

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 1 November 2006

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

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

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

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

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

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

MEMBERS ABSENT:

THE HONOURABLE LEE CHEUK-YAN

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

PUBLIC OFFICERS ATTENDING:

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

THE HONOURABLE JOSEPH WONG WING-PING, G.B.S., J.P.
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

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

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

THE HONOURABLE FREDERICK MA SI-HANG, J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

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

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

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>
Banking (Capital) Rules	228/2006
Banking (Disclosure) Rules	229/2006
Banking (Specification of Multilateral Development Bank) Notice	230/2006
Banking (Specification of Public Sector Entity in Hong Kong) Notice	231/2006
Banking (Amendment) Ordinance 2005 (Commencement) Notice 2006	232/2006
Prevention of Bribery Ordinance (Amendment of Schedule 1) (Hong Kong IEC Limited) Order	233/2006
Specification of Arrangements (The Mainland of China) (Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income) Order	234/2006
Land Survey (Fees Revision) Regulation 2006	235/2006
Public Health and Municipal Services (Fees and Charges) (Museums) (Amendment) Regulation 2006.....	236/2006
Protection of Children and Juveniles (Places of Refuge) (Amendment) Order 2006	237/2006
Places of Detention (Juvenile Offenders) Appointment (Consolidation) (Amendment) Order 2006	238/2006

Probation of Offenders (Approved Institution) (Consolidation) (Amendment) Order 2006	239/2006
Reformatory School (Establishment) (Consolidation) (Amendment) Order 2006	240/2006
Immigration (Places of Detention) (Amendment) Order 2006	241/2006
Remand Home (Amendment) Rules 2006	242/2006

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Regulation on Spraying of Pesticides

1. **MR ALBERT CHAN** (in Cantonese): *President, recently, I have received complaints from members of the public about the spraying of pesticides or herbicides (such as Gramoxone) on walkways in the rural areas or in the vicinity of kindergartens. They are worried that these chemicals may pose health hazards to residents (especially young children). In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received in each of the past three years about the spraying of pesticides or herbicides in unsuitable places, together with a breakdown by districts;*
- (b) *whether currently there are measures to regulate the spraying of pesticides; if so, of the responsible government department; if not, the reasons for that; and*
- (c) *whether it will consider strengthening the monitoring of spraying pesticides in order to safeguard public health; if it will, of the details; if not, the reasons for that?*

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

- (a) The Government has received a total of 10 complaints about pesticide spraying between 2003 to 2005 and during 2006 (January to October).

The Government received five complaints about the use of pesticides in 2003. Three of the reported incidents occurred in Tai Po with the remaining two in Sai Kung and Lamma Island.

One case occurred in Mui Wo in 2004.

Three cases were received in 2005, one each in Tseung Kwan O, Tsuen Wan and Kwai Tsing.

Between January and October 2006, the Government received one complaint about the use of pesticides in Mui Wo.

Most of the complainants of the above 10 cases expressed dissatisfaction about the spraying of pesticide or were worried about its impact on health. The investigation of the Agriculture, Fisheries and Conservation Department (AFCD) did not disclose any use of unregistered pesticide, but the department advised the parties concerned to follow the instructions on product labels about the proper use of pesticides. The investigation of the Environmental Protection Department (EPD) also did not disclose any breach of environmental protection legislation relating to the use of pesticide. None of the 10 cases posed health hazard to the public.

- (b) The current Pesticides Ordinance (Cap. 133) (the Ordinance) regulates the import, supply, sale and manufacture of pesticides by stipulating requirements on the registration of effective pesticide ingredients, licensing, labelling and packaging. Only pesticides that are registered may be marketed and used in Hong Kong. The Ordinance is enforced by the AFCD. At present, there is no express provision in the Ordinance that regulates spraying of pesticides.

To protect public health, the AFCD has printed leaflets and pamphlets to educate the public on the proper application of pesticide, and to remind them to follow the instructions on product labels. The AFCD also provides technical support to farmers and pesticide companies on the proper and safe ways to apply pesticide.

On receipt of a complaint about improper use of pesticide, the AFCD will send its staff to see if there is any breach of the Ordinance, such as the use of unregistered pesticides. If the complaint is related to environmental pollution, the EPD will send its staff to investigate whether any environmental protection legislation has been breached.

- (c) The Health, Welfare and Food Bureau plans to amend the Ordinance in 2007 to require all pest control companies and persons concerned to first obtain accreditation and approval from the AFCD before applying pesticides in public places, and follow the relevant safety procedures, safeguard measures and guidelines on product labels, in order to safeguard the health of the public.

MR ALBERT CHAN (in Cantonese): *President, I am surprised by the Secretary's reply that none of the 10 cases about spraying of pesticide posed health hazard to the public, because some of the cases occurred in the vicinity of kindergartens. Parents were so concerned that they did not send their children to school, so were the headmasters. It is thus obvious that in terms of investigation.....because some of the children have breathing problems, asthma to be exact. I do take the Secretary's reply with a grain of salt if he holds that spraying insecticides in the vicinity of kindergartens will not pose health hazard. The Secretary has been so keen on the smoking ban.....*

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

MR ALBERT CHAN (in Cantonese): *President, I will raise the supplementary question now. The Secretary has been so adamant about the smoking ban, but so slow in monitoring and regulating the spraying of insecticides as amendments will not be introduced until 2007.....*

PRESIDENT (in Cantonese): Your supplementary question is.....

MR ALBERT CHAN (in Cantonese): *President, I am coming to it. Can the Secretary tell us, in terms of requiring pest control companies and persons concerned to first obtain accreditation, how the Secretary is going to ensure that the health of residents or persons in the vicinity, in particular the children, will not be affected by the insecticides?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, I thank Mr CHAN for having mentioned this supplementary question to me outside the Chamber, so that I can have time to prepare for the reply.

I need first to clarify the risks of pesticides. The majority of pesticides will not constitute direct health hazards to the user unless he or she has swallowed it or is directly exposed to it. The user has to dilute the pesticide before spraying, so generally speaking, it will not cause any major impact on human beings. If one follows the guidelines written on the label, it is pretty safe to use pesticides.

Just as Mr CHAN has mentioned just now, the herbicide Gramoxone is odourless and tasteless. In early 1990, there was a case of poisoning because the person concerned had mistaken it as soya source. Thus, we introduced legislation in 1994 to require the adding of colour, odour and nauseant into several pesticides of the same type, so that people can be aware of the spraying of insecticides in the vicinity when they smell nauseous odour, but it does not mean that they will be affected by the insecticides. I think that this is a preventive measure. We thus have to ascertain the level of risk and then proceed to legislation in 2007, mainly to bring in two factors. Firstly, to change the present requirement of registration by ingredients to registration by products. By so doing, it will be easier to know, for instance, whether a product is approved for sale or use. Secondly, in terms of enforcement, any contractor who intends to use these products in public places, such as venues under the jurisdiction of the AFCD or the Leisure and Cultural Services Department (LCSD), has to obtain a licence beforehand. These are the two main factors. In addition, we certainly have to prohibit the use of insecticides, which have already been banned internationally and may cause pollution and particular

health hazards, in Hong Kong in accordance with the two major international conventions, namely the Rotterdam Convention and the Stockholm Convention. At present, in order to comply with the requirements of international conventions, these insecticides are no longer available in Hong Kong. We plan to table the relevant legislation to the Legislative Council in 2007 so as to ensure that the use and licensing of these drugs are subject to regulation.

MR TOMMY CHEUNG (in Cantonese): *President, in part (c) of the main reply just now, the Secretary stated that the Bureau plans to amend the Ordinance in 2007 to regulate the use of pesticides in public places. May I ask the Secretary, in view of pest control work is frequently performed on private residential premises, whether the Secretary will consider incorporating private residence into the Ordinance? Because pest control companies very often may not teach their employees the procedures of using pesticides, the smell of which may be nauseous but not harmful to health, and so on. For example, how to handle the insecticides when there are other persons present. May I know whether the Ordinance will regulate the use of pesticides in private residence?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, if private residence is put under regulation, such as licensing is required before insecticides can be sprayed in one's own backyard, I believe it will become a nuisance to the public. However, in the interest of public safety, at present, we will strengthen education and step up distribution of leaflets in a bid to enhance public understanding of the problem of possible health hazards of using insecticides. In particular, attention should be given to the proper storage of insecticides to prevent confusing them with food. The biggest risk, as we have found, is mis-consuming them or using them for suicide. This is the biggest problem. Of course, labels and guidance will be provided to teach users how to use the insecticides. We will heed public views in drawing up amendments to the Ordinance.

MISS TAM HEUNG-MAN (in Cantonese): *President, the Secretary stated in part (c) of the main reply that amendments will be introduced to the Ordinance in 2007. May I ask the Secretary, in the interim between today and 2007, what measures the Secretary has in place to prevent the public from buying insecticides for consumption or suicide? Will there be some measures?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, there are many products on the market which should not be used for consumption and are harmful to the body if used for suicide. Hence, the only thing we can do is to adopt other measures to prevent suicide. Explicit labels are appended on insecticides and a label of skull and crossbones is attached to all insecticides indicating that they are poisonous and cannot be consumed. I believe the public is well aware of that.

MR CHEUNG HOK-MING (in Cantonese): *President, the Secretary mentioned in the main reply just now that the import, supply, sale and manufacture of pesticides are regulated, but then he went on stating that there is no express provision in the Ordinance that regulates the use of pesticides. As considerable sites in the New Territories are zoned by the outline zoning plans as, for example, country park, agricultural land, agricultural priority area and so on, may I ask the Secretary whether the use of pesticides in these sites are now regulated by the Government? To what extent are they regulated?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, at present, different government departments, such as the Food and Environmental Hygiene Department (FEHD), Lands Department, Housing Department and LCSD, have contractors to carry out mosquito and pest control work for them, and the appropriate use of pesticides has been prescribed in their contracts. Contractors are required to obtain prior approvals from the FEHD and Housing Department before the former can use pesticides; while the contract terms of the pest control service of the FEHD also require that the staff of the contractor must complete before the start of the contract a training course on the skills and safety measures for using specific pesticides. Contractors are required to use only the pesticides listed in the register of pesticides of the Ordinance. For government employees, in order to teach them the knowledge and safe use of pesticides, training and practice notes on the use of pesticides are provided to the staff of the FEHD, Housing Department and LCSD. Members can rest assured of that.

MR DANIEL LAM (in Cantonese): *President, the Secretary stated in his reply that many complaints were about incidents happening in the New Territories. May I ask the Secretary whether he will conduct extensive publicity through the*

Heung Yee Kuk and District Councils on the use of pesticides, including common herbicides, so as to better protect the health of locals and tourists?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, this is a very good suggestion. I believe we will provide more information on the proper use of insecticides through the Heung Yee Kuk, in particular the village leaders, to their neighbours. I share Member's concern about whether institutions such as kindergartens should be notified of the time of pesticide spraying, so that, perhaps, after discussions, they can agree on a better approach such as spraying pesticides during holidays. I believe we can rely on the Heung Yee Kuk to co-ordinate this task.

MR HOWARD YOUNG (in Cantonese): *President, the Secretary mentioned in part (b) of the main reply that, at present, there is a threshold stipulated in Cap. 133 of the Laws of Hong Kong requiring prior registration before a pesticide can be manufactured and marketed. May I ask the Secretary, as far as Hong Kong is concerned, how high this threshold of registration is? Does every pesticide imported, other than bearing a production certificate from its place of origin stating that it has met international as well as local standards, have to be examined by the authorities in Hong Kong before it can be registered?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we usually assess the pesticide in terms of the risk of each of its ingredients and its effectiveness, and most important of all, of its toxicity and ability to dissolve and dissipate under normal circumstances because pesticides will, in general, vaporize and dissipate gradually after spraying in a few days to a couple of weeks. Poisonous pesticides which remain in the environment for a long time are deemed unsuitable for local use. We will, of course, see if there is an antidote as some poisons may have while some may not. We will thus determine which pesticides are suitable for registration in Hong Kong depending on different situations.

Moreover, as I have mentioned just now, we can decide by looking at the environmental impacts of pesticides as specified by the two international conventions, such as by identifying those pesticides which will pollute the environment, with a view to safeguarding public health. There are two major types of chemicals listed in the Stockholm Convention and the Rotterdam

Convention the use of which is now prohibited in Hong Kong. After legislation is introduced in the future, we will not entertain registration of these drugs in Hong Kong. On the whole, we can say that our threshold is rather high, but in view of the high population density in Hong Kong, this should be a safer approach.

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

MR ALBERT CHAN (in Cantonese): *President, I wish to ask a follow-up on the scope of amendment in 2007. Is the Secretary aware that a lot of private farmland is adjacent to people's residence, and that many such farmland owners use large amounts of herbicide not only for killing pests, but also for killing the weed? As many of these herbicides can be carcinogenic to the human body or harmful to the respiratory system, will the Secretary consider regulating the use of products, which have a great impact on human body, in private places and bringing these products under the control of the new ordinance?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, in relation to the unique topographic environment of Hong Kong, we will consult different parties to evaluate whether we need to introduce other aspects of regulation on the use of insecticides into the legislation in the future. What we are planning to do now is to focus on the registered users, in particular those who wish to be licensed for frequent use of insecticides. If a rather great impact is expected to be inflicted on family or on other fronts, we will certainly ensure that the public is aware of the impact. I believe we will conduct a consultation to determine the way forward before legislation is introduced.

PRESIDENT (in Cantonese): Second question.

Impact of Five-day Work Week on Government Office Buildings Canteens

2. **MR TOMMY CHEUNG** (in Cantonese): *Regarding the impact of implementing five-day work week on the canteens in Government office buildings, will the Government inform this Council:*

- (a) *of the current number of canteens operated by contractors in Government office buildings; whether the authorities had, before implementing five-day work week, consulted operators of such canteens and assessed the possible impact of the measure on their business turnovers;*
- (b) *whether it has conducted surveys on how the business turnovers of such canteens after the implementation of five-day work week compare to those before that; if so, of the survey results; and*
- (c) *whether it will exercise discretion to reduce the rent of the affected canteens to compensate for their losses?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I now reply to Mr CHEUNG's question as follows:

- (a) There are currently 84 government canteens operated by contractors and managed by individual departments concerned, out of which three are located in buildings mainly for office use. Most of the canteens are operating in buildings (such as police stations) where the relevant departments have continued to provide services on Saturdays (and on Sundays in certain cases). The majority of the government employees in these buildings have not shifted to the five-day week initiative. Our assessment is that implementation of the five-day week generally will not have significant impact on the business turnover of government canteens and therefore, we consider it not necessary to consult the canteen contractors prior to the implementation of the five-day week.
- (b) The departments concerned have not conducted surveys to compare the business turnovers of government canteens before and after implementation of the five-day week initiative.
- (c) If canteen contractors suffer hardship in operating their canteens as a result of the five-day week initiative, they may apply to the departments concerned for rental concession. Each application will be considered on the individual merits of the case and where justified, rent concession may be granted.

MR TOMMY CHEUNG (in Cantonese): *President, the Government wants to be a scrupulous employer as it talks about average wage on the one hand and five-day week on the other. I would like to ask the Secretary this: Can the Government also be a scrupulous landlord in that it will not provide assistance to them only when they really face business difficulties? We often patronize the canteen in Central Government Offices (CGO) and we can all see what is going on there. As I have to work on Saturdays, I see that the business of the canteen is slack and there are even more employees than customers. In view of this situation, can the Secretary be more proactive by reducing their rent, instead of helping them only when they have difficulties? The Government should take the lead to be a scrupulous landlord. Since it is the Government's policy that caused their business to slacken, can the Government reduce their rent to show that the Government, being a scrupulous employer, will provide assistance to small tenants in difficulties?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, as I said in the main reply, they may raise the issue with the departments concerned if they consider that their operation has been affected by the five-day week initiative. As the canteen patronized by Mr CHEUNG is managed by the Administration Wing, they absolutely can talk to the Director of Administration. How could we help them if we do not know about their situation in detail? So, they should communicate with us and let us know, should they not?

DR LUI MING-WAH (in Cantonese): *Obviously, after the implementation of five-day work week, the departments concerned have conducted surveys to compare the business turnover of government canteens. In part (a) of the main reply, however, it is pointed out that the implementation of five-day week generally will not have a significant impact on the business turnover of government canteens. I would like to ask: What justifications does the Government have? Is this indicative of negligence on the part of the Government?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I would like to tell Dr LUI that of the 84 canteens mentioned by me earlier, 71 are operating in departments where the seven-day

work week is still implemented, whereas six are in departments where the staff still work six days a week. The canteen patronized by Mr CHEUNG as he mentioned earlier is located in CGO where there are three canteens in total. In spite of the implementation of the five-day week, sometimes we still go back to our office in CGO to work on Saturdays; I am as hardworking as Mr CHEUNG and so, I may go back to CGO to work on Saturdays and I also patronize that canteen. But as I said earlier, 71 of those 84 canteens are operating in departments where the seven-day work week is implemented while six others are in departments where the six-day work week is implemented. Therefore, the impact on them is insignificant and we do not think that they will be affected considerably. That is why we did not consult them and there is no question of negligence on our part. I wonder if the Secretary for Civil Service has anything to add.

MR JEFFREY LAM (in Cantonese): *In his reply to Mr Tommy CHEUNG's question earlier, the Secretary said that the majority (or 71) of the government canteens are operating in departments where the seven-day work week is implemented. I would like to ask this: Have these 71 canteens put forward any opinion on this new initiative or have they lodged any complaints?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Among the contractors of the 84 canteens, two had actually put forward their opinions or stated that the policy would probably have impact on their operation. One contractor had put forward his views before the five-day week was implemented, expressing concern about its possible impact on his business. It was before the implementation of the five-day week that he had put forward his views. The other contractor expressed his views after the implementation of five-day week. The relevant departments that have implemented the five-day work week are considering the contractors' applications.

MRS SELINA CHOW (in Cantonese): *President, this is certainly how government officials work. When an application is submitted, they would consider whether or not to approve it. First of all, I would like to ask the Secretary this: He said earlier that the seven-day work week is still implemented in some government departments, but in the departments where these 71 canteens are operating, how many civil servants have actually switched to the five-day*

work week? In other words, some of the civil servants may have switched to the five-day week, although there are still people coming to the office seven days a week. Such being the case, patronage is set to decrease. Moreover, these canteens are prohibited under the contract from providing service to people other than those of the department concerned, which means that they are not open to the public, because they are not allowed under the contract to provide service to outsiders. If such being the case, will the Secretary consider being a scrupulous landlord by notifying them that they can submit an application if the five-day work week has affected their business and reassuring that the applications will be considered expeditiously, rather than being processed in slow progress, while requiring them to produce relevant proof? It is because since no survey is conducted and it takes months to do so, they might have been closed down by the time it is completed.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, most of the 71 canteens that I mentioned earlier are operating in the office buildings of disciplined forces, such as the Hong Kong Police Force which have the most canteens as they have 47. There are 13 canteens in the Correctional Services Department, four in the Immigration Department and three in the Marine Department. So, most of them are located in the office buildings of disciplined forces which are not affected by the five-day work week for the time being.

Concerning Mrs Selina CHOW's point about urging the Government to be a scrupulous employer, I wish to point out that during the outbreak of SARS in 2003, the Government did grant rent concessions to these canteens. So, we understand that if the canteens are in difficulties, we will do something to help them out. It is not the case that the Government has to be a scrupulous employer, as often mentioned by Mr CHEUNG and Mrs CHOW. In fact, we are already a scrupulous employer.

As these canteens are within the purview of the departments concerned, if the contractors have really reflected to the Government that they have run into difficulties in operation, the Government will certainly help them. The Government would not, as Mrs CHOW is worried about, take a long time to handle these cases. Moreover, the media may probably report on this question today and so, the contractors of these 80-odd canteens will know what the Government thinks, that is, they can reflect their problem, if any, to the departments concerned.

MR HOWARD YOUNG (in Cantonese): *President, I would like to ask the Government whether, in the contracts signed with the contractors, the rent is, to a certain extent, pegged to the business turnover, similar to the practice adopted by some shopping malls? If so, this can save the Government the need to conduct a lot of surveys.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): No, President, it is not. Some canteens actually do not have to pay any rent. Perhaps let me provide Members with some information. Of the 84 canteens, 35 are rent-free, whereas 49 pay the market rent but the rent is set out in the contracts, not pegged to their business turnover.

President, concerning a point made by Mrs CHOW earlier, that is, whether or not these canteens can be open to outsiders, I would like to add that in fact, the purpose of providing these canteens is for the convenience of government departments. For example, sometimes I have to attend an interview at Radio Television Hong Kong (RTHK) and as there is no restaurant along Broadcast Drive, I may have to walk for some 10 minutes in order to buy a coffee, but in RTHK there is a very good canteen downstairs where I can have a coffee or a sandwich conveniently. This is for the convenience of people who go there for business purposes or the employees there and so, they will not be open to the public. The purpose of their use is very clear.

MISS TAM HEUNG-MAN (in Cantonese): *The Secretary said earlier that 71 of the canteens are operating in government departments where the seven-day work week is still implemented, but as some colleagues said earlier, the patronage may sometimes be low despite the seven-day work week. In view of the low patronage, will the Secretary conduct a comprehensive consultation to understand how much loss in business turnover has been incurred by these 71 canteens as a result of diminished patronage (such as on Saturdays and Sundays)?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Business will never remain unchanged, for it can be affected by a multitude of factors. So, we cannot say that their business is affected by the five-day work week. As I said earlier, if they think that the five-day work week has caused difficulties in their operation, they can reflect them to the department,

but it is impossible to generalize the situation and work out a specific amount of the loss so incurred. I trust that Miss TAM, being an accountant, should understand this point only too well.

MR TOMMY CHEUNG (in Cantonese): President, I wish to follow up the Secretary's reply. I do not question the role played by the Government as a scrupulous landlord. Indeed, during the outbreak of SARS, not only government departments, but also the Housing Department and the Housing Authority did grant rent concessions to many canteens. Honourable colleagues have already made many points to follow up the main reply given by the Secretary today, but may I ask the Secretary if he can make some sort of an undertaking that the Government will reduce the rent as appropriate in case the canteens suffered loss in their business? Moreover, can the Government take the initiative to look into how much loss they have suffered in terms of business turnover? I remember that colleagues have made a point which is very true and that is, the business of those canteens may drop, but the Government simply knows nothing about it because no consultation has been conducted.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, as I said time and again earlier, if a government policy has affected the business of the canteens and hence caused difficulties to them in operation, they can bring it to the attention of the relevant departments. But if we have to conduct surveys on each and every canteen on our own initiative, it would still be very difficult to define the meaning of "impact". Therefore, when they found that the policy has impact on their business and hence caused problems, they can reflect the situation to the departments concerned anytime and we will handle their cases expeditiously.

MR TOMMY CHEUNG (in Cantonese): *President, the Secretary has not answered my supplementary question. I asked the Secretary whether he would undertake to compensate for the loss suffered by the canteens if the policy has an impact on them, rather than asking the canteens to reflect their situation to the Government when they are affected and caught in difficulties. It is because when they are affected, it does not necessarily mean that they have difficulties, does it? If the Government's policy has impact on them, the Government, as a scrupulous landlord, should make compensation to them.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): What I meant is that if the contractors consider that they have been affected by the policy, they can reflect it to the departments concerned. It is because when their business is affected, it could be affected by many factors, not necessarily by this policy alone. So, I hope that we can discuss this together and only when there is more communication that the problem can be solved

PRESIDENT (in Cantonese): Third question.

Introduction of Goods and Services Tax

3. **MR FREDERICK FUNG** (in Cantonese): *President, the Government has proposed the introduction of a Goods and Services Tax (GST) on the grounds that the existing tax base is very narrow and such a tax will ensure stable revenue. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed if the disparity in income is one of the causes for the existing narrow tax base; if so, whether it will consider adopting measures to alleviate the disparity in income, instead of adding more types of taxes, in order to broaden the tax base;*
- (b) *given that based on a 5% tax rate, the revenue to be derived from a GST will account for less than 12% of the Government's total revenue, consumer spending will fall in times of economic downturn (for example, private consumer spending in 2003 fell 14% in comparison with 1997), and the revenue from land sale remains volatile, whether the Government has assessed the actual effect of a GST in stabilizing government revenue, and whether it has assessed if it is reasonable to shift the risk of unstable revenue in times of economic downturn from the Government to members of the public who face wage reductions and unemployment in such times; and*
- (c) *given that the Financial Secretary said in September this year that when another round of economic downturn set in, the financial deficit would be higher than the \$190 billion deficit recorded during the last round, of the basis for his remarks, and whether he has taken into account a recent comment by a credit rating agency that*

after nearly 10 years of reform, the capability of the banking systems in Asia to withstand attacks has been significantly strengthened, making another financial crisis unlikely?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, my replies to Mr FUNG's question are as follows:

- (a) The narrowness of Hong Kong tax base is mainly related to our tax structure. All along, we have had limited types of tax. Nearly two thirds of the total tax revenue comes from profits tax, salaries tax and personal assessment. These two taxes are mainly paid by a small number of businesses and salaries taxpayers. One of the reasons for this is that the basic allowance of salaries tax and personal assessment is higher than the other jurisdictions. Our basic personal allowance is \$100,000, while the basic personal allowance is about \$35,000 in Australia, \$66,000 in the United States and \$73,000 in the United Kingdom. Moreover, we have a number of other allowances, such as dependent parent allowance, child allowance and dependent brother/sister allowance, and so on.

Regarding the issue of income distribution, low-skilled workers in more developed economies generally face the problem brought by economic restructuring as a result of market changes and keen competition arising from globalization. The Government is very concerned about this problem and has taken various measures, including education and training, to upgrade the quality of the workforce and enhance its competitiveness to meet the needs of economic development. The unemployment rate has now dropped to 4.7%, and the long-term unemployment has fallen by 50% compared with the peak in 2003. The earnings of low-income people have gradually increased, while the number of low-income economically active households has dropped significantly. This shows that the employment and income situations of low-skilled workers have improved in recent years.

- (b) While personal consumption generally falls during economic downturns, its fluctuations are smaller than those of real estate,

business profits and salary income. Therefore, the consumption-based GST could provide a more stable revenue source for the Government than our existing major revenue sources. Based on Hong Kong's economic situation in the past eight years, we have modelled the revenue that could be generated by the proposed GST. The result shows that the volatility of the revenue generated by GST is much smaller than that of the revenue from land sales, stamp duties, profits tax and even salaries tax. For example, during this eight-year period, revenue from land sales fluctuated by up to 540%, stamp duties by 140%, profits tax by 85%, and salaries tax by 51%. Assuming that a 5% GST was introduced during this period, the revenue generated would fluctuate by only 25%.

Moreover, under the proposed GST framework, there would be sufficient relief and compensation measures to ensure that the cost of living of the low-income households would not be affected upon implementation of a GST.

- (c) While the fundamental economic conditions as well as the management and governance of the banking sector of most Asian economies now are better than that before the 1997 Asian financial turmoil, globalization has led to a closer relationship and more interaction among all the economies in the world. In fact, the linkages among different financial markets are now much closer than that in 1997. Therefore, if any economy faces any sudden economic shock, its effects will ripple to other economies of the world through financial markets and other economic and trading channels. Although any economy will try its best to handle its economic problems, it is difficult to assess when the next financial crisis will come and we should not underestimate its chance of occurrence and gravity. Therefore, we should be prudent and maintain the fiscal stability as far as we can in order to cope with any potential economic problems.

MR FREDERICK FUNG (in Cantonese): *President, the Secretary has not answered how he came up with the staggering \$190 billion mentioned in part (c)*

of the main question. I hope he will give us a supplementary answer later. I would like to follow up part (a) of the main question, for the Secretary has not answered whether the narrowness of our tax base is attributed to the disparity in wealth. I have provided the Secretary with some figures from the Census and Statistics Department (C&SD). I believe he is aware of them too. At present, the highest-income people in the top two percentile and the lowest-income people in the lowest percentile in the territory account for 57% and a mere 0.9% respectively, of the total income of Hong Kong. It is natural that low-income people are not required to pay tax, and high-income people should pay more tax. Actually, should a targeted approach be adopted to enable people who are incapable of paying tax or low-income people to make more money so as to bring them into the tax net rather than strive to make low-income people to pay tax as well? Why does the Secretary not consider whether this is one of the reasons and instead consider introduction of a regressive tax regime?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): As I said in the main reply, the Government is definitely very concerned about the people's livelihood and their income. A lot of efforts have therefore been made in the hope that the quality of low-skilled workers can be upgraded. The Government has also proposed many education and training programmes in the hope of improving the income and living quality of the public. We will continue to work hard in this area.

MR FREDERICK FUNG (in Cantonese): *The Secretary has not answered part (c) of the main question.*

PRESIDENT (in Cantonese): Will you please repeat that part.

MR FREDERICK FUNG (in Cantonese): *President, part (c) of the main question mentions the worry expressed by the Financial Secretary in his earlier remark that the fiscal deficit might exceed \$190 billion next time. How did the Secretary come up with the figure? How could he project such a staggering figure?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I wonder if Members recall that a monthly deficit of several billions dollars would be recorded whenever the Government announced its fiscal situation after 1997, with the highest deficit reaching nearly \$70 billion a year. Now that several years have passed swiftly, our reserves have lost \$190 billion because of profits tax. According to last year's budget, the revenue should stand at \$70 billion. In around 2000, however, the revenue collected from this was \$37.7 billion, even less than \$38 billion. It is thus evident that the revenue can fluctuate sharply. Owing to our narrow tax base, and coupled with the fact that revenue from land sale depends on the market and the economy, revenue can be extremely unstable. Over the past eight years, only \$5.4 billion was collected in the year when revenue generated from land sale was at its lowest. Compared with nearly \$40 billion generated at the peak of land sale, dozens of billions of dollars have been lost. Under such an unstable situation, the deficit position has remained for years. Fortunately, with the recovery of the economy after SARS, we have managed to achieve the goal of eliminating the fiscal deficit ahead of schedule. The \$190 billion fiscal deficit was recorded because our revenue had remained unstable over the past couple of years while our expenditure has to be maintained at a certain level to provide services to the public. This is how we came up with the \$190 billion. As regards whether or not the fiscal deficit will reach \$190 billion or \$290 billion next time, we cannot tell because we have no crystal ball. We merely wish to point out that we have seen such situation before, and we must know how to deal with it should it occur again. This explains why the introduction of GST has been proposed to widen our tax base.

MR CHIM PUI-CHUNG (in Cantonese): *President, the Secretary mentioned in part (b) of the main reply that stamp duties have fluctuated by up to 140% over the past eight years. The Government has recently reviewed our tax base and carried out consultation in the hope of bringing Hong Kong in line with other countries or regions in the world in terms of GST. We understand that many other regions and countries have already abolished stamp duties. May I ask the Secretary whether he has examined during the recent review whether stamp duties, particularly the stamp duty on stock transactions, can be abolished? President, the tax base on which stamp duties are levied, as mentioned in part (b) of the main reply, is 40%.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, let me talk about stamp duties first.

Last year, we collected approximately \$17.5 billion in stamp duties, with half of them from stock transactions. I would like to remind Mr CHIM, though he should have known it very well, that stamp duty is levied only on stocks, not on warrants. Mr CHIM has obviously made a lot of efforts, and should have realized that stamp duties have been abolished in many places. However, stamp duties have continued to be levied in a lot of places, including Britain. As a major financial market, Britain still levies stamp duties. Insofar as the issue of stamp duties is concerned, various political parties will express their opinions when the budget is prepared every year. The Financial Secretary will definitely listen to their views and account to Members in the Budget.

DR KWOK KA-KI (in Cantonese): *President, the Secretary's reply is disappointing because part (a) of the main question asks the Secretary what can be done to widen our tax base in a fair manner, but GST has always been given as a standard reply. May I ask the Secretary if it is the case that no other options can be offered for our consideration? President, when we go out dining, we will have different kinds of food to choose from the menu, but why is it that only one kind of food is offered on the Government's menu?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I am very disappointed with Dr KWOK's supplementary question because he has obviously not read our consultation document. According to the document, 14 tax types had been examined when a report was submitted by the Advisory Committee on New Broad-based Taxes in 2002 after its establishment in 2000. The Financial Secretary has also indicated on numerous public occasions that we will heed advice if other better proposals are put forward by Members. I would like to clarify one point. Dr KWOK thought only one option is offered on our menu, but this is not true. Many tax types are indeed offered on the menu, though the Advisory Committee is of the view that GST is the most delicious and most capable of enhancing Hong Kong's competitive edge — it can not only maintain our competitive edge, but also widen our tax base. I would like to invite Members to take a look at our

consultation document. I would also like to ask Dr KWOK to examine its cover. It has mentioned nothing about GST. It reads: "Broadening the Tax Base, Ensuring our Future Prosperity — What's the Best Option for Hong Kong". In other words, Members should join in the discussion. Therefore, I hope Dr KWOK can read the consultation document before asking us questions on the next occasion.

DR KWOK KA-KI (in Cantonese): *President, first, Secretary, I have already read the entire consultation document. Actually, he is still.....*

PRESIDENT (in Cantonese): Dr KWOK, this is not time for debate.

DR KWOK KA-KI (in Cantonese): *I have to clarify.....*

PRESIDENT (in Cantonese): Neither can a clarification be sought.

DR KWOK KA-KI (in Cantonese): *I would like to ask him.....*

PRESIDENT (in Cantonese): No elucidation is allowed during Question Time. You may only ask about the unanswered part of the supplementary question raised by you earlier.

DR KWOK KA-KI (in Cantonese): *Fine. President, the Secretary has not answered me. When I asked him what could be offered, he had merely repeated GST. My question is: Does the Secretary have anything else to offer or has he got other proposals?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I have answered his question. I have nothing to add.

DR FERNANDO CHEUNG (in Cantonese): *President, with reference to the issue of income disparity in relation to the main question raised by Mr FUNG, the Secretary mentioned that the situation has apparently improved as the earnings of many low-income people have gradually increased, while the number of low-income economically active households has dropped. However, the Secretary has apparently neglected the fact that many people in the community, including the elderly, the disabled, women and housewives, are not income earners. According to the figures of the C&SD and the figures collated by the Hong Kong Council of Social Service, of the 800 000 or so elderly people aged above 65, more than 30% are living in poverty. May I ask the Secretary how he is going to explain to these people that, upon the introduction of GST, their expenses will have to be increased in all areas as they will have to pay for their travelling expenses and pay tax for medical consultation? As they have no income and they are living in poverty, how is the Secretary going to explain to them?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *Madam President, a series of relief measures have been proposed in our consultation document to provide a certain measure of compensation and other relief measures to Comprehensive Social Security Assistance recipients to prevent their livelihood from being affected. As for low-income people, similar proposals have been put forward too. Our consultation is still in progress. We have heard a lot of voices pointing out the areas where we have not done good enough, and we appreciate the comments. Should Members, especially those from the social welfare sector, put forward views on ways to bring perfection in this area, we will be more than willing to listen to their comments. We certainly do not hope to see poor people being affected as a result of the introduction of new methods to broaden our tax base.*

DR FERNANDO CHEUNG (in Cantonese): *President, I am very pleased to hear the Secretary say they.....*

PRESIDENT (in Cantonese): *Which part of your supplementary question has not been answered? You only need to point out that part.*

DR FERNANDO CHEUNG (in Cantonese): *The Secretary has not answered what specific measures he will explain to the elderly to put their minds at ease.*

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I merely wish to say that the consultation is still in progress. As its name suggests, consultation is all about listening to views. No policy will be finalized at this stage. Therefore, should Dr CHEUNG and other Members from the social welfare sector have any views, we will be very pleased to listen to them.

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

DR RAYMOND HO (in Cantonese): *The Secretary mentioned in the last line of the first paragraph of part (b) of the main reply that revenue from GST would fluctuate by up to 25%. Many places, including Britain, have seen their revenue fluctuating from 5% initially to 17.5% subsequently. If the revenue generated in this area fluctuates by 25%, what measures will the Government adopt to assure Members that GST will not be used to boost the Government's revenue in the future?*

PRESIDENT (in Cantonese): Secretary, do you understand this supplementary?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I think I have to explain clearly to Dr HO. The so-called volatility is the result of calculation by a certain method. If our spending is affected because of economic downturns, tax revenue will be reduced. The volatility is thus calculated in comparison with other tax types; it does not represent changes in tax rates. I wonder if I have answered Dr HO's supplementary question.

DR RAYMOND HO (in Cantonese): *I feel that the Government has.....*

PRESIDENT (in Cantonese): Dr HO, you do not need to "feel" or "think". Which part of your supplementary question has not been answered? You only need to repeat that part.

DR RAYMOND HO (in Cantonese): *Yes. In the reply given by the Secretary just now, part (b) is actually.....*

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered? Please sit down if the Secretary has already answered your question. Otherwise, please repeat that part only.

DR RAYMOND HO (in Cantonese): *I would like to stop here because he has already answered my question. Thank you.*

PRESIDENT (in Cantonese): Fourth question.

Mid-Levels Moratorium

4. **MR ALAN LEONG** (in Cantonese): *In September this year, the Office of The Ombudsman (the Office) published a direct investigation report which points out that the relevant government departments have not effectively executed the administrative measure known as the Mid-Levels Moratorium (the Moratorium) introduced in 1972. Consequently, the residential developments in Mid-Levels have become too intensive, and the traffic congestion problem has worsened. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the effectiveness of the administration of the Moratorium; if it has, of the date and specific details of such assessment; if not, the reasons for that;*

- (b) *whether it has taken into account the Moratorium when drawing up the existing Mid-Levels West Outline Zoning Plan (OZP) which imposes a plot ratio of around 5 in "Residential Group (B)" zone; if it has, of the details; if not, the reasons for that; and whether it has received any objections to the said OZP on the ground of the Moratorium; and*
- (c) *whether it will consider accepting the Office's recommendation by adopting appropriate measures "to supplement, strengthen or replace the Moratorium"; if it will, of the specific details of such measures; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): The Moratorium, which dates back to 1972, was introduced on traffic grounds. In the light of the traffic assessment and the known extent of development then, it was concluded that for the Mid-Levels area, all further sales of Government lands, and all further modifications of Government leases to permit more intensive development, should be deferred.

The Moratorium, being administrative in nature, was never intended to prohibit developments/redevelopments in the Mid-Levels area, but to restrict developments/redevelopments to what is permissible under the existing leases. As for leases that are unrestricted in terms of development rights, the Government cannot unilaterally impose a limit so long as the proposed redevelopment complies with the OZP and the Buildings Ordinance.

For the three parts of the questions, the Government replies as follows:

- (a) Since the implementation of the Moratorium, we have conducted eight traffic studies to monitor the traffic situation in the area, including the latest one conducted in 2005. The findings show that while there have been mild drops in vehicular travel speed, the overall situation remains relatively stable. For example, the Bonham Road/Caine Road corridor has registered slight changes in average vehicular speed. It was 17.3 km/h in 1984, 14 km/h in 1995 and 14.6 km/h in 2005. On the whole, the implementation of the Moratorium, coupled with a range of traffic and transport improvement measures over the years, has prevented serious traffic congestion in the area.

- (b) In preparing statutory plans, the Town Planning Board (TPB) would take into account certain basic principles, including residential density, land uses and the compatibility among transport, environmental and infrastructural planning.

When considering imposition of development restrictions for the Mid-Levels West area, the TPB was concerned about the traffic congestion problem and requested the Transport Department to conduct a traffic study for the area in 1986. Taking into account the findings of the traffic studies conducted by the Transport Department and the Highways Department between 1986 and 1989 (which concluded that unless the capacity of the relevant road networks could be improved and respective development restrictions be imposed on building developments, serious traffic congestion would occur in the Mid-Levels area), the aforesaid basic planning principles and other planning considerations (including the existing housing character of the area, infrastructural provision, environment and visual impact), the TPB decided to impose a maximum plot ratio of 5 for the "Residential (Group B)" (R(B)) zone when amending the Mid-Levels West OZP.

Upon the gazettal of the Mid-Levels West OZP No. S/H11/4 on 7 September 1990, the TPB received 29 objections against the plot ratio restriction of 5 for the R(B) zone. The objectors requested that the plot ratio restriction be either relaxed or removed. The TPB, however, did not amend the OZP in the light of the objections. The OZP was subsequently approved by the Executive Council.

The TPB is aware of the Moratorium. The maximum plot ratio has also been maintained since the aforesaid amendments to the Mid-Levels West OZP.

- (c) The Government will conduct a comprehensive review, listen to views from the community and consider all relevant factors, before deciding on the measures to be adopted to follow up The Ombudsman's recommendation.

MR ALAN LEONG (in Cantonese): *President, I would like to follow up the reply to part (a) of the main question. The Ombudsman has also mentioned the*

eight traffic studies in his report. But his conclusion is that there are traffic queues at the main road junctions in the Mid-Levels area and the average vehicular speed is lower than that in other districts on Hong Kong Island. The Office pointed out in the conclusion that the road capacity in the Mid-Levels has reached saturation. Similarly, eight traffic studies have been conducted, may I ask whether the authorities do not agree to The Ombudsman's report, that is, the three conclusions cited by me just now?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Our traffic studies actually pointed out that the average speed at Caine Road and Bonham Road is 14.6 km/h while the average speed for the whole territory in 2005 was 20.9 km/h. There is a difference between these two figures. But the traffic queues have not led to serious congestion. In this regard, perhaps the adjectives we used are different.

MR ALBERT HO (in Cantonese): *President, in the main reply, the Secretary mentioned that the plot ratio of some developments in the Mid-Levels West area had increased after gazettal of the OZP by the TPB. May I ask the Secretary whether he can explain the situation about the Mid-Levels East area? Has a review been conducted? Has the plot ratio been increased after planning by the TPB? Have the development restrictions been violated or changed as a result?*

PRESIDENT (in Cantonese): Mr Albert HO, this question is about the Mid-Levels West area while your question is about the Mid-Levels East area.

MR ALBERT HO (in Cantonese): *President, part (a) is about development planning as a whole. My supplementary question actually asked whether any changes had occurred to the Mid-Levels East area as a result of the deviation from the planning of the TPB. If so, what procedures have been followed in making such changes? I think my follow-up question will be clearer in this way.*

PRESIDENT (in Cantonese): Fine. Secretary for Housing, Planning and Lands, please answer.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Yes. Thank you, President. I think we all understand why the Mid-Levels West OZP was made. We have conducted studies again and again mainly because of the traffic and other considerations. We think it is necessary to have such a measure for the district. However, it was not necessary to impose such restrictions in other districts in Hong Kong at that time. So, we have not imposed the same restrictions in other areas, and we have not conducted similar reviews.

MR ALBERT HO (in Cantonese): *President, my supplementary question is mainly about one point. Since the development planning will be applicable to the entire Mid-Levels area — if my understanding is wrong, the Secretary can of course clarify it, but — if my understanding is correct, may I ask the Secretary whether there are any new planning for the Mid-Levels East area that will alter its development restrictions? My supplementary is as simple as that.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): The so-called Mid-Levels East area or Mid-Levels West area — I have a blueprint on the Mid-Levels West area. Regarding its area of extension, Magazine Gap Road in Central is, by and large, the dividing line, so the West of it is the West area while the East of it extends almost to Wan Chai and Jardine's Lookout. So, the East area and the West area are relatively large stretches of land. They are not compared as the East and West areas of Garden Road.

MR ALBERT HO (in Cantonese): *President, my supplementary question is very simple: Are there any changes to the East area? Is the development restriction still applicable? My question is so simple.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, as I just said, the West area is subject to restrictions. But it does not include other areas which are not subject to such restriction as I said just now.

MR PATRICK LAU (in Cantonese): *President, the development restriction is in fact very much affected by traffic. A very good escalator-cum-footbridge system has been designed for the Mid-Levels area. May I ask whether this measure has effectively improved the traffic congestion as a whole? If so, will the Government consider solving the problem by adopting this method?*

PRESIDENT (in Cantonese): Which Secretary will answer this question? Secretary for the Environment, Transport and Works.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): In fact, the footbridge system has of course played a certain role in the background of development restrictions and the evolution process. However, in the improvement of the traffic flow as a whole, no marked effect has been seen because the traffic flow has been on the rise in the past few years. Of course, for some building structures, owing to the restriction imposed by parking spaces, footbridges can be used to provide convenience to the pedestrians. But the effect is not obvious as far as vehicular traffic is concerned.

MR LEE WING-TAT (in Cantonese): *President, in the second paragraph of the main reply, it is mentioned that "The Moratorium, being administrative in nature, was never intended to prohibit developments/redevelopments in the Mid-Levels area, but to restrict developments/redevelopments to what is permissible under the existing leases." I would like to ask the Secretary this question. I certainly know that this administrative measure does not mean that development is prohibited, rather it is subject to a certain limit. However, may I ask the Secretary whether the department will enforce this administrative measure? How could the Secretary ensure that in enforcing the measure, the department concerned will not grant this developer a plot ratio of 5 and another developer a plot ratio of 3? In other words, it will not give the public an impression that the Government is biased and yields to, or totally yields to big developers instead of small ones.*

PRESIDENT (in Cantonese): Which Secretary will answer this question?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, this administrative measure was first formulated in the 1970s mainly not for prohibiting development. Instead, it depends on the land lease. If there is no restriction in the land lease, the development cannot be subject to restriction. However, in some areas, such as the land sold by the Government, new conditions can be added to impose restrictions. Besides, if the developers want to apply for change in land use or an increase in floor area, the Government will also consider these applications. We mainly consider the extent of development allowed under the original land lease and approval will be granted if the requirement is observed. So, in this aspect, the extent of development is not determined by any developer as it desired. But of course, since the 1970s, we also have formulated other measures. Just now, I have also mentioned some measures for traffic improvement. In the 1980s and 1990, we had the blueprint revised. In 1990, apart from the administrative measure mentioned just now, there was another statutory blueprint which imposed an upper limit or a maximum plot ratio of 5 on the land use of R(B) zone. So, this is a regulation or statutory restriction. Colleagues in the Lands Department are not allowed to arbitrarily grant this developer a plot ratio of 5 and another plot ratio of 6 on personal preference because it has been restricted to 5.

MR LEE WING-TAT (in Cantonese): *President, the Secretary has not answered the very simple part of my supplementary question. If some land leases have to be modified and it is necessary to lodge applications to the Lands Department and the Buildings Department for changing the plot ratio, what will the Secretary do in order to ensure that the same treatment is given to developers, no matter big or small, so that the public will not get an impression that this developer get more and that developer get less? The Secretary has not answered this part of my question.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, as I just said, the plot ratio cannot be increased. It mainly depends on the plot ratio allowed in the land lease. After 1990, the plot ratio of R(B) zone cannot exceed 5.

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

MS MARGARET NG (in Cantonese): *President, having lived in Robinson Road for almost two decades, I have really seen all the changes during this period. Many residents indicated that the development in the area seemed to be unrestricted and there were more and more high-rise buildings, apart from the construction of many multi-storey buildings. So, many residents queried whether the authorities had considered how many such developments could be sustained in the Mid-Levels areas. It seems that the Secretary's answer mainly deals with the traffic problem, but actually little has been said about it. In part (a) of the main reply, it has only mentioned Bonham Road and Cain Road. However, serious traffic congestion also frequently occurs in Robinson Road. May I ask the Secretary whether he has considered imposing restrictions on the development density of the area and formulating special planning?*

PRESIDENT (in Cantonese): Will the Secretary for the Environment, Transport and Works answer this question or the Secretary for Housing, Planning and Lands?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): This is a concern to both of us. President, perhaps let me answer the part which is relevant to me first. Should further information about traffic is required, Secretary Dr Sarah LIAO will supplement.

Of course, as I just said, during the past few decades from the 1970s to the present, there have been restrictions of different degrees and the Government holds different views on this problem. As Ms Margaret NG just said, we can see that more buildings have been built. We have to consider not only the burden on traffic, but also the burden on sewage treatment, potable water and other community facilities. So, why did we introduce such a restriction in the 1980s and 1990? This is not an administrative restriction. Instead, it is a restriction added to the statutory blueprint and has been implemented since passage. As I said in the main reply just now, when the restriction was first introduced at that time, there were a lot of objections. We had received more than 20 objections. At that time, the Governor in Council, after consideration, did not agree to the reasons for objection. In other words, although there were objections, such views were not accepted. However, it was agreed that the plot ratio of the blueprint be lowered. So, the Government has considered the matter for many years and the development is subject to restrictions.

After the imposition of restrictions, the density of the buildings will certainly be lowered. Regarding the traffic matter, I have to defer to Dr LIAO.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, I would like to answer Ms NG's question about the traffic condition in the Mid-Levels area. We have selected some data on Caine Road and Bonham Road because the traffic condition in these two areas is the worst in my table. Regarding Robinson Road, the area along Castle Road and Seymour Road, the situation is better. The vehicular speed in 2006 and 2005 is 26.5 km/h, exceeding the average vehicular speed in Hong Kong. Regarding the average vehicular speeds, we have gathered data for many years and such data vary greatly every year. In our studies, we found that the habits of road users may sometimes have a bearing. However, on the whole, we prefer solving the traffic congestion through various development restrictions. During the past three decades, we have implemented a series of measures to alleviate traffic congestion such as constructing infrastructural facilities. The Mid-Levels area is of course subject to its own restrictions. But we built the Hill Road flyover and the Aberdeen Tunnel respectively in 1981 and 1982. There was an extension project for Smithfield Road. Traffic control measures have been implemented on the flyover which was built in the 1980s linking Conduit Road and Robinson Road. In various road sections, restrictions on vehicular weight and length have been imposed in order to prohibit lorries from driving along designated corridors during the peak hours in the morning. We have also set up bus only lanes and imposed no-stopping restrictions.

Regarding the public transport network, we have set up 14 franchised bus routes, 12 green minibus routes, 16 resident service routes and provided red minibus services in order to encourage the people to take public transport. Besides, the authorities are now planning to build an escalator linking Centre Street with Third Street and Bonham Road. I believe many people in the district hope that this project can be completed expeditiously. The works will be started in 2008 and completed in 2010. I, of course, hope that the public will make more use of public transport.

PRESIDENT (in Cantonese): Fifth question.

Old and Dilapidated HOS Estates

5. **DR RAYMOND HO** (in Cantonese): *It has been reported that a number of Home Ownership Scheme (HOS) estates in Hong Kong are more than 20 years old, and the concrete layers of the external walls of buildings in such estates are spalling off. In Hong Nga Court in Lam Tin, for example, cases of concrete spalling off the air-conditioner canopy have started to emerge six years after the estate was completed, and the cumulative number of such cases has reached some 1 000 in three years. In this connection, will the Government inform this Council:*

- (a) *whether the authorities will consider implementing redevelopment projects for those HOS estates which are old and dilapidated;*
- (b) *for those old HOS estates where no major repair and maintenance works have ever been carried out, whether assistance will be provided to the owners to facilitate them to carry out regular inspections or repair works; and*
- (c) *regarding the HOS flats and buildings which are posing safety threats but the owners concerned have refused to carry out repair works, what measures the authorities will adopt to require the owners concerned to repair their flats/buildings?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, before answering the Honourable Member's question, I would like to point out that all the 145 HOS courts in Hong Kong are under 30 years of age at present. Their daily management is undertaken by professional property management companies appointed by Owners' Corporations (OCs). HOS courts are well-maintained and the building provisions are in good upkeep. HOS courts become private properties after sale. Their owners are responsible for the timely maintenance of the buildings to ensure that all parts are in good conditions.

Concrete spalling off the air-conditioner canopy at Hong Nga Court in Lam Tin is an isolated incident. The Housing Department (HD) has all along been discussing the repair arrangements with the OC of Hong Nga Court. In July 2006, it was accepted that repair works should proceed and agreement was

reached through mediation. The OC of Hong Nga Court is now making preparations to tender out the maintenance works.

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

- (a) As mentioned above, HOS courts become private properties after sale. All HOS courts are under 30 years of age and are well-maintained. Whether or not to redevelop them is not a subject for the Government to consider.
- (b) The Government will not conduct any regular inspection and maintenance for private properties.
- (c) As mentioned above, generally speaking, HOS buildings are well-maintained and should not pose any safety threats.

DR RAYMOND HO (in Cantonese): *HOS buildings are all multi-storey buildings. If the spalling of concrete occurs at the upper storeys of these buildings, it may lead to the death or injury of members of the public. Will the Government pay special attention to the fact that the cumulative number of cases of concrete spalling has reached some 1 000 in three years, as mentioned at the beginning of my question? If the Government is concerned about this, what measures will it take? For example, will it make the inspection of buildings mandatory or examine if the building quality parameters laid down when tender was initially invited for HOS buildings were conformed with, so that it can take necessary actions now?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): There are about 10 courts with the same design as that of Hong Nga Court and the total number of buildings stands at 29. However, on inspecting other courts, we did not find any incident similar to that at Hong Nga Court.

Perhaps let me first explain the situation at Hong Nga Court. On the windows canopies of the flats in that court, there are two metal rails designed mainly to facilitate the installation of air-conditioners at that location by residents. However, as far as I can see, not many residents have made use of

this design. They have generally adopted the conventional method and used frames to support their air-conditioners at the bottom. Since a lot of the metal rails are not used and, being located outdoors, they have rusted as a result and the concrete next to them has spalled off. However, since the affected areas are small, so no concrete spalling in large chunks has occurred and only small chunks of concrete have spalled off. Moreover, this happens at only in Hong Nga Court. We have inspected all of the other courts and found no such incident. Eight of them do not even have any sign of concrete spalling.

This situation began to appear at Hong Nga Court several years ago. Of course, the HD is concerned about this problem, so it requested the OC of the court to carry out repairs and maintenance. This problem can be fixed just by carrying out minor repairs works, however, for various reasons, the OC of this court refused to carry out repairs. The reason given by it is that this is a structural problem and since the HD was responsible for the construction of the buildings, it hopes that the HD will carry out the repairs for them. The two sides disputed this point for several years. As I have pointed out in the main reply, recently, both sides have reached a settlement agreement and agreed to carry out repairs. Under this agreement, both sides have made concessions and reached a settlement to solve the problem.

MR FRED LI (in Cantonese): *President, I think the Secretary has not looked at the design of this court seriously, however, I have made site visits many times.*

President, my question for the Secretary is: Since both sides have contended this main issue for so many years, ultimately, whose responsibility is it? Is this a structural problem? President, I wish to quote the structural gurantee given by the HD to property owners. It is stated clearly therein that "The Housing Department (sic) would be responsible for all structural repairs, including those necessitated by spalling and cracking, to any or all of the structural components (including all columns, beams, walls and floor slabs).....". The situation now is exactly one in which cracking has occurred and the concrete is spalling off because the reinforcement bars have rusted and bulged. However, the HD says that it does not have to assume responsibility because this is not a structural problem. But what is stated here is very clear. On going back, will the Secretary study the clauses in the structural guarantee because they will lead to a lot and a lot of disputes between owners and the HD

on whether the problem is structural or not. Will the Secretary carry out a review so that the problems which are covered by your 10-year structural guarantee can be more clearly defined?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Mr Fred LI has made site visits and of course, I have also been there and have taken some photos.

If Members take a look at the photos, they will know that the problem is comparatively speaking minor. Since steel wires were fitted there but the residents do not use them, they have become rusted due to exposure to the elements. Therefore, this is not a structural problem because the problem has occurred only because two steel wires have been fitted on the structure. Both sides have argued over this for three years. As I said just now, this is only an isolated incident and such problem is not found in other courts. After three years of dispute, we reached an agreement with the court in July this year. Under this agreement, in order to maintain a good relationship between both sides, the department agreed to meet part of the cost.

MR WONG KWOK-HING (in Cantonese): *May I ask the Government through the President whether the Government's Mandatory Building Inspection Scheme (MBIS) will cover HOS courts? Will owners of HOS flats be entitled to government subsidies under this scheme, so that inspections and repairs and maintenance can be carried out on their buildings and disputes can be resolved?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): We have not yet implemented the MBIS. If the President allows me to disclose some news, I am willing to disclose it in answering this question today.

As Members know, we have been carrying out the consultation for quite a long time and we reported the details at the start of the consultation. Now, we have nearly completed the consultation process and we intend to publish the consultation report early next year. One of our major considerations and proposals is the Government legislating for the mandatory inspection of buildings. If the Government endorses this proposal, we will introduce the

relevant bill to the Legislative Council for discussion and passage. Our present view is that all buildings should be covered (including HOS courts). If we introduce any subsidy scheme, of course, these HOS courts will also be able to benefit from it.

Not to mention the MBIS, in fact, at present, the Hong Kong Housing Society (HS) has also an annual scheme to subsidize property owners to carry out general repairs and maintenance on their buildings if there is such a need. The HS has such a subsidy scheme. If residents have such a need, they should go to their nearby HS office for discussions on whether or not they are eligible for the subsidies provided for such purpose.

MR WONG KWOK-HING (in Cantonese): *President, I wish to ask a question concerning the reply given by the Secretary just now.....*

PRESIDENT (in Cantonese): According to the Rules of Procedure, you can only ask a follow-up if your supplementary has not been answered, however, he has already answered it.

MR WONG KWOK-HING (in Cantonese): *All right, thank you, President.*

PRESIDENT (in Cantonese): You can wait for another turn, however, since a number of Members are still waiting, you probably will not have the opportunity to ask a supplementary again. *(Laughter)*

MR LI KWOK-YING (in Cantonese): *I wish to follow up part (c) of the question. At present, the ages of many HOS courts are over 20 years and back then, when the HD built these HOS courts, carcinogenic building materials were used. The flats were then sold to the owners who were not aware of this. It is now necessary to carry out repairs and maintenance, however, the cost is very enormous. May I ask if the authorities have any measure or responsibility to assist owners in carrying out repairs and maintenance?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): This is the first time I have heard that there is carcinogenic substance in the building materials of these courts. Can I go back and make enquiries on this? If there is any such instance, we have to deal with it seriously. I do not have such information on hand now.

MR LI KWOK-YING (in Cantonese): *President, is it necessary for me to provide any information? This is because the asbestos used.....*

PRESIDENT (in Cantonese): Mr LI Kwok-ying, you can communicate with the Secretary on this after the meeting.

MISS CHOY SO-YUK (in Cantonese): *President, the spalling of concrete off the external walls of buildings is both dangerous and environmentally unfriendly because a large amount of waste destined for the landfills will be generated. Therefore, legislation has been enacted on the Mainland stipulating that buildings of more than six storeys cannot use bricks or tiles and environmentally-friendly paints must be used. Since the spalling of concrete is so serious, may I ask the Secretary if consideration will be given to following the practice on the Mainland?*

PRESIDENT (in Cantonese): Miss CHOY So-yuk, although this question has mentioned the spalling of concrete, you are now asking a supplementary of another nature. Please wait for your turn to ask a supplementary again.

MISS CHOY SO-YUK (in Cantonese): *President, can you perhaps allow me to rephrase the supplementary?*

PRESIDENT (in Cantonese): Fine.

MISS CHOY SO-YUK (in Cantonese): *When repairs have to be carried out on buildings because concrete spalling has occurred, can the Secretary tell us*

if he will request that bricks and tiles not be used and paints should be used instead?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): As I have said, we are now talking about HOS courts and they are all private properties. If Members have this sort of proposals, I will be happy to convey them to the OCs concerned.

MR FREDERICK FUNG (in Cantonese): *President, the paper mentions that nearly 1 000 cases of concrete spalling have occurred at Hong Nga Court in Lam Tin. This is most unusual and the only other court that is comparable is Hoi Fu Court.*

Since the Government has had discussions with the OC concerned and a conclusion has been reached, that is, the HD is willing to bear some of the expenses, which are the items on which the Government is willing to assume responsibility and as a result, the Government has to pay the cost incurred? Besides, how much is that sum of money?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): As I have said, this is a settlement agreement, that is, both sides agreed to work out a settlement agreement, so a third party was identified to conduct arbitration. According to the agreement, we have to obtain the consent of the other side before disclosing the details. Therefore, I have only talked about the main thrust and the fact that we have agreed to meet some of the cost. To avoid violating the agreement, I can only say that most of the cost is in fact borne by us. This is mainly intended to show that both sides are sincere in finding a solution to the problem.

As regards the scope involved, this is very simple. It includes the two metal rails that cause the spalling of concrete. Nothing else is included, so the scope is quite narrow.

DR LUI MING-WAH (in Cantonese): *Be it due to poor design or construction, it seems that the situation of concrete spalling in public housing estates is far more serious than that in private housing estates.*

May I ask the Government if it has any figure that will make it possible to compare the situation of concrete spalling in public housing estates with that in private housing estates in the last three years?

PRESIDENT (in Cantonese): Dr LUI Ming-wah, I think you should ask another question because the main question has to do with HOS courts but you are now talking about public housing estates and private buildings. I think your supplementary is irrelevant to the main question.

DR LUI MING-WAH (in Cantonese): *In that case, may I request the Secretary to simply compare the situation of concrete spalling in HOS courts with that of private buildings?*

PRESIDENT (in Cantonese): Since a comparison with the situation of concrete spalling in private buildings is not part of the supplementary put by you just now, the public officer may not have the information now to give a reply.

DR LUI MING-WAH (in Cantonese): *OK, then I will narrow the scope further. In the last three years, how was the situation of concrete spalling in HOS courts?*

PRESIDENT (in Cantonese): Fine. Secretary, do you have any information in this regard?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I have made some preparations just now. Compared with other courts of the same design which also have the possibility of concrete spalling — I do not know how the situation in courts of different designs is like — I have also said just now that this is an isolated incident. Even though the same design was adopted in other courts, no concrete spalling has occurred and such a serious problem can only be found in this particularly court. It is said that the number of cases of concrete spalling runs to over 1 000 because the number of metal rail is great and each rail will lead to concrete spalling. Although only small chunks of concrete

have fallen down, however, since they have fallen from every flat, so there are over a thousand cases of concrete spalling.

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

MR PATRICK LAU (in Cantonese): *After learning of this question, I went to many courts to have a look. In fact, one of the problems is that no condensation drain pipes are fitted to the old-style air-conditioner slots. It is very important to drain the condensation from air-conditioners and new buildings all have drain pipes fitted.*

May I ask the Secretary whether this is in fact a serious problem? When carrying out repairs and maintenance, is it necessary to install such pipes, as new buildings have?

PRESIDENT (in Cantonese): Mr Patrick LAU, your supplementary asks.....

MR PATRICK LAU (in Cantonese): *This is because the cause of concrete spalling lies in the fact that the air-conditioners.....*

PRESIDENT (in Cantonese): Is it relevant to the subject in the main question?

MR PATRICK LAU (in Cantonese): *Yes, very much so. I found that all the objects there have all become black and all the fallen objects came from them. Can this be fixed properly in the future? This is very important and in my view, this is one of the major causes.*

PRESIDENT (in Cantonese): I understand your view but what matters most is not your view but your supplementary. I have already understood your supplementary.

MR PATRICK LAU (in Cantonese): *OK. My supplementary is: Will the authorities require them to fix this properly.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): We have in fact pointed out time and again that this is not a major problem, only this has posed a special problem to this court. I dare not speculate on the reason but this is probably somewhat related to the execution of works. If people want to have air-conditioner condensation hoses linked to drain pipes when carrying out repairs and maintenance, I believe they will definitely do so.

Perhaps let me change the subject a little. Of course, we will not do this for HOS courts, however, if such a design is found in public housing estates, we will also channel the condensation to a drain pipe when carrying out repairs and maintenance, so as to reduce the nuisance caused to residents.

PRESIDENT (in Cantonese): Last oral question.

Policy on Green and Innovative Buildings

6. **MISS CHOY SO-YUK** (in Cantonese): *President, in order to encourage developers to introduce green elements in the construction of buildings, the Government has implemented a policy on green and innovative buildings since 2001 to allow green features to be exempted from the calculation of gross floor area (GFA) of the developments concerned. At the Legislative Council meeting on 26 April 2006, the Administration advised this Council that it would review the effectiveness of the relevant incentives. In this connection, will the Government inform this Council:*

- (a) *of the progress of the review; and*
- (b) *whether it will consider introducing other measures to encourage the use of green materials and the provision of green facilities in buildings, such as those concerning energy saving, waste sorting, use of renewable energy and roof greening; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, it is an established government policy to encourage and promote the construction of green and innovative buildings. One of the measures is the exemption of certain green features from the calculation of GFA in building developments. This increases common areas and facilities in the buildings and also improves the living environment of residents.

My reply to parts (a) and (b) of the main question is as follows:

- (a) Since the introduction of the above measure, the Government has been monitoring the provision of green features in building developments. Recently, the Buildings Department (BD) has, in conjunction with other relevant departments, initiated a review of the effectiveness of the incentive measure. The review is expected to be completed early next year.
- (b) The Government's policy on provision of incentives covers balconies, wider corridors and lift lobbies, communal sky gardens, communal podium gardens, acoustic fins, sunshades and reflectors, non-structural prefabricated external walls, utility platforms and mail delivery room with mailboxes. These features are conducive to building a greener environment, reducing energy consumption and construction waste as well as promoting the use of natural renewable energy. They also provide residents with more usable areas, communal facilities and in turn enhance residents' convenience in many ways. Generally speaking, these facilities contribute positively towards improving people's quality of life. We have received positive and supportive feedbacks from our initial review. That said, exempting the green features from calculation of GFA brings another problem. The floor areas of these additional features will increase the bulk and density of the buildings and affect the surrounding environment. This issue is also a concern of the Legislative Council Public Accounts Committee (PAC) and the general public and will be covered by our review. Before the completion of the review, we do not have any plan to offer GFA exemptions as an incentive for the provision of further green features at the moment.

To promote the installation of energy conservation and renewable energy power systems, the Electrical and Mechanical Services Department has issued codes of practice and established guidelines to facilitate adoption by the industry as well as for the reference of the public.

As far as roof greening is concerned, the Architectural Services Department aims to implement green roof projects for new government buildings as far as practicable, and also encourages developers to incorporate green roof features into their private buildings projects.

As regards waste separation, the Environmental Protection Department (EPD) encourages housing estates to adopt waste separation modes and recovery facilities that best suit the characteristics and design of their buildings. The EPD has published a "Guidebook on Source Separation of Waste in Residential Buildings" for the reference of the trade and the public. Staff from the EPD also pays visits to housing estates to provide advice on feasible waste recovery modes based on the physical settings of individual estates.

In addition, in order to promote separation of waste at source, the EPD and the BD are exploring the feasibility of introducing statutory requirements for new buildings to reserve floor space on each floor for the provision of a refuse storage and material recovery room. Such rooms will facilitate the separation and recovery of waste.

With the concerted efforts of various government departments, we are confident that we can further encourage developers to incorporate more green features into their development projects.

MISS CHOY SO-YUK (in Cantonese): *President, the Secretary stated in the main reply that, since the exemption of green features from the calculation of GFA has aroused the concern of the PAC of the Legislative Council and the general public, therefore no more new incentives will be introduced. I have no objection to this.*

Nevertheless, incentives may come in different forms, other than only GFA exemptions. For example, buildings can be classified into different grades, whereby buildings with green and aesthetic features belong to a certain grade and can be sold at higher prices. This is also a possible incentive. A lot have been said by the Secretary in this respect, for example, the developers will be encouraged to carry out roof-greening projects in private buildings. However, may I ask what has been done specifically to encourage the developers? Since the Secretary said that there will not be GFA exemptions, what incentives will be provided then?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, with regard to the problems we are facing every day, where does the point of balance lie? We have, of course, provided a number of incentives. The current question is: What more can be done on this basis? Earlier on, I have pointed out in the main reply that this approach will bring another problem. At the PAC meeting held last year, I said that this was a difficult give-and-take question. On the one hand, we have to firmly state the GFA, the built area and the bulk as some safeguards. However, flexibilities in other respects will be lost with these safeguards. Therefore, the issue is still under consideration. Regarding the remark made by me earlier about the absence of new incentives, it means that no new incentives will be introduced before the completion of this report.

Here is my response to the points raised by Members earlier. Despite that there will not be any provision of exemptions as incentives, but it is still possible if they want to. I have already disclosed the initiatives that will be implemented if circumstances permit, for example, space will be reserved in new buildings for the separation of waste at source. All these initiatives will be taken into consideration.

PRESIDENT (in Cantonese): Miss CHOY So-yuk, has your supplementary question not been answered?

MISS CHOY SO-YUK (in Cantonese): *President, maybe the Secretary did not quite catch my supplementary question. In fact, my question is: Does he have any specific ideas to encourage developers to provide these green facilities, apart from GFA exemptions?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I think the question has been answered and I have nothing to add. I wonder if Secretary Dr Sarah LIAO has anything to add.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, if we are not talking about the construction of buildings, perhaps I can report on other aspects, say, the measures to encourage private developments and public housing estates to participate in the programme of waste separation at source. In fact, there are 1.87 million Hong Kong people participating in this programme. So, what is the incentive? It is our commitment to contributing towards environmental protection. What is more, the rate of recovery may rise to 56%, which is an average taken from 64 housing estates.

The recovered material is also a kind of resources. I have learnt from some housing estates that — this is, of course, not a statistical figure — the monthly income generated from the recovery of material amounts to more than \$30,000, and this is the incentive. This sum of \$30,000-odd can be used for landscaping the housing estates and beautiful gardening — I can see that Mr LAU is very happy — whereas housing estates having commitment to society may use this sum of money to adopt orphans.

Therefore, incentive is not only confined to tangible properties, it is also a way through which a harmonious society can be built. In other words, while giving better protection to the environment will boost the vitality of communal activities as a whole, we can also make use of the recycled resources to create a better environment as well as to help other people. This is one form of incentive.

MR TAM YIU-CHUNG (in Cantonese): *President, during the recess this year, I followed a Legislative Council delegation to Tokyo inspecting roof greening. We all find this trip very meaningful. However, as noted from the main reply, the Government does not seem to be very active in this respect as the Secretary said, ".....the Architectural Services Department aims to.....as far as practicable". In other words, the Government will only do as far as practicable insofar as government buildings are concerned, and its attitude towards private developers is likewise merely one of encouragement. Is such an inactive*

attitude of the Government or the absence of relevant requirements attributable to the many financial or technical problems involved in roof greening? This is the point I wish to ask.

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question? Secretary Dr Sarah LIAO.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Insofar as public works is concerned, active efforts have actually been made in greening, not only in roof greening and vertical greening, but better landscaping and greening as well. So far, 60 government-managed new buildings have been installed with roof or podium greening facilities. At present, government building projects under planning or construction that involve roof greening include schools, community centres, hospitals, office buildings, crematoriums and recreational and cultural facilities. The extent of greening will be determined by the use and design of the roof, and architectural consideration will usually be given as well. As a result, greening accounts for 10% to 80% of a building's total roof area, depending on the building services and communication facilities located on the roof.

Earlier on, Mr TAM mentioned the situation in Japan. I have visited Japan too. Since the place is subject to certain restrictions, greening projects cannot be implemented in every building. Consideration should be given to the properties where roof greening projects can be carried out, the cost incurred, the material specifications required for the structure and the actual design. The implementation of these projects are initiated by the Government. As for private buildings, apart from actively promoting the project, we will also examine the possibility of including a relevant requirement in the guideline, that is, the code of building. It is rather complicated to make greening a mandatory requirement as it is determined by the condition of each building. There is no easy way to implement the project in a broadbrush manner.

MR LEE WING-TAT (in Cantonese): *President, I believe the Secretary should be aware that green features of buildings, such as sky gardens and wider corridors are turned into built area by the developers when they put up the flats for sale. A study indicates that the areas of flats sold in the '80s and '90s were*

exaggerated to the extent that a flat with a built area of 1 000 sq m had a saleable area of 800 sq m to 850 sq m only, whereas buildings currently on sale have included such expanded facilities as sky gardens into the calculation of GFA. As a result, the saleable area of a flat with a built area of 1 000 sq m is only 750 sq m or 700 sq m.

This is actually an abuse by developers, who have turned the green facilities into saleable area. May I ask the Secretary how such abuse can be prevented? The Secretary is being good-intentioned, but this has given the developers an opportunity to reap more profits in the sale of flats.

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I think that the marketing strategies adopted by different property developers are not exactly the same. Generally speaking, the saleable area must be set out as developers are required to state the saleable area and the so-called GFA, as well as their ratio.

I guess that all buyers should know the size of the flats they bought if they have actually been there, and all the measurements should be made available to them. Certainly, the information provided by the developers may be incomprehensive when the flats are put up for sale, as we all know, the sale of uncompleted residential properties in particular, they have therefore been required to make improvements in this respect. Furthermore, there is a self-regulatory regime, and it is noted that they are now considering the introduction of penalties. Of course, we must first take a look at their specific proposals. If the proposals fail to cater for the needs of the general public, or they are not good enough, as I have said, the Government will intervene when necessary.

MR HOWARD YOUNG (in Cantonese): *President, the Secretary stated in the main reply that the exemption of certain green features from the calculation of GFA has received many positive views, but there is also one negative view that the bulk of the building may increase and result in screening.*

My question is: Apart from this negative view, has the Government received other negative views pointing out that these facilities have resulted in the leakage of water to the unit immediately below it or affected the building structure?

PRESIDENT (in Cantonese): Which Secretary will answer this supplementary question? Secretary Michael SUEN.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, a review is now ongoing. There is so far no flood of negative views, and I am not sure if there is such view at all. However, it should be negligible even if there is any because I can see that it is not covered by the relevant figures.

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

MR ALBRT CHAN (in Cantonese): *President, the Secretary highlighted in the main reply that green features can be exempted. However, just as Mr LEE Wing-tat said earlier, many developers still calculated the exempted areas into the saleable area when the flats were put on sale. This gives people a very strong feeling that the Government is transferring benefits to the major consortium, which belongs to collusion between the Government and business. How can the Secretary explain to members of the public and convince them that the inclusion of the exempted areas into the saleable area is in no way a transfer of benefits or collusion between the Government and business?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I think that this question has been answered when I replied to the supplementary question raised by Mr LEE Wing-tat just now. We should all know that saleable area is different from the so-called GFA. If we are looking at saleable area, the exempted area is certainly not included.

Perhaps I should add something. It is true that green features can be exempted, but developers are not exempted from all payments relevant to the exempted areas. There is no need for the developers to pay if the place in question is a communal area, but if, however, it belongs to any unit, say, utility platforms and balconies, the developers concerned will have to pay for it.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Outstanding Leisure and Cultural Services Projects of Former Municipal Councils

7. **MR CHEUNG HOK-MING** (in Chinese): *President, it has been reported that in view of the economic growth and favourable returns of the Exchange Fund, the Government will allocate funds to expedite the implementation of the outstanding leisure and cultural services (LCS) projects of the former Municipal Councils (MCs), and the costs involved will be around \$3 billion. In this connection, will the Government inform this Council:*

- (a) *whether it plans to use \$3 billion to expedite the implementation of the outstanding LCS projects of the former MCs; if so, of the timing for the funding arrangement to be finalized, as well as the details and implementation timetables of the projects concerned; and whether it has estimated the job opportunities that can be created by these projects;*
- (b) *given that the Government reported to this Council in early 2006 that it would commence planning for 21 LCS projects, whether the LCS projects to be implemented with the abovementioned funds are among the 21 projects or are entirely new projects; and*
- (c) *whether the abovementioned arrangement will set a precedent, and whether the Government will allocate special funds under similar circumstances in future to implement projects to improve people's livelihood or measures to enhance social welfare?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, my reply to Mr CHEUNG Hok-ming's question is as follows:

(a) and (c)

Public works projects, including LCS projects, are funded by the Capital Works Reserve Fund (CWRF). The saying that a special allocation of \$3 billion or use of the returns from the Exchange Fund for implementation of the ex-MC projects is unfounded. The Administration appreciates the concerns of Members, District Councils, and the community on the dire needs for LCS facilities. Hence, we plan to implement 70 LCS projects within five years (2006-2007 to 2010-2011). This would involve a total investment of \$11 billion. After the completion of the planning work and the necessary procedures, we would proceed to seek the Finance Committee's funding approval for allocation from the CWRF to implement these projects. It is estimated that over 5 000 jobs could be created in these projects. On 23 October, we reported the plan to the Subcommittee to Follow up the Outstanding Leisure and Cultural Services Projects of the Former Municipal Councils under the Home Affairs Panel (the Subcommittee).

(b) Early this year we reported to the Subcommittee on proceeding further with the planning work of 21 LCS projects (19 of them are ex-MC projects). These 21 projects have been included in the above 70 projects.

Safety of Cosmetic Products

8. **MR FRED LI** (in Chinese): *President, in September this year, the cosmetic products of a Japanese brand were found by the mainland authorities to have contained "chromium" and "neodymium", and the agent concerned decided to suspend the sales of the products in the Mainland. However, after conducting tests and seeking advice from the Department of Health (DH), the Customs and Excise Department (C&ED) has advised that the impact of the two substances on users' health should be minimal under normal use. The C&ED has also indicated that the cosmetic products concerned of that brand comply with the safety requirements under the Consumer Goods Safety Ordinance*

(Cap. 456) (the Ordinance), and they will still be allowed to be sold openly in Hong Kong. In this connection, will the Government inform this Council:

- (a) whether different criteria are adopted by Hong Kong and the mainland authorities in respect of the safety standards and testing methods for cosmetic products; if so, of the reasons for that;*
- (b) whether it will consider enacting legislation to require all cosmetic products to have proper labels specifying the application, ingredients, possible adverse reactions and the proper ways of using the products, and so on, in order to safeguard consumers' health; if not, of the reasons for that; and*
- (c) of the measures in place to ensure that cosmetic products available in the market are all safe for use; whether it will, in the light of the alleged safety problems of cosmetic products mentioned above, review these measures and work out a more effective mechanism to prevent the recurrence of the above situation?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Chinese): President, the safety of consumer goods, including cosmetic products, for supply in the local market is regulated under the Ordinance. Manufacturers, importers and suppliers are required to ensure that all consumer goods they supply are in compliance with the general safety requirement under section 4 of the Ordinance.

The general safety requirement for consumer goods is that such goods should be reasonably safe, having regard to all the circumstances including:

- (i) the manner in which, and the purpose for which the goods are presented, promoted or marketed;
- (ii) the use of any mark in relation to the goods and instructions or warnings given for their keeping, use or consumption;
- (iii) reasonable safety standards published by a standards institute or similar body; and
- (iv) the existence of any reasonable means to make the goods safer.

With regard to the three specific parts of the question, my answer is as follows:

- (a) As regards testing criteria, we understand that in testing and determining the safety of cosmetics, the Mainland's General Administration of Quality Supervision, Inspection and Quarantine normally makes reference to the Hygienic Standard for Cosmetics of People's Republic China (GB7916-87). According to GB7916-87, any use of chromium or neodymium as a constituent in cosmetic products is prohibited.

In considering whether the products in question meet the general safety requirement under the Ordinance, the C&ED has referred to the Cosmetic Directive of European Commission 76/768/EEC. This Directive allows for the presence of traces of chromium or neodymium in cosmetic products provided that the presence of such substances is technically unavoidable in the course of a proper manufacturing process and that the cosmetic product concerned must not cause damage to human health when applied under normal or reasonably foreseeable conditions of use.

In addition to the above standards, the C&ED has also made reference to the Food Adulteration (Metallic Contamination) Regulations and reports on the safe daily intake of chromium released by the United States National Academy of Science, and has sought an expert medical opinion from the DH. When making the risk assessment on health, the DH will make reference to the established international standards and consider whether the products would be harmful to the body, the relevant exposure quantity and exposure route.

Having taken into consideration the above standards and advice from the DH, and noting the small traces of the two substances found in the products, the C&ED is of the view that the health risks posed by the cosmetic products is low under normal usage, and that there is no evidence to suggest that there has been a breach of the general safety requirement under the Ordinance.

- (b) Section 10 of the Ordinance empowers the Commissioner of Customs & Excise to require the manufacturer, importer or supplier of consumer goods, including cosmetic products, to modify their labelling, packaging or advertising to make sure that they comply with the general safety requirement. Under the Consumer Goods Safety Regulations, any labels containing a caution or warning as to their safe keeping, use, consumption and disposal must be displayed in both the English and Chinese languages.
- (c) As the Department responsible for enforcing the Ordinance, the C&ED regularly takes samples of cosmetics from the market for testing to ensure that cosmetics supplied in Hong Kong meet the general safety requirement for consumer goods.

Between January 2004 and September 2006, the C&ED conducted 718 spot checks and concluded 39 investigations involving cosmetic and personal hygiene products. These checks and investigations found no product that is hazardous to consumers.

In the light of recent concerns that have been expressed about possibly unsafe cosmetic products, the C&ED will conduct additional spot checks on cosmetics retailers to ensure that the products supplied are reasonably safe.

The C&ED distributes pamphlets promulgating product safety at trade and consumer product fairs, and also conducts regular seminars on product safety for suppliers and trade organizations. The Department co-operates with the Consumer Council in providing advice and safety tips to consumers on the purchase and use of consumer goods through the monthly magazine *CHOICE*. The C&ED will explore with the Consumer Council ways of enhancing public awareness of safety issues related to cosmetics products.

Medium of Instruction for University Courses

9. **MR BERNARD CHAN** (in Chinese): *President, an expatriate student studying at a local university wrote to the press alleging that although it is stated*

in the prospectus that the medium of instruction (MoI) for some university courses is English, they are in fact taught in Cantonese or "cocktail language", thus hampering expatriate students' learning. In this connection, will the Government inform this Council whether it knows if the authorities of tertiary institutions:

- (a) have learnt of the above situation, and have conducted investigation to ascertain whether the situation is prevalent;*
- (b) have taken measures to ensure that lecturers teach with the MoI as stated in the course prospectus; and*
- (c) have taken measures to help students who are not conversant with Cantonese cope with their learning difficulties arising from language problems, and whether more resources will be allocated in this respect?*

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

- (a) All University Grants Committee (UGC)-funded institutions have established detailed policies and guidelines on the MoI. These cover, among other things, the approved MoI for course delivery, the special circumstances under which a language other than the approved MoI can be used, and the arrangements for communicating the MoI policies to students. The institutions will also advise the students of the MOI to be used for delivering individual courses and modules. As we understand it, except for a few isolated cases, the institutions have closely followed their MoI policies and guidelines and the approved MoI.
- (b) All UGC-funded institutions have put in place measures to ensure that their established MoI policies and guidelines are followed. These include:
 - regular promulgation of the MoI policy to teaching staff (for example, through circulars and reminders);

- regular monitoring and auditing of the MoI used in delivering courses and modules at the departmental level;
 - collecting feedback through established student feedback mechanisms (for example, questionnaires) to ensure that the MoI policy has not been breached; and
 - establishing complaint mechanisms and handling each and every of the complaints seriously.
- (c) The UGC-funded institutions have taken various measures to assist students who are not conversant with Cantonese to overcome their learning difficulties. Such measures include:
- establishing dedicated counselling offices to provide tailored and proactive support to foreign/non-local students (for example, providing advice on course selection, and notifying the students concerned in advance of classes that would not be taught in English);
 - exempting foreign/non-local students from taking courses that are offered in Cantonese only (for example, China studies);
 - offering English versions of courses/modules that are normally taught in Cantonese (for example, Chinese civilization);
 - ensuring that programmes that admit foreign/non-local students offer a wide selection of English-medium modules/courses; and
 - offering Chinese language courses to foreign/non-local students who want to learn Chinese.

It is noted that the UGC-funded institutions have already put in place a wide range of measures and devoted resources to assist foreign/non-local students in such areas as course selection and learning. At this stage, the Administration does not consider it necessary to provide the institutions with additional resources for this purpose.

Health Care Services for Tseung Kwan O

10. **DR JOSEPH LEE** (in Chinese): *President, it has been reported that certain specialist medical services provided by the Tseung Kwan O Hospital (TKOH) are inadequate, making it necessary for residents there to obtain services from the United Christian Hospital (UCH) in another district. In this connection, will the Government inform this Council:*

- (a) *of the details of health care services planning for Tseung Kwan O; whether it has reviewed the services to see if they can meet the present and future demand of the district; if it has, of the details of the review; if not, the reasons for that;*
- (b) *given the Government's past endeavours in promoting Tseung Kwan O as a "Healthy City", of the details of its present efforts in promoting primary health care in Tseung Kwan O, and the current health conditions of the residents there; and*
- (c) *how it will co-ordinate the medical services in Tseung Kwan O and its adjacent districts to avoid the Tseung Kwan O's inadequate medical services resulting in an increase in the demand for the medical services provided in its adjacent districts?*

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

- (a) The Kowloon East Hospital Cluster (KE Cluster) of the Hospital Authority (HA) provides medical services to some 970 000 residents in Kowloon East, Tseung Kwan O and Sai Kung. At present, hospitals under the KE Cluster include UCH, TKOH and Haven of Hope Hospital (HHH). In order to ensure that medical services provided by these hospitals are able to meet the needs of residents in Kowloon East (including Tseung Kwan O), the KE Cluster reviews their services from time to time having regard to the demographic changes and health profile of residents within the region. Capital works are planned and carried out based on projected service demand to facilitate the provision of additional facilities and services. In this connection, the HA has already embarked on drawing up the

expansion plans for TKOH and HHH. The HA will, in accordance with established procedures, examine these plans together with the detailed arrangements, before submitting them to the Administration for consideration.

- (b) The work on promoting Tseung Kwan O as a "Healthy City" is currently led by the Healthy City and Community Affairs Committee (the Committee) of the Sai Kung District Council. The Committee collaborates with various government departments, the business sector, non-governmental organizations and local residents, with a view to improving the health of residents in Tseung Kwan O. Both the HA and the Department of Health are represented on the Committee. Other government departments involved in the promotion of Tseung Kwan O as a "Healthy City" include the Home Affairs Department, the Education and Manpower Bureau, the Food and Environmental Hygiene Department and the Social Welfare Department. The priority areas in the Committee's work at present include home safety for children, healthy development of the youth, healthy schools, elderly health and home safety, and industrial safety.

The "TKO-Healthy City" Project Office commissioned The Chinese University of Hong Kong to conduct a community health survey early this year. According to the findings of that survey, about 67% of the respondents assessed their own health condition as "Quite Good" or "Very Good". In respect of healthy living habits, about 37% of the respondents were found to have adequate exercise, while those who consumed fresh vegetables and fruits three or more days per week accounted for 95% and 83% of the respondents respectively.

- (c) The services of the HA are provided on a cluster basis. Currently, there are two public hospitals in Tseung Kwan O, namely TKOH and HHH. TKOH is an acute general hospital with 425 beds, providing in-patient service, 24-hour accident and emergency service, specialist out-patient service, day wards, rehabilitation and community services. HHH is a specialist convalescent hospital with 425 beds. Apart from pulmonary medicine service, geriatric and rehabilitation service, and palliative (hospice) care in-patient

service, the hospital also provides infirmary service, specialist out-patient service, geriatric outreach and community care services.

Certain specialist services of the HA are currently centralized in a few specialist centres. In respect of Tseung Kwan O, the specialist services for which residents are required to seek attention from hospitals in other districts mainly include neurosurgery, treatment for major trauma, and specialist services in oncology, obstetrics, and ear, nose and throat (ENT). We understand that this will cause some inconvenience to the residents. However, from the medical point of view, with the concentration of expertise, technology and facilities, the centralization of certain specialist services in a few specialist centres will enable the hospitals to provide higher quality medical services, which is beneficial to patients. Take the recent reorganization of ENT specialist service in the KE Cluster, where the provision of service was further centralized in UCH earlier this year, as an example. This change has not only allowed the KE Cluster to increase the number of specialist out-patient consultation sessions in ENT and reduce the median waiting time for new cases from 17 to 11 weeks, it has also made the provision of one-stop service possible, for example, by allowing patients to receive treatment procedures immediately after consultation instead of having to wait for a follow-up appointment.

Quality of Water for Keeping Live Seafood

11. **MR LAU KONG-WAH** (in Chinese): *President, it has been reported that some seafood sellers have allegedly used flushing sea water for keeping live seafood. In this connection, will the Government inform this Council:*

- (a) *as the Food and Environmental Hygiene Department (FEHD) regularly takes water samples from fish tanks of seafood sellers for laboratory tests, whether this measure has been reviewed to see if there are any loopholes; and*
- (b) *of the number of seafood sellers prosecuted in each of the past three years for keeping live seafood with water the quality of which failed to meet the legal standards?*

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

- (a) Under section 10A of the Food Business Regulation (Cap. 132, sub. leg. X), no person shall in the course of any food business keep any live fish or shell fish intended for human consumption in water of a quality below the standard specified by the Director of Food and Environmental Hygiene (the Director) by notice published in the Gazette. The specified standard is "E. coli less than 610 per 100 ml and absence of pathogenic organisms". Anyone in breach of the provision is liable to a maximum fine of \$10,000 and imprisonment of three months upon conviction.

At present, fish tank water samples are collected by the FEHD from all licensed food premises and market stalls selling live seafood intended for human consumption, including premises holding a live fish permit, for E. coli testing once every eight weeks. To alert the operators of the premises with deteriorating quality of fish tank water or failing disinfection system at an early stage so that remedial measures could be carried out in a timely manner, the action level is set at 180 per 100 ml. Upon receipt of any report exceeding this action level, the FEHD would inspect the premises concerned within three working days to give advice to the operators concerned regarding the proper repair and maintenance of the filtration and disinfection facilities for fish tank water. Thereafter, follow-up samples would be taken within one week for both E. coli and Vibrio cholerae testing. If the test results of the follow-up samples remain unsatisfactory, the FEHD staff would continue to conduct site inspections and take water samples until the irregularities are rectified.

In addition to the above, a separate and additional sample will be taken from each premises for Vibrio cholerae testing between May and September every year. Should pathogenic Vibrio cholerae be found, Director may order closure of the premises on health hazard grounds under the authority conferred by section 128C of the Public Health and Municipal Services Ordinance (Cap. 132).

According to the arrangement as set out above, the FEHD collects and tests fish tank water on a frequent basis. We consider this practice appropriate.

Moreover, for more effective control of the quality of fish tank water, we submitted a proposal to amend the Food Business Regulation to the Legislative Council Panel on Food Safety and Environmental Hygiene on 15 April 2005. The proposal sought to prohibit abstraction of seawater for the purpose of keeping live seafood for human consumption from waters where a consistently high level of E.coli was detected according to the data collected by the Environmental Protection Department on marine water quality. In July and August 2006, we conducted consultation sessions with the trade and members of the District Councils and Area Committees on the proposal. The trade and the district representatives were generally supportive of the proposal. Our plan is to introduce the Amendment Regulation in 2007.

To encourage self-regulation of the trade, the voluntary Quality Seawater Assurance Scheme was launched in January 2006 by the Health, Welfare and Food Bureau for seawater suppliers and seafood traders. As at the end of September 2006, a total of about 120 premises were accredited. These accredited premises include seawater suppliers (that is, the wholesale fish markets of the Fish Marketing Organization at Aberdeen, Cheung Sha Wan and Kwun Tong) and seafood wholesalers/retailers such as supermarket chains, seafood restaurants and sales outlets.

- (b) From 2004 to the end of September 2006, 40 prosecutions were taken out by the FEHD against operators of the premises for keeping live seafood intended for human consumption in fish tank water which did not conform with statutory requirements. Of these, 31 prosecutions were instituted in 2004, five in 2005 and four in the first nine months of 2006.

Protecting Privacy of Medical Practitioners

12. **DR KWOK KA-KI** (in Chinese): *President, I have received several complaints about the personal data of medical practitioners published on*

egazette not being reasonably protected because many of them use their residential addresses as their medical practitioner's registered address, but anyone with an ordinary Internet search engine can find out the personal data of those medical practitioners, such as their registered addresses, by inputting the name of a doctor and "egazette" (the English name of the Gazette on the Internet). In this connection, will the Government inform this Council:

- (a) whether it will request the Registrar of Medical Practitioners (the Registrar) to issue a statement each year reminding medical practitioners that they may use their business addresses or post office box numbers instead of their residential addresses as their registered addresses;*
- (b) whether it will request Internet search engine companies to stop using and delete the personal data of medical practitioners obtained from the egazette so that the privacy of the medical practitioners concerned can be protected; and*
- (c) whether there are ways to guard against abuse of the personal data of medical practitioners contained in the egazette, and whether it will consider amending the Medical Registration Ordinance (Cap. 161) (MRO) to provide that registered addresses of medical practitioners may not be published in the egazette in order to protect the privacy of medical practitioners?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese):
President, pursuant to the MRO, a registered medical practitioner is required to supply the Registrar with a registered address at which notices from the Medical Council may be served on him. The MRO also provides that as soon as may be after 1 January of every year, the Registrar shall publish in the Gazette a list of all persons whose names appear on Part I and Part III of the General Register on 1 January and the list shall contain the names, addresses, qualifications and dates of the qualifications of these persons. In addition, as soon as may be after 1 July of every year, the Registrar shall publish in the Gazette a list of the above-stated information of all persons whose names were added to Part I and Part III of the General Register between 1 January and 1 July of such year. From the Gazette, members of the public can ascertain if a person is a registered medical practitioner and obtain information about his registration particulars.

A registered medical practitioner should apply for renewal of his practising or retention certificate annually on a prescribed form. Now my reply to the question is as follows:

- (a) On the application form for practising/retention certificate, it is clearly stated that the registered address of a registered medical practitioner will be published in the Gazette and that the registered address supplied to the Medical Council may either be the business address, residential address or post office box number. All registered medical practitioners are reminded of this requirement every year as the renewal of the practising/retention certificate is an annual exercise.

A registered medical practitioner may, at any time, inform the Registrar in writing of any change in his address. Medical practitioners are reminded of this arrangement in the half-yearly Newsletter of the Medical Council. The Administration encourages the Medical Council to continue this practice of reminding medical practitioners of this arrangement on a regular basis through its Newsletter.

- (b) and (c)

The Gazette is a government publication for public perusal. Upon gazettal, any information therein becomes public information. Pursuant to the E-government policy and as an environmentally-friendly initiative, the Administration has, since December 2000, uploaded the full set of Gazette onto the Government's website for public viewing on top of the printed copies.

Under the Personal Data (Privacy) Ordinance (Cap. 486) (PDPO), any person who collects, holds, processes or uses (including disclosure or transfer) personal data is regarded as a data user, who is subject to the requirements of the PDPO. The PDPO is applicable to personal data processed on the Internet.

It is provided under Data Protection Principle 3 (restriction on the use of personal data as to the purpose) in the PDPO that without the

prescribed consent of the data subject, a data user may not use any personal data for any purpose other than the purpose for which the data were to be used at the time of the collection of the data or a purpose directly related to that purpose. Thus any person who without the prescribed consent of a registered medical practitioner listed on the Register uses the data for a purpose other than the purpose for which the data were published in the Gazette, contravenes the relevant data protection principle. The data subject can lodge a complaint with the Privacy Commissioner (the Commissioner). If, after investigation, the Commissioner is of the opinion that the data user has contravened a data protection principle of the PDPO, he may, according to section 50 of the PDPO, issue an enforcement notice to that data user, directing him to take measures to remedy the contravention. A data user who contravenes an enforcement notice commits a criminal offence and is liable on conviction to a maximum fine of \$50,000 and imprisonment for two years and, in the case of a continuing offence, to a daily penalty of \$1,000. In addition, the data subject who suffers damage by reason of the data user's contravention of a requirement under the PDPO shall be entitled to compensation from that data user for that damage through civil proceedings.

Light Rail Passengers Falling onto Railway Tracks

13. **DR FERNANDO CHEUNG** (in Chinese): *President, in 2003, 2004 and 2005, there were two, four and five accidents respectively which involved Light Rail (LR) passengers falling onto railway tracks. In January and October this year, similar accidents involving blind LR passengers occurred again. Over the years, some organizations have been demanding the Kowloon-Canton Railway Corporation (KCRC) to provide tactile guide paths and safety gates at LR waiting platforms. In this connection, will the Government inform this Council:*

- (a) *whether the KCRC has regularly reviewed if the existing facilities on LR platforms are sufficient to safeguard the safety of passengers, especially the visually impaired; if it has, of the outcome of the reviews, and the reasons for successive occurrence of accidents involving passengers falling onto railway tracks; if not, the reasons for that; and*

- (b) *whether the KCRC has any plan to provide tactile guide paths and safety gates at LR platforms to prevent the recurrence of such accidents; if it has, of the progress and timetable of such plans; if not, the reasons for that, and the measures adopted by the Government to further enhance passenger safety so as to prevent the recurrence of such accidents?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President,

- (a) The KCRC always attaches importance to passenger safety. To ensure the safety of passengers awaiting trains at platforms, including those visually impaired, the KCRC has adopted the following measures at LR platforms:
- (i) yellow tactile lines are installed at all platforms to alert visually impaired passengers that they are close to the front edge of the platform and that they should not exceed the line in order to prevent accidents from happening;
 - (ii) white lines are painted at platform edges to remind passengers to mind the platform gap;
 - (iii) buzz warnings are sounded before train doors are closed and broadcast is made inside train compartments to remind passengers that train doors are closing;
 - (iv) broadcast is made at platforms to remind passengers not to stand beyond the yellow line and to mind the platform gap;
 - (v) trains are operated at a slow speed when approaching and leaving stations. Drivers will pay extra attention to the conditions at crossings and platforms in order to prepare for any contingencies;
 - (vi) patrolling by staff at stations is arranged to liaise with the Operation Control Centre so that appropriate assistance can be provided to passengers; and

- (vii) platform assistants are deployed during peak hours at those stations with more patronage to assist passengers in boarding and alighting.

According to the KCRC, incidents involving passengers falling onto rail tracks were mainly caused by passengers' own conditions (such as feeling unwell or being drunk). There were also cases of passengers accidentally falling onto rail tracks while having disputes at platforms. As regards the two incidents involving visually impaired passengers falling onto rail tracks this year, the KCRC's investigation findings revealed that the yellow tactile lines and other facilities at platforms were in good condition at the time of the incidents. Both incidents happened during off-peak hours and the passengers concerned indicated that they were frequent users of the incident stations. The KCRC therefore considered that these incidents were accidents that were not caused by inadequate or defective safety facilities at platforms.

- (b) Tactile guide paths have already been installed at the 11 stops of the LR Tin Shui Wai Extension. With a view to gauging views from visually impaired persons on the installation of tactile guide paths at all LR platforms, the KCRC invited visually impaired groups to a site visit this September. The KCRC will conduct a study to examine the feasibility of whether the existing facilities for visually impaired persons could be improved and extended to other LR platforms. The outcome of the study is expected to be available in mid-2007.

The KCRC has been liaising closely with disabled groups to listen to their views on railway service. Over the years, the KCRC has been proactive in providing various additional facilities in the railway system for their convenience. For example, to address the need of visually impaired persons, braille signage has been provided on the emergency help point inside train compartments and broadcast has been arranged when trains arrive at platforms to enable visually impaired persons to note the route number and destination of that train. Due to geographical constraints and the possible impact on the operation efficiency of LR, the KCRC does not intend to install automatic platform gates.

The Government attaches great importance to the safe operation of railways. The Hong Kong Railway Inspectorate will investigate safety-related railway incidents and if necessary, request the KCRC to implement rectification or improvement measures to minimize risk of accidents to passengers. Furthermore, in order to better understand the needs of disabled persons in using public transport services, the Transport Department regularly convenes the "Working Group on Access to Public Transport for People with Disabilities" to provide a forum for disabled groups and public transport operators (including KCRC) to discuss matters on how to facilitate the use of public transport services by disabled persons. The Government will continue to encourage the KCRC to enhance its LR facilities for the benefit of disabled passengers.

Review of Local Access Charge

14. **MR SIN CHUNG-KAI** (in Chinese): *President, the level of local access charge (LAC) has not been revised since 2001. Some industry players have relayed that the current level of LAC renders effective competition difficult. The Office of the Telecommunications Authority (OFTA) has advised that regular reviews will be conducted on the level of LAC. It also indicated in its statement on 27 February 2004 that the calculation of LAC should not include local loop costs. In this connection, will the Government inform this Council:*

- (a) *whether it has any plan to revise the costing methodology of LAC by deducting local loop costs pursuant to the conclusion in the statement in 2004; if it has, of the relevant details; if not, the reasons for that; and whether it has any plan to review afresh the said costing methodology;*
- (b) *whether it has conducted any internal study on the costing methodology and level of LAC since 2004;*
- (c) *whether it has any plan to review the level of LAC and make corresponding revisions based on the review outcome, so as to ensure fair and effective competition in the external telecommunications services market; if it has, of the relevant details and schedule; if not, the reasons for that; and*

- (d) *whether it has reviewed the OFTA's performance in fulfilling its above pledge to review regularly the level of LAC; if it has, of the outcome; if not, the reasons for that?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): President, the regulatory regime for LAC that applies to fixed networks, which includes the costing methodology, level of charge and commitment for periodic review, was introduced by the Telecommunications Authority (TA) in 1998 when the external telecommunications service market was liberalized. In 2001, the TA revised the level of LAC according to the 1998 mechanism. In May 2004, the TA decided to exclude the local loop cost after a review of the costing methodology for LAC, and determined the level of LAC according to the revised methodology. Subsequently, PCCW sought a judicial review, which was accepted by the Court, thus overturning the determination made by the TA.

- (a) and (b)

The level of LAC set by the TA in 2004 could not be implemented because it was overturned by the Court. Since 2004, the TA has not conducted any internal study on the costing methodology and level of LAC. (See part (c) below for the reasons)

- (c) In view of the substantial change in the telecommunications market in Hong Kong, the TA is of the view that the review of LAC that applies to fixed network should not focus on costing methodology and level of charge only but should be a more comprehensive one about the necessity and reasonableness of the regulatory intervention in respect of LAC in order to protect fair and effective competition. The OFTA therefore, consulted the industry concerning the regulatory regime of LAC for fixed networks in May 2005. After considering the views of the industry, the TA concluded that LAC for fixed networks was closely related to the market trend in fixed-mobile convergence (FMC). Accordingly, the issue of LAC was included under the ongoing review of FMC. In view of this, the TA currently has no plan to conduct any review of the costing methodology and level of LAC.

- (d) The TA has followed the established mechanism to review the costing methodology and level of LAC in 2001 and 2004 respectively. After 2004, as mentioned in part (c) above, the OFTA has proactively decided to undertake a fundamental review of the regulatory regime of LAC in the light of the actual situation and market development. Since this fundamental review is still in progress, it is not appropriate for the OFTA to review the level of LAC at this juncture. The OFTA will implement the necessary arrangements in accordance with the outcome of the fundamental review. If the review concludes that LAC should be subject to regulation, the OFTA will review the level of LAC periodically.

Dual Filing System

15. **MS EMILY LAU** (in Chinese): *President, under the dual filing system, the Hong Kong Exchanges and Clearing Limited (HKEx) has to file copies of the listing applications and disclosure documents, submitted to it by listing applicants and listed issuers, with the Securities and Futures Commission (SFC). The SFC may, within the period specified, require the relevant persons to supply further information, object to listings or impose conditions on not objecting to listings. In this connection, will the executive authorities inform this Council:*

- (a) *as the Chairman of the HKEx proposed last month that the dual filing system be reviewed, whether the authorities know the reasons for his putting forward the proposal;*
- (b) *of the views of the securities sector on the operation of the dual filing system; and*
- (c) *whether they have reviewed if there are any implementation problems with the dual filing system, such as double vetting; if so, of the review results; if not, whether they will conduct a review?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): *President, the dual filing system was introduced under the Securities and Futures (Stock Market Listing) Rules (SFSMLR) which came into effect on 1 April 2003. The SFSMLR require corporations applying to list its securities*

for trading on the Stock Exchange of Hong Kong Limited (SEHK) to file copies of its listing application to the SFC after the same is submitted to the SEHK (dual-filing). To facilitate compliance and minimize any additional costs to a listing applicant, the Rules allow the applicant to fulfil this obligation by authorizing the SEHK to file the material with the SFC on its behalf. Under the SFSMLR, the SFC may require the applicant to supply further information in relation to the listing application and may object to the listing if the applicant fails to comply with such a requirement, if it appears to the SFC that the applicant has supplied false or misleading information in its application, or it is not in the public interest or in the interest of the investing public.

The SFSMLR provide that similar filing requirements will apply to public statements and other ongoing disclosure of information by listed corporations pursuant to requirements under the SEHK Listing Rules.

With this dual-filing arrangement, the SFC may exercise its statutory powers to investigate persons who knowingly or recklessly provide false or misleading information in its statutory filing with the SFC. Where appropriate, the SFC may bring offenders to prosecution in the Court.

Our response to the specific questions is as follows:

- (a) We note from media reports that the Chairman of the HKEx has commented on the dual filing system.

To maintain and consolidate Hong Kong's status as an international financial centre and the premier capital formation centre for the Mainland, we have to keep the regulatory regime governing listing under constant review in tandem with changing market needs and international trends. The Administration and the regulators, that is, the SFC and the HKEx all strive to keep on improving our regulatory regime to achieve this common objective.

- (b) During the consultation on proposals to enhance the regulation of listing conducted by the Administration in late 2003 and early 2004, we noted from the submissions received that the dual filing system had been operating smoothly and had been well received by market users. It helps upgrade market quality without adding an undue compliance burden on the part of the issuers, or creating uncertainty in the market.

The SFC has also been tapping market views on the dual filing system through the Dual Filing Advisory Group which comprises experienced market practitioners. We understand from the SFC that the Group has been supportive of the present regime.

- (c) To clarify the delineation of responsibilities between the SFC and the HKEx in administering the listing functions, they entered into the Memorandum of Understanding (MOU) Governing Listing Matters in January 2003 which sets out, amongst others, their division of responsibilities and the detailed procedures for handling the listing documents and ongoing disclosure materials filed with these two regulators. The MOU is a public document which can be found at the websites of the SFC and the HKEx.

To avoid duplication and facilitate communication with the market, the MOU provides that the SEHK remains the front-line regulator and the key contact point for listing applicants and their advisers during the listing process, while the SFC passes its comments to the SEHK. On average, the SFC responds to the SEHK with written comments on a listing application within seven business days. Where appropriate, the SFC would discuss any relevant issues in advance with the SEHK, thereby reducing any unnecessary duplication.

We note that the dual filing system which has strengthened the gate-keeping function for the securities market in respect of disclosure at initial public offering has been generally well received by the market. Having said that, we will not lose sight of the need for continuous improvement. The Administration is supportive of any plan or proposal initiated by the SFC and the HKEx to review or further improve the listing process, including the dual filing system.

Implementation of Five-day Work Week

16. **MR FREDERICK FUNG** (in Chinese): *President, regarding the implementation of a five-day work week, will the Government inform this Council:*

- (a) *whether it has studied the effects of implementing a five-day work week on its employees in terms of staff morale, family life, the pattern and amount of spending, the overall economic situation and the quality of public service; if so, of the study results; if not, whether it will conduct such a study;*
- (b) *of the overtime situation among government employees in the past three years and how the situation has changed with the implementation of a five-day work week, and whether it will monitor the situation; whether it has asked various bureaux and government departments to encourage their staff to leave work on time, so as to avoid their family life being affected by overtime work and thus defeating the intended purpose of a five-day work week;*
- (c) *whether it knows the number of commercial organizations which have followed the Government in implementing a five-day work week, and its percentage in the total number of commercial organizations;*
- (d) *whether it has compiled statistics on the number of employees who work a five-day work week and its percentage in the labour force;*
- (e) *whether it has assessed if an increasing number of organizations are implementing a five-day work week, and whether it will introduce policies and measures to encourage the adoption of a five-day work week by public and private organizations; and*
- (f) *given that 17 festive days are appointed annually as general holidays under the General Holidays Ordinance, and if any of such festive days falls on a Sunday, then a day preceding or following it will be appointed as a general holiday, and as those organizations adopting a five-day work week usually designate Saturdays as rest days, whether the Government will amend the Ordinance to provide that if any of such festive days falls on a Saturday, then another day (for example, the preceding Friday or the following Monday) will be appointed as a general holiday?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): President,

- (a) The Government is implementing the five-day week initiative in phases. The first phase has come into effect from July 2006. In taking forward the five-day week initiative, our primary consideration is to maintain the overall level and efficiency of government services, and to ensure the continued provision of emergency and other essential services round the clock as well as the provision of some necessary counter services on Saturday. Prior to the move to the five-day week, bureaux and departments (B/Ds) are required to compress the performance pledges for the delivery of the affected services, where applicable, to ensure that these services will be delivered within the same calendar period; or to make arrangements to clear outstanding applications by Friday where practicable. B/Ds are also encouraged to make available or further enhance their Internet services, institute alternative payment channels, provide drop-in boxes, and so on, to facilitate business transactions with the Government.

The Civil Service Bureau and B/Ds have been closely monitoring the implementation of the first phase of the five-day week initiative. Our preliminary assessment is that the quality of government services has been maintained and that the public has generally accepted this arrangement. Staff feedback is also positive. We believe the initiative has brought about intangible benefits to staff, such as stress reduction; better work-life balance; more opportunities for sports, recreational and cultural activities; more time for self-development and voluntary and community work; and more harmonious family life. All these will help improve civil service morale. We consider any impact on the economy and on consumption from the implementation of the five-day week in the Government should be insignificant.

- (b) The Civil Service Regulations currently in force stipulate that overtime work may be undertaken only when it is unavoidable. It is incumbent upon Heads of Department (HoD) to ensure that overtime work is kept to the absolute minimum having regard to operational requirements, and that such unavoidable overtime work is strictly controlled and properly supervised at all times.

The amount of overtime work performed by civil servants fluctuates from year to year in the light of operational needs. The expenditure on overtime allowance in 2003-2004, 2004-2005 and 2005-2006 was \$374,432,000, \$346,459,000 and \$375,122,000 respectively.

Since July 2006, government offices operating on a five-day week basis have extended their business hours during weekdays. Under the established policy, HoD will continue to ensure that overtime work is kept to the absolute minimum through appropriate manpower deployment to meet operational needs. We will be in a better position to assess whether the overtime situation has changed after the full implementation of the five-day week initiative next year.

(c) and (d)

The Census and Statistics Department (C&SD) conducts supplementary enquiries from time to time via the General Household Survey to collect specified statistical data relating to the labour force and the employment situation. According to the supplementary enquiry conducted in the third quarter of 2003, 95.2% (approximately 2 419 000) of the employees who worked in the non-government sector (including those employed by individuals, private companies, non-profit-making organizations and subvented organizations) had a fixed number of contractual days of work per week. Among them, 20.5% (approximately 496 300) were contracted to work five days or less per week. The supplementary enquiry did not collect information on the number of commercial organizations adopting a five-day week. A similar supplementary enquiry was conducted by the C&SD in the second quarter of 2006, but the survey data is not yet available. We have not conducted any study to find out how many organizations in the private sector have followed the Government in implementing the five-day week arrangement.

(e) According to media reports, some organizations in the private sector have followed the Government's example in implementing the five-day week arrangement. However, we are not in a position to

verify the accuracy or otherwise of these reports. The Government's policy is not to mandate a five-day week in Hong Kong. We consider individual organizations in the public and private sectors are in the best position to decide whether to adopt a five-day week having regard to their operational circumstances, needs of their clients, views of their staff, and so on.

- (f) The General Holidays Ordinance (Cap. 149) sets out the days to be kept as holidays by banks, educational establishments, public offices and government departments. These holidays are known as general holidays. Statutory holidays, that is, the holidays to be granted by an employer to an employee, are provided under section 39 of the Employment Ordinance (Cap. 57). General holidays are not to be confused with statutory holidays. Sunday is a general holiday but not a statutory holiday, whilst Saturday is neither a general nor a statutory holiday. As the implementation of the five-day week has no impact on the designation of general or statutory holidays, it is not necessary to amend the General Holidays Ordinance.

Enhancing English Language Education in Primary Schools

17. **MS EMILY LAU:** *President, a news report revealed that an English language teacher had voluntarily given up his senior teaching post in a secondary school to go to teach in a primary school with much lower salary so that he could, as he said, attend to the language needs of students at an earlier stage of their development. In this connection, will the executive authorities inform this Council:*

- (a) *of the reasons for the pay difference between English language teachers in primary schools and those in secondary schools;*
- (b) *whether they plan to recruit more experienced teachers to teach in primary schools without requiring them to sacrifice their income such as the teacher in the above case; and*
- (c) *of the steps that they will take to enhance English language education in primary schools?*

SECRETARY FOR EDUCATION AND MANPOWER: President,

- (a) Currently, aided primary and secondary schools are provided with teachers of various ranks. The different ranks have different salary scales which are determined by considering various factors such as entry qualifications, experience, nature of the job, level of responsibilities, and so on. However, for the common ranks (that is, CM and AM ranks), teachers will have the same salary in both primary and secondary schools.
- (b) Teachers are employed directly by schools. At present, over 95% of the serving English teachers in public sector primary schools are professionally trained, and over 70% are subject trained. It is estimated that the percentages of professionally trained and subject trained English teachers will continue to increase. Currently, secondary school teachers holding ranks which are common to primary and secondary schools can teach in primary schools without a reduction in salary. Regarding the reported case, it is possible that the teacher has taken up a post of a lower rank in the primary school out of his own volition.
- (c) In recent years, we have stepped up our efforts in supporting English language education in primary schools. The key initiatives include:
- The curriculum reform emphasizes using a learner-centred and a task-based approach to cater for learner diversity, and promotes learner independence and assessment for learning. This approach motivates students' learning by building on their interest and strengths. A revised curriculum guide highlighting the above for English language education in primary schools has been implemented starting from the 2005-2006 school year. A school survey conducted by the Education and Manpower Bureau in 2005 indicated that English panel heads and teachers saw the curriculum reform as having a positive impact on student learning in terms of interest and attitude.

- A Task Force on Language Support has been set up under the Education and Manpower Bureau since the 2003-2004 school year to support panel heads and language teachers in implementing the curriculum reform. In the 2005-2006 school year, it provided intensive support to 54 primary schools in English language, focusing on assessment for learning, implementation of the new curricula, and enhancing the culture of lesson observation and reflective teaching. In the 2006-2007 school year, the number of primary schools receiving support in English language will increase to 72. The Task Force will also extend its support to enhance the capacity of curriculum leaders in co-ordinating the various language curricula and assessment measures, and in the effective deployment of resources. According to schools' self-evaluation and an external review conducted by The Chinese University of Hong Kong, teachers considered the support services very effective in enhancing their knowledge about the English Key Learning Area and the language-related curriculum initiatives. They also thought that the support services had a significant positive impact on the development of learning and teaching strategies, curriculum, a culture of reflection and collaboration, and curriculum leadership.
- To enable English teachers to be more focused and enhance the effectiveness of student learning, additional resources have been provided for implementing specialized teaching in primary schools with priority given to the English language since the 2005-2006 school year. With effect from the 2006-2007 school year, cash grants have been replaced by additional teaching posts in the permanent staff establishment of ordinary primary schools in the public sector.
- The Native English-speaking Teachers (NETs) Scheme was extended from secondary to primary schools in the 2002-2003 school year and we have been recruiting additional NETs for enhanced provision in primary schools since the 2004-2005 school year. An Evaluation of the Primary Native English-speaking Teachers (PNET) Scheme by the Assessment Research Centre, the University of Melbourne

(Second Annual Report, 2005) has identified improvements in students' English language results. A more comprehensive analysis on the effectiveness of the PNET Scheme will be released in the final report during 2007. We will continue to support schools in recruiting qualified NETs from overseas and in Hong Kong.

- Starting from the 2004-2005 school year, all new English (and Chinese) teachers have to hold qualifications that ensure adequate preparation in language proficiency, subject knowledge and pedagogy. To encourage more serving language teachers to attain similar qualifications through professional development, \$525 million has been allocated from the Language Fund to provide study grants to eligible and aspiring language teachers. As at September 2006, over 1 500 English teachers in primary schools have successfully applied for study grants under the Scheme.
- In the 2006-2007 school year, a pilot programme was initiated by the Standing Committee of Language Education and Research to support English teachers from over 100 primary schools to attend overseas immersion programmes on the teaching of English. Subject to a review of the pilot, we intend to continue the programme, with the possibility of extending it to secondary school teachers in the 2007-2008 school year and beyond.

Installation of Smoking Rooms

18. **DR KWOK KA-KI** (in Chinese): *President, at the resumption of the Second Reading debate on the Smoking (Public Health) (Amendment) Bill 2005 (the Bill) in this Council on 19 October this year, the Secretary for Health, Welfare and Food said that the Government would study the feasibility of installing smoking rooms. In this connection, will the Government inform this Council:*

- (a) *whether it has any evidence to prove the effectiveness of smoking rooms in preventing second-hand smoke from affecting the neighbouring environment;*

- (b) *whether the above study will be conducted solely by the government departments concerned or undertaken by commissioned consultants;*
- (c) *of the estimated expenditure on the above study; whether such expenditure would be borne wholly by the Health, Welfare and Food Bureau (the Bureau) and whether other services of the departments concerned will be affected by the additional expenditure;*
- (d) *whether it will invite health care practitioners, anti-smoking groups, academics in building services and other relevant groups to participate in the entire study; and*
- (e) *whether it will report to this Council on the progress of the study regularly?*

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

President, first of all, I wish to reiterate that what we propose to study is a room which is solely meant for smokers to smoke therein. There should not be any other activities going on in the room (including the serving of food and beverages and provision of any other type of services). Non-smokers and employees should not be allowed to enter into the room. I also wish to emphasize that with the passage of the Bill, the top priority of the Administration at the moment is to ensure its effective implementation. We will pool our resources together to mount an intensive publicity campaign on the many amendments made to the Ordinance, in particular the smoking ban that will come into force starting 1 January 2007, with the aim to ensure that the public is well informed of the stipulations for compliance. At the same time, we will continue to actively promote smoking cessation services and anti-smoking education in the hope that the number of smokers, in particular teenage smokers, could be reduced as many as possible. The proposal of setting up "smoking rooms" is not part of the Bill, neither is the proposed feasibility study our working priority at this stage.

My replies to the various parts of the question are as follows:

- (a) As pointed out by my colleagues from the Bureau during the deliberations of the Bills Committee over the past year or so, no sufficient evidence from any scientific research or internationally accepted ventilation standards are available at the moment to support

the feasibility of setting up the type of "smoking room" mentioned above, on which we propose to conduct a study. This is precisely why I raised the idea of carrying out a feasibility study in my speech at the Second Reading of the Bill. One of the focuses of the study will be to find out whether it is technically feasible to effectively avoid the air outside the room from contamination by the secondhand smoke produced from within the room. The overriding principle is to protect the health of those who are outside the room.

With the new Ordinance coming into effect, it is envisaged that many of the smokers may have to resort to pursue their habit in outdoor areas. Road users in some busy districts may probably be left without a choice but to tolerate the intake of a lot of secondhand smoke. The primary consideration of setting up a "smoking room" is to afford protection to non-smokers by imposing a more effective separation between smokers and non-smokers.

(b) to (e)

The Bill was just passed on 19 October 2006. To date, we have not yet commenced the study on the "smoking room" and have not reached any conclusion on its feasibility, neither have we worked out the details for the study, including the expenditure, the collaborative parties to take it forward or the details of its implementation.

Nevertheless, as I said at the Second Reading of the Bill, we must have collected sufficient scientific data and experimental evidence to prove its technical feasibility before we can be convinced of the feasibility of the "smoking room" or formulate any specific standards. Hence, it is anticipated that we shall need the prior assistance of experts from the engineering sector to carry out a technical study. We will also seek advice from other experts, as required, if and when we encounter any technical or professional problem.

Only after the completion of the proposed feasibility study will we be able to give further thought to this proposal and discuss whether

it should be put into practice. At this stage, it is premature to jump to any conclusion. The study, together with the discussion in the process, will be open and transparent and the public and the Legislative Council will also be consulted at appropriate times.

Smart Identity Cards Replacement Exercise for Elderly

19. **MR LAU KONG-WAH** (in Chinese): *President, persons born in or before 1927 (that is, those at or over the age of 79) are required to apply for replacement of their identity (ID) cards by smart ID cards within the period from 4 September to 11 November this year. Elderly persons who cannot turn up at a Smart Identity Card Centre on account of age (70 years old or over) or infirmity may apply for a Certificate of Exemption (either personally or through a representative). Nevertheless, the applicant is required to return his/her old ID card to the Immigration Department (ImmD), whilst the Certificate of Exemption cannot be used as a travel document for immigration clearance. In this connection, will the Government inform this Council:*

- (a) *of the measures to assist the singleton elderly people suffering from ill health or being bedridden to have their ID cards replaced or apply for a Certificate of Exemption; and*
- (b) *whether it has considered providing, for the elderly people, a free shuttle bus service operating once daily during the above call-up period between designated locations in various districts and Smart Identity Card Centres?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) People born in or before 1942 are ordered to apply for smart ID cards at a Smart Identity Card Centre from 4 September 2006 to 31 March 2007 in phases under the territory-wide ID Card Replacement Exercise. As many of the applicants who are required to replace their ID cards in the above period are elderly, the ImmD has co-ordinated efforts with various departments and elderly services units to enhance publicity and rally their support in helping the elderly in need to replace their ID cards.

With the assistance of the Social Welfare Department (SWD), the ImmD wrote to over 1 000 elderly services units in August explaining in detail the phased ID card replacement arrangement for the elderly, enclosing publicity posters and relevant leaflets on the Replacement Exercise and providing detailed information of the nine Smart Identity Card Centres. Besides, the ImmD has asked the services units concerned to assist in the dissemination of such information to their members/residents/visitors. In particular, the ImmD has also urged the relatives of the elderly or the management of the elderly centres and residential care homes to help make appointments in advance for the elderly and called upon the elderly to authorize representatives to collect the new ID cards on their behalf.

A number of elderly centres, residential care homes, Legislative Council Members' offices, District Council members' ward offices and community organizations have contacted the ImmD to arrange for group ID card replacement service for the elderly. Under this arrangement, the ImmD will collaborate with organizers concerned so that sufficient quota and necessary manpower will be allocated to facilitate the elderly to visit the Smart Identity Card Centres and replace their ID card in groups, and the organizers concerned do not need to accompany the elderly to replace their ID card individually. To save the waiting time, the ImmD has advised the organizers help the elderly to fill in the application forms or the authorization forms required in advance.

The SWD has noted that elderly centres and residential care homes are willing to provide appropriate assistance to the elderly in this matter. They will, according to individual needs, deploy staff or arrange for escort service provided by other organizations to accompany the elderly to the Smart Identity Card Centres to ensure safety of the elderly, especially those who are infirm. Besides, the elderly, in particular the singletons and the vulnerables, who are in need of assistance to replace their ID cards, may seek assistance from the services units run by the SWD and other non-governmental organizations. They will provide suitable referral and assistance depending on individual circumstances of the elderly concerned.

Apart from residential care homes and elderly centres, the Housing Department (HD) also assists in publicizing the ID Card Replacement Exercise for the elderly. Apart from displaying relevant publicity materials in public housing estate management offices, staff of the HD would also remind the elderly of the replacement arrangements when they come to their offices to pay rent or participate in recreational activities organized by the HD. Moreover, District Offices will help keep members of the public and the elderly informed of the ID Card Replacement Exercise when they visit such offices or participate in district activities.

If the aged, the blind or the infirm consider that they are unable, for health consideration, to apply for a smart ID card under the Smart ID Card Replacement Exercise, they may apply in writing or authorize other persons to apply to the Commissioner of Registration for exemption from registration.

Those who have been granted exemption from registration for an ID card by the Commissioner do not have to apply for a smart ID card under the Replacement Exercise. They are however required to return their old ID cards for cancellation when they collect their Certificates of Exemption. For those persons who have returned their old ID cards, their freedom of leaving and entering Hong Kong will not be affected. They may use their valid travel documents such as Re-entry Permits or passports for immigration clearance. When the health conditions of the elderly issued with Certificates of Exemption so permit, they may at any time apply for a smart ID card, free of charge, at any Registration of Persons Office of the ImmD.

- (b) With the above arrangements and the support from the relevant departments and elderly services units, the ID Card Replacement Exercise for the elderly is progressing well. The ImmD will continue to collaborate with concerned parties to ensure the smooth running of the replacement programme. We have no intention to provide shuttle bus service in this relation.

MEMBERS' MOTIONS

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

First motion: Public service broadcasting for Hong Kong.

PUBLIC SERVICE BROADCASTING FOR HONG KONG

MR SIN CHUNG-KAI (in Cantonese): President, I move that the motion as printed on the Agenda be passed.

Currently, there is no clear policy on public service broadcasting (PSB) in Hong Kong. The Government appointed a Committee on Review of Public Service Broadcasting in Hong Kong (the Review Committee) in January 2006, to undertake a review of PSB and its future development. All along, there has been very little systematic discussion on the subject of PSB. For this reason, being the committee of Legislative Council with the responsibility of monitoring policies on broadcasting matters, the Panel on Information Technology and Broadcasting (the Panel) of the Legislative Council has found it necessary to conduct a study, so as to provide useful reference to Legislative Council Members as well as the general public on how PSB can be taken forward in Hong Kong.

The Panel held special meetings to exchange views with the Administration, the Review Committee, Radio Television Hong Kong (RTHK) and various deputations in March and August 2006, and invited representations from all sectors of the community. To acquire first-hand understanding of the development experience of leading PSB overseas, the Panel visited Canada, the United States and the United Kingdom in April 2006. In addition, the Panel also made reference to research studies on the PSB systems in Australia and Germany.

After several months of work, the Panel published a report on its study on 9 October 2006. While acknowledging that our future PSB system should be brought on par with the best practice adopted all over the world, the Panel also recognized that it should be based on the internationally recognized core principles of "universality", "diversity", "independence" and "distinctiveness", with "editorial independence" being the most important core value. The PSB in

Hong Kong involves not only the future development of RTHK. The experience in overseas countries shows that PSB is an integral part of a civil society. The Panel is of the view that the Government should set down the future public service broadcaster's mandate, objectives and other institutional arrangements by way of legislation.

Currently, RTHK is Hong Kong's sole publicly-funded public service broadcaster. The Panel has studied the operation of RTHK in detail and urged the Administration to fully take into account its views and concerns in mapping out its proposed model. The Panel noted that, in performing its PSB role, RTHK's status as a government department has given rise to considerable debates in the community all these years. By contrast, the Panel observed that none of the major overseas public service broadcasters studied in the report is a government department.

The Panel is of the opinion that a public service broadcaster should enjoy stable and sustainable funding and also operate in an independent and statutory manner, so as to ensure that it is independent of the Government and commercial interference while capable of being accountable to the public. There should be at least one public service broadcaster supported by public coffers in Hong Kong to provide full-fledged services. The Panel has also looked into matters such as funding for the future public service broadcaster, corporate governance, accountability requirement and programming guidelines, and also more macro subjects including whether or not to set up a PSB licensing regime, the feasibility of accommodating more than one public service broadcaster, market competition, the opening up of air waves and public spectrum, and so on.

The Panel emphasizes that the Government is duty-bound to formulate PSB policies. The Panel Report only aims at identifying the key issues that should be thoroughly addressed in mapping out the future direction of PSB in Hong Kong, as well as the findings of the Panel on these issues. We hope that this series of key issues can provide a useful basis for the public to launch a more detailed discussion on PSB in a more systematic and focused manner. We also urge the Review Committee and the Administration to consider the Panel's views and findings carefully when devising the way forward for PSB in Hong Kong and to encourage active participation of the community at large in the process of formulating policies and implementing initiatives.

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

Deputy President, the Panel would follow up the development of PSB in Hong Kong. We also expect to hold further discussions with the Administration and the Review Committee after a report has been published by the latter. Deputy President, I would like to speak on the Report in my capacity as a representative of the information technology sector and a member of the Democratic Party.

This Report covers a rich spectrum of topics. Hong Kong has indeed wasted a lot of time. According to the Report, it was in 1989 when the Government first appointed a consultancy to look into the development of RTHK. However, for some political reasons, the proposal of corporatization could not be implemented before 1997. Since 1989, 17 years have passed, but the review of PSB we are talking about today has in fact lagged far behind that of other overseas countries. We could say that RTHK is still fixated in the '80s — not only its development, but also its structure, organization or operation — though not all of them, at least part of them are.

If we look around, the PSB development all over the world has made considerable progress in the past two decades. Hong Kong should step up its pace to catch up. I have to emphasize one particular point, that is, we support the proposals on governance, statutory status and stable funding, including free from commercial interference as mentioned in the Report. I must add, however, at this particular stage, the Government should not overlook development on the technological front. In fact, as far as the entire broadcasting industry or media industry is concerned, technological development would have an impact on the interactive relation as a whole. For instance, a number of print media have developed the so-called voice media, such as the Podcast developed by some newspapers. This allows people to download information on portable equipment for subsequent listening. While print media can develop broadcasting services, broadcasting services can, on the other hand, transmit print media through the Internet.

As a matter of fact, our broadcasting service is now facing a tremendous challenge with only one public service broadcaster and two commercial service broadcasters being available in Hong Kong. In regard to digitized broadcasting, Hong Kong has in fact failed to meet the needs of the time. Put simply, the Hong Kong Government should provide the necessary capital investment in the future public service broadcaster and take a proactive stance in developing digitized broadcasting. The Panel did discuss this issue in the past and this is also mentioned in the Report.

We are of the opinion that when developing PSB, either the future public service broadcaster or the existing RTHK, should lead Hong Kong on the path towards digital broadcasting. There are a number of advantages in developing digital broadcasting. The first one is to tackle some existing fundamental conflicts, be they political or not. In moving towards digital broadcasting, it would not be difficult to set up a government channel operated by the Information Services Department (ISD). Policy Secretaries can make use of the channel to issue stand up press releases, air broadcasts or hold press conferences on a 24-hour basis. To fill up the air time or to operate the channel by the ISD should not pose any difficulty. However, we can also allow public participation at the same time, including some so-called community channels, and so on. In this connection, I also feel that the positioning of RTHK in the past made us lag behind the times. As mentioned in this Report, Hong Kong is indeed a pluralistic international community, and our PSB needs to provide services for different ethnic groups. They include almost 200 000 Filipino maids and quite many maids who speak Indonesian. People from other overseas countries also need broadcasting services. In this regard, it is mentioned in the Report that we may not have enough spectrum to provide the diversified services even if such development becomes necessary in the future.

In simple terms, I feel that the Government should revamp its way of thinking and seek a breakthrough. That is, it should no longer put our existing PSB in a political framework, or to hold further discussions on the outdated issue of whether or not we should restructure RTHK. Instead, we need to see how we can take forward and develop our broadcasting industry. Our broadcasting industry should develop in line with government policy and it is a so-called creative industry. As such, we need a platform that enables not only full public participation in the process of programming but also development of the industry so that we do not lag behind other countries.

Deputy President, that the Panel raises the Report today because it hopes the Government will fully take into account the various issues mentioned in policy formulation. I hope the Government can address the issues mentioned in the Report one by one in mapping out its future policy, especially on the subjects of governance, sources of funding, editorial independence, and so on. I would not repeat the relevant contents mentioned in the Report here.

With these remarks, I beg to move.

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

"That this Council notes the Report on the Study of Public Service Broadcasting for Hong Kong and urges the Government to consider the findings therein."

DEPUTY PRESIDENT (in Cantonese): I now propose the following question to you and that is: That the motion moved by Mr SIN Chung-kai be passed.

MR HOWARD YOUNG (in Cantonese): Deputy President, as a cosmopolitan city, it is indispensable that a public service broadcaster with creditability, quality and vitality should be in place in Hong Kong. Therefore, I agree with the recently published Report on the Study of Public Service Broadcasting for Hong Kong that the core principles of public service broadcasting (PSB) should be: universality, diversity, independence, distinctiveness and editorial independence.

Since a public service broadcaster is a kind of public resources, the Liberal Party thinks that it should provide a platform so that the views of different stakeholders (including the Government) could be fairly and truthfully expressed. In other words, the Government or members of the public can freely express or exchange views on this platform. Hence, an appropriate PSB will not serve as the Government's mouthpiece or the mouthpiece of a certain group or a handful of people, but the mouthpiece of the public, namely, the mouthpiece of society.

In order to prevent, by all means, its acceptability from being affected by political and commercial factors, it is more appropriate that the broadcaster operates in the form of an independent statutory organization. I believe this will gain public support and trust more easily, as we can specify by law the management and service remit, as well as a monitoring mechanism, lest it should be subject to no governance or become an independent kingdom.

As a matter of fact, the role of the only public service broadcaster in Hong Kong at present (that is, Radio Television Hong Kong or RTHK), is embarrassing. On the one hand, it is a government department whose operation is funded by the Government. There have been views in the community that

RTHK should assist the Government in its policy propaganda, instead of producing and broadcasting some programmes which strongly criticize the Government, such as the television programme "Headliner" which has aroused not a few controversies. However, the opponents reckon that RTHK should not serve as the Government's mouthpiece or propaganda machine, but should also shoulder the social responsibility of a medium in monitoring and criticizing the Government.

Besides, if the Government manages RTHK as an ordinary government department, it will be easily criticized by society as undermining the freedom of the press or interfering editorial independence. However, if it does not monitor RTHK, various scandals did occur in RTHK involving its messy accounts, as well as corruption and frauds among its staff members. For instance, recently, three more staff members and one family member of a staff member were arrested by the Independent Commission Against Corruption for obtaining article fees by fraud. Since 1997, four value for money audits have been conducted by the Director of Audit on RTHK, and these audits reveal certain irregularities in RTHK's management. The public thus worry that once RTHK is detached from the Government, its operation will be even messier. It thus warrants serious consideration on how to strike a balance between them.

Therefore, in regard to the favoured recommendation of the Report on setting up a governing board, which is not subject to political and commercial interference, responsible for enforcing the legislative requirements, the Liberal Party does not have strong opposition basically. We, of course, hope that the governing board carries sufficient representation. Besides, it should find ways to avoid wastage of public resources, or the recurrence of people treating the public account as a private account and withdrawing money at will.

This new governing structure should be accountable to the public. However, since the operation of a public service broadcaster is mainly supported by public funding, we consider it necessary to continue the funding application with the Legislative Council, so that the Council can also play a certain monitoring role. Nevertheless, we do not think that the Legislative Council should interfere with the operation of a public service broadcaster. It is because there should be a professional and broadly represented governing body to be responsible for formulating the operation policy and monitoring the daily operations. If everything has to be accountable to the Legislative Council, not only will its independence and flexibility be affected, it will also be politicized.

In regard to funding, we agree that apart from public money, it can seek revenue through other channels not competing with commercial organizations. For example, it can receive one-off sponsorships, sell its television programmes or receive specific sponsorships, so as to reduce dependency on the public coffers.

Deputy President, the Liberal Party agrees that one of the main objectives of public service broadcasters in the future is that with the new frequency spectrum brought forward by digital broadcasting, some public access channels may be opened so that the public can enjoy a wide variety of programmes. However, since the number of programmes broadcast will increase drastically, it is worthwhile to explore in depth how effective monitoring can be effected in order to avoid misuses. However, there should be a unified monitoring mechanism.

We expect the new public service broadcaster to produce some programmes on parenting and relieving stress from work. This will help to build up a more harmonious social atmosphere. It should also help to train up more competent broadcasting talents so that the broadcasting industry in Hong Kong can make more glorious achievements, thus facilitating the development of the creative industries.

Deputy President, I so submit.

MR JASPER TSANG (in Cantonese): Deputy President, as a member of the Legislative Council Panel on Information Technology and Broadcasting (the Panel), I totally agree with the content of the Report on the Study of Public Service Broadcasting for Hong Kong (the Report) submitted by the Panel to the Legislative Council, including the various recommendations proposed in it. For example, a statutory public service broadcaster should be set up, the service remit of public service broadcasters and an accountability system should be provided by law, consideration should be given to the introduction of a licensing system, and the scope of public service broadcasting (PSB) and the content of the programmes should be defined by legislation. The Report has also mentioned some conditions with which PSB should comply. And these, I believe, form the consensus reached by the Panel. For instance, PSB should help promote biliteracy and trilingualism in Hong Kong, in order to reflect the cultural diversity of Hong Kong; a platform should be provided so that different kinds of

views can be fairly exchanged, and it should not compete with commercial broadcasters for advertisements or plain viewership and audienceship ratings. This is the consensus reached during the discussion of members.

I notice that after the publication of the Report, there are some comments criticizing the Report of dwelling too much on the trivial issues while avoiding the substantial ones. They criticize that it only talks about some general principles but fails to state a stance on the most controversial issues, especially those may likely involve the future of Radio Television Hong Kong (RTHK). I find that these criticisms are unfair. In fact, as a study report, it has summarized the Panel's observations on the PSB features in other places during the overseas visits earlier this year, as well as the views after consultations with various parties in Hong Kong (including the views of RTHK staff).

I believe that in regard to some so-called controversial issues, some people may hope that the Panel can put forward a categorical point of view. For instance, the Report only mentions that a public service broadcaster can obtain resources through different ways, that is, through which ways can it be funded. However, it does not state clearly how RTHK will be funded in the future. In another example, the Report points out that the service remit and programme content of PSB should be provided for by legislation. However, it does not point out which RTHK programmes should be retained or which programmes should not be retained. Some people may find it unsatisfactory. If these questions can be answered, they can become the focus of discussion. Nonetheless, if the Panel is required to draw a conclusion on these issues in the Report, not only is it impossible, it is also inadvisable. I say that this is impossible, because after all, on the content of the Report, it is not possible — even in a full Legislative Council meeting — for different parties to have thorough discussion and then reach a consensus. I believe that it is not easy, and also inadvisable to reach a consensus on a controversial issue.

In fact, the Report has also mentioned a procedure, explaining how the Government of the Special Administrative Region should formulate PSB policies, that is, how it should map out the development path of PSB policies, which also includes different modes of consultation at different stages. Therefore, in our opinion, even though what the Report has put forward are some principle-based recommendations, it is still worth consideration by the Administration in policy formulation.

Besides, I, on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), of course, also have to air our specific viewpoints towards PSB. In regard to the characteristics of PSB, Mr SIN Chung-kai and Mr Howard YOUNG also mentioned earlier that it could be independent of any commercial and even political influence. Thus, the impression that we get is that it can enjoy editorial independence, and it should be free from the influence of the market or the Government. Nevertheless, I find that editorial independence alone is not sufficient to justify the value of existence of PSB. Our Report has also listed universality, diversity and distinctiveness as the features of PSB. However, after all, we still have to face a question: Why do we have to make use of public funding or public resources to sustain PSB? What social objectives or public objectives does it have to achieve? In other words, what benefits does it bring to society or to the public?

I also notice that one of the many public objectives of overseas PSB, including those listed in the Report, is to promote and strengthen the identification with the national identity and national culture of a particular area. The DAB opines that this should be highlighted in the study of Hong Kong PSB today. We all know that "one country, two systems" is a new system. And under "one country, two systems", the identification with national identity of the Hong Kong public is still a developing issue. If we say that national identification serves a very important social objective in PSB of other places, this is even more important to Hong Kong where the development of PSB is on the agenda. Hence, we wish to particularly point out that this is the public objective of our PSB. Thank you, Deputy President.

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, in fact, I have not read this Report in detail because I have got something to say. As Mr SIN Chung-kai said, this Report has been very late in coming because in 1989, we already had discussions on this issue. This is in fact also an outcome of politics because at that time, the Sino-British Joint Declaration had already been signed. So how should a broadcaster funded and established by the British-Hong Kong Government operate in future? Should it be dismantled, demolished and then everything would start anew, or should we do it the other way? After the reunification, what role should it play? In fact, the so-called corporatization is just to establish a so-called authority, as was the case with many authorities established at that time, that is, it would be more or less a public organization and in this way, this issue can be dealt with.

Of course, 1989 is a year that everyone can never forget and the mass media performed the function of making the whole world see, that is, to let the world watch and hear about the Tiananmen incident from its beginning to the end. A reporter of Commercial Radio is a good friend of mine. When he saw the suppression, he burst into tears because the immediacy was real. The power of the airwaves and the mass media is really stunning and cannot be paralled by words in the print media. In the process of the reunification, of course, this problem cannot be solved because our new sovereign, that is, the Central Government, definitely did not want Radio Television Hong Kong (RTHK) to perform its functions as it did in the patriotic democratic movement in 1989 and the bloody suppression on 4 June. All people in power are afraid of the fourth estate, that is, monitoring by public opinion and they will resort to various means to restrict it. In a society with democracy or a society with representative democracy, it is very difficult to do so.

In discussing this matter here, we are talking about this issue in a place that still does not have representative democracy. Secretary WONG is seated here. How should RTHK be dealt with? How can RTHK be changed? This is a problem. Now, I am speaking here in my capacity as a Member, but tomorrow evening, I will be broadcasting illegally outside Donald TSANG's home as an illegal broadcaster. More than a week ago, the subordinates of Secretary WONG arrested me, saying that I could not carry out broadcasting in the streets.

That reminds me of a story. After the Liberation, it was possible to publish publications but the condition was that two shops had to act as guarantors. That was also the case when I worked as an apprentice in my youth and two shops also had to act as guarantors. Initially, when there was public-private partnership, that is, when the communist government still had not acquired private companies, it was still possible to look for two shops to act as guarantors, so long as the people concerned were not afraid. However, when it came to the '70s, after the downfall of the Gang of Four, practically no shops existed any more. However, this piece of old law still required that two shops had to be registered as guarantors before it was possible to publish any publication. That was also one of the reasons why many of my respected friends, that is, friends who published the so-called underground publications on the Mainland and who were jailed for a long time, were arrested by the Government. The authorities did not have to say anything else to them. They only had to say, "Sorry, man, you do not have shops to act as guarantors, so you have not registered and obtained a licence. Since you are not registered, we

have to arrest you. Why do you want to publish this publication? You are not allowed to do this, not even if you publish them by mimeography."

Today, we are talking about how to make government-funded public service broadcasting do an even better job. Moreover, as Mr Jasper TSANG said, it is necessary to promote awareness of our national identification, as well as biliteracy and trilingualism. Man, where did he stray to in his speech? Everything has to follow the International Covenant on Economic, Social and Cultural Rights as provided for in Article 39 of the Basic Law, so that those people can enjoy the right of expression, including the expression of opinions on the airwaves and in the electronic media. Conversely, all people should be able to obtain what they are entitled to from the enormously penetrating mass media — diversity, equality and universality.

The legislation now is just like the law giving temporary approval at that time on the Mainland. I do not have any shop to act as my guarantor, so I made an application to the authorities and submitted a proposal. The predecessor of the Secretary, that is, the junior Mr TSANG who has now been promoted, did not reply. After the arrest action had been taken, I held a press conference and asked why the Government had not replied. It was only then that the Government hastily issued two letters, saying that it had replied and the application had been submitted to Chief Executive Donald TSANG. However, it recommended against issuing a licence to us because the spectrum in Hong Kong was limited, saying that there were already adequate channels for people to express their views.

Members, the subject matter of today's discussion is integrity. A government department has gone so far as to tell lies publicly. We now have spectrum to spare and after going digital, we will have an even broader spectrum. The Government has done nothing, and it even says that there are enough ways for people to express their opinions. What is the Government saying? Which city is the Government talking about? Is it Fo Shan or a village in Shanxi? We are a world-class city but we only have three radio stations. This issue has to do with nothing else but integrity. Does the Government has enough integrity, enough courage to express.....

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, your speaking time is up.

MR LEUNG KWOK-HUNG (in Cantonese):its own opinions?

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

MS EMILY LAU (in Cantonese): Deputy President, I speak in support of Mr SIN Chung-kai's motion.

Deputy President, probably because it is now meal time, not many Members present are eager to speak. Deputy President, some Honourable colleagues, probably just like Mr LEUNG Kwok-hung, have not read the Report carefully. I must admit that this Report is a bit thick but of course, we hope that people who take part in this debate have read the Report.

In fact, for many years, I have thought that if our panels present reports and the reports are then debated by this Council, that should be desirable. However, some Honourable colleagues probably like to raise matters that they wish to talk about for debate and in that way, these people can have more to say. However, I do not want to see too few Members take part in this debate, thus giving the Secretary or the public the impression that not many people are concerned about this subject. I believe the Secretary will not think this way either. He can hear a lot of voices assailing his ears both inside and outside this Council and he is aware of them. Therefore, firstly, I hope very much that Members will read the Report no matter if they have the time or not and then join the debate together. Deputy President, this is a very meaningful thing.

The motion says "That this Council notes the Report on the Study of Public Service Broadcasting for Hong Kong". Deputy President, you will perhaps find this strange because for reports presented in the past, in particular, reports presented by the chairmen of panels, in most cases, we would say that this Council supported the reports. Now, the word "note" is used instead and of course, this means that when Members of the Panel had their discussions, they knew that not all Members would read the Report, particularly by the time it was presented. Perhaps some Members of some political parties do not support the Report, however, now that it has been presented and everyone has had the opportunity to read it, I hope Members will not just merely "note", rather, they should also lend their support.

However, Mr Jasper TSANG was right in saying that some of the contents were rather controversial and the Secretary may even say that we had better not discuss those matters, such as programme content and the composition of the regulatory framework. Deputy President, I fully understand that those issues are controversial. When discussing the regulatory framework, we were sometimes on rather slippery ground. For example, we proposed that the governance structure of the future public service broadcaster should be benchmarked against the international best practice but other people say that this is as though we had proposed nothing.

Now, let me talk about my personal views. I really hope that the governance structure can reflect the views of society and assist in the governance of the public organization. This is because what I have seen in some existing governance structures makes me shiver. Deputy President, I am talking about the governing boards of universities. We do not wish to interfere with the internal affairs of universities and we believe that society also has to rely on those governing boards in running universities. However, what sort of people can we find on them? Most of them have been awarded a lot of Bauhinia medals, have very good ties with Beijing and are very rich. Are those people the best people for running our universities? Moreover, in future, they will also manage other public organizations. I think the authorities really have to reflect on this. It is necessary to find people from various areas who hold different political views and different opinions, who are well versed in the relevant domains, and they must have the time to serve in those positions, instead of people who share the same traits. We can see that there is now a serious tilt towards one side and this may also be the case in the future.

In addition, Deputy President, why are matters relating to Radio Television Hong Kong (RTHK) so controversial? In fact, the discussion is not confined to it, however, everyone talks about it and it is often said that it often bites the hand that feeds it. We have pointed out the differences between RTHK and the public organizations in other countries. If Members have time, they had better read paragraph 4.50, which points out the nature of public service broadcasters in other places. They neither belong to any government department, nor are they managed by senior civil servants. They have financing and licensing systems of their own, an open mechanism to subject their performance to evaluations against objective yardsticks, an accountability system, a complaints handling mechanism, and so on, however, all these are lacking in the case of RTHK. Therefore, Deputy President, I very much hope

that the authorities will look at these things and overseas practices. If they are desirable, we can learn from them, if they are not, of course, we have to eschew them.

In addition, the most important point is programme content. Some people say that our report has not dwelt on this point, but this is wrong. We did mention programme content, just as Mr Jasper TSANG has mentioned legal requirements. We also mentioned the approaches adopted by other people, that is, unique methods are adopted in programme production. That means the types of programmes are the same but they are unique and some novel programmes are also produced. However, we also pointed out that public service broadcasters are not government propaganda machines for promoting government policies. As Mr Jasper TSANG has said, various parties should be allowed to take part in the debate and put forward different views. As we can see, those people whom we say are providing PSB are not doing so.

Deputy President, as you know, we in the pro-democracy camp or pan-democratic camp have said innumerable times that often, our voices cannot be heard in the programmes of the so-called PSB or privately-produced programmes akin to PSB. Why did Mr LEUNG Kwok-hung challenge the Government together with other people? This is because they wanted to find another channel to voice their views. Despite theirs only being a very weak voice, that cannot be done now. Last time, in a meeting of the Panel, I told the Secretary that all the speaking time had been exclusively seized by those Directors of Bureaux and Secretaries of Departments. However, the Secretary replied that his colleagues still did not think it enough, so it would be the best if they could speak for 26 hours a day.

Mr Jasper TSANG said just now that the DAB thinks that one very important goal is national identification. Deputy President, in fact, I do not take issue with this in any particular way. If we talk about national identification, then we have to agree that nationals have the right to go back to their country. If the Central Government tells its nationals that being a national is one thing but they are not allowed to go back to the Mainland, then what sort of national is this?

Therefore, we should first discuss this a little bit. If some people are not even allowed to go back to the Mainland, why talk about identification? Therefore, we do not have so a lot of time to discuss some matters. If we really

want to dig them up, there are many issues that can be discussed. However, I believe that under the leadership of Mr SIN Chung-kai, this Report has provided a very good basis for Members to look at overseas practices. We cannot voice opinions only. Other people have many years of experience in this area, so they have commanded credibility not just in their own countries but also internationally. If we want Hong Kong to become a world city, we should head in this direction, that is, to organize more (*the buzzer sounded*).....

I so submit.

MR ALAN LEONG (in Cantonese): Deputy President, first, I wish to thank the Honourable colleagues of the Panel on Information Technology and Broadcasting of this Council for preparing such a detailed report and laying down such a solid foundation for society as a whole to discuss the future direction of the public service broadcasting policy.

The Report stressed repeatedly that "universality", "diversity", "independence" and "distinctiveness" are the internationally recognized principles of PSB. These are in fact all core principles, moreover, "editorial independence" has also been affirmed as the most important core value. It is obvious that "independence" and "autonomy" refer to public service broadcasters must not be subjected to commercial pressure or political interference in its organization, operation, finance or programming.

However, even if the recommendations in the Report can all implemented in future and clear provisions are also laid down on how the regulatory regime for the broadcasters should be established, we still have to identify suitable candidates to man the system and implement these provisions that enshrine editorial independence. If we cannot ensure that people playing a part in the regulation and operation of PSB can defend the value of editorial independence faithfully and without fear, even if the provisions are drawn up meticulously and the design of the procedure is even more stringent, still, they will not be worth the paper that carries them.

To take Radio Television Hong Kong (RTHK), which is at present the major party responsible for providing PSB, as an example, the Director of Broadcasting and the Secretary for Commerce, Industry and Technology have

reached a framework agreement a long time ago, in which it is stipulated that RTHK has the responsibility to "strive to reflect the views of all sectors of the community of Hong Kong" and its mission includes "to provide..... impartial coverage of local and global events and issues", "to deliver programming which contributes to the openness and cultural diversity of Hong Kong", "to provide a platform for free and unfettered expression of views" and "to cater to the needs of minority interest groups". All the foregoing is quoted from the framework agreement. However, the developments relating to RTHK in the past eight years have failed to inspire sufficient confidence in its ability to ward off interference and operate independently.

From the criticism that a public affairs programme is eccentric, through the accusation that an interview with the Taiwan representative in Hong Kong was tantamount to advocating "the theory of two nations", to the disapproval voiced by a candidate in the Chief Executive election on the broadcasting of horse races and music award ceremony, all these actually reveal to the public that RTHK is subjected to incessant political attacks. The framework agreement has obviously been unable to provide an effective insulation between RTHK and the political segment. Even the Commerce, Industry and Technology Bureau, which has the responsibility to defend the framework agreement, has not issued any forceful statement or taken any forceful action to uphold editorial independence.

Deputy President, in view of the occurrence of such incidents and in order to reverse such uncertainty for editorial independence, in the future governance structure for PSB, not only is it necessary to provide an effective "political firewall" for the broadcaster, it is also necessary to bestow this important responsibility of maintaining this firewall to people who are both determined and competent. They have to bear in mind all the time that editorial independence in PSB has a great bearing on public interest and one must by no means deviate from this course because of pressure. Whether the people making up the governance structure can defend public interest will be crucial to the success or otherwise of the principles in PSB.

As the forerunner of PSB, the United Kingdom is now carrying out a reform on the governance structure for PSB by making the British Broadcasting Corporation (BBC) accountable to the BBC Trust instead of the Board of Governors. However, be it the Board of Governors or the trust, the Nolan

Principles, which are adopted by the British Government in appointing public officers, are adopted as the criteria in nominating members. Of course, there are a number of requirements, including the seven major principles such as selflessness, integrity, objectivity, accountability, openness, honesty and leadership. I believe that it is necessary to adopt the Nolan Principles when establishing the governance structure for PSB to ensure the quality of members who join the governance structure. Specifically, in designing the future governance structure, it is necessary to draw up guidelines that are objective and open, set out the criteria adopted in considering the appointment of members to the governance structure and allow the public and the legislature to discuss them in detail.

We consider institutions important but we also attach importance to finding ways to identify suitable talents to maintain these institutions. In order to enable members of the public to continue to enjoy high-quality, diversified and impartial PSB, the whole society should discuss the future direction of development for PSB immediately based on the study report of this Council.

With these remarks, Deputy President, I support the results of this study carried out by Honourable colleagues.

MR LEE WING-TAT (in Cantonese): Deputy President, a Member mentioned earlier the reasons for and importance of establishing public access channels, and now I will express, on behalf of the Democratic Party, our views on this issue.

The Democratic Party suggests that public access channels should be transmitted through digital broadcasting. By implementing digital television broadcasting and digital audio broadcasting, we can have more spectrum resources for broadcasting.

As the policy of digital television broadcasting will soon be implemented, it is expected that the majority public will switch to using digital televisions to receive the signals. However, as the digitalization of audio broadcasting is still left hanging in midair, the Democratic Party urges the Government to speedily finalize the policy of digital audio (referring mainly to radio) broadcasting so as to cope with the development of public access channels.

In short, the Democratic Party suggests that public access channels should use digital transmission so as to ensure that the public can conveniently receive high quality signals.

On the issue of spectrum ownership, as the purpose of public access channels is to provide a platform for free expression of public views, the Government ought to adopt a nominal ownership of the spectrum only, while the day-to-day management of the channels should be handed over to designated independent organizations so as to realize a high degree of autonomy. Only by so doing can we ensure that the channels are independent of the Government and that public worries of government interference can be dispelled.

According to overseas experience, public access channels are usually managed by public organizations established for this purpose or through licensing such channels to non-profit-making organizations, and both of them have respective pros and cons.

The public organization mode can ensure that the organization concerned can secure financial and operational autonomy through the law, which can help ensure the independence of the public access channels. Moreover, the public organization has to submit an annual report detailing to the Legislative Council and the public its daily operation, so there is a higher degree of transparency. Yet, the principal members of the public organization are usually appointed by the Government, thus this will not only discourage public participation in the management, but also cause associations with government intervention.

The other mode is by contracting out the management work to a non-profit-making organization formed by the public. This will facilitate the public in directly managing the public access channel, thereby making the content of the programmes closer to actual needs and easier to realize the management mode of public or collective decision. However, since these non-profit-making organizations may sometimes lack statutory power, they are often unable to handle alone such situations as litigations encountered in its operation. Moreover, as the contractor is chosen by the Government and the content of the contract drawn up by the Government, the independence of the organization under the contract are easily undermined.

The Democratic Party is of the view that both modes have their pros and cons, and thus proposes that the Government should establish a committee

comprising of veteran media workers, academics, community groups and members of the public to look into the mode that best fits the structure of public access channels for Hong Kong. Deputy President, the most important point of all is whether the Government is willing to realize public access channels.

In fact, the essence of public access channels is to provide the public with a platform to voice their opinions, such channels should thus broadcast, by all means, programmes provided by the people. As for the rest of the time, other than broadcasting programmes produced by the operating organization or other media, we can also draw reference from overseas experience and provide an electronic bulletin board for public organizations to disseminate their messages, so as to facilitate the development of civil society.

The Government always has two excuses whenever the issue of public access channels is discussed. Recently, Mr TSANG Kin-shing and Mr LEUNG Kwok-hung — their Citizens' Radio will soon face prosecution — received a letter stating that the frequency spectrum in Hong Kong is very narrow. Secretary, please do not say so. This is backward thinking. In all parts of the world where can we find a place that does not have a public spectrum, especially when Hong Kong has been called a metropolitan city? Be it in New York, cities in Australia, or London, as long as they are known as international cities, they have a public spectrum.

The present problem with the Government is that it has the majority of the spectrum in its grasp. The setting up of a fourth radio station hinges on its sole decision. It goes on arguing that the spectrum is too narrow and it is not yet digitized, so the spectrum is not broad enough for other organizations to set up a public access channel — though not necessarily the radio station set up by Mr TSANG Kin-shing and Mr LEUNG Kwok-hung. I have these questions. Why can Wan Chai not have a Wan Chai radio station? Why can Kwai Tsing not have a Kwai Tsing radio station? At present, Kwai Tsing District is inhabited by 600 000 people, which is even more densely populated than those cities. Some of those cities only have 200 000 to 300 000 inhabitants, but they have two to three radio stations. The population of New Territories East reaches one million. Why a radio station cannot be set up there? Why churches cannot have radio stations of their own? Why can a welfare organization not have one? After digitization, all these can be achieved.

(THE PRESIDENT resumed the Chair)

Currently, the Government has been adopting a stalling tactic. By the time when all discussions on the issue have stopped, it would put forth some specious arguments. If one urged for the opening of public spectrum, the Government would question how people can be prevented from making careless remarks or remarks that are anti-nation, threaten national safety or even are libelous to others? In fact, all such remarks of the Secretary are rubbish. Any such remarks can be regarded as rubbish. Why? Situations abroad are that if someone is suspected of libel, sue him then. If one's remarks jeopardize safety or are seditious, just enforce the law governing this will do.

Therefore, when an undemocratic government wishes to get hold of information but does not wish to make things transparent, it often will have hundreds of excuses saying that, for instance, the spectrum is not broad enough for setting up a Citizens' Radio; and that once the radio station is operated by a community group, what will be done if it makes careless remarks? All these are rubbish. I thus hope that the Secretary will not make such rubbish remarks in his reply.

There are enormous experience and ways of handling these situations in foreign countries. I thus hope that the Secretary can do two things: firstly, implement as soon as possible digitization of television broadcasting and audio broadcasting; and secondly, look into a mechanism for community groups (not just civic radio stations) such as churches, non-governmental organizations, community organizations and District Councils to use public access channels to produce civic programmes with a view to increasing public participation. Thank you, Madam President.

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

MS AUDREY EU (in Cantonese): The culture of a society and the quality and development of its people are immensely related to the public service broadcasting (PSB) of the place concerned. The classic drama series of Radio Television Hong Kong (RTHK) "Under the Lion Rock" has nurtured a generation of Hong Kong people living under the Lion Rock which demonstrates the spirit of resilience. Today, as society transforms and becomes increasingly diversified and sophisticated, we need to ponder anew how PSB can provide the best services. Not only do we have to safeguard freedom of speech and press

freedom, but also have to promote pluralism and social inclusion, and develop a civil society.

The first thing I wish to say is, PSB is provided mainly, of course, by RTHK, but it should not be confined to RTHK. The Civic Party agrees that we should open up the airwaves, develop digital broadcasting, and set up or open up public access channels. While seeking to become more diversified and popular, PSB should enjoy independence and autonomy, and be free from government interference. However, I really want to point out that many people misunderstand that to be free from political interference means to be free from intervention of the Legislative Council. They regard this as the most politicized venue. In fact, political interference refers mainly to the manipulation or intervention of the person in power. The Legislative Council is a publicly-elected assembly, so it should be the most appropriate forum to deliberate and reach a consensus on how to develop PSB. I am thus very glad to have the opportunity here today to discuss the report on PSB tabled by the Panel on Information Technology and Broadcasting of the Legislative Council.

At present, RTHK is a department under the SAR Government. People very often worry that a publicly-funded or public service broadcaster may be reduced to the mouthpiece of the Government. Many colleagues have mentioned just now that since the beginning of this year, the Chief Executive and different Policy Bureau Directors of the Government have appeared in the programme "Hong Kong Letter" or the programme "Letter to Hong Kong" almost every month. Considering that the programmes only broadcast once a week, their frequency of appearance is rather high, and thus the rumour about the public service broadcaster becoming the mouthpiece of the Government has spread without any conscious efforts. The Civic Party agrees totally that for a public service broadcaster to become independent, it has to undergo corporatization. Its independent status has to be entrenched by law and its editorial and news reporting independence explicitly provided for in the relevant ordinance. We still remember that before the Chief Executive assumed office, he had already expressed his dislike for RTHK broadcasting programmes on horse races and the top 10 Chinese gold songs. It turned out that in less than one year RTHK stopped its horse-racing programmes. This gives us the impression that the Government may have been interfering with PSB. Moreover, many members of the public, especially those who are pro-establishment, have been hurling criticisms at RTHK over the past years.

In particular, programmes mocking current affairs have often been subjected to such pressure. In fact, this is a very important indicator to society. Indeed, such programmes will always be controversial, but they should not be a subject that a pluralistic society evades or dodges. A public service broadcaster has to face the general public and should not be controlled by a few people of high power or influence.

The Civic Party is also very much concerned about the accountability and governance structure of the public service broadcaster. We certainly hold that the board of directors should take charge of the public service broadcaster and all members of the board should not be appointed, be it directly or indirectly, by the Government, and that the board should carry different talents and professionals. We should also consider introducing different representatives into the board. For instance, the Hong Kong Journalists Association should have the right to elect its representatives, and many ethnic minorities should also have the right to participate as well.

To ensure the editorial independence of the public service broadcaster, the Chief Executive should leave the appointment of board members — although he has the right to do so — to the Legislative Council for deliberation and endorsement, because this can enhance the transparency and they can be held more publicly accountable through the Legislative Council. This can also ensure that the appointees are drawn from a wide spectrum of society and their appointment is consistent with the Nolan Principles mentioned by Mr Alan LEONG just now, that is, the acceptability of the members can be strengthened through representatives of the people.

With respect to accountability, the public service broadcaster can establish a new advisory structure to allow opportunities for regular liaisons and exchange of views with its audience, with a view to enhancing the transparency of its operation. With respect to the operation fund or cost, we agree that the public service broadcaster should be given funding and that its source of revenue should not be subject to commercial pressure. Of course, it has to table an annual report, but insofar as the vetting and endorsement of its account by the Legislative Council is concerned, it should be done once every three or five years, instead of once a year, so as to ensure public money is well spent. We also hold that it can produce other commercial programmes because quality service has to be comprehensive. President, we hope the Government will heed the views of the Legislative Council.

MR ALBERT HO (in Cantonese): Madam President, Radio Television Hong Kong (RTHK) is the only radio station in Hong Kong which mainly provides PSB. By public, it means that it is operated as a government department and is publicly funded. For this reason, some think that this public department should belong to the Government and serve the Government, and it should even provide publicity for the Government as a matter of responsibility and not overly criticize the Government. I really do not understand the mindset and reasoning of those people who expressed these views. I think it only reflects a concept of values, that is, in their mind, there is too much freedom in this society and people are undisciplined and free to challenge the authority of the Government. I think this kind of autocratic and feudal thinking is hardly acceptable, a total mismatch with our times.

In fact, public money comes from the people and society. The Government is merely the trustee and administrator of these public funds; this radio station belongs to the public and it should serve the interests of the public. If we make further inference based on this mindset, we should consider how to consolidate this public service, so that it can genuinely adopt public well-being as its objective and provide the public with a diversity of unrestrained messages in the long term. It is now time we proposed a comprehensive review. Although many say that the existing operation of RTHK is based on a framework agreement and RTHK enjoys sufficient independence and autonomy under this agreement, I believe many people hold enormous doubts about this notion and even believe that the invisible hand of the Government can make intervention within the scope of this agreement at any time.

Madam President, I need not cite any example, like the "two states theory" by Mr CHENG An-kuo, which led to the expel of former Director of Broadcasting of RTHK, Miss CHEUNG Man-ye, I think everyone knows about this incident. In addition, it also goes without saying that the criticism on RTHK by the Chief Executive candidate during the election did cause an impact. Therefore, I think that, in the review, it is necessary to set up a framework under which an ideal public service provider can genuinely be produced for the sake of the future development of RTHK. The Democratic Party supports the setting up of a statutory framework whose governance can reflect the pluralistic values and openness of society and cater to the needs of the minority. It will be immune to government intervention and at the same time will not have to rely on commercial sponsorship due to its search of funding, thus preventing its programmes from being based on commercial, show business and popular cultures.

For this reason, we agree that the Government should continue to provide for its funding, but it has to be made on a fixed-term basis, say, a provision of funds in every three or five years, and it should also allow RTHK to obtain sponsorship from some institutions, including non-profit-making funds and commercial bodies. However, it should not compete for commercials.

At the same time, I think the future development path is to make full use of Hong Kong's airwaves, so that the channels of RTHK can be fully utilized with greater innovation and vitality. Therefore, when we conduct this long-term review, it is a must to include digital development and the opening of airwaves and also to permit of public access channels and community broadcasting. I think that this direction of development is supported by society.

Now the Government has offered many excuses, saying that it will create a status of "anarchy" and that the Government is worried that many irresponsible opinions will appear. These statements can hardly stand. In fact, there is no such constraints on newspapers and publications in Hong Kong. I really cannot see why such unnecessary constraints have to be imposed on broadcasting.

Certainly, I agree that regulation that is reasonable, appropriate and compliant with the International Covenant on Human Rights can be stipulated in our laws, and that the relevant broadcasting structure can be reviewed to assist the public in joint monitoring, so that even when the airwaves are opened, participants can still perform many functions and that the negative impact, which causes fears among many which I think are unnecessary, will not occur.

Madam President, in Hong Kong, the core values which we should cherish most is a society of true freedom, openness, diversity and profuse tolerance. The freedom of speech and freedom of broadcasting are inseparable. When citizens exercise their freedom of speech, freedom of expression and freedom of broadcasting, the Government definitely should not constitute any obstacle and stumbling stone. At this moment, the Government should fully support this review in a proactive attitude, so that we can draw a conclusion which will be conducive to the future advancement, openness and democratic development of society as a whole. I believe if RTHK adopts an operation mode which is statutory, independent and publicly funded, all of us should accept it.

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

MR ALBERT CHAN (in Cantonese): President, in the first four meetings since the resumption of Council, there were already two motion debates in relation to broadcasting. Excluding the policy address, there were two motion debates in relation to broadcasting in three Council meetings. It proves that this issue is a serious concern to the general public and Members.

Mr SIN Chung-kai has unleashed the first wave of concern for broadcasting. Next week, I will move another motion to request the Government to open up the airwaves. The Report submitted by Mr SIN Chung-kai on behalf of the Panel on Information Technology and Broadcasting is basically the consensus of different sectors, different groups and different political affiliations. The Secretary should study it objectively and in detail. The Report points out that popularity, diversity, independence and distinctiveness are the international core principles of public broadcasting service. I drew a long sigh after reading these four principles. It was because since the reunification, we have seen changes in broadcasting affairs, the broadcasting industry, and especially the forced cessation of radio programmes of famous hosts. The degree of freedom in broadcasting in Hong Kong has thus been overshadowed. In the past or even at present, Hong Kong has been criticized as having liberty but no democracy, and it is a society with an extremely high level of freedom. However, looking back at the past few years and especially since the reunification, our degree of freedom has been unceasingly eroded, and the one who has planned and performed the erosion and slaughter of the degree of freedom in Hong Kong was none other than our Government.

Recently, Reporters Without Borders announced a global ranking in freedom of press. Hong Kong's ranking has dropped 19 places. Hong Kong is currently ranked 58th in the world, same as Poland, Fiji and Romania. Poland and Romania are both former communist countries. We can see the rapid fall in ranking has tolled the bell for the freedom of press in Hong Kong, and so we must heighten our vigilance. Certainly, our senior officials, including Secretary Joseph WONG, may feel smug about it. They have made a glorious achievement with great success in restricting freedom in Hong Kong for the Central Government. In my several discussions with Secretary Joseph WONG about the opening of radio stations, he often put forward a grand theory, and that is, we now have broadband and we can make use of it. If broadband is

now as useful as the Secretary said, we should require Metro Broadcast and Commercial Radio to broadcast entirely with broadband and return the airwaves to the people. The airwaves are assets of the people. They cannot be completely manipulated by a dictatorship, and plutocrats cannot exploit these common rights of the 7 million Hong Kong people simply by obtaining a set of funds through a tender regime.

Therefore, I hope the Secretary knows clearly what belongs to the people. The executive powers are merely prerogatives conferred by institution. If such prerogatives were used to continuously exploit the people's rights, it will only incite anger and resentment among the people. If the anger and resentment are stirred up to a certain level, not only will it lead to 500 000 people taking to the streets but also cause citizens to take more radical actions of confrontation. The Citizen's Radio is part of the confrontation, and its prosecution is expected. However, the invoking of a draconian law by the Government to prosecute people who strive for justice and people's rights will certainly lead to greater confrontation. If the level of confrontation intensifies and expands, this absolutely should not be a phenomenon to be seen in Hong Kong, and also not be a product of the so-called strong governance. Chief Executive Donald TSANG has said several times that strong governance is virtuous governance, but if it is virtuous, the people will not engage in such acts of confrontation. Therefore, the Government cannot remain indifferent to the drastic fall in the degree of freedom; but sometimes, the Government is not only indifferent but feels smug about it.

We often say that Hong Kong is the freest economy, but now the freedom of speech has dropped by 19 places. It can be said that money is everywhere in Hong Kong, but the sky is closed. Our air is so dirty that it affects our health, but a closed sky also affects our thinking. Many Members have just said that the Government is not willing to open up the airwaves because our spectrum is too narrow. In fact, it is not the spectrum which is too narrow; narrow are the mindset and breadth of the Government. It is because they do not have the courage and willingness to let Hong Kong people speak freely. Currently, on the two licensed Chinese radio stations, the room for political talk has already been continuously compressed. It can be said that those anti-government opinions, especially vigorous ones, already have no chance to be aired on these radio stations. It is very simple. In the last few months, the number of times that I was interviewed on English radio stations was several times more than that on Chinese radio stations. Therefore, I can see that the regulation of Chinese radio stations and the control on speech are being increasingly tightened.

President, the airwaves are not manipulated by some people of power and influence and RTHK is also gradually coming under the manipulation of these powerful and influential people behind the stage. I feel gravely concerned about this development. Next week, the motion debate to be moved by me will further elaborate on the relevant issue. I hope Members will not only support the motion moved by Mr SIN Chung-kai today, but also voice their support for the motion in relation to the opening up of airwaves then. Thank you, President.

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

MS MARGARET NG (in Cantonese): President, although the topic for discussion today is a bit wide, that is, public service broadcasting for Hong Kong, with the study report in particular, we all know that the core questions are: What course should Radio Television Hong Kong (RTHK) take? What will it become in future?

President, it is known to all that RTHK has a long history in the community, and the people have a very special affection for it. In spite of that affection, we should not totally disregard our objectivity.

In fact, RTHK's credibility in the past, and the image it has established in the community At that time, although many people turned down interviews in general, they would definitely give interviews to RTHK; although we might be reluctant to do service for any radio station or mass media, we would be prepared to do service for RTHK. This precisely reflects the special status and credibility of RTHK. However, today, RTHK is caught in a precarious situation. What is the cause of this? Actually, while on the one hand this signifies a change in the political climate of Hong Kong, on the other, it is also the result of many changes that have taken place within RTHK.

Today, many colleagues have expressed numerous opinions. Although I have not sat here and listened to every speech, I have read them all. To me, the crux of the matter is how to continue to gain public support. As a starting point, it must have the support of the vast majority. To achieve this, it is in fact very clear that what comes first is for it to remain a fair and unbiased broadcaster which is vocal and independent. Moreover, there must be a style for its

programmes so that people will feel that it is upright and there is substance in what it says. Then, there will be room for development.

Nonetheless, we can see that in the past, because of its desire to make excessive accommodation for fear of criticisms here and there, those who cherished it most had been hurt the most. If this continues, there will be no prospect for RTHK because it will lose public support. Therefore, in future, RTHK or any other public service broadcaster must concentrate on thinking of ways to gain back the support of the vast majority.

President, so long as RTHK can grasp this thrust of the issue, what remains will only be the skill, form or way to achieve this goal. For example, how can editorial independence, independence of the broadcaster and financial independence be assured? While enjoying editorial independence, how can there be independence in programming content? How can there be transparency in operation? Where does money come from? What about financial accountability? Since it is financed by public funds, how can it assure the public that every cent spent is worth the money? President, to me, none of these pose any difficulty. Actually, as long as we have such goals, there will be ways to achieve them.

We have borrowed experience from many places in this Report. In fact, although we do not have to model on any of them, we can see that different places have different practices. Therefore, I have always thought that there exists no major technical problem which hinders us from choosing from among the different forms, and there is no difficulty in making choices. The biggest difficulty in fact lies in deciding, in terms of policy and spirit, whether there should be a public service broadcaster to really take the people of Hong Kong as the target, one which is free from control of the Government and the Legislative Council. In addition, the presence of Legislative Council Members is no guarantee for independence. In fact, a parliamentary assembly is political by nature. The participation of legislators on the contrary may not mean that the public service broadcaster can operate independently.

Therefore, President, I feel that there are many ways to accomplish this. So long as we have a proper goal recognized by everyone, we will be able to achieve it.

Thank you, President.

MR PATRICK LAU (in Cantonese): President, I would like to talk about my sector's expectation and opinions of public service broadcasting (PSB). Firstly, to maintain high quality PSB, it is most important to uphold two basic principles: first, providing high quality and diversified services to the public; second, drawing up a set of quality indicators suitable for the reference of the mass media.

As the Government is duty-bound to care of the needs of different strata of society, PSB should provide a platform for people from all walks of life to have a chance to express different opinions. At the same time, it should provide people with different interests with alternative programmes which are neglected due to a lack of commercial appeal. More importantly, PSB should be proactive in providing the vulnerable with channels which will induce them to take part in policy discussion.

President, at present, society's general criticism of the mass media mainly concerns its ethics, style of reporting tilted towards ballyhooing, the paparazzi culture, sentimental reports, and so on, which have impact on social morals. Therefore, a public radio station should play the role of bringing order out of chaos, set a good example, and re-establish the high values expected of the mass media. However, when promoting a healthy culture, nothing should be done to undermine the cardinal principle of not harming the freedom of speech in a democratic society.

In order to be successful in balancing a healthy culture against the freedom of speech, it is very important to provide media workers in different domains and producers with a professional working environment. With professional recognition, programmes produced will naturally reflect a professional production level, elicit society's acceptance and command respect from their commercial counterparts who may follow suit.

Healthy competition with the commercial sector spurs improvement. Under such circumstances, the public service broadcaster will not only be the Government's mouthpiece, explaining government policies, but will also educate the public on building a harmonious and widely inclusive society.

Since resources for a public radio station come from the Government's public finances, charity funds, and so on, the public service broadcaster should

have a policy different from that of commercial broadcasters. It should aim at playing the positive role of encouraging community involvement, instead of seeking to make profits. Therefore, it should concentrate on providing the needy masses with programmes within its capacity of production.

While productions will be made with limited resources, the level of service should not be compromised. Rather, programme quality should keep rising through self-monitoring which can take the form of opinion polls, corporate monitoring, and so on. By encouraging public participation in monitoring, the public broadcaster will be made to keep upgrading its service quality and play well the role which it should play.

I so submit. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Member wishes to speak, I now call upon the Secretary for Commerce, Industry and Technology to speak.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I am most grateful to Members for putting forward a lot of opinions on the motion and the Panel on Information Technology and Broadcasting of the Legislative Council (the Panel) for conducting the study and compiling the Report. As public service broadcasting (PSB) is a subject of great significance, it is worthwhile for all sectors of the community and the Legislative Council to conduct in-depth discussions in seeking a consensus.

As pointed out by Mr SIN Chung-kai earlier in the meeting, there is no clear PSB policy in Hong Kong at the moment. In view of this, the Chief Executive appointed an independent Review Committee (the Committee) on 17 January this year to undertake a full review of PSB in Hong Kong. I consider it worthwhile to reiterate the terms of reference of the Committee here as follows:

- To examine the role of, and justifications and public purposes for PSB in the development of Hong Kong's broadcasting market, against the public financial and other resources required for such broadcasting;
- To identify issues concerning public accountability of PSB in matters of editorial impartiality, programming policy and good governance;
- To identify measures for the Administration to evaluate the effectiveness of PSB and arrangements through which the public can participate in such process;
- To advise, in the light of the above, an appropriate arrangement for the provision of PSB in Hong Kong; and
- To recommend implementation plans for the short, medium and long terms.

I have taken the trouble to read out these terms of reference mainly in the hope of demonstrating that the review is comprehensive. I understand that the Committee has, since its establishment, met with various deputations and sectors and invited overseas experts to participate in its study and discussions. Between August and September, the Committee established four task groups to discuss four issues, namely the governance structure, programme matters, accountability initiatives and financial arrangements, relating to PSB in Hong Kong. The outcomes of the discussions on the governance structure, financial arrangements and accountability initiatives have been published in end September. The Committee has completed its consultation, and received more than 140 written submissions and the study report compiled by the Panel. The Committee is now in the process of analysing and summing up these views for further studies to be conducted for compilation of its review report.

As I pointed out earlier, the review is a comprehensive policy review. The focus of work of the Committee is to review the policies and overall arrangements of PSB. We keep an open mind on the outcomes of the review and the Government's final decision. Here I would like to state clearly again that Radio Television Hong Kong (RTHK), being a government department providing broadcasting services, might be affected by the Government's decision

on its future broadcasting policies. At this stage, however, we should not make any assumptions on the SAR Government's future decision, including the assumption that RTHK will definitely be turned into a so-called new public service broadcaster.

I have noted that Chairman of the Panel pointed out in a press conference on 27 September that it was necessary to conduct a review to, first of all, define the role and mission of PSB. He also mentioned that the Panel is of the view that PSB should:

- promote civic awareness, propel the development of civil society by enhancing public awareness of society, the country and the world, and the awareness of "one country, two systems";
- promote awareness and tolerance of different cultures, languages and races;
- promote education and encourage continuous learning;
- encourage innovation and pursue excellence.

While I would not comment on the views of the Panel at the present stage, I wish to stress that I fully agree that the core issue of the review is to define the policies and public purposes of PSB and the role of PSB providers. Actually, the fact that PSB must be consistent with public purposes is also the core issue examined by other regions in reviewing PSB. For instance, in the newly revised Royal Charter, the public purposes of the British Broadcasting Corporation should include:

- promoting education and learning;
- stimulating innovation and the culture of excellence;
- representing the country, its dependent territories, regions, and communities; and
- demonstrating the country to the world, bringing the world into the country, and so on.

PSB providers in other parts of the world also have clearly defined public purposes. I believe the Panel was well aware of it when they travelled abroad to inspect PSB provided in overseas places.

Hong Kong is a special administrative region of China. Under the policy of "one country, two systems", members of the public enjoy the rights conferred upon them, including freedom of speech, while assuming the responsibilities a national is obliged to perform under the Basic Law. If Hong Kong is to definite a clear PSB policy, one of its public purposes we must consider is whether PSB should serve the purposes of promoting public awareness of the country, "one country, two systems" and the Basic Law and promoting efforts in this area.

As I said earlier, we should not make any assumptions about the Government's decision in the future. Hence, with respect to all broadcasting services requiring the use of public funds, we should answer a fundamental question and that is, whether such services should be provided by a commercial broadcaster. I hope the Panel can put forward views and concrete proposals in this area to ensure that every cent of public funds is well spent and that the normal operation of a commercial broadcaster will not be intervened.

The issue of a public access channel has also been raised by Members. During a motion debate held on 8 February this year on policy on PSB, I already explained the Government's stance. In brief, we do not think that there is an urgent need at this stage to set up a public access channel in Hong Kong. However, Members' views on this issue will be taken into consideration in the current PSB review. Some Members, including Mr Albert CHAN, who is not present in the Chamber now, have often mixed up PSB with such issues as whether there is freedom of speech and freedom of the press in Hong Kong and whether the freedom of speech in Hong Kong will be compromised in the context of PSB. Mr CHAN also pointed out that, as revealed by the figures of some overseas surveys, the freedom of the press in Hong Kong seemed to be declining. However, I have at hand an opinion poll conducted by the University of Hong Kong revealing that the public rating of freedom of speech has continued to rise, from 7.2 (the full score is 10) in July last year to a historical high of 7.94 in July this year. This shows that, in the minds of the people, the freedom of speech in Hong Kong has not fallen, and they seem to be quite pleased too. In my opinion, PSB is entirely different from the rights and freedom of speech enjoyed by Hong

Kong people under the Basic Law. To bundle up the two together is entirely inappropriate, and the whole issue will thus be politicized.

I would like to say a few words on the issue of a timetable. As stated by us in the past, no deadline has been set for the presentation of the report by the Committee. However, I have learned that the Committee expects to complete its work and submit its report to the Government either late this year or early next year.

Upon receipt of the report, the Government will carefully consider the proposals put forward in the report. During the process, we will also make reference to the views expressed by various sectors of the community, including the study report submitted by the Panel. Later, we will conduct a comprehensive examination and in-depth study of various major topics, including the overall policies, mission, specific public purposes, mode of service, governance, accountability, public participation, financial arrangements, and so on, with a view to preparing a detailed public consultation document to consult the public extensively.

Depending on the time of receipt of the Committee's report, the content of the report and the progress of preparing the consultation document, we expect to publish the consultation document in the second quarter next year. The public at large will be given ample time to ensure that they can fully discuss the matter to reach the greatest consensus. After summing up the outcomes of the consultation, we will decide on Hong Kong's future PSB policies and concrete arrangements,

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr SIN Chung-kai, you may now reply and you have three minutes 30 seconds.

MR SIN CHUNG-KAI (in Cantonese): President, firstly, I would like to respond briefly to the so-called programme on national identification mentioned by Mr Jasper TSANG. Programme content is mentioned in page 86 of this

Report. We noted from the Report the scope of programme content presently provided by overseas broadcasters as well as their mandate, and item (o) refers to programmes in Australia: "broadcasting programmes that contribute to a sense of national identity, inform and entertain, and reflect the cultural diversity of the community". Of course, other places, for example, Britain or the United States, also place great emphasis on supporting local arts and culture. I believe this must be related to national identity recognition. Therefore, I do not think there is any conflict.

Moreover, I would like to respond to the issue of press freedom raised by Mr Albert CHAN. Of course, I do not fully share what Mr Albert CHAN said earlier, and it is unacceptable to me. At this stage — this Report in fact has not mentioned this part but since the Secretary has responded, I would also like to voice some personal opinions. Actually, one of the main points of this Report is that PSB has to establish a platform for people with different opinions to have room for exchanging opinions or discussion, and this is what Prof Patrick LAU said should be provided. At present, in terms of technology or spectrum, our public service broadcaster does not have sufficient room for those who intend to speak up to do so. Thus, I hold that the Government really needs to conduct a review.

Regarding the Secretary's remarks just now, some points warrant discussion, including whether it is necessary to study further if a commercial broadcaster can provide PSB. Our Report also mentions, and the Secretary may in future study in detail, that in Britain, which is more advanced or even the mainstream, its PSB is surely very good, reaching to every sector of society. However, for some privately-led broadcasting service like the case in the United States, there is also a perfect system to ensure that PSB is active, or to enable the continued production of programmes.

Therefore, the Government should in fact begin to consider this issue earlier. Overseas experience has told us that commercial broadcasters cannot replace PSB financed by the people. In that case, is it necessary for Hong Kong to have an extra public service broadcaster? In the Report, the Panel very much emphasized that this possibility would not be ruled out, but we stressed that it might be necessary for the Government or the future structure to ensure sufficient resources or financial resources to cope with an all-round PSB. This is the most important issue.

President, as time is limited, I hope colleagues will support today's motion, and I also hope that they will support the recommendations contained in the Report. Thank you.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Minimum wage, standard working hours.

MINIMUM WAGE, STANDARD WORKING HOURS

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

There are two main points in my motion today, which are: firstly, the application of the Trade Boards Ordinance (TBO); and secondly, the introduction of legislation to regulate the number of working hours. Although it has been proposed in the policy address to launch a Wage Protection Movement (the Movement) for the cleansing and guarding services sectors, we all know that it is not a legally-binding movement and thus, anyone with experience with the real world will foresee that the Movement will achieve but little result. There are

many employers in Hong Kong. It is thus highly improbable that the Movement can enlist the support of 90% of the employers who can, at the same time, fulfil the requirements of the Movement. Under such circumstances, continuing to fight for regulation by way of legislation will be a way out. "Without a pair of compasses and a set square it is hard to draw a perfect circle and a square", as the saying goes, there must be laws in place to regulate the situation.

Madam President, the purpose of the motion is to urge the Government to apply the TBO because the debate on whether or not legislation should be introduced on a minimum wage in Hong Kong has been going on for years. Yet, a lot has been debated with no public consensus reached. As there is already an existing ordinance for application, we can avoid another round of debate necessitated by legislation.

Madam President, as early as 1932, Hong Kong actually already enacted an ordinance on minimum wage, which stipulated that the Government can set a minimum wage for any trade the wages of which was below a reasonable level. The ordinance was enacted because the United Kingdom, the sovereign state of Hong Kong at that time, was led by the Labour Party and it undertook to abide by the Minimum Wage-Fixing Machinery Convention (the Convention) (No. 26) of the International Labour Organization (ILO), which came into force in 1930. An ordinance on minimum wage was thus enacted accordingly in Hong Kong.

By 1940, during the time of the Second World War, this ordinance on minimum wage was repealed and replaced by the TBO. The TBO stipulates that the Chief Executive may fix the rates of wages for any trade when the wages of such trade are unreasonably low. Moreover, the Chief Executive may establish Trade Boards consisting of members representing the employers and workers in equal proportions. However, one year after the TBO had taken effect, Hong Kong was plunged into Japanese occupation. During the war, none would of course invoke the TBO. After the war, when the economy of Hong Kong gradually recovered and took off, people were able to get a job and they could earn more by working more. As a result, the TBO was not applied since.

Today, the days of "the more we work the more we earn" no longer prevail. Now, many workers earn as little as some \$3,000 a month even working 12 hours a day. The Hong Kong Federation of Trade Unions (FTU)

has thus dug the TBO from the bottom of the drawer and, since Miss CHAN Yuen-han's motion on minimum wage in 2004, we have been proposing to the Government the application of the TBO.

Madam President, as the TBO was enacted a long time ago and it has never been enforced, some of its provisions may have become obsolete. For instance, a fine of several hundred dollars can hardly have any deterrent effect on employers nowadays. However, the TBO is a comprehensive law. As mentioned just now, the Chief Executive may set minimum wages, establish Trade Boards, and even empower government officers to enforce the law by, for example, checking wage records at places where employees or outworkers work. The TBO also stipulates that if the agent of an employer commits an offence, such agent shall be liable to the same punishment as that to which the employer is liable. These provisions are feasible. As the Government is launching the Movement for a year, we can well make use of this opportunity to amend and update the TBO so that when the Movement is proved to be unsuccessful after review a year later, we can invoke the TBO immediately to expeditiously achieve the effect of legislation on minimum wage.

Madam President, while stipulating that the Chief Executive may fix the rates of wages for any trade when the wages of such trade are unreasonably low, the TBO also allows the fixing of the rates of overtime pay. That is to say, the TBO not only sets the minimum wage, but also provides for standard working hours. If the rates of overtime pay are set at a level higher than the normal wage level, the boss would not want his staff to work for long hours because he would end up paying more in wages. Thus, as far as working hours are concerned, this will become a regulatory mechanism and workers can truly be paid more by working more.

In 1996, the Government intended to repeal the TBO, but Mr CHENG Yiu-tong of the FTU, who was a Member of the Legislative Council at that time, submitted a proposal to the Panel on Manpower to oppose the repeal. He made reference to the fact that an interdepartmental group was set up within the Government around the '60s and '70s to examine the validity of the TBO and enactment of legislation on minimum wage. He thus urged the Government to expeditiously establish an ad hoc group to seriously and comprehensively review the TBO. However, the matter was left unattended by the Government. The TBO was not repealed, neither was it subjected to a further review. This is indeed most regrettable.

Madam President, minimum wage is not as dreadful as a terrible scourge. An ordinance on minimum wage has long existed in Hong Kong, only that the Government has been using non-intervention as an excuse for not invoking it. However, now that the Chief Executive has explicitly expressed the abandoning of the non-intervention policy and given that 350 000 workers are earning less than \$5,000 a month, perhaps the proposal put forth by Mr CHENG Yiu-tong to the Government 10 years ago of establishing an ad hoc group merits our serious consideration.

Moreover, I also wish to tell Honourable colleagues that the Convention (No. 26) of the ILO came into force in 1930, and the People's Republic of China has been its signatory since 1984; and the Convention was given effect in the Macao SAR through a public notice made in 3 October 2001. The Macao Government adopted the Convention because of the plain fact that our country is a signatory to the Convention (No. 26) of the ILO.

However, if we look at Hong Kong, there are at present 41 ILO conventions applicable to the Hong Kong SAR except the one on the machinery for minimum wage. There are still endless debates on introducing legislation on minimum wage, not to mention the Movement to be launched now. Till what time will the Hong Kong Government stop ignoring the issue of working poverty? Till what time will we be able to catch up with the Mainland and Macao on protecting labour rights?

With these remarks, Madam President, I hope Members will support the motion.

Mr WONG Kwok-hing moved the following motion: (Translation)

"That, as the 2006-2007 policy address proposes to launch a Wage Protection Movement for employees in the cleansing and guarding services sectors, but participation in the movement is entirely voluntary and employers who do not participate are not bound by it, this Council urges the Government to expeditiously:

- (a) apply the Trade Boards Ordinance to specify a minimum wage level and the rates of overtime pay, starting with the cleansing and guarding services sectors; and

- (b) regulate the number of working hours, reasonable rest breaks during working hours and the rates of overtime pay, so as to ensure that employees have sufficient time for rest and studies."

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

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

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

MR LEUNG YIU-CHUNG (in Cantonese): President, I maintain, even today, that we have to use legislation to implement minimum wage. Why? Because the Chief Executive has stressed once again after the delivery of the policy address last month that the Government will introduce the concept of minimum wage by launching a non-binding voluntary scheme or movement on wage protection for the guarding and cleansing services sectors.

President, we feel very disappointed and regrettable because we have been discussing the issue of minimum wage with the Government for years, but the Government has been cold-shouldering us all along. It was not until recently that the Government told us it would launch a voluntary Wage Protection Movement. As Members are aware, we want legislation because we wish to focus our efforts on employers. If the scheme is voluntary in nature, I believe some scrupulous employers may participate in it voluntarily, but, President, what does this tell us? These are basically employers who observe the ethics and norms, respect the dignity of people's livelihood, and thus the wages they pay to their workers will not fall below the minimum wage. Hence, they will not constitute any problem if they are invited to join the scheme. The problem lies in whether the scheme can enlist the support of those unscrupulous and unethical employers who pay their workers wages so low that the latter can only lead a meagre living. Unfortunately, the Government still insists on a so-called voluntary scheme. It is indeed most regrettable.

President, the best example is the legislation on the smoking ban which was just been passed last month. Many restaurants pledged their immediate support to the legislation and participated voluntarily in the relevant scheme. However, President, how did the matter turn out? It turned out that only some 200 restaurants, out of some 20 000, participated in the voluntary scheme, accounting for a little over 1%. Thus, it can be seen that only those who are very willing to do so will participate in a non-binding voluntary scheme, while those who are not willing to do so will still refuse to participate. I am thus of the view that little can be achieved by a purely voluntary scheme and such a voluntary movement is only the stalling tactic of the Government.

The Government would of course disagree and say that it is not stalling. Mr Matthew CHEUNG, the Commissioner for Labour, denied that they are stalling and said that they are working on it wholeheartedly and they will conduct a review a year later. However, President, what kind of review will be conducted a year later? It is not an ultimate review, only an interim review. What does it mean by an interim review? At interim, the result can be satisfactory or unsatisfactory, but in both case, it is not yet final. Why? Because the Government said that it would not conduct a comprehensive or conclusive review until at least two years later, so the interim review is nothing but a nominal statement by the Government telling us perfunctorily that it will briefly look into the scheme but the conclusion will not be available until another year later. How could we have faith in the Government that it will really work on it?

President, I also mentioned last time that we in the Panel on Manpower had had the Secretary hard pressed. We asked him whether there were any criteria for the review, be it the interim review or the final one two years later? And what would be the basis of the review? The Secretary stressed that we had to trust them, and that they would conduct the review by all means, but the criteria would be determined by the Labour Advisory Board (LAB). Therefore, President, the situation now has again turned into a football game, where the ball is again kicked to the LAB's part of the pitch. The situation is exactly the same as two years ago when we discussed the issue of low wage levels and long working hours of the labour sector. The Chief Executive stated at that time that he would look into the matter, but then he passed the ball to the LAB. The matter has been discussed in the LAB for two years. To date, no conclusion has been reached. There is some progress though. What is the progress? The progress is that a voluntary wage protection scheme will be implemented, but

that is all. To the workers, the scheme cannot bring them any actual benefit. They are just comforting themselves with false hope. They cannot envisage any new outcome, nor any concrete benefit. Their low income remains as low. President, the matter has been dragging on like this, what should be done?

Another problem that is of great concern to us is the attitude of the Government. The Government will often say that it will review or work on many issues, but nothing is delivered afterwards. Some policies have already been implemented, but again nothing is delivered. The Government will then say, "Not any more. It has ended." For example, the Government proposed the building of 85 000 flats, but then there was only thunder but no rain. The Government then told us the reason was that the policy had ceased. Another example is the policy of positive non-intervention. Despite the policy having been implemented for years, the Government now says that the policy is no longer needed. This is yet another policy which comes and goes as the Government pleases.

It may not be a big deal for not continuing certain policies after their introduction. What matters is that the Government does not honour its words. Take the smoking room as proposed in the legislation on smoking ban as an example, the Government had already said that it had ruled it out, but all of a sudden it said that it would consider it again. We are not discussing the pros and cons of the smoking room today, but we cannot help but feel worried about the Government denying at any time its own undertakings. What can be done? For example, today, the Government said it will review the scheme and proceed to legislation if the result of the review proves the scheme unsatisfactory, but how could we believe in its words?

In fact, many workers have often seen the Government failing to honour its cheque and adopting a stalling tactic, rendering us impossible to trust the Government. Even though the Government has selected the cleansing and guarding services sectors for implementing this trial scheme, many workers query why the cleansing and guarding services sectors have to be selected. Even if this so-called voluntary movement can be successfully launched, it will only be able to solve the problems of these two sectors. What about workers of other industries? Are they negligible? Why are only two sectors selected? From what we have seen, the situation of underpaid workers is grave. At present, families making a monthly income of less than \$4,000 account for 170 000 persons in Hong Kong. Why are the other job types being neglected?

Even if we now focus only on the cleansing and guarding services sectors, what criteria does the Government have in determining a reasonable level of wages for them? The Government has yet to provide any answer. Although the Government has said that it will use the average market rates as published in the Quarterly Report of Wage and Payroll Statistics of the Census and Statistics Department (the Report) as the basis, what are the figures? According to the Report, the wages in the second quarter of 2006 are as follows: The average monthly income of a toilet cleansing worker, a general cleansing worker, a dish-washing and cleansing worker, and a fast-food shop casual worker are \$4,740, \$5,042, \$5,398 and \$5,687 respectively.

Even if these figures are made available, what next? Do Members find these figures high or low? To date, the Government has yet to comment on these figures. What will happen if these figures are used as the criteria for evaluation? According to a survey jointly conducted by the Hong Kong Council of Social Service and Dr WONG Hung, the basic monthly expenditure of a person who needs to raise one child is \$5,800. All the figures mentioned above are less than \$5,800. If the Government uses such figures as the basis for calculation, it will find them acceptable, but I find them problematic.

Now, a lot of people are saying that it is a good thing that the Government implements this voluntary scheme. One Nobel Laureate even said that the scheme is not good but acceptable because mandatory legislation will be even more detrimental to the entire economy. Yet, I wish to point out that in an election in the United States this year, 650 academics jointly signed a statement urging for the introduction of minimum wage, among them five are Nobel Laureates (*the buzzer sounded*).....

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, your speaking time is up. Please sit down.

MR ANDREW CHENG (in Cantonese): Madam President, I will propose a simple amendment to Mr WONG Kwok-hing's motion on behalf of the Democratic Party in respect of minimum wage and standard working hours. My amendment is on the legislation on working-hours protection, aiming to initiate a discussion on the Government's delay to initiate a debate on the legislation on standard working hours.

Madam President, I believe heated debates on minimum wage or standard working hours, particularly on the Wage Protection Movement, have been going on inside and outside this Council. During these heated debates, we notice that there are comments criticizing the Legislative Council of being too radical or stressing excessively slogans. The Government in particular often says that the issue of minimum wage is not a slogan-chanting matter and should be dealt with pragmatically.

The Secretary is here today. The issue of minimum wage is discussed every year in this Council. Trade unions or political parties are both concerned about the issue of minimum wage. Outside this Chamber, they do take those so-called radical actions, such as staging demonstrations, and in this Chamber, they have put forth a number of concrete proposals and requests. Therefore, I hope people can stop making the pet criticism that Members of the Legislative Council can do nothing but chanting slogans. Actually, we have made practical efforts about minimum wage and standard working hours, and I would like to give a brief review of these efforts to Members today.

We should let neither external parties nor the Government make verbal coercion, criticizing us for only chanting slogans but making no practical suggestions. Minimum wage and standard working hours may carry only an ideological disparity. However, despite this disparity in ideology, both parties should respect each other rather than accusing the other party of only knowing to chant slogans but lacking practical proposals, and that the Government lacks any sincerity, and so on.

In respect of the issue of minimum wage, it did arouse many arguments within the Democratic Party. Therefore, in 1999, an extraordinary general meeting was convened and the Chinese Management Centre of the University of Hong Kong had been commissioned to conduct a rather detailed study on minimum wage. The study included a revision of literature and a questionnaire survey, analysing the subject from a theoretical dimension, making reference to overseas experience, and considering the arguments for and against minimum wage. The questionnaire survey also covered some local retailers, the business sector and small and medium enterprises (SMEs), gauging their specific proposals and views.

The findings of the survey indicated that the number of persons, be they employers, employees or the unemployed, who supported minimum wage and

who opposed it did not exceed 40%. That means the proposal is neither supported nor opposed by an overwhelming majority. The survey also indicated that if the implementation of minimum wage was limited to individual sectors, the support percentage from employers, employees or the unemployed would be higher. In other words, in respect of minimum wage, many respondents, be they wage earners, SMEs or large corporations, already understood that the market adjustment of a free economy advocated by the Government was no longer working. Some low-income elementary workers, such as cleansing workers and security guards, and even employees in the retail industry, are subject to all forms of oppression and exploitation in the prevailing economic environment. They are precisely those people whom this Council wishes to help by means of the legislation on minimum wage.

Therefore, Madam President, I hope that with the number of studies we conducted in the past, and taking advantage of the progressive improvement of Hong Kong economy and the demand for the implementation of minimum wage in society, particularly the growing demand for setting minimum wages for employees in sectors offering the lowest wages, it is most opportune to legislate for minimum wages. We think that the pressing task the Government needs to undertake is not to back-pedal, introducing something like the "Wage Protection Movement". It should on the contrary study how to identify sectors for which minimum wages should be introduced as a start, examine the impact of minimum wage on the job market, and determine the level of minimum wages.

Regarding the Trade Broads Ordinance, I would like to add a point. According to section 5(5) of the Ordinance, an employer has to prove that he has not paid wages at less than the minimum wage to his employees. This may not meet the requirement of the Hong Kong Bill of Rights Ordinance or the Basic Law, and may run the risk of facing judicial review when it is practically enforced. Exactly because of this, I believe that in respect of this relatively old law and the point I have just mentioned, there will really be some difficulties in principle and the enforcement of existing laws. However, the Trade Broads Ordinance is an existing law of Hong Kong anyway, so if the Government is not going to repeal it, then it should amend it. More so, as the motion today suggests, we should use the Ordinance as a blueprint to put forth the issue of minimum wage on behalf of low-income workers engaged in certain trades.

Madam President, after discussing minimum wage, I would like to talk about standard working hours. I recall that in 1995, I was returned as a Member of the former Legislative Council through the "nine new functional constituencies", the full name of which was the Constituency of Financing, Insurance, Real Estate and Business. At that time, a main point of my platform was "overtime payment for overtime work". This enabled me to enter the former Legislative Council, that was from 1995 to 1997. In June 1997, I moved for the first time a motion on standard working hours at a sitting of the former Legislative Council: "That this Council urges the Government to become a signatory to the Hours of Work Conventions, and to legislate as soon as possible to ensure that employees will receive reasonable reward for their overtime work."

Madam President, I would like to remind Members that in June 1995, this motion was passed by the former Legislative Council. During the period of the existing Legislative Council, this kind of motion has never been passed, for colleagues returned by functional constituencies hold different views. As for the future, I remain pessimistic, for while this matter involves the interest of the functional constituencies and the business sector on the one hand, it is also a matter of public interest, affecting the working hours of the public and wage earners, on the other. I think, under this ridiculous arrangement of separate voting, it can hardly be passed. However, I just want the Secretary to understand that, since the Government has proposed the five-day work week system, I often think that when we are still demanding the implementation of standard working hours, the five-day work week arrangement may probably be a sugar coated poison.

In 2004, the Organization for Economic Co-operation and Development conducted a study on working hours per capita of various countries. According to that study, the working hours *per capita* in Hong Kong is 2 287, just after South Korea, which is 2 390, but far exceeds the 1 807 of Japan. If we say that Japanese are workaholics, I will say that Hong Kong people are now super-workaholics. As for these super-workaholics, in face of the introduction of the five-day work week by the Government in future and the readiness of the business sector to accept the arrangement in succession, the implementation of the five-day work week in the absence of legislation on standard working hours will only cause each of these wage earners to work 10 to 20 hours a day, basing on the average working hours of 2 287 per year. A recent survey indicated that nearly 800 000 persons have to work over 60 hours each week, while more than 1.5 million persons have to work over 50 hours each week.

Madam President, let us imagine, if we want to lead a life that allows us to have eight hours of work, eight hours of entertainment and eight hours of rest, it is totally out of question already. This "three-eight" schedule can no longer be found in Hong Kong. Despite that, it should not be carried to the extreme. Some people may be working 15 hours a day with only six hours of sleep or even less. They only have two to three hours to spend with their family, to entertain and exercise. These situations, more often than not, will exert great adverse impact on the health of the entire population and their family life, and also the development of the next generation.

Therefore, our persistent demand for legislation on minimum wage and standard working hours carries a long history and is no empty gesture of slogan chanting. Thank you, Madam President.

MR TOMMY CHEUNG (in Cantonese): Madam President, can the setting of minimum wage and standard working hours provide protection for low-income workers? The new Nobel Laureate in Economic Science, Prof Edmund S PHELPS, who has been studying wages and unemployment rates for nearly four decades, expressed unequivocally in an interview with the local media that legislation on minimum wage would only result in the unemployment of low-qualification and low-skilled workers. Early last month, a columnist of *Hong Kong Economic Journal*, who is well versed in the economy of Hong Kong, gave an objective commentary on the issue of minimum wage, which was carried for two consecutive days in the newspaper. In the article, he too mentioned that: "the service sector and the industrial sector that remain in operation are facing fierce competition from their local and mainland counterparts and their rate of marginal profit is not high. Thus, the implementation of minimum wage will certainly bring about negative effects. By then, the grass-roots workers whom labour-right advocators aim to protect may be the one to suffer".

Actually, the catering industry is one of the trades in the service sector which has to take on internal and external challenges simultaneously. On the one hand, in the past few years, rentals in Hong Kong have soared, wages increased, the price indices for cheap items like oil, sugar, salt and flour have recorded double digit increases, and the prices of other items like shark's fin and bird's nest have also increased. Food establishments are under unprecedented pressure of rising costs. On the other hand, competitors in the vicinity like

Shenzhen and Macao are getting more competitive, and they enjoy a business environment better than that in Hong Kong in many aspects.

Take Shenzhen as an example. The level of rent in Hong Kong is eight times that of Shenzhen and our wage level is six times that of Shenzhen. However, food establishments in Hong Kong, trying to urge tourists and Hong Kong people to stay in Hong Kong and spend, cannot help but cut their charges by all means. As a result, compared with similar food establishments in Shenzhen, charges in Shenzhen are only 20% less than those in Hong Kong.

Some Members from the labour sector consider that the impact of wages on investors is relatively small in comparison with the exorbitant rental in Hong Kong. But this is wrong. In the catering trade, the wages of workers have all along accounted for a significant share, usually 30% to 40% of the turnover. On the contrary, rental only accounts for 12% to 15% of the turnover. I have pointed out repeatedly that once minimum wage is implemented, the wage level of the cleansing amah, the bar tender, the food picker and the cook will increase one after another. Consequently, labour insurance and the contributions to Mandatory Provident Fund schemes, which are calculated according to the amount of wages, will also increase correspondingly. The catering trade has some dozens of posts, and an increase in wage in any one of it may trigger off other increases, which will only add to the burden of the catering trade.

As a result, they will have to cut their manpower, forced to employ casual workers. For instance, a restaurant may employ a casual worker and require him or her to finish all the work within the four to five hours during peak time. Moreover, since employers have to pay higher wages for their employees, they will prefer people with a higher education level. Housewives from the grassroots or the unemployed elderly with a low level of skill and low qualification will be the first to suffer.

Actually, the density and employment distribution of every district in Hong Kong are different. For instance, in Tin Shui Wai, where the resident population is large but the number of jobs available in the district is relatively small, housewives in the district do not mind working for a lower pay so that they may also take care of their families. However, in Tsim Sha Tsui, since the resident population is small but the number of jobs available is large, many people from other districts are needed to fill those vacancies and thus higher

remunerations are offered. The standardization of minimum wage can in no way cater for the specific situation of individual districts.

Moreover, the standardization of wages according to work type is also impracticable. Take cleansing workers as an example. Though a cleansing amah and a worker cleaning windows of high rises are both cleansing workers, but their wages are different. If an average wage is applied, it will be very unfair to operators of mini-food establishments.

It shows that standardization cannot be applied to the labour market. It must be left to adjust automatically to cope with the different modes of operation, so that the market can develop with flexibility and diversity.

It can be anticipated that the setting of a mandatory minimum wage will only drive the catering industry, the majority of which being small and medium enterprises, into a fierce and cruel race of elimination. Small-scale food establishments with a tight cash flow and not well-developed will certainly close down in succession when they fail to maintain business. By then, the unemployment rate will rise rather than drop.

We can tell from the experience of many overseas countries that the implementation of minimum wage will only create a large group of low-skilled or low-qualification unemployed persons. For instance, in France, there is a large number of unengaged youths, causing long-term instability to society.

The Liberal Party thinks that to solve the problem of extremely low wages in certain industries, the authorities must first deal with the structural problem of the local labour market, assisting grass-roots workers to enhance themselves and adapt to the restructuring. The authorities should also face squarely the situation of more and more low-qualification and low-skilled new arrivals coming from the Mainland for resettlement in Hong Kong.

Madam President, finally, I would like to read out to Members the first three paragraphs of a commentary published today. The writer says at the very beginning that:

"All along, I oppose the Government intervening in the labour market and implementing statutory minimum wages. I used to work for a monthly wage of \$60 when I was a child. Had a statutory minimum wage been set

at that time, even if it was set at the level of \$100, no one would have been willing to pay an additional \$40 to employ a 12-year-old kid who knew nothing. Had I not gotten that job for a living, I would have either died of hunger in the streets or possibly have cut corners to do evil things and commit crimes.

But I safely avoided the harmful consequences of these two scenarios because I was so lucky to get employed as a child worker. Though the wage was meagre and I had to work some 10 hours every day, I had two meals to fill my stomach and a roof over my head. I was already very grateful for that.

More so, I am glad that I have mastered the philosophy of dealing with people and affairs. I managed to make a right start for my life, refrained from falling off the brink of society into the darkness of crime. In the process of learning, what can be more impressive than hands-on experience? Whenever someone advocates the prescription of statutory minimum wages, I cannot help recalling the trap I might have fallen into at that time, and feel a chill down my spine." This article is written by Mr Jimmy LAI.

Madam President, I so submit.

MR LAU CHIN-SHEK (in Cantonese): President, many people have heard of a rumour in the official circle that whenever Mr Donald TSANG heard the words "minimum wage", he would lose his temper, throw papers or even send emails to his colleagues in the middle of his sleep at 1.00 am or 2.00 am, reminding them not to legislate. From throwing papers, sending emails to announcing openly the plan to introduce legislation two years later, we really have no idea of what is in the Chief Executive's mind, but an undeniable fact is that the wage of grass-root workers is much too low. Although the Hong Kong economy has attained near double-digit growth over the past two years, no significant improvement has been seen in the low-wage problem. While the GDP *per capita* of Hong Kong people exceeds \$200,000, there are still 200 000 full-time workers living below the breadline.

"It is but equity, besides, that they who feed, clothe, and lodge the whole body of the people, should have such a share of the produce of their own labour

as to be themselves tolerably well fed, clothed, and lodged." This remark was not made by trade union leaders or leftist politicians, but by Adam SMITH 230 years ago in "The Wealth of Nations". However, looking at Hong Kong today, employees of fast-food shops preparing food for the public cannot guarantee that he and his family are well-clad or well-fed; staff of residential care homes taking care of the elderly also cannot guarantee that their children receive proper care; security guards protecting our safety fail to look after themselves because of the low income, and cleansing workers keeping our streets clean and tidy can only live in the most unpleasant conditions. I wonder how Adam SMITH would feel in heaven if he saw the persistence of such inequity.

President, there exists an implied covenant in society: While we require everyone who is able to work to become self-reliant, we are obliged to ensure all those who work hard to be free from poverty. Several years ago, the Government only emphasized self-reliance, and there was no mention of "rewarding work". It actually destroyed our social covenant and undermined the social foundation. As a result of the recent move by the labour sector to step up the fight for legislation on minimum wage, the Government finally agreed to launch the Wage Protection Movement for employees in the cleansing and guarding services sectors only, and undertook to prepare for the introduction of legislation two years after implementation if it fails to yield satisfactory results. Although this initiative is still a long way from the assurance of "rewarding work", it is undeniable that it has created a way out for the fight for minimum wage.

However, President, I have serious doubts about the introduction of the Wage Protection Movement in only two sectors. First, it is voluntary; in other words, good employers who join voluntarily have to continue to compete unfairly with those who employ workers at low wages. It is worried that the bad will purge the good. The Government should treat the good employers of Hong Kong better. Second, why are only the cleansing and guarding services sectors chosen? Does the Government think that employees of fast-food chains can eat less? Or do salespersons of boutiques wear fewer clothes? Or are staff of residential care homes exempted from rental payment? Or do couriers enjoy free transport? Low-wage workers of other job types also need food, clothing, accommodation and transport. There is no reason for them to be neglected.

Some Honourable colleagues suggested that the Panel on Manpower should set up a task force to monitor the progress of the Wage Protection Movement, and to consider the concrete proposals on the introduction of legislation on minimum wage and related preparatory work. This is a very good suggestion and I will bring it up for discussion at the meeting of the Panel on Manpower to be held in November. No matter what, the discussion on minimum wage will not stop as a result of the conclusion of the policy address, and the labour sector will continue to fight both inside and outside this Chamber.

President, in contrast with the dramatic development of the minimum wage issue, the discussion on regulation of working hours has vanished without a trace. In fact, the impact of long working hours on "wage earners" is greater than low wages. I believe the opposition from the business sector will be even stronger when it comes to legislation on working hours. As pointed out by a study conducted by the Labour Department that is not published, 610 000 employees had to work overtime in the third quarter of 2003, among which 77% (that is, 470 000 people) did not receive any overtime pay. As a result of the employees working overtime without any reward, their employers managed to earn nearly \$25 billion more. \$25 billion is not a small sum of money. The introduction of minimum wage will only increase labour cost by about \$6 billion, but it has already met with strong opposition from the business sector. We can envisage how difficult it will be to solicit the support of employers for legislation on working hours.

Though difficult, however, it does not mean that we can just sit there doing nothing. Apart from introducing legislation to prescribe standard working hours and overtime allowances, there are other means of regulating working hours. For example, the European Union stipulates that workers should have at least 11 hours of continuous rest each day. In other words, assuming that a worker will go off duty at 11.00 pm, his employer should not assign any work to him before 10.00 am in the following day. This will minimize the problem of "making up for the missed shift". Or, we may follow the example of the United Kingdom, requiring that overnight shifts should not exceed eight hours, so as to protect the health of workers and enable them to enjoy normal family and social life. I hope that the Government can expeditiously take the first step towards legislation on working hours. Thank you, President.

MR ANDREW LEUNG (in Cantonese): Madam President, during last week's debate on the Motion of Thanks, many Honourable colleagues spoke at length on minimum wage which had aroused heated debates. Over the past month, local press reports went to great lengths to deal with the need for legislation. Simply for editorial alone, there were more than 20 of them, and the majority did not agree that the introduction of legislation could solve the problem of grass-roots employment and even improve their lot. The commercial and industrial sectors have responded positively to the Wage Protection Movement promoted by the Government, whereas the Federation of Hong Kong Industries has supported its members to offer reasonable wage to staff of the relevant posts as far as they can. We hope that wage protection can be achieved through voluntary rather than legislative means. In the course of this trial, it is imperative to have the co-operation and support of employees, employers and the Government, otherwise, the chance of success will be minimal. The commercial and industrial sectors strongly believe that legislation is a blunt knife. It does not only fail to provide workers with the best safeguards, but it may, on the contrary, also deprive the grass-roots and vulnerable workers of the opportunities of employment and becoming self-reliant. Insofar as the whole society is concerned, a lack of flexibility in the wage level may even result in the loss of our externally-oriented economy's ability to adjust itself, which will deal a further blow to the recovering economy.

I believe we can still remember our fight against the SARS outbreak in 2003. At that time, it was precisely because of the absence of a wage threshold that employees and employers were able to flexibly come up with a mutually agreed option that helped us tide over the difficulties. As far as I can recall, there had been discussions between many employees and employers about the taking of no-pay leave and even temporary wage reductions on a voluntary basis, which enabled many small and medium enterprises (SMEs) to survive such predicaments. Otherwise, how could the number of unemployed people at that time be as low as 297 000? The unemployment rate would certainly have exceeded 8.3%, and the number of bankruptcy cases recorded by the Court would certainly not be lower than the monthly peak of 1 518 cases. How can Hong Kong respond to the recurrence of an economic slump once this self-adjustment function is altered?

The crux of legislating for minimum wage does not lie in employment, but wage. Legislation only guarantees that "wage earners" who have secured a job can receive the "statutory wage". The proposed broad-brush approach of

legislation by job types alone has neglected the uniqueness and professionalism of different sectors. If the statutory wage is set at a level higher than the market value of that job type on request of the labour sector, employers who wish to continue business can only act in accordance with the law and pay their employees the wage which is higher than their productive value. In order to maintain the overall costs, the only way is to employ fewer low-skilled workers.

The two job types proposed for trial are cleansing workers and security guards because both of them cannot be contracted out of Hong Kong, and the wages concerned are considered too low. It is true that these two job types cannot operate outside Hong Kong, but it does not mean that they cannot be replaced by machines and advanced technologies. I can see that many developed countries overseas have started to use machines on a large scale to replace low-skilled manual workers. The cleansing of a street used to be done by a team of six to seven workers, but now only two or three workers will do. They only need to know how to operate the relevant machines, rather than how to use the sweepers. As for security services, property management companies can make use of more closed circuit televisions in place of the deployment of more security guards at the frontline. In the future, advanced fingerprint identification systems might be used to take over the work of watchmen stationed at the entrances of buildings. It is believed that once the wage level is artificially pushed up, the unemployment rate at the grass-root level of the sector concerned will definitely rise.

So, in order to help these workers, the appropriate way is not to help them fight for higher wages with their low skills, but to help them enhance their skills so as to cope with the demands arising from the ever-changing job market. This is the only way through which workers can earn reasonable wages and grass-root employees can enhance their competitiveness.

Over the last decade or so, the Government has spent tens of million dollars to help people aged over 30 to enhance their skills through the Employees Retraining Board. While \$2,600 million was spent in 2003-2004 and \$2,500 million spent in 2004-2005, 980 000 retraining places have been provided as at August this year. We learnt that some major trade unions in Hong Kong have also participated in this programme, and a number of training centres have been set up with public money. The purpose is to help low-skilled workers enhance their skills so that they can switch to job types with higher pay. I hope that the trade unions will work harder to help workers enhance their value, and enable

them to acquire more new skills with a view to improving their lot as early as possible.

President, the economy of Hong Kong is dependent on the concerted efforts of employers and employees. However, many sectors have yet to find a way out of their predicament in operation, and many SMEs have yet to taste the fruit of economic recovery too. In times of such predicament, employers and employees are in the same boat actually. In order to walk out of such economic predicament, both parties should cast aside their differences, look into the root of the problem, and identify a mutually acceptable point of balance that is conducive to the long-term economic development of Hong Kong having regard to all the circumstances.

With these remarks, Madam President, I oppose the original motion and the two amendments.

MS LI FUNG-YING (in Cantonese): President, today, this Council again debates the motion concerning minimum wage and standard working hours. No matter what position Members take regarding minimum wage and standard working hours, it is a very familiar subject to all of us. Today, however, the issue of minimum wage and standard working hours is discussed in a new context, and that is, the Government has decided to launch the Wage Protection Movement under which the wages of workers of the cleansing and security services sectors should be no less than the sector's median wage. I consider this another major development other than the issuance of government directives to various departments in May 2004 which require that the wage of workers of outsourced government non-skilled services should be no less than the average wage level of a comparable job type as obtained from a survey conducted by the Census and Statistics Department, and the extension of this provision to cover other public bodies in May 2005. As pointed out in the speech made by me during the policy debate on minimum wage, this is a breakthrough in the legislation on minimum wage and standard working hours, and minimum wage has been officially included on the agenda of public policy formulation.

The Wage Protection Movement cannot replace legislation on minimum wage and standard working hours, neither rationally nor in reality, which is very clear. Furthermore, minimum wage and standard working hours are the two sides of the same coin, and grass-root workers can only benefit if the two

measures are implemented in parallel. It is a hard fact that the working hours of employees in Hong Kong are excessively long, and it is all very common for workers providing such elementary services as security and cleansing to work more than 10 hours a day. Given that the meagre wage of workers can hardly support their living, they are forced to earn more by extending their working hours so as to make ends meet.

Similarly, if there is only standard working hours but an absence of minimum wage, and that the income received therefrom fails to meet the minimal basic needs, the setting of standard working hours is likewise meaningless. The Wage Protection Movement to be launched by the Government pitched at the median wage of the sector concerned is not subject to the requirement of standard working hours. A possible scenario is, in order to comply with the minimum wage requirement, employers may extend the working hours of workers. This reminds me of a case handled by this Council where the working hours of the security guards in public housing estates were excessively long. The result was the working hours of each shift had been shortened, but what followed was a reduction in wage. Since the previous wage of these workers could only feed from hand to mouth, as a result of the reduction in wage, they were forced to take up additional shifts or part-time jobs, which defeated the original purpose of shortening the working hours.

Now, it is the wish of the Government to protect the interests of workers through the Wage Protection Movement, but this is only wishful thinking. The Government cannot evade the issue of legislation on minimum wage and standard working hours in the end. The reason is very simple as there are only two possibilities for the review to be carried out two years later: First, the Wage Protection Movement achieves the desirable results — which I am not optimistic about — where nearly all employers of security guards and cleansing workers have joined the scheme and paid the sector's median wage. However, this conclusion does not obviate the need for legislation on minimum wage, but only highlights that the legislation will not have any impact on employers. Therefore, Members representing the employers should have no reason to oppose the legislation on minimum wage. It is necessary to legislate for minimum wage for Hong Kong workers because once the Movement comes to an end, the grass-roots workers will again stand totally defenceless in the labour market, and their wages will have to count on the conscience of employers. Second, the Wage Protection Movement fails to achieve the desirable results. In that event, the Government has undertaken to legislate for minimum wage to protect the workers.

President, whether or not the motion proposed today is endorsed by this Council, or the Government insists on pressing ahead with the Wage Protection Movement, it must prepare for the legislation on minimum wage. It is because there will at most be two years before the Government has to legislate for minimum wage, and I do not wish to see the Government delaying the legislation on minimum wage again on other grounds by then. Thank you, President.

MR JEFFREY LAM (in Cantonese): Madam President, many Members already expressed their opinions about the introduction of a minimum wage during the policy debate last week. The debate last week can be described as the first part, and the one today may be called the sequel. I hope that after the debate today, discussions on this topic can be put aside for the moment, so that the Wage Protection Movement can be launched in a harmonious social atmosphere.

Madam President, last week, I referred to Prof Edmund PHELPS, the Nobel Laureate in Economics this year, and cited his opinions against the introduction of a minimum wage. I am not going to make any repetition here today. Some Members argue that there are divergent views on setting a minimum wage among famous economists, and that this topic is more than just an economic issue. If the topic is to be discussed from the social perspective, I would like to cite the views held by some parents of mentally handicapped children. These parents are worried that after the introduction of a minimum wage, no employer will take on mentally handicapped persons because employers currently employing these people may have to close down their businesses due to their inability to pay the minimum wage. Even if the employers can afford the minimum wage, they will prefer hiring normal people who have a greater work capacity. To them, a minimum wage will only be a disservice.

Mathematically, when a minimum wage is set with reference to the average wage, the minimum wage thus set will only rise incessantly. The reason is that the average wage is the average of the highest wage and the lowest wage. People receiving the lowest wage at the beginning will start to receive the average wage, which is higher. The lowest wage will be replaced and the average wage will also become the minimum wage. Over time, the minimum wage set with reference to the average wage will rise incessantly.

What are the consequences of the incessant increases in the minimum wage? In order to maintain productivity, employers will naturally hire workers whose productivity is worth or worth more than the minimum wage. Or, they may replace workers by machines. As a result, people with low productivity, academic qualifications and skills will find it even harder to secure any employment, thus worsening the unemployment problem faced by these people. Even if a minimum wage can alleviate working poverty, it will be no solution to the poverty caused by unemployment. Young people fresh from school, new immigrants, the elderly and the vulnerable will still find it very difficult to get any jobs. It will just be total misery in return.

Therefore, we must not think that after legislating for a minimum wage, we can certainly see an azure sky. The reason is that what we will get in return will just be overcast weather. The Small and Medium Enterprises Committee under the Hong Kong General Chamber of Commerce recently issued a questionnaire to its members. According to the responses received so far, 76% of the respondents are opposed to the introduction of a minimum wage. When it comes to legislating for standard working hours, the responses received so far also indicate that 81% of the respondents are against the idea.

Madam President, the managers of these companies are of the view that the enactment of legislation on a minimum wage and standard working hours is an issue that involves not only employers and employees but also the operation of the free market. The enactment of any legislation will impair the free market principles underpinning Hong Kong's success. The operation of SMEs will be deprived of flexibility. Their competitiveness will be weakened, thus making their business even more difficult. A constantly changing minimum wage will become an uncertain factor that deters investors. If no investors come to Hong Kong, SMEs may fail to cope and close down, thus plunging even more people into unemployment. This is a kind of chain effect. As for standard working hours, we must bear in mind that the modes of operation of different trades and industries are all unique, so it is very difficult to specify any standard working hours across the board. And, it is also very hard to stop employees from working overtime voluntarily in order to earn some more money. I hope that Members can listen to the opinions of SMEs. We must not ignore them.

I have always emphasized that employees are valuable assets of employers. Both employers and employees are in the same boat. And, what

we want is social harmony. Conditions of pay have all along been drawn up through the mutual agreement of employers and employees. Any attempt to force through legislation on a minimum wage will only achieve the opposite results. When seeking to tackle the unemployment and poverty problems, we will not advise the unemployed to apply for CSSA, because we think that all of us must act more actively to create jobs before poverty can be eradicated, and that we must rely on an economic strategy as a means of protecting employees.

I am of the view that the creation of job opportunities hinges on a favourable business environment, where SMEs can be given assistance in embracing the restructuring of our economy. Licence application is one example. I have frequently advocated that the vetting and approval procedures must be speeded up. I have also been saying that we must seek more actively to attract talents. By attracting a greater number of talents to Hong Kong, we can achieve the snowball effect and increase the recruitment of other kinds of employees. The Government should also allocate more resources to encourage training and education institutions to organize various training and study programmes, so as to cope with the needs of economic development and the employment market.

Madam President, I so submit.

MR ALBERT CHAN (in Cantonese): President, I have listened to the speeches of two Members belonging to the Liberal Party. Both of them sounded as if their opposition to minimum wage was meant to help low-wage workers. After listening to them, I cannot help shivering and thinking that some people are just shedding crocodile tears. Today is already the 20th century, still we have to discuss the issue of minimum wage in this Chamber, and some people are still opposed to it. Actually, this can aptly reflect the apathy and lack of scruples in our society and the realistic politics. When it comes to the issue of minimum wage and standard working hours, Hong Kong is actually lagging behind many other places, especially European and American places, by at least one third of a century. But instead of feeling any shame, some Hong Kong people, such as Members belonging to the Liberal Party, are still saying very loudly and eloquently that the absence of a minimum wage can in fact ensure the employment prospects of grass-roots workers in Hong Kong. I cannot accept such a distortion of the truth and crocodile tears.

We can observe that unscrupulous employers have been relying on the absence of a minimum wage as a means of freely oppressing and exploiting their employees. The labour legislation of Hong Kong already cannot provide any protection to workers in their fight against employers. Even though a piece of legislation was enacted before the reunification to protect certain trade union rights, the law was repealed subsequently. Completely powerless, subjected to exploitation under the law and in the total absence of any protection, what can employees do? Employees may be dismissed at the slightest displeasure of their employers, and cheap labour is imported into Hong Kong every day under the One-way Exit Permit system. Consequently, the pay of low-wage workers in Hong Kong has never ceased dropping. Some may not want to accept a job with a monthly pay of just \$3,500, but there are many others who will jump at a job offering \$3,200 a month. I find such a situation extremely outrageous.

Our Government is both indifferent and passive. But on the other hand, it has set down a minimum level of pay in its own contracts. In other words, the Government also recognizes the need for a minimum wage in principle. A number of basic terms and conditions are set out in many of its works contracts. However, with all the intimidation and threats of the 800 members of the Election Committee, the Government, especially the Chief Executive, does not have any courage to legislate for a minimum wage at this stage. The reason is very obvious. The Election Committee is controlled and dominated by business tycoons and the commercial and industrial sectors. If the Government, especially the Chief Executive, acts against the wishes of Election Committee members, he may well fail to get 701 votes. He will certainly lose face if he cannot be elected due to a small number of votes in his favour.

The situation as such, it will not be realistic for us to urge the Government to legislate for a minimum wage through any negotiations and consultation. Over the years, the labour sector has always been fighting for its rights and benefits by struggling, taking to the streets and mustering the force of solidarity. It will not be enough to rely solely on the voice of one single person in the Executive Council. Therefore, I am basically very disappointed at the wording of Mr WONG Kwok-hing's motion, which is probably moved on behalf of the Hong Kong Federation of Trade Unions (FTU). Right at the very beginning of the motion, the Government is urged to "apply the Trade Boards Ordinance to specify a minimum wage level and the rates of overtime pay, starting with the cleansing and guarding services sectors". This means that they want to deal

with these two sectors first and do not see any need for dealing with other sectors for the time being. I do not know whether this is a betrayal of workers' interests. As I already pointed out in the policy debate last time, absorption into the core of power will end up in the erosion of moral standards, for power corrupts. Once the top office-bears of the FTU are appointed to the Executive Council, they will be bound by the collective responsibility system of the Executive Council. In turn, the FTU will be also be bound. This is how power corrupts. Once anyone is appointed to this organization, he must sell his soul.

What saddens me, therefore, is that the FTU will no longer fight for other sectors for the time being — with the exception of the cleansing and guarding services sectors. The reason is that they want to start with these sectors first. I do not know how all those fast-food chain employees earning just \$11 or \$12 an hour will look at the FTU's position. Since only the cleansing and guarding services sectors will be included at the beginning, employers not belonging to these two sectors must fend for themselves. They may have to join other trade unions. I call upon them to join the Confederation of Trade Unions, so that it can fight for their rights and benefits. Or, we in the League of Social Democrats may start to infiltrate these sectors and organize trade unions for them. That way, we can inherit the heroism of the FTU or other leftist unions in the 1930s and 1940s, organizing general strikes for workers in Guangdong, Hong Kong and Macao and calling upon mariners' unions to go on strike. I was invariably filled with a sense of pride when I studied history as a child. The moral high ground on which leftists and workers in Hong Kong stood, their courage and their determination to fight on never failed to impress me. We must also maintain sharp vigilance, so as to make sure that we will not be corrupted by power after gaining a seat in this Chamber.

Therefore, President, I will support the other two amendments. I hold that these two amendments will not sell out other sectors and will still be able to safeguard their rights and interests.

President, I do not know for how much longer this legislature must still discuss the issue of minimum wage and standard working hours. The continuation of such discussions will only highlight the heartlessness of those opponents in this Chamber. Hong Kong should be progressive, but we are lagging behind other advanced countries for at least one third of a century. I do not know how many more years we must still wait before we can see the

enactment of legislation on minimum wage and standard working hours for all sectors. Thank you, President.

DR KWOK KA-KI (in Cantonese): Madam President, last week, we held a debate on the policy address. I think the focus of the whole policy debate this year must be the issue of minimum wage and standard working hours. Neither the Government nor any trade unions can be the winner this time around. Had the Chief Executive been willing to enact the long-awaited legislation on minimum wage in this last policy address in his term of office, he would probably have done something very good. But he instead decided to give up and simply launch a Wage Protection Movement which can neither please anyone nor achieve any real effects. Another loser may be the trade union concerned. It has been struggling for this as a major issue, but in the end, it must succumb to government pressure. It has yielded and must change its position, which is rather saddening to all.

Many people think that the introduction of a minimum wage and standard working hours will only affect the lowest and poorest strata of society. But this is not quite the case in reality. Some time ago, I talked with a number of front-line medical doctors and came to realize that the protection they needed was precisely the introduction of standard working hours or a minimum wage. Many of these front-line medical doctors must still work 80 hours, or even 90 hours, a week to provide service to patients. Last week, I received a letter from the mother of a junior doctor. Anyone who has read the letter will feel saddened. Her daughter is a junior doctor at a public hospital. To this mother, the sickest person should be her daughter, because every time when her daughter returns, she will be totally exhausted. She must work in the hospital from morning to night. And, every time when she returns home, she will invariably be the ashen junior doctor her mother sees. So far, the Hospital Authority has still failed to help front-line doctors to fight for a suitable number of working hours. Even if the target is just 65 hours a week, they may still need to struggle for three more years or even longer.

Let us also look at the lowest strata of our society. According to the Government's latest statistics, the number of people earning less than \$6,000 a month stands at 500 000. Only 150 000 of these people belong to the cleansing and guarding services sectors. This means that more than 350 000 people are not engaged in cleansing and guarding services. But they must continue to

suffer the exploitation of long working hours and low wages. And, they will not receive any protection under the scheme advocated by the Government either. However, this time around, there is something rather unusual. Normally, a scheme like this, that is, the Wage Protection Movement, should be championed by people like us, such as Legislative Council Members, who do not belong to any voluntary agencies. And, the Government, with all its legislative powers, will normally play the role of legislative enactment and enforcement. But the Chief Executive has staged a show this time around. Instead of invoking the Trade Boards Ordinance and playing the role of enforcement and legislative enactment, he has done something which I find most ridiculous — calling upon people to report to him on any violations. Actually, this is largely superfluous. The Government is actually demeaning itself. The reason is that if the Government thinks that there are any serious violations in respect of minimum wage and standard working hours in these two sectors, it should immediately invoke the ordinance and enact the legislation required. Why should it still take such a step, making so much pretence and launching the Wage Protection Movement? We are talking about a government here! However, as Members may probably realize, there is still a very long way to go before this Government can be called a government elected by the people, so it is still subjected to the influences of those with vested interests and the coterie election. This is especially true at this very time when the Chief Executive Election is fast approaching. Therefore, it is small wonder that the Government, including Mr Donald TSANG, has behaved like this.

The Trade Boards Ordinance was enacted in 1932. It is in line with the international labour league's (sic) required protection in respect of minimum wages and standard working hours. However, although legislation on minimum wage is already found in more than 100 countries all over the world, Hong Kong has not followed suit. As a relatively economically advanced city in Asia, we have still failed to do so. I am therefore a bit ashamed.

Recently, there was a survey on employees' happiness at work. In Hong Kong, three out of four employees are not happy. As a matter of fact, in Hong Kong, the number of hours worked by 25% of the respondents exceeds the maximum number of working hours specified by the International Labour Organization. And, 61% of the respondents have to work overtime. What is most worrying is that when we compare the case of Hong Kong with other places — I am quoting the findings of UBS, an international financial institution — we

can observe that the working hours of Asians are the longest, and Hong Kong ranks third in the whole world, just after Seoul in Korea and Mexico City. Even the working hours of people in Shanghai and Beijing are not as long as ours. I am ashamed of this finding, because both employers and the Government should have the ability to carry out the project. But they just will not do it. Very often, employers will query whether businesses in Hong Kong will be affected. I believe that many employers will have long since relocated their businesses and production plants to the Mainland if it is at all possible for them to offer low wages. The protection we are talking about is targeted on the remaining industries which cannot be relocated out of Hong Kong. If we do not do something today, the workers concerned will be left to languish in hardship.

I hope the Government can grasp this opportunity and take serious steps to introduce a minimum wage. I will support the amendments and the original motion. Thank you, Madam President.

DR FERNANDO CHEUNG (in Cantonese): President, the drama series staged by the labour sector, the business sector and the Government before and after the announcement of the policy address should come to an end today. All the disputes about minimum wage have witnessed the change in the theme of the policy address, from "strong governance" last year to "proactive and pragmatic" this year. What I mean is that the Government has become very "pragmatic" this year on the issue of minimum wage. We can observe that the business sector is not even prepared to accept a minimum wage charter. It is not even willing to make the slightest concession. As a result, the Government has no alternative but to succumb to fate, thus leading to the launch of a Wage Protection Movement which is neither fish nor fowl. It is indeed extremely ridiculous that a highly centralized government vested with all the legislative and administrative powers should copy others' examples and launch a so-called Wage Protection Movement, instead of enacting any legislation and drawing up a formal policy.

The Government's pragmatism this time around may actually be a major concession. According to the authorities, a comprehensive review of the efficacy of the Wage Protection Movement will be conducted two years later. If employers and employees still fail to reach any agreement by that time, the Government will make a decision.

President, it really puzzles me as to why the Government should claim that while it is unable to settle the issue now, it will be able to do so two years later. What is the rationale behind this? The struggle for a minimum wage has been going on for several decades, so why should they still seek to delay the matter? Honestly, this is related to the Chief Executive Election to a certain extent. They think that since the matter is highly controversial, it will be advisable to employ a stalling tactic for the time being and then decide what to do later on in the light of the actual situation. However, as a result of this stalling tactic, grass-roots workers must continue to put up with their very meagre wages. Many workers must struggle for survival on the breadline. The number of low-wage workers earning less than \$3,000 a month has increased by some 70% from 86 000 five years ago to 148 000 this year. And, the number of households earning less than \$4,000 a month has also risen by more than one third from 140 000 to 190 000 this year. There is an excessive labour supply in many sectors, and the bargaining power of workers is consequently very low. As a result, the market is entirely dominated by employers. Wages simply keep declining, and numerous workers must put up with the "shameful wages" they receive every month. Against such a political backdrop and as necessitated by the Chief Executive Election, the Government and all Hong Kong people have no alternative but to watch the continuation of the situation with folded arms.

Some in the business sector regard the introduction of a minimum wage as a dreadful beast. But Members should know very clearly that more than 80 countries already ratified the international covenant on minimum wages many years ago, and they have all put in place a policy on minimum wages in various forms. However, we in Hong Kong have still been bogged down in all these discussions and negotiations over the years. Actually, there have been many discussions in the academic circle for years, and there are now lots of evidence and research findings which show that the so-called negative impacts of a minimum wage, that is, the so-called negative impacts on the poorest and the most needy, can no longer hold. There is simply no evidence to substantiate such so-called impacts. Some argue that a minimum wage will cause negative impacts on people with disabilities because if employers must pay the minimum wage, they will certainly take on people who are more capable. In that case, people with disabilities will suffer greatly, or they will be rendered jobless. And, even those currently under employment will be dismissed. However, I must point out that people who hold such a view have not seriously studied the practical experience of countries that have put in place a minimum wage.

Actually, in most cases, the introduction of a minimum wage system is coupled with exemption for people with disabilities. But their wages are of course protected to a certain extent. How do foreign countries implement such a system? The simple idea is that an exemption clause in respect of people with disabilities will be drawn up. Once a person with disabilities gets a job, labour officials will conduct an assessment to check whether his productivity in the post concerned is lower than that of his normal counterparts. If yes, the minimum wage will not apply to his case. And, another minimum wage commensurate with his productivity level will be set.

In Australia, a minimum wage was set as early as 1907, and there is a similar mechanism. For the protection of people with disabilities seeking employment in the open market, there is an assessment mechanism jointly formulated by the business sector, the Government and all people with disabilities. The aim is to formulate an assessment mechanism that can command full recognition. As for people with disabilities working in sheltered workshops, there is another mechanism that provides for their exemption from the minimum wage. But at the same time, their wages are at the same time determined by a transparent mechanism recognized by all parties. That way, there can still be wage protection for these people with disabilities.

In regard to working hours, the number of working hours in our case was 45 hours a week on average from 1995 to 1998. In 1999, the number of hours rose to 46. And, from 2000 to now, that is, 2006, the number of hours has remained at 48 hours per week. If we look at those places that have legislated for standard working hours, we can see that the best case can be found in France. There, the number of working hours must not exceed 35. In the United States, the number of hours is 40. Even in China, legislation has been enacted to limit the number of working hours to 40. The most important thing is that the enactment of legislation can enable workers to receive payment for overtime work. Besides, for safety reasons, people holding certain posts must not be required to work for more than a certain number of hours. Therefore, I have risen to speak in support of the motion on minimum wage and standard working hours. Thank you, President.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, the motion today is about "minimum wage and standard working hours". Many Members have

placed the emphasis on minimum wage. But we must not thus neglect the issue of working hours. I am therefore going to focus on excessive working hours.

I shall first say a few words on the issue of minimum wage. I agree that the Government should make active efforts to introduce a minimum wage. I think that a minimum wage is in fact meant to protect workers, so that their work can be rewarded by a basic living. Therefore, the minimum wage level should be high enough to enable every household to meet its basic living expenses. If not, people will only continue to think that "applying for CSSA is better than working". In that case, the minimum wage level will lose its meaning.

Let me now come back to excessive working hours. This has been a widespread problem in recent years, not only among low-skilled workers but also among professionals. In the case of the accountancy sector, for example, many accountants, especially certified public accountants, often have to work 11 or 12 hours a day. Many of them even have to work overnight. It can thus be seen that the problem is common among all employees in Hong Kong.

According to the findings of a survey I conducted among the accountancy sector, more than 90% of the accountants must work overtime. About 30% of them must even work overtime every day. The number of overtime hours is as many as three hours a day. Some accountants have told me that in the past, an accountant would normally work for four years after qualifying before he chose to leave the profession, but now, after merely two years on average, an accountant will be burnt out and want to resign due to the hardship resulting from excessive working hours. The situation is most worrying indeed.

It is a pity that under the existing Employment Ordinance, there are no restrictions or guidelines on the number of working hours. And, there is no clear reference to any overtime compensation either. There is indeed much room for review and improvement on the part of the Government in this regard.

Madam President, precisely for this reason, I support the idea of setting a number of standard working hours and formulating a mechanism for overtime compensation. In some advanced countries, even in mainland China, the number of standard working hours is already specified by the law. The SAR Government should not delay the enactment of legislation any further. However, I am of the view that such a mechanism should be applied only to non-professional trades. There should be exemption for professional trades.

Professionals should be exempted because it is unrealistic to restrict the number of working hours for some upper-middle management personnel or professionals like accountants. For instance, accountants must be able to complete the auditing of their clients' accounts before specified dates. Since they must complete their work and satisfy the requirements of the law and their clients, any standard working hours will be meaningless to them.

I think that employers should have scruples and actively address the problem of excessive working hours faced by professionals. And, appropriate compensation should be offered. Many accountants have told me that they do understand that overtime work is the reality of their profession. But they also hope that employers can appreciate their feelings and consider the possibility of increasing manpower and offering compensation in pay or holidays.

When conducting studies on the enactment of legislation, the Government should explore various ways of solving the problem of excessive working hours. To begin with, I advise the Government to actively promote family-friendly employment policies. For instance, it should encourage working at home and the utilization of surplus labour, especially all those women who cannot work full-time due to the need of looking after their children. These women should be allowed to work half-jobs. If we can make good use of such labour, the workload of full-time employees can then be effectively shared, thus easing the problem of excessive working hours in certain sectors.

What is more, since the Government has put forward a Wage Protection Movement, it may similarly launch a "Working Hours Restriction Movement". That way, publicity can be conducted among employers, telling them how excessive workings may affect the physical and mental health of their employees and staff productivity. It is hoped that such publicity may induce scrupulous employers to reduce the excessive working hours of their employees.

Another cause of excessive working hours is some employers' emphasis on quantity rather than quality. Many employers like to assess their employees' diligence by checking whether they will still remain in the office after normal working hours. As time passes, employees will try to work slowly, just to make sure that they will not be the first ones to leave. In this way, working hours are prolonged. Actually, the overall productivity of an enterprise will not increase as a result of the prolonged working hours of its employees. Employers should abandon such a mindset, so as to avoid the deterioration of the problem.

Madam President, the issues of minimum wage and standard working hours are interrelated. Even if employees are protected by a minimum wage level, it will still be meaningless if they must work very long hours. Therefore, when responding to the demand for a minimum wage, the Government should also spend an appropriate amount of time on tackling the problem of excessive working hours, so as to ensure people's health and quality of life. That way, while earning a living, people will still have time to enjoy the fruit of their hard work. I so submit. Thank you, Madam President.

MR KWONG CHI-KIN (in Cantonese): Today, we have the opportunity to look at the Trade Boards Ordinance (TBO) again. I very much hope that I can calmly share with the Secretary my views on why we think that it is possible to invoke the TBO.

As mentioned by Mr WONG Kwok-hing, we have actually been talking about the TBO for as long as 10 years. Mr CHENG Yiu-tong already drew the Government's attention to it when he was a Member. And, in the past two years, on many different occasions — in the Legislative Council or during our exchanges with government officials — we also mentioned the Ordinance. We have been saying that the TBO can be invoked. But what has been the Government's response?

First, the Government argues that the Ordinance is much too old and therefore outdated. Madam President, these two concepts — the concepts of the Ordinance being old and outdated — are in fact two separate notions. If an ordinance is deemed to be outdated, then under our legal system, it should be put before the Legislative Council for repealing. But this Ordinance has not been repealed. It is still a law of Hong Kong and can still be found in our statute books.

On the saying that the Ordinance is much too old, many of my friends in the legal sector have told me that being old is in itself no problem, for many of our ordinances are also very old. The Ordinance in question was enacted in 1932. Madam President, I am sorry. It should be 1942. The ordinance on minimum wage enacted in 1932 was repealed already. The TBO was enacted in 1942. After flipping through the Laws of Hong Kong, I can easily find several ordinances that are indeed very old. For instance, there is the Jury Ordinance

enacted in 1887, but it is still in force today. Besides, the Criminal Procedure Ordinance was enacted in 1899, so it is also very old. And, there is still the Sale of Land by Auction Ordinance enacted in 1886. All these ordinances are very old, but the Government has never said that they can no longer be invoked for this very reason. I have never heard something like this. Actually, old ordinances are also effective. If the Government thinks that any of them is no longer effective, it should submit a bill for its repeal. I wish to emphasize that all these are the existing laws of Hong Kong and they are all effective.

The Ordinance under discussion is of course very old and has never been amended. Upon close examination, one will notice that some of its provisions are indeed problematic. Actually, after studying the whole Ordinance, I think that only one of the provisions should require amendment. Or, let me put it this way: only one of its provisions is in conflict with our existing laws. This provision is section 5, which is on the onus of proof.

Section 5(5) provides that once the Government invokes the TBO and prescribes a minimum rate of wages, the rate prescribed shall be legally-binding. On any prosecution of an employer by the Government, the onus shall lie on that employer to prove that he has not paid wages at less than the minimum rate. This is of course unacceptable by the standards of the Hong Kong Bill of Rights Ordinance and therefore null and void. The best solution is of course making an amendment. And, such amendment can be made very easily by deleting section 5(5).

Even if this provision is not deleted, there will still be no problem as long as the Government does not invoke section 5(5) when instituting prosecution. What do I mean by this? This means that when the Government decides to prosecute an employer, it should refrain from invoking section 5(5) and placing the onus of proof on the employer. In the course of prosecution, the Government should provide its own evidence to prove that the employer has committed an offence. Even if the Government is so stupid as to invoke section 5(5), the Court can still invoke the Hong Kong Bill of Rights Ordinance and declare the provision null and void. Therefore, technically speaking, there is indeed a problem with section 5(5) and it is best to introduce an amendment. But even if no amendment is introduced, there will not be any major technical problems. It will be alright as long as the Government does not invoke this particular provision to initiate prosecution. Even if the Government does invoke this provision, the Court can still declare it null and void.

The Government's third argument is that the penalties are too light and the fines too small. I must point out that Hong Kong people are actually very law-abiding. So long as something will entail criminal liabilities, they will refrain from doing it. They will not commit any offence intentionally. Therefore, once a law is enacted, specifying the criminal liabilities and all the criteria, I trust everybody will abide by and obey the law. It will not always be necessary to institute any prosecution or talk about any light penalties.

But even if the penalties are really very light, they can still serve a certain punitive purpose. Section 5 provides that an employer shall be liable on first conviction to a fine of \$500 and to a fine of \$50 for each day on which the offence is continued after conviction. That being the case, suppose the Government really legislates for a minimum wage by invoking this Ordinance and sets the minimum wage for cleansing workers at \$5,000 a month, what will happen if an employer pays only \$3,000 a month to a cleansing worker? The first time when an employer pays only \$3,000 a month to a worker, the Government can already stage a prosecution, and the employer will be liable to a fine of \$500 upon conviction because the minimum wage is \$5,000. If, after conviction, the employer continues to contravene the Ordinance in the following month, the Government can institute another prosecution. The employer will be liable to an additional fine of \$500 upon conviction, plus a fine of \$50 for each day on which the offence is continued. In other words, the employer will be liable to a total fine of \$1,500. This means that the employer will be fined \$500 for the first month. If he continues the offence in the second month, he may be prosecuted again. There will be another fine of \$500. Together with the original \$1,500, there will be a total fine of \$2,000. If the minimum wage is \$5,000, the employer will have no more incentive to underpay the worker because while he pays \$3,000 a month, he will be fined \$2,000 in total.

What is more, section 5(2) and section 5(3) also provide for a very good mechanism, whereby the Court may deal with all other losses of the employee. The Court may by the conviction adjudge the employer convicted to pay, in addition to any fine, such sum as appears to the Court to be due to the person employed on account of wages. For instance, if he pays only \$3,000 a month and the minimum wage is \$5,000 per month, he will owe the worker \$2,000 a month, and a claim can cover the two years immediately preceding the conviction. We cannot see any provisions as good as these in other labour legislation. This can already offer very good protection to workers, and there is actually no need for staging any lawsuits on their own.

Madam President, the framework of the entire ordinance is in fact quite satisfactory. There is tripartite participation of employers, employees and the Government, and, representatives of employers and employees will each constitute half of the membership. A well-structured legal framework is already available for use. Therefore, Madam President, if the Government thinks that there are any difficulties, it must remember that it can always invoke an existing ordinance.

Thank you, Madam President.

MS MARGARET NG (in Cantonese): President, the Government should support Mr WONG Kwok-hing's motion today because I fail to see why it should not do so. The Government should strongly support the motion. It should really encourage all Members to support it. The matter is actually very simple. We must no longer discuss whether there should be any minimum wage and whether we should legislate for such a wage. Since the policy address talks about the launch of a Wage Protection Movement, the basic assumption should be that there must first be a minimum wage. Some Members and academics have been arguing that it is very difficult to determine a minimum wage level. They argue that all will have to depend on how much the market can offer, and what the market can offer should be the minimum wage. They all question how we can "artificially" set a minimum wage level. But there must not be any more arguments now because a Wage Protection Movement will be launched. In other words, there will not be any problems with setting a minimum wage. I do not know what mechanism the Government will put in place. But it should be able to set a minimum wage anyhow.

Some have also been questioning whether a minimum wage will produce any negative economic impacts. And, they also question whether people with disabilities will be adversely affected. All these worries are no longer any problems. The reason is that since the Government is going to set a minimum wage and put it in into practice, it must think that the negative economic impacts of a minimum wage will no longer pose any problems. The only outstanding problem is that it will not legislate for the Wage Protection Movement. It insists that participation must be voluntary. This is the only difference. However, it will not be difficult to legislate for a minimum wage. The

Government basically does not think that this is a problem, because it has told Miss CHAN Yuen-han very sincerely that if the voluntary scheme fails to work, the Government will proceed to enact legislation. This means that the enactment of legislation is no problem at all. The only problem is that no legislation will be enacted for the time being. Since how to legislate for a minimum wage is no problem, since there is no longer any question about whether a minimum wage is good and since the form of legislation is also no problem at all, the remaining question will be, "Should the TBO be invoked as proposed by Mr KWONG Chi-kin?" Just now, Mr KWONG Chi-kin commented that even though the Ordinance was very old, it should not matter so much. Indeed, in some cases, the older something is, the better it will be.

Personally, I do have some reservations about the TBO. During the Civic Party's discussions last week, we could not quite decide whether we should support Mr WONG Kwok-hing's motion because we do not have so much confidence in this Ordinance. What is the special feature of this Ordinance? This is how the Ordinance operates: the Chief Executive in Council is vested with all the powers. They are vested with discretionary power. They will first establish many trade boards. If the wages for workers in any industry or trade fall below reasonable levels, the trade board concerned will make a recommendation to the Chief Executive in Council on minimum wage. Thus, there must be the consent of the relevant trade board before any recommendation can be made, right? After the making of a recommendation on a minimum wage level, the approval of the Chief Executive in Council must still be sought. If they do not like the recommendation, they can always reject it. But once it is endorsed, a minimum wage can be introduced in accordance with the Ordinance.

I think if we want to legislate for a minimum wage territory-wide, we may actually adopt a more straightforward approach. The minimum wage level should be clearly stipulated and there must be a mechanism capable of automatic adjustments. A minimum wage is found in many countries in the world — in some 100 capitalist countries. In each of these countries, there is invariably a mechanism for setting and adjusting the minimum wage. We may select an approach that is suitable for Hong Kong. This will mean the drawing up of a piece of legislation, right? The Law Draftsmen of our Department of Justice are all very capable. They will certainly be able to formulate a piece of legislation. This will save us all the trouble in the future, right?

However, Mr WONG Kwok-hing is really very easygoing. He does not mind invoking the TBO, does not mind giving all the powers to the Chief Executive in Council, so that they can choose to take actions whenever they feel like it, or choose not to take any actions whenever they do not feel like it. Why should the Government still be so suspicious? Why does it still reject it? What are its worries? If trade boards operate like the Labour Advisory Board, it may well take as many as several years for them to finish their discussions on a minimum wage level. And, even after they have come up with an agreement, the Government can still refuse to take any actions, saying that having considered the actual situation, it does not find the level of wage appropriate. This is an ordinance that gives them so much leeway. All the powers are vested with the Chief Executive in Council. And, there is also the long-standing convention that when an absolute majority of Executive Council Members not an absolute majority, but just a majority oppose something, the Chief Executive will rarely proceed forcibly. Why does the Government still find all this unacceptable? I think this type of protection for the executive-led mode of administration is "more than adequate" for the Government. If I were the Chief Executive, I would accept the whole thing immediately and then hold further discussions later on. The Government has already pointed out it is possible to legislate for a minimum wage and there is also an existing ordinance. I will only concentrate on the inadequate protection we have referred to because there is too much discretionary power for the executive. We will ask for the setting of a minimum wage in an objective manner.

Therefore, I really think that when Secretary Stephen IP gives his reply later on, he may probably encourage Members to support Mr WONG Kwok-hing's motion. Thank you.

MS EMILY LAU (in Cantonese): President, I speak in support of introducing legislation to provide for a minimum wage and standard working hours.

As pointed out by Mr KWONG Chi-kin just now, today's debate has so far been conducted in a cool-headed manner. However, it does not mean that the anger of Members can be concealed. Helping the poor has all along been a topic of long-standing concern to us. Many people have been asking such questions as how to help the poor and how poor they are. During the oral questions session earlier today, Secretary Frederick MA said that the earnings of the low-income people have gradually increased, while the number of

low-income economically active households has dropped significantly. However, some colleagues also pointed out earlier — a point I have often raised too — there were 85 000 households earning a monthly income of \$4,000 or below in 1996, before the handover of sovereignty. Now, nearly 200 000 households are earning a monthly income of less than \$4,000. So, what can be done to help them? Should some means be provided to prop them up to ensure that their income will not fall to an exceedingly low level? Of course, education is one of the means to enable them to acquire essential knowledge and skills. I therefore greatly support the Government in doing so.

Mr Albert CHAN stated earlier that he had no idea how much longer we still have to wait before the discussion comes to an end. Speaking of this issue and universal suffrage, President, I really have no idea which of them will succeed first, though I ought to know that universal suffrage should succeed first. However, the authorities do not wish to see this happen. A colleague asked earlier in the meeting why the authorities do not want to see this happen and whether it has anything to do with the election. I definitely believe this is related to the election because such "small-circle" elections allow people with votes to close the door and "squeeze you dead".

I read the news report today, saying that the Chief Executive, Donald TSANG, had to submit a report to the Central Authorities to explain why his popularity rating had fallen so low after the delivery of the policy address. Many people with votes would ask the authorities to do this and that. However, President, I still believe that the Civil Service basically disagrees. Their disapproval for years has now become a matter of greater anxiety to the authorities because the election is going to be held. However, as I mentioned during the policy debate on the last occasion, when the authorities intend to protect the interest and earnings of certain consortia, the Government will say that they are making money in public interest. When we say that we have to protect the interest and income of the people of the lowest stratum, the Government will say that we are acting against public interest. I am really infuriated.

President, when Chinese People's Political Consultative Conference National Committee Vice Chairman, Mr Henry FOK, passed away recently, Mr Donald TSANG praised him for accomplishing a lot in silence. President, I would like to use the same expression to praise Mr LEUNG Yiu-chung, for he has made a lot of efforts over the past months in seeking a judicial review in

connection with the TBO without saying a word. Now that an all-out effort has to be staged, he jumped out with the people and documents required getting ready as well. Sometimes, a person who accomplishes a lot in silence can be very popular, though the outcome is uncertain. However, I believe that the authorities will end up inducing members of the public to challenge them either in the legislature or the Judiciary, or even on the streets. This is because it is crystal clear to the Government that hundreds of thousands or even more than a million people, as confessed by the Government itself, are living in abject poverty. I disagree with Mr Andrew LEUNG who remarked earlier that this is a blunt knife. This is one of the means. It has gained the support of many people who consider it essential to help those people. However, the authorities remain reluctant and offer a lot of excuses. I can stage a strong protest against the authorities on behalf of many members of the public.

Even some people from the business sector agree to do so. They praised "Ah Chung" on the day a forum was held on the street, and they even told us that they had voted for "Ah Chung". Even the small businessmen agree that the matter should be dealt with in that manner. Can people with a lot of votes act in such a hegemonist manner to prevent the authorities from doing so? Some colleagues said that it did not matter, for legislation would be proceeded with in two years. Well, anything could happen in two years. Will legislation definitely be enacted in two years? President, both you and I have seen a lot of things. Many promises made have not been honoured. Furthermore, I do not see why we should wait for two years.

I note that Permanent Secretary Matthew CHEUNG held a discussion with some trade associations on 17 October. After the discussion, the movement was exaggerated to such an extent that it was described as an unprecedented social engineering movement which had taken off in the hope of soaring to the skies. I wish him good luck should this really come true. The question remains: What can be done should it fall on to the ground and end up with broken limbs.

President, some employers have come forward and stated that they will definitely encourage members of labour unions to participate. They have even said that they will assist a few people who are unable to pay the minimum wage. Can the Secretary or Permanent Secretary tell us how they are going to help? What will happen if they do not act in that way? I have been told that the Labour Department will complement such efforts by conducting "sweeping patrol" and asking small and medium enterprises, corporations, and so on, what

hardship they will encounter in implementing a minimum wage. The answer is pretty obvious — either some employers do not have enough money or they are reluctant to pay. Why should further efforts be made to look for an answer known to everyone?

President, I am really extremely furious. The discussion has dragged on for such a long time. There are so many people waiting to be helped. Should a campaign be launched to mobilize the people to apply for CSSA? I hope that the authorities can really think long and hard about it.

MR JAMES TIEN (in Cantonese): Madam President, the debates conducted in the community on whether a minimum wage should be prescribed in Hong Kong have often given people an impression that those in support of the idea must be doing good to wage earners, while those holding views to the contrary must be doing harm to wage earners; and those opposing the prescription of a minimum wage must be consortia, while those rendering support might probably be small industries.

Madam President, according to a development report published by the World Bank in 2004-2005, minimum wages have been implemented in more than 130 countries worldwide, including such Asian regions as China, Taiwan, Japan, Korea and Thailand; and such developed nations as the United States, Britain, France, and so on. While there are definitely some successful cases of implementing a minimum wage in these places, many places have proved to be a failure. According to its experience, the World Bank pointed out that the best method to help people rid themselves of poverty is to create good job opportunities. Although a number of countries or regions around the world have already imposed a minimum wage, the problem of working poverty can still be found in these places, with the unemployment rates varying from place to place.

Setting a minimum wage is not the best way to reduce working poverty. Other policies must be implemented to complement it in order to truly help people with low educational attainments who cannot keep pace with the economic transformation and find a better-paid job. Madam President, Nobel Laureate in Economics Edmund PHELPS has recently indicated that, should a minimum wage system be implemented, low-skilled workers will receive even worse treatment as employers will definitely prefer higher-skilled workers

because they have to pay more for their employees. As a result, unskilled or low-skilled workers will definitely be forced out of work.

Madam President, according to some academics in Hong Kong, such as Prof Francis LUI, should a minimum wage be set, the employment opportunities of young people and disabled people with no working experience will be the hardest hit. Prof LUI has also added that the northward shift of local companies might be speeded up as a result of implementation of a minimum wage. Furthermore, employers will employ mainland workers for the purpose of reducing costs. While this applied merely to industries in the past, we can now see that the services sectors, such as the banking sector, have moved much of their back office work, such as clerical work, northward. The same applies to the accountancy profession and many design companies. The impact is thus evident. Dr LUI Hon-kwong has also pointed out that job openings will disappear altogether as employers might wind up their business because they cannot obtain reasonable returns. Such a possibility does exist. Prof Stephen CHEUNG has also pointed out that this might give rise to black market labour. As employers tend to employ experienced employees, inexperienced job seekers are thus put in a disadvantaged position. In the long term, this may cause the unemployment rate to rise.

Madam President, we may also take a look at France, which was hit by employment problems months ago. At present, the average unemployment rate in France stands at 10%. Their figures have also revealed that the average unemployment rates of people aged below 25 and young people of ethnic minority groups stand at as high as 25% and 50% respectively. These people were actually the hard core of the riots taken place in France more than half a year ago.

To sum up, should a minimum wage be prescribed in Hong Kong? Can all the problems be definitely resolved after a minimum wage is set? In the United States, for instance, the hourly minimum wage is US\$5.15. It is nonetheless amazing that the hourly minimum wage can reach US\$9.14 in San Francisco. Why should a minimum wage be set in such countries like the United States? It is probably because the country is so big that a mechanism must be established to avoid an exceedingly wide gap in wages across the country. Hong Kong is just a city, though wages certainly vary from district to district, such as North District, Tin Shui Wai and Central. However, the gap will not be as wide as those in overseas countries. Furthermore, our work processes can be moved northward.

In my opinion, provided that the unemployment rate continues to fall such that employers find it difficult in recruiting employees, workers will naturally be given better job opportunities or higher wages. A minor problem with supply and demand still exists though, as 150 One-way Exit Permit holders are being admitted to Hong Kong on a daily basis. Three years ago, two thirds of these people were below the age of 15. At present, two thirds of these people are between the age of 25 and 44. As all of them have relatively low educational attainments, they may have to work in the cleansing or guarding services sectors. Generally speaking, as long as the economy continues to prosper, the 4.7% unemployment rate continues to fall, thus making recruitment difficult, more job opportunities will be created in Hong Kong. By then, employees will naturally have a stronger bargaining power. Employers might even offer a pay rise to employees wishing to switch jobs without their saying anything. On the contrary, many people in the business sector will be worried if an average wage is set because it is calculated by dividing the sum of the maximum wage and minimum wage. Can they afford it? Therefore, I think that employers and employees should work with the Government to create more job opportunities.

Thank you, Madam President.

MR JASPER TSANG (in Cantonese): President, the issue of minimum wage has been debated in this Chamber countless times. As there is nothing new under the sun, I guess Members will still be hearing familiar reasons again and again.

Nevertheless, President, it is interesting to note that during such debates, Members from the industrial and commercial sectors would invariably say that legislating for a minimum wage will not cause any losses to employers; only the labour sector will suffer. They would say that if employers have to pay more in wages, they will naturally trim the size of their staff. As a result, more people will lose their jobs. They have even cited figures to show that the labour sector has always suffered in places where a minimum wage has been implemented. In other words, it is actually for the sake of the labour sector that employers oppose the idea of legislating for a minimum wage. Yet, their kindness has not been appreciated by the labour sector. Though the labour sector knows it very well, and it has been explained clearly, that a minimum wage is no good, its fight will still be continued. If it does not matter to anyone and everyone is prepared to suffer some slight losses, whereas employers have warned the labour sector

which has chosen not to listen, why not let them have a try. Should that be the case, there is simply no need for us to debate the issue again.

President, here I can only reiterate the stance of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) towards minimum wage. Mr James TIEN was right in asking whether the implementation of a minimum wage could resolve all problems. The answer is certainly in the negative. Many places in the world have already legislated for a minimum wage, but we do not notice that those places have succeeded in eradicating poverty. Nor do we notice the problem of wealth gap in those places resolved. Similarly, we have not noticed economic slumps in these places. Nor have we seen the business environment worsening or massive unemployment as a result of the introduction of a minimum wage. In our opinion, legislating for a minimum wage is neither a miracle cure for all problems nor a scourge disrupting all orders. Such being the case, and as a minimum wage has been stipulated in so many places and the industrial and commercial sectors see no cause for fear, why do we not give it a try for only the labour sector will suffer losses?

For these reasons, the DAB made some serious efforts in compiling a study report in March 2005. The outcome of our analysis reveals that the bargaining power of nine non-skilled trades is very low. In March last year, the economy was not as good as it is now or earlier. We proposed to launch a trial scheme by enacting legislation for these nine sectors first. Furthermore, we put forth our proposals on a minimum wage. With reference to some overseas practices, we calculated the average level of wages of these nine sectors according to the Government's information and, with cross reference to the relevant standards set in overseas countries, proposed that a minimum wage be set at around \$5,200, that is, 50% of the average wages of these nine sectors. We held that this was not far from Members' realistic expectation and could thus be used as a starting point. The consequences would definitely not be devastating as the Hong Kong Federation of Trade Unions (FTU) had merely requested that a minimum wage be implemented for the two sectors, namely the cleansing and guarding services. Even enacting legislation was no big deal, for it would not lead to catastrophic consequences. However, as the Government wished to discuss with employers with a view to fostering a harmonious relationship, a two-year trial run in the form of a voluntary movement had been proposed to examine if it really works. After repeated discussions, the Government seemed to have promised the FTU subsequently that the trial scheme be brought forward by conducting a review one year into implementation.

Given that we have waited for such a long period, we have to wait for another year or two at the most. Once it is proved that such a voluntary movement cannot guarantee a minimum wage, the authorities will immediately proceed with legislation rather than conduct a review to examine what next step to be taken. Hence, the wait is two years at the most, and this is acceptable to us. This is the position held by the DAB towards legislation on minimum wage.

As regards the original motion proposed by Mr WONG Kwok-hing today, although he suggests applying the antiquated Trade Boards Ordinance, he actually merely wishes to achieve his goal of ensuring a minimum wage expeditiously by legislation. If even our legal expert, Mr KWONG, agrees that this is legally feasible, we might as well give it a try. Therefore, we have not raised any objection. However, we will have great reservations if all sectors are covered, as proposed by Mr LEUNG Yiu-chung in his amendment. It is also feared that enormous technical problems will arise in applying the Trade Boards Ordinance to all sectors. As we consider it practically infeasible for the Ordinance to set a minimum wage for all sectors, we cannot support Mr LEUNG's amendment.

As for Mr Andrew CHENG's amendment seeking to introduce legislation to regulate the number of standard working hours, we still maintain our previous attitude. During the debate held in November last year, we already indicated that we could not render support and would abstain from voting, given that the objective of legislating for standard working hours is not clear. Furthermore, we have seen that in recent years in some countries having stipulated statutory standard working hours, even the labour sector is divided on this and has conflicting views. This is because when wages have not fallen to the minimum wage level (as a minimum wage is the lowest standard, but wages in generally are falling as well) in times of economic downturn and if workers wish to work longer hours in order to earn more, the legislation specifying standard working hours will bind the workers and limit their income. Therefore, this is not definitely good for them.

As regards the hope that the requirement can protect employees from poor health for working exceedingly long hours, the standard working hours under discussion at the moment can still not serve this purpose. The DAB therefore expressed reservations about this question last year. Our attitude has remained unchanged and so we will abstain from voting on Mr Andrew CHENG's amendment.

MR CHIM PUI-CHUNG (in Cantonese): Madam President, countries and regions must be people-oriented. The Chinese Government, with more than 80% of its nationals being farmers, has existed for more than five decades. Making the farmers' interest as one of its considerations, the Central Government has since the last term striven to revise many of its policies, including its land policies, in the interest of farmers and the nation as a whole. My question today is: Why should the Government oppose this question in this manner? There are at present more than 200 000 domestic helpers in Hong Kong. Their minimum wage is already assured. Of course, some people would say that the real aim of legislating for protection of domestic helpers is to protect public interest for fear that the salary of domestic helpers might jump from \$3,800 or \$3,750 at present to more than \$4,000 or \$5,000, for housewives who are reluctant to enter the kitchen would become unprotected should that happen.

However, we can see that this is not true. How much does a domestic helpers in Singapore earn? The fact that domestic helpers from many places in the world are willing to work in the country proves that Singapore is attractive. My argument is: Given that the minimum wage of domestic helpers is assured, why does the Government not show concern for local workers? Is the Government discriminating against them? The Government is simply treating local people with indifference. In the past, the Government was very obedient to foreigners. It is equally obedient to domestic helpers now. Of course, one may say that the Government is indirectly helping women in Hong Kong by protecting their interest, as not everyone is willing to work in the kitchen. They can leave their worries behind with the help of domestic helpers, though I consider this unreasonable. Therefore, I see that the SAR Government has lost its bearings in dealing with a lot of issues. Politics is fundamentally inseparable from issues in many other areas. We all have to move in this direction should this be done in this manner, just like a judge who has to decide the winner and loser in a court case.

I would like to cite a very strange case which was given entirely different judgements from its preliminary hearing and appeal to final appeal. Not only Hong Kong law but also the standard and system of law enforcement in Hong Kong have been challenged by the case. Of course, I do agree that legislation cannot immediately reconcile different viewpoints and change the actual environment. Conversely, many employers share the view that they cannot operate because of a minimum wage. Who or which court can rule that they can always remain the bosses? They may choose to wind up their business, or

relocate their business elsewhere. Some employers with a fortune of \$100 billion, \$500 billion or \$1,000 billion may still feel that they have not made enough. There are also some people who share the same view as mine — I will stop if I find it difficult to go on. Why should I defend myself? You are given the right to choose. If you find the environment unfavourable, you may wind up your business or lease out your shop. Of course, the rents might fall to an extremely low level one day, but only history can tell.

Hence, if the talks fell through, I personally feel that legislation should be taken as the last resort. Legislation is better than offering Comprehensive Social Security Assistance (CSSA) as people will be encouraged to earn a minimum wage instead of applying for CSSA. Will many people lose their jobs? I concur that competition in society might become so keen that some people will become jobless. However, it should be borne in mind that there is a CSSA mechanism in Hong Kong. If they cannot find a job, there is nothing wrong for them to be forced to obtain CSSA.

After all, I am giving the matter its fair deal, and will absolutely not favour any party. However, I am all the more against using such discussion as a condition in political wrestling. It is true that politics is about compromise — we have to negotiate terms in politics. However, it is meant to blatantly employ minimum wage as a chip in political bargaining. Every participant in politics must have his own principles and stand for his own conviction. We do not necessarily have to support the Government. If the Government's decision is wrong, we are obliged to stand for our own conviction. Of course, we might lose in future elections, but that does not matter. Who can guarantee that we will remain a Member of the Legislative Council forever?

Madam President, I personally feel that the Government should heed good advices in every way. As Members have voiced so many opinions, why should the Government conduct the debate in such an irresponsible manner? Everyone emphasizes a harmonious society, which means that everything can be discussed in a calm and peaceful manner. I have put forward many views to the Government, but I have no idea who is deaf, blind or dumb. My views have never been heeded, for I have only one vote in this Council. Although a lot of political parties would like to me to join them, I do not consider this necessary. It is most important that I am willing to represent my constituency and would speak out when unfairness is seen. Even if the Government refuses to deal with the matter, it will still take it to heart.

Madam President, someone might say that my political philosophy and attitude have completely changed. This is actually wrong. I am merely encouraging the community, particularly the rich, to show more care and concern for the poor. Of course, the problem of the wealth gap cannot be resolved overnight. At least, poor people should be given to know spiritually or believe that representatives of different status care and are concerned about them before the problem of social harmony can truly be resolved. At the same time, those in power should not exploit their authority to attack people with diverse political views, or even ridicule others. This matter warrants even more attention by the Chief Executive. I hope the Secretary can appreciate the problem.

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

MR ALAN LEONG (in Cantonese): President, government officials have recently continued with their efforts to defend the Government's policy of launching a movement before considering enacting legislation. The Chief Executive even considers that the Wage Protection Movement is the best and quickest solution, though the Movement is actually not entirely logical. As Ms Margaret NG has earlier succinctly explained how illogical the Movement is, I do not wish to repeat her points here. The Movement is basically unnecessary. If a minimum wage can be promoted by a movement, why does the Government not enact legislation immediately?

Nevertheless, President, we have actually seen a lot of instances in which the Government claimed that the circumstances were unacceptable but yet it refused to enact legislation to impose regulation. For instance, we have seen some property developers selling flats by unscrupulous means. Yet the Government has merely relied on the Real Estate Developers Association for self-regulation. Although the Government has constantly stated its disapproval of monopolistic practices, a fair competition law is not yet enacted, despite a long delay. Besides, the Government has also raised objection to the offer of "zero-fare" tours by the tourism sector to undermine the interest of tourists, it has failed to legislate for the regulation of unscrupulous travel agencies. By simply asking the ordinary property owners or small operators in housing estates, and even DIY tourists joining "zero-fare" tours, we will know that the words often uttered by the SAR Government, such as "urge", "request", "self-discipline", and so on, can actually not achieve any substantial effect.

President, let us focus our energy on tackling the issue of legislation on minimum wage again. Rather than waiting for the Government to observe the result of this so-called movement in a vague manner, we might as well make preparations for enacting legislation expeditiously and make reference to the abundant experience gained in overseas countries and the Mainland in relation to wage systems to deduce a number of crucial questions for discussion by people of the industrial and business sectors to compare the pros and cons of different modes of wage regulation with a view to identifying a proposal which can benefit non-skilled workers and ensure sustainable economic development. This appears to be a more practical solution.

By summing up the experience gained in overseas countries or the Mainland, we can actually find that the discussion can be focused on several points. To start with, a minimum wage can be implemented by introducing a bottomline for standardizing wages across a country or allowing different trades and industries, or even different regions, to formulate their own bottomlines for wages. Australia, the United States, France and Korea are typical countries in which wages are standardized across the country. As for the Mainland, minimum wages are formulated at the regional level in the light of the pace of economic development of different regions. In Japan, minimum wages based on regions and trades and industries are implemented concurrently. We can thus note from overseas experience that there is more than one way to tackle the issue of minimum wage.

The second focus of discussion falls on the mechanism responsible for formulating a minimum wage. In countries where a minimum wage was implemented earlier, such as Australia and the United States, a minimum wage was generally discussed and endorsed by a central labour organ or assembly for subsequent implementation. In countries where a minimum wage was implemented later, such as France, Japan and South Korea, emphasis was given to handing the matter to a committee comprising employers, employees and representatives of the community for careful discussion to determine a minimum wage level. I think it is more appropriate for Hong Kong to follow the latter's practice by establishing a committee comprising employers, employees and representatives of the community to adjust the minimum wage level in the light of economic development.

President, the third focus of discussion concerns the benchmark for adjusting minimum wages. Overseas criteria generally take into consideration

the condition of living of the families supported by workers, the productivity and profit levels of employers, and such data as the general levels of wages. For instance, a reform of labour law has recently been completed in Australia. According to the reform, adjustments in minimum wages must help protect the employment opportunities of socially disadvantaged workers, maintain employment opportunities and competitiveness in society, provide a safety net for low-income earners, and protect the competitiveness of low-skilled workers, the disabled and apprentices. All this proves that so long as the system is properly arranged, a minimum wage can still provide low-skilled workers with low educational attainments effective protection.

Furthermore, some countries will exempt some trades and sectors, such as temporary workers, apprentices or disabled workers, from the regulatory scope of minimum wage to ensure continued flexibility in the light of economic development outside statutory wage protection and protection of socially disadvantaged workers. According to the classification system adopted in Australia as mentioned earlier, a special lower ceiling on wages is imposed for disabled workers to serve the dual purposes of protecting the income of workers and encouraging employers to continue to employ people with disabilities.

President, at a time when a large number of grass-roots workers cannot make ends meet, we do not hope to see this Council and the Government continue to engage in empty talks about theories and abstract debates. In my opinion, we have the unshirkable duties to turn theories into actions, establish a level playing field in society, address the imbalance between major enterprises and the public at large, and tackle the problem of the wealth gap, and so on. A large number of countries and regions in the world have implemented a minimum wage. Some of them are successful, and some have ended up in failure. We are certainly in a better strategic position, for we can refer to the successful examples and avoid the unsuccessful ones.

President, I so submit.

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

MS AUDREY EU (in Cantonese): President, an identical or similar motion debate was conducted on 9 November last year. That was nearly a year ago,

for today is 1 November. I indicated in my speech last year that I would repeat the speech I delivered the previous year (that is, the year 2004), for most of it was still applicable. President, I have risen to speak not because I wish to repeat my previous arguments or many of the arguments put forward by many Honourable colleagues. I merely wish to give a brief account on the Civil Party's underlying notion of and justifications for voting.

The first point I wish to raise concerns Mr WONG Kwok-hing's original motion on the Wage Protection Movement. President, any mention of such movements would remind me that the Government has acted in the same manner again and again. For instance, during our past discussions on anti-racial discrimination and intolerance for discrimination, the Government would merely repeat the point of educating the public and that legislation is unwarranted. After years of education, the Government has finally realized that legislation is the only solution. The same applies to the issue of "turning off idling engines" under discussion at the moment. The Government has again maintained its stance that it merely needs to advise the public to "turn off idling engines". Yet, the Government's action can actually not achieve any effect. After all, the problem can only be resolved through legislation. Very often, when the Government says that it will launch a protection movement or educate the public, it is just trying to delay. To resolve the problems, the Government should really consider legislation.

The second point I wish to briefly mention concerns the Civil Party's position on whether a minimum wage and standard working hours should begin with certain trades and industries as a trial. We have long maintained the stance that there should be no differentiation between trades and industries. Our views were already made known in one of my speeches delivered last year. Furthermore, I have specially pointed out that Article 39 of the Basic Law provides that the International Covenant on Economic, Social and Cultural Rights (ICESCR) shall remain in force and shall be implemented through the laws of Hong Kong. Article 7 of the ICESCR states clearly that all workers should be provided with a fair and reasonable remuneration which ensures, as a minimum, a decent living for themselves and their families. The expression "decent living" is not at all easy to translate. Some people have translated it as a "reasonable standard of living". However, the meaning of "reasonable" is different from the general understanding. According to the value for money notion, for instance, a certain amount of work should bring reasonable wages or

rewards. This is a most fundamental or the minimum standard of living. This explains why many colleagues have pointed out in their speeches that the level should at least be set at below the CSSA level to truly give work dignity. Hence, we maintain it should apply to all trades and industries.

President, despite these views of ours, the Civic Party will still vote in support of the original motion and the amendments because of our long-standing position. President, I believe you still remember the statement made by us when we were members of the Article 45 Concern Group that when we looked at these motion debates, we did not consider it necessary to scrutinize the meaning of every provision as we did not seek to enact legislation. Very often, we were merely expressing our political inclination, position and direction. It is our hope that something can be achieved and the greatest consensus can be reached. Therefore, our long-standing view on these motion debates is that unless certain matters of principle are unacceptable to us, we will generally adopt the least stringent and the most tolerant attitude. This explains why we will support the original motion and the amendments. It is because we hope that a consensus can be reached in this Council to allow the Government to expeditiously implement measures conducive to the people's livelihood on the basis of the consensus reached in this Council. Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): I have been listening to the debate here. I had wished to speak right from the outset, but Albert CHAN said that many people might be going to rebuff him and asked me to make a defence for him. So, I will try to do my humblest part.

First, some people correlated the unemployment rate with the minimum wage. I do not know the situation in other countries, but in Hong Kong, the unemployment rate in 1998 was almost 2.2%, was it not? The figure has kept on increasing since 1997 or 1998. Was there a minimum wage during this period of time? Did anyone become unemployed because of a minimum wage? I do not know what the Secretary thinks about it, but was there such a case? Is it that the unemployment rate would increase continuously if a minimum wage took effect in 1998? Certainly not.

On the contrary, the correlation should be interpreted in this way: As the unemployment rate continues to climb, wages continue to drop. This is absolutely related to the Government taking the lead to lay off its staff, to cut

their pay and to outsource services. A man whose name is Antony LEUNG said that cost-cutting is essential, adding that the Government should take the lead in cutting cost. It is precisely because the Government had taken the lead to cut cost that two sectors were consequently hard hit. One is the guarding services sector, as the Government takes on many security guards. Another sector disastrously affected is the cleansing sector.

Many people said that big enterprises do not need to rely on these. They are wrong, because big enterprises are an avaricious blood-sucking vampire. After the big enterprises are awarded the contracts for outsourced guarding and cleansing services, they will subcontract them and as a result of tier after tier of subcontracting, employees of the Food and Environmental Hygiene Department are paid at an hourly rate of \$7. This is a case in point. Even Paul YIP has subcontracted so many guarding services. Who said that the big enterprises are uninterested in making petty profits? This is precisely why these two sectors have been hit the hardest. This is a sin.

Some people told us that once there is a minimum wage, employers would certainly choose the better and quality members of the workforce and pay them at the minimum wage and as a result, other people will become unemployed. They said that this would certainly happen. I have said this many times. If the Government is required to provide unemployment assistance and retraining, adjustments would have to be made. Where should the money come from? It should come from those consortiums which I mentioned earlier, consortiums which "snatch rice from the beggar's bowl" in order to reap even greater profits and also people who suddenly become rich by speculating on land lots.

Mr Andrew LEUNG is not in the Chamber today. I already asked him on two previous occasions — I asked him as soon as I took office as a Member of the Legislative Council whether, cost-wise, it is government rent or the wages that is more expensive? Do we still need to be told the answer? Secretary, how much has the rent increased but how much increase has there been in wages? How much has Government rent increased? It is soaring frantically; stock speculators have been speculating frantically. Where has the capital gone? It has gone to sectors where a high return can be reaped. Those people who have made money set up companies to exploit their employees. Why should they not be made to pay? They should provide for the living of small business operators who become unemployed because they are unable to hire workers. They should provide for the living of workers who become unemployed as a result of their

fellow workers having obtained protection (a class is thus formed). What class is it? It is the capital class, especially people who created monopolization, such as LI Ka-shing and Stanley HO, people who have grown so fat that they cannot even put up their socks. These people should be made to pay.

Members, what are we talking about here? What we are talking about is that there are now almost 400 000 workers in poverty and 1 million poor people, and if we still hold that they would die if there is a minimum wage, do we have any sense at all to hold such a view? I think the Nobel Laureates have neglected a problem and that is, in Hong Kong, the actual situation of monopolization, that is, a small group of people monopolizing resources for speculation purposes, is the cause of poverty among the masses. A minimum wage is only ethical. It is absolutely intolerable to see that in such an affluent place, the rich people who are the wealth creators consult doctors for hypertension because they are too "fat", while workers should not be given even the minimal treatment. So, this is certainly a political decision, a decision of redistribution of wealth, and the humblest decision.

Let us take a look at this: TUNG Chee-hwa promised the labour sector to set a limit for working hours and the line was then drawn at eight hours for the cleansing and guarding services sectors in which subcontracting prevails. Then, the capitalists cut the wages of their workers and that is why there is the issue of minimum wage. Why, in such a modernized society, would there be hundreds of thousand workers having to work over 60 hours? There are 700 000 such workers. This is downright shameful.

Last night when I took part in a Halloween activity, a foreigner gave this to me. He asked me to tell the Hong Kong Government that it is just like this: A lying ghost. This foreigner said that having heard what the Government had said for such a long time, he thought that the Government is entirely unreasonable.

Members, what we are discussing here is a political issue. What political issue is it? That is, in our society, it is already unfair ever since the very first distribution of wealth. The rich people are unwilling to contribute their excessive profit to making some slight adjustments and on the other hand, the Government said that the old ordinance could not be applied. I do not bother to argue with it, and I will take it to Court direct. What we are asking for in this Council is that everyone will vote for the immediate enactment of legislation to specify a minimum wage and an upper limit of working hours. I think what Ms

Audrey EU has said is most correct. This is to state our position. Do we really think that we can achieve it? Having said that, however, it is still very important to state our position in this Council, because this Council is tasked to express the wish of the people, not the wish of the tycoons. So, I hope Members will vote for this motion, or else it would be like pouring water into a sieve as I am doing now — it is just water, and it will "smash the rice bowls".

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, some of the water that you have just poured out has spilled onto the floor and the table. I think every Member should be responsible for what they have done and so, it is your duty to clean it up later.

MR LEUNG KWOK-HUNG (in Cantonese): Certainly. I have worked in the cleansing sector before.

PRESIDENT (in Cantonese): Very well then. That would be fine.

MRS SELINA CHOW (in Cantonese): President, before Mr LEUNG Kwok-hung rose to speak, I had wished to say that although this topic under discussion today is very controversial, Members still managed to remain cool-headed and speak gently. But it now transpires that this is not quite the case. I was wrong, for there is an exception.

President, I wish to respond to what Mr Jasper TSANG said earlier on. He said that according to the Liberal Party, there should not be a minimum wage for the benefit of workers, while the workers said that there should be a minimum wage for the benefit of the enterprises. In fact, I do not think there should be such distinction, and we should look at things from various perspectives. There is no denying that throughout our discussion on this issue in the Liberal Party, we disagreed with the setting of a minimum wage not because it would benefit the workers only and have nothing to do with us. Rather, we considered that the possible consequences of a minimum wage will impact on the entire society and economy; it will affect the enterprises as well as the workers, for they are inextricably linked with each other.

We are particularly concerned about the question of affordability, especially that of small and medium enterprises (SMEs), many of which do not have strong business viability. This is why the Liberal Party always says that we would certainly throw weight behind it if we can ensure that the so-called reasonable wage level is affordable to all enterprises. In this connection, we absolutely support the wage protection scheme, which, we think, is a healthy trend. However, when it comes to the introduction of legislation, some enterprises, especially the SMEs, may not necessarily have the means to afford a minimum wage and would hence be caught in troubles, because they would breach the law if the payment of minimum wage is beyond their affordability. So, we hope that Members will appreciate the concern over affordability.

In our discussion, it is often suggested that we can look at the different aspects individually, such as separating workers from enterprises as I mentioned earlier. How? That is, actions are proposed to target at two job types or sectors exclusively, while the others will not be considered. It is because these two sectors have problems that actions are, therefore, targeted specifically at these two sectors. But when legislation is to be introduced, will it affect just these two sectors? Will it affect the employers and employees in these two sectors only? This is not necessarily the case.

Why? Let me cite an example. Many security guards in general housing estates for the less well-off are paid wages below the average wage level of some \$6,000 that we are talking about now. Their wages may only be some \$4,000. When legislation is introduced to stipulate that they shall be paid some \$6,000, it means that their salary would be increased by 50%. What would happen as a result? The consequence is either the residents would have to shoulder the additional 20% of expenses or one security guard would be laid off, or the security guards would be replaced by a closed circuit television system, which means that no security guard would be employed anymore.

I am not raising alarmist talk. I think if we look at it from the angle of affordability, it is absolutely possible for owners' corporations to come up with this countermeasure as they may have to leave no stone unturned in order to solve the problem. Why? It is because the tenants and small owners absolutely can refuse to pay for the possible increase of 50% in expenses. This is proof that not only those two sectors will be affected. Another example is cleansing workers. There are many types of cleansing workers, and some may be paid at rather low wages. But if we now propose to increase their salary

from \$3,000 or \$4,000 to \$5,000, then we really do not know what will happen. Mr LEUNG Kwok-hung asked earlier why we must always link it with unemployment. Of course we must link them up, for this is a matter of fact. Imagine: When their wages must increase by 50%, what will happen?

Another concern is the average wage that people are always talking about, and this is very worrying. In other words, half of the workforce may be paid below this average wage level, while half are above it. If the wages of that half of the workforce below the level will be increased to the average wage level, I think in-depth discussion is really warranted. I think no place in the world would apply the average wage as the minimum wage. Assuming that the average wage this year is at a certain level, it will become the minimum wage next year, and when it is pitched at a higher level, the average wage will then increase further. Indeed, this will put an immense pressure on the overall affordability.

Earlier on some Members opined that unemployment is unrelated to minimum wage. But let us think more deeply about it. If a minimum wage was provided for in law during the SARS outbreak, I believe many people would have become unemployed immediately, because as Members may recall the situation back then, people preferred to receive pay cuts in order to ride out the storm together, hoping that everybody could make ends meet even though they would earn less. Let us think about this: There are bound to be good times and bad times in the economy, and there may be ups and downs too, and if legislation is introduced, such flexibility would cease to exist.

In fact, we hope that all Hong Kong people can live with dignity, and we in the Liberal Party absolutely support this. But there are 150 people coming to Hong Kong on a daily basis, and some of these people are low-skilled workers while some are paid at low wages. What should we do? Mr Jimmy LAI made a proposal today. He said that \$6,000 is required for a person to lead a dignified life, but the market can only afford \$4,000. In that case, the Government must think about this and perhaps it may have to pay for the outstanding \$2,000 in order for the people to live with dignity. We in the Liberal Party suggest the Government to consider other options, such as assisting the low-income earners by way of livelihood voucher, and this may be better than introducing legislation on minimum wage.

PRESIDENT (in Cantonese): Time is up.

MRS SELINA CHOW (in Cantonese): Thank you, President.

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

MISS CHAN YUEN-HAN (in Cantonese): I very much thank Mrs Selina CHOW for supporting my point of view. If there is no minimum wage, when a worker who works for 12 hours is paid some \$4,000 in wages while the rest will be paid by the Government, it would be tantamount to giving the worker Comprehensive Social Security Assistance (CSSA) on the ground of low income. Do not take me to task for this, the business sector — Selina is nodding. I think this proposal is OK; the option of a low-income CSSA is possible. Selina agreed. Yes, she agreed. This is tantamount to telling Hong Kong people that the Liberal Party supports my appeal to the Government for a low-income CSSA for low-income earners. I guess Mr Stephen IP should be shaking his head now. I do not know if this is the case or not; he can respond to me later.

This is very interesting, and it is also what Jimmy LAI wrote about in his article today. In fact, this is the same as low-income earners drawing the low-income CSSA. I think it is quite interesting. Because when an issue is discussed in the community, the more it is debated, the clearer we can see the problems with it, and we do not just make an appeal blindly. Objectively speaking, these people cannot make ends meet, and if they cannot make ends meet, what should they do? We must think of a solution for them, right? Should the taxpayers be made to pay for the employers, or should the employers be paying? This is open to discussion.

Madam President, a presidential election was held in Brazil last Sunday. The incumbent President, Luiz Inácio Lula da SILVA, won a landslide victory in the election and was re-elected President of Brazil. Why do I mention the result of the presidential election in Brazil in my speech on this motion on minimum wage? It certainly has to do with the minimum wage.

Lula managed to win support from a majority of voters because he had endeavoured to narrow the gap between the rich and the poor during his term of office. Lula's government proactively created new job opportunities on the one hand and redistributed wealth on the other by increasing the minimum wage and providing more income subsidies to the lower-middle class.

We can see that other people have made use of many tools to do something. Members can take a look at it. I think we must focus on why Lula could win in the election. It is precisely because in the past three years during his first term of office as the President, he created a total of 4.63 million jobs for Brazil country-wide. The number of the newly employed increased by over 1.2 million in the first eight months of this year. Over the past three years, the minimum wage has increased significantly, with an actual increase of 25.3% after deducting the inflation factor, benefiting 40 million workers in the lower class and retirees. According to recent press reports, workers' wages have increased and what is more, the gap between workers and the rich people (the wealth gap) has also been narrowed.

Like Brazil, the gap between the rich and the poor is also very serious in Hong Kong, as the Gini Coefficient now stands at 0.525. Generally speaking, a Gini Coefficient at 0.4 is already warning against an excessive wealth gap. This definition is not devised by me, and this figure of 0.4 is international consensus. Ours is 0.525 now. This figure in Hong Kong has exceeded 0.5 and yet, if we look at the SAR Government, it has still taken no action to address this hidden factor which will lead to inequality and social instability. Nor has it attached importance to it. On the contrary, if we look at Brazil, their Gini Coefficient is 0.57, only slightly higher than that in Hong Kong, but their President has made narrowing the wealth gap a major policy objective during his term of office. Why is our SAR Government still turning a blind eye to the gap between the rich and the poor? Why has it still dragged its feet time and again on the introduction of legislation on minimum wage? Does the SAR Government notice the great public resentment in society now? I hope that the Government can see the picture more clearly.

After the heated debate last Monday, some people rang me up. A member of the public said that wage earners in Hong Kong are paid not even as much as foreign domestic helpers. Foreign domestic helpers are currently paid some \$3,000, but the employers are required to provide food and accommodation and a round-trip flight ticket to them, and also to pay for their water charges and electricity tariffs. When a foreign domestic helper falls ill, the employer is required to take her to the doctor. All these are what the employers are required to do by law. He said that if we take these into account, the wages of local workers who earn some \$4,000 for 12 hours of work are even lower than those of foreign domestic helpers. This is why grass-roots workers feel aggrieved and angry.

I very much hope that the SAR Government can address this situation squarely. Workers in Hong Kong have worked laboriously through their life and today, as stock prices rise continuously and property developers reap huge profits in every development project, the grassroots do not have the means to afford the most basic living expenses. Why do we turn a blind eye to this? Many friends in the Liberal Party have said earlier that employers are often worried that enacting legislation on minimum wage will affect costs. Honestly speaking, in other countries in general, the minimum wage accounts for 40% to 60% of their costs. The percentage can be worked out by a wage management committee made up of representatives of workers, employers and the Government. In Britain, what is the level of the minimum wage? It accounts for only 45% of the average wage. The level under our proposal now will account for only 50% or 60%. That is, the wage level that we are asking for now accounts for only 50% of the normal wage level. How could it have any impact on costs?

In fact, I think this Movement proposed by the SAR Government is certainly impracticable. That is why WONG Kwok-hing (please forgive our loquacity) introduced once again the proposal that we made back in 1996 of applying the Trade Boards Ordinance. We hope that the employers will not just hold onto what they have now. They should try to consider making improvements. In fact, when it comes to the Trade Boards Ordinance, I fully agree with Ms Margaret NG that there are many problems involved and in order to succeed, there is still a very long way to go. But since we have put forward this proposal, why does the Government not even consider it? I very much hope that the SAR Government can see the picture clearly. It must not be deterred by the reasons advanced by the industrial and commercial sectors, such as they have to lay off workers, in expressing their opposition only for the sake of opposition. If we can take steps to introduce legislation on minimum wage, all the problems can be solved. Yet, the solution to the problem must be worked out by all of us together.

Madam President, according to a research conducted by the Legislative Council Secretariat in 1999, there were 80 countries where minimum wage was implemented, and the number has increased to 101 now. From this we can see that more and more countries have implemented a minimum wage, and this is also proof that it is supported by more and more world leaders. Why does the SAR Government still have such narrow vision and refuse to make progress?

Madam President, *(the buzzer sounded)*.....

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

MR ALBERT HO (in Cantonese): Madam President, many studies and theories on minimum wage published by economists have puzzled those who are interested in the issue because the economists are unanimous in their views. Why? According to most economists who are known to us, a minimum wage is problematic although a few of them hold different views. In my opinion, however, this has precisely reflected the disparity between theory and reality. Moreover, this has also shown that when economists consider a problem according to economic theories, they may have their perspectives. However, when it is put into practice, they will find that what they have to tackle is not a pure economic issue. In fact, when something is put into practice in society, many political and social factors will mingle with it, thus an entirely different conclusion may be drawn.

I have heard the arguments of Mrs Selina CHOW and Mr James TIEN. They said that the introduction of minimum wage might lead to other responses and reactions of employers, thus resulting in unexpected consequences for the working class. One of their arguments is the introduction of automation such as the replacement of security guards by closed circuit television (CCTV). This is a simple question. As people at the grassroots level are our clients, we often come into contact with the Owners' Corporations. We have asked them whether this will be the case. I can tell you that 99% of them will not do so even if the wages of the security guards are increased by one fold. As we all know, services provided by humans can by no means be replaced by machines. From the perspective of security, CCTV can really provide certain degree of safety. But what people need is the service, care and concern provided by humans. Moreover, the existence of humans can bring us a sense of security which cannot be provided by machines.

So, in my opinion, there are in fact many factors which may lead to a different result when a pure theory is converted into presumption, study and even put into practice. When it is put into practice, why has the number of countries increased from the original 80-odd to 100? I believe many of them are advanced and democratic countries. Their eventual conclusion and their practice tell us that it will succeed. Their practice tells us that it will not lead to such undesirable consequences as illegal workers, high unemployment rate,

economic collapse and total withdrawal of capitalists. If such problems arise, can those who have got the votes stand it? If such bad consequences occur, not many elected Congressmen or Presidents can stand it. Will a person "ram his head against the wall", as a Cantonese saying goes, even if he is fully aware of the harm? Moreover, there are so many so-called economists who support such a theory. So, in my opinion, we should not talk about theory. Rather, we should look at the practical result. Only practice can provide the best answer.

I believe many businessmen are scrupulous and many businessmen will not leave their employees in the lurch. However, most investors will not decide the location of their investment simply out of sympathy. Those who have decided to relocate their operations northwards have already gone and will not stay in Hong Kong just because there is no minimum wage policy. Since this argument has been repeated time and again, I am not going to reiterate it.

Concerning the protection of youngsters and people with disabilities, some said that if wages are increased, these people will become unemployed and the smarter and the able-bodied will get the jobs. Frankly speaking, if this is the case, what is the problem? I would rather have CSSA as a means to protect the disabled than a lifeline for the able-bodied and the capable due to unemployment. So, I do not think it is a bad thing if the introduction of minimum wage really leads to the replacement of the disabled by the able-bodied. We can help the disabled with other means. There are other kinds of jobs that can support them. There should be some affirmative actions to protect the disabled or other handicapped so that their employment opportunity is ensured. Or we can make use of the social enterprises instead of suppressing the wages in order to let them earn a meagre income at the expense of the able-bodied.

Madam President, many colleagues have mentioned the Wage Protection Movement. In fact, it is really difficult to understand why the Government has launched such a movement. As many colleagues have rightly pointed out, this movement is illogical. If this is the right thing to do, the Government should formulate a policy and enact legislation for its implementation. I cannot see why the Government should persuade the people to follow suit. In fact, for those who accept the Government's argument, the legislation will not have any impact on them. For those who do not accept the Government's argument, the non-existence of legislation is totally ineffective. So, logically, the Government's approach is invalid. The launch of such a movement will only

give people an impression that the Government wants to stall it for two more years. However, the biggest problem is: What would the situation be in one or two years? Let us wait and see. Today, we can at least clearly see that the Government has no reason to further delay the legislation.

Lastly, the Chief Executive, in answering Mr KWONG Chi-kin's question in the Question and Answer Session, said that the Trade Boards Ordinance was outdated and should not be given any consideration. I really find it hard to understand his point. The Ordinance is obviously part of Hong Kong laws. How can a Chief Executive say that the legislation is outdated, ineffective and should not be given any consideration? What power does he have to say such words? What power does he have to shelve the law and selectively enforce the law? He should repeal the law if he considers it outdated and unsuitable instead of giving the public an impression that the Chief Executive is above the law.

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

MR RONNY TONG (in Cantonese): President, I recently read a book *Making Globalization Work* by Joseph STIGLITZ, a former Nobel Laureate. Joseph STIGLITZ has made it clear in his book that the *laissez-faire* economic philosophy that the people will benefit as a result of economic prosperity has already lost its credibility.

The Government's series of changes in position from refusing to intervene in the market wages by setting up any mechanism and turning a blind eye to the low income and long working hours of the grass-roots workers to confirming that the workers are unable to share the fruit of economic improvement and agreeing to adopt measures for two selected sectors have shown that the Government has recognized the so-called market failure in Hong Kong. Actually the fact speaks for itself. It is impossible for those who blindly support the so-called neo-liberalism in economic theory to distort the truth. In order to deal with the problem of market failure, one cannot rely on an empty and irrelevant scheme of self-discipline.

Regarding the self-disciplinary scheme or the Wage Protection Movement, the crux of the problem is: The Government hopes that the employers who are

subject to no constraint will increase the wages of their employees in a self-disciplinary attitude. However, there is no reason for the employers to accept the Government's self-disciplinary scheme precisely because the Government has not shown any determination, in addition to a lack of incentive to induce the employers to respond to the Government's movement.

On the other hand, the scope of industries covered in this scheme is also too narrow. At present, there are a total of 500 000 workers earning less than \$6,000 a month and the Government's proposal will only cover around 100 000 workers in the cleansing and guarding services sectors. This is like a drop in a bucket. How can the scheme deal with the hardships suffered by other low-income workers? The Government's determination is obviously not sufficient to induce the employers who lack the incentive to adopt a reasonable wage level in all industries. The scheme is unfair to the low-income workers, the Government, the employees and the trade unions.

As we can all remember, many economists often said that once a minimum wage is introduced, the vulnerable and the less competitive people may lose their jobs. In fact, if we think about it more carefully, such theory does not hold water. The Government has all along claimed that many people prefer applying for Comprehensive Social Security Assistance (CSSA) to work. However, according to the relevant figures, the number of CSSA recipients who are unemployed or low-income earners account for 57 000-odd cases or around 19% of the total 300 000 cases. But at the same time, we can see that 500 000 workers are earning less than \$6,000 a month. From these figures, we can see that the ratio of the unemployed and low-income earners on CSSA is very low and cannot prove that many people prefer being unemployed and receiving CSSA.

Moreover, this statement which seems to care about the vulnerable and the marginalized groups of the community has actually looked down upon them. In the eyes of these critics, it is not worthwhile to give assistance or show sympathy to such vulnerable and marginalized groups of the community. No wonder we can see that those who oppose the introduction of a minimum wage also oppose the proposal on an employment quota system for persons with disabilities.

Nowadays, among the 168 countries in the world, more than 100 countries including our Motherland have implemented a minimum wage. We do not see any sufficient evidence which can prove that the minimum wage will have an

adverse impact on the economy. According to a recent report by the Organization for Economic Co-operation and Development, generally speaking, a mild policy of minimum wage will not pose any problems. In fact, what we should be discussing now is at what level the minimum wage should be set instead of wasting our time in discussing and launching some incompetent scheme which is not binding on employers.

Regarding the problem of working poverty, the figures in recent years in Hong Kong show a deteriorating trend. According to the latest figures, as I just said, there are 500 000 people earning \$6,000 or less a month. This will have an adverse effect on social harmony in the long term. If the Government does not face up to this problem, we cannot see how a harmonious and stable social atmosphere can be fostered.

The Chief Executive has implemented the five-day work week in government departments since last year. But concerning the standard working hours of other sectors, the Government has not made any proposal. Nor does it have any determination to improve the working environment. We have recently heard that the bus drivers' rest break after each shift is only nine hours. If a bus driver has to spend one hour in travelling home, his rest break is less than seven hours even if he does not sleep, does not brush his teeth and does not eat. Such a working condition is not only unfair to the workers, it also jeopardizes the safety of bus passengers.

This Council has discussed the issue of minimum wage and standard working hours for many years. The Government cannot evade its responsibility any longer. President, I will give absolute support to the motion today.

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

MR SIN CHUNG-KAI (in Cantonese): President, I would like to talk about maximum working hours. As for the minimum wage, it is of course very controversial because many economists hold that a minimum wage will not be effective in solving the unemployment problem or helping the poor. However, from an objective point of view, at the moment when the minimum wage is adjusted or during the process when the minimum wage is discussed in the Western European countries, such as the wage management committee

mentioned by Miss CHAN Yuen-han, which has adjusted the wage and consensus has been reached on the adjustment, the minimum wage, in the eyes of economists, does not cause too much harm to society. To put it simply, both sides should look at the issue in a relatively peaceful attitude. First of all, the minimum wage is neither a dreadful monster nor a panacea.

However, the problems derived from minimum wage should be solved. The problem behind the minimum wage proposed by the labour sector is: The workers, despite working very hard, are still not provided with sufficient conditions to lead a decent or acceptable life in Hong Kong or the place concerned. Should we adopt the minimum wage or protection for family income in order to solve the problem?

In fact, since 1975, a negative income tax has been implemented in the United States. It may be more acceptable to the right-wing economists because it will not interfere with the market economy. The concept is also the same as the workfare system introduced by Bill CLINTON and Tony BLAIR. It means that we will not force the Government to implement the minimum wage in various trades by way of legislation. However, when society has reached a certain level of affluence, we will not allow some people to lead a life which is totally unacceptable. As a result, the system of welfare to work has emerged. Concerning this system of welfare to work, it is not true that the Government has not started to implement it. Last year, the Government began to provide a travel allowance which embodies such a concept in some measure.

In this discussion on minimum wage, we should consider a couple of issues. First, we may need to study the minimum wage of the industries concerned; second, we may need to consider the safety net in society. Concerning the safety net, the workfare system has been implemented in the United Kingdom. After a period of time, the United Kingdom experience has proved that this system can reduce the welfare expenses. Of course, the welfare expenses in the United Kingdom have been reduced not purely because of the introduction of the workfare system. It may also be due to economic improvement of the United Kingdom in the past few years. However, as far as the situation of the United Kingdom is concerned, this system has at least proved to be desirable and worthy reference. So, when studying the minimum wage, we should also consider how to expand the existing scope of travel allowance or the workfare system proposed by the Democratic Party.

The second subject I would like to discuss is maximum working hours. A major problem in Hong Kong now is the long working hours of the grass-roots workers. Friends in the labour sector have expounded on this at great length. However, from an objective point of view, not only the working hours of the grass-roots workers are long, the working hours of the middle-class workers are also very long. Of course, I have not taken into account the working hours of colleagues in the Legislative Council. We have to work at least 70 hours a week. I see that Mr WONG Kwok-hing is nodding. The objective effect is that the number of family problems has increased, the room for us to pursue continued study has shrunk and our health has been deteriorating. In fact, our society should take a break so that the employees can have some room to pursue studies and take a rest.

The implementation of the five-day work week by the Government is a good start. And the banking sector has followed suit. However, they have followed suit only in a piecemeal manner instead of in entirety. While the back office workers work five days a week, many front-line employees are required to work seven days. They have to work on Saturdays and Sundays in order to continue their efforts in sales promotion. So, on the issue of maximum working hours, the Government should not only consider minimum wage but also the maximum working hours. I strongly believe that problems derived from working hours will not only plague the working class but also the other two sectors. Regarding the information technology sector which I represent, a common phenomenon is long working hours. But our problem is more serious because many people have to work overnight. In order to meet the deadlines, they have to work very long hours. As a result, their health or other conditions have deteriorated. So, in this motion debate, Mr Andrew CHENG or Mr WONG Kwok-hing in his motion has mentioned maximum working hours or standard working hours. Both are supported by us. Not only the information technology sector is facing long working hours, such middle-class sectors as accountancy or other industries are also facing such a problem. We really have to provide some room to the employees so that they can have some proper resting time.

I so submit.

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

MR ALBERT CHENG (in Cantonese): Every year, we have a debate on minimum wage and maximum working hours. Even though we have debated the issue for so many years, people in the business sector will still insist on one point in any discussion with them. I do not know whether they are intentional or not. Perhaps let me take this opportunity to clarify the point.

Concerning the maximum working hours, they think that our motion aims at limiting the workers' working hours to a maximum of eight hours and after working for eight hours, the workers will call it a day. Every year and on different occasions, I have to spend a lot of time explaining the meaning of maximum working hours to them whenever I meet with them. The purpose of formulating a minimum wage is very clear. Concerning the maximum working hours, it is the standard working hours when a minimum wage has been implemented. Eight hours of work mean that the workers are entitled to overtime pay if they have worked for more than eight hours. It is as simple as that. Please do not make any mistake. Each time after my explanation, they will nod in approval, acknowledging that this is a relatively good approach. But soon afterwards, if I come across the same person on a different occasion, he will mention the same thing. So, they are basically misleading themselves and those in the business sector in order to use this as an excuse to oppose the introduction of minimum wage.

Just now I heard the speech of Mrs Selina CHOW of the Liberal Party. She said the Liberal Party agreed that the workers should lead a decent life. How can one lead a decent life with a monthly income of \$3,000? Moreover, among the costs, rent is the largest component, be it SMEs or large companies. Why did they not express their objection to rent increases by the big landlords who actually represent the interests of moguls? Rents are now increasing. Thanks to the Individual Visit Scheme, the retail business has revived. When the turnover has barely improved, the landlords propose an increase in rent. If the rent is increased, the business has to shut down. Basically, wages only account for a small proportion of the total operating costs.

As for the catering business, President, foods account for 30% of the operating costs and rents account for 40% to 50%. How much do wages, the remaining component, account for? It only accounts for the remaining 30%. All businessmen know that it accounts for 30%, yet they have to make some profit out of it because no business is a charity. So, labour costs account for

10% to 20% at the most. This is unfortunate because the sweat and toil of the workers will have to subsidize the rents. I do not know whether this is part of our high land price policy.

It is most ridiculous if one mentions charity. Many said that if a minimum wage is set, the young people will scramble for jobs in the cleansing, guarding services and obnoxious industries, or jobs supposed to be undertaken by the aged and the disabled. Is running a business like running a charity? Is every company a charity like the Tung Wah Group of Hospitals and Po Leung Kuk? No, a business is not a charity. Hong Kong is a free economy. When I am talking about free economy, everyone will flaunt "free economy" as a banner to claim that the minimum wage will affect our free economy. A free economy itself is market-orientated. If these job types cannot survive, the business will close down. In that case, these jobs should be entirely phased out. The businessmen will not engage in charity and will not be asked to run a charity. I have never heard people saying that they run a shop for the sake of charity and the workers could starve or resort to applying for Comprehensive Social Security Assistance (CSSA) if unemployed. Please do not say such words to me.

If a job type can evade such regulation or be relocated elsewhere, it has already been relocated or moved to the Mainland. Last time, I criticized that some people were shameless. I still remember what I said. I said that if dishes and clothes at home could be packed and shipped to Shenzhen for washing when people go there for ball games every day, I guaranteed everyone would have done so. Perhaps some people have already done so. However, it is impossible to do so for work in a company or the dishes in restaurants. If plastic bowls can be offered as tableware in a meal which costs several thousands in the Fook Lam Moon Group, I think some restaurants would have done so although it is not the Fook Lam Moon Group. So, frankly speaking, we are now running a business, not a charity.

Speaking about free economy, let me talk about what a free economy is. If a job type will disappear due to high wages, it should be phased out. Furthermore, there is the presumption that if a minimum wage has been set, our young people will all switch to be cleansing workers or security guards. Do you believe that? Of course not. It is impossible because the young people have the right to choose their career. So, we should not confuse charity with market orientation. Concerning the minimum wage issue, apart from the fact

that our workers are being exploited and their toil is used for subsidizing the big landlords, our Government or taxpayers are now subsidizing those unscrupulous businessmen. In fact, they are not unscrupulous. They are simply businessmen being exploited by the unscrupulous landlords. They have to hire cheap labour. Why? If a family of three applies for CSSA, they will receive around \$8,300 a month. However, if they want to work and their total family income, as a result, is lower than this figure, they can apply for subsidy from the Social Welfare Department. In other words, each taxpayer in Hong Kong is subsidizing such cheap labour. Such a phenomenon is not right. We should rectify it. First, the toil of cheap labour should not be used to subsidize the landlords; second, the taxpayers' money or public money should not be used to subsidize employers who will in turn exploit these workers. So, this should be rectified. Although Mr SIN Chung-kai said that this is not a panacea and will not bring life back or immortality, it will not kill either. Nor will it lead to continuous exploitation of workers.

Hence, every year we have a debate on the motion of minimum wage and maximum working hours. The result later is very simple. The motion will certainly be carried by a majority. But due to the separate voting arrangement, it will be negated. It is a repeat every year. I asked the President whether we could use a tape recorder but was rejected. Otherwise, the same speech of mine can be recorded and played by the recorder every year. Similarly, the President can also announce the pre-recorded voting results: "The motion is negated because less than half of the Members returned by functional constituencies voted in favour of the motion even though it was passed by Members returned by geographical constituencies through direct elections." That will be the end of it. Then Secretary Stephen IP can also give his reply by playing the recorder.

In fact, we are wasting our time here every year. However, we have to keep on. We cannot allow workers to be exploited by such unfair phenomenon and practice in such a ridiculous system of the Legislative Council. So, I will certainly support this motion. I so submit. Thank you, President.

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

MR ABRAHAM SHEK (in Cantonese): President, I oppose the motion and I consider Mr Albert CHENG's argument totally groundless because he has

confused wages with rentals and land prices. He basically does not understand what economics is. We are now talking about free economy instead of politicalized wages for workers.

Regarding the implementation of minimum wages, maximum or reasonable working hours, all employers in Hong Kong will support it. Most employers in Hong Kong wish to have a stable society in Hong Kong. What is a stable society? It is a society where everyone can have a job and enjoy family life. What Hong Kong lacks now is not a minimum wage system. Rather, we do not have sufficient works projects. As a result, many people are unable to find a job even though they want to.

The problems we are now discussing such as those concerning the cleansing and guarding services sectors are not caused by the land developers. It is a market problem instead. Please do not say that something which is related to the market position must be connected with high land prices and rentals. This is unacceptable to me. President, I oppose the motion.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, Mr WONG Kwok-hing, you may now speak on the two amendments. You have up to five minutes to speak.

MR WONG KWOK-HING (in Cantonese): President, concerning the two amendments, I have also indicated my support. Mr LEUNG Yiu-chung has proposed to set a minimum wage for all trades in Hong Kong, I certainly welcome it. However, I think it should be launched in the cleansing and guarding services sectors first because workers in these two sectors have the least bargaining power and the least competitiveness. So, it will be a pragmatic approach to make a breakthrough here and the resistance encountered will also be relatively small. Such a pragmatic strategy will achieve a goal which will not be attained by Mr Albert CHAN who has his tongue wagged and has no regard to the facts. Ms Margaret NG's query on the Government's former views just now is the best evidence. So, I hope Members will support the original motion and the two amendments.

Regarding Mr Andrew CHENG's amendment, the original motion has in fact covered the meaning and content of Mr CHENG's amendment. First of all, the original motion has mentioned "(a) apply the Trade Boards Ordinance to specify a minimum wage level and the rates of overtime pay, starting with the cleansing and guarding services sectors; and (b) regulate the number of working hours." The word "and" means that working hours are also included. The intention of the motion is very clear if read carefully.

The second reason is that, as we all know, wages and working hours are interrelated and interdependent. We cannot regulate wages without regulating working hours. Neither can we discuss working hours without mentioning wages. Both should be discussed at the same time.

As for the third reason, the very first paragraph of the Trade Boards Ordinance has made it clear: "To provide machinery for fixing minimum wages, determining normal working hours, and fixing overtime rates in trades where the wage standards are unreasonably low". The phrase "determining normal working hours" precisely means that working hours should be regulated.

As for the fourth reason, according to paragraph (c) of section 4 concerning the duties and powers of Trade Boards with respect to minimum rates of wages "in respect of hours worked by a worker in any week or on any day in excess of the number of hours considered by the Trade Board to be the normal number of hours of work per week or for that day in the trade", it is provided that if a Trade Board has been set up, the Trade Board will stipulate the normal number of hours of work per week or for a particular day in the trade. So, in the original motion, I have adopted the term "wage" and "working hours" after careful thinking. I have also proposed in a prudent manner that a minimum wage be introduced in the cleansing and guarding services sectors first. In fact, I have made the proposal in such a manner in the hope that the motion can cover the opinions of the majority and carry the mainstream view. I also hope that this may win Members' consensus and support more easily.

At any rate, I also appreciate the amendments by Mr LEUNG Yiu-chung and Mr Andrew CHENG because their intention is to make the motion perfect, thus further echoing the strong voice of this Council. So, I hope Members will support the two amendments and my original motion. Thank you, President.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I thank Members for their earlier speeches on the motion of "Minimum wage, standard working hours" proposed by Mr WONG Kwok-hing.

Minimum wage has been a topic of debate on many occasions in the Legislative Council. I remember that Miss CHAN Yuen-han has also proposed motion debates on wages and working hours in the past two years. Mr Albert CHENG mentioned cassette recordings earlier. Although he is not in the Chamber now, I would like to tell him that nobody listens to cassette recorders nowadays. That is why I have thrown away my cassette recorder and now, I listen to an iPod. *(Laughter)* Why is it that nobody needs a cassette recorder anymore? It is because we have made substantive progress. So, my speech today will certainly be completely different from what I said last year.

In the policy address that he delivered not long ago, the Chief Executive announced the implementation of the Wage Protection Movement (the Movement). In last week's policy debate in the Legislative Council, many Members expressed their views, and there have been many discussions on this Movement in all sectors of the community. Madam President, I wish to emphasize that this is the first time that the Government has provided a clear and specific timetable and blueprint for the enactment of legislation on minimum wage over the years. It is a major breakthrough.

On the question of whether legislation should be enacted on minimum wage, the Labour Advisory Board (LAB) has, for a period of time in the past, conducted in-depth discussions on this issue from different angles. Although views have been diverse in the LAB, the academia and various sectors of the community, a certain consensus has actually been reached on the principle of providing protection to grass-roots workers.

After balancing the views of all sides and carefully considering the social and economic conditions in Hong Kong, the Government considers that at the present stage, the pragmatic approach is to achieve wage protection through this non-legislative Movement by encouragement and voluntary participation.

Under the Movement, the Government will, in collaboration with the business community and the labour sector, actively encourage participation of

enterprises, so that employees in the cleansing and guarding service industries will be paid wages not lower than the average market rate for the relevant industry/occupation published in the Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics.

Enterprises participating in the Movement will be required to sign with cleansing workers and security guards written employment contracts specifying the wages, working hours and arrangements for overtime work compensation, thereby ensuring express protection of employees. Where outsourcing of cleansing and guarding services is necessary, enterprises should require contractors and their subcontractors to follow the same practices by specifying the terms in the tender document or service agreement. If further subcontracting is necessary, the main or principal contractor has the duty to require and ensure compliance by the subcontractors with the wage requirement and the use of written employment contract, in order to prevent workers from being exploited as a result of subcontracting.

The Movement is a positive and pragmatic proposal, and the Government has taken a realistic attitude in handling this issue which carries far-reaching implications and on which views of the community remain diverse. This Movement symbolizes a major step forward in our work of protecting grass-roots workers.

This Movement has a very extensive coverage. Apart from actively carrying out promotional, publicity and education work targeting business chambers, employers' organizations, enterprises and owners' corporations, the Labour Department (LD) will also implement a series of support measures. These initiatives have a much wider coverage compared with the measure of business chambers encouraging their members to sign "charters". The key of this Movement is to encourage the business sector to pay cleansing workers and security guards wages not lower than the average market rate and to provide for this in written employment contracts.

The participation and support of the industrial and commercial sectors is pivotal to the success of this Movement, and the Government will certainly throw full weight behind it. The LD will promote wage protection through a package of support measures including promotion, publicity, public education, contract regulation and enforcement. Enterprises participating in the

Movement will be required to sign with cleansing workers and security guards written employment contracts, so that the LD will be able to conciliate in labour disputes and take enforcement actions more effectively.

We have liaised with various major chambers of commerce, including major trade associations, organizations representing small and medium enterprises and employers' groups, and we will work closely with them. Many employers' groups have already stated that they would actively participate in the Movement. Some trade associations have also urged their members to support the Movement, while some enterprises stated that they would adopt the relevant arrangements. The LD will also launch promotional campaigns jointly with the relevant trade organizations (such as those in the property management and cleansing industries), owners' corporations, and so on.

The publicity and promotional arrangements of the LD are being prepared gradually for commencement. The first radio Announcement in Public Interest will be launched today, while a series of other projects will start one after another. A dedicated website and an enquiry hotline on the Movement will commence operation later this month to provide information and handle enquiries on the Movement. In recognition of the support of the Movement by socially responsible employers, a logo is being designed by the LD for use by enterprises which join and continue to comply with the relevant requirements.

Moreover, with regard to vacancies in the cleansing and guarding service industries, the employment service of the LD is only extended to those vacancies offering wages not lower than the average market rates with effect from last Friday. All employment programmes of the LD will accord priority to employers participating in this Movement. These initiatives are conducive to promoting a culture of wage protection.

Some people are concerned that this Movement may not have sufficient binding effect. As I pointed out earlier, employers participating in the Movement will be required to specify the wage level in the contract signed with their cleansing workers and security guards, and the wage level will not be lower than the relevant market rate. This arrangement will also apply to contractors and subcontractors of outsourced services. Employers may breach the provision on wage payment in the Employment Ordinance if their employees are

paid wages less than that as undertaken in the contract and may hence be liable to prosecution by the LD.

Furthermore, there is the view that the Movement should be extended to cover more job types. In fact, this has been discussed by the LAB and also at other levels. A relative mainstream view is that we should focus on wage protection for cleansing workers and security guards whose bargaining power is the lowest, having regard to a more uniform work nature of these two job types and the fact that a relatively large workforce is involved. Therefore, we will first concentrate on these areas in our work to benefit employees in these two industries as soon as possible.

Many Members as well as members of the community have said that it would be very difficult to implement this Movement. Miss CHAN Yuen-han said earlier that the Movement is doomed to failure, but as I said on the previous occasion, we actually hope that Members from the business sector can hear these remarks and we hope that these can somehow be a stimulus or an impetus to them, driving them to really "put up a good show" and to prove that this is indeed viable. I believe they know it only too well that if the objective is not achieved by way of voluntary participation, we will, as we have said, proceed to legislation after the completion of a comprehensive review. I believe this is already a strong impetus for unreserved participation by the business sector.

The Chief Executive stated in the policy address that the effectiveness of the Movement would be monitored through the LAB. The LAB is a proven tripartite mechanism consisting of representatives of employers, employees and the Government, and it is an appropriate arrangement for the LAB to assume this role. The LAB will review the progress of the Movement from time to time. We have also clearly undertaken to conduct an interim review of the Movement one year after its implementation (in October 2007), so that the labour sector, the business sector and members of the community can have a clearer picture of the progress of the Movement one year into its implementation. Meanwhile, we have also made an undertaking to conduct a comprehensive review of the Movement two years after its implementation (in October 2008). This undertaking and timetable is clear and realistic. I wish to emphasize again that if the comprehensive review to be conducted two years later would find that the Movement has failed to yield satisfactory results, the Government will set out to prepare for the introduction of legislation on a minimum wage in the cleansing and guarding services sectors.

As for the criteria for evaluating the effectiveness and the other details concerned, they will be discussed and decided by the LAB. In fact, the LAB can first conduct discussions on issues such as the review mechanism several months before the comprehensive review, in order to make preparations for the review.

Members from the labour sector and representatives of trade unions proposed earlier to apply the Trade Boards Ordinance (Cap. 63) to implement a minimum wage for the trades. As we all know, the Trade Boards Ordinance was enacted in 1940, which is over 60 years ago. Some of the provisions may have become obsolete and they may not be able to keep abreast of the current needs of society or the changing environment. Some Members pointed out earlier that some provisions may not be consistent with the requirements in the Hong Kong Bill of Rights Ordinance. Some Members also cited an example to point out that under the Trade Boards Ordinance, it is provided that any person convicted for failing to pay wages at not less than the minimum rate must give evidence to prove that he did not pay wages less than the minimum rate, and this may constitute a breach of the Hong Kong Bill of Rights Ordinance. Some Members also opined that the fine that may be imposed under this provision is very lenient.

On standard working hours, we do agree that excessive working hours will, to a certain extent, affect the employees' physical and psychological well-being as well as family and social life. But the stipulations on working hours may be made out of different considerations, including operational needs and protection of employees' health and safety. There is certainly an interdependent and interactive relationship between working hours and wages. As a matter of fact, what many grass-roots workers have been striving for is compensation for overtime work. In this connection, an objective of the Movement is to encourage enterprises and their contractors for cleansing and guarding services to sign with their workers written employment contracts to specify the arrangements for overtime pay or compensatory leave. From the angle of occupational safety and health, the LD and the Occupational Safety and Health Council have published the Guide on Rest Breaks to encourage employers and employees to work out, through negotiation, arrangements for rest breaks which are suitable for the employees and which can cope with operational needs.

Madam President, as I said at the outset, this is the first time that the Government has set out a clear and specific timetable and blueprint for legislation on minimum wage. This is, indeed, a major breakthrough and a full manifestation of the Government's determination and sincerity to protect grass-roots workers. Minimum wage has long been a topic of debate in the Legislative Council, and public views have been diverse. It is not in the least constructive to argue over it continuously. What the Government is doing now is to make a big step forward practically. Ms LI Fung-ying said earlier that two possibilities might arise "two years later". But I wish to make it clear that "two years later" will have only one possibility and that is, if employers will give full support to the Movement by participating in it voluntarily, the objective of protecting employees will be achieved and in that case, we will, of course, achieve what we wish to achieve. However, if employers have not done their utmost and when the Movement has failed to yield satisfactory results, we will, as we have already made it clear, proceed to legislation right away. In other words, the labour sector will see that the guarding services and cleansing sectors can enjoy the protection of minimum wage in any case. We have the determination to achieve it, and I hope that Members will have faith in us.

Earlier on I listened to the speeches of Ms Margaret NG and Mr Jasper TSANG. They are both eloquent speakers with a good sense of logic in debates. But I still felt a bit puzzled as I listened to their speeches. Do the supporters today truly support this initiative? Are the critics truly opposed to it? Or, put it in another way, do the critics have regard to the interest of employees in opposing the Movement? Both Mr Jasper TSANG and Ms Margaret NG said earlier that if we should apply the Trade Boards Ordinance, the labour sector, employers and the Government might be involved, in which case it might take several years again before it could be tabled to the Executive Council and yet, they still might not endorse it. Why can we not even agree with this initiative? I certainly pale in comparison with the barristers when it comes to debating, and I will definitely lose. What I would like to say is that we do not wish to cause delays. What we will do is that, as I said earlier that there would be only one possibility two years later, if voluntary participation failed to yield the desired results, we will certainly proceed to legislation. It means that what we are going to see two years later is that we can definitely achieve the objective of affording the two sectors the protection of minimum wage. So, we think that this is the most pragmatic way to achieve the objective.

In any case, having listened to this debate today, I think whether Members from the labour sector or those from the business sector all have the resolve to do something for the protection of workers' interest. I hope that we can work in concert — not arguing with each other — and that the three parties can make concerted efforts to facilitate the early implementation of the Movement. If the result is proven unsatisfactory, we will certainly, as we have undertaken explicitly here, conduct a comprehensive review two years later and if the review finds that it has failed to achieve the desired results, we will proceed with legislation right away.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mr LEUNG Yiu-chung to move his amendment to the motion.

MR LEUNG YIU-CHUNG (in Cantonese): I move that Mr WONG Kwok-hing's motion be amended.

Mr LEUNG Yiu-chung moved the following amendment: (Translation)

"To add "while polarization of the job market has occurred," after "That, as"; to add "only" after "the 2006-2007 policy address"; to delete ", starting with the cleansing and guarding services sectors" after "the rates of overtime pay" and substitute with "for all trades and industries in Hong Kong"; and to add ", family life" after "sufficient time for rest"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEUNG Yiu-chung to Mr WONG Kwok-hing's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEUNG Yiu-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Ms Margaret NG, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr David LI, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the amendment.

Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Mr CHIM Pui-chung abstained.

Geographical Constituencies:

Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Albert CHAN, Ms Audrey EU, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the amendment.

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

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, eight were in favour of the amendment, 15 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, nine were in favour of the amendment, eight against it and seven abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Andrew CHENG, you may move your amendment.

MR ANDREW CHENG (in Cantonese): President, I move that Mr WONG Kwok-hing's motion be amended.

Mr Andrew CHENG moved the following amendment: (Translation)

"To add "introduce legislation to" after "(b)"."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

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

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr David LI, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the amendment.

Mr CHIM Pui-chung abstained.

Geographical Constituencies:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

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

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 10 were in favour of the amendment, 15 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 16 were in favour of the amendment, two against it and six abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, you may now reply and you have five minutes 36 seconds.

MR WONG KWOK-HING (in Cantonese): Madam President, this motion on minimum wage and standard working hours today has been debated for over four hours. Twenty-seven Members have spoken, and I wish to express my sincere gratitude to them. Although we may not see eye to eye with each other, we have expressed our views sufficiently still.

Insofar as this debate is concerned, I wish to make several points. Firstly, the theme. The theme of my motion today is "to apply the Trade Boards Ordinance", rather than calling for the enactment of a new piece of legislation. Unfortunately, some Members focused only on the "enactment" of legislation. In fact, what I am talking about here is to "apply" the Ordinance; the emphasis is on the word "apply" and to urge the Government to take on board our proposal of "applying" the Ordinance.

Much to our regret, even though the application of the Trade Boards Ordinance (TBO) does not involve the enactment of a new piece of legislation, the Government is still evasive on the word "apply", saying that the Wage Protection Movement (the Movement) would be tantamount to Trade Boards. How can they be equal? How can the Movement and the application of the TBO be mentioned in the same breath? The Government seems to have high hopes for the success of the Movement.

Today, we can see that Members from the business sector and Members opposing minimum wage have put forward seven major reasons: First, the application of high technology; second, its introduction will cause small and medium enterprises to close down and hence lead to unemployment; third, it will create barriers for people with disabilities in employment; fourth, the minimum wage will become the maximum wage; fifth, it violates the principle of free economy; sixth, capital will flow out of Hong Kong; and seventh, it will create "black-market labour". They are misleading Hong Kong people with these seven sins. I wish to ask the Government this: Now that the partners of the Movement are putting forth seven sins which are misleading to smear the minimum wage, does the Government think that they will truly implement the Movement successfully for the Government? Do Members believe it? This is like crying for the moon. So, people who have social experience all know that we do not have to wait for another year or two, for this Movement introduced by the Government is doomed to failure. Why should there be any more delay?

Moreover, the second point that I wish to make is the word "apply" — Secretary, let us hear what you will say! You have plenty of time, but I have only five minutes. Will the Secretary please explain what is wrong with the TBO? Why can it not be applied? Secretary, please speak your mind freely. According to all that I have heard, there is only one reason and that is, some provisions of the TBO may have become obsolete. Why can we not amend the

obsolete provisions? Why is it that the TBO cannot be applied because a particular provision has become obsolete? As some Members have pointed out, why do we not apply ordinances that exist in the statute books? The Government cannot refuse to apply the Ordinance just because someone had said so. We remain unconvinced unless the Government can give us a number of more cogent reasons to explain why it cannot be applied. However, the Government can only put forward a few reasons. How can this be convincing to us?

Thirdly, I wish to tell Members that insofar as today's motion debate is concerned, we know that the road ahead will be difficult. We know that it will be very difficult for the motion to be endorsed, and I hold no expectation or fantasy whatsoever. I have proposed this motion precisely to compel the Government to start preparations. We heard the Secretary say that the Government has the determination and sincerity, and that it will immediately proceed with legislation right away if the Movement has failed to yield satisfactory results. How long does it mean by "right away"? When the Government said that it would set out to prepare for the introduction of legislation, many time constraints could be implied in between the words.

If the Government genuinely wishes to demonstrate its determination and sincerity, it can, as a first step, table to the Legislative Council for discussion those provisions of the TBO which it considers obsolete. It can first embark on the drafting work and when discussions have completed and concluded that the Movement has failed to yield satisfactory results, the new provisions can be applied immediately. If the Government wishes to enact a new piece of legislation, that would be a viable option too. The Government can first introduce a bill for our discussion, and after the discussion is completed and when the Movement is found to have failed to yield satisfactory results, it can take effect immediately. If the Government has sincerity, I think it should take actions to show it to the Legislative Council.

Members, I am very grateful to you in this debate today. We come from different political parties and different social strata but we have one point in common and that is, we all hope that Hong Kong will have a bright future and that Hong Kong will be harmonious. Since we all share this view, why do we not make the Trade Boards a platform and bring them into play for social harmony and employer-employee co-operation in Hong Kong? What reasons

does the Government have to reject this proposal? I, therefore, hope that the Government will rethink about it. Why does it not provide this platform for Hong Kong to truly enjoy prosperity and stability and for all workers in poverty to have a way out, a way to survive, so that they do not have to draw CSSA?

Thank you, Madam President.

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

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, are you claiming a division?

MR WONG KWOK-HING (in Cantonese): President, I wish to claim a division.

PRESIDENT (in Cantonese): You wish to claim a division? In that case, the division bell will ring for three minutes, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr CHIM Pui-chung, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Dr David LI, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr Alan LEONG, Mr CHEUNG Hok-ming, Mr Ronny TONG and Mr Albert CHENG voted for the motion.

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

Mr Albert CHAN and Mr LEUNG Kwok-hung abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 11 were in favour of the motion and 15 against it; while among the Members returned by geographical constituencies through direct elections, 25 were present, 20 were in favour of the motion, two against it

and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 8 November 2006.

Adjourned accordingly at twenty-five minutes past Six o'clock.