committed to fostering social harmony and, having regard to the special needs of the ethnic minorities, provides a wide variety of support services and measures to facilitate their integration into the community.

The Basic Law, the Hong Kong Bill of Rights Ordinance and other laws of Hong Kong provide extensive constitutional and legal protections which safeguard the rights and freedom of every person in Hong Kong. Members of the ethnic minorities in Hong Kong enjoy the same protections just like others.

At the policy level, we advocate equal opportunity, promote public education and community involvement. We encourage mutual respect and acceptance of cultural differences for a harmonious and cohesive society.

Our key policy objectives could be grouped into the following three areas:

1. to eliminate all forms of racial discrimination;
2. to foster racial equality and racial harmony; and
3. to encourage integration of the racial minorities into community whilst preserving their unique cultural characteristics.

To address the needs of the ethnic minorities, we fund and provide a range of different services in education, employment and other aspects to facilitate their integration into society. These measures have been explained in detail to Members and the public on numerous occasions which I shall not repeat here. I shall focus on the specific issues raised in the motion and provide brief responses.

On the educational front, the Government's education policy caters for the needs of different groups, including non-Chinese speaking (NCS) students and especially those who are ethnic minorities. In this connection, we have clear objectives and have taken concrete measures to ensure that NCS students can integrate into our school system and community.

Currently, 10 primary schools and five secondary schools have been chosen by the Education Bureau as "designated schools". Intensive on-site support service is being provided to these schools to help them further enhance the learning and teaching of NCS students. The Education Bureau is reviewing the distribution of "designated schools" to see whether it is necessary to adjust their number in the coming (2007-2008) school year.

Apart from providing school-based support, the Education Bureau has commissioned a tertiary institution to run training programmes for Chinese Language teachers in the "designated schools". In addition, an annual grant of \$300,000 is given to each "designated school" to give them flexibility in providing appropriate support for the education of NCS students.

An experience-sharing network has been set up among schools with NCS students to provide them with an avenue for sharing of experience and enhancing the professional capabilities of these schools in order to better cater for the needs of NCS students.

To help NCS students who are less proficient in Chinese (in particular the late starters), the Education Bureau has commissioned a local university to run Chinese Learning Support Centres to offer remedial programmes for these students after school hours or during holidays. The Centres also help develop relevant teaching resources and provide professional advice.

To facilitate the adaptation of NCS Primary One entrants to local school life, the Education Bureau has been offering a four-week Summer Bridging Programme for these students during the summer vacation. This Programme will be extended to cover NCS students proceeding to Primary Two, Primary Three and Primary Four, to help them consolidate what they have learnt in the first Key Learning Stage.

We cannot and should not assume that, just because they belong to a particular race, NCS students are only able to achieve a low level of proficiency in Chinese Language, and hence a need to develop an alternative curriculum and public examination in Chinese Language. Such an approach would not be conducive to their integration into the schools and the community.

On the other hand, we appreciate that the teaching of Chinese Language to NCS students poses a degree of challenge for the schools and teachers. The Education Bureau is therefore working on a supplementary guide on the teaching of Chinese to NCS students within the Chinese Language Curriculum framework. We plan to draw up a draft guide by the end of this year for consultation and to finalize it in 2008.

For NCS students who can achieve a level of Chinese language proficiency comparable to that of other local students, we encourage them to take the Chinese Language paper in the Hong Kong Certificate of Education Examination, or in future, Hong Kong Diploma of Secondary Education Examination under the new secondary academic structure. For those NCS students who prefer to obtain alternative qualifications in Chinese, the Education Bureau is making arrangements to administer the United Kingdom-based General Certificate of Secondary Education (GCSE) (Chinese) examination in Hong Kong starting in 2007.

At the tertiary education level, while admission is based primarily on the merits of the students, the tertiary education institutions already exercise flexibility in determining the Chinese Language requirement for NCS students. The Education Bureau is discussing with the University Grants Committee-funded institutions the feasibility of accepting alternative qualifications in Chinese (such as the GCSE, the General Certificate in Education and the International General Certificate of Secondary Education). We plan to report progress to the relevant Panel of the Legislative Council by the end of this month.

With regard to ethnic minority youths, the Government provides social services to them in order to facilitate their early integration into the community. The 134 Integrated Children and Youth Services Centres (ICYSCs) throughout Hong Kong, day-time/midnight outreach services, School Social Work Service and Community Service Support Scheme, and so on, are all available and accessible to ethnic minority youths. ICYSCs also organize various interest and activity groups and programmes to meet local community needs, including language courses, recreational and social activities and volunteer services to enhance understanding of ethnic minority youths on their local communities and to promote their integration in the society.

The Government Race Relations Unit provides a range of services specifically targeted at minority youth groups. These include the Cross-Cultural Learning Programme for NCS Youth which helps them to integrate into the wider society through Cantonese classes and mentorship programmes. The Unit also funds Community Development Projects for non-government organizations (NGOs) to set up, in Yau Tsim Mong and Yuen Long Districts, community development teams for ethnic minorities. These teams provide outreaching and counselling services, establish ethnic minority volunteer groups and mutual-support teams, as well as organize training classes and mutual co-operation groups for the local ethnic minority populations.

As regards further education at secondary school level, ethnic minority youths who are beyond the normal school age are, like their local counterparts, eligible for financial assistance under the "Students of the Financial Assistance Scheme for Designated Evening Adult Education Courses" to attend recognized evening courses at higher secondary level (that is, from Form Four to Form Seven).

As regards vocational training, there is no age limit for enrolment on most of the courses offered by the Vocational Training Council (VTC). Any person, including an ethnic minority youth, who meets the specified admission requirements can apply.

The Hong Kong Institute of Vocational Education (IVE) and the VTC's School of Business and Information Systems use English as the principal medium of instruction for their post-Form Five level courses.

To meet the needs of NCS students, the VTC will organize, in the coming academic year, 15 dedicated programmes for NCS youths and adults (including trade licensing test preparatory course for in-service personnel, full-time Foundation Diploma courses for Form Five leavers and applied learning courses for senior secondary students, and so on). These programmes will offer a total of about 300 student places. The VTC also makes available relevant examination papers in English to facilitate NCS students in obtaining their trade test qualifications.

The Employees Retraining Board (ERB) is running, on a pilot basis, courses in English for NCS adults on security and property management and domestic help service. The ERB will closely monitor the progress and outcome of the pilot courses and consider offering more courses for the NCS adults as appropriate.

The Government recruitment policy is to fill civil service vacancies through open and fair competition.

The language proficiency requirement for appointment is set to ensure a civil service which operates effectively and efficiently in both official languages of Hong Kong. Following the Civil Service Bureau initiative, we have recently reviewed the entry requirements of all civil service grades to ensure that the language proficiency requirement in English and Chinese are commensurate with actual operational needs. Heads of departments/grades may determine the level of Chinese language proficiency requirement in accordance with the service needs. We believe this would enhance flexibility in recruitment and provide greater opportunities for people with various levels of language proficiency to join the Government and to serve our community.

The Labour Department provides a good number of free employment services to job-seekers. User-friendly vacancy search terminals are available in all the 12 Job Centres of the Department. Key information on available job vacancies are shown in both English and Chinese.

To increase accessibility of the ethnic minorities to its services, the Labour Department has published a pamphlet entitled "Easy-to-use Employment Services of the Labour Department" in different minority languages.

Regular employment talks are offered to ethnic minorities at all Job Centres to promote their understanding of the job market and to enhance their job hunting skills. In addition, the Department also operates a Job Matching Programme at all Job Centres. Under this Programme, placement officers are assigned to assist ethnic minority job-seekers to provide them with comprehensive and personalized employment services, including in-depth interview, career counselling and active job matching.

Earlier on, when a Member mentioned employment services, he said that the Government's Job Centres had not provided a dedicated service counter for ethnic minorities. However, as a matter of fact, the Government often encourages ethnic minorities to seek employment assistance through the Job Centres, the Telephone Employment Service and the Interactive Employment Service operated by the Labour Department. We shall help them to identify suitable jobs.

On the public services front, the Government's policy is to publish all publicly available written materials in both English and Chinese. Government information to be disseminated to members of the public, both verbal and written, must be made available in both English and Chinese. Letters from members of the public should be replied as far as possible in the language used in the in-coming correspondence. All front-line staff should answer enquiries or provide assistance in either English or Chinese depending on the language used by the client. For essential services such as those in hospitals or Courts, translation or interpretation is provided as far as practicable to ethnic minorities who cannot communicate in Chinese or English. In addition, we also publish ethnic minority guidebooks on the use of government services in various languages to promote knowledge and accessibility.

The Hospital Authority (HA) now arranges for free interpretation services in hospitals or clinics as far as possible for patients who cannot communicate in either Chinese or English. All public hospitals and clinics maintain a register of part-time interpreters who can be called upon to provide interpretation when needed. Patients with advanced booking for medical appointments may also approach the Patient Relations Officers for necessary arrangements.

On the social services front, depending on the circumstances, the services providers may also be able to provide interpretation through volunteers or invite the assistance of the client's relatives.

The Government promotes and funds dedicated community development and support teams to encourage self-help and mutual support within the ethnic minority communities. Through the participation of ethnic minority members, these teams offer service to fellow members of the ethnic minority community by providing translation and other assistance as necessary in obtaining public/social services.

Regarding the venues for religious or cultural activities, the facilities for hire in the Leisure and Cultural Services Department's 15 civic centres and its libraries and museums, as well as the multi-purpose halls in the Home Affairs Department's 84 community halls and community centres are open to bookings from all sectors of the public and to community organizations for organizing religious or cultural activities. Applications from individuals and organizations of ethnic minorities are given the same equal and fair treatment as those from other members of the community.

Applications for land grant for cultural or religious facilities from ethnic minority groups are processed and assisted in accordance with the relevant land grant policies, with fair and equal treatment for all and with no distinction on the ground of race or ethnicity.

With regard to civic education and publicity campaigns, the Government places significant emphasis on public education as an important cornerstone in our efforts to promote racial equality and social harmony.

Officers from the Race Relations Unit visit schools, private institutions and government departments on a regular basis and conduct talks to disseminate the messages of racial harmony and integration as well as to promote

understanding of the cultures of the different ethnic groups in Hong Kong. It publishes various educational materials, including publicity posters, comic books targeted at primary and secondary school students, teachers' handbook and self-study kit for front-line civil servants.

Through the Equal Opportunities (Race) Funding Scheme, the Government encourages community organizations to organize projects on racial equality. We also fund NGOs to provide direct services to address the specific needs of ethnic minority groups through, for example, the provision of Cantonese and English classes, Cross-cultural Learning Programme for NCS Youth and other outreaching activities.

School education occupies an important place in the long-term strategy for the promotion of racial harmony. "Respect for others" is one of the major values and attributes emphasized in the school curriculum. It is incorporated in moral education and civic education and infused in the different Key Learning Areas or subjects at various levels. Relevant education television programmes are available for use by schools and a new programme on "Respecting Cultural Differences" which emphasize tolerance and respect for other people is also under preparation.

The Harmony Scholarship Scheme has been launched to give recognition to schools which have taken initiatives to admit a significant number of ethnic minority students. The aim is also to promote good relations among the students of different ethnic origins through participation, co-operation and exchange for mutual benefits.

On the issue of appointing ethnic minorities to public services, the Government makes such appointments to government advisory and statutory bodies on the basis of individual merits, having regard to the functions of the relevant advisory and statutory bodies and their operational needs, the ability and experience of the individuals concerned as well as their likely contribution. Where appropriate, people with different backgrounds are appointed to ensure the representation of a broad spectrum of community views.

As regards the Equal Opportunities Commission (EOC) mentioned by Miss CHOY So-yuk, there is in fact already an ethnic minority member on the Commission. We will continue to consider, in the light of relevant circumstance and needs, appointing suitable persons to the Commission.

With regard to legislation and supporting infrastructure, as I have mentioned, the legitimate rights and interests of different ethnic groups are well protected under various legislation and the constitutional instruments. The Hong Kong Bill of Rights is binding on the Government and all public organizations. The Race Discrimination Bill introduced into this Council last December will, if enacted, effectively extend the protection to cover NGOs and the private sector.

Under the Bill, the EOC will also have an important role to play in publicity, education, mediation and law enforcement in respect of protecting the ethnic minorities against racial discrimination.

"To encourage integration of the racial minorities into the community whilst preserving their unique cultural characteristics" is already one of the Government's three specific policy objectives on race relations.

In respect of collecting the data on ethnic minorities, the Census and Statistics Department (C&SD) has been collecting and collating a wide range of such statistics to facilitate study, discussion, planning and decision-making by various government departments. Various government departments, such as the Immigration Department and the Education Bureau, compile statistics on the usage of services provided to the ethnic minorities.

The C&SD is preparing a thematic report on the minority groups based on the information collected from the 2006 By-census. The report will contain details on the population size, demographic characteristics, educational level and employment situation of the minority community and will be published for the reference of the general public when available. There is no current plan to set up an additional database on ethnic minorities.

Hong Kong historically has been a multi-cultural city and the ethnic Chinese population has a long tradition of living harmoniously with people of other ethnic and cultural background. At the same time, we have among us many local non-Chinese and members of the ethnic minorities who have demonstrated achievements and contribution to society and are well respected by other members of our community.

On the issues raised in the motion, we believe that Members and the Government share a common objective and broad direction. On specific

measures proposed, there are some which we have already put in practice and achieved good results. There are, however, some others which, as I have mentioned, could pose difficulties or cause possible adverse impact on implementation. We therefore have reservations about them.

Madam President, earlier on, Mr Albert CHAN compared our work in respect of ethnic minorities to our efforts in constitutional affairs. In fact, in proceeding with constitutional development, we have listed all the options regarding the tasks we have to undertake in a very open manner. It is done in a very similar way as we approach the work of dealing with ethnic minorities, which is under discussion today. Mr LEE Wing-tat mentions specifically that, while my Policy Bureau has taken up the responsibilities regarding human rights and ethnic minorities, we do not have an administrative department responsible for the provision of services in this aspect, so how shall I co-ordinate the work and duties involved? In this connection, I can tell Honourable Members that, while there are policy committees between various Bureaux, everyone in the Government Headquarters is very willing to jointly co-ordinate the work involved, so as to properly carry out duties in respect of ethnic minorities.

Earlier on, Mr Fred LI said that he was glad that I could return to the Chamber in time to listen to the views of Members. In fact, I am also very glad that I can have the opportunity to listen to many practical suggestions this evening. It was because Members have come in touch with ethnic minorities in many different districts, knowing the difficulties they face. I can tell Members that, as I used to live in a staff quarters of the former Prison Department in my childhood, I had made acquaintances with some Pakistani and Indian children as early as the beginning of my primary school days. As we went to school together, I have known the problems they had to face, their circumstances and their preferences since my tender years. Therefore, I do understand the problems Members have presented today and I am also very concerned about such problems.

We shall continue our current practice to progressively promote racial harmony through public education and support services. This will be an ongoing mission. We shall continue to improve as appropriate from time to time, and in the light of experience to be gained.

Madam President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Miss CHOY So-yuk to Mr Fred LI's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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): Mr Fred LI, you may now reply and you have five minutes 53 seconds.

MR FRED LI (in Cantonese): President, first of all, I wish to thank the 21 Members who have spoken in this motion debate, which is unexpected, for I had expected only a dozen or so Members to rise to speak. In particular, in districts where many ethnic minorities are living together as communities — such as Kowloon West and the New Territories, their public opinion representatives have spoken to reflect the genuine problems faced by them. Therefore, I am very glad that Secretary Stephen LAM has attended this meeting, so that they can reflect to him the problems they have seen.

After all, I always feel that the portfolio of the Secretary actually consists of components scattered among different Policy Bureaux (the areas mentioned by Secretary Stephen LAM all involve the work of the Education Bureau, Labour and Welfare Bureau and the Home Affairs Bureau. I can see that the areas at least involve these three Policy Bureaux), but the Policy Bureau under the command of Secretary Stephen LAM does not provide such services. So it just formulates the relevant policies. As such, will the Secretary establish an inter-Bureau or inter-departmental task force within his Bureau to implement the relevant work?

Earlier on, many colleagues have mentioned that the purpose of education is to combat poverty, and that it is also an important rung in the social ladder. If a family of ethnic minorities have been working as security guards for three generations, it would be very difficult for them to get away from this predicament. They would stay forever at the margin of mainstream society of Hong Kong. I find the programme "News Magazine" has done a very good story on the subject. I hope the Secretary can have the chance of watching this episode, which reflects accurately the realistic situation in Hong Kong.

I am not going to delay the adjournment of the meeting anymore. We still have another motion debate tomorrow. I would like to take this opportunity to thank Honourable colleagues and I believe this motion will have your support. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Fred LI, as amended by Miss CHOY So-yuk, 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.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9.00 am tomorrow.

Suspended accordingly at twenty-two minutes to Eleven o'clock.

Annex I

HAZARDOUS CHEMICALS CONTROL BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for
the Environment

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By deleting "Secretary for the Environment, Transport and Works" and substituting "Secretary for the Environment".
2	(a) By renumbering the clause as clause 2(1). (b) In subclause (1) - <ul style="list-style-type: none">(i) in the definition of "Director", by deleting "or any Deputy Director of Environmental Protection";(ii) by deleting the definitions of "duplicate permit", "function", "manufacture" and "notice of suspension";(iii) in the definition of "Secretary", by deleting "Secretary for the Environment, Transport and Works" and substituting "Secretary for

the Environment”;

- (iv) in the Chinese text, in the definition of “獲授權人員”, by deleting the semicolon and substituting a full stop.

2 By adding -

“(2) In this Ordinance, unless the context otherwise requires, a reference to manufacture, in relation to a scheduled chemical, includes causing the chemical to be manufactured.

(3) For the avoidance of doubt, a scheduled chemical is not regarded as having been manufactured if it is produced incidentally in the course of the manufacture of any other thing.”.

4(1) By deleting “subsection (2)” and substituting “this section”.

4 By adding -

“(1A) Neither the Government nor any public officer in the officer’s capacity as such is liable to be prosecuted for an

offence against this Ordinance.”.

- 10(3) By deleting everything after “regard to” and substituting “other enactments that govern the activity to which the application relates.”.
- 10 By deleting subclause (4) and substituting -
- “(4) The Director may not issue or renew a permit authorizing the manufacture of any Type 1 chemical unless the chemical is only for -
- (a) use for laboratory-scale research purpose;
- (b) use as a reference standard for chemical analysis; or
- (c) use for laboratory-scale research purpose and as a reference standard for chemical analysis.”.
- 11(2) By deleting everything after “regard to” and substituting “other enactments that govern the activity authorized under the permit.”.
- 11 By deleting subclause (3).

- 13(2) By deleting everything after "regard to" and substituting "other enactments that govern the activity authorized under the permit."
- 13 By deleting subclause (3).
- 16(2) By deleting "as soon as practicable" and substituting "not later than 10 working days".
- 19(1) (a) In paragraph (b), by adding "or" after the semicolon.
(b) In paragraph (c), by deleting "; or" and substituting a full stop.
(c) By deleting paragraph (d).
- 21(1) By deleting "As soon as practicable" and substituting "Not later than 10 working days".
- 22(2) By deleting everything after "regard to" and substituting "other enactments that govern the disposal of the chemical concerned."
- 22 By deleting subclause (3).

- 23(2) By deleting everything after "regard to" and substituting "other enactments that govern the disposal of the chemical concerned."
- 23 By deleting subclause (3).
- 27(1) (a) In paragraph (b), by adding "or" after the semicolon.
(b) In paragraph (c), by deleting "; or" and substituting a full stop.
(c) By deleting paragraph (d).
- 28 By adding -
" (3) In subsection (1), "notice of suspension" (暫時吊銷通知) means a notice referred to in section 27."
- 29(1) By deleting "As soon as practicable" and substituting "Not later than 10 working days".
- 31(3) (a) By deleting "as soon as practicable" and
and
(4) (a) substituting "not later than 10 working days".
- 31(4) (c) In the Chinese text, by adding "以" before "內".
(ii) (A)

41 By deleting the clause and substituting -

"41. Liability of employers

(1) Any act done or omission made by a person in the course of his employment (the "employee") is treated for the purposes of this Ordinance as done or made by his employer, as well as by him.

(2) In any proceedings for an offence under this Ordinance brought against an employer in respect of an act or omission of his employee, the employer is liable to be convicted of and be punished for that offence unless he establishes the defence described in subsection (3).

(3) Where any proceedings are brought against an employer by virtue of this section, it is a defence for the employer to prove that -

- (a) the act was done or the omission was made without his knowledge or consent; and
- (b) he exercised all reasonable diligence to prevent the employee from doing the act or making the omission, or

doing an act or making an omission of that description, in the course of his employment.”.

- 44(a)(i) By adding “addressed to the Director and” before “delivered”.
- 44(b)(i) By deleting “delivered to the individual” and substituting “addressed to the individual and delivered to him”.
- 44(c)(i) (a) By adding “addressed to the body corporation,” before “delivered”.
- (b) In the English text, by deleting “giving it” and substituting “given”.
- 47 By deleting subclauses (3) and (4).
- 48(2) In the Chinese text, by deleting everything after “任何職能” and substituting “以書面轉授予任何公職人員，但本款及第38條委予的職能除外。”.
- 48 By adding -

"(3) In this section, "functions" (職能) includes powers and duties."

50 By deleting the clause and substituting -

"50. Power of Secretary to amend Schedules

- (1) The Secretary may by order published in the Gazette -
- (a) add any Convention-regulated chemical, including its CAS registry number or other description, to Part 1 of Schedule 1 or 2;
 - (b) remove any specified chemical, including its CAS registry number or other description, from Part 1 of Schedule 1 or 2;
 - (c) make any amendment to Part 2 of Schedule 1 or 2 that only relates to a Convention-regulated chemical or the removal of a specified chemical; and
 - (d) make any amendment to Schedule 1 or 2 that is

consequential, incidental or related to the addition, removal or amendment made under paragraph (a), (b) or (c).

(2) Subject to subsection (3), the Secretary may by order published in the Gazette make any other amendment to Schedule 1 or 2.

(3) An order made under subsection (2) is subject to the approval of the Legislative Council.

(4) An order made under subsection (2) may, where the Secretary considers desirable, include any matters that may be included in an order made under subsection (1).

(5) For the purposes of subsection (1) -

(a) a chemical is a Convention-regulated chemical if the chemical is subject to the regulation of the Rotterdam Convention or the Stockholm Convention on the relevant

day; and

- (b) a chemical is a specified chemical if, at some time before the relevant day, the chemical has been subject to the regulation of the Rotterdam Convention or the Stockholm Convention but is no longer subject to such regulation on that day.

(6) In subsection (5), "relevant day" (有關日期) means the day on which the Secretary makes the order under subsection (1)(a) or (b) in respect of the chemical concerned."

New By adding -

"50A. Protection of public officers

(1) A public officer is not personally liable for any civil liability or claim whatever in respect of any act done or omitted to be done by the officer if the officer did or omitted to do the act in the honest belief that the act or omission was required or authorized by or under this

Ordinance.

(2) The protection conferred by subsection (1) does not in any way affect the liability of the Government for the act or omission of the public officer.”.