

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 29 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

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

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

THE HONOURABLE 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.

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

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

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

**MEMBERS ABSENT:**

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

THE HONOURABLE LEUNG KWOK-HUNG

**PUBLIC OFFICERS ATTENDING:**

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

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

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

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

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

**CLERKS IN ATTENDANCE:**

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

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

**PRESIDENT** (in Cantonese): Clerk, a quorum is not present now. Will you please ring the bell to summon Members to come into the Chamber.

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

**PRESIDENT** (in Cantonese): A quorum is now present. The meeting will now start.

### **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>
Air Pollution Control (Volatile Organic Compounds) Regulation.....	258/2006
Public Health and Municipal Services (Designation of Public Markets) Order 2006 .....	259/2006
Public Health and Municipal Services Ordinance (Amendment of Tenth Schedule) (No. 2) Order 2006 .....	260/2006

### Other Papers

- No. 28 — Hong Kong Science and Technology Parks Corporation  
Annual Report 2005/2006
- No. 29 — Hong Kong Productivity Council  
Annual Report 2005/2006

- No. 30 — Report of changes to the approved Estimates of Expenditure approved during the second quarter of 2006-07 (Public Finance Ordinance : Section 8)
- No. 31 — Ocean Park Corporation  
Annual Report 2005-2006

## ADDRESSES

**PRESIDENT** (in Cantonese): Address. Prof Patrick LAU will address the Council on the Ocean Park Corporation Annual Report 2005-2006.

### **Ocean Park Corporation Annual Report 2005-2006**

**PROF PATRICK LAU** (in Cantonese): Madam President, I table before the Legislative Council today the Ocean Park Corporation Annual Report 2005-2006.

Ocean Park reports another extraordinary year of new records. With team efforts from Chairman Allan ZEMAN, CEO Tom MEHRMANN, the experienced Directors, committed Members of the Board, and the dedicated team of employees, Ocean Park achieved record-breaking growth in attendance above the previous year total of 4.03 million guests, in 10 months and 28 days, and set a new record of 4.38 million for the year.

The strong attendance led to admission revenue of \$538.8 million, as well as in-park spending of \$189.5 million. Both represented increases of \$33.8 million and \$81.1 million, respectively, compared with prior year.

The higher revenue, mixed with prudent expense management, enabled Ocean Park to create a record surplus of \$156.5 million, up 31% from the previous year's \$119.5 million.

Ocean Park is one of the icons of Hong Kong, popular with not only the locals, but to tourists as well, with well over 53% of the total visitation made by guests from China or overseas. Ocean Park is an important contributor to Hong

Kong's tourism sector, creating opportunities for many, but also working together with them to develop the industry for the benefit of all.

The remarkable achievements were made possible by implementing comprehensive strategies and tactics to strengthen the marketability of Ocean Park in the face of intense competition posed by many newcomers while staying faithful to what it stands for — education and conservation of nature and wildlife.

One of the differential qualities of Ocean Park is its salute to animals and nature, and its ability to convey important conservation messages through entertaining means. Many efforts have been invested in this area through its Ocean Park Academy and the Ocean Park Conservation Foundation Hong Kong. Over the last 14 years, the Ocean Park Academy has reached out to over 400 000 students with these important messages.

Carrying on this beacon, Ocean Park opened in April this year Southeast Asia's first stand-alone sea jelly exhibit, the Sea Jelly Spectacular, much to the thrill of both local guests and inbound tourists. People from all over flocked to marvel at and appreciate the beauty of such simple life forms. Likewise, our guests celebrated with Ocean Park by participating in the "Love Hong Kong, Love Ocean Park!" campaigns.

Ocean Park stands on a strong foundation of being a home-grown people's park, one which invokes in many people unique and warm memories. Approaching its 30th anniversary in January next year, Ocean Park seeks to boost local loyalty through a series of "Love Hong Kong, Love Ocean Park!" campaigns. These included different campaigns that offered special admission rates to Hong Kong ID card holders. Additionally, local residents can enjoy free admission by celebrating at Ocean Park on their actual birthdays.

Hong Kong people responded favourably, and helped Ocean Park to grow its local guest base. They further reciprocated Ocean Park's committed efforts to offer enriching experiences by casting Ocean Park their most lovable site in Hong Kong at the "My Heart My Home — 18 Districts Reach Out Together For Loveable Sites In Hong Kong", a polling exercise led by the Home Affairs Bureau.



There were also a lot of happy faces when news broke that Forbes.com ranked Ocean Park among Ten of The World's Most Popular Amusement Parks. Many of us were very proud that our "local park" has made such an impressive international ranking.

As an integral part of a closely-knit Hong Kong, it is always our pleasure to welcome people from different walks of life. With this, we will keep ourselves open and accessible to all through co-operating with charitable organizations on in-park facilities and attractions. As part of our social programme, we offer free admission to Hong Kong senior citizens aged 65 or above. Furthermore, we initiated a half-price admission policy for disabled persons and one escort. Through our Ocean Park Academy, we developed programmes to complement the Government's efforts on advancing liberal studies in local schools, which are also eligible for special school rates.

As an equal opportunity employer, Ocean Park provides job opportunities for over 30 people with different disabilities in an effort to be an "employer of choice". Ocean Park also prides itself as having a team of long-serving employees, with close to 120 people among the present total workforce of over 950 full-time staff having worked with Ocean Park for over 20 years.

Unbridled efforts and measured investments will continue to be made to develop the mainland market which forms an important source of our guest base, accounting for half of the attendance. With the opening up of more cities for independent travelling, the seed is there, ready for us to cultivate. We will also reach out to more local businesses for strategic partnerships that are mutually beneficial. We will continue to work closely with all the different players in the tourism sector to develop and promote Hong Kong's tourism industry.

All said, there is still a lot of room to grow as Ocean Park develops into a world-class marine-based theme park. With the Government's support and \$5.55 billion funding secured from 25 majored banks, Ocean Park now looks toward an exciting new horizon as work on the master redevelopment begins. Between now and 2012, new attractions will be introduced in phases as Ocean Park remains open throughout.

Last but not least, I wish to, on behalf of Ocean Park, thank all the people and organizations for their support and assistance that made all this possible. We will continue to serve Hong Kong faithfully and provide to all guests the ultimate in enrichment experiences. Thank you all. Thank you, Madam President.

**ORAL ANSWERS TO QUESTIONS**

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

**Public Speeches of Chief Executive**

1. **MR RONNY TONG** (in Cantonese): *Since 1 April this year, the Chief Executive has made a number of public speeches through Radio Television Hong Kong (RTHK): five times on the programme "Hong Kong Letter" on Radio One and twice on the programme "Letter to Hong Kong" on Radio Three. This is far more frequent than that of the former Chief Executive. In this connection, will the Government inform this Council:*

- (a) *among these seven public speeches, of the respective numbers of speeches made at the request of the Chief Executive's Office and at the invitation of RTHK; as well as the respective reasons for the Chief Executive's Office and RTHK making such requests and invitations;*
- (b) *of the respective numbers of invitations, with a breakdown by channels, which RTHK has made, since 1 January this year, to the Chief Executive, the Secretaries and Directors of Bureaux inviting them to be the host or guest speaker of its programmes; and*
- (c) *of the criteria adopted by RTHK for inviting the Chief Executive, the Secretaries and Directors of Bureaux to be the host or guest speaker of its programmes?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, the Government of the Hong Kong Special Administrative Region (SAR) always puts people first. It is necessary for, and the responsibility of, the Government to explain government policies and the rationale behind policies to all sectors of society through all effective channels, including newspapers, television, radio and other media, in order to gain the public's endorsement and support, as well as to maintain governance

transparency and implement policies smoothly. Therefore, it is well justified for the Chief Executive, Secretaries and Directors of Bureaux, as well as other government officials to explain and promote government policies through relevant programmes of RTHK.

RTHK is a government department that serves as a public service broadcaster. Under the Framework Agreement between the Secretary for Commerce, Industry and Technology and the Director of Broadcasting (hereafter referred to as "Framework Agreement"), one of the objectives of RTHK's radio and television services is to provide a channel of communication for the Government to explain and promote government policies.

According to RTHK's existing programming editorial policy and arrangements, the programme "Hong Kong Letter" simulcast on Radio 1 and Radio 5 provides a platform where academics, government officials and members of the community analyse social phenomena and express their personal feelings in letter form. Since January this year, out of the 47 episodes of "Hong Kong Letter" in total, the Chief Executive has appeared on the programme five times, the Secretaries and Directors of Bureaux five times, other officials three times, and academics and other members of the community 34 times.

As for the programme "Letter to Hong Kong" on RTHK's Radio 3 (English channel), government officials and members of political parties take turn to express their views to the public in the form of a letter in English. Out of the 48 episodes of "Letter to Hong Kong" broadcast since January this year, the Chief Executive has appeared on the programme two times, the Secretaries and Directors of Bureaux four times, Legislative Council Members 40 times, and other members of the community three times. Out of the 40 episodes attended by legislators, members of the Civil Party attended 13 times, the Frontier seven times, the Liberal Party six times, the Democratic Party four times, the Democratic Alliance for the Betterment and Progress of Hong Kong three times, and other legislators seven times.

In addition to the above two programmes, RTHK produces many other current affairs and general programmes. In some programmes, such as "Dialogue with Secretaries" and "Accountability", the guests are mainly government officials. There are some other programmes, such as "Party Line"

and "Civil Society", which are produced merely for political parties and other social organizations to attend and express their views.

Regarding Parts (a), (b) and (c) of the question, my reply is as follows:

- (a) According to my understanding, the Chief Executive delivered all the seven public speeches mentioned above at the invitation of RTHK. RTHK invited the Chief Executive to give the speeches based on its role as a public service broadcaster and the aforesaid nature of the programmes "Hong Kong Letter" and "Letter to Hong Kong".
- (b) During the period from 1 January to 27 November 2006, the total number of attendance by the Chief Executive, Secretaries and Directors of Bureaux at RTHK programmes (including the programmes "Hong Kong Letter", "Letter to Hong Kong", "Dialogue with Secretaries" and "Accountability" I have just mentioned) as hosts or guests, breakdown by radio channels, is as follows:

Simulcast of Radio 1, Radio 3 (English Channel), Radio 5 and Putonghua Channel	: 1
Simulcast of Radio 1, Radio 5 and Putonghua Channel	: 1
Simulcast of Radio 1 and Radio 5	: 38
Radio 1	: 12
Radio 2	: 1
Radio 3 (English Channel)	: 7
Putonghua Channel	: 1
Total	: 61

The figures therein do not include programme relays and telephone interviews.

- (c) RTHK invites the Chief Executive, Secretaries and Directors of Bureaux to attend its programmes as hosts or guests according to the nature and RTHK's editorial policy of relevant programmes.

**MR RONNY TONG** (in Cantonese): *President, there is a major contradiction in the Secretary's main reply because in the first half of the main reply, it is*

*mentioned that these programmes provide a platform for academics, government officials and members of the community to analyse social phenomena and express their personal feelings in letter form. But the Secretary has not answered why the incumbent Chief Executive has particularly more personal feelings to share with the people instead of promoting the government policies through the normal channels, and why the Chief Executive has only selected RTHK.*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, there is no contradiction in the main reply. It has been clearly stated in the first paragraph — in fact, the same is mentioned in the first and second paragraphs — that it is necessary for, and the responsibility of, the Government to explain and promote government policies through RTHK, which has also accepted its role as a public service broadcaster. Of course, there are many channels, so are the forms of programmes. In the form of the programme "Hong Kong Letter", the participants may express their personal feelings, and explain or promote policies through some sentimental programmes. The personal views and feelings of the Chief Executive, as head of the executive, can always reflect his opinions on some policies. So, I do not think there is any contradiction.

As to whether it is appropriate to compare the number of attendance to the programme "Hong Kong Letter" by the incumbent Chief Executive with that of his predecessor, I think this is not important. What is important is whether the attendance by the incumbent government officials, including the Chief Executive, is comparatively too frequent, if the programme serves as a platform for government officials and other people to express their views. According to the figures, I think it is absolutely not too frequent. In fact, after looking at the figures, I think that we should encourage other government officials to attend such programmes more often in order to express their views, and introduce and promote government policies. This is exactly one of the purposes of these programmes.

**MR RONNY TONG** (in Cantonese): *The Secretary has not answered why the Chief Executive has not expressed his feelings through other radio stations. Why did he select RTHK? If the Chief Executive has to express his personal feelings through RTHK every month, what about other stations?*

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

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Yes, I am most happy. As I said in the main reply, we will make use of all channels. So, if there is an invitation by other media, or the Chief Executive, Secretaries of Departments, Directors of Bureaux, and other government officials think that there is such need, they will express their views through other channels. In this supplementary question, Mr TONG did not ask the level of participation in other media by the Government. But I believe there is participation. Very often, the Chief Executive will accept interviews by other media. He has also accepted the invitations of other media, including the television and radio stations, to be the guest or host of their programmes.

**MR SIN CHUNG-KAI** (in Cantonese): *President, the so-called simulcast is detailed in part (b) of the main reply. Simulcast is a waste of public resources. To put it simply, airwaves can in fact be divided into two different channels for broadcasts so that different people can express their views, or the Chief Executive can express his views or feelings. The crux of the problem is whether sufficient resources have been provided to RTHK under the government policy or by the Government so that its simulcast can at least make the most effective use of airwaves.*

**PRESIDENT** (in Cantonese): Mr SIN Chung-kai, your supplementary question.....

**MR SIN CHUNG-KAI** (in Cantonese): *It is mentioned in part (b) of the main reply .....*

**PRESIDENT** (in Cantonese): Even though there is such mention, this question is about the reason why the Chief Executive and other government officials could have appeared on RTHK's programmes so many times. This seems to be a different thing from your question about whether resources should be put to effective use and whether simulcast has put resources to effective use.

**MR SIN CHUNG-KAI** (in Cantonese): *President, please let me explain my supplementary question. An agreement between RTHK and the Government has been signed under which government officials may attend RTHK's programmes. Owing to the limited time slots, other people cannot express their views because the Government has taken up the time. This is my logic. If there is no simulcast, time can be spared for other people to express their views.*

**PRESIDENT** (in Cantonese): Your question is allowed. Secretary, please answer the question.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, the connection here seems to be far-fetched. However, regarding how a programme should be broadcast or whether a programme should be simulcast, it is basically determined by RTHK. As to whether it is because of simulcast or resource limitation, or any other reasons on RTHK's part, I will note the Member's question and seek an explanation from RTHK later. Fine? (Appendix I)

**MS MARGARET NG** (in Cantonese): *President, the question is mainly about the fair distribution of time. The current situation is that the Chief Executive has appeared in the programme "Hong Kong Letter" five times in six months. In addition to other government officials, they have altogether appeared in the programme 13 times in total while academics and other members of the community have attended only 34 times. In other words, the rate of attendance by government officials, including the Chief Executive, is three folds that of the others'. In terms of ratio, it is 1:3 or even higher than 1:3. However, I heard the Secretary say that the number of attendance was still not enough. May I ask the Secretary what rate of attendance will be considered enough so that the target of providing a channel to the Government by RTHK can be achieved?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, I do not mean that a target should be laid down, specifying how many times the Chief Executive and other government officials should appear in the programmes of RTHK. I think I have to clarify first and foremost that we have such a responsibility and such a need, and that is, to

express our views and explain our policies through all channels. According to the figures, if the programme "Hong Kong Letter" provides a platform for government officials, members of the community and academics to express their views, our total number of attendance, which is more than 10 in comparison with more than 30 by other people, is absolutely not too many. If granting the opportunity in future, government officials can of course request that a channel be provided by RTHK which will certainly make arrangements according to its prevailing editorial policy. As I said in another paragraph of the main reply, basically, the Chief Executive has attended the programme "Hong Kong Letter" at the invitation of RTHK. Recently, I have also accepted RTHK's invitation and may attend the programme "Hong Kong Letter" in two weeks' time. I think this is just natural and we should not make any judgement on this. However, if we only look at the figures, I think the general public will also hope that the policymakers of the SAR Government, in particular the Chief Executive, will express their views on certain incidents or policies on a regular basis.

**MS MARGARET NG** (in Cantonese): *President, the Secretary has not answered my supplementary question. My supplementary question is very simple. If the Secretary thinks that the attendance rate of one third made by government officials while the others ..... I mean the rate of attendance by government officials in comparison with the others', which is higher than 1:3, is considered not high enough by the Secretary, may I ask the Secretary what rate will be considered enough? I hope the Secretary can answer this supplementary question instead of side-tracking.*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, I did not say that a figure should be laid down. I have in fact answered the supplementary question clearly. However, the thrust of my reply is that government officials should not become reluctant to reappear in the programme after having attended it once for fear of unfavourable comments. So long as we think that it is necessary to explain and promote a policy through RTHK and we are invited to do so, we must consider the invitation. Even if RTHK does not extend an invitation to us, we can still tell RTHK that there is a policy which should be introduced to the public. For instance, this time RTHK has invited me to talk about the international telecommunications exhibition. However, even if RTHK has not invited me, I may ask RTHK whether it can



spare some time for me to introduce the exhibition because I consider it very important. RTHK will consider my request according to its editorial policy and arrangements. So, my reply is very clear. We should not lay down an absolute figure to restrict government officials from introducing and promoting government policies in a responsible manner through our effective channels after having attended a programme for a certain number of times.

**DR KWOK KA-KI** (in Cantonese): *President, as I can see, the Secretary said in the main reply that the five attendances by the Chief Executive had been made at the invitation of RTHK. However, President, as you are also aware, the Government mentions the scrapping of RTHK every day or has even assigned some government officials to take charge of RTHK. I really do not know what these actions mean. But my supplementary question is not about these.*

*As we all know, and the Secretary is also aware, our Chief Executive may possibly seek a re-election. The radio stations are very fair. I do not know how many five times the Chief Executive will be allowed to appear in "Hong Kong Letter" in order to promote himself. May I ask the Secretary, if the incumbent Chief Executive really runs in the election in future, whether he should give equal opportunity to other candidates so that they can also promote themselves on RTHK instead of giving such an opportunity to the incumbent Chief Executive only?*

**PRESIDENT** (in Cantonese): Dr KWOK Ka-ki, your supplementary question is about the possible scenario that someone will run in the election. I suggest you rephrase your supplementary question as follows: "Regarding any elections in future, will RTHK give equal treatment to each and every candidate?" Do you mean that?

**DR KWOK KA-KI** (in Cantonese): *Yes, please let me ask the question again. In future, if someone runs in the election, should RTHK or the Secretary act in accordance with the principle that all people will be given equal opportunities, including promoting themselves?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, first of all, I would like to clarify why I have repeatedly mentioned RTHK in all my responses. It is precisely because Members' questions are about RTHK only and not about Commercial Radio or Television Broadcasts Limited.

Secondly, RTHK is operated in accordance with the Framework Agreement signed between itself and the Secretary for Commerce, Industry and Technology, and its Producers' Guidelines. Besides, RTHK has to observe the Code of Practice formulated by the Broadcasting Authority. It has been clearly stipulated in these three documents that RTHK should be fair and impartial in dealing with its programmes. I believe that in future, RTHK will deal with its programmes in accordance with the undertakings and policies agreed and stipulated in black and white in these documents.

**DR KWOK KA-KI** (in Cantonese): *President, sorry, my supplementary question asked whether the Secretary had taken up the responsibility to enforce the undertakings. I only asked him whether he would take up the responsibility to ensure that RTHK would do so, instead of saying that RTHK should do so.*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, it has gone beyond the responsibility of enforcing it because our Framework Agreement has stipulated that RTHK should be fair and impartial in dealing with these programmes. So, as I said just now, it is not a responsibility of enforcing it verbally, rather, it is a contractual obligation in black and white.

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

**MR TAM YIU-CHUNG** (in Cantonese): *According to the main reply, the Civic Party has attended "Letter to Hong Kong" 13 times, which is more than the attendance of other political parties by one fold or several folds. May I ask whether all of their appearances in the programme were at the invitation of RTHK or because of other reasons, thus resulting in a much higher frequency of*

*their attendance? Is it because their English is good or due to other reasons?*  
(Laughter)

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, according to my understanding, all the guests were invited by RTHK. To play safe, however, I will jot down Mr TAM's supplementary question and request RTHK to provide a reply which will then be relayed to him. (Appendix II)

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

### **Charging Mode for Fixed Telephone Services**

2. **DR FERNANDO CHEUNG** (in Cantonese): *President, in July this year, the Office of the Telecommunications Authority (OFTA) released a consultation paper which, among other things, recommended the removal of the existing requirement for mobile network operators to pay interconnection charges to fixed network operators for incoming and outgoing calls. There have been comments that the implementation of this proposal will reduce the revenue of the fixed network operators, and they may replace the existing flat-rate charging mode for fixed telephone services by one based on usage. On the other hand, when OFTA consulted the public on the charging mode of fixed telephone services in May 1996, the public generally considered that the status quo should be maintained at that time. In this connection, will the Government inform this Council:*

- (a) *of the arguments put forth in 1996 in support of maintaining the flat-rate charging mode and against the usage-based charging mode, and whether such arguments still stand; whether it will consider consulting the public again on the charging mode concerned;*
- (b) *as the OFTA had, following the public consultation exercise in 1996, decided not to change the flat-rate charging mode for fixed telephone services, why the OFTA stated in the consultation paper on "Deregulation for Fixed-Mobile Convergence" (the Consultation*

*Paper) released in July this year that it "is not in a position to influence" the charging mode; and*

- (c) *whether, in deciding on the charging mode for fixed telephone services, it will take into account the special needs of the elderly people and other socially disadvantaged groups to use the telephone for social contacts and seeking help, and the affordability of non-profit-making organizations which operate telephone hotlines?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, first of all, I would like to clarify that the OFTA, in its Consultation Paper released in July this year, did not propose to abolish the interconnection charges between fixed and mobile networks, but proposed to abolish the existing practice of setting the mode and level of fixed-mobile interconnection charges by the regulator. Instead, the mode and level of interconnection charges should be subject to free negotiation among network operators in the market. The OFTA will only take regulatory action, by virtue of section 36A of the Telecommunications Ordinance (TO), when the operators fail to reach any commercial agreement. As a matter of fact, the OFTA has never regulated interconnection charges between mobile networks, and the operators manage to enter into agreements on a commercial basis. Furthermore, since 2003, the OFTA has not received any request for regulating interconnection charges between fixed networks. Against this background, the question the OFTA raised in the Consultation Paper is whether the current regulatory arrangement, that is, mobile network operators to pay all fixed-mobile interconnection charges to fixed network operators unilaterally, which was formulated by the regulator over 20 years ago when mobile service was then regarded as a value-added service, should continue under the prevailing market condition; or should market forces be allowed to function as in the cases for fixed-to-fixed or mobile-to-mobile interconnection charges and to prepare the environment for the future development of fixed-mobile convergence.

Regarding Dr Fernando CHEUNG's question, my reply is as follows:

- (a) In May 1996, the OFTA released a consultation document to seek public views on the charging models for fixed telecommunications network services (including usage-based charging mode). Arrangement for interconnection charges did not fall within the

scope of that consultation. In that consultation exercise, there were views supporting usage-based charging mode because it was considered fair while some opined that usage-based charging mode would lead to an increase in their expenses for fixed network services. Since the OFTA was unable to ascertain whether the public views expressed had carefully taken into account the pros and cons of various charging models or whether there was any misunderstanding about the issues, it did not propose any change to the original flat-rate pricing structure.

In order to enhance the overall competitiveness of Hong Kong and maximize the benefits for consumers, the Government entered into an agreement with Hong Kong Telecom (HKT) on the early termination of the latter's exclusive rights to provide external telecommunications with full effect from January 2000. The agreement allowed HKT to raise residential fixed network tariffs progressively up to the prescribed price caps to recover the full costs of providing the services. All price caps were removed after the end of 2001. Since then, fixed network operators could set the level of tariffs and charging mode on their own in a competitive market.

- (b) As mentioned in part (a) above, all regulation on the tariffs of telecommunications services provided to consumers has been withdrawn since the end of 2001. Fixed network operators can set the level of tariffs and charging mode on their own in a competitive market, unless such tariffs are considered anti-competitive practices in contravention of sections 7K to 7N of the TO. As such, the OFTA is not in a position to influence the charging mode adopted by fixed network operators. With the growth of effective competition in the fixed telecommunications market, the tariffs charged by the fixed network operators will be constrained by market competition similar to the situation in the mobile telecommunications market. The research conducted by the OFTA found that after withdrawal of price caps on fixed network tariffs in January 2002, the average tariffs of local fixed network services have dropped from \$92.9 in January 2002 to \$65.9 in June 2006.

- (c) As mentioned in part (b) above, the fixed network tariffs have dropped after deregulation. The charging modes of the fixed network operators are not determined by the Government. We should not assume that the switch to usage-based charging mode would add burden to consumers (including the elderly and disadvantaged groups). Under the current environment with effective competition, consumers are provided with sufficient choices, including choosing the services provided by other operators, or switching to mobile services the tariffs of which are highly competitive.

At present, the Comprehensive Social Security Assistance Scheme provides allowances for the actual expenses for renting a residential telephone line and a standard telephone set to those applicants who have justifiable reasons for independent telephone lines, such as the elderly living alone or disabled people who need to make external calls in case of emergency. As to the non-profit-making organizations which are subsidized under lump sum grant arrangement, if the fixed network operators change the level of tariffs and charging mode, the Government will allow them to make use of their overall allocation flexibly and more effectively to provide appropriate and necessary services to their clients, provided that it would not contravene the rules of lump sum grant arrangement.

**DR FERNANDO CHEUNG** (in Cantonese): *President, I asked the Government in part (c) of my main question whether it would, in deciding on the charging mode for fixed telephone services, take into account the needs of the socially disadvantaged groups and how they would be affected by this change. The Government pointed out in the main reply that it should not be assumed that the usage-based charging mode will add burden to the disadvantaged groups. However, when the burden of the disadvantaged groups really increases after switching to the usage-based charging mode — in other words, the disadvantaged groups are really affected, will the Government adopt some measures to tackle the situation or leave it to the market? Will it be similar to the situation of banks closing down their branches one after another, such that the disadvantaged groups were also affected and the Government also left it to the market and did nothing about it?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, this supplementary question actually involves two hypothetical questions. First, it assumes that we have arrived at a conclusion with our consultation and that the Government already has a stance, but hypotheses should not be made about this. The question, as far as we understand it, may even involve judicial proceedings. Second, it assumes that fixed network operators will adjust their present charging level and mode in the light of a certain government stance, but a hypothesis should not be made on this at this time either. There may even be more than two assumptions. The third one is that it in turn assumes that the changing of charging level or mode by fixed network operators will definitely affect the consumers, including the elderly and disadvantaged groups, and it further assumes the actions the Government will then take. With respect to these hypothetical questions, I hold that in the present circumstances, I cannot give answers to them. All I can say is that when these hypotheses become true in future, the Government is surely duty-bound to face them, tackle them and give explanations.

**DR FERNANDO CHEUNG** (in Cantonese): *As the Secretary said that there are too many assumptions, let us do away with the assumptions. Can the Secretary clarify the present stance of the Government in the event that the usage-based charging mode is adopted by the fixed network operators?*

**PRESIDENT** (in Cantonese): This is not part of your supplementary question just now. If you wish to put this supplementary question, you may press the button and wait for another turn to ask it.

**MR CHAN KAM-LAM** (in Cantonese): *The main reply of the Secretary can fully display the fierce market competition in the tariffs of fixed and mobile network operators now. We are thus concerned that the operating environment of the fixed or mobile network operators may be affected by the highly competitive tariffs, which may in turn affect their service standard? For we may well know that many fixed or mobile network operators are now unwilling to provide comprehensive service in the countryside, which has led to many problems. Will the Government or the OFTA further require all mobile network operators to provide service in remote districts or country parks? Although we*

*know that individual telephone service providers have recently started to do so, but not all of them have. I earnestly wish the Government can respond to this question.*

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, you have raised a very good supplementary question, which, however, is not related to the main question. Perhaps you can rephrase the question so that we can understand the relationship between your question and the main question.

**MR CHAN KAM-LAM** (in Cantonese): *President, my supplementary question may be a little lengthy, but it is closely related to the main question, because the profits of the mobile or fixed network operators may become very marginal because of the highly competitive telephone tariffs, rendering them very calculating in service provision. Under such a circumstance, I am worried that given the lack of specific regulation by the Government, their service standard may drop. Thus, I wish the Government can spare more efforts on this. And may I ask the Secretary whether he will require fixed or mobile network operators to get this job done?*

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, the Secretary said in his reply to Dr Fernando CHEUNG's supplementary question that the latter had assumed that there was already a conclusion for the consultation. The Secretary has reminded me that Members are not allowed to put hypothetical questions. Now you have also based your supplementary question on the hypothesis that the consultation has reached a conclusion. As such, I cannot let you put this supplementary question.

**MR HOWARD YOUNG** (in Cantonese): *President, the Secretary mentioned at the end of the first paragraph of the main reply the development of the fixed-mobile convergence. At present, the development of the fixed-mobile convergence in Hong Kong seems to be increasingly geared towards the use of mobile network services. If the present practice is maintained, that is, mobile telephone operators paying connection or interconnection charges to fixed telephone operators, will it become an impediment to the development of fixed-mobile convergence?*



**PRESIDENT** (in Cantonese): Secretary, please try to answer this supplementary question.

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, in fact, I have explained the reason why consultation is conducted at this point in time on whether the regulation of the level and mode of interconnection charges should continue, and that is, the present interconnection charges between fixed-mobile network operators, between fixed network operators, and between mobile network operators are different. The interconnection charges for the latter two have already been subject to the market forces. For instance, charges are no longer paid between mobile network operators, and charges are only paid for outgoing calls between fixed network operators; but mobile network operators need to pay charges to fixed network operators for both incoming and outgoing calls. Thus, with respect to this inequitable situation, should we not conduct a study on it and make changes? This is exactly the spirit of conducting this consultation.

Why we find an urgency to do this? Just as the case with the problem of fixed-mobile convergence mentioned by Mr Howard YOUNG just now, we, having considered this inequitable situation, are unable to ascertain whether the situation will affect the potential merger of fixed and mobile network operators in future and whether it will impede the development of fixed-mobile convergence, and thus we wish to gain a better understanding of the situation. Of course, convergence can be a very complicated issue, but to put it in plain terms, when convergence is truly realized in future, everyone will only need one telephone, one telephone number and one account, and no matter we are using mobile phones outdoor or fixed network phones at home, it will involve the arrangement of interconnection charges. We thus find this another purpose of conducting this consultation.

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

**MR SIN CHUNG-KAI** (in Cantonese): *President, I welcome this consultation and I wish to take this opportunity to say that removing the requirement of mobile*

*network operators subsidizing fixed network telephones is indeed a good measure. Over two decades ago, mobile phones were used only by the relatively rich.....*

**PRESIDENT** (in Cantonese): What is the supplementary question you wish to put? You need not state your view.

**MR SIN CHUNG-KAI** (in Cantonese): *I know I need to put the supplementary question.*

*With respect to subsidizing the disadvantaged groups, my supplementary question is about the Consultation Paper's mention of a two-year grace period if this policy is really implemented. In fact, does it need to take such a long time to abolish? Given that this is a good measure, as the Secretary has mentioned just now, should the Government not stop shilly-shallying and expeditiously get the job done?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): President, insofar as the consultation is concerned, we do hold an open attitude. If Mr SIN thinks that the period of two years is too long, he is welcome to express his view, and we will give it full consideration.

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

### **Long-term Travel Support**

3. **MR FREDERICK FUNG** (in Cantonese): *President, at its meeting held in March this year, the Commission on Poverty (CoP) discussed the provision of long-term travel support to the low-income earners who live in remote areas and need to commute to work across districts, and the CoP hoped that the Government would launch a trial scheme in this regard in the 2006-2007 financial year. In this connection, will the Government inform this Council:*

- (a) *of the latest work progress in the provision of the long-term travel support, and the details of the trial scheme, including the*

*implementation date, target recipients, whether there will be restrictions on the means of transportation taken by the recipients, whether there will be a maximum period for receiving the travel support, the implementation mechanism, the government department(s) responsible for administering the scheme, the anticipated amount of public expenditure to be incurred and the number of recipients each year, and the anticipated effect of the scheme towards alleviating poverty;*

- (b) of the measures to prevent employers from reducing accordingly the wages of their employees while the latter are receiving the travel support, and whether it has assessed if the implementation of a statutory minimum wage system is one of the feasible measures; and*
- (c) as the Government has not yet launched the trial scheme, and the term of office of members of the CoP will expire in January next year, whether the Government will consider reorganizing the CoP and the Chief Secretary for Administration taking over its chairmanship, so as to enhance its powers and functions and hence enable it to take forward the work on alleviating poverty at the policy level?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President,

- (a) The work priorities of the CoP is to encourage the unemployed to work and to move from welfare to self-reliance through promoting employment, training and strengthening employment support.

To take forward this objective, at its meeting held on 27 March, the CoP agreed in principle that the Government should provide more transport support to the unemployed who have limited means and are living in remote areas so as to encourage them to commute to work across districts.

In the past few months, the CoP Secretariat and the relevant Policy Bureaux and departments have studied various possible options for implementing a transport support trial scheme. We have also examined the short-term travel support offered by the Employees

Retraining Board and agreed that there should be room for further improvement to further encourage the unemployed to work.

At the CoP meeting held on 20 November, we also discussed with members our ideas for the trial scheme. Members generally agreed on the following three points:

First, the application mechanism should be simple and user-friendly so that more people in genuine need can benefit;

Second, the scheme should provide targeted assistance to encourage the unemployed living in remote areas to commute to work across districts; and

Third, the transport support should be provided on a time-limited basis so that it is an incentive to work across districts, but not an income supplement.

By providing transport support to the unemployed who live in remote areas at three important stages, namely enhancement of employability, job search and transition to work, the Government hopes to encourage these people to commute to work and achieve self-reliance. We aim to launch the scheme as soon as practicable.

Relevant bureaux and departments are deliberating on the number of districts to be covered by the scheme, the time limit for receiving transport support, the amount of transport support to be provided and ways to minimize abuse of the scheme. Details of the scheme will be further discussed by the CoP. Since all these will have a bearing on the public expenditure to be incurred, we cannot make an accurate estimate of the expenditure involved at this stage.

- (b) As pointed out in my reply above, there should be a time limit for receiving the transport support since its aim is to provide incentives for the unemployed living in remote areas to commute to work across districts. Therefore, employers should not reduce accordingly the wages of their employees while the latter are receiving the transport support.

- (c) The term of the CoP is due to expire on 31 January 2007. As I indicated at the CoP meeting held early this year, we are planning to extend the term to end of June 2007. The CoP will submit its report to the Government with a view to implementing short-term measures and making recommendations on the long-term policies for poverty alleviation and prevention.

**MR FREDERICK FUNG** (in Cantonese): *President, I felt that the Financial Secretary's main reply fails to answer part (a) of my main question, because that part of the question clearly asks about the implementation date, target recipients, and whether there will be restrictions on the means of transportation taken by the recipients. And yet, the Secretary only mentioned that the CoP had spent seven months on formulating three principles. Have all things else yet to be finalized or considered? If this is the case, this long-awaited policy may still not be able to come to light.*

*My supplementary question is about part (c). The Secretary said that the CoP is due to dissolve in June, and it is not known what will happen then. He has not answered whether the CoP will be reorganized with its work on alleviating poverty being taken up by the Chief Secretary for Administration. Reference has been made to the United Kingdom and Ireland as their work on alleviating poverty is also.....*

**PRESIDENT** (in Cantonese): What is the supplementary question you wish to ask?

**MR FREDERICK FUNG** (in Cantonese): *.....placed under the charge of the Prime Minister or Vice-Prime Minister vested with real powers. Will the CoP be instead placed under the leadership of the Chief Secretary for Administration vested with real powers with a view to taking forward the work on alleviating poverty? I do not think the Secretary has answered part (c) either.*

**PRESIDENT** (in Cantonese): That means this is the supplementary question you wish to ask, right?

**MR FREDERICK FUNG** (in Cantonese): *Right, both parts have not been answered by the Secretary. In other words, the Secretary has failed to answer parts (a) and (c) of my main question.*

**PRESIDENT** (in Cantonese): Just now, you pointed out that the Secretary has not answered certain parts of your main question. However, according to the rules, Members are only allowed to ask one supplementary question each time, and I care not about the reply given by public officers. Which part do you want him to answer?

**MR FREDERICK FUNG** (in Cantonese): *In fact, I just want to point out that two parts have not been answered by the Secretary. My supplementary question is: Will the next term CoP be reorganized and headed by the Chief Secretary for Administration vested with real powers instead? This is my follow-up.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the answer is "No, it will not".

**MR FREDERICK FUNG** (in Cantonese): *How about the part that has not been answered by the Secretary?*

**PRESIDENT** (in Cantonese): The Secretary has already given the answer. Your supplementary question asked "will it"? And the answer he gave was "No, it will not".

**MR FREDERICK FUNG** (in Cantonese): *But he has not answered my first point.*

**PRESIDENT** (in Cantonese): There is no first point in your supplementary question. You just said that your main question consists of three parts, and you thought he had failed to answer parts (a) and (c).

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

**PRESIDENT** (in Cantonese): Your supplementary question asked if the CoP would be reorganized and headed by the Chief Secretary for Administration, right? And the Secretary replied that "it will not". With regard to those two parts of the main question, it is only your personal opinion that he has failed to answer them, but it is not part of your supplementary question.

**MR FREDERICK FUNG** (in Cantonese): *In other words, is the Secretary not allowed to add anything to the parts not answered?*

**PRESIDENT** (in Cantonese): I have said that I am not in a position to interfere how the Secretary gives a reply.

**MR ALBERT HO** (in Cantonese): *As we all know, the impoverishment of the grassroots in Hong Kong is a serious social problem that we must address. I believe the Secretary should also know that it is no easy task when the CoP, chaired by him, was established. It takes time to resolve and constitutes a heavy responsibility. More than a year has passed and there are now only six months left, but only few issues have been tackled by the CoP, and that is, the introduction of a more concrete proposal on travel support for work across districts. However, its success is still an unknown. The point is whether or not the Secretary will suggest to the next Chief Executive that the CoP should continue with the work on alleviating poverty when its term expires. Even though the Secretary said that the CoP would not be reorganized, neither would it be chaired by the Chief Secretary for Administration, will he suggest the establishment of another committee to take forward such work under the chairmanship of the Chief Secretary for Administration? If the Secretary's reply is that there is no such proposal, can he please tell us that the poverty problem cannot be resolved, and it is a hot potato that should be thrown away when the Government changes term.*

**PRESIDENT** (in Cantonese): Mr Albert HO, you have asked an extremely long supplementary question. I hope that Members will put questions as concise as

possible; otherwise, public officers may not be able to answer the part which he is asked to reply. Can I put your supplementary question in this way: Will the CoP still exist after June next year?

**MR ALBERT HO** (in Cantonese): *President, my supplementary question is not that simple. The preamble of my supplementary question is to induce him to give us a better answer.*

**PRESIDENT** (in Cantonese): But I did not catch your supplementary question. Can you put it more clearly?

**MR ALBERT HO** (in Cantonese): *President, you have already said it very clearly. The point that you raised for me is clear enough, and that is it.*

**PRESIDENT** (in Cantonese): That is your supplementary question, right?

**MR ALBERT HO** (in Cantonese): *Right. The rest of it is the preamble. (Laughter)*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the SAR Government attaches great importance to the poverty problem, and will never shirk its responsibility of addressing it, which is clear enough. I think what the CoP has done in the past year relates to how such poverty problems as inter-generational poverty can be addressed, and detailed discussions on the problem have been conducted from different perspectives. Insofar as the details of the work are concerned, they have been set out clearly in the relevant webpage, so I am not going to elaborate here.

The supplementary question raised by Mr HO earlier asked what the next term of Government will do with the CoP or the poverty problem by 30 June. With regard to this point, I certainly cannot give an answer for the next term of Government. However, just as I said in the main reply, the term of the CoP will be extended to 30 June next year. By that time, a report will be submitted



to the Government setting out in detail our recommendations on how to resolve the poverty problem or prevent inter-generational poverty, and how to tackle other poverty-related problems.

**MR ALBERT HO** (in Cantonese): *President, you have actually summarized the supplementary question for me just now, but how come the Secretary still failed to answer a supplementary question as simple as that. Will he suggest the next term of Government to continue with the work of the CoP?*

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

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the CoP has yet to discuss the report. The details will be made public only after the report has been discussed and a conclusion drawn by the CoP.

**MR WONG KWOK-HING** (in Cantonese): *At present, the unemployed living in remote areas are like people suffering from acute infantile convulsions, while the Government is a slow-reacting doctor as the trial scheme of travel support across districts has yet to be implemented. Therefore, I wish to ask the Secretary via the President: Is there a concrete timetable specifying when the trial scheme will be implemented? In fact, relevant experience has been obtained from the employment of domestic helpers across districts. So, why has the trial scheme not been implemented for all this time? President, I am asking about the timetable.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, as stated in my speech on the Appropriation Bill 2006, we hoped that the travel support scheme for remote areas could be implemented next year, that is, 2006-2007. It is still the timing we hope to achieve.

**MR WONG KWOK-HING** (in Cantonese): *President, the year 2006-2007 mentioned by the Secretary is rather vague because I asked about an implementation timetable.*

**PRESIDENT** (in Cantonese): Mr WONG, the supplementary question raised by you just now sought further elaboration by the Secretary, and you had only asked about the timetable. Therefore, his answer is related to the timetable. I will, nonetheless, give the Financial Secretary another chance to see if he has anything to add.

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the year 2006-2007 does not cover the period from 1 January 2006 to 31 December 2007. The so-called 2006-2007 indeed covers the period from 1 April 2006 to 31 March 2007.

**MR LEE CHEUK-YAN** (in Cantonese): *I am very disappointed with the main reply, and doubted that the main reply has actually reflected the integrity of the Secretary. President, I think that the Secretary is now surreptitiously substituting one thing for another. Part (a) of the main reply says that "..... at its meeting held on 27 March, the CoP agreed in principle that the Government should provide more transport support to the unemployed who have limited means and are living in remote areas". What we are talking about here is the unemployed, but the agenda of the CoP meeting on that day was the provision of travel support to low-income earners living in remote areas. Unemployed and low-income earners are entirely different. So far, the subject of the discussion with the Government has been the low-income earners because they may only earn \$5,000-odd monthly on jobs in other districts but have to bear transportation costs as high as over \$1,000. It is our wish to help these people.*

*However, President, the Secretary is now trying to surreptitiously substitute one thing for another. While the discussion at the CoP meeting held on 27 March was obviously about the low-income earners, he asserted that it was about the unemployed. President, this is a record of history which the Secretary should never twist. My supplementary question to the Secretary is very simple: Has he twisted the discussion at the CoP meeting held on 27 March by surreptitiously substituting one thing for another?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, at the meeting just held on 20 November, the CoP actually discussed the provision of travel support to the unemployed. I consider this is a very good start because the

unemployed are distinct from the employed low-income earners. I find this a very good starting point of discussion. We must act quickly in the hope of implementing the scheme as early as possible.

**MR LEE CHEUK-YAN** (in Cantonese): *President, he has not answered my supplementary question. I did not ask him about the meeting in November, but the one on 27 March. Did he twist the discussion held at that time? He also said that unemployment and low-income are totally different, and our discussion in March was about low-income earners, instead of the unemployed. I requested the Secretary to answer whether he has twisted the discussion at the meeting held on 27 March in the main reply.*

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

**FINANCIAL SECRETARY** (in Cantonese): Madam President, I hope that Mr LEE Cheuk-yan is not suggesting that the unemployed are not important because many people living in the remote areas are unemployed. But they are actually eager for jobs. Let me cite some examples. The number of unemployed in such remote areas as Tuen Mun reaches 16 500, 22 600 in Yuen Long, 8 700 in North District, 9 100 in Tai Po, 13 500 in Sai Kung and 4 000 in the outlying islands. All of them are very important. We consider that priority should be given to helping the unemployed.

**MR LEE CHEUK-YAN** (in Cantonese): *President, he still has not answered my supplementary question. Furthermore, I beg him not to put words into my mouth, to the effect of saying that the unemployed are not important. The unemployed are important, but the low-income earners are equally important, whose number reaches some 100 000 to 200 000 people.*

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, as far as I understand it, you said that the discussion of the CoP was about low-income earners.....

**MR LEE CHEUK-YAN** (in Cantonese): *Right.*

**PRESIDENT** (in Cantonese): .....and the Government is now prepared to discuss the provision of assistance to the unemployed, with the exception of low-income earners. Is this the intention of the CoP? Is that what your supplementary question is about?

**MR LEE CHEUK-YAN** (in Cantonese): *President, only part of it is correct. I just want to seek clarification from the Secretary on the matter discussed at the meeting held on 27 March, and I only asked about the meeting held on 27 March. The CoP discussed the low-income earners on that day, instead of the unemployed, and this is the thrust of my question.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the details of the discussion held on 27 March have been uploaded onto the webpage.

**MR LEE CHEUK-YAN** (in Cantonese): *And the discussion was about low-income earners. I read it on the webpage.*

**PRESIDENT** (in Cantonese): Fine, and that is it. The Secretary has already given the answer. Anyone who is interested can browse the webpage for further information.

We have spent 18 minutes on this question. Last supplementary question now.

**MR RONNY TONG** (in Cantonese): *President, the Secretary has actually not answered the three parts of the main question. So, it would be very hard for me to choose one of them as my supplementary question. President, I would like to ask about part (a) because this is the easiest part for the Secretary to answer, which asks about the number of recipients and the effect towards alleviating poverty. Will the Secretary give an answer? It concerns the last sentence of part (a).*

**PRESIDENT** (in Cantonese): You are asking about the number of recipients and effectiveness, right?

**MR RONNY TONG** (in Cantonese): *Right, the last sentence of part (a) which the Secretary has not answered at all.*

**PRESIDENT** (in Cantonese): Are you asking about part (a)? Secretary, this supplementary question asks about part (a) of the main question. However, the scheme mentioned in this part has yet to be implemented, and it is only expected to be implemented. Therefore, Mr TONG is, in fact, asking about the anticipated number of recipients.

**MR RONNY TONG** (in Cantonese): *President, it is an estimation of the number of recipients under the scheme and its effectiveness.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, as in-depth discussions on the scheme would be carried out by the CoP, I have therefore stated in the main reply that such details as the number of districts to be covered, the time limit for receiving transport support or the amount of transport support to be provided will have a bearing on the number of people who will benefit from it or the public expenditure to be incurred. The details have yet to be finalized, and discussions within the CoP will therefore continue.

**MR RONNY TONG** (in Cantonese): *President, what is the number of recipients? The number of recipients will have a bearing on the scope and coverage of the scheme. Has even the parameter not been provided?*

**PRESIDENT** (in Cantonese): Do you want to know the rough parameter of the scheme?

**MR RONNY TONG** (in Cantonese): *President, has even the rough parameter not been provided?*

**PRESIDENT** (in Cantonese): Financial Secretary. Is the parameter not yet available?

**FINANCIAL SECRETARY** (in Cantonese): Madam President, since the scheme is still under discussion, just as Ronny has said, the time limit for receiving transport support, for instance, will therefore have a bearing on the number of recipients. While a longer time limit may attract more applicants, a shorter time limit will result in fewer applicants. Therefore, it is impossible to estimate the number of beneficiaries before a concrete scheme is finalized.

**PRESIDENT** (in Cantonese): Fourth question. Dr Fernando CHEUNG will ask this supplementary question for Ms Audrey EU.

### **Green Procurement Policy**

4. **DR FERNANDO CHEUNG** (in Cantonese): *President, in his policy address delivered in January 2005, the former Chief Executive indicated that government departments would adopt a green procurement policy to help create a market for environmentally-friendly products. However, the authorities advised afterwards that the majority of environmentally-friendly products procured by government departments were drawn from the unallocated stock held by the Government Logistics Department (GLD) and from the bulk contracts arranged by the GLD, and that individual government departments did not record the value of procurement of environmentally-friendly products separately. In this connection, will the Government inform this Council:*

- (a) *of the specific contents of the green procurement policy of individual government departments;*
- (b) *whether it will require individual government departments to keep a record of the environmentally-friendly products they procure and regularly announce the progress of implementing their green procurement policy, to enable the public to assess the effectiveness of the policy; and*

- (c) *whether it will require public bodies, government-funded organizations and contractors of government works projects to formulate a green procurement policy, to further create a market for environmentally-friendly products?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, my reply to the three parts of the main question is as follows:

- (a) The Government has been steadfast in encouraging government departments to use environmentally-friendly products. In November 2000, we amended the guidelines for drawing up tender specifications in the Stores and Procurement Regulations, requiring government departments to consider, where economically rational, purchasing products:
- (i) with improved recyclability, high recycled content, reduced packing and greater durability;
  - (ii) with greater energy efficiency;
  - (iii) utilizing clean technology and/or clean fuels;
  - (iv) which result in reduced water consumption;
  - (v) which emit fewer irritating or toxic substances during installation or use; or
  - (vi) which result in smaller production of toxic substances, or of less toxic substance, upon disposal.

Government departments should avoid purchasing single use disposal items as far as possible. All government departments are required to follow the guidelines on green procurement in the Stores and Procurement Regulations in their procurement of stores.

- (b) The majority of environmentally-friendly products procured by government departments are drawn from the bulk contracts arranged

by the GLD. Therefore there will not be many items of environmentally-friendly products procured directly by government departments. We do not currently intend to require government departments to maintain records of environmentally-friendly products they directly procured. However, since 2000, all Controlling Officers are required to submit annual environmental reports to spell out their department's environmental objective and targets and analyse the department's environmental management and performance. The subjects that may be covered in the environmental reports include the use of environmentally-friendly products, resources saving in the office, and so on. The environmental reports are available on the websites of the departments concerned.

- (c) Public bodies and subvented organizations have their own terms of reference and modes of operation. Some public bodies are governed by the law and are accountable to their boards of directors, and some operate on commercial principles. As they have their own procurement policies, contract approval procedures and authority for awarding contracts, it would be more appropriate for these bodies to decide whether to follow the government practice of procuring environmentally-friendly products. For subvented organizations, they are required to formulate a procurement policy that is transparent, fair and cost-effective, by making reference to practice of the Government.

In spite of this, we will ask Policy Bureaux to write to public bodies and subvented organizations under their purview to encourage them to develop green procurement policy by making reference to the Government's practice. However, it would be up to these organizations to decide whether they would follow the Government's practice according to practical circumstances.

As regards public works, the existing public works contracts require contractors to use recycled construction materials such as recycled aggregates, or recycled asphalt, so as to reduce the consumption of natural resources. In addition, such contracts also stipulate that all hoardings must be made of metal with a design to facilitate reuse of the materials and that contractors should reduce the use of timber in temporary works.



**DR FERNANDO CHEUNG** (in Cantonese): *President, more often than not, prices of environmentally-friendly products are higher than non-environmentally-friendly products. In part (a) of the main reply, the Secretary stated unequivocally that the six environmental-protection measures mentioned would only be implemented where it was economically rational. May I ask the Secretary how the cost-effectiveness concerned is calculated? Is lower price the equivalent of cost-effectiveness? If that is the case, basically, those six points probably need not be enforced?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, since the products in question are numerous, this conclusion cannot be applied across the board. Moreover, I am not sure whether all environmentally-friendly products are definitely more expensive than non-environmentally-friendly products. This is the first point. So, this is only an assumption of Dr CHEUNG. We will regard this as an assumption for the time being.

I believe it depends on the price difference. So, it is impossible to draw a line across the board, stating that environmentally-friendly products will be procured if the prices of these products are 10% higher than the specified level, or that these products will not be procured if the difference exceeds a certain percentage. The procurement decision should be made by individual departments according to their own situation. If a department considers a certain type of environmentally-friendly products is good, the price is economically rational and within its budget, it may decide to procure that product. However, I cannot draw up a hard and fast rule, stating that these products should be procured if the price difference does not exceed a certain percentage, and not so if the difference exceeds that percentage. It is difficult to draw a general conclusion like this. Individual departments should apply flexibility in making their own decision.

However, the principle is that environmentally-friendly products should be used by all means. This is an established policy of the Government and all departments will act in accordance with this policy. Therefore, though I cannot

quantify a specific figure for Dr CHEUNG, it is definite that environmental protection is the direction of our policy.

**DR FERNANDO CHEUNG** (in Cantonese): *President, the Secretary has not really answered what cost-effectiveness is and how it is assessed. If he cannot give an answer now, I hope he can state the formula used for calculating the so-called cost-effectiveness in writing after the meeting.*

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

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I will go back and discuss this with my colleagues, and see whether we can provide Dr CHEUNG with some quantified examples. However, just as I said earlier, we cannot be so rigid in procurement. Flexibility in some measure must be allowed sometimes. Particularly when we are spending public money, we have to take into account a host of factors. However, I will go back and see whether my colleagues have the answer in this respect. I will give a reply to Dr CHEUNG in writing. (Appendix III)

**MR KWONG CHI-KIN** (in Cantonese): *President, I think the Secretary's answer is in a way crafty. On the one hand, he said that the Government had put in place guidelines requiring departments to procure environmentally-friendly products, but on the other, he added that individual departments would not procure these products on their own for procurement was centralized. In other words, his reply is contradictory.*

*As the Secretary said that procurements are made in a centralized manner, President, my supplementary question is: Does the Government keep statistics on this, for I have doubts about this? In respect of the bulk contracts arranged by the GLD, has the Government conducted any survey on the centralized procurement of environmentally-friendly goods, I am referring to the amount involved and the types of products procured? Because if no statistic on this can be provided, we will not believe that the Government has made the procurement of environmentally-friendly products a policy.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, the Government does not have comprehensive information on the procurement of environmentally-friendly products. I have already mentioned earlier that we did not have the relevant information of all departments. However, for environmentally-friendly common user items procured by the GLD via bulk contracts, we do have the relevant information, for these products are handled by the GLD. I can provide Mr KWONG with the relevant figures, so that he knows we have kept the statistics.

In this respect, the figure is around \$40 million per annum. On the surface, this is trivial in comparison with our annual spending on procurement, for the amount is only \$40 million, while a large part of it is spent on supplies like paper. Member may ask why the amount is so small. The reason is that a majority of government expenditure is spent on items like drugs, computers, communication equipment, transport services and components, as well as maritime equipment, which may not necessarily carry environmental protection content. The amount of \$40 million does not sound like a large amount, for the total expenditure on procurement in a full year is about \$4 billion. Though the \$40 million spent on this area sounds trivial, such a comparison is indeed incorrect, for a majority of supplies, such as drugs, cannot carry any environmental protection content.

I reiterate that government departments do attach great importance to environmental protection and we do procure environmentally-friendly products, for example, paper. When Members attend meetings at government departments, they will see that all paper used is recycled paper. More often than not, we will use double-sided photocopying. In other words, Members can see that the Government has adopted this policy. If we had not done so, Secretary Dr Sarah LIAO would not let go of us.

**MS MIRIAM LAU** (in Cantonese): *Madam President, the Secretary said earlier that the Government would procure environmentally-friendly products by all means. However, regarding the latest procurement of vehicles, the Government failed to show that it had done its level best to procure environmentally-friendly products, for the Government had only procured some ordinary vehicles but not environmentally-friendly vehicles.*

*Hybrid vehicles of high energy efficiency and green technology are available in the market, but the Government has not procured these vehicles. May I ask the Government whether it has considered that despite the possible higher price of green vehicles or hybrid vehicles, a substantial reduction in fuel consumption will be achieved in future, which is economically rational? If this point has been taken into account, why ordinary vehicles instead of green vehicles are procured?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, with regard to what Ms LAU just said, part of it is correct but a certain part of it may stem from a little misunderstanding. Therefore, I would like to explain it briefly here.

There are some 6 400 vehicles in the government fleet. Ms LAU is right, hybrid vehicles, vehicles driven by petrol and electric power, are the most environmentally-friendly vehicles for the time being. There are only nine hybrid vehicles in the government fleet. Why are there only nine, why are such a small number of these vehicles used? There are reasons for that. First, as far as I understand it, at present, there is only one licensed importer for these vehicles, so our choices are limited, and this is the greatest problem. Ms LAU mentioned the price issue earlier, but this is not our major consideration. The Member is right in saying that the price of these vehicles are higher, but from the angle of fuel saving and environmental protection, these vehicles should be procured. However, owing to the lack of choice at present, which is a problem, only a small number of these vehicles have been procured so far. President, Ms LAU is right in this respect.

But in which part was she wrong? That she said the batch of vehicles we procured recently were ordinary vehicles. In respect of the batch of vehicles we procured recently, the tender exercise was conducted in April — if she was referring to the dozens of Phaeton 3.2L saloons. Actually, when the tender exercise was launched in April, the most stringent requirement for environmental protection was imposed, that means the vehicles must meet the Euro IV emission standard. Moreover, we had requested the dealer to conduct a test and submitted an independent report on the test to us later, indicating that that batch of vehicles were equipped with an effective emission control system and met the emission standard and fuel efficiency standard recommended for environmentally-friendly saloons by the Environmental Protection Department

(EPD). In other words, these vehicles comply with the present standard recommended by the EPD. Therefore, Ms LAU's understanding that these vehicles were ordinary vehicles, not environmentally-friendly, is not the actual fact.

**MISS CHOY SO-YUK** (in Cantonese): *President, I think we have to admit that the quality of environmentally-friendly products varies. Sometimes, differentiation is really hard. However, certain green technologies are already well-developed and competition is keen in the market. Nevertheless, the Government has now introduced another restriction on the use of these products, that is, they should be economically rational and cost-effective. May I ask the Secretary whether products using well-developed technology will be specified as products the Government must buy and whether the restriction regarding the economic rationality and cost-effectiveness of these products will be lift?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I am no expert in environmental protection; the expert in environmental protection is sitting behind me.

As for well-developed products mentioned by Miss CHOY just now, I will ask colleagues in the EPD to contact Miss CHOY after the meeting. We may consider using those products, for the Government really wants to use environmentally-friendly products. Therefore, we definitely have no problem with this. I think Miss CHOY's recommendation is good. However, I have to wait for an opportunity to examine this with colleagues in the EPD and Secretary Dr Sarah LIAO in future before any adjustment in this respect can be made internally.

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

**MISS CHAN YUEN-HAN** (in Cantonese): *President, regarding the Government's reply to part (b) of the main question, I do not quite understand some of the wordings. At present, the Government is promoting environmental*

*protection in society — Secretary Dr Sarah LIAO sitting at the back row has been working hard on this — but when I came to the following paragraph, I doubted whether the Government was really so determined in promoting environmental protection. This is what the Government said: "We do not currently intend to require government departments to maintain records of environmentally-friendly products they directly procured. However, since 2000, all Controlling Officers are required to submit annual environmental reports to spell out their department's environmental objective and targets and analyse the department's environmental management and performance."*

*President, I think if the Government had already adopted such a practice in 2000, it would be a relatively long period of time from 2000 to today, the year 2006, and in fact, the Government has been stepping up its environmental protection actions, and reinforcing its determination and declarations continuously. However, I feel strange that to date, the Government still has no intention to require government departments to maintain records of environmentally-friendly products they directly procured. When I promote environmental protection activities now, I will also urge people to start doing so themselves, but why has the Government not done so? We, as front-line promoters of environmental protection activities, always hope that individuals can begin such efforts themselves. But why does the Government not require all departments to maintain records on this, so that the Secretary and the public may exercise monitoring?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, Miss CHAN, we have indeed done a lot. Perhaps I can explain it briefly.

At present, a total of 33 types of environmentally-friendly common user items are procured through bulk contracts arranged by the GLD, and a series of environmentally-friendly specifications have been adopted. We can provide Members with the relevant information later, for we have all the information on this.

However, for certain products, mandatory requirements have been imposed. For instance, photocopier must have an energy-saving function; paper used for photocopying must contain no less than 80% of recycled fibre. Regulations are in place in this respect. However, owing to the time constraint,

I may not be able to provide all the information to Members now, but I can provide supplementary information to Members after the meeting. (Appendix IV) We do have it; we are determined to carry out the work in this respect.

**MISS CHAN YUEN-HAN** (in Cantonese): *I think the Secretary has not answered my supplementary question. Though he said he could provide a lot of information, I still hope that he can really provide us with detailed information and leave no more gaps in his reply which he will only give his answer when pursued. I hope he will give a concrete reply.*

**PRESIDENT** (in Cantonese): I think the Secretary has heard your views.

**MISS CHAN YUEN-HAN** (in Cantonese): *Yes.*

**PRESIDENT** (in Cantonese): Fifth question. Mr Ronny TONG will ask this question for Miss TAM Heung-man.

### **Enhanced Measures to Mitigate Road Traffic Noise**

5. **MR RONNY TONG** (in Cantonese): *President, regarding the nine enhanced measures proposed at the end of July this year by the Environmental Protection Department (EPD) to mitigate road traffic noise, will the Government inform this Council:*

- (a) *of the latest situation and the work targets of the implementation of the above measures;*
- (b) *as the Hong Kong Planning Standards and Guidelines stipulate that Hong Kong's current road traffic noise limit is 70 A-weighted decibel level, whether the authorities will consider reviewing the above limit in the light of the changes in population and residential density in Hong Kong; and*

- (c) *given that currently about 1.1 million people in Hong Kong are still exposed to traffic noise levels that exceed the limit, whether the authorities have any work plans, including reviewing how environmental assessment can be enhanced and what measures developers are required to take in planning lands for residential uses, in addition to the existing measures and the above enhanced measures, to ensure that traffic noise will not exceed the limit, so as to protect these people from such exposure?*

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

(in Cantonese): President, I would like to reply to the three parts of the question raised by the Honourable Member as follows:

- (a) In tackling road traffic noise, the aim of the Government is to protect the public from excessive road traffic noise so as to improve the living environment in Hong Kong. To achieve such aim, we have been striving to implement various practicable measures through a multi-pronged approach to prevent and mitigate the traffic noise problem.

In order to further enhance the above work, the EPD has previously proposed a number of measures and is actively pursuing these measures by conducting studies to confirm their feasibility and the implementation details. The studies that have already commenced include:

- (i) Improving the design and maintenance of joints at flyovers to reduce the noise arising from heavy vehicles running over the joints; and
- (ii) Improving the design of low noise road surfacing materials to enhance the effectiveness of noise reduction and durability.

These two studies are expected to complete at the end of this year and in mid-2008 respectively. A study on optimum noise barrier design will start later this year. Moreover, the trial of low noise road surfacing materials will be extended to over 20 road sections identified.



The Highways Department will work out the detailed design of the projects and the detailed arrangements to facilitate early commencement of the projects. Moreover, guidelines will be available in early 2007 to advise the trade and the bus franchisees on driving habits and vehicles maintenance which can reduce noise emission.

- (b) In setting the noise limit of 70dB(A)L10(1 hour), we have made reference to relevant international studies and have fully considered the actual situation in Hong Kong. This standard is internationally recognized and acceptable in terms of reflecting noise nuisance. Similar standards are adopted in the United Kingdom and the United States. Moreover, this standard is considered relatively strict as what it measures is the noise level of a one-hour period at peak traffic flow. Therefore, we believe that the current noise standard can cater for the actual situation in Hong Kong.
- (c) To protect the public from excessive road traffic noise, we will, in addition to the measures proposed by the EPD earlier, continue to actively pursue the following policies:
  - (i) preventing new noise problems through planning and environmental impact assessment;
  - (ii) preventing the import of noisy vehicles into Hong Kong through legislation;
  - (iii) mitigating the existing traffic noise problems through the noise abatement programme; and
  - (iv) conducting education, engagement and partnership programmes to facilitate stakeholders' understanding of the noise problem and to jointly explore solutions to the problems.

Good planning is the best way to prevent traffic noise and so, we have been striving to prevent the problem through planning. When planning new development areas, we will properly plan the sites on both sides of the roads in accordance with the Hong Kong Planning

Standards and Guidelines to ensure that the residential developments in the vicinity will not be affected by excessive road traffic noise. When planning new roads or projects involving substantial widening of existing roads, we require project proponents to take appropriate measures, such as revising the road alignment, using low noise materials for surfacing and erecting noise barriers, to ensure that the noise limit will not be exceeded. For residential developments or redevelopment projects near existing roads, the Government and the Town Planning Board (TPB), in reviewing applications for planning permission, require private developers to conduct noise assessments and adopt appropriate noise mitigation measures, so that the dwellings near the roads concerned will not be adversely affected by road traffic noise.

For the abatement of traffic noise from existing roads, 7 000 residents have benefited from the completion of the noise barrier retrofitting works along two road sections of Fanling Highway in February 2006. The retrofitting works along Cheung Pei Shan Road commenced in September 2005 and are expected to complete in 2008. Funds for retrofitting noise barriers along 18 road sections at \$1.1 billion have been earmarked. We have also identified 72 existing road sections for the low noise road surfacing programme and the resurfacing works for 29 of them have been completed.

As for partnership, the EPD has been maintaining co-operation with relevant professional bodies and the education sector, and has jointly organized with them various technical seminars and workshops to discuss professional issues such as noise assessment, noise measurement techniques and design of mitigation measures.

Regarding the regulation of vehicle noise, legislation has been in place since 1996 which stipulates that only vehicles complying with noise emission standards are eligible for first registration in Hong Kong. The relevant noise emission standards were further tightened in 2002 to bring them in line with international standards.

President, the Government is very concerned about the road traffic noise problem and has put in place a comprehensive strategy and

work plans to prevent and mitigate the problem. We will continue to monitor the effectiveness of various measures and explore the feasibility of introducing other new technologies and measures to further alleviate the road traffic noise problem.

**MR RONNY TONG** (in Cantonese): *President, the Secretary actually did not answer part (b) of the main question which involves the unique situation of Hong Kong. Insofar as the living environment in Hong Kong is concerned, many residential dwellings are located just next to a highway or flyover. So, the application of overseas standards in Hong Kong is actually not at all meaningful to us. My supplementary question is this: Will the authorities review the noise limit in the light of the living environment in Hong Kong where the residential density is particularly high? If the answer is no — citing overseas examples is not an answer to the question — can the Secretary explain the reason for it?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): We cited this standard in order to explain to Members that we had already adopted the most stringent approach, as we set the noise limit by measuring the noise level of a one-hour period at peak traffic flow, while overseas countries set theirs based on the average figures. This is the first point. Second, the situation in Hong Kong is different from that in overseas countries. In foreign countries, the environment is quieter with far less background noise than ours. In our city, even if there is no vehicle, our living environment is often very close to the commercial activities, and I think it is very difficult to further reduce the level of noise. For this reason, we are not going to revise the noise standard.

**MR RONNY TONG** (in Cantonese): *Has any comparison been drawn and can the statistics be provided to the Legislative Council in writing?*

**PRESIDENT** (in Cantonese): Please sit down. Your question is not part of the supplementary question you asked just now, so you will have to wait for another turn.

**MR RONNY TONG** (in Cantonese): *I think the Secretary has heard my question, has she not?*

**MS EMILY LAU** (in Cantonese): *President, over 1.1 million people are exposed to traffic noise nuisance in their life. The authorities must try its best to do something. The Secretary said that planning is the best way to solve the problem. I am very glad that Secretary Michael SUEN is here, and he can answer this supplementary question. However, although the Secretary said that the Government would not revise those rules and limit, she said that proper planning would be made. Will the Secretary — I do not know which Secretary will give an answer — tell us how proper planning will be made? Will the existing planning standards be adopted, or some changes have already been made to ensure that roads will be located farther away from residential areas in the future, so that the residents will not be exposed to noise nuisance anymore?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): In planning new developments, we adopt the standards as stipulated in the Hong Kong Planning Standards and Guidelines. Insofar as planning is concerned, we hope that the sites to be developed for residential purposes can be planned in accordance with these standards, so as to keep road traffic noise under the limit of 70 dB. This is what we can do in terms of planning.

**MS EMILY LAU** (in Cantonese): *President, my question is whether or not there have been changes. Since those standards have been adopted for a long time and they seem to be unable to help the people, are there any changes that can set people farther away from vehicles in the future planning? This is the thrust of my question. If there are no changes, it means that the problem will not be mitigated.*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): If we are talking about planning for a brand new site of a size as large as that in West Kowloon or Southwest Kowloon which allows a free hand in planning, vehicle-pedestrian separation is certainly an option and this is also a concept for designing environmentally-friendly cities. We will not erect noise

barriers to mitigate the noise nuisance only after roads are constructed. Rather, we will make every effort in the course of planning to ensure that residential dwellings are set far away from roads, or the roads will be submerged below the ground level to minimize exposure. We will be able to do this in large-scale planning. But for the old districts, such as Prince Edward Road where residential buildings are constructed on both sides of the road, if one of the buildings has to be redeveloped — for example, when redevelopment is allowed in the land lease, then works will have to be carried out in accordance with section 16 of the legislation relating to the TPB, in which case there might be considerable restrictions, because it would be impossible to make planning for the entire district all over again. Insofar as this planning standard is concerned, although we do hope to achieve separation, we may not necessarily be able to achieve it in many cases.

However, we do require property developers to take all possible mitigation measures, such as adopting acoustic architectural design in developing housing projects. In some buildings, such as many large-scale developments in Sham Tseng, the first 10 floors are used as car parks or shopping arcade, in order to segregate residential dwellings from roads. These are measures that the Planning Department will require developers to take in respect of planning.

**MR FRED LI** (in Cantonese): *President, in part (a) of the main reply the Secretary said that the design and maintenance of joints at flyovers would be improved to reduce the noise arising from heavy vehicles running over the joints. I wonder if the Secretary is aware that there are such things as gutter covers and manholes in the middle or along both sides of many roads over which vehicles will run. The covers, which are often not secured, have an uneven surface and so, noise will arise from vehicles running over them. If the Secretary is aware of this — perhaps she is not aware of it as her vehicle may not produce such noise, but heavy vehicles or trucks will produce much noise of this sort. I wonder if the Secretary is aware of this problem and how she is going to handle it.*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): I very much thank Mr Fred LI for asking this question. We are paying attention to this and we have asked the Highways Department to conduct a review of all manhole covers in order to examine how the fixture can be made

more secured to obviate frequent repairs. As repair works and projects must be carried out in accordance with the procedures and timetable and they cannot be carried out just anytime, these loosened covers will indeed create much noise. We are currently looking into this matter.

**PROF PATRICK LAU** (in Cantonese): *With regard to traffic noise on roads, it is in fact most important to tackle the problem at source. I learn from the main reply that the Government has earmarked funds for retrofitting noise barriers at 18 road sections. My question is: Among these 18 road sections, how many are located in old districts? Old districts are, in fact, subject to considerable noise nuisance. I would like to know how many of these 18 road sections are located in old districts.*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): These 18 road sections are prioritized by the EPD according to certain criteria from among all completed roads in old districts or districts not included as new development areas all over the territory where the level of noise nuisance exceeds 70dB(A). Insofar as those 18 sections are concerned, as funds have already been earmarked, one of the projects at Fanling Road and Cheung Pei Shan Road has been completed and the other one will also be completed shortly. We are currently conducting consultation on other road sections. In the course of consultation, we have noticed that the residents have many opinions and it is necessary for the Government to obtain their consent. In Sha Tin, for instance, the residents disagree with the proposed works on two road sections.

Therefore, apart from providing noise barriers in a timely manner in accordance with the criteria or statutory requirements, it is also necessary to consider priorities and cost effectiveness. If, for instance, a lot of money is spent on retrofitting noise barriers to benefit only two or three households, that would not be considered cost-effective. Moreover, we also have to consider the aesthetics of the noise barriers in carrying out works at those 18 road sections. But in the process, some of the works may have to be withdrawn. That is, if such works are against the wish of the residents, we may have to call them off in accordance with their wish.

**MISS TAM HEUNG-MAN** (in Cantonese): *The Secretary mentioned in the second paragraph of part (c) of the main reply that the TPB will ask private developers to conduct noise assessment and take appropriate noise mitigation measures. When private developers have completed their property developments, will the Government examine the adequacy of the noise mitigation measures taken by them to solve the problem? An example is Galaxia. The noise level there still exceeds 70 dB even after its completion. Is it that the Government has simply turned its back on the problem after shifting its responsibility to the private sector? Is it that the Government will do nothing despite a noise level as high as 70 dB?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): I would like to explain that for developments in old districts such as Galaxia, redevelopment works were carried out with the consent of the TPB. In the process of redevelopment, the noise level should be kept under 70 dB by all means in accordance with the guideline of the TPB. In the course of planning, I believe the EPD has asked the developer to meet about 80% to 90% of the standard. Certainly, as for whether the noise level can completely be kept under 70 dB after the completion of the property development, we will follow it up and measurements will be made by colleagues from the EPD. For large-scale developments in old planning zones, such as Galaxia, it is impossible to meet 100% of the standard. Besides, the standard is just a guideline, not a statutory requirement similar to that stipulated in the Noise Control Ordinance for compliance by industrial or commercial operations. It is only a guideline for development. Under this guideline, we will ask the developers to take mitigation measures as far as possible in the course of planning. From our experience, the noise level worked out by the developers based on our computer simulation model and using basic theories of physics is consistent with the standard. But after all, it is just a guideline.

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

**MISS TAM HEUNG-MAN** (in Cantonese): *Yes. She has not answered the part about whether the authorities, after conducting studies, consider that the*

*developers have taken appropriate measures to solve the noise problem. Has the Secretary verified this?*

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

(in Cantonese): The answer is "yes". They can meet the standard.

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

**MS MIRIAM LAU** (in Cantonese): *Regarding the regulation of vehicle noise, the law provides that only vehicles complying with noise emission standards are eligible for first registration in Hong Kong. But many vehicle owners have, after registration, made alterations to the tailpipe which will cause the vehicle to produce even louder noises. I understand that alteration to the tailpipe in order for the vehicle to produce louder noises is prohibited in law, but these vehicles do not need to be inspected or monitored by the Government, except that they are required to undergo a mandatory inspection only six years later. What measures will the Government take to ensure that alterations will not be made to the tailpipes of these vehicles to produce even louder noises?*

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

(in Cantonese): In fact, it is an offence for vehicle owners to make alterations to the tailpipe or the so-called expansion chamber. We will co-operate with the police in this regard. If such alterations are found, prosecution would be instituted. There were 130 cases of prosecution in 2003, 28 in 2004 and 18 in 2005. I think members of the public are very concerned about this, as many people have reported such cases. I hope that through education, when members of the public have higher expectation of the standard of living, these vehicles would not be able to run away, because they are indeed very noisy when running on the road.

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



**Assisting Divorced Couples in Finding Separate Accommodation**

6. **MR JAMES TO** (in Cantonese): *President, according to the existing housing policy, public housing applicants should not own or co-own any domestic property. In case of divorce, neither party is eligible to apply for public housing if either of them does not wish to pursue the process of transferring the title of their property which has been registered as co-owned property in the Land Registry. In this connection, will the Government inform this Council:*

- (a) *of the assistance provided by the Social Welfare Department (SWD) to such divorced couples in finding accommodation to live separately; the respective numbers of cases in the past three years in which the SWD has succeeded in helping such persons to find accommodation and those in which it has failed to do so; and among the latter cases, of the number of those in which domestic disputes and violence have taken place;*
- (b) *whether the Director of Housing can exercise discretion to allow divorced persons who fail to resolve the problem of property ownership to apply for or be accommodated in public housing; if he can, of the respective numbers of cases in the past three years in which the Director of Housing has exercised his discretion to allow such persons to lease public housing units on normal tenancy terms or on conditional terms, or to apply for public housing; and the respective numbers of cases in which such persons were not allowed to lease public housing units on normal tenancy terms or on conditional terms, or to apply for public housing; and*
- (c) *whether the Housing Department (HD) will consider amending the eligibility criteria for applying for public housing to allow divorced persons who cannot obtain the title to the properties concerned under court decrees to apply for public housing even if the transfer of title is still in progress, so as to help divorced persons who have not sought assistance from the SWD to resolve their accommodation problems if they are to live separately from their spouses, so as to prevent serious domestic disputes or violence?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): President, basically, a person in possession of domestic property is not eligible for applying for public rental housing. In the case of a divorce, even if the party concerned in possession of domestic properties has not yet completed the divorce proceedings or has their title registration deleted, the SWD may, under special circumstances, recommend to the Housing Authority (HA) for providing him/her with public housing under the Conditional Tenancy mechanism under the Compassionate Rehousing policy. My reply to Mr James TO's question is as follows:

- (a) The SWD will conduct an in-depth examination of the family background and financial conditions of divorced persons seeking assistance and make a full assessment of their welfare needs. Depending on the actual circumstances of individual cases, appropriate services will be provided, for example, short-term financial relief for the persons concerned to meet rental and home moving expenses, or temporary dwelling in urban singleton hostels managed by voluntary organizations. However, the SWD has not maintained any separate records of cases where accommodation arrangements for such divorced persons have been provided.
- (b) We have also utilized public housing resources to help the people in need as mentioned above. As I have mentioned in my opening remarks, the SWD may recommend to the HA for providing public rental housing under the Conditional Tenancy mechanism under the Compassionate Rehousing policy to divorced persons or those in the process of divorcing, who have genuine and urgent housing needs but lacking the ability to address the needs themselves, and who are in possession of domestic properties.

The HA has not maintained any separate records of applications for Conditional Tenancies from such divorced persons. In response to Mr James TO's enquiry, the HA has checked its case files and found that there are 28 cases in which divorced persons in possession of domestic properties have been granted Conditional Tenancies since 2003-2004.

- (c) The existing eligibility criteria for public rental housing are able to cater for the people in need in society. The Conditional Tenancy

mechanism is there to provide appropriate assistance to the abovementioned divorced persons. The HA will continue to work closely with the SWD to arrange public housing accommodation promptly for those divorced persons in possession of domestic properties so as to help address their imminent accommodation problems.

**MR JAMES TO** (in Cantonese): *President, why did I put the oral question in such a complicated manner? Because some people would seek help from the SWD while others would not.*

*Now I would like to follow up part (c) of the main question. If some people have not sought help from the SWD and, while they are waiting for the ruling of the Court, they have genuine accommodation needs, does the Government or the HD have any means to let these people, for example, apply for public housing first? If the Court rules that they shall be granted the title of the property in question, then of course they would not have to seek any assistance from you. If not, at least that may reduce their waiting time and hence enable such cases to be processed faster.*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): As Mr TO has just said, if the divorced persons wish to apply for public housing during this interim, then they must satisfy and meet all the eligibility criteria for application of public housing, including the requirement that they are not in possession of any domestic property.

So this would depend on the individual merits of the applicant concerned. If he owns domestic property but he intends to sell it or when he is applying for a divorce and is pending a court judgement so he is not certain about how things would develop, but he may nevertheless be eligible for public housing, in such circumstances, he may of course lodge an application first. Should he have urgent accommodation needs, he may be provided with public housing under the Conditional Tenancy mechanism under our Compassionate Rehousing policy on a temporary basis up to the time when his divorce proceedings are complete. When the divorce proceedings are complete, depending on the court ruling, if he meets the eligibility criteria, he may continue to live in the public rental housing unit concerned. If he does not meet such criteria, then he will have to move out.

We would be able to cater for genuine and urgent housing needs of these applicants. But if they only want to be put on the Waiting List, that would of course have to depend on the merits of individual cases.

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

**MR JAMES TO** (in Cantonese): *President, the last part of my supplementary question is mainly on whether or not there is any mechanism to handle those people who have not sought help from the SWD? A reply has already been given with respect to those who seek help from the SWD.*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): As I have said, that will have to depend on whether or not the person meets our eligibility criteria. I have stated clearly that consideration will be made on whether the applicant meets our eligibility criteria with respect to the income limit and total asset value. There are differences from one applicant to another and if he meets our minimum requirements, he may lodge an application.

**MR LEE WING-TAT** (in Cantonese): *President, among cases of application for separation or divorce, in most cases it is the women who are placed in a less favourable position because often the property in question is purchased in the name of the husbands. However, and speaking from my experience, if an application is lodged to the HD by the wives, their cases would be handled by both the SWD and the HD as ordinary cases, hence the wives would be put under even greater distress.*

*I have this question for the Secretary. Speaking from my experience, for so many years, if the case concerned is not a very serious one in which there has been fighting or bloodshed and that the parties concerned have to go the police station, you people would not assign someone to handle the case specifically. Could the Secretary instruct the staff of the HD that should they come across such cases, they should assign staff who can exercise discretion or they should get an Assistant Director to handle these cases? Every time when a member of a District Council or a Member of this Council seeks assistance, the first question*

*asked is whether or not there has been fighting and the second question asked is whether or not there has been any bloodshed. Otherwise, the case will not be entertained. I do not think this is a good practice. May I ask the Secretary, after seeing so many examples of this sort, whether he would issue some internal guidelines to his colleagues on that? Will colleagues of the SWD handle such cases in a more compassionate manner?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): I think I have to be more careful on that perhaps. This is because it seems that two different situations are involved. First, I do not think the people we are talking about are living in the public housing estates, right? They are living in private residential buildings. For those who live in private residential buildings, colleagues from the HD will not get involved and such cases must be referred by the SWD.

Second, those divorcees who live in public housing estates may have difficulty of this kind, but as I have said, we do not have any actual figures on that. If there are people who encounter any difficulty in this, we have some measures in place so that the parties concerned can live under separate roofs.

Having said that, the wives may be at a less advantageous position, but that would have to depend on how the Court will rule when approval is given for a divorce. This is especially the case for those who have got children. For the party who has been awarded custody of the children, in most cases we would let the party continue to live in the public rental housing unit concerned. For the other party who is not so awarded, he or she would become a singleton. In such cases — the party could be the husband or the wife and this we do not know — it would have to depend on the actual circumstances then.

If the party concerned does not have any place to live, he or she may apply for accommodation in our interim housing and apply later as singletons for public housing. As the circumstances of each case differ, I do not think it is fair to generalize that our colleagues will not do anything until they see bloodshed. Actually, we are doing work on that. I wish to state again that for those who are not residents of public rental housing units, there is no way for us to contact them. If they are residents of public rental housing units, we have various measures to cater for their needs in this respect.

**MR LEE WING-TAT** (in Cantonese): *The supplementary question raised by me just now is actually very simple and I think Honourable colleagues have had such experience as well, that is, about incidents involving fighting and bloodshed between couples.*

*The supplementary question I wish to raise is: Would the Secretary suggest to the Director of Housing to assign someone who can exercise discretion to handle applications for public housing from people who are to live separately because of divorce?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): As a matter of fact, all my colleagues who handle such cases have full discretion in policy and eligibility criteria. But of course, they are also subject to policy limitations.

**MR WONG KWOK-HING** (in Cantonese): *May I ask the Secretary via the President whether the HD and the SWD can formulate clear-cut guidelines jointly so that the front-line workers can handle such family tragedies promptly when they come across them, hence preventing the possible recurrence of domestic violence or family tragedies because of accommodation problems?*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): From the policy perspective and the record of cases I have at hand, I think the two departments, that is, the HD and the SWD, have very clear guidelines in place on what should be done and matters like eligibility criteria. However, very often, we find that there may be problems when we try to ascertain the facts of the cases. This means whether the applicants meet the eligibility requirements, and so on. These are problems we have to handle. We need time to study and verify matters like the amount of income and the number of children which the applicant has claimed. Then we can decide whether or not it is possible to invoke the policy to help them. Therefore, at times it may actually be due to incomplete information provided by the applicant that people may get the wrong impression that government departments are passing the buck among them. Actually, what we do is to ascertain the facts before deciding to act on these facts and invoke the policy to help them.

In my opinion, if there are no such problems, these cases can be processed within one week at the soonest and four weeks at the latest. Such is what is disclosed by the information found in the files.

**MR TAM YIU-CHUNG** (in Cantonese): *President, the Legislative Council Subcommittee on Family Violence had a meeting yesterday and many front-line social workers, representatives of voluntary agencies and help seekers pointed out that the terms of the Conditional Tenancy were too strict and they hoped that a fresh review could be conducted to relax the terms in order that those who needed help could be included. Would the Secretary consider how a review of the Conditional Tenancy can be conducted? I hope that a more lenient approach can be adopted.*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): I do not have any practical experience in handling such cases. I have only browsed the information and files on hand and drawn from the experience we have in giving the replies.

This policy we have is aimed at helping those who own property and who have divorce proceedings ongoing. As these people own property, they do not meet the eligibility criteria for public housing. As there is a contradiction between these two policies, we have launched this plan to resolve this contradiction. The plan caters to those who own property and therefore cannot fully satisfy the eligibility criteria for public housing — but like I said just now, they do not know to whom the property would be awarded by the Court after divorce or if their share of the proceeds from the sale of property would result in their income and total asset value exceeding the prescribed ceiling. But as these people are affected by various factors, we cannot make a generalization.

If that happens, under the plan, we would exercise discretion. We would as a first step ignore this and we would only consider their pressing housing need, that is, the need that arises during the course of divorce proceedings. We would first allow them to move into the public rental housing units and after they have lived for a certain period of time and when the divorce proceedings are complete, then depending on the circumstances at the time, we would conduct a review. If at that time they meet the eligibility criteria for public housing, then

we would let them continue to live in the public rental housing unit concerned and the Conditional Tenancy will become a normal tenancy.

If it is found that they do not meet the eligibility criteria, such as when their total asset value exceeds the prescribed upper limit, then the tenancy will be terminated and they are required to move out. Therefore, this is a temporary arrangement and it can be changed into a permanent arrangement when necessary, but that would depend on the individual cases.

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

**MISS CHAN YUEN-HAN** (in Cantonese): *When the Secretary gave a reply to part (b) of the main question asked by Mr James TO, he cited a figure and that was, there are 28 cases in which divorced persons in possession of domestic properties have been granted Conditional Tenancies for public rental housing since 2003-2004. Then the Secretary gave a very detailed explanation. We are well aware of the details. But it is very difficult when it comes to enforcement.*

*Let me cite an example. An Honourable colleague has just said that when family problems occur in public housing, the departments concerned would only entertain such cases after fighting and bloodshed have occurred and that reports have been made to the police a number of times. How should a yardstick be adopted? This is very difficult, and so many problems have arisen. Those of us who receive cases at the front line may have a great dispute. I have cited this example is to let the Secretary see the point that those people with accommodation are asking you to arrange temporary housing for them before their divorce proceedings complete, but the answer given to the cases received by me is nothing and no solution is given.*

*Just now the supplementary question raised by Mr TAM Yiu-chung to you represents the unanimous view formed by the Subcommittee yesterday. I hope the Government can study carefully why only 28 cases have been granted Conditional Tenancies since 2003 to 2004 territory-wide. This is where the problem lies. I hope the Secretary can think about that when he goes back and he should not just repeat what his subordinates have told him.*



**PRESIDENT** (in Cantonese): Miss CHAN, you should not be just expressing your hope but you should ask the Secretary whether or not he would consider.

**MISS CHAN YUEN-HAN** (in Cantonese): *I hope the Secretary, when he is back in the office, can consider whether or not the criteria for Conditional Tenancy will be formulated anew.*

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Even if it appears that I might be long-winded, I must make it clear that we are addressing two different problems. Now these 28 cases are not about tenants of public rental housing units but those who are not and they have been referred to us by the SWD. It may be that many divorcees are quite well-off and they do not need any special policy from the Government to help them, therefore it accounts for the very small number of such cases. The number actually refers to those people who are not tenants of public rental housing.

However, what Miss CHAN Yuen-han has just referred to and what many Members referred to in the meeting held yesterday are tenants of public rental housing — I am not sure whether or not this is actually the case, but this is what has made Members say that the cases would only be entertained when there has been fighting and bloodshed. I have already said that the HD will not intervene if the case does not involve tenants of public rental housing. The case will necessarily have to involve tenants of public rental housing before the HD can intervene, for the simple reason that only tenants of public rental housing will seek assistance from the HD while all other people will seek assistance from the SWD.

So in this regard, it may be due to our insufficient understanding of the situation, but if that is the case, I have said that I am not well versed in the situation and what I have been saying is confined to policy matters. If such is really the case, maybe I can talk with Miss CHAN after the meeting to get a better picture of the situation. If this is really the case, of course I would conduct a review back in the office. But as far as I see it now, the problem does not seem to be one about being too lenient or too strict. From what we know, however, this policy cannot help in each and every one of the cases.

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

**MISS CHAN YUEN-HAN** (in Cantonese): *President, the Secretary has not answered my supplementary question. Actually, I have put my question very clearly earlier and I hope the President can relay this to the Secretary.*

*What we discussed yesterday was conditional housing and we were aware of the fact that these people had accommodation. Mr TAM Yiu-chung wrote a letter to the Government yesterday on that point and the Government gave a reply, but yesterday we.....*

**PRESIDENT** (in Cantonese): Miss CHAN Yuen-han, I see your point. The Secretary has told you that he would discuss the matter with you after the meeting to see what you and he thinks about the matter and what can be done about it. As this is oral question time now, I am afraid I cannot let you speak to your heart's content like in a motion debate.

**MISS CHAN YUEN-HAN** (in Cantonese): *This is not a debate. I would like to tell the Secretary that I have just been citing the example of public housing to point out how his colleagues are dealing with these cases and that people who live in private residential buildings are nastier, so to speak. I am citing this example to make him see the point. Certainly we are well versed in the policy. Thank you, President. I hope the Secretary will not fail to see my point.*

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

## **WRITTEN ANSWERS TO QUESTIONS**

### **Provision of Leisure and Cultural Services Facilities in Villages**

7. **MR DANIEL LAM** (in Chinese): *President, it is learnt that many villages in the New Territories are not provided with proper leisure and cultural services (LCS) facilities. In this connection, will the Government inform this Council:*

- (a) *in each of the past four years, of the budget for and the actual expenditure on implementing LCS projects for residents in the rural areas, the number of LCS projects initiated and implemented by government departments for the villages in the New Territories, the costs involved and the present status of these projects, and the number of applications received from residents in rural areas for the implementation of LCS projects, the respective numbers of such applications approved and rejected as well as the reasons for rejecting the applications;*
- (b) *of the current number of approved rural LCS projects which have not yet commenced (please provide a breakdown by the waiting time for the commencement of the projects), the reasons for the difference in the waiting time, as well as the total number and proportion of those LCS projects which have been given approval for more than four years but have not yet commenced, together with the reasons for the delay in their commencement, and whether there are approved projects which have been cancelled due to excessive waiting time for commencement;*
- (c) *whether it will consider implementing special measures to shorten rural LCS projects' waiting time for commencement; and*
- (d) *whether it will, for the purpose of taking care of the needs of the disadvantaged and people in remote areas, earmark provisions to expedite those LCS projects which are small in scale but urgently needed by residents in the rural areas?*

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

- (a) Both the Home Affairs Department (HAD) and the Leisure and Cultural Services Department (LCSD) under the Home Affairs Bureau are engaged in the provision of LCS facilities in rural areas.

To improve the infrastructure and living environment of rural areas in the New Territories, the HAD introduced the Rural Public Works (RPW) Programme in 1999 for implementation of minor projects

which individually costs not more than \$15 million with a view to improving the local environment and living conditions in rural areas expeditiously and flexibly to meet the needs of the local community. Under this Programme, the local community, village representatives and members of the District Councils (DCs) can put forward proposals to the District Office (DO) of their respective district on the implementation of various rural public works which include the development of additional leisure facilities and improvement to existing ones. In the past four years, the HAD has completed 29 leisure services projects under the RPW Programme at a total cost of about \$26 million, averaging \$6.5 million per year in leisure services rural minor works. The types of works include the construction of or improvement to sitting-out areas, playgrounds, soccer pitches and basketball courts.

After resolving all technical problems arising from the projects, including land ownership issues and objection raised by the local community, and obtaining support from the District Working Group under the RPW Programme, the DOs will make arrangements to commence the works. Under normal circumstances, after all technical problems have been resolved, rural minor works can be completed within one to two years after commencement. In the past four years, the HAD has not rejected any proposal of the District Working Group on the implementation of rural minor works due to resource constraints.

In the past four years, the LCSD, after consultation with the DCs, has completed 14 LCS projects in rural areas, including capital works (over \$15 million) and minor works (not more than \$15 million). The total project cost is about \$76 million, averaging \$19 million per year. The works mainly involve the provision of open space and upgrading of the existing leisure facilities.

In the past four years, the LCSD has received 53 proposals in total from residents in respect of the provision of LCS facilities in rural areas. Among the proposals, 14 projects have been completed as mentioned above, six are under active planning, 18 are being processed or reviewed, and the remaining 15 have not been accepted.

Generally speaking, proposals are not accepted because the LCSD or HAD has already provided LCS facilities in the vicinity of the sites proposed, or the sites proposed have not been planned for the provision of LCS facilities. The LCSD would annually review the proposals on LCS facilities in each district, including rural areas, and after consultation with the DC, commence planning work for the priority projects. Generally speaking, minor works (not more than \$15 million) of the LCSD can be completed within one to two years after commencement.

- (b) The rural minor works of the LCSD and HAD with funding approval would start construction works within about six months. Our records show that there are no LCS facilities which have not started construction works with funding approval granted for more than four years, or have been cancelled after funding approval is granted.

- (c) and (d)

As proposed in the review on the role, functions and composition of DCs, the Government will soon create a "dedicated" capital works block vote with an annual provision of \$300 million for DCs to expedite the implementation of the district minor works improvement projects so as to meet the aspiration of the local residents. The proposal, which will be implemented on a pilot basis in four selected districts from January 2007, will be implemented throughout the 18 districts in 2008. The respective DCs could decide the use of the block vote for expediting the provision of the LCS facilities in the rural areas in New Territories districts.

Under this arrangement, the LCSD and HAD would continue to work closely with the village representatives and members of the DCs for the early provision of LCS facilities in the rural areas.

### **Implementation of Air Traffic Flow Control by Mainland Authorities**

8. **MR HOWARD YOUNG** (in Chinese): *President, it has been reported that due to the implementation of air traffic flow control by the airport authorities*

*in Guangzhou and Huangzhou on the 25th day of last month, a number of flights from Hong Kong overflying the Mainland were delayed in taking off. In this connection, will the Government inform this Council:*

- (a) of the number of flights from Hong Kong which were delayed in taking off in the past three years due to the implementation of air traffic flow control by the mainland authorities; and the percentage of this number among all the flights which were delayed in taking off in the period;*
- (b) whether it has projected the number of flights overflying the Mainland which will take off or land in Hong Kong in the coming five years and, among them, the number of flights which will experience delay in taking off or landing caused by air traffic flow control by the mainland authorities; if it has, of the projected figures; and*
- (c) of the measures to reduce the delay in taking off or landing of flights caused by air traffic flow control by the mainland authorities, including whether it has discussed with the mainland authorities ways to enhance the co-ordination of the air traffic management; if it has, of the details?*

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

- (a) According to statistics kept by the Civil Aviation Department (CAD), 973, 1 733 and 2 996 departure flights were delayed respectively in 2004, 2005 and 2006 (January to October) due to air traffic flow control by the mainland authorities. The CAD does not keep data on delayed flights to destinations other than the Mainland, as its experience in the past few years showed that only an insignificant proportion of such flights were delayed.
- (b) At present, of some 780 flights to or out of the Hong Kong International Airport each day, about 49% overfly the Mainland. However, the CAD does not have any projected figure for the

number of flights that will overfly the Mainland nor the number that will experience delay in taking off or landing in Hong Kong in the next five years.

- (c) The civil aviation authorities of Hong Kong, the Mainland and Macao are fully aware of the challenges associated with rationalizing and optimizing the efficient use of the limited Pearl River Delta (PRD) airspace. In this connection, the CAD, the General Administration of Civil Aviation of China and the Macao Civil Aviation Authority established a tripartite working group in February 2004 to improve the use of airspace and the co-ordination of air traffic management in the PRD Region, including optimization of regional airspace design; standardization of interface and protocols of air traffic control systems; and the establishment of additional air routes for civil aviation between the PRD Region and the northern and the eastern parts of the Mainland. For example, through the efforts of the tripartite working group, a new handover point between the Guangzhou and the Hong Kong Flight Information Regions will be established in December 2006 to cater for flights overflying Hong Kong and landing in Guangzhou. This will ease the burden on the existing handover point for flights to and from northern China. The CAD will continue to discuss and co-ordinate with the mainland and Macao aviation authorities to rationalize and optimize the use of airspace in the PRD Region.

### **Regulation of Television Programme Contents Broadcast on Mobile Phones**

9. **MR JASPER TSANG** (in Chinese): *President, it has been reported that the contents of television programmes broadcast on mobile phones and other mobile communication devices are not subject to the regulation of the Generic Code of Practice on Television Programme Standards issued by the Broadcasting Authority. In this connection, will the Government inform this Council whether it plans to step up the regulation of such contents; if so, of the details of its plans; if not, the reasons for that?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): *President, under the existing Broadcasting Ordinance (Cap. 562), only television programmes services below are licensable broadcasting services:*

- (i) domestic free or pay television programme service which is intended or available for reception by an audience of more than 5 000 premises (domestic premises or hotel rooms);
- (ii) non-domestic television programme service which does not primarily target Hong Kong; and
- (iii) other licensable television programme service which is intended or available for reception in hotel rooms only or by an audience of not more than 5 000 premises.

Television programmes provided by broadcasting licensees shall comply with the codes of practice issued by the Broadcasting Authority, including the Generic Code of Practice on Television Programme Standards.

Video programme services available for reception by mobile phones and other mobile communication devices (hereafter referred to as "mobile television services") do not fall within the above definition of licensable broadcasting services under the Broadcasting Ordinance. Programme contents of mobile television services are therefore not subject to the regulation of the Generic Code of Practice on Television Programme Standards issued by the Broadcasting Authority. However, they are subject to regulation pursuant to the Control of Obscene and Indecent Articles Ordinance (Cap. 390).

In view of the rapid development of mobile television services worldwide, we are working on a policy framework for the development of mobile television services in Hong Kong and intend to consult the public early next year. We will seek views from the public and the industry on various regulatory issues, including whether, and if so how, programme contents of mobile television services should be regulated.

### **Nurturing of Scientific and Technological Research Talents**

10. **MR WONG TING-KWONG** (in Chinese): *President, it has been reported that the Singaporean Government will allocate S\$13.55 billion (approximately HK\$67.7 billion) to promote research and development (R&D) in science and technology in the coming five years, and young people from around the world are welcome to pursue postgraduate studies, teach or conduct research*



*in the universities of Singapore. In this connection, will the Government inform this Council:*

- (a) whether it has studied if Singapore's plan to nurture scientific and technological research talents will pose competition to Hong Kong; if it has, of the study findings;*
- (b) of the long-term plan for nurturing scientific and technological research talents in Hong Kong; and*
- (c) of the amount of the authorities' expenditure on nurturing scientific and technological research talents and conducting R&D activities in each of the past three years, together with the rate of increase in such expenditure, as well as the number of local institutes or enterprises engaging in R&D activities which were set up in each year of the same period, together with the rate of increase in the number of such institutes or enterprises?*

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): President, regarding the Honourable WONG Ting-kwong's question, my reply is set out below.

- (a) and (b)

The Government is aware of the document "Science and Technology Plan 2010" issued by the Singaporean Ministry of Trade and Industry. According to the document, the Singaporean Government will over the coming five years promote R&D through a variety of activities, including funding R&D projects, promoting R&D-related investments and academic research.

The challenge of attracting and retaining talents is indeed being faced by all economies in the knowledge-based economy of the 21st century. The Government is currently implementing a number of schemes to attract overseas and mainland talents, not limited to those in the fields of science and technology, to come to Hong Kong. In the past three years, some 20 000 to 25 000 professionals have been approved each year to work or settle in Hong Kong through the

various employment or admission schemes. Since these schemes are not sector specific and science and technology-related professionals may work in different fields, the Immigration Department does not keep statistics on the number of such professionals.

In addition, the Government has been sparing no efforts in nurturing local science and technology talents. In primary and secondary schools, we promote students' interest in science and technology through developing their scientific thinking, investigative skills and problem solving abilities; promoting life-wide learning and participation in international science and technology competitions; and organizing special programmes for students gifted in science and technology. In higher education, we have been providing a total of 4 315 publicly-funded research postgraduate (RPg) places at the institutions funded by the University Grants Committee (UGC) per annum since the 2003-2004 academic year. To support efforts on this front, we have further decided to provide an additional 450 publicly-funded RPg places by phases for the 2005-2008 Triennium. Furthermore, to attract outstanding research talents to Hong Kong, we have since 2002 abolished the quota for admitting non-local RPg students and have seen a growth in the number of such students.

On the promotion of applied R&D and development of clusters of hi-tech companies and R&D experts, we have put in place a comprehensive range of funding and infrastructure support, including the Innovation and Technology Fund, DesignSmart Initiative, the Science Park, the Applied Science and Technology Research Institute and the Hong Kong Productivity Council. In April 2006, we set up five R&D Centres as an additional impetus to drive applied R&D. The Innovation and Technology Commission (ITC) and these Centres have been actively establishing collaboration with mainland and overseas research organizations to further facilitate exchange of talents.

On the promotion of an innovation and technology culture in the community, the ITC has since 2005 been organizing the Innovation

Festival every year. The Festival comprises a series of roadshows, technology and design workshops, exhibitions and invention competitions to arouse the community's interest in innovation and technology. The ITC also organizes the annual Hong Kong Student Science Project Competition and has established the Hong Kong Youth Innovation Club this year to develop the potential of our young talents in innovation and technology.

- (c) (i) The Government's expenditure on nurturing scientific and technological research talents — based on the student unit costs provided by the UGC-funded institutions, the amount of government funding involved in the provision of publicly-funded RPg places was about \$1.6 billion per annum in the past few years.

The Government also, through the New Technology Training Scheme, provides financial assistance to companies to provide training to their staff in new technologies in Hong Kong or overseas. Since the inception of this Scheme in 1992, over \$64 million has been approved for 13 000 cases.

- (ii) Expenditure on conducting R&D activities — according to the surveys conducted by the Census and Statistics Department, the total R&D expenditures incurred by Hong Kong (including both the private and public sectors) were \$7.5 billion, \$8.5 billion and \$ 9.5 billion in 2002, 2003 and 2004 respectively<sup>1</sup> (that is, an increase of 26% from 2002 to 2004).
- (iii) Number of local institutes or enterprises engaging in R&D activities — according to the findings of the Annual Survey of Innovation Activities in the Business Sector conducted by the Census and Statistics Department, the estimated number of firms engaged in R&D activities were 1 223, 2 479, 3 860 and 4 294 in 2002, 2003, 2004 and 2005 respectively (that is, an increase of 250% over the past four years).

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<sup>1</sup> The figure for 2005 is not available yet.

**Plastic Bag Tax**

11. **MR LEE WING-TAT** (in Chinese): *President, regarding the reduction of discarded plastic bags, their disposal as well as the study on levying a tax on plastic bags, will the Government inform this Council of:*

- (a) *the number of plastic bags disposed of and the costs incurred in the disposal of these bags, and whether it knows the respective numbers of plastic bags distributed by supermarket chains, retail outlet chains, major fast food chains, catering groups and convenience stores, in each of the past three years;*
- (b) *the effectiveness of the "voluntary agreements on plastic bag reduction" signed between the Government and major retail outlet chains; and*
- (c) *the details of the study on levying a tax on plastic bags, including how the tax will be levied, the rate and the scope of the tax, the use of the revenue collected and the implementation timetable, and so on?*

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

- (a) According to the data of the Environmental Protection Department, 372 000 tonnes, 368 158 tonnes and 362 080 tonnes of plastic bag waste (including plastic shopping bags, plastic garbage bags and other plastic packaging bags) were disposed of at landfills in 2003, 2004 and 2005 respectively. Based on the current average disposal cost of \$125 per tonne for waste disposal at landfills, the costs of disposing plastic bag waste were \$46.5 million, \$46 million and \$45.2 million in 2003, 2004 and 2005 respectively.

In addition, according to a survey conducted at landfills at the end of last year, the number of plastic shopping bags disposed of at landfills was estimated to be about 23 million per day, over 30% of which came from supermarkets, convenience stores, bakeries and the catering business.

- (b) Since early this year, the Environmental Protection Department has respectively entered into a "Voluntary Agreement on Plastic Bag Reduction" with 10 major supermarket chains and retail outlet chains. They have pledged to reduce more than 120 million plastic bags in total within one year after signing the Agreement (reduction rate of about 15%) and to implement a series of measures to reduce the distribution of plastic bags, such as offering rebates or incentives to consumers who bring their own shopping bags and selling environmentally-friendly shopping bags at the shops. Although some of the Agreements have been implemented for only about six months, the number of plastic bags distributed by retailers who have signed the Agreement has already reduced by over 80 million. It is most encouraging to find that the respective reductions achieved by the three major supermarket chains range from 24% to 29%, which have far exceeded their respective targets of 15%.
- (c) To reduce the indiscriminate use of plastic shopping bags, we have commissioned a consulting firm to conduct a study on plastic shopping bag levy, including its feasibility, options, level of charge and scope, and so on. The consulting firm will evaluate the environmental benefits of various options and their impact on the trades. The study report is expected to be completed by the end of this year. We will consult the public and the trades extensively on the proposal in due course.

### **Financial Position of KCRC**

12. **MR ALBERT HO** (in Chinese): *President, regarding the development and financial position of the Kowloon-Canton Railway Corporation (KCRC), will the Government inform this Council whether it knows:*

- (a) *the number and names of properties along the railway routes developed by the KCRC, since its corporatization in the '80s, in partnership with the private sector;*
- (b) *the KCRC's net profits from the sale of properties along the East Rail (ER), Light Rail Transit (LRT) and West Rail (WR) (please provide the relevant details using the table below);*

<i>Name of property</i>	<i>Location (along ER/ LRT/WR)</i>	<i>Net Profit (\$)</i>

- (c) *the respective amounts of net profits made by the KCRC from property management, leasing of shops, offices and residential units, commercial businesses in stations and other businesses in each of the past three years (please provide the relevant details using the table below);*

<i>Name of property/ title of project</i>	<i>Location (along ER/ LRT/WR)</i>	<i>Type of business (property management/ leasing of shops/leasing of offices/leasing of residential units/ commercial businesses in railway stations/other businesses)</i>	<i>Net Profit (\$)</i>

- (d) *the capital costs for constructing the LRT (including all the extensions), and whether the profits made by the KCRC from developing properties along the LRT are adequate for offsetting such costs; and*
- (e) *the LRT's income from train fares, as well as expenditure on interest on capital and loans and depreciation charges in each of the past three years, and whether the LRT was still operating at a loss if such expenditure was not deducted from the income in each year of the same period?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, the information provided by the KCRC is set out below:

(a) and (b)

<i>Name of Property (Year of Completion)</i>	<i>Location (Along ER/ LRT/WR)</i>	<i>Net Profit (\$ Million)</i>
Man Lai Court, Tai Wai (1993)	ER	503
Royal Ascot, Sha Tin (1996 to 1997)	ER	4,371
Mong Kok Station (1997)	ER	585
The Metropolis, Hung Hom (2002)	ER	94
	Sub-total of ER	5,553
Pierhead Garden, Tuen Mun (1988)	LRT	451
Sun Tuen Mun Centre (1993 to 1994)	LRT	505
Sun Yuen Long Centre (1993 to 1994)	LRT	455
Hanford Garden, Tuen Mun (1993 to 1994)	LRT	621
	Sub-total of LRT	2,032
Total		7,585

There was no profit arising from property development along the West Rail.

(c)

<i>Location</i>	<i>Name of Property/ Title of Project</i>	<i>Type of Business</i>	<i>Income (\$ Million)</i>		
			<i>2005</i>	<i>2004</i>	<i>2003</i>
ER	ER	Commercial businesses in railway stations/advertising and marketing businesses	539.7	600.7	690.1
	City Link Plaza	Leasing of shops and offices/property management			
	Shopping arcade at Man Lai Court	Leasing of shops and carparks/property management			
	Plaza Ascot	Leasing of shops, carparks and residential units/property management			
	KCRC Hung Hom Building	Leasing of offices/property management			
	Trackside Villas	Leasing of residential units			
	The Metropolis	Property management			

<i>Location</i>	<i>Name of Property/ Title of Project</i>	<i>Type of Business</i>	<i>Income (\$ Million)</i>		
			<i>2005</i>	<i>2004</i>	<i>2003</i>
LRT	LRT	Commercial businesses/advertising and marketing businesses	69.1	67.2	42.9
	Hanford Plaza	Leasing of shops and carparks/property management			
	Ocean Walk (formerly known as "Pierhead Plaza")	Leasing of shops and carparks/property management			
	Sun Tuen Mun Shopping Centre	Leasing of shops and carparks/property management			
WR	WR	Commercial businesses in railway stations/advertising and marketing businesses	1.3	26.9	37.5
Gross Income			610.1	694.8	770.5
Operating Cost			(220)	(216)	(241)
Net Profit			390.1	478.8	529.5

- (d) Between 1988 when the LRT came into operation and 2005, the capital cost for the LRT (including the initial system, all the extensions, system upgrading and facilities improvement works) totalled about \$5.2 billion.

According to the information provided in (a) and (b) above, the profit generated from sale of properties along the LRT was around \$2 billion, which is not adequate to offset the LRT's capital cost of around \$5.2 billion.

- (e) The capital expenditure of the LRT was about \$5.2 billion. Based on the KCRC's existing cost of capital of 7.1%, the annual cost of capital is about \$369 million. It should be noted that this amount is not an actual payment as the capital expenditure incurred is met by the internal funds of the KCRC.



The KCRC has not secured any borrowing for the LRT in the past three years.

The depreciation charges of the LRT in the past three years are as follows:

<i>Year</i>	<i>Depreciation charges of LRT (\$ million)</i>
2003	95
2004	123
2005	154

The fare revenues of the LRT in the past three years are as follows:

<i>Year</i>	<i>Fare revenue of LRT (\$ Million)</i>
2003	375
2004	404
2005	392

If the depreciation charges were not deducted from the income, the LRT would have basically been breaking even in the past three years.

### **Noise and Black Smoke Emitted from Diesel Locomotives**

13. **MISS CHOY SO-YUK** (in Chinese): *President, although the local passenger service of the Kowloon-Canton Railway (KCR) East Rail (ER) has become fully electrified since 1983, many diesel locomotives are still running on the tracks of the ER every day hauling freight and engineering trains. Some residents living in areas along the ER have complained about the excessive noise and pungent black smoke emitted from such diesel locomotives. In this connection, will the Government inform this Council:*

- (a) *of the total number of the relevant complaints received by the authorities concerned in the past three years, with a breakdown by the contents of complaints;*

- (b) *whether it knows the average daily number of trips made by diesel locomotives on the ER tracks at present;*
- (c) *whether there are provisions on the permitted noise and emission levels of such diesel locomotives; if there are, of the details, and whether the compliance with such provisions is monitored regularly by the Environmental Protection Department (EPD); if it is monitored, of the results; if there are no such provisions, of the reasons for that; and*
- (d) *whether it will strengthen the control on noise and emissions from diesel locomotives; if it will, of the details; if not, the reasons for that?*

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

(in Chinese): President,

- (a) Over the 34 months period between January 2004 to October 2006, the EPD received a total of six noise complaints and 15 air emission complaints against the KCRC diesel locomotives.
- (b) According to the information provided by the Kowloon-Canton Railway Corporation (KCRC), on average diesel trains make 12 round trips using the KCR ER per day. They include eight round trips by inter-city passenger trains and four round trips by freight trains.
- (c) Sections 13 and 37 of the Noise Control Ordinance apply to railway noise. The relevant noise standards are set out in the Technical Memorandum for the Assessment of Noise from Places other than Domestic Premises, Public Places or Construction Sites promulgated under the Noise Control Ordinance. However, according to section 37 of the Ordinance, the control of the KCRC train noise shall apply to the KCRC only so far as is practicable and compatible with the discharge of any function or the exercise of any power or duty conferred or imposed upon them according to law.

Aware of the noise produced by running trains, the EPD has been discussing with the KCRC on a practical noise reduction programme. In the early 1990s, the KCRC drew up a noise reduction programme based on the results and recommendations of a consultancy study. The programme studied and took into account various relevant factors, including the seriousness of the noise problem at different locations along the railway line, the priorities of retrofitting noise reducing installations, as well as the practicability and effectiveness of implementing noise reduction measures. The programme, which includes for example, the full enclosure noise barrier at Tai Wo Station and the semi enclosure noise barrier near Hin Keng, has been substantially completed. The KCRC has also scheduled all freight diesel locomotives before 11 pm and has negotiated with the relevant mainland authorities over the early replacement of the inter-city diesel trains currently running between Hong Kong and the Mainland with electric ones. Regarding the engineering trains used for rail maintenance at night time, the KCRC has plan to replace the old diesel locomotives with new environmentally-friendly locomotives. So far, five locomotives have been replaced.

No emission standards for diesel locomotives are specified in the current Air Pollution Control Ordinance. Since the electrification of the KCR in 1983, the number of diesel locomotives has dropped considerably. Trips made by diesel trains only represent a very small percentage of the total number of trips. The KCRC has already used ultra low sulphur diesel to reduce environmental impact. The EPD has requested the KCRC to pay attention to the repair and maintenance of diesel locomotives in order to reduce emission.

- (d) As mentioned above, the KCRC has already taken practical measures to reduce noise and emission from diesel locomotives. In future, with the full replacement of diesel locomotives by electric ones for the inter-city trains, the situation will be improved effectively. Hence, there is no need to strengthen legislative control at the moment.

**Regulation of Eggs Imported into Hong Kong**

14. **MR LI KWOK-YING** (in Chinese): *President, it has been reported that some eggs from the provinces of Hebei and Hubei in the Mainland have been found to contain the carcinogenic Sudan IV, a dye for industrial uses, and it is suspected that these eggs are also on sale in Hong Kong. In this connection, will the Government inform this Council:*

- (a) *of the immediate and long-term measures to prevent the importation of eggs containing carcinogenic substances into Hong Kong;*
- (b) *whether currently there is legislation to regulate the eggs imported into Hong Kong for human consumption; if so, of the details; if not, whether it will consider introducing legislation for that purpose; and whether there is an inspection system for imported eggs; if so, of the details; if not, whether it will consider establishing such an inspection system to regulate the quality of imported eggs; and*
- (c) *how the mechanism for notification between the inspection and quarantine authorities in Hong Kong and the Mainland has operated during the above incident, and whether they have evaluated the operation of the mechanism to ascertain if it needs improvement; if they have, of the evaluation results?*

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

- (a) The Centre for Food Safety (CFS) has always taken egg samples from the market for laboratory tests. Of the 740 or so egg samples collected for tests on colouring matter as well as other various tests from January 2005 to September 2006, no prohibited colouring matter was found.

Under the regular Food Surveillance Programme, the CFS monitors food at the import, wholesale and retail levels. The main objective of the Programme is to ensure that the food sold in Hong Kong is fit for human consumption and complies with the requirements of the law. Besides, the CFS maintains close liaison with overseas food

safety authorities as well as the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) of the Mainland. In case of a food incident, appropriate follow-up actions will be taken immediately, including making enquires to the relevant authorities about details of the incident and whether the problematic food has been exported to Hong Kong. To safeguard public health and food safety, major local importers and retailers will also be contacted to ascertain that the problematic food is not sold in Hong Kong.

For the long term, we are reviewing the existing legislation with a view to making amendments to strengthen control on the import and distribution of eggs and their products.

We have deliberated and reached a consensus with the AQSIQ to adopt the following regulatory measures to strengthen control on egg at source:

- (i) by end 2006, the AQSIQ will post on its website details of all listed egg farms and their corresponding processing companies, both registered and listed, to enable Hong Kong importers of fresh eggs and egg products to make direct contact for purchases. Export of egg and egg products from unpublished egg farms and processing companies will not be allowed.
  - (ii) starting January 2007, the AQSIQ will issue health certificates for eggs and egg products supplied to Hong Kong.
- (b) At present, eggs imported into Hong Kong must comply with the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation, including the ban on addition of prohibited colouring matter. The Government is actively considering a regulatory mechanism for imported eggs. We will expedite the necessary work and, after consultation with the trade, submit a proposal to the Legislative Council for discussion.
- (c) The notification mechanism between the Administration and the inspection and quarantine authorities of the Mainland has worked

well. In this incident of Sudan dyes found in eggs of ducks and hens, the CFS has maintained close liaison with the relevant mainland authorities and received prompt replies under the mechanism, which facilitated it to take appropriate follow-up actions. Moreover, the notification mechanism between the Health, Welfare and Food Bureau and the Guangdong Food and Drug Administration (GDFDA) also worked smoothly. Upon our enquiries, the GDFDA immediately approached the relevant authorities in the province to look into the situation and reverted to us within one to two days.

### **Early Diagnosis of Breast Cancer and Cervical Cancer**

15. **MR LEUNG YIU-CHUNG** (in Chinese): *President, regarding the early diagnosis of breast cancer and cervical cancer, will the Government inform this Council:*

- (a) *of the respective numbers of women who were diagnosed as having breast cancer and cervical cancer and those who died of these two types of cancers in each of the past three years, together with a breakdown by their age profile (in age groups each covering five years );*
- (b) *of the respective numbers of women who received screening for early diagnosis of the two types of cancers in each of the past three years;*
- (c) *whether it will provide such screening services free of charge for women who are economically deprived but not receiving Comprehensive Social Security Assistance (CSSA); if it will, of the details; if not, the reasons for that; and*
- (d) *whether it plans to launch new publicity and educational programmes to encourage more women to receive the screening concerned?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Chinese): President, according to the latest statistics, both the age-standardized incidence rate and the death rate of breast cancer in Hong Kong are lower than those in European and American countries. As for cervical cancer, Hong Kong's age-standardized incidence rate is higher while the age-standardized death rate is at about the same level in comparison with those of European and American countries. My answers to the questions are set out below.

- (a) The Hong Kong Cancer Registry of the Hospital Authority (HA) is responsible for collecting information in respect of newly diagnosed cancer cases from the public and most of the private hospitals and laboratories in Hong Kong. According to the data of the Registry, the numbers of newly diagnosed breast cancer and cervical cancer cases in Hong Kong in 2003 by age groups are as follows:

<i>Age Group</i>	<i>2003</i>	
	<i>Breast Cancer</i>	<i>Cervical Cancer</i>
0 to 19	0	0
20 to 24	2	0
25 to 29	19	6
30 to 34	67	25
35 to 39	168	30
40 to 44	338	67
45 to 49	385	62
50 to 54	283	45
55 to 59	205	30
60 to 64	111	25
65 to 69	121	38
70 to 74	141	33
75 to 79	108	17
80 to 84	79	17
85 and above	78	13
Age unknown	1	0
Total	2 106	408

Figures for 2004 and 2005 are under verification and therefore not available at the moment.

According to the information of the Department of Health (DH), the numbers of registered deaths in respect of breast cancer and cervical cancer by age groups for 2003 to 2005 are as follows:

<i>Age Group</i>	<i>Breast Cancer</i>			<i>Cervical Cancer</i>		
	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>
0 to 19	0	0	0	0	0	0
20 to 24	0	1	0	0	0	0
25 to 29	1	1	2	0	0	0
30 to 34	9	13	5	1	1	0
35 to 39	22	18	13	7	5	7
40 to 44	39	34	47	7	11	8
45 to 49	58	48	53	10	7	9
50 to 54	59	63	67	7	15	11
55 to 59	30	48	49	7	15	10
60 to 64	40	35	35	5	6	9
65 to 69	36	48	32	11	8	12
70 to 74	32	35	31	15	23	15
75 to 79	43	29	27	13	13	11
80 to 84	23	39	51	10	17	19
85 and above	39	42	48	13	7	15
Total	431	454	460	106	128	126

(b) *Breast cancer*

The Maternal and Child Health Centres of the DH give clinical breast examination to all first-time users of its family planning service and users of its postnatal services. Its Women Health Centres also provide mammography screening to women at high risk. The numbers of users of such services are as follows:

<i>Year</i>	<i>Clinical breast examination</i>		<i>Mammography screening</i>	<i>Total number of persons using the services</i>
	<i>Maternal and Child Health Centres (Family planning and postnatal services)</i>	<i>Women Health Centres</i>		
2003	40 627	16 901	5 797	63 325
2004	32 464	21 902	9 075	63 441
2005	34 356	21 242	8 553	64 151



We do not have the exact number of women who have received breast cancer screening in Hong Kong as statistics on women using the screening services of private doctors and private hospitals are not available. That said, in a Population Health Survey conducted jointly by the DH and the University of Hong Kong in 2003 and 2004, face-to-face interviews were conducted with some 7 000 Hong Kong residents aged 15 or above. Among the respondents, 17.3% of the female aged 35 and above indicated that they had received mammography screening.

### *Cervical cancer*

Overseas experience shows that a well-structured cervical cancer screening programme can effectively reduce the incidence and mortality of cervical cancer. In view of this, the DH has taken forward the cervical cancer screening programme in partnership with other screening service providers since 2004 to encourage women to receive cervical smear tests. In the past three years, the numbers of women who have received cervical screening in the Maternal and Child Health Centres or the Women Health Centres of the DH are as follows:

<i>Year</i>	<i>Maternal and Child Health Centres</i>	<i>Women Health Centres</i>	<i>Total number of women who have received cervical screening</i>
2003	80 507	15 379	95 886
2004	74 387	19 634	94 021
2005	90 330	18 966	109 296

In April 2006, the DH conducted a telephone survey on behavioural risk factors, polling a total of about 1 100 women aged between 18 and 64. Among the surveyed women, 63.5% indicated that they had received cervical screening while 55.7% received their last screening in the past three years.

- (c) In Hong Kong, cervical smear test service is available in both public and private medical institutions and the service fee is generally at a level affordable to the public. As for people who are economically

deprived, a medical fee waiver mechanism has been put in place to offer them assistance. For example, CSSA recipients may receive free cervical smear test service provided by the Maternal and Child Health Centres and the Women Health Centres of the DH. CSSA recipients at high risk of developing breast cancer may also be given free mammography screening service. For non-CSSA recipients who are economically deprived, they may apply for a full or partial fee waiver subject to a simple assessment of their family income and assets by medical social workers or other authorized persons designated by the DH.

- (d) The DH encourages women to receive cervical screening and enhances their knowledge and awareness of breast cancer through various channels such as its website, 24-hour information hotline, pamphlets, CD-ROMs, seminars and workshops. In addition, the DH plans to write to all households in Hong Kong to invite women to receive cervical smear tests. As part of the promotion and education efforts, it will also produce new television and radio Announcements of Public Interest as well as educational television programme series, and distribute publicity leaflets in different languages to ethnic minorities through voluntary bodies.

### **Establishment of Commission on Children**

16. **MR ALBERT CHAN** (in Chinese): *President, in January 2005, the Hong Kong Committee on Children's Rights, a community-based organization, submitted jointly with 19 non-government organizations a report to the United Nations Committee on the Rights of the Child regarding the implementation of the Convention on the Rights of the Child in the Hong Kong Special Administrative Region. The report considers that there is an urgent need for Hong Kong to formulate a child policy and set up an independent Commission on Children responsible for implementing the policy. In this connection, will the Government inform this Council:*

- (a) *why the Government has not yet set up an independent Commission on Children, and whether it will accept the above recommendations of the report; if it will, of the details; if not, the reasons for that; and*

- (b) *as the authorities are considering the establishment of a Family Commission, whether it plans to include children affairs into the purview of that Commission, instead of setting up an independent Commission on Children; if so, of the reasons for that?*

**SECRETARY FOR THE CIVIL SERVICE** (in the absence of Secretary for Home Affairs) (in Chinese): President, my reply to the Honourable Albert CHAN's question is as follows:

- (a) The Government attaches great importance to the child policy and has enacted specific laws to protect children. In formulating these policies and legislation, the bureaux concerned have taken into account this important factor of protecting children's rights. They will also keep in view the laws and policies under their purview and propose changes as and where necessary in consultation with the relevant advisory committees and/or stakeholders. As matters relating to children involve different policy areas (for example, education, medical and health services, welfare and recreation), they need to be dealt with by a number of related bureaux but the Government will continue to ensure that there is proper co-ordination amongst relevant bureaux and departments. Moreover, the Legislative Council, the Office of the Ombudsman, non-government organizations and the media will also actively monitor the impact of the relevant laws and the implementation of policies.

We consider the existing arrangements effective, enabling us to make flexible and quick responses to address the concerns of the public. We do not have any plans to change this mechanism at the moment, but will continue to communicate with non-government organizations concerned with children's rights and listen to their views.

- (b) In his policy address this year, the Chief Executive indicated that the Government would study whether we should set up an integrated, holistic and high-level Family Commission responsible for policies and initiatives relating to family support. The study aims at

considering the most effective means to implement our social policy and strengthen support to the family. The mechanisms for handling issues concerning different gender and age groups (including youth and children) will be examined in the process. The study has already commenced and is expected to be finished by mid-2007. No conclusion has yet been drawn.

### **Proposal to Demolish a Section of Eastern Corridor**

17. **MR CHEUNG HOK-MING** (in Chinese): *President, it has been reported that a member of the Eastern District Council suggested that the Government should explore the feasibility of demolishing the section of the Island Eastern Corridor (IEC) between Watson Road and Tin Chiu Street in North Point and replacing it with a tunnel, so as to ameliorate the problems of noise nuisance and obstruction of harbour view caused by this section of the IEC, which is very close to residential developments. In this connection, will the Government inform this Council:*

- (a) *whether it will consider conducting a feasibility study on the above suggestion; if it will, of the timetable and scope of the study; if not, the reasons for that;*
- (b) *whether it has assessed the impact of demolishing the above IEC section on the already very heavy traffic there; and whether it has considered adopting measures to divert the traffic when the relevant works are in progress; and*
- (c) *whether it has assessed the costs of and time required for the relevant projects to demolish the above IEC section and construct in its place a tunnel connecting Central-Wan Chai Bypass and the section of the IEC along Taikoo Shing?*

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

(in Chinese): *President, the IEC forms an integral part of the strategic trunk road along the northern shore of Hong Kong Island with the daily traffic flow exceeding 150 000 vehicles. It plays a highly effective role in east-west traffic circulation on Hong Kong Island. The Administration does not have any plan to*

demolish the section of the IEC between Watson Road and Tin Chiu Street in North Point and reconstruct it in the form of a tunnel.

Compared to viaducts, the design of connecting roads of tunnels is generally more complicated. If the section of the IEC between Watson Road and Tin Chiu Street is reconstructed as a tunnel, a new connection point will be required to link it up with the existing road network. With the significant differences in height amongst a tunnel, an at-grade road and a viaduct, a multilevel crisscrossing interchange will be required to connect the IEC with local roads. Such a massive interchange will cause problems including noise nuisance, obstruction of views, and so on. Moreover, the existing road safety regulations prohibit changing of lanes inside tunnels. Reconstructing the above section of the IEC as a tunnel will affect the function of this strategic trunk road in linking up different areas along the northern shore of Hong Kong Island.

In fact, when the planning for Central-Wan Chai Bypass was under discussion, the Consultant had examined in detail the connection point to the IEC at the eastern end of the Bypass. The Court of Final Appeal has laid down the overriding public need test under the Protection of Harbour Ordinance, which requires that the extent of the proposed reclamation should not go beyond the minimum of that which is required by the overriding need. In order to keep reclamation to the minimum and eliminate any possible impact on the existing traffic along the IEC, the Consultant recommended using a strip of existing land between Watson Road and Oil Street at the waterfront for constructing the eastern tunnel portal of the Bypass and its connection to the IEC. The Subcommittee on Wan Chai Development Phase II Review under the Harbour-front Enhancement Committee discussed in detail the above issues and accepted the Consultant's conclusion at its meetings on 9 March and 20 April 2006. The Consultant also pointed out that the strip of land at the waterfront could not be utilized if the tunnel exit was shifted eastward, including the suggestion to have it shifted to a location east to the ex-North Point Estate site. The extent of reclamation would then increase substantially and fail to satisfy the overriding public need test.

The IEC was fully commissioned in 1989, eight years after the construction work started in 1981 at a capital cost of \$1.7 billion (in MOD prices) and annual recurrent expenditure of about \$20 million. Compared to viaducts, in general, the construction period for road tunnels is longer and both the capital and recurrent costs are higher. In view of the design service life for

the structure of the IEC is 120 years, reconstructing a section of the IEC as a tunnel will create a large quantity of unnecessary construction and demolition materials. It is a waste of social resources and goes against the principle of environmental protection. Moreover, it will be extremely difficult to divert the heavy traffic during the construction period and road users will suffer serious inconvenience.

In view of the above considerations, the Administration does not have any plan at this stage to demolish the section of the IEC between Watson Road and Tin Chiu Street in North Point and reconstruct it in the form of a tunnel.

### **Boards and Councils Responsible for Registration of Health Care Professionals**

18. **DR JOSEPH LEE** (in Chinese): *President, regarding the boards and councils responsible for the registration of health care professionals, will the Government inform this Council:*

- (a) *given that 14 out of the 15 current members of the Nursing Council of Hong Kong (NCHK) were appointed by the Chief Executive, whether the Government has any plans to allow members of the profession to elect their own representatives on the NCHK; if it has, of the details; if not, the reasons for that; and*
- (b) *whether it has any plans to review the composition of the boards and councils responsible for the registration of other health care professionals, to allow members of the professions to take up the chairmanships of the respective boards and councils, or increase the ratio of members from the professions on these boards and councils so as to achieve professional autonomy; if it has, of the details, if not, the reasons for that?*

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

- (a) Among the 15 members of the NCHK, three are lay members while the remaining 12 are members of the profession. Save for one

ex-officio member in the NCHK, the other 14 members are appointed by the Secretary for Health, Welfare and Food under the delegated authority of the Chief Executive.

Currently, members of the NCHK include nurses of various backgrounds, such as those from the general stream, psychiatric stream, public service, public hospitals as well as the academia. This arrangement ensures that views from different sectors in the profession could be brought into the NCHK. The Administration strives to observe the principle of balanced participation when appointing members of the NCHK. As for the question of whether some of the members of the NCHK would be returned by election among the members of the profession, we need to seek the views of the profession as implementation of election will involve amendment to the relevant legislation and require additional resources and administrative support, which may have a bearing on the relevant professional fees.

- (b) In the regulation of various health care professions, the Administration subscribes to the principle of professional autonomy. All the boards and councils responsible for the regulation of health care professionals are independent statutory bodies and the Administration respects the decisions that are made within the autonomy of the professions.

Under the principle of professional autonomy along with a fair degree of lay participation, a board or council for the regulation of a health care profession should be composed of members of the respective profession and other related sectors together with lay members. The chairmanship is normally assumed by a member of the profession or from other related health care professions. In some cases, the chair is elected among the members or filled by a lay member.

The historical development, background and specific needs of different health care professions all contribute to the specific regulatory regimes and composition of their boards or councils. That said, the relevant arrangements are geared towards ensuring that stakeholders of different backgrounds in the profession may participate in the operation of the boards or councils and that lay

views are fully reflected. An example can be found in the Supplementary Medical Professions Council (SMPC), which is responsible for regulating five health care professions. Established in 1981 when the five professions were still in the early stage of development, the SMPC took reference from overseas experience and set up a multidisciplinary platform for these professions to draw on one another's experience in the development of their respective regulatory frameworks. Besides, the relevant legislation then also provided for the participation of members from other sectors such as the medical sector, academic sector as well as the public service in the work of the SMPC so that the SMPC could draw reference from other sectors' experience in their regulatory work. It is heartening to see that the professions have gradually matured over the last two decades. In future, we will actively consider appointing only members from the professions as chairpersons of the respective regulatory boards or councils. We will also listen to the views of various health care professions on their respective regulatory frameworks.

### **Helping Disadvantaged to Overcome Digital Divide**

19. **MR SIN CHUNG-KAI** (in Chinese): *President, in regard to helping the disadvantaged groups to overcome the digital divide so as to integrate into an information society, will the Government inform this Council:*

- (a) *of the operation of the Digital Solidarity Fund (DSF) since its establishment at the end of 2004, including the respective numbers of funding applications received and approved each year;*
- (b) *whether the Government will further inject funds into the DSF; if it will, of the details; if not, the reasons for that; and*
- (c) *as it is very common for modern city dwellers to make use of the Internet for searching information and mobile phones for contacting one another, whether the authorities will specify the basic monthly charges of Internet access services and mobile phone services as items of basic living expenses under the Comprehensive Social Security Assistance (CSSA) Scheme; if they will, of the details; if not, the reasons for that?*



**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Chinese): President,

- (a) In order to help disadvantaged groups to catch up with the development in the information technology (IT) community, the DSF was established by the Hong Kong Council of Social Service in 2004 with the support from the Government and the commercial sector. The DSF is to provide financial support for digital inclusion programmes and engage different stakeholders in designing and implementing digital inclusion strategies. In 2005, the Government and the commercial sector contributed \$1 million and \$750,000 to the DSF respectively. In 2006, the Government contributed another \$1 million to the DSF.

The DSF is open to applications each year. A committee comprising representatives from the Government, the commercial sector and non-government bodies is responsible for examining the applications. Each application will be examined in terms of the number of beneficiaries, innovativeness and target effectiveness, as well as the track record of the applicant. Successful applications will receive a maximum of \$200,000 from the Fund.

The DSF has conducted two rounds of open invitation for financial assistance. In the first round conducted in 2005, six projects were selected out of 58 applications and the projects received \$940,653 in total from the DSF. In the second round conducted in early 2006, seven projects were selected out of 59 applications and the projects received \$1,134,733 in total from the DSF.

- (b) The Government will first consider how effective the various projects financed by the DSF are in achieving their objectives before making any decision to make further contributions to the DSF.
- (c) The non-contributory CSSA Scheme is a safety net of last resort, wholly funded by the Government. It is implemented to provide income supplement to help those who are unable to support themselves financially to meet their basic needs. The current

CSSA standard rates cover the expenses for food, fuel, transport, telephone and other basic necessities. Moreover, the CSSA Scheme also provides higher standard rates, special grants and supplements for the basic and special needs of the elderly, children, the disabled and those in ill health.

Assistance for basic needs under the CSSA Scheme is only part of the Government's overall strategy to help disadvantaged members in the community. The Government provides many other subsidized services, such as medical services, housing, education and other welfare services, to help people in need. In regard to the developmental needs for children, the Education and Manpower Bureau (the Bureau) allocated \$49.3 million to collaborate with the Hong Kong Council of Social Service and launched a Computer Recycling Scheme in the school year of 2005-2006 and 2006-2007, aiming to enable students in financial difficulties to have equal learning opportunities and can make use of IT at home to facilitate their studies. The Scheme provides recycled computers with one-year free broadband Internet access and maintenance service to students of Primary One to Secondary Seven who are in financial difficulties (including CSSA recipients or students nominated by school teachers or social workers). As at the end of September 2006, the Bureau has received about 11 000 applications.

Besides, the Social Welfare Department has a mechanism in place to revise the standard rates, special grants and supplement under the CSSA Scheme according to the movement of the price changes, including the flat-rate grant for selected items of school-related expenses. According to the findings of the 2004-2005 Household Expenditure Survey on CSSA Households, the average monthly CSSA payment to CSSA households is higher than their average monthly expenditure. We believe that under the current regular adjustment mechanism, the CSSA rates and allowances are sufficient to meet the basic needs of CSSA families. But we are, as always, ready to listen to and consider the proposals of concern groups and Members and to make any necessary improvement.

**Elderly Waiting for Subsidized Places in Residential Care Homes for Elderly**

20. **MR LAU KONG-WAH** (in Chinese): *President, regarding the elderly people waiting for subsidized places in residential care homes for the elderly (RCHEs), will the Government inform this Council:*

- (a) *of the respective numbers of elderly persons on the waiting list for such places and those with placements arranged in each of the past three years, the average waiting time for those with placements arranged, as well as the measures to shorten the waiting time;*
- (b) *whether the authorities will discuss with the mainland authorities ways to enhance the standards of the facilities and services of those RCHEs on the Mainland for elderly persons from Hong Kong, in order to encourage them to live there; and*
- (c) *whether the authorities will consider providing support for the elderly persons from Hong Kong who live in RCHEs on the Mainland?*

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

- (a) The number of elders on the Central Waiting List (CWL) applying for subsidized residential care places (including subsidized care and attention (C&A) places and nursing places), and those admitted to the subsidized places in each of the past three years are set out below:

	<i>2004 (as at December)</i>	<i>2005 (as at December)</i>	<i>2006 (as at October)</i>
Number of elders on the CWL applying for subsidized residential care places	20 490	21 304	22 231
Number of elders admitted to subsidized residential care places	3 697	3 178	3 141

According to the statistics as at 31 October 2006, the average waiting time for different types of subsidized residential care places is as follows:

<i>Types of subsidized residential care places</i>	<i>Average waiting time (in months)</i>
C&A places:	
Places in subvented and contract homes	31
Places in private homes participating in the Enhanced Bought Place Scheme	9
Overall average waiting time:	22
Nursing places:	38

Elders will enjoy better physical and mental health if they live in the community and maintain a normal social life. We encourage and assist elders who require long-term care (LTC) and have access to family support to age at home, and provide those in need with subsidized home care, day care or respite care services. We will continue to enhance the home care services to facilitate more elders to age in the community. Also, we provide subsidized residential care places for elders in need. In the long run, we will explore possible options on LTC financing.

The number of subsidized residential care places in Hong Kong has increased from about 16 000 in 1997 to about 26 000 at present, representing an increase of 60%. In view of the high demand in the community, we will continue to increase the number of subsidized residential care places while encouraging elders to age in the community.

In 2007-2008, we will award the contracts for three new purpose-built RCHEs to provide 200 additional subsidized places. Also, we will increase the number of subsidized places in private RCHEs by 400 to 500 through the "Enhanced Bought Place Scheme". In addition, we will continue to convert in phases subsidized residential care places which do not have LTC element, and C&A places which are not providing continuum of care, into LTC places to provide continuum of care.

- (b) At present, various Hong Kong non-governmental organizations (NGOs) are providing residential care services featuring Hong Kong's service and training modes in Guangdong Province, with a view to attracting Hong Kong and mainland elders looking for residential care in Guangdong to use the services. The quality of the facilities and services of those RCHEs is up to standard. Also, a few mainland operators of elderly services are co-operating with Hong Kong NGOs on staff training. Hong Kong organizations have to comply with the laws and regulations of the Mainland when operating elderly services there.

In view of the challenges of an ageing population, the Mainland is also placing much emphasis on the quality and professionalism of its elderly services. In enhancing the quality of its elderly services, the Mainland values the co-operation and exchanges with the Government of the Hong Kong Special Administrative Region and Hong Kong's elderly service sector. The Health, Welfare and Food Bureau and the Social Welfare Department, together with the local elderly service sector, have from time to time conducted visits and exchanges with the relevant departments in the Guangdong Provincial Government and municipal governments for experience sharing and enhancing mutual understanding.

Elders residing in the Mainland may age at home if they have family members, relatives and friends there to look after them. They do not necessarily have to stay in RCHEs.

- (c) Retiring in the Mainland is the personal choice of elders. Elders may take into account factors such as their family and social ties and their adaptability to the life style and the welfare and health care systems in the Mainland.

At present, the Comprehensive Social Security Assistance (CSSA) Scheme takes special care of the needs of the elderly CSSA recipients who wish to take up permanent residence in Guangdong or Fujian. The Portable Comprehensive Social Security Assistance (PCSSA) Scheme allows elders to continue to receive CSSA while residing in Guangdong and Fujian. Recipients of PCSSA may use

the CSSA payment to pay for the fees and charges of RCHEs in the Mainland.

Also, the Social Security Assistance Scheme takes special care of the needs of elders who wish to spend more time with relatives in places outside Hong Kong (including the Mainland). The permissible limit of absence has been relaxed from 180 days to 240 days in a year with effect from 1 October 2005, subject to the condition that the recipient has to reside in Hong Kong for not less than 90 days in that year.

## **MOTIONS**

**PRESIDENT** (in Cantonese): Motions. Four proposed government resolutions under the Interpretation and General Clauses Ordinance.

First motion: Amending the Merchant Shipping (Local Vessels) (General) Regulation and the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation.

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

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I move the motion as set out under my name to amend the Merchant Shipping (Local Vessels) (General) Regulation and the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation. The proposed amendments have been set out in the Agenda distributed to Members. They have already taken into account the opinion of the Legal Service Division of the Legislative Council and obtained its agreement.

In respect of the Merchant Shipping (Local Vessels) (General) Regulation, we propose to amend section 91 to specify more clearly that except with the permission of the Director of Marine or when the requirements under section 91(2) are met, that is, the vessel delivering bunker is a oil carrier and that the oil carrier and the vessel receiving bunker are both berthed within a

designated area, local vessels are prohibited from receiving or delivering bunker to or from another vessel.

With regard to the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation, the resolution proposes to amend section 27 and section 86 to specify more clearly the validity of certificates of inspection and the time limit for lodging an appeal to the Administrative Appeal Board under different scenarios. In addition, the resolution will also introduce textual amendments to section 86.

The above amendments reflect the consensus reached between the Government and the Legal Service Division of the Legislative Council. I invite Members to support the above amendments.

Thank you, Madam President.

**The Secretary for Economic Development and Labour moved the following motion:**

"RESOLVED that -

(a) the Merchant Shipping (Local Vessels) (General) Regulation, published in the Gazette as Legal Notice No. 193 of 2006 and laid on the table of the Legislative Council on 11 October 2006, be amended -

(i) by repealing section 91 and substituting -

**"91. Control over bunkering activities**

(1) Except with the permission of the Director, no bunker shall be delivered -

(a) from a local vessel to any other vessel; or

(b) to a local vessel from any other vessel.

- (2) Subsection (1) does not apply if –
- (a) the vessel from which bunker is delivered is a vessel constructed or adapted for the carriage of petroleum product in bulk; and
  - (b) either of the following conditions is satisfied –
    - (i) the vessel from which bunker is delivered is anchored or moored to a mooring buoy in an area specified in Schedule 4;
    - (ii) the vessel to which bunker is delivered is berthed alongside a pier or anchored or moored within a special anchorage or the area of the waters of Hong Kong declared under section 56 of the Shipping and Port Control Ordinance (Cap. 313) as Victoria port.
- (3) If subsection (1) is contravened –
- (a) the owner of the vessel from which bunker is delivered, his agent and the coxswain or person in charge or command of the vessel; and
  - (b) the owner of the vessel to which bunker is delivered, his agent and the coxswain or person in charge or command of the vessel,

commit an offence and each of them is liable on conviction to a fine at level 5 and to imprisonment for 6 months.";



- 
- (ii) in Schedule 4, in section 2, by repealing "91(4)" and substituting "91";
- (b) the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation, published in the Gazette as Legal Notice No. 194 of 2006 and laid on the table of the Legislative Council on 11 October 2006, be amended –
- (i) by repealing section 27(1)(b) and substituting –
- "(b) if, on the date of completion of the survey, the period of validity of the existing certificate of inspection issued in respect of the local vessel concerned has not expired, the expiry date of such existing certificate,";
- (ii) in section 86(1)(a), in the English text, by repealing "withholding the approval of any plan temporarily" and substituting "temporarily withholding the approval of any plan";
- (iii) in section 86(1)(d), in the English text, by repealing "withholding the issue of a certificate of inspection temporarily" and substituting "temporarily withholding the issue of a certificate of inspection";
- (iv) in section 86(1)(g), in the English text, by repealing "withholding the issue of a certificate of survey temporarily" and substituting "temporarily withholding the issue of a certificate of survey";
- (v) in section 86(1)(h), in the English text, by repealing "survey" and substituting "survey)";
- (vi) in section 86(1)(k), in the English text, by repealing "withholding the issue of a survey record of safety equipment, HKLL certificate, FA certificate or declaration of fitness temporarily" and substituting "temporarily withholding the issue of a survey record

of safety equipment, HKLL certificate, FA certificate or declaration of fitness";

(vii) in section 86(2), by repealing everything after "shall" and substituting –

"be made within 14 days after the following date –

- (a) in the case of a decision referred to in subsection (1)(a), (c), (d), (f), (g), (h), (j), (k) or (l), the date on which the person aggrieved has received notice of the decision; or
- (b) in the case of a decision referred to in subsection (1)(b), (e) or (i), the date on which the person aggrieved has received the certificate, survey record or declaration concerned."."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Economic Development and Labour be passed.

**MR WONG YUNG-KAN** (in Cantonese): President, we have had some discussion on these Regulations in the House Committee and listened to the clarification made by the Permanent Secretary of the authorities. However, I still wish to seek clarification on certain issues. With regard to the situation of the vessels as described by the Government now, it makes me worry about one issue, that is, if a fishing vessel runs out of fuel within Hong Kong waters, so it must be refuelled and it must be provided with fuel by other vessels before it can go on its voyage. This is exactly like the case of motor cars. Under such a situation, is it an offence in law to do so? If this does constitute an offence in law, are there any other ways that can help sailing vessels which have suffered from a sudden leakage of fuel or have run out of fuel? Of course, I am not referring to the smuggling of oil. Of course, smuggling or storing large quantities of oil should not be permitted.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Secretary for Economic Development and Labour, please reply.

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): I think Mr WONG Yung-kan needs not to be too worried because in respect of whether a vessel running out of fuel and requiring a bunkering in the course of navigation will breach the law by doing so, it is specified in regulation 91 of the Regulation that the Director of Marine has the authority to give permission to vessels to receive or deliver bunker. In other words, in the event of such special circumstances, the Director of Marine will decide whether permission should be given to the vessel concerned to receive or deliver bunker in the light of the special circumstance in individual cases.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Second motion: Increase of fines in the Waterworks Ordinance and the Waterworks Regulations.

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

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): President, I move that the motion under the Interpretation and General Clauses Ordinance, as printed on the Agenda, be passed to revise the fines in the Waterworks Ordinance and Waterworks Regulations.

The proposed resolution before Members seeks to:

- (1) adjust the fines in the Waterworks Ordinance and Waterworks Regulations in line with past cumulative inflation rate; and
- (2) convert the fines, after adjustment based on inflation, to the appropriate levels according to the standard scale of fines under the Criminal Procedure Ordinance.

The fines provisions in the Waterworks Ordinance and Waterworks Regulations have not been revised for a long time, with some dating back to 1975 while the most up-to-date provision was made in 1983. Owing to the eroded value of money caused by inflation, the punitive effect of the fines provisions has significantly diminished over the years. When reporting on convictions for offences under the Waterworks Ordinance and Waterworks Regulations, the media have often criticized the lack of deterrent effect of the existing fines provisions. These media reports signify the growing expectation of the community at large for the Administration to deal stringently with unlawful acts, particular in relation to unmetered water consumption.

Against this background, we have reviewed the fines provisions in the Waterworks Ordinance and Waterworks Regulations, and concluded that early improvement can be achieved by adjusting the fines in line with past cumulative inflation rate. To maintain the deterrent effect, we propose that the fines in sections 30(4), 32, 35(1), 35(2) and 37(2) in the Waterworks Ordinance and regulations 44 and 51(2) in the Waterworks Regulations be brought up-to-date in terms of inflation as reflected in the movements of the Consumer Price Index (A). On this basis, the percentages of the proposed increase in the fines will range from about 150% to 400%. The revised level of fines will suitably enhance the deterrent effect of the relevant legislation with a view to protecting the precious water resources.

The opportunity is taken to convert the fines, after adjustment based on inflation, to the appropriate levels according to the standard scale of fines under Schedule 8 of the Criminal Procedure Ordinance. This will facilitate future revision by a single legislative measure when the maximum fines become outdated because of the changing value of money.

Having reviewed the imprisonment terms specified in sections 30(4) and 32 of the Waterworks Ordinance, we consider the existing provisions appropriate and do not propose any change.

The Subcommittee on Subsidiary Legislation under the House Committee of the Legislative Council has recently completed its study of the proposed resolution. Following the recommendation of the Subcommittee, we undertake to continue regular review of the fines provisions in the Waterworks Ordinance and Waterworks Regulations in future. We will also accord priority to reviewing the provision in relation to villagers' taking of stream water within gathering grounds for irrigation purposes. We are most grateful for the support rendered by the Subcommittee for the proposed resolution.

President, I beg to move.

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

"RESOLVED that -

- (a) the Waterworks Ordinance (Cap. 102) be amended -
  - (i) in section 30(4) by repealing "of \$20,000" and substituting "at level 5";
  - (ii) in section 32 by repealing "of \$5,000" and substituting "at level 4";
  - (iii) in section 35(1) by repealing "of \$5,000" and substituting "at level 4";
  - (iv) in section 35(2) by repealing "\$200 for every day" and substituting "\$1,000 for every day";

- (v) in section 37(2) by repealing "of \$4,000" and substituting "at level 3";
- (b) the Waterworks Regulations (Cap. 102 sub. leg. A) be amended -
  - (i) in regulation 44 by repealing "of \$4,000" and substituting "at level 3";
  - (ii) in regulation 51(2) by repealing "of \$4,000" and substituting "at level 3"."

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

**MR FRED LI** (in Cantonese): Madam President, the House Committee agreed on 23 June 2006 that a subcommittee should be formed to scrutinize the resolution on increase of fines in Waterworks Ordinance and Waterworks Regulations. On behalf of the Subcommittee, I shall brief the Council on the results of deliberations.

The Subcommittee has held two meetings. The Subcommittee noted that the fines provisions in the Ordinance and the Regulations had not been revised since they were made in 1975 and 1983, necessitating the currently proposed drastic increases based on the relevant cumulative inflation rate. The Administration explained that a review of the fines had been conducted in 1994 and a proposal for revision of the fines was prepared subsequently. However, since there were many legislative proposals that had to be processed before 1 July 1997, the Administration did not pursue the proposal for fines revision further. Since then, the Consumer Price Index has shown a downward trend, and the trend has been reversed only in the recent few years.

The Subcommittee considered the arrangement of not reviewing the fines for a very long time and then making a one-off drastic increase was most unsatisfactory, in that the intended deterrent effect of the fines provisions had not been properly maintained, and the public might be unduly affected by the

currently proposed drastic increases. Therefore, the Subcommittee urged the Administration to ensure that the fines provisions in the Ordinance and the Regulations would be reviewed at appropriate intervals in the future. The Secretary for the Environment, Transport and Works made an undertaking to this effect when she moved the proposed resolution just now, and I welcome this on behalf of the Subcommittee.

On the other hand, since there was no fresh water supply for some villages in the old time, villagers had constructed facilities for collection of stream water for agricultural and domestic uses. To date, many villagers still maintain the facilities for irrigation purposes or as a backup measure for water supply. The Subcommittee was concerned whether these acts of villagers would constitute an offence under section 29 of the Ordinance, and whether the villagers would be subject to prosecution.

The Administration indicated that no prosecution had ever been instituted in the past against the collection and diversion of stream water for irrigation and domestic uses. That was because many villagers were already inhabitants using stream water when the relevant gathering grounds were mapped, and the consumption of stream water by villagers for irrigation and domestic uses all along had not posed a significant problem to the water supply system. As such, the Water Authority had been adopting a lenient approach in handling those cases.

However, the Subcommittee noted that there was no provision in the Ordinance empowering the Water Authority to exercise discretion in the enforcement of the relevant provisions, nor was there any provision granting exemption for those villagers. The Subcommittee therefore urged the Administration to review the relevant provisions expeditiously to clearly reflect the Government's policy intent. The Secretary has undertaken just now to review the relevant provisions as a matter of priority.

Regulation 24 of the Regulations prohibits the installation or use of water filters without the permission in writing of the Water Authority. The Subcommittee expressed concern on this regulation, as the installation and use of water filters was very common among the households in Hong Kong. The Administration explained that polluted water filters installed in individual households might further pollute the main water supply system of a building, thus jeopardizing public health. The regulation was intended to cater for that possibility.

The Administration further stated that devices were commonly installed in multi-storey buildings in Hong Kong to avoid reversion of water flow from the water pipes of individual households to the main water supply system. The Administration had not detected any case involving the use of water filters with the danger of polluting or having polluted the main water supply system of a building. Therefore, no prosecution has been taken under regulation 24 of the Regulations. Moreover, under regulation 25 of the Regulations, the Water Authority has the power to relax the provisions of the Regulations regarding the size, nature, materials or disposition of any pipe or fitting. The Administration has also been advising the public through media publicity to engage licensed plumbers for the installation of water filters, and guidelines have been prepared for plumbers' compliance.

The Subcommittee had sought clarification on the circumstances under which the use of fresh water for flushing would be regarded as a violation of regulation 12 of the Regulations. According to the Administration, affixing a waterworks pipe to the flushing cistern to supply fresh water for flushing without permission would be an offence, but pouring fresh water into the flushing cistern for flushing during suspension of the supply of salt water would not be prosecuted. In the latter case, a defence is available under regulation 12(2) to the occupier or owner of the relevant premises for the use of fresh water for flushing.

In response to the Subcommittee's request, the Administration had provided figures on prosecution and conviction for the past one year, five years and 10 years in respect of each of the existing offence provisions in the Ordinance and the Regulations.

The Subcommittee agreed that it was necessary to adjust expeditiously the fines under the penalty provisions in the Ordinance and the Regulations. In view of the fact that the Administration has agreed to review the fines provisions at appropriate intervals in the future, and that it would review section 29 of the Ordinance in relation to the taking of stream water within gathering grounds as a matter of priority, the Subcommittee supports the proposed resolution as moved by the Administration.

Madam President, I so submit.



**MR CHEUNG HOK-MING** (in Cantonese): President, when Mr Fred LI delivered a speech on behalf of the Subcommittee just now, he has already aired my concern. Here, I would like to reiterate to the Secretary that this amendment of the Waterworks Ordinance (the Ordinance) and Waterworks Regulations has not covered section 29 of the Ordinance. Insofar as the New Territories is concerned, before the gathering grounds were mapped, many villagers in remote rural areas had already laid water pipes on their own to collect stream water for drinking. Nowadays, after the gathering grounds have been mapped, such a practice is considered illegal. I hereby hope that the Secretary can attach significance to this aspect in future when a review is conducted. Just now, I also heard the Secretary say that she hoped that a review of section 29 could be conducted expeditiously. I hope that the Secretary can adequately understand the historical background in this regard and that the villagers are now using stream water for such purposes as irrigation for growing vegetables, laundry and washing cars. I hope the Secretary can understand this. 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, Secretary for the Environment, Transport and Works, do you wish to reply?

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): No, it would not be necessary.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for the Environment, Transport and Works be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Third motion: Amending the Banking (Capital) Rules.

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

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY:** Madam President, I move that the resolution contained in the Agenda be passed.

The purpose of the resolution is to amend the Banking (Capital) Rules (the Rules). The Rules, together with the Banking (Disclosure) Rules, seek to implement a revised capital adequacy and disclosure framework for authorized institutions in line with the international standards known as "Basel II". The Rules were laid on the table of the Legislative Council at the meeting of 1 November 2006. The proposed amendments in the resolution, which are technical in nature, include the introduction or revision of the definitions of certain expressions to improve the clarity of the provisions in the Rules. I will be moving another resolution of a similar nature shortly to amend the Banking (Disclosure) Rules.

The passing of the resolutions today will allow Hong Kong to introduce the revised capital adequacy and disclosure framework from 1 January 2007, in line with the timetable set by the Basel Committee on Banking Supervision. Members may wish to note that Hong Kong is amongst the first batch of economies that implement the Basel II standards. I commend all concerned parties for their efforts in putting in place the two sets of comprehensive rules. Particularly, I would like to take this opportunity to thank the Legal Service Division of the Legislative Council Secretariat for completing the scrutiny of the

Rules within the specified vetting period. Its valuable comments are useful for the Administration to refine the Rules.

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

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

"RESOLVED that the Banking (Capital) Rules, published in the Gazette as Legal Notice No. 228 of 2006 and laid on the table of the Legislative Council on 1 November 2006, be amended -

(a) in section 2(1), by repealing the definition of "collective provisions" and substituting -

"collective provisions" (集體準備金), in relation to the exposures of an authorized institution, means an allowance for impairment loss in respect of a group of exposures considered by the institution as having similar credit risk characteristics which are indicative of the debtors' ability to pay all amounts due according to the contractual terms of the group of exposures, where the impairment loss has been assessed by the institution on a collective basis in respect of the group of exposures by reference to historical loss experience in respect of exposures with similar credit risk characteristics, relevant observable data reflecting current market conditions and other relevant factors;"

(b) in section 2(1), by repealing the definition of "specific provisions" and substituting -

"specific provisions" (特定準備金), in relation to an exposure of an authorized institution, means an allowance for impairment loss in respect of that exposure where -

(a) the institution reasonably considers that an event has occurred causing the impairment loss;



"(7) 金融管理專員可藉向認可機構發出書面通知，指示該機構 —

- (a) 在計算該通知指明的住宅按揭貸款的貸款與價值比率時；或
- (b) 在計算屬該通知指明的住宅按揭貸款種類的住宅按揭貸款的貸款與價值比率時，

須包括有關貸款款額的某部分，而該部分若非有本款規定是會依據第(6)款被豁除的。";

- (g) in section 66(1)(a), by adding "which do not fall within section 62" after "institution";
- (h) in the Chinese text, by repealing section 115(4) and substituting -

"(4) 金融管理專員可藉向認可機構發出書面通知，指示該機構 —

- (a) 在計算該通知指明的住宅按揭貸款的貸款與價值比率時；或
- (b) 在計算屬該通知指明的住宅按揭貸款種類的住宅按揭貸款的貸款與價值比率時，

須包括有關貸款款額的某部分，而該部分若非有本款規定是會依據第(3)款被豁除的。";

- (i) in section 153(b), by repealing "a business cycle" and substituting "an economic cycle";
- (j) in section 157(2), by adding "in terms of a million" after "S is expressed";
- (k) in section 173(b), by repealing "a business cycle" and substituting "an economic cycle";

- (l) in section 191(b), by repealing "a business cycle" and substituting "an economic cycle";
- (m) in section 202, by repealing ", with all necessary modifications,";
- (n) in section 234(4), by repealing everything after "effective principal amount of the exposure" and substituting "(being the stated principal amount of the exposure adjusted to take into account the effect of the leverage or enhancement provided by the structure of the exposure) for the purposes of this Division.";
- (o) in section 260(4), by repealing everything after "effective principal amount of the exposure" and substituting "(being the stated principal amount of the exposure adjusted to take into account the effect of the leverage or enhancement provided by the structure of the exposure) for the purposes of this Division.";
- (p) in section 268(2), by repealing everything after "effective principal amount of the exposure" and substituting "(being the stated principal amount of the exposure adjusted to take into account the effect of the leverage or enhancement provided by the structure of the exposure) for the purposes of this Division.";
- (q) in section 284(3), by repealing everything after "effective notional amount of the exposure" and substituting "(being the stated notional amount of the exposure adjusted to take into account the effect of the leverage or enhancement provided by the structure of the exposure) for the purposes of this Part.";
- (r) in section 295, by adding -

"(3) In subsection (2) -

"structural position" (結構性持倉), in relation to an authorized institution, means a position in foreign

exchange held by the institution with the intention of hedging any adverse effect of exchange rate movements on its capital adequacy ratio.";

- (s) by repealing section 296(2)(a)(ii) and substituting -  
"(ii) its Hong Kong dollars position;"
- (t) in section 305(1), by repealing "a proportional shift in volatility of  $\pm 25\%$ " and substituting "a positive or negative change of 25% in the volatility of the value of the underlying exposures of those option contracts";
- (u) in section 327(1), by adding ", after each calendar quarter end date," after "An authorized institution shall";
- (v) in section 331(1), by adding ", after each calendar quarter end date," after "An authorized institution shall";
- (w) in section 336(1), by adding ", after each calendar quarter end date," after "An authorized institution shall";
- (x) in section 338(1), by adding ", after each calendar quarter end date," after "an authorized institution shall"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Fourth motion: Amending the Banking (Disclosure) Rules.

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

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY:**  
Madam President, I move that the resolution contained in the Agenda be passed.

The purpose of the resolution is to amend the Banking (Disclosure) Rules. The rationale for the amendments has been explained in my earlier speech concerning the resolution on the Banking (Capital) Rules, which has just been passed by this Council.

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

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

"RESOLVED that the Banking (Disclosure) Rules, published in the Gazette as Legal Notice No. 229 of 2006 and laid on the table of the Legislative Council on 1 November 2006, be amended -

- (a) in the heading of section 19, in the Chinese text, by repealing "損益表" and substituting "收益表";
- (b) in section 24(2)(c), in the Chinese text, by repealing "總額" and substituting "總數";



- (c) in section 25(2), in the Chinese text, by repealing "總額" and substituting "毛額";
- (d) in the heading of section 35, in the Chinese text, by repealing "損益表" and substituting "收益表";
- (e) in section 35(3)(b), in the Chinese text, by repealing "該等目的" and substituting "提撥該等準備金的目的";
- (f) in section 36(4)(b)(iv), by adding "in the annual reporting period" after "recoveries";
- (g) in section 37(7)(a)(iv), in the Chinese text, by adding "持有的" before "以";
- (h) by repealing section 37(7)(a)(v) and substituting -  
"(v) available-for-sale debt securities; and";
- (i) by repealing section 37(7)(a)(vi) and substituting -  
"(vi) held-to-maturity debt securities; and";
- (j) in section 37(7)(b)(ii), in the Chinese text, by repealing "尚欠";
- (k) in section 37(9)(b), in the Chinese text, by repealing "毛額";
- (l) in section 40(2)(d), in the Chinese text, by repealing "損益表中" and substituting "收益表中";
- (m) in section 42, by adding "as included in the institution's audited annual accounts lodged with the Monetary Authority pursuant to section 60 of the Ordinance in respect of the annual reporting period" after "statement";
- (n) in section 45(3)(c), in the Chinese text, by repealing "總額" and substituting "總數";

- (o) in section 46(8), in the Chinese text, by repealing "總額" and substituting "毛額";
- (p) in section 56(2)(c)(i), by repealing "the title or position of the board and senior management members" and substituting "the titles or positions of the members of the board of directors or the senior management";
- (q) in section 68(2)(c)(i), by repealing "the title or position of the board and senior management members" and substituting "the titles or positions of the members of the board of directors or the senior management";
- (r) in section 75(2)(c)(i), by repealing "the title or position of the board and senior management members" and substituting "the titles or positions of the members of the board of directors or the senior management";
- (s) in section 92(2), by adding "(except section 90(3))" after "of this Part";
- (t) in the heading of section 93, in the Chinese text, by repealing "損益表" and substituting "收益表";
- (u) in section 98(2)(a), in the Chinese text, by repealing "總額" and substituting "毛額".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending six items of subsidiary legislation tabled in Council on 1 November 2006.

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

**MR ALBERT HO** (in Cantonese): Madam President, I move that the motion under my name, as printed on the Agenda, be passed.

At the meeting of the House Committee held on 10 November 2006, a subcommittee was formed by Members to study six items of subsidiary legislation tabled to the Council on 1 November 2006 relating to the relocation of juveniles to the Tuen Mun Children and Juvenile Home.

In order to enable the Subcommittee to have sufficient time to study the relevant subsidiary legislation, I move this motion in my capacity as the Chairman of the Subcommittee to extend the scrutiny period of the six items of subsidiary legislation to 20 December 2006.

Madam President, I implore Members to support the motion.

**Mr Albert HO moved the following motion:**

"RESOLVED that in relation to the -

- (a) Protection of Children and Juveniles (Places of Refuge) (Amendment) Order 2006, published in the Gazette as Legal Notice No. 237 of 2006;
- (b) Places of Detention (Juvenile Offenders) Appointment (Consolidation) (Amendment) Order 2006, published in the Gazette as Legal Notice No. 238 of 2006;
- (c) Probation of Offenders (Approved Institution) (Consolidation) (Amendment) Order 2006, published in the Gazette as Legal Notice No. 239 of 2006;
- (d) Reformatory School (Establishment) (Consolidation) (Amendment) Order 2006, published in the Gazette as Legal Notice No. 240 of 2006;
- (e) Immigration (Places of Detention) (Amendment) Order 2006, published in the Gazette as Legal Notice No. 241 of 2006; and
- (f) Remand Home (Amendment) Rules 2006, published in the Gazette as Legal Notice No. 242 of 2006,

and laid on the table of the Legislative Council on 1 November 2006, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 20 December 2006."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

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

First motion: Electing the Legislative Council by universal suffrage.

## **ELECTING THE LEGISLATIVE COUNCIL BY UNIVERSAL SUFFRAGE**

**MR LEE CHEUK-YAN** (in Cantonese): President, a point of order. A quorum is lacking now.

**PRESIDENT** (in Cantonese): Right. Clerk, please ring the bell to summon Members back to the Chamber.

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

**PRESIDENT** (in Cantonese): A quorum is present now. Mr LEE Cheuk-yan, you may speak.

**MR LEE CHEUK-YAN** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, many of the Honourable colleagues in the Chamber now are in their middle age and middle-age people nowadays tend to be nostalgic as we have begun listening to oldies songs. But regrettably, even members of the Commission on Strategic Development (the Commission) have become nostalgic. When I took part in the work of the Commission, I found that members of the Commission are already in their middle age but the way they expressed their nostalgia was very undesirable, as their arguments over democracy are still about issues that we argued about more than two decades ago. Their arguments outrageously date back to the functional constituencies under the fascist rule during the MUSSOLINI era. Today, in Hong Kong of the year 2006, the system of functional constituencies under the fascist rule in Italy is still under discussion. I think the clock has really been turned back to a time too far away, and this is excessive nostalgia. I very much hope that Members can expeditiously look ahead and put in place a system to implement universal suffrage for dual elections in Hong Kong as soon as possible.

Last week, in the debate on the election of the Chief Executive by universal suffrage, many Members pointed out that Hong Kong has long possessed all the objective conditions for universal suffrage. These objective conditions include the following:

- Hong Kong has well-established legal and judicial systems, and the concept of "rule of law" has won popular support from Hong Kong people;
- We have well-developed, robust mass media and free flow of information;
- Our education and economic developments have reached world standards; and

- The executive authorities have sufficient experience and ability to conduct elections by universal suffrage.

I am not going to repeat these points today because people who reason on facts have long reached a consensus on these points, but to people who refuse to reason on facts, even if we repeat these points to them a hundred times, we would only be casting pearls before swine.

President, when can the Legislative Council be elected by universal suffrage in Hong Kong? It all hinges on when the functional constituencies (FCs) are willing to relinquish their political privileges and when they are willing to give up the free political lunches. Chief Executive Donald TSANG considered that a consensus must be reached in society before universal suffrage can be achieved in Hong Kong. At a glance, this view seems to be reasonable but if we give more thoughts to it, it is nonsense indeed.

Universal suffrage is an inherent human right of every citizen. Why do we have to obtain the approval of FCs before we can get this right back? Will the Government require a property owner to forge a consensus with the rogue tenant before he can recover his property? If the rouge tenant is willing to surrender the premises to the owner, the tenant would not have been called a rouge tenant. By the same token, it will be a fruitless attempt and also impractical to ask the "rogue politicians" (meaning some FCs) who are used to enjoying free political lunches to surrender their privileges on their own initiative. Therefore, we did not find it strange at all hearing Mr Abraham SHEK say, "If the Liberal Party want to issue a death certificate for FCs, that is their business. The Alliance certainly will not issue this death certificate". But Prof Patrick LAU may immediately rise to express his wish to issue one. *(Laughter)*

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

What Chief Executive Donald TSANG must do now is not to wait for the FCs to surrender their seats on their own initiative, but announce that the FC elections have walked into the grave and put forward as soon as possible concrete proposals on the election of the Legislative Council by universal suffrage in 2012 or before. If the FCs oppose this, let them explain to the public by themselves. The Government does not have to worry about it or unnecessarily explain things

away for them. If the Government has the courage to do so, even if the proposals are ultimately voted down, the people will still see that the Government sides with them, rather than drawing close to the privileged class.

Regrettably, Deputy President, Donald TSANG has not only failed to do so. He even colluded with the FCs in a bid to permanently preserve the element of FC elections by hook or by crook. At a previous meeting of the Commission, Chief Executive Donald TSANG was still unwilling to declare a position, refusing to state that the FC elections are inconsistent with the principle of universal suffrage. Secretary Stephen LAM went even further. In concluding his speech, he proposed to conduct studies on implementing universal suffrage by "one person, 31 votes". "One person, 31 votes" means that nominations for the 30 FCs will be open for all Hong Kong people to vote, in which case each person will have 31 votes but the nominations are subject to certain restrictions. This is a stupid idea indeed. If 30 seats in the Legislative Council will be nominated by the FCs and returned by the people by universal suffrage, this is actually not considered as democratic at all.

I must point out solemnly once again that universal suffrage includes the universal and equal right to vote and to be elected. Under Article 25 of the International Covenant on Civil and Political Rights, every citizen shall have the right and the opportunity, without distinction of social origin, property, political or other opinion, and so on, and without unreasonable restrictions, to vote and to be elected at periodic elections. The nomination of candidates by FCs obviously violates the principle of "without distinction" and hence is inconsistent with the human rights covenant. It is, therefore, not considered as genuine universal suffrage. I hope that the Secretary will cease to resort to sophistry.

I hope that Donald TSANG will not waste any more time "applying cosmetics to the dead", because no matter what amendment or changes will be made, the FC elections are inconsistent with the principle of universal and equal suffrage in any case. One more minute of procrastination by the Government will cause the harms of FC elections to persist for one more minute. As long as FC elections exist, the Government will continue to bear the notoriety of collusion with business, because the essence of FC elections is to institutionalize collusion between the Government and business and to allow a privileged minority to reap advantage and extort benefits from the Government under the protection of the Basic Law, or to sacrifice the well-being of the public in order



to protect the minority interests. Minimum wage and universal retirement protection are obvious examples of protection of minority interests. Insofar as these proposals are concerned, it is because of the obstacles erected by FCs that the public cannot enjoy these very basic rights of living. Certainly, apart from obstructing the fostering of the well-being of the people, FCs will, of course, extort advantages too. I believe Chief Executive Donald TSANG, in seeking re-election, must have a severe headache with the extortion by the FCs. If the FC elections continue to exist, they will make things difficult for the Directors of Bureau, and I believe Secretary Dr York CHOW must have the most profound feelings about this. He who started out as a pioneer to protect the public from the hazards of passive smoking has now degenerated into a slave begging for votes from FCs for the Chief Executive.

The FC elections are also a fundamental cause for the low level of credibility and shattered prestige of the SAR Government. Politics is basically an art of compromise, but the FC elections have bundled politicians with small-circle interest and hence restricted the room for compromise. To FC Members, all they need to do is to persist with their original position and they can already be accountable to their constituents. They do not have to deal with other political parties and groups in order to seek common grounds while preserving differences or to explore a way to resolve the divergence. Directly-elected Members and FC Members in the Legislative Council have different social mandates. The conflicts of interest among different strata cannot be resolved given the lack of fair and just elections. On the contrary, the conflicts are nevertheless directly transplanted into the political institution, causing frequent internal tensions in the Legislative Council and affecting the operation of the parliamentary assembly and the administration of the Government.

Deputy President, there are 12 years and one month before 2019, the 100th anniversary of the May Fourth Movement. Nobody could have thought that the slogan of "fighting for democracy" proposed back then is still applicable today, which is almost a century later. Let us think about this: If, on the 100th anniversary of the May Fourth Movement, there is a place under China's sovereignty where a stable democratic institution is established, we will then have lived up to the expectations of our ancestors. I believe that implementing universal suffrage for dual elections in 2012 in Hong Kong is the last opportunity for us to achieve this goal on the 100th anniversary of the May Fourth Movement.

If universal suffrage for dual elections is achieved in 2012, it means that two rounds of universal suffrage will be implemented by 2019 for the elections of the Chief Executive and the Legislative Council. I believe that with the conditions in Hong Kong, a democratic system should be able to go onto the right track. Whether or not there will be a place under China's sovereignty where a stable democratic institution is established on the 100th anniversary of the May Fourth Movement depends on our choice today.

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

**Mr LEE Cheuk-yan moved the following motion: (Translation)**

"That this Council considers the year 2012 or before appropriate for electing all Members of the Legislative Council by universal suffrage."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEE Cheuk-yan be passed.

**DEPUTY PRESIDENT** (in Cantonese): Mr Albert CHAN will move an amendment to this motion. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Albert CHAN to speak and move his amendment.

**MR ALBERT CHAN** (in Cantonese): Deputy President, I move that Mr LEE Cheuk-yan's motion be amended.

Deputy President, during the Legislative Council Election in 2004, the pan-democratic camp vowed to fight for democracy, defend freedoms, re-ignite hopes and rebuild Hong Kong. Finally, 25 candidates from the pan-democratic camp were elected to the Legislative Council, accounting for 62% of the total number of votes in the direct geographical constituency (GC) elections. Under any system of universal suffrage or electoral systems, 62% of the votes are absolutely sufficient to form a government, and winning this number of votes can be considered as an overwhelming victory. But the electoral system in Hong Kong has distorted public opinions, as 62% of the votes can only constitute 40%

of the Legislative Council and these votes even have no representation in the executive authorities, including the offices of the three Secretaries of Department and 11 Bureau Directors and the Executive Council. The existing political system has distorted and suppressed public opinions. The functional constituency (FC) elections have even further institutionalized and rationalized the vested interest groups. Such distortion and misrepresentation of public opinions have resulted in surging public indignation and grievances.

Hong Kong people have been submissive "docile subjects" over the years. They are often tolerant of many unreasonable acts of the Government and policies exploiting the rights of the people. The July 1 rallies that took place over the years have fully reflected the public's dissatisfaction with the Government as well as their dissatisfaction with the lack of democratic development, while the continuation of FCs has only represented a further extension of the privileges of the vested interest groups in this political system and a further extension of collusion between the Government and vested interest groups and transfer of benefits.

During its repeated discussions on the constitutional reform, the Commission on Strategic Development (the Commission) mentioned that it is necessary to forge a consensus. This is just another instance of calling a stag a horse. In the election in 2004, a consensus was fully manifested through 62% of the public's votes and yet, the Commission refused to take it as a consensus. I wonder if this is another instance of arguing that "a white horse is not a horse". What suits the Commission is a consensus and what does not is an opinion. If the Commission is calling for a consensus, it is not calling for a consensus among Hong Kong people. Rather, the consensus as referred to by the Commission is the instruction given by the master. As long as the master has not made a decision or given any instruction to his lackeys, the consensus will remain to be reached.

People who are accustomed to being lackeys do not understand the value of democracy and freedom. Nor do they understand the importance of democracy. The black slaves in the United States already fought for their freedom more than a century ago. They had known the pains and griefs of slavery. But much to our regret, many people in Hong Kong are willing to be lackeys. They are willing to fawn on their master, willing to do what their master instruct them to, and they even take great pride in doing so. Deputy

President, these wretched lackeys are really saddening. This is saddening to Hong Kong, saddening to the existing institutions too.

I have proposed this amendment calling for the full implementation of universal suffrage in 2008 in order to fulfil the undertaking that we made in our election platform in 2004, and it also represents the mandate given to the 25 Members in the pan-democratic camp by 62% of the people's votes back in that year. But regrettably, this Government of ours, which is manipulated by lackeys, does not act in accordance with the wish and aspiration of the people.

Some people said that it would be a miracle for this amendment to be endorsed today. If we look back on the development of Eastern Europe and the Soviet Union in 1989, no one would expect before 1989 such a movement to take place. Indeed, in politics, we often have to attempt the impossible and take up the gauntlet and struggle for our convictions. After 27 years of imprisonment, MANDELA finally succeeded in the fight for equal rights for the black. GANDHI's peaceful and non-violent movement ultimately overthrew the colonial rule. Martin Luther KING's remarks about his dream in the '60s provided impetus for the movement to fight for the rights of black people in the United States. As long as we are determined not to be lackeys and as long as we can drive away the lackeys, and as long as we can awaken those lackeys and when they cease to bow to the bigwigs and when they cease to sell out their conscience and sell out Hong Kong people for their benefits.....With regard to fighting for democracy and upholding the rights of Hong Kong people, there should be a reasonable explanation ultimately. This Council should, as soon as possible, do justice to Hong Kong, do justice to Hong Kong people and do justice to history.

Deputy President, many past political developments, especially political developments in the Mainland and in particular, the recent developments, have actually surpassed Hong Kong gradually. When I take a look at the current situation in Hong Kong, I often would have very deep feelings. It is like what happened during the Japanese invasion of China. Many traitors would attack or frame their own Chinese compatriots in a way even more harshly and cruelly than the Japanese warlords, that is, the Chinese people were fighting against the Chinese people. This is like the suppression of the pro-democracy movement in Hong Kong, as we can see that our state leaders are often more generous than those wretched lackeys in Hong Kong whose demeanour is heartrending. As

we can see from the development in the Mainland, universal suffrage has been implemented in some village and town governments in the Mainland since late '90s, but of course, a procedure for controlling nominations is always involved. At present, many provincial and municipal governments in the Mainland as well as the National People's Congress of the Central Authorities are also returned by universal suffrage. Certainly, their system of universal suffrage is different from what we are talking about here in Hong Kong, and proxy votes are allowed in some cases and the voting process is also subject to some measure of control. Having said that, however, considering the electoral system, the concept and the element of universal suffrage, these elections are still more desirable than the election of the Chief Executive in Hong Kong in terms of democratic representation and universality. But those wretched lackeys in Hong Kong still continue to support the small-circle FC elections and the election of the Chief Executive by this extremely small circle of 800 people. Worse still, some democrats have even taken part in this small-circle election.

Deputy President, under the existing political system, it still seems to be a dream to achieve a breakthrough in this Council today. But as a politician and especially from the position of the democratic camp, one who does not have a dream should not participate in politics because the objective of our work in politics is to ultimately realize a dream. In a blink of an eye, it has been almost 20 years since 1988. That was even before the birth of my second daughter who will graduate from secondary school soon. I have been fighting for democracy all these years and I am getting old and now, I am an old man over 50. Deputy President, almost every Member in this Chamber is actually like me, including your good self, Deputy President. *(Laughter)* The fight for democracy absolutely should not slow down as we grow old. We will persevere with this fight and we will continue to throw down the gauntlet to the lackeys and condemn these lackeys for betraying the interest of Hong Kong people. Thank you, Deputy President.

**Mr Albert CHAN moved the following amendment: (Translation)**

"To delete "2012 or before" after "the year" and substitute with "2008"."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert CHAN to Mr LEE Cheuk-yan's motion, be passed.

**MR HOWARD YOUNG** (in Cantonese): Deputy President, in the Decision on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in the year 2007 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the year 2008 adopted by the Standing Committee of the National People's Congress (NPCSC) on 26 April 2004, it is explicitly stated that the election of the Chief Executive in 2007 and the election of the Legislative Council in 2008 shall not be by means of universal suffrage, and the ratio between members returned by functional constituencies (FC) and members returned by geographical constituencies (GC) through direct elections, who shall respectively occupy half of the seats, shall remain unchanged.

In this connection, in the motion and amendment under discussion today, such wording as "or before" as in "the year 2012 or before" and ".....considers the year 2108 appropriate for electing all Members of the Legislative Council by universal suffrage" as mentioned in the amendment are basically no different, in that they are obviously contrary to the decision and interpretation made by the NPCSC and any further discussion on them is just empty talk. For this reason, the Liberal Party does not support them.

The Liberal Party considers that if Members in the opposition genuinely wish to promote the development of democracy in Hong Kong, they should have thrown full weight behind the constitutional reform package when the Legislative Council voted on it in December last year, so as to endorse the package of proposals and hence enable us to move towards the goal of universal suffrage.

It is because the constitutional reform package had proposed to expand the number of seats returned by GCs and those returned by FCs in the Legislative Council, and also increase the number of seats of the Election Committee to enable more people to take part in the election of the Chief Executive. Meanwhile, the Chief Executive also undertook at that time to gradually abolish the appointed seats in District Councils. All these proposals would only be conducive to taking forward the constitutional development in Hong Kong.

Regrettably, this thoroughfare leading to universal suffrage under the principles of "gradual and orderly progress" and "balanced participation" as laid down in the Basic Law was sabotaged by the very hands of those Members who voted against the package. With the mainstream proposal on constitutional

reform already nipped in the bud and constitutional development forced to remain stagnant, we consider it impossible for any changes to be introduced anew at this stage.

Such being the case, what is the timetable for forming the Legislative Council by universal suffrage? In fact, the Commission on Strategic Development (the Commission) is working hard to forge a consensus. As far as we understand it, a vast majority of members of the Commission consider that the development of the constitutional system towards the goal of universal suffrage must be in line with the principle of "gradual and orderly progress" in the Basic Law, having regard to the actual situation in Hong Kong. As far as I understand it, only one or two members, which means an extremely small number of people, have insisted on implementing universal suffrage for the election of the Legislative Council in 2012. From this we can see that we all have rather strong reservations about the drastic proposal of achieving the aim in one step.

The Liberal Party considers that in order to realize the ultimate aim of universal suffrage which has long been set out in the Basic law, the existing FC arrangement will serve out its life sooner or later, but the seats should be abolished in a gradual and orderly manner in accordance with the provisions of the Basic Law, so as to give representatives of the industrial and commercial sectors sufficient time to prepare for participation in universal suffrage.

In order not to lose the voices of the professional sectors as a result of the switch over to the full implementation of universal suffrage in one step, which will upset the equilibrium of balanced participation, the Liberal Party proposes that if the Chief Executive will be returned by universal suffrage in 2012, the FC seats under the existing arrangement in the Legislative Council can be reduced in three stages starting from 2016, that is, their seats will be reduced by one third in each subsequent term. In that case, the objective of electing the Legislative Council by universal suffrage can be realized in 2024.

We consider that for those sectors which have a broader electorate and have to face the public or the grassroots and in which a consensus on universal suffrage has been reached, their seats can be abolished first. As for traditional sectors with expertise in economic policies, such as the industrial and commercial sectors, or the Tourism FC to which I belong, we consider that they can still continue to perform their functions for a period of time. I have been

the representative of my industry for more than a decade. The Government used to adopt a non-intervention attitude towards the development of the tourism industry, but from the Government's efforts to bring about the Individual Visit Scheme, the relaxation of the immigration policies, active development of new tourist attractions and ongoing landscaping works, and even enhanced policies on tourism, we can see the Government's recognition of the contribution of the tourism industry to the Hong Kong economy as well as the importance and support given to the tourism industry. I am not saying that these should all be attributed to myself or to a particular industry. But I have persistently and consistently, and even jointly with other Members from my party, advised the Government on the opinions of the industry and proposals on tourism development, with a view to taking forward the development of tourism. Therefore, the tourism industry, the Liberal Party and I consider that the traditional FCs with expertise in economic policies should be abolished only at a later stage.

We agree that the electorate of FCs can be expanded appropriately by, for instance, increasing the corporate votes of FCs and introducing director votes or senior executive votes, but the FCs must not be turned into the "nine newly-added FCs" which are *de facto* the equivalent of universal suffrage. Work can then be carried out in phases to gradually achieve the full implementation of universal suffrage.

Deputy President, the Liberal Party believes that as long as all sectors of the community can work in concert and one mind in taking forward constitutional development in accordance with the principles of the Basic Law, the ultimate aim of universal suffrage can be achieved early.

Deputy President, I so submit.

**DR YEUNG SUM** (in Cantonese): Deputy President, today's motion is inseparable from last week's motion on electing the Chief Executive by universal suffrage. Back in 2003, or 2004, the pro-democracy camp already considered that universal suffrage could be implemented in 2007 and 2008. Today, the Democratic Party is still convinced that Hong Kong's backward political system can take a turn for the better should the Chief Executive and Legislative Council be elected by universal suffrage. With such a mature civil society and yet such a conservative political system, Hong Kong is lagging far behind the times.



While the original motion considers the year 2012 or before appropriate for electing all Members of the Legislative Council by universal suffrage, the amendment has gone even further by specifying the year 2008. I think both the motion and the amendment merit support.

Despite the fact that the election of the Chief Executive and Members of the Legislative Council by universal suffrage will be Hong Kong's most important political reform in the future, some major political parties were apparently unconcerned about the importance of universal suffrage to Hong Kong people by merely assigning one of its Members to deliver a model speech during last week's debate. Today, I very much worry that major political parties will use the same tactic to deal with the matter hastily by asking a certain Member to speak in order to water down the significance of universal suffrage.

Deputy President, discussions have recently been held by the Commission on Strategic Development (the Commission) on the possible models for forming the Legislative Council by universal suffrage. The Democratic Party has already submitted its proposals to the Commission. In the opinion of the Democratic Party, under the fair principle of equal value of votes and within the framework of the Basic Law, a more satisfactory model should be a mixed system of "single seat, single vote" and "proportional representation". The 60 Legislative Council seats will be divided into two groups. The first group, consisting of 30 seats, will be returned by a "single-seat, single-vote" system, whereby the whole of Hong Kong will be divided into 30 constituencies based on its population ratio. Another group of seats will be returned by a proportional representation system, whereby the whole of Hong Kong will form a single constituency. In other words, each voter will have two votes for electing Legislative Council Members. The first group, returned by a "single seat, single vote" system, will allow candidates or organizations with the largest electorate base to win. The second group, returned by a proportional representation system, will give people with lesser participation or the underprivileged a chance to win. The model provides different strata of Hong Kong an opportunity of full participation, which is better than the functional constituency (FC) model. The FC model is indeed a product of the Middle Ages and should be abolished a long time ago.

Although both 2008 and 2012 are appropriate for electing the Legislative Council, it is even more complicated that electing the Chief Executive by universal suffrage, mainly because there are too many groups with vested

interests within the FCs of the Legislative Council. I was very much concerned about the comments made by Members of this Council in the Commission as quoted by newspapers last week. Among others, The Alliance stated that, if FCs were to be phased out, it would be the last one to be abolished, and proposed that the FC seats taken up by the Liberal Party be abolished first. However, in a speech delivered on behalf of the Liberal Party earlier, Mr Howard YOUNG pointed out that those FCs with contribution to the economy, including the Tourism FC, should be the last to go. It seems that no one is prepared to make self-sacrifice.

From this perspective, FCs can be described as harbouring a mountain-stronghold mentality and indulging in self-exclusion in their own interests. They are simply unwilling to take public interest into consideration and put aside their acquired interests under the prerequisite of fairness, openness and equal value. This is why I would very much like to urge the Government to abolish all FC seats altogether by the neatest and tidiest method and implement universal suffrage as early as possible rather than allowing disputes among FCs to continue, for this will only give people an impression that they are small-minded. It seems that they are determined to keep their seats without any regard to the public aspiration for universal suffrage.

Given that FCs have existed for more than two decades, it is very difficult for consortia and people with vested interests to give up their involvement in intricate interest disputes. Nevertheless, society must move forward. For each member of the public to enjoy equal voting right, I emphasize again that FCs must be scrapped expeditiously. The recent proposal of introducing a bicameral system is, in effect, a way to continue FCs indefinitely. I strongly oppose this system.

It has been reported that the Government is inclined towards the retention of FCs. This is why the Chief Executive still does not wish to indicate his position and say that FCs have to be abolished expeditiously. Furthermore, it has been proposed that a person may cast 31 votes, with 30 votes going to the FC elections and one to geographical election. On the surface, this proposal appears to be consistent with "one person, one vote". However, the problem is that nominations have to be shortlisted as the nominations have to be made by FCs before the public may cast their votes. Such a shortlisting procedure basically violates the freedom to make nominations, for nominations will then be

subject to enormous limitation. Therefore, it is impossible for us to accept such a disguised form of universal suffrage by advance shortlisting.

Deputy President, I would like to tender a piece of advice to the Government. Not to spend too much energy to design and balance political powers on all fronts, or make every effort to design a system resembling universal suffrage for the sake of retaining certain political powers. Only through establishing a universal suffrage system which is open, fair and honest according to the principle of votes of equal value to enable the public to elect their representatives to the Council can the interests of various strata of Hong Kong society be reflected in the most comprehensive manner.

The Government has recently indicated its intention to nurture political talents. Actually, implementing dual elections by universal suffrage is the best way to achieve this purpose. The so-called political appointment system proposed by the Government by creating the posts of Deputy Secretary or political assistant primarily serves to, first, enable the Chief Executive to divide the "pie" among political parties, and second, to further consolidate the Chief Executive's political team. Lastly, the system will deal a serious blow to the well-established system of Civil Service. This is most worrying indeed.

The Democratic Party objects to the political appointment system recently proposed by the Government.

Thank you, Deputy President.

**MR RONNY TONG** (in Cantonese): Deputy President, the Legislative Council plays a vital role in our political system. It is stated very clearly in Article 64 of the Basic Law that " The Government of the Hong Kong Special Administrative Region must abide by the law and be accountable to the Legislative Council of the Region; it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure." In Article 73, the functions of the Legislative Council are set out in great detail. In Article 73(9), it is even stated that the Legislative Council has the power to, among others, impeach the Chief Executive.

However, Deputy President, the Legislative Council is at present unable to perform these functions effectively, mainly because of the institutional distortion. Under the separate voting mechanism, considered to be the greatest obstacle, the interest of the public at large as represented by directly-elected Members is invariably controlled by the minority interest represented by the business community and trades. We can actually see a lot of such examples. Such issues as helping the poor and imposing a minimum wage are among the most recent and direct issues which have been debated year after year. Very often, a motion supported by 30-odd Members could be vetoed by 10-odd Members.

Members of the public find the Legislative Council extremely incompetent, as the same things happen every year. Frankly speaking, we feel the same way too. In the eyes of the public, the Legislative Council is unable to perform its due functions effectively. What they see on the television or in the media, and hear from the radio are endless disputes between the Council and the Government. It is fine if the disputes can bear fruit. However, the disputes very often do not bear any fruit, or the Government would definitely emerge as the winner. Since this Council has lost its checking function, it is even harder for this Council to compel the Government to improve its governance. This is indeed the greatest shortcoming of the Legislative Council.

By the same token, when members of the public lose faith in this Council, they will naturally feel helpless and become disinterested in Hong Kong politics. Ultimately, they become completely disinterested in politics and political parties, making it very difficult for party politics to develop in the territory. It is precisely for this reason that the Government can always come up with excuses, saying that Hong Kong politics is not yet mature and there is no need for universal suffrage to be implemented.

This is actually a vicious cycle. Because of a loss of balance, the institution cannot ensure that this Council perform its due functions. This has been used as an excuse for rejecting universal suffrage. Should this be the case, social disharmony will only continue to plague Hong Kong.

To break this vicious cycle, the immediate task is to ensure that the interest of the public at large is free from the control of the minority interest of the business community and trades. The only way to achieve this is to abolish functional constituencies (FCs). This is not only the goal and pledge laid down

in Article 68 of the Basic Law, but it also complies with Article 25 of the International Covenant on Human Rights and Article 39 of the Basic Law. If our goal is to abolish FCs, we must understand that any package that retains or increases the number of FC seats will definitely run counter to the Basic Law, further divide society and aggravate conflicts. This is actually the Achilles' heel of the constitutional reform package put forth by the Chief Executive last year.

If our goal is to abolish FC seats, the next step is to consider how and when to do it. Let us start with how to do it. It has been proposed that FC seats be abolished gradually over three terms. Some colleagues have even suggested first abolishing the seats of other FCs while keeping the seats of their own FCs for the time being. Here lies the crux of the problem. In my opinion, a transitional period will only make this Council harder to perform its tasks and encounter more unreasonable obstacles.

Let us imagine this. According to this proposal, if one third of FC seats are to be abolished first, 40 Members will be controlled by 20 Members. On this basis, the veto power will fall in the hands of a minority of Members with the abolition of more and more seats. When the veto power is concentrated in such a small number of people, the entire political system will be distorted. What is more, political bribery will occur even more easily. Let us imagine this. When the veto power is held by 10 Members, how will Hong Kong survive during the four years? Only five of the 10 Members will be enough to thwart the views of 50 other Members. What sort of system is this? How many political dealings will these five Members engage in when they find that they possess such enormous power?

In other words, the unfairness, the violation of social justice and social support we witness today will only worsen. More importantly, a culture of political bribery will be nurtured. Once such a culture takes shape, society will only be further divided and the imbalance in the political system will become even worse. This proposal is therefore entirely impracticable.

Deputy President, unless the proposal accepts that the separate voting system be abolished concurrently — however, what is the point of retaining FC seats should the separate voting system be abolished? Not only will FC seats become the minority, they will be abolished too. As the saying goes, it is always better to endure short-term pain than allowing the disease to remain

untreated. If FC seats are to be phased out over several terms, the damage inflicted on the Hong Kong SAR might actually be far greater than what is inflicted on Hong Kong under the existing mechanism.

Given the present loss of balance in the political system and endless political disputes, forming the Legislative Council by universal suffrage has become the only way out. Like forming the Legislative Council by universal suffrage, electing the Chief Executive by universal suffrage is also a matter of great urgency. There must be no more excuses and delay. Thank you, Deputy President.

**MR FREDERICK FUNG** (in Cantonese): Deputy President, following the debate on electing the Chief Executive by universal suffrage last week, Mr LEE Cheuk-yan has proposed a motion on electing the Legislative Council by universal suffrage today. Similarly, the wording of this motion is very simple. It reads, "That this Council considers the year 2012 or before appropriate for electing all Members of the Legislative Council by universal suffrage". Not only has the motion stated objectively that Hong Kong's actual situation is appropriate for electing the Legislative Council by universal suffrage in 2012 or before, its wording is quite flexible without specifying an electoral system and method. Generally speaking, it means that any proposal can be taken into consideration so long as it is consistent with the principle of universal suffrage on the basis of "universal and equal suffrage, and one person, one vote of equal value". I wish to reiterate that any prerequisites imposed on universal suffrage are simply unwarranted; they are mere excuses for rejecting universal suffrage.

Deputy President, I have no wish to dwell further on whether or not Hong Kong is suitable for implementing universal suffrage. I already spoke at length during last week's debate on why Hong Kong is suitable for implementing universal suffrage and the relevant background. Furthermore, I do not wish to get myself involved in a situation in which no conclusion will ever be drawn. Despite our persistent discussion, we have no idea whether the Government will listen. As it is known to all, compared to many democratic states, Hong Kong possesses better objective conditions, including a sound system of rule of law, good economic fundamentals, a sophisticated civil society and humanistic qualities, and freedom of the press and free flow of information. However, the "conditions theory" involves comparisons in political science. Furthermore, some statistical and data analyses tend to be post-mortem. The apologists of the

establishment have even proposed some inconceivable conditions. In addition to the objective conditions mentioned earlier, they have raised such ideas as "first reviving the economy" or "party development is not sophisticated". But what does it mean by sophisticated? Regarding the saying that "there is a lack of patriotism", what does patriotism mean? How far should patriotism go before it is considered adequate? Can patriotism be measured? Such sayings that "universal suffrage cannot resolve all problems" and "the popular intellect in Hong Kong is far from mature" have also been cited to support their argument against universal suffrage. Actually, no single country in the world will list these so-called conditions from one to seven. Nor will there be a standard for determining what is considered as sophisticated and what is not, or what is considered as fully sophisticated, for the implementation of universal suffrage. Furthermore, no such conditions are imposed in either Britain, where the legislature and the executive are elected by universal suffrage, or the United States. On second thought, may I ask the apologists of the establishment, who are responsible for triggering the disputes on the "conditions theory", whether democracy will definitely bear fruit if the conditions they mention are ripe? So long as they do not have faith in the collective wisdom of the people and remain unconvinced that the Government should have the mandate of the people, that political powers cannot override human rights, I firmly believe that they will cite thousands of other reasons and conditions to stifle the development of democracy or universal suffrage even when the conditions are ripe.

Deputy President, constitutional reform is a matter of great urgency. As social development in Hong Kong is now guided by "commercialism", the formulation of policies is oriented towards the business sector and tailor-made for people with vested interests, thus resulting in unfair distribution of social resources. The long-standing exclusion of the grass-roots stratum by mainstream society, coupled with the widening wealth gap and growing social division, has indeed planted a time bomb in society.

Furthermore, the Government finds it equally difficult to advance or retreat in its governance because our political system is extremely backward. As the civil society advances gains maturity in development, the people are naturally unwilling to listen obediently to the "top-down" mode of governance in the same way as they were before. Instead, the political system must manifest civil participation and preference. Therefore, it can be predicted that social division will only continue to intensify should the Government wish to, as in the past, resolve political problems by economic or administrative means for it lacks

adequate credibility. In the end, the status of the Government and the method of forming the Government will only continue to be challenged, and the present state of unsatisfactory governance and poor social harmony will remain unchanged.

Deputy President, in this Chamber, in this Legislative Council where the public opinion is represented, so to speak, the political ecology is distorted, with FCs, which have virtually no opinion support, and directly-elected Members with extensive public support sharing equal powers. As FCs are most concerned about their vested interests and whether their trades, constituencies or professions are protected, they are very often hostile to public opinion, equating public opinion with populism, thus making this Council inherently contradictory and divided. As a result, it is often the case that many policies supported by the majority public and directly-elected Members cannot be passed and are vetoed by a minority of Members at separate voting. For instance, Members can see from the votes cast with respect to the motion on a minimum wages that the motion was eventually vetoed, even though the number of supporting votes was greater than that of the opposing votes. Such being the case, how can the Legislative Council represent public opinion and function as an organ to monitor and exert checks on the Government?

Deputy President, it is said in political science that an established political system will generally resist changes. While the authorities tend to delay reform further and further and apologists of the establishment and the Government are negative towards universal suffrage, snowballing difficulties will only be encountered as a result of delay, and the situation will eventually become irreversible. Given that constitutional reform must commence expeditiously, I hereby appeal to the Government and the establishment to demonstrate their courage and resolution to jointly promote universal suffrage. Otherwise, we will be unable to see satisfactory governance and social harmony in Hong Kong in the future.

Deputy President, the fact that our political system can only stay put as a result of the decision made by the National People's Congress, that universal suffrage is not to be implemented in 2007 and 2008, is still vivid in our minds. I believe members of the public do not want to see similar incidents happen again. As I stated last week, it has been revealed in research and surveys conducted in connection with the social condition of places for implementation of universal



suffrage that Hong Kong was ready for the implementation of universal suffrage as early as before 1997. Moreover, Hong Kong possesses all the necessary background and conditions for the implementation of universal suffrage. I cannot see why it is not possible for universal suffrage to be implemented in 2012. If the issue of universal suffrage cannot be resolved in Hong Kong, not to mention today, 2012 or 2021, or even 2047, if related issues continue to pester the Government and the SAR, disputes in the SAR will only continue. Therefore, I think that the SAR Government, the apologists of the establishment and followers of the Basic Law must expeditiously implement universal suffrage for the election of the Chief Executive and forming of the Legislative Council.

**MR TAM YIU-CHUNG** (in Cantonese): Deputy President, having listened very attentively to the speeches delivered by Members proposing the original motion and the amendment, I found that their motive of proposing the motion and amendment today is nothing but to smear, condemn or curse dissidents. I did not find it very strange for it might probably be their long-standing practice. However, I have recently observed that the opposition appears to be split, with some radical members resorting to violating the spirit of the relevant law or the rule of law, even though fully aware of the doomed failure. On the other hand, there are some who opt for a more realistic approach and insist on active participation, even though the small-circle election is condemned by others as a shame. Of course, I am no political commentator, and I do not wish to dwell on this any further. I only wish to express my view on today's question.

Last December, the SAR Government proposed a proactive package for the method of forming the Legislative Council in 2008 with a view to enhancing the democratic elements of the Legislative Council Election. However, the package was negated by more than 20 Members, thanks to the joint efforts of the opposition in this Council. It was reported that the package could have been passed with only a few more votes. This shows that the Legislative Council is, in Mr Ronny TONG words, incompetent. Anyhow, the electoral system for the Legislative Council in 2008 can only stand still. Having voting against the gradual and orderly approach, the opposition has, on the contrary, called for "one-step accomplishment" today. Is it not an example of muffling one's ears while stealing a bell?

Heated debates are now being held among various sectors of the Hong Kong community on the methods of forming the Legislative Council in 2012, and proposals and packages of great diversity have been put forth. Dr YEUNG Sum of the Democratic Party quoted a lot of diverse views earlier in the meeting. Here I wish to add a few words. Among the advocates for the implementation of a bicameral system in Hong Kong, some allies of the opposition have raised the proposal on different public occasions. A lot of time has also been spent by the community discussing this proposal alone. Last week, a conclusion was finally drawn, that the proposal be shelved because the implementation of a bicameral system would entail amendment to the Basic Law. Furthermore, a two-tier assembly might not necessarily raise policy and administrative effectiveness, as the distribution of powers will be involved.

Besides the bicameral system, a number of proposals have been put forward by various sectors of the community on the possible models for ultimately forming the Legislative Council by universal suffrage. For instance, some propose that all seats be returned by geographical elections and all functional constituency (FC) seats be abolished. Yet, there are some who advocate for the retention of FC seats. Those proponents of returning all seats by geographical direct elections have also come up with a variety of direct election packages, such as a "proportional representation" system, a mixed system of a "single-seat, single-vote" system and a "proportional representation" system, a "double-seat, double-vote" system, and so on. Among those advocates for the retention of FC seats, some demand that nominations be made by FC members for election by all voters of the territory, while some others request that all seats be returned by direct elections through different channels. A great variety of demands have also been made in the community on the transitional arrangements before universal suffrage is ultimately achieved. While some consider that the proportion of FC seats should be reduced, some consider it necessary to widen the electorate base of FCs, and some propose that nominations be made by FC members for election by all voters of the territory. All these views must not be brushed aside. Members must seek the greatest consensus through joint consultation to convince others of their packages.

On specific operation, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) advocates that a universal suffrage model suitable for Hong Kong should be identified before deciding on a timetable for universal suffrage. So long as there is a consensus on the political system, it is easy to

decide on a timetable for universal suffrage. The discussion on Hong Kong's democratic development should now focus on the design of the political system and the discussion on the specific make-up of the political system and various details should be enhanced. While the problems with the Legislative Council Election appear to be more complicated, the focus of the controversy is nothing but the way out for FCs. As stated earlier, there are three options available, namely immediate abolition, disguised retention, or temporary retention. Despite the fact that "all roads lead to Rome", no final decision can be made as to when the whole team will arrive at Rome should all team members go their own way. On the contrary, if a consensus can be reached on the roadmap, Rome will be in sight in the near future.

The Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in the Year 2007 and for Forming the Legislative Council of the Hong Kong, endorsed on 26 April 2004, provides that the election of the Legislative Council of the Hong Kong Special Administrative Region Government in the fourth term in the year 2008 shall not be by means of an election of all the members by universal suffrage. This is why I consider that part of the original motion and the amendment violate this legally-binding Decision and should not be proposed in this Council. I wonder if it is because of the failure of the Government to point this out to the President of this Council that no action has been taken by the President to address this issue. Should that be the case, the Government might probably be held responsible. As the motion is in breach of the law, the DAB cannot support it.

**MR TOMMY CHEUNG** (in Cantonese): Deputy President, I wish to discuss the question of electing the Legislative Council by universal suffrage in my capacity as a representative of the Catering Functional Constituency (FC), to which I belong.

I represent not only the licence holders of 20 000 food establishments in Hong Kong, but also the 200 000-odd employees of these food establishments. One of my roles is to make their voices heard in this Council.

**MR LEE CHEUK-YAN** (in Cantonese): Deputy President, I wish to seek an elucidation.

**DEPUTY PRESIDENT** (in Cantonese): Mr LEE, are you seeking elucidation? Mr CHEUNG, are you prepared to elucidate?

**MR LEE CHEUK-YAN** (in Cantonese): Should I first raise the question I wish to elucidate?

**DEPUTY PRESIDENT** (in Cantonese): You have to let the Member delivering the speech to indicate whether he is prepared to elucidate. Mr CHEUNG, if you are not willing to elucidate, you may continue with your speech.

**MR TOMMY CHEUNG** (in Cantonese): Deputy President, I could not hear what he said.

**DEPUTY PRESIDENT** (in Cantonese): Mr LEE would like to seek your elucidation. Are you willing to elucidate?

**MR TOMMY CHEUNG** (in Cantonese): What should I elucidate?

**MR LEE CHEUK-YAN** (in Cantonese): Deputy President, it was my intention to tell him what he should elucidate.

**DEPUTY PRESIDENT** (in Cantonese): Fine, go ahead please.

**MR LEE CHEUK-YAN** (in Cantonese): Deputy President, I would like him to elucidate why he said he represents more than 200 000 employees. The 200 000 or so employees had absolutely no part to play in electing him. This is what I asked him to elucidate.

**DEPUTY PRESIDENT** (in Cantonese): Mr CHEUNG, you may elucidate, but you may continue with your speech if you do not wish to.

**MR TOMMY CHEUNG** (in Cantonese): Deputy President, I do not think I need to elucidate.

**DEPUTY PRESIDENT** (in Cantonese): Please continue with your speech then.

**MR TOMMY CHEUNG** (in Cantonese): I represent not only the licence holders of 20 000 food establishments in Hong Kong, but also the 200 000-odd employees of these food establishments. One of my roles is to make their voices heard in this Council.

(THE PRESIDENT resumed the Chair)

One of the recent examples is the recently-enacted legislation on a complete ban on smoking. Although it has the support of nearly all directly-elected Members, most employers and employees of the Catering FC are worried that the legislation, upon passage, will make life even more difficult for them.

Other examples include the scheme for the central slaughtering of poultry, reductions in the import of live chickens, legislative amendment to malachite green, and the new measures for the application and transfer of food premises licences. All these policies and measures have been implemented by the authorities despite opposition. Had there been no voices of the trades in this Council, the trades would have been knocked into a state of panic. The community at large would even have to bear irreversible impacts.

Having served in this Council as a Member for six years, I understand that it is not easy to address questions on different policies while scrutinizing a number of bills.

I wonder if Members still recall the Sewage Services Bill passed by the Legislative Council in 1994. It was stipulated in the Technical Memorandum on Effluent Standards provided by the Government that more than 80% of the sewage charges levied on the trade were to be borne by the restaurant trade, which is extremely unfair to the industry. However, Members were unaware

because of the subtlety of the requirement. Even some Members of this Council admitted afterwards that they had not noticed it. Had there been seats for the catering industry, or had I, Tommy CHEUNG, been in the Legislative Council back then, I would have put such a pertinent issue under a magnifying glass to let Members see it clearly, even if other Members did not notice it.

FC seats are, to a certain degree, valuable and useful. Besides expressing the aspirations of their trades, FC Members can fully play their role as a bridge and enhance communication between their trades and the Government because of their familiarity with the operation, needs and interpersonal networks of their trades. At the same time, they can divert the grievances of their trades and lead them towards rational lobbying. Only in doing so can the voices of the trades be heard in this Council so that Members will take account of the unique situation of the trades and ensure a balance be maintained among the interests of all sides in discussing public policies. This is what directly-elected Members of this Council are incapable of doing.

Actually, the fact that many sectors have doubted why they are not represented in this Council does show that the community at large affirms the functions of the FCs.

Over the years, the catering industry has not received any benefit from the Government. However, the industry has recently stated that two beneficent measures have been implemented. First, the SAR Government has given them an extra employee, and yet they do not have to pay him. Furthermore, he does not enjoy any labour holidays, compensation for injury sustained at work, and long service payment even if he is fired. This employee is the representative of the Catering FC, Tommy CHEUNG. Second, when Hong Kong was hit by SARS, the Government offered substantial low-interest loans and rent relief to the industry to tide over their difficulties.

Honestly, the catering industry will certainly not support the abolition of the Catering FC. However, both the industry and I have the same respect for the Basic Law. Article 68 of the Basic Law provides that in the light of the actual situation in Hong Kong and in accordance with the principle of gradual and orderly progress, we shall achieve the ultimate aim of electing all the Members of the Legislative Council by universal suffrage.

Madam President, I so submit.

**DR KWOK KA-KI** (in Cantonese): Today's debate is so much fun because it is actually like a demon-detector. This was what I said on the last occasion, but all the more so on this. First, I do not know whether Members have read the Basic Law. It has been stated clearly in the Basic Law that we have to move towards universal suffrage. Second, universal suffrage, including the implementation of universal suffrage in 2012, is nothing new. Several major political parties, including the DAB and the Liberal Party, have indeed mentioned the need to implement universal suffrage not later than 2012 on different occasions — either 2008 or 2012 has been proposed. Can they go on undoing what they have done with their own hands? If I were them, I would feel ashamed to have made such remarks.

The speeches delivered by many colleagues during the debate are also spectacular. Many of the Honourable colleagues here might be capable of serving as deputies to the Bureau Directors. There would absolutely be no problem even if they replace the Secretary for Constitutional Affairs because they are more conservative and unreasonable than the Government.

I would like to quote a remarkable comment I have recently heard. A couple of days ago, Mrs Regina IP spoke on a very interesting topic about universal suffrage in Hong Kong. According to Mrs IP, Hong Kong already possesses five conditions for universal suffrage (she appears more and more like an academic probably because she has read a lot): First, industrialization; second, education; third, a large middle class; the fourth, I have forgotten; and lastly, Hong Kong has Christian and Jewish cultures. I suppose from her comment Hong Kong possesses the conditions for universal suffrage, though she has also mentioned that she does not dare to say categorically that universal suffrage will definitely be implemented in 2012.

It sometimes occurs to me that many people in this Council are speaking less and less like a human being. Besides the retention of FCs, it is even said that some FCs are more special and honourable than others. According to the earlier remark made by Mr Tommy CHEUNG, many people are waiting in queues to become FC members. Many will certainly queue up so long as there are free political lunches offered by these small circles, because some FC members will be chosen from among a mere dozens or hundreds of people. I am an elected FC member too. However, I must make it very clear that Hong Kong must move towards universal suffrage.

I find the remark made by Mr Abraham SHEK about the issuing of a death certificate ridiculous. We are going to sign a birth certificate — the document certifying the birth of universal suffrage for which Hong Kong people and Chinese people have been waiting for a long time — how can it be a death certificate? Of course, different people will have their own axe to grind. Mr SHEK might worry.....Now the Liberal Party is suggesting that FC members should be phased out in three cuts. The Alliance can easily be the first one to be cut. The second cut goes to the DAB, and the final cut to the Liberal Party. How terrible it is! We can definitely not sign it. The phasing out of FC members in three cuts is entirely out of the question.

I greatly admire two colleagues from the Liberal Party who have succeeded in participating in direct elections instead of FC elections. Balanced participation is not to be pursued through a system considered by us a shame. Members should bear in mind when the concept of FCs was first proposed. As Members should all be aware, a fascist regime put forth the concept of FCs during the era of MUSSOLINI in Italy.

Nowadays, some ornamental upper houses can still be found in this progressive world. For instance, a handful of members of the parliament of Northern Ireland were returned by FCs. This is true. However, this does not mean that the Legislative Council, the most influential organ in terms of people's livelihood and enactment of legislation, may follow suit. As Members should all know, the Legislative Council has been castrated — there is no way for certain private bills, despite with Members' consent, to be proposed in this Council. Furthermore, there is this separate voting system. Such a ridiculous system, including the separate voting system, is precisely what the Government wishes to retain. The Government will certainly not allow the FCs to be abolished. Many people are prepared to support the Government's motions, albeit after negotiation and bargaining. I find such a system entirely ridiculous. Which progressive, civilized society with balanced participation is not practising a democratic system? Balanced participation must be absent in societies which are not practising a democratic system.

Hong Kong is far from a backward place. We are on a par with many progressive countries in the world in terms of per capita income and educational standards. The essential conditions include: first, a package acceptable to colleagues from FCs and Members of this Council; and second, a consensus must be reached.



I sometimes find the Government most remarkable. There will never be a consensus. President, how can there be a consensus? There are altogether 30 FC Members in this Council. Even if several FC Members agree, nothing can still be achieved, because of a lack of consensus, if one FC Member objects. This is because there is a lack of consensus. Perhaps both the Government and the Central Government are pleased to see this lack of consensus. However, President, a consensus has already existed. More than 500 000 people have stepped forward asking for universal suffrage. They keep doing this year after year. The voices of Hong Kong people are loud and clear — they want universal suffrage. Should the Government dare conduct a referendum to tell Hong Kong people when the time is ripe for full universal suffrage, which FC do Members think the public will wish to retain? Sometimes it is very hard to say something contrary to what we think. It is fine that some colleagues have kept doing so. They should replace Secretary Stephen LAM because he has made a most terrible remark to smear others. I have listened carefully to the speeches delivered by Mr LEE Cheuk-yan and Mr Albert CHAN. They have not smeared anyone. They have merely spoken from the bottom of their heart and told us what the public think from the bottom of their heart. This game is not enjoyable. I do not believe the Government is determined to implement universal suffrage in 2012. Given such a government, what can we expect apart from hoping that it can be changed by universal suffrage?

I support the original motion and the amendment. Thank you, President.

**MR ALAN LEONG** (in Cantonese): Madam President, at a glance, today's debate appears to be a sequel to the debate held last week on "Electing the Chief Executive by universal suffrage", only that Mr Ronny TONG has replaced Mr LEE Cheuk-yan as the director. Without doubt, the two elections by universal suffrage represent two integral components of the whole discussion on constitutional development. We can definitely not focus on one of them to the neglect of the other, though the possibility of electing the Chief Executive by universal suffrage before returning the Legislative Council by universal suffrage has been raised in recent years. The explanation given by some is that Beijing will not accept a situation in which the Legislative Council demonstrates greater credibility than the Chief Executive. In my opinion, while it is undeniable that the hope of electing the Chief Executive by universal suffrage is still remote, this is somehow easier to be realized than returning the Legislative Council by universal suffrage.

Why is it easier to realize the hope of electing the Chief Executive by universal suffrage than electing the Legislative Council by universal suffrage? One possible reason is that the small-circle election has existed for only a decade, and yet the FCs in the Legislative Council have existed for more than two decades. Some of those with political privileges have become accustomed to the privileges they are enjoying by virtue of their status as Members of this Council. Asking them to give up their privileges is indeed tantamount to negotiating with a tiger for its hide.

It was precisely because the Fifth Report of the Constitutional Development Task Force had proposed to bring 100-odd appointed District Council members to the VIP club of FCs and, alongside another 300 people, to the small-circle Chief Executive election while including elected District Council members in the political system that the pro-democracy camp firmly objected to the Report last year. As the saying goes, "too many cooks spoil the broth". If more people are allowed to continue to hold political privileges, how long will we have to wait before all of them will agree one day to give up their privileges voluntarily?

Madam President, we had better study carefully the background of the formation of FCs instead of defending vaguely for their significance. FC elections were introduced to the Legislative Council election by the colonial government back in 1985. The Government explained in 1984 in a Green Paper on Representative Government that, and I quote, "The most distinctive feature of the present system of government in Hong Kong is that it operates on the basis of consultation and consensus. It is not a system based on parties, factions and adversarial politics.....Two different types of shared interests among the people have been recognized — first, those arising from their place of residence; second, those arising from their occupations." (End of quote)

Madam President, I think the background of the formation of FCs as stated above no longer ceased to exist a long time ago. First of all, party politics was firmly rooted in the territory a long time ago and has developed steadily. Furthermore, interests in society have begun to demonstrate pluralistic divergence. Coupled with the fact that the constitutional framework of the Basic Law is dominated by elections, the so-called "consultation" and "consensus politics" simply cannot fit in the constitutional design of the Hong Kong SAR under the Basic Law. Furthermore, the interests of the trades represented by the vast majority of FCs have now turned into the interests of employers and

trade associations. The interests of practitioners in general have simply not been reflected.

What is more, the way forward outlined by the Basic Law for our constitutional development is absolutely clear — universal suffrage is the ultimate goal. With the number of directly-elected seats increasing from 20 to 24 and then 30, what can be done if the next step is not to abolish FC seats and replace them with directly-elected seats? While the proposal raised last year to add five seats to each side is certainly not a decent option, even the Government's recent proposal of "one person, 31 votes" is likewise not progressive.

Madam President, it must be pointed out that the rights to vote must carry the full process of nominating, being nominated and voting. Equating "nomination by the trades for election by the public by universal suffrage" with "universal suffrage" is in effect an attempt to preserve existing privileges. Suppose the Chinese General Chamber of Commerce or the Federation of Hong Kong Industries each nominate two persons for voting by 3 million-odd voters, how far can privileges be abolished and democracy be promoted if the influence exerted by these trade associations in this Council is far greater than that exerted by other citizens?

Madam President, I pointed out last week that members of the public were frustrated by the stalemate in the political system. If we look at the work of the Council over the past two years or so, I believe we can even find distressing cases everywhere. Examples are the maximum working hours, the Tamar site, the enactment of legislation on covert surveillance, and so on. The imposition of checks and balances on the Government and the proposals by the public have all been defeated. If we do not wish to see Hong Kong people waiting in vain and being let down any longer, we should immediately reform this Council in line with the direction of universal suffrage with substantive effect to enable this Council to restore its due responsibilities and powers.

With these remarks, Madam President, I support the motion and the amendment.

**MR CHIM PUI-CHUNG** (in Cantonese): Madam President, after listening very carefully to the remarks on the original motion and the amendment today, I find

that nothing new has been proposed, only that the 30 FC Members have once again been criticized. But what is the point of doing so?

President, I really disapprove of the Commission on Strategic Development (the Commission). This is the fourth time I state that the Legislative Council should have the final say on policy and constitutional issues. What are the reasons for Members of the democratic camp, including Mr LEE Cheuk-yan, to sit on the Commission while criticizing it for acting in the wrong way? If Members consider that the Commission has acted wrongly, they should have withdrawn from it immediately because they simply cannot identify with it. However, they are still sitting on the Commission with other members. This is an insult to other members of the Commission and, what is more, an insult to today's motion.

Some Members are prepared to make criticisms. To start with, Mr CHEUNG Man-kwong will deliver another impressive speech later in the meeting. At present, Mr CHEUNG should be considered the most persuasive Member in this Council because the Education FC is under his leadership. Given his representation, he should take the lead by immediately proposing to his FC to vote to give up its status as a FC. I pledge that I will be the eighth Member supporting my FC to vote to determine whether it should give up its representation. Why? Should seven Members of the pro-democracy camp lead their FCs to vote to give up their seats in the Legislative Council, I will certainly be the eighth Member to propose to my FC to give up ours. Of course, the ultimate outcome is to be determined by our FCs, not by us. However, I consider Mr CHEUNG Man-kwong best qualified because the votes he obtained in the election accounted for more than 70%. The number of votes obtained by Miss TAM Heung-man was lower, but still she was elected after obtaining more than 30% of the votes. As the representativeness of FCs has attracted so many criticisms and disapproval from Members sitting here, I suggest Members address this issue rationally. The seven Members of the pro-democracy camp may take the lead by leading their FCs to vote to express their wishes as to whether their FC seats should be given up. Otherwise, they are not qualified to say anything, for they are simply acting selfishly for themselves. How can they convince people? Although they hurl attacks at others, they are still sitting here, getting paid and expressing their views as usual. I really have to challenge them: they should speak if they dare; or else, they should never mention it again.

Some people choose to run in an election while criticizing it for being unfair. Of course, he is simply not qualified to call himself a candidate and should feel sorry for the 100 nominations. It was said earlier that 25 nominations would come from Members of the democratic camp. However, for whatever reasons, two nominations have now made a U-turn. In other words, there will be two nominations less. Whether 100 nominations can be secured will soon become a matter of concern to many. There will only be 98.....

**MR MARTIN LEE** (in Cantonese): May I ask him to elucidate which two persons?

**PRESIDENT** (in Cantonese): Mr CHIM, you may.....

**MR CHIM PUI-CHUNG** (in Cantonese): I am not obligated to elucidate.

**PRESIDENT** (in Cantonese): As you wish.

**MR CHIM PUI-CHUNG** (in Cantonese): I am not obligated to elucidate. However, you may use your own imagination. *(Laughter)* If you do not have imagination, you are not qualified to be a Senior Counsel. *(Laughter)*

President, having served on this Council for such a long period of time, we should have expected motions like this one to be presented for discussion. However, I find it really unacceptable for some Members to attack others, as what was mentioned earlier. As a Member myself, I must put myself in a very, very fair position, with great equanimity, too. This is because we are virtually being punished to sit here. Achieving a political end is simply out of the question. It must be understood that even the SAR Government is not qualified. Our Bureau Directors are all Tai Chi masters because they are paid to "dodge" and "fend". There is nothing they can do about it because Hong Kong is not independent. Instead, it is a special administrative region of China.

Indisputably, the Central Government is completely lack of confidence in the politicians in Hong Kong. Although Members are said to be very wise and members of the public highly competent, when will Members be qualified to participate in direct elections and members of the public be allowed to vote? It is a great pity that many people have already emigrated to Canada and obtained the Canadian citizenship. This is the question I have been asked: When will direct elections be held in Hong Kong to allow members of the public to vote to elect the Chief Executive and form the Legislative Council? The first occasion is when Taiwan reunites with China. Under what circumstances will Taiwan be led by the Central Government? The second possibility is that, by a certain measure, universal suffrage has been implemented in the Mainland before Hong Kong is allowed to implement direct elections. This may be considered disastrous and so, we have to continue with our fight. I do not mean we cannot do so, for we have every right to do so. However, making use of this system to criticize other representative Members is actually unnecessary. Should there be cohesion among Members, 40 votes should be advocated instead. Even if there were 40 votes, a two-thirds majority does not mean Members can do whatever they wish because the Chief Executive must not object before the matter may have a chance to be proposed for discussion. Furthermore, validation by the Standing Committee of the National People's Congress is required after the discussion.

As the situation stands, I think that colleagues of the pro-democracy camp should immediately withdraw from the Commission on Strategic Development because the authority of Members of this Council is actually being exploited by this organ. Nevertheless, Members choosing to participate in it must not make any noise. It is nonsense to say that they have to listen or go undercover.

There are altogether seven FC Members belonging to the pro-democracy camp in this Council. They have to convince their constituents to give up their seats because the seats belong to the constituents, not them. The Government will be terrified should they really take such action because both the Basic Law and the law require that the Legislative Council must comprise 60 Members. Should one Member withdraw, there will be 59 left; should two Members withdraw, only 58 will remain. The Legislative Council will then be rendered illegitimate. Are they capable of doing so? Do they have such a spirit of sacrifice? If not, they had better not make any criticisms. They had better

enjoy their rights in silence and get paid as usual. They will be terribly wrong if they say that my argument is fallacious.

Therefore, President, I still have to say that I will abstain at the vote.

**MR MARTIN LEE** (in Cantonese): Madam President, why were functional constituencies (FCs) created? Because the Hong Kong Government back in those years did not want to see appointment turn into universal suffrage. Hence, in the first Legislative Council Election in 1985, new arrangements were introduced to return Members of the Legislative Council through FC elections, which is familiar to all, and through elections by district board members from among themselves, a transitional arrangement to be ultimately replaced by full direct elections. Later, as Members should all be aware, indirectly elected seats returned by the district boards were replaced by directly elected seats, but FC seats were still retained.

Madam President, the first Legislative Council Election took place at the midnight of 26 September 1985. I was elected according to the polling results of the Legal FC at that time. The first statement I made in the press conference convened immediately afterwards was that I hoped directly elected seats could be introduced in 1988. As Members know, it was found to be impossible subsequently. When I was elected in the first direct election in 1991, I strongly called for returning all Legislative Council seats by universal suffrage in 1997. SZETO Wah, or "Uncle Wah", was returned by the Education FC at that time. Like me, he was elected for the first time in 1985, and re-elected in 1988.

Some people consider that FC elections are not entirely bad, for SZETO Wah and Martin LEE are so elected. Actually, both SZETO Wah and I have all along hoped that all seats can be returned by universal suffrage. Ms Margaret NG, a Legal FC member, has also cherished the same hope all the way that all FC seats can be abolished and returned by universal suffrage. The same goes to Mr CHEUNG Man-kwong.

Mr CHIM Pui-chung is very smart in telling us to first abolish our seats before he consults his FC. He is obviously trying to fool us. If he is courageous, he should abolish the seats in his FC as well, for he advocates such abolition. However, Madam President, he has instead.....

**MR CHIM PUI-CHUNG** (in Cantonese): President, I wish to elucidate that I have never asked them to abolish their seats first.

**PRESIDENT** (in Cantonese): You may elucidate later. If you want him to elucidate, the one who has to answer the question is him, not you. Mr LEE, you may continue.

**MR CHIM PUI-CHUNG** (in Cantonese): I do want him to elucidate. When did he hear me ask them to abolish their seats before I consult my FC?

**MR MARTIN LEE** (in Cantonese): This is because he has never made it clear whether he supports the abolition, and yet he requests others to abolish their seats and then he would consult his FC.

When it comes to consulting one's own FC, should a FC member merely represent his own FC? During a consultative meeting held by the Legal FC when I ran in the election for the first time, a lawyer asked me this question: "Martin, you should represent us, the legal profession, if we elect you to the Legislative Council. What would you do should a major incident happen in society, and there is a conflict between public interest and the interest of the profession?" I told him unequivocally that I would be the spokesman for the legal profession should they elect me to the Legislative Council. Regarding all issues relating to the profession, I would try my very best to express their views and fight for them in the meetings of the Legislative Council. However, should there be a conflict between the interest of the profession and public interest when voting is to be conducted, I will vote according to my own conscience. My constituents may choose not to vote for me in the next election.

Unfortunately, not many Members returned by FC elections are now able to make the same commitment. Actually, Members are too concerned about their FCs by repeating their own FCs again and again. What FC does society belong to? No one cares. This is the crux of the problem.

The FC electoral system was previously considered not bad, given that SZETO Wah and Martin LEE were returned by FCs. The situation has now changed. Madam President, you are directly elected. So are Mr James TIEN



and Mrs Selina CHOW. Our Deputy President is supposed to run in direct elections in the next term, for her propaganda boards can be seen throughout the territory. (*Laughter*) I do hope she will win. On the contrary, Mr Howard YOUNG dares not run in direct elections on the ground that there is inadequate time for preparations. I am not saying that direct elections have to be held in 2008. Although this is what the amendment suggests, the original motion proposes the year 2012 instead. In other words, he has got another term for preparations. Given that he has often resorted to the tactic of procrastinating the matter without preparations, he will never have to make preparations.

Soon after I had joined the Legislative Council, I told the business community for the first time in 1986 to make preparations. I recall Mr WONG Po-yan, an appointed Member, and I were invited to speak at a banquet hosted by the clothing industry. I told members of the business community that they had to prepare for elections and deal with universal suffrage, though universal suffrage had yet to be introduced. However, they told me that they did not have the time, for they had to take care of their business. I told them that personal involvement was not necessary, for they could consider forming a political party if they could afford it by selecting graduates with the most attractive faces from the University of Hong Kong or The Chinese University of Hong Kong to run in elections on their behalf. However, they were reluctant to do so even after a long delay. Their attitude remains unchanged, for they have now become people with vested interests. In the past, they got entangled with the British Hong Kong Government with their requests for further extension. Now, they are doing the same thing to the Central Government.

When it comes to a consensus, some Members say that this will never be possible. This is actually not the case. A consensus has been reached already. After the reunification, everyone in Hong Kong considered it necessary for dual elections by universal suffrage to be conducted in 2007 and 2008. This was the consensus reached among all political parties, and no one in society at that time said that we were not yet prepared. How much longer do we have to wait? We are still waiting. Frankly speaking, when universal suffrage was initially held in countries or places around the world where there were democratic elections.....looking back at these countries and places, which one of them, when compared with Hong Kong's present situation, is more qualified to implement universal suffrage? It is indeed not entirely correct to use the word "qualified", for every citizen is qualified to participate in elections by universal suffrage. Comparisons are required even if it is said that proper preparations

have to be made, this or that has to be done, or whether or not we are ready. Hong Kong is more ready to implement universal suffrage than any other countries in the world. How much longer do we have to wait? Do we have to wait until the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), that is, "Democracy According to Beijing", is confident that it will win in the elections before the time is considered appropriate?

One of the pet remarks of Dr Raymond WU, who lived in the same dormitory as I did while we were university undergraduates, read: "Hong Kong will never have democracy if the democratic camp keeps winning elections". Does it mean that Hong Kong will have hope for democracy tomorrow only after the DAB has won elections? Is this fair to our next generation, that is, the young people who are sitting in the public gallery at the moment? Are we going to wait until they become bald simply because the DAB is not yet ready? Thank you, Madam President.

**MS EMILY LAU** (in Cantonese): President, I have been waiting for a long time and I am ready. I also think that Hong Kong people are fully prepared, so I speak in support of the early introduction of universal suffrage. President, it is possible to do so even tomorrow, therefore, Mr LEE Cheuk-yan's proposal is acceptable and Mr Albert CHAN's proposal is also acceptable.

President, in fact, these issues were discussed last week and they had also been discussed the year before. Even though we have talked so much about all this that we are exhausted and our voices hoarse, we still cannot get it and all our efforts are in vain. This is really very frustrating. On many issues, my views are different from those of CHIM Pui-chung, however, he said today that the Commission on Strategic Development (the Commission) had gone too far in discussing constitutional reform, which should be debated openly, and it should not fabricate things behind closed doors, like a black-box operation. Mr Howard YOUNG even went further and said that originally, a consensus could have been reached on electing the Legislative Council by universal suffrage, only that a couple of persons had insisted on introducing elections by universal suffrage in 2012 — you do not have to clarify — and these persons perhaps are Mr LEE Cheuk-yan and Mr LEE Wing-tat.

The problem is that in the Commission, they are the minority but in society, we in the pan-democratic camp represent the majority, so is such an arrangement not absurd? Mr Howard YOUNG also said that in supporting the phasing-out arrangement, which would be implemented in three terms, the Liberal Party was being magnanimous. However, since the tourism FC would eventually be scrapped and our FC would also eventually be scrapped, in that case, who should go first? Perhaps the FCs representing larger numbers of people should go first, for example, those represented by Mr CHEUNG Man-kwong and Ms Margaret NG, the health services sectors, and so on. I talked about this last week, however, Dr Gabriel CHOI is not prepared to go first. In that case, how should this matter be settled?

Everyone has been lauding his own sector. Mr Tommy CHEUNG said that the catering sector was wonderful and many members of the public asked why they did not have any FC representing them, and why people shining shoes were not represented, people selling guns were not represented and people selling oranges were not represented. It is true that many sectors are not represented, but people all understand that if all sectors were to be represented, the parliaments would not have enough room to hold all the people even if it is full to the rafters, therefore, it is necessary for one person to have only one vote. However, some people want to allow these ultra-privileged elements to go on putting forward such ridiculous arguments in each and every debate.

It is wonderful that some students are observing this meeting. President, they do not have such excellent opportunities in their schools. Students, you can listen to how the issue of democracy is being discussed. Let me ask you, how many of the several hundred schools in Hong Kong will let their students listen to such debates? I believe that after they have listened to these debates, they will remember it for the rest of their lives — all good boys and girls have to remember that they have to champion for the early introduction of universal suffrage because the introduction of universal suffrage has to do with the dignity of Hong Kong people and we cannot let a small bunch of people — I am not going to say anything about people of mediocrity again — we should not let a small bunch of people monopolize our rights.

President, it seems that a heavenly grace has been granted for us to conduct such a debate today because, as Mr TAM Yiu-chung said, the NPC had

already made a legally binding decision. So why have the authorities not raised any objection and asked you, Madam President, to disallow it? This time, it will perhaps be said that the Secretary has again done something wrong. Poor chap, it will be another black mark and the consequences can be dire. However, what were the decisions of the NPC? As we all remember, in April 2004, the announcement of the NPC concerning the interpretation of the Basic Law and the decision caused a furore in the whole society, including from the Secretary. Why was there a furore, President? Because no consultation had been carried out.

At that time, everyone was discussing this issue and of course, TUNG Chee-hwa was jittery. In 2003, more than 800 000 people took part in the large-scale rally and everyone was discussing what should be done. Therefore, in January 2004, he went to Beijing to meet our State President and our State President said that he was highly concerned about the developments in Hong Kong — he was only feeling concerned and at that time, people were still discussing how a timetable should be drawn up. Then, the NPC rushed things through without consulting Hong Kong people or allowing the mechanisms for deciding the electoral arrangements in 2007 and 2008 or for deciding how to make amendments, as stipulated in Annex I and Annex II to the Basic Law, to be activated. It then came out and said that the decisions were legally binding, so they must be complied with.

Therefore, the Liberal Party also said just now, "You have contravened the decisions of the NPC, so it will not do." What are we supposed to comply with? I am not sowing discord or inciting Hong Kong people to confront the Central Government, however, no matter what sort of Government, the decisions it makes must be reasonable, must they not? To us Hong Kong people, it is meaningless to say things like whether something is legal. We Hong Kong people have reached a stage of high transparency in society and many members of the public understand that there is a process for everything. The people of Hong Kong cannot be deprived of their right to universal suffrage unilaterally without any consultation.

For this reason, President, I do not accept the decision of the NPC, and I feel most angry about its decision. We Hong Kong people should hold ourselves dear. Just now, Mr Albert CHAN mentioned Eastern Europe and the Soviet Union. Do Members think that their reforms descended from the sky? Or that they found them under the bed? They came from blood shed and

sacrifices made by tens of thousands of people. May I ask our generation and also the next in the public gallery how many sacrifices Hong Kong people are prepared to make?

For many years, in this legislature, I have been strongly supporting co-operating and working together with other political parties and groupings to seek a consensus. For many years, I have supported the eight-party coalition and the eight-party consensus and we have worked together. However, President, when it comes to the political system, I know that there is no room for discussion. In fact, it is stated in the political platforms of political parties such as the Liberal Party and the DAB that they support the introduction of universal suffrage in 2007 and 2008. However, when the central authorities disallowed it, when the plutocrats, that is, their top bosses, disallowed it, they all changed tack. Once they have changed tack, several million people in Hong Kong are consequently denied the opportunity to exercise their inherent human rights.

Therefore, I believe that all of us should be prepared mentally. If we think that we can get what we want by debating and lobbying in a rational and gentlemanly way, I think it is time we woke up. President, this is a challenge for us Hong Kong people and I, Emily LAU, is fully prepared to take on this challenge.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, first, I wish to respond to the question posed by Mr CHIM Pui-chung earlier on, that is, whether the pro-democracy camp is willing to give up its seats in the FCs. I now answer him clearly here that I am willing to do so immediately. However, before I give up my seat in my FC, I must get universal suffrage in exchange, instead of simply giving up my seat and forgetting our position on universal suffrage. I remember that when I was in the Ante-Chamber, I had a discussion with CHIM Pui-chung on this issue. I said to him, "CHIM Pui-chung, let us give up the seats in the FCs together.". However, he was unwilling. I suggested we implement this over two terms and we would take the lead in giving up the 15 FC seats and he would ensure that the remaining 15 seats would be scrapped by the next election. If we can do it this way, I am willing to do so and this is a proposal under which I will take the first step. However, Mr CHIM Pui-chung asked at that time whether it would be possible to implement the proposal over three terms. Therefore, we are most willing to give up the

seats in functional constituencies. Moreover, in my election platform, it is also stated clearly that I hope there will be universal suffrage, so such hope implies that I will give up my seat in my FC. However, the point is, I have to know if what I can get in exchange is universal suffrage. I do not want to find that, after I have given up my FC seat, the remaining ones will be passed down to posterity for ages on end. This is really not something that I wish to see.

However, in my speech today, I do not wish to dwell purely on the issue of campaigning for democracy. I wish to respond to the view voiced by Mr Albert CHAN, who said that it was a sorry affair for the pro-democracy camp to take part in the Chief Executive Election. In fact, the pro-democracy movement is multi-faceted and it includes putting up resistance within the establishment as well as waging struggles outside the establishment. In the past two decades, the pro-democracy camp has never given up these two battle fronts because the campaign for democracy requires concerted efforts on these two fronts. It will not do to adopt just one approach or to take just one path.

What is the first path? It is to wage struggles within the legislature. Any effort to fight for democracy in the legislature, be it a success or failure, to improve the people's lot will awaken the people to the fact that without universal suffrage and democracy, many of their hopes and wishes cannot be realized. Therefore, when FCs were introduced into the legislature, many forerunners of the pro-democracy camp participated in the elections in full force. It did not mean that they agreed that the system was democratic, only that a window had to be opened in this legislature, such that greater power could be nurtured through this window and then a hard struggle staged. To take up positions in such a way is inevitable in advancing the cause of democracy, otherwise, all places in the Legislative Council will be monopolized by the conservative forces, which will then fabricate public opinion.

Secondly, the pro-democracy camp is most adept at mobilizing the mass to wage struggles in the streets. The history of this kind of struggle is a long one. The remarkable ones are the demand for direct elections, the campaign for a democratic Basic Law in 1988 and the rally of 500 000 people two years ago against the legislation on Article 23 and for democracy. Of course, they are expressions of the people's will and power. However, if such massive power does not lead to a revolution or a change in regime, in the end, one can only change many of the realities in society through the legislature, including

terminating the legislation on Article 23. Therefore, I think that for any society that is moving towards democracy or campaigning for democracy, mobilizing the masses to wage struggles in the streets and waging struggles in the legislature must be complementary to each other and we should not over-emphasize one approach at the expense of the other.

Thirdly, to wage struggles through elections. Elections are the most prominent type of political wrestling. They are also an important political arena for waging campaigns legally. When no breakthrough can be made in the pro-democracy movement and when even mobilizing the masses cannot change the reality, elections provide a very important arena. Be it the elections of the District Councils, the Legislative Council or even the Chief Executive, the aim is to challenge the existing unreasonable system.

In standing in the election, Mr Alan LEONG's aim is not to become the Chief Executive. Besides, he does not have the capability to serve as the Chief Executive yet. What he wants to do is to challenge this system for electing the Chief Executive. What do we want to challenge? We want to challenge the preordination of the Chief Executive by the Central Authorities and we want to challenge the automatic re-election of the Chief Executive. We want to make the public see that even in an election in which we have no chance of winning, no matter how difficult the situation is and even in a manipulated election, persevering voices can still be heard, that there are still the voices of the pro-democracy camp upholding universal suffrage and democracy, so that this election will not be an autocratic and silent affair and the situation of automatic re-election will not occur. This is the meaning of Mr Alan LEONG's participation in the election, that is, to make it impossible for Donald TSANG to evade the demands for universal suffrage. Of course, we hope that we can get 100 nominations so that we can have an opportunity to debate universal suffrage openly, not just an opportunity for Mr Alan LEONG to become the Chief Executive. This is a battle played out in front of the public and fought over every inch of the ground. This is a struggle mounted within the establishment.

When asked why he still wrote essays in such a corrupt society, LU Xun replied, "In fact, my aim in writing essays is to play havoc with darkness and put up a resistance against it.". Often, in small-circle elections, if we do not subvert them and put up a resistance, we cannot make people feel the pain and thus make changes.

LU Xun also said something else. He said, "Burdened as a man may be with the weight of tradition, he can yet prop open the gate of darkness with his shoulder to let the children through to the bright, wide-open spaces, to lead happy lives henceforward as rational human beings." What does this mean? When we in this generation see the injustice in the system and the shadiness of the system, we have to use our shoulders to stall the advance of the darkness, so that the next generation can see the bright and pleasant days. When applied to politics, this refers to democracy and universal suffrage and they are the meaning of our struggles today.

**DR RAYMOND HO:** Madam President, for years, it has been my pledge to promote political awareness of the engineering profession so as to facilitate the realization of direct election of all Legislative Council seats. I am still working towards this objective. I have been continuously collecting opinions on this issue within the engineering profession. Although on some occasions, there are different views rather than complete consensus, I am glad to note that people are beginning to respect other people's views and have sensible discussions.

I am of the belief that functional constituency representatives are an important stabilizing force in this Council that can ensure a smooth transition in the light of actual situation to achieve the ultimate aim of electing all its members by universal suffrage, as stipulated in Article 68 of the Basic Law. Functional constituency representatives tend to offer more balanced views on a wide range of issues based on their professional opinions and experience rather than having purely politically inclined considerations.

But the electorate base of functional constituencies, be it corporate voting or individual voting, could be broadened to ensure their representativeness. This was why I proposed, with the endorsement of the Council of the Hong Kong Institution of Engineers (HKIE), to include Graduate Members and Associate Members of HKIE in the Engineering Functional Constituency electorate and Associate Members in the IT Functional Constituency electorate respectively. Unfortunately, my suggestions were outside the scope of the amendments proposed by the Government in the Chief Executive Election and Legislative Council Election (Miscellaneous Amendments) Bill 2006.

At an equally unfortunate turn of event, the defeat of the 2008 electoral package proposed by the Government in this Chamber last December has



deprived us a very good starting point to achieve the goal of "electing the Legislative Council by universal suffrage" in line with the principle of "gradual and orderly progress" as stipulated in Article 68 of the Basic Law.

We have been haggling for almost 10 years over the pace of our political development. But little headway has been made. Is it time to bury our differences and reach a consensus on a satisfactory way forward?

Madam President, I so submit.

**MR ALBERT HO** (in Cantonese): Madam President, Mr TAM Yiu-chung said right at the beginning that the sponsor of today's motion, Mr LEE Cheuk-yan, and Mr Albert CHAN, the proponent of the amendment, had tarnished and railed against others. To "tarnish" generally means fabricating something to damage other people's reputation, however, what has been fabricated? In fact, I really wish to know. If there is no fabrication of facts, it is only a matter of position and this is not tarnishing others at all. Second, he talked about raillery. Of course, they did inveigh against people, but I believe the aim of their criticisms is just to goad a lot of Honourable colleagues who should have spoken last week but were unwilling to do so, in particular, those from the Liberal Party and the DAB, into truly responding to the strong arguments and demands put forward by us. Now that Mr Jasper TSANG has come in, I hope the criticisms can provoke them into making some responses.

However, I think there is one thing that really deserves some lambasting. Perhaps Mr Jasper TSANG can tell me later on why it does not deserve some lambasting. What I mean is that Mr TAM Yiu-chung has said clearly that today's motion is a violation of the NPC decision. However, as far as I know, all that the decision of the NPC has done is to rule out dual elections by universal suffrage in 2007 and 2008. I really do not know how it can be interpreted to mean that the forming of the Legislative Council by universal suffrage in 2012 has also been ruled out? I really want to see for myself Mr Jasper TSANG's rhetorical skills and how he can interpret the decision in such a way that it has such a great effect as to render the motion today a violation of the law. It does not matter if he lambasts us, but he had better not scare the Secretary silly. If he says such things, the Secretary will really get into a lot of trouble.

In fact, the arguments about the value of democracy in front of so many young students today are on the whole very basic ones and I am feeling quite ashamed. If we look at the historical developments so far, more than 80 years have passed since the May Fourth Movement and nearly 10 years have passed since the reunification. If we look at the historical records, in 1984, the State President at that time, Mr ZHAO Ziyang, wrote a letter personally to the student union of the University of Hong Kong and stated his response to Hong Kong people's aspiration for democracy clearly, that is, it was only a matter of course to put democracy into practice. However, today, we are still arguing about this kind of issues. Do Members not think that we really ought to feel ashamed of ourselves?

In fact, in 2000, when various political parties were discussing universal suffrage, they reached a consensus. Is that not clear enough? At that time, everyone believed that dual elections by universal suffrage should be implemented in 2007 and 2008. No one put forward any "conditions theory" and no one proposed that it was necessary to re-examine if a consensus had been reached in Hong Kong. Unfortunately, in 2003, the patriotism theory was put forward, then the NPC gave interpretations of the Basic Law. These political sticks and hurdles made a lot of people, in particular, the two major political parties in this Council — the DAB and the Liberal Party — beat a retreat and obfuscate their positions.

Up to now, Mr TAM Yiu-chung is still talking about "a roadmap before a timetable". I am also very interested in seeing what sort of "roadmap" he is talking about. He said that he would not talk about a timetable. That does not matter, however, can he show me a roadmap? How is the roadmap like? How is the chart for block-building that he talked about at the end like? Is it really in line with the principles relating to universal suffrage that we are demanding? The meaning of universal suffrage is that all members of the public or all citizens are entitled to equal political rights and dignity and they can exercise voting rights of basically equal value when polling. It is as simple as that. What I am asking for is compliance with this fundamental principle. Can he let me have a look at this roadmap? Can he show me this "chart for block-building"? If he cannot produce any roadmap, how can he talk about "a roadmap before a timetable"?

When it comes to the issue of a timetable, of course, there are even more excuses. Some people say that the conditions are not ripe in Hong Kong. Such a statement is in fact an insult to Hong Kong people. Hong Kong is such

an advanced world city, however, it is described as even worse than many third-world countries and it is said that our conditions are not ripe. How can the person making such a statement possibly face the general public? In 2000, he believed that universal suffrage could be introduced in 2007 and 2008, several years later, however, he said that it could not be. So does he mean that Hong Kong has regressed? How has it regressed? Is it because it is not enough for Hong Kong people to be patriotic and they also have to love the party? Does he think that the votes garnered by the pro-democracy camp are too many, so the conditions are not ripe? I hope I can have an answer. However, Madam President, the most important questions are: What criteria should be adopted to comment on and evaluate such matters as whether the conditions are ripe? Who is in a position to give an answer? Should we, as Mr Ronny TONG said last week, wait for instructions from the Central Government? If this is the case, little wonder that some Honourable colleagues are so vexed today as to say that such an attitude is that adopted by a political slave.

Madam President, it is precisely because the Government does not have the courage to face the demands of society that the Commission on Strategic Development was established to produce various kinds of proposals that are half-baked. The ultimate aim is to distort the final goal of universal suffrage affirmed by the Basic Law. Today, some people still maintain that if the FCs are curtailed, the interests of some sectors would be harmed — both Mr Tommy CHEUNG and Mr Howard YOUNG have said so — so Members can see that such claims will only be repeated interminably and people in the FCs will only continue to rant that their privileges must be preserved.

Therefore, Madam President, today, we can only point out very clearly that the FC elections must be scrapped.

**MR BERNARD CHAN:** Madam President, let me first declare my interests on this subject. Since I have indicated my intention not to seek for re-election upon the expiry of the current term, I suppose I can be fairly objective with this discussion.

We basically discussed this issue last week. Most of the arguments about a direct election in 2012 for the Chief Executive apply equally to the Legislative Council.

In particular, we have to accept that any reform will be subject to the approval of the Central People's Government.

However, the debate about the future development of the Legislative Council is largely about one issue — and that is the functional constituencies.

Many people in favour of universal suffrage see the functional constituencies as a bad thing — something we have to get rid of. But other people, including perhaps senior leaders in Beijing, see them as important — something we need to keep for some time.

I believe it is possible to overcome this difference.

It all comes down to the following question: Should the community serve the functional constituencies? Or should the functional constituencies serve the community?

At the moment, we sometimes see representatives of functional constituencies arguing or voting for things that are probably against the interests of Hong Kong. They put their own sector's interests first.

It is impossible to defend a system that encourages legislators to do that.

But there are alternatives. For example, the functional constituencies could nominate candidates. Then a broader electorate — maybe all registered voters — could choose among them.

The winner in each functional constituency would be a full-time legislator, with a broad mandate.

He or she would bring technical, business or professional expertise into this Council. And, if they wanted to keep their seat, they would use that for the good of the community. In other words, we would see functional constituencies putting something in for everyone, not just trying to take something out for vested interests.

Dedicated pro-democrats will argue that this is not a 100-percent pure universal suffrage. And they are right. But it could be the best chance we have to make real progress in 2012.

Madam President, I cannot be sure about this, but I think such an approach would attract interest and support among open-minded people across the community.

And by the way, in the debate last week on this similar subject, I spoke before Ms Emily LAU, and I am glad I have a chance to speak after her today and have a chance to get all my points out. Thank you.

**MR JEFFREY LAM** (In Cantonese): Madam President, Article 68 of the Basic Law provides that "The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage.". I agree with this.

Madam President, I wish to point out that the work done by Members of FCs has all along commanded recognition. The FC elections of the Legislative Council have a history of about 20 years. Since the first ones in 1985 to date, over the many years, they have offered to the Government a lot of valuable opinions on promoting overall economic development and employment in Hong Kong, thereby refining government policies and making them more suited to Hong Kong.

More importantly, Members of functional constituencies represent a number of segments and sectors in the community, thus contributing to balanced participation in the legislature and enabling the Government to hear the voices of various sectors in the community. As a result, when formulating policies and legislation and utilizing social resources, the Government can balance the views of various sectors of the community and cater for their interests.

Being a representative of the Hong Kong General Chamber of Commerce, I have to reflect to the relevant Policy Bureaux the recommendations of the sector on Hong Kong's development, the problems that Hong Kong is facing and its views on government policies, with a view to maintaining the free market economy in Hong Kong, laying a sound foundation for its long-term development, sustaining economic prosperity in Hong Kong, continuously improving the business environment and creating job opportunities, so that

members of the public can enjoy a better living environment and live and work in contentment.

For example, three months ago, the mainland departments concerned suddenly promulgated with immediate effect the Cai Shui Circular No. 139 and Circular No. 145 to reduce the export value-added tax (VAT) refund rates for products which are considered to be highly polluting, high energy-consuming, resource intensive and low value-added and to add products that are no longer eligible for VAT refunds to the prohibited category for processing trade purposes. This move seriously affected many Hong Kong businesses, in particular small and medium enterprises (SMEs). Of course, I was very concerned about this matter. On the one hand, I expressed the concerns of the sector to the Chief Executive and the officials concerned in the SAR Government and requested their assistance, and on the other, the Hong Kong General Chamber of Commerce and other major local trade associations also joined hands in reflecting the views of Hong Kong businessmen to the Central Government. Eventually, the Central Government showed their understanding and early this month, it announced the deletion of several kinds of raw materials which had great impacts on Hong Kong businesses from the prohibited category for processing trade purposes, thus significantly alleviating the pressure on Hong Kong businesses.

I would like to emphasize that this campaign to save Hong Kong businesses does not merely benefit the sector, for more importantly, the whole society has also benefited from it. If Hong Kong businessmen who operate factories on the Mainland encounter difficulties in operation because of the new regulations or have to even close down their businesses, people who would also suffer include various kinds of supporting staff as well as people in relevant trades, such as accountancy, logistics and import and export trading in Hong Kong.

Members of FCs, in particular, Members from the business sector like me, are dedicated to promoting the economic development of Hong Kong. For example, we are committed to promoting Hong Kong's economic integration with the Pearl River Delta and seizing the opportunities proffered by CEPA and the National 11th Five-Year Plan, so that Hong Kong businessmen as well as everyone in Hong Kong can find new development opportunities. By dint of CEPA alone, 29 000 jobs have been created. The Individual Visit Scheme has

also brought more than 10 million visitor arrivals for the tourism industry in Hong Kong and created job opportunities, particularly for the grassroots.

In fact, Members representing the business sector often reflect views of the sector so that we can draw on collective wisdom to refine policies. It has helped, for example, implement the "big market, small government" policy in Hong Kong, urge for the austerity measures taken by the Government, thus effectively controlling public expenditure, actively attract more multinational corporations to set up regional headquarters in Hong Kong, reinforce Hong Kong's position as an international business hub and provide support to SMEs, thus benefiting Hong Kong as a whole. I can by no means agree with the claims of some Members, that these moves were taken only for the sake of the business sector and investors. In fact, they also serve the interests of millions of workers and their families. It is only in this way that we can lay the foundation for social harmony and Hong Kong can continue to prosper. As a Member from a FC, I will continue to work hard to serve the public and contribute to society.

I so submit, Madam President.

**DR LUI MING-WAH** (in Cantonese): The political system of Hong Kong is the product of discussions and compromises between the Chinese Government and the British Government before the reunification. It is a unique political product that cannot be found anywhere else in the world, and it is also the root cause of the constant wranglings over politics in society during the nine years since the reunification. However, since the political system of Hong Kong is a product of specific historical circumstances, Hong Kong people should accept this reality with equanimity. In fact, looking around this world, do any two countries have completely identical political systems? Which country dare say that its political system is perfect? This is because the political systems in various countries have their own unique characteristics due to the cultural, historical and economic factors of these countries, and Hong Kong is no exception.

The design and development of any political system is intended to enable a government to achieve the most effective and reasonable governance so that the economic development and social stability and harmony in the country or region concerned can be ensured and its people can live and work in contentment. If

we adopt this as a criterion in our evaluation, the political system in Hong Kong has failed to meet all the expectations of some people in society. Therefore, since the reunification, the SAR Government has been trying to refine the political system in the light of actual social circumstances. After Hong Kong's reunification with the Motherland, the composition of and the method for forming the first term of the Legislative Council were the same as those for the Legislative Council of the last term under the British-Hong Kong Government, that is, of the 60 Members, 30 were returned by the elections of FCs, 20 through the direct elections of geographical constituencies (GC) and 10 by the Election Committee. Their term of office was from 1 July 1998 to 31 September 2000. The Legislative Council of the second term also consisted of 60 Members. The number of Members returned by GCs through direct elections increased from 20 to 24 Members, whereas the number of Members returned by the Election Committee was reduced to six and the Members returned by FCs remained at 30. The second term of the Legislative Council started on 1 October 2000 and lasted four years. The number of Members in the third term of the Legislative Council also stands at 60, with 30 Members returned through direct elections and 30 by FCs. It can be seen clearly that the Legislative Council has been evolving after the reunification. It is also a legislature with the powers and functions to exercise checks and balances on government departments. In this regard, there are clear stipulations in Articles 66 and 79 of the Basic Law.

President, it can be seen from the changes in the Legislative Council that democratization in Hong Kong has been continuous and progressive. In this process, the Legislative Council has performed the powers and functions conferred on it by the Basic Law to the fullest extent. Social stability has been maintained and economic development sustained. As regards the future composition and method for forming the Legislative Council, it is provided clearly in Article 68 of the Basic Law that the actual situation and the principle of gradual and orderly progress must be taken into account and the ultimate goal is to maintain social stability, foster social harmony, ensure sustained economic development and a desirable living and working environment for the public.

President, democracy is a universal value and a goal pursued by all human beings and it is no exception in Hong Kong. However, Members should be able to see clearly that although universal suffrage is essential to democracy, a political system with universal suffrage does not necessarily guarantee



democracy. If we only attach importance to the pace of democratization but do not consider the actual situation in Hong Kong and there are not enough political talents to speak for various segments of society, then society has not yet become sufficiently politicized and universal suffrage will not lead to the ultimate goal of democratization. Therefore, when democratization has reached a certain stage and when various conditions are ripe, universal suffrage will come naturally. However, if we abolish the FCs for the sake of introducing universal suffrage and fail to see the contribution of FC Members to the Legislative Council and to society, that will mean either a total disregard of the facts or an act fostered by ulterior motives. Therefore, if one raises the demand that universal suffrage be introduced in 2012 at this stage rashly and, given that one does not have other political motives, then obviously, careful consideration is wanting and this is not conducive to the long-term overall interests of society. This is unacceptable.

I so submit. Thank you.

**DR FERNANDO CHEUNG** (in Cantonese): President, I am a Member returned through the FCs, however, I also oppose FC elections. After being elected to this term of the Legislative Council, one of my goals is to break this kind of FC elections and campaign for the introduction of election by full universal suffrage in the Legislative Council. Quite simply, if we look at this issue from the perspective of basic human rights and the spirit of balanced participation as stipulated in the Basic Law, I believe that, in fact, Members are not disputing anything insofar as the quest for democracy and the ultimate goal of universal suffrage are concerned. The only question is when and through what channels we will attain it.

President, if we look at the present structure, we will realize that the way ahead will be arduous. The reason is not that we do not know which way to go, what democracy and universal suffrage are or no overseas experience is available, and still less because our conditions are not ripe; the major problem has to do with the "rogue politicians" as pointed out by Mr LEE Cheuk-yan just now. I think the term "rogue politicians" does not sound nice, however, simply put, it has to do with political free lunch.

Concerning the structure of the Legislative Council, of the 30 FC seats, about 14 seats are returned by less than 1 000 voters each and five of them are

even returned by less than 200 voters. Just imagine: Only 200 votes are required in being elected to a seat in the Legislative Council and compare this to the tens of thousands of votes required for a Member to get elected in the direct elections of GCs, how great is the difference and the difference in the control over the elections? If we look at the existing FCs, only some 100 votes are required to be returned through the Heung Yee Kuk FC and only more than 100 votes are required for a candidate to be elected by the agriculture and fisheries constituency, the insurance constituency, the transport constituency and the finance constituency.

In this term of the Legislative Council, 11 of the 30 seats were automatically returned. President, it is surprising that of the 30 FC seats, one third of them were automatically returned uncontested. Why is it like that? Of course, this is because the electorates in these sectors are too small, so it is possible to settle matters by negotiation. The Members in the five sectors that I have mentioned were all elected uncontested. As regards other people who were returned uncontested, of course, they also belong to those FCs with less than 1 000 voters. Of these 30 seats, 20 of them have corporate voters and in 16 sectors, the number of corporate votes is even greater than that of individual votes. In other words, it is only necessary to reach agreements among various groups and individual votes do not matter at all. In fact, of these 30 seats, 10 of them only have corporate voters but no individual voters.

Under the existing structure, the voters in FCs number at only more than 190 000 and even if we round up the figure and make it 200 000 voters, such a number of voters can elect 30 Members representing FCs. If Members look at these 190 000 voters more closely, they will find this figure is rather meaningless because the number of corporate votes is greater than that of individual votes for 16 of the seats. In fact, of these 30 seats, more than half of them can be manipulated easily and it is very easy to exclude the general public from exercising their basic right to choose these voters.

In comparison, President, the voters in the GC elections number more than 3.2 million and even if we compare it to the 200 000 voters in FCs, the difference is as many as 16 to 17 times. Given such a system of political free lunch, who is prepared to give up anything? Eleven seats were automatically returned and even for the three seats in the labour sector, there are only corporate voters, that is, there are some 500 votes which return the three seats.

There are over 3 million "wage earners" in total in Hong Kong, so what does this mean? Given this kind of structure, no one will be willing to give up anything of one's own accord. If we have to discuss until we can reach a consensus in the Legislative Council, so that these FC seats are abandoned of one's own accord, this is down right impossible. It is not possible to ask people who are enjoying political free lunches to give them up and to make efforts on their own in order to get them. The present situation is that these political free lunches are nurturing lazybones and making lazybones of those people who have automatically passed the "political consultation" for which our country is renowned. It is only necessary to reach agreements and it is not even necessary to contest any election. It is also likely that there will not be any need for the Chief Executive of the next term to contest any election. Given such small circles, how would anyone be prepared to surrender one's power and share it with others?

The most important function of the Legislative Council is to monitor the Government. How do we do this? Our method of voting is such that separate voting must be carried out on motions moved by Members. Under the present structure, only seven Members in the FCs belong to the pro-democracy camp, so FCs can always negative proposals put forward by the pro-democracy camp, as a result, matters that the pro-democracy camp lobbies for the public can never be approved. Such an arrangement is designed to make the interests of a small group of people override the interests of the public, so that vested interests can be preserved. How possibly can we break such a structure and function?

Therefore, it is all nonsense to say that we have to reach a consensus and to talk about things like "a roadmap before a timetable". If we continue to allow these small circles and these people to be returned uncontested, then the political system in Hong Kong is hopeless and the interests of Hong Kong people cannot be properly represented in the Legislative Council. I speak in support of the original motion and Mr Albert CHAN's amendment. Thank you, President.

**MS MARGARET NG** (in Cantonese): President, I wish to remind Members that the subject under discussion today is that it is appropriate to elect all Members of the Legislative Council by universal suffrage in 2012 or before. I wish to thank Mr Jeffrey LAM for reading out Article 68 of the Basic Law.

Article 68 of the Basic Law stipulates that eventually, the definite outcome is that all Members of the Legislative Council will be elected by universal suffrage and this does not mean that if we like it, we can have full universal suffrage, or else we can dispense with it.

The only question facing us is when the appropriate time for the introduction of universal suffrage is and only two conditions are involved, namely, orderly and gradual progress and in the light of the actual situation in the SAR. This does not involve any private arrangement between Members, for example, I cannot say to Mr CHEUNG Man-kwong that perhaps we should not take part in elections, nor can I tell him that we should give up our seats together. This is not something that we can decide on our own. President, back then, every one of us elected as a Legislative Council Member pledged allegiance to the Basic Law. Since Article 68 is part of the Basic Law, if one day, according to the dictates of our conscience, we judge that in view of the actual situation and the principle of gradual and orderly progress, this Council should be formed by full universal suffrage, then we have to cast our votes in support of introducing universal suffrage in the election of all seats, even though this may run counter to our personal interests.

President, of course, we understand that the great majority of the elections of the FCs are much easier affairs compared with direct elections. Of course, it is in the interest of the person concerned if he can become a Member of the Legislative Council by means of an election that is easier, still, we should not do so. To all people who uphold the Basic Law, even though such a move may make things more difficult for him, he should still support it. If full universal suffrage were approved today, it would be much more difficult for me to contest the election of Legislative Council Members, still, I should not make this my consideration.

President, we have to respect the Basic Law, implement the Basic Law and safeguard the Basic Law. The FCs or Members do not have any say over whether Article 68 should be implemented or not, nor is its implementation subject to our agreement or disagreement. We do not stand above the Basic Law. Therefore, I hope all Honourable colleagues will understand this reality when they speak and will no longer make comments that flout constitutional laws.

President, the elections of the Election Committee (EC) are now being held. They are in fact comparable to those for the seats in this Council that are not directly elected and we can see what the differences are. Dr Fernando CHEUNG has mentioned how many seats in the functional constituencies were returned uncontested and at present, 389 members of the EC are also returned uncontested. One only has to compare the electoral contests in the EC with those of the Legislative Council to see the differences.

Firstly, since there are directly elections in the Legislative Council elections, the extent of participation by the public is much greater. As regards the EC, since its electorate is mainly composed of the 200 000 people from the FCs and even our elites do not really want to take part in its elections, its turnout rate of 30% can already be considered very good.

Secondly, in the elections of the Legislative Council, since there are direct elections, the interests of the public and society are accorded the highest priority. As regards the EC, in the contests in a number of functional sectors, what we can often see is that people are exchanging interests.

Thirdly, there is the issue of manipulation. Not to mention the fact that the EC is made up of a small circle of 800 people, in each sector, due to the electoral rules, it is far easier to manipulate its elections than those of the Legislative Council. Therefore, this is a far cry from fair and open elections.

President, just now, a Member raised the old issue of the constitutional reform proposals and even suggested the reason for its being negated. President, on 16 December 2005, members of the pan-democratic camp published a small booklet which explained why we opposed the constitutional reform proposal put forward by the Government. In gist, firstly, because it ran counter to the principle of universal suffrage; secondly, because it changed the direction of gradual and orderly progress towards universal suffrage and one of the points was that it had taken a retrogressive step by allowing 520 district council members to elect five Legislative Council Members, as a result, it would be even easier for the Government to manipulate the results. That was a move that would restore indirect elections and represent retrogression in democracy. President, at that time, it was as though we were casting pearls before swine, and I am afraid it is also the same today. However, I have asked someone to fetch the booklets. If some people have forgotten why we voiced opposition, we still have some booklets here.

President, in fact, if it is not possible to relax the constraints imposed by the FCs and if it is not possible to relax the constraints imposed on constitutional reform, the major resistance comes from the FCs which have vested interests. However, the legal sector is the exception. We support direct elections on every occasion, however, our opponents who do not support democracy and universal suffrage always cite the interests of their sectors as the ground. Therefore, this clearly illustrates the fact that they regard democracy and universal suffrage as the enemies of their sectorial interests, which is at variance with the spirit of Article 68.

President, I think today's question is very clear. It is time that we spoke according to our conscience and adhere to the Basic Law. Thank you, President.

**MR VINCENT FANG** (in Cantonese): Madam President, I speak in opposition to the original motion and the amendment moved by the two Honourable colleagues respectively. This is not because I was elected to the Legislative Council through FCs but that by dint of the affairs in which I have played a part in the past two years, I have first-hand appreciation of the roles performed by Members of FCs and how they can successfully balance the interests of the general public and those of various sectors.

Many Honourable colleagues elected to the Legislative Council through direct elections often criticize Members of FCs, saying that we disregard public demands due to sectorial interests. However, I wish to point out that the people in these sectors are also members of the Hong Kong public and the voters in FCs also have votes in direct elections. If Members of FCs fail to reflect the demands of their sectors, the voters will not vote for them. Therefore, to be concerned about the reasonable interests of a sector does not mean that doing so will conflict with public interests. When it comes to crucial issues, the overall interests of Hong Kong will remain our ultimate consideration.

Secondly, as the issues of concern to each FC are different, so the situation of being concerned only with one's own sector as claimed by some Honourable colleagues will by no means occur. The third point that I wish to make is that I hope Honourable colleagues who criticize us Members of FCs can respect us and

the fact that we also have our own independent thinking and judgement, as well as the wish to contribute to Hong Kong and promote social stability and prosperity in Hong Kong.

I think that, quite the reverse, although we have to bear in mind the concerns and interests of the public and at the same time, defend the rightful and reasonable interests of our sectors, it is us who can balance the interests of both sides and identify proposals that the public at large will find more acceptable.

Madam President, I have a profound appreciation of this point after I joined the Legislative Council. To take the anti-smoking legislation, which was hotly debated in this legislature, as an example. Some Honourable colleagues believed that I had opposed it because tobacco companies were voters in the wholesale and retail FC. However, I can tell Members that the great majority of tobacco companies do not belong to my sector. Moreover, tobacco companies are all multinational corporations and they can adjust quickly to any impact.

In that case, who will be dealt the greatest blow? In fact, they include newspaper vendors, small business operators and the local entertainment industry comprising mahjong parlours, clubs and nightclubs, which cannot move out of Hong Kong. It is likely that a total ban on smoking will make the local entertainment industry disappear. These two industries alone affect the livelihood of nearly 200 000 people. Are they not members of the Hong Kong public? At present, the people in the local entertainment industry are not represented by any FC and it was due to the fact that they could not find any Member who would speak for them that they had approached us. As a result, they became what you called "the sector represented by Vincent FANG and Tommy CHEUNG".

As they are not represented by any Member, are we supposed to abandon them and leave them to the plight of business closure and unemployment that is attributable to the moral high ground occupied by the Government or Members? If they are forced to apply for Comprehensive Social Security Assistance, directly-elected Honourable colleagues will criticize the Government for not caring enough about the needs of the public, for not providing enough funding for social welfare and for distributing public health care resources inequitably. The Financial Secretary would then ask, "Whence comes the money?"

Be it major or minor businessmen, they all yearn for a democratic political system. However, in the country considered to be the most democratic in the world, that is, India, its political and social situation and disparity of wealth should be evident to all.

It is true that I have not carried out any in-depth study on democratic development, however, I believe that economic stability and sustained development are fundamental to social stability, whereas democracy must develop in a gradual and order manner.

As regards today's motion, in fact, the Basic Law has already made the promises and stipulated everything clearly, so I am not going to repeat them here.

Although I believe that there is a *raison d'etre* for the FCs in the Legislative Council, since I support the Basic Law, I also agree that the Legislative Council should attain the goal of full universal suffrage step by step.

I so submit. Thank you, Madam President.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, just now, Mr LEE Cheuk-yan used the word "nostalgic" to describe a group of members in the Commission on Strategic Development (the Commission) and said that they had brought up some past policies or ideas, even those advocated by fascist regimes and MUSSOLINI, in an attempt to keep up an appearance today. This really reflects some of the realities in the Commission.

However, I wish to reflect another reality from another angle. What is it? It is to look at this matter from the angle of conservatism. What is conservatism? President, conservatism means to adhere closely to everything that one has practised before. I think we can understand this issue even better from another angle. President, why did I say so? Mr Martin LEE has in fact explained very clearly just now that the FCs nowadays have evolved gradually from the appointment system adopted by the Government at a very early stage. How did the appointment system come into being? As Members know, the Legislative Council nowadays symbolizes and the former Legislative Council also symbolized a nexus of power. This nexus of power is responsible for enacting legislation and formulating policies, so as to uphold some policies and the power



of some social institutions. As we all know, whoever gets into this nexus of power will see his interests protected and upheld. Therefore, be it the appointment system of the Government in the past or the FCs nowadays, the aim is to safeguard the vested interests of a small group of people and this is the reason for these people keep defending this system.

If Members still think that the FCs should continue to exist, that is being conservative. Why is this being conservative? They want to maintain this kind of system, so that they can have the power to formulate policies or legislation to protect and uphold their own interests, and it is as simple as that. If we demand our friends in the FCs to surrender their power today, will such a request be met? President, of course, this is unlikely. May I ask who will be prepared to surrender something voluntarily and let other people formulate policies that will harm their own interests? Who would be so foolish? Therefore, we must not hold any extravagant hope that the representatives of the existing FCs will do so.

Dr Fernando CHEUNG has also pointed out clearly that only corporations can vote in the elections of FCs. What does this mean? It means that they represent the interests of organizations. Since interests are at stake, who will be willing to surrender them voluntarily and allow representatives of workers to vie for the interests? Will they possibly do so? It will be completely conflicting and contradictory. Therefore, the answer to this question is definitely in the negative. However, even though this is impossible, does it mean we should not fight for it? As Mr CHIM Pui-chung said, in the whole process of constitutional reform, if we cannot get the nod from the Central Government, it is practically impossible for us to do anything because that will be meaningless and even any discussion is redundant. However, President, I wish to tell Mr CHIM Pui-chung that we must not be overcome by defeatism because in fact, many instances have shown that we cannot achieve everything within the context of the legislature, however, the point is that if we do not lobby, we definitely will not get anything. There are many past instances, so let me cite an example. We have discussed a fair competition law for many years and lobbied for it for many years, fortunately, the Government has now changed its mind and intends to introduce legislation.

Apart from the legislation on fair competition, there are also many other such instances. Take the legislation on Article 23 of the Basic Law as an example, and the same applies. The Hong Kong Government and Central

Government both said that legislation had to be enacted. If we did not lobby against it, how could we scuttle it?

Another example is the former Chief Executive, TUNG Chee-hwa. If we had not kept saying that his regime could not represent the public and if we had not made a ruckus or any effort, he would not have left his office. Therefore, I think we cannot be too defeatist. If one is too defeatist, one should not be sitting in this Chamber. Why? If the people in this legislature always have to wait until others have given their nods before they discuss something, then in fact, there is no need to discuss anything. Since consent has been given and something already given us, what else is there for us to discuss? What do we have to do? What do we have to say? Therefore, every Honourable colleague in the legislature should hold one mentality, that is, even though something appears to be impossible, we still have to persevere and lobby for it. This is the right kind of mentality. I hope Members will not be too realistic. In fact, reality will hamper us and prevent the entire society from making progress or going forward.

Many friends have said that FCs are actually enjoying political free lunches. Of course, this is figurative speech and I will not object to it. However, the most important thing is that this is not something as simple as a political free lunch. I think this represents a nexus of power that protects its own interests, as I have said. President, how can they possibly concede so easily? Therefore, if we describe it as a free lunch, we are painting it rather innocuously because it is only about eating. When there is something to eat, then people can have it and this is what a free lunch means. However, the problem is that people will struggle for and cling to power, otherwise, how can they protect themselves? What I am talking about now is the nexus and the power. We really must not hold the extravagant hope that other people will concede of their own accord and that we do not have to make any efforts.

Ms Emily LAU has put it aptly as a challenge. What sort of challenge is this? The challenge is that we must not think that the problem can be solved by simply discussing it little by little together here. This matter is not so simple because power is at stake. Therefore, we must have the resolve to say to the representatives of the opposite camp that we will make endeavours and do so with determination, otherwise, our demands will not be met.

I hope Secretary Stephen LAM, as a Bureau Director, can hold onto such an attitude and principle and he has to persevere and make endeavours. However, judging from the Secretary's past performance, I cannot see such an attitude in him and I cannot see the Secretary persevere or make any endeavour. Here, I wish to offer him a piece of advice. From 2003 to the present, we have already discussed this topic of universal suffrage on seven occasions. I hope that when it is discussed again in the future, it will not be necessary to discuss the way forward anymore but that we will discuss how the elections should actually be held.

Thank you, President. I so submit.

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

**MR LAU CHIN-SHEK** (in Cantonese): President, almost a year has passed since the Legislative Council discussed and negated the constitutional reform proposals. Four years will pass quickly, followed by another four years, so time is slipping away like this. When will it be no longer necessary to talk about universal suffrage and, when will a democratic political system that we have been longing for become a reality? What we should be doing today is to examine how universal suffrage should be implemented.

President, universal suffrage is our fundamental political right, even for people living in such backward eras as the Yan'an era, when everyone was carrying a sieve on his back and voted using a red bean. It is no longer necessary for us to expound on whether Hong Kong people are mature enough and whether our economic and judicial systems are sound. Nor is it necessary to lobby for universal suffrage by coming up with such slogans as addressing the disparity of wealth, the imbalance between employers and employees or racial discrimination because there is no guarantee that democracy and universal suffrage will definitely solve all of these problems. There is no need for us to give any justification for universal suffrage and there is no need to lay down any criteria for the introduction of universal suffrage because it is provided in the Basic Law that the ultimate aim is to attain the goal of universal suffrage.

President, I have said before that due to its cultural and historical background, the Central Government has adopted the constitutional reform

policy of taking one step at a time. This is just like its open-door and economic policy of groping its way across the river step by step. However, no matter if such a step is a big or small one, taking a step is always better than not taking any. If we take one step after another, even though it may take some time to reach our goal, taking a step will always bring us closer to the goal than not taking any.

However, what I am rather concerned about is that the Commission for Strategic Development plans to study the proposal of allowing the groups comprising FCs to make nominations for some seats in the Legislative Council and adopt this as the final model in electing the Legislative Council by universal suffrage. If this is really the case, then we are moving the ultimate goal of universal suffrage and even if we take one step, it does not necessarily mean that we are any closer to universal suffrage. Regardless of whether we should move quickly or slowly, I hope all of us will respect the fact that universal suffrage is our goal and universal suffrage includes the universal and equal right to vote and to being elected.

President, today, there is a very paradoxical situation and that is, from Beijing's viewpoint, the political groups in Hong Kong want to share power, however, they do not want to bear the consequences of exercising power. This is just like a boss who only wants to make money but is not willing to assume any responsibility in the event of bankruptcy. For one thing, we feel that those in power are not willing to devolve power. If they are not willing to let go, the only thing we can do is to keep impacting on them and this will result in a vicious circle in which all sides refuse to cede any ground. Apart from wasting time, it will not be possible to attain our goal.

President, in fact, each individual including me must do some self-examination and see if we have enabled universal suffrage to make any progress. Have we moved towards our goal? When we make our demands, have we shown any mutual accommodation and respect for others? We have already made innumerable representations and conducted innumerable debates on the issue of universal suffrage. There is no need for us to use a monster-detector to prove anything about other people, nor is it necessary to blame anyone for the stalling constitutional reform. It is time we stopped the mutual accusations, stressed our common grounds and set aside our differences. Only in this way can we move towards universal suffrage.

President, why do we not handle the easier parts first before dealing with the more difficult parts? If Members all think that it is easier to deal with the election of the Chief Executive by universal suffrage, then why do we not focus on dealing with the issues relating to the election of the Chief Executive first? If everyone is willing to come down off his high horse and accommodate one another, if they are willing to enhance mutual trust, why does the SAR Government not seize this opportunity, lead us in taking a stride that is even bigger than that under the constitutional reform proposals last year and identify a proposal capable of solving problems in a practical manner? We should also encourage various people or groups that care about this issue to put forward proposals, as well as listening to and accepting them. Christine LOH has put forward her proposal and the group formed by Mrs Anson CHAN will also put forward a proposal later. Only a platform of mutual trust and accommodation will enable us to take such step as soon as possible.

President, finally, I wish to stress that it is only by taking a step that we can shorten our distance from our goal. Let us focus on our common grounds and put aside our differences.

I so submit.

**MR JAMES TIEN** (in Cantonese): President, I very much agree with the viewpoint raised by Mr LAU Chin-shek just now, that is, insofar as dual elections by universal suffrage are concerned, the vast majority of the people believe that the election of the Chief Executive by universal suffrage should be handled as a matter of priority. In this regard, Members of the Liberal Party already elucidated their views on the election of the Chief Executive by universal suffrage in 2012 last week.

With regard to the Legislative Council, I have had the experience of expressing my views in this Council as a Member selected or elected by several different methods. I was first appointed to this Council in 1998 (sic). In 1991 I became a Member of this Council as the representative of the Federation of Hong Kong Industries in the commercial and industrial constituency. In 1998, I became a Member of this Council as the representative of the Hong Kong General Chamber of Commerce in the commercial constituency. And in 2004, with the support of the public, I was elected a Member of this Council through direct election. Throughout these times, regardless of the capacities in which I

worked or am working, be it an appointed Member, the representative of the industrial constituency, the representative of the commercial constituency, or an elected Member now, whenever some major issues of Hong Kong come before me, I would always judge them with the overall picture in mind, and I have always been mindful of the general interests of Hong Kong people, though some slight inclinations cannot be completely ruled out. Yet, I do not believe that I have ever changed the positions adopted on certain issues just because I was or am serving in my capacities as an appointed Member, the representative of the industrial sector, the representative of the commercial sector, or an elected Member or for the sake of any interest party, or for any kind of collusion between the Government and business, or for any other reasons.

Of course, regarding the value of functional constituencies, many Honourable colleagues have also spoken on the subject. But the current decision of the Liberal Party on this issue is based precisely on Article 68 of the Basic Law, which states that "The Legislative Council of the Hong Kong Special Administrative Region shall be constituted by election. The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage.". President, allow me to repeat these words again, and they are: "in the light of the actual situation", "gradual and orderly progress", "ultimate aim" and "by universal suffrage". This is precisely what the Liberal Party is suggesting right now. We are of the opinion that, subsequent to the introduction of universal suffrage to the Chief Executive election, the FCs should be abolished in a gradual and orderly manner in different phases starting from the next term Legislative Council.

Certainly, we do understand that many Members hold the view that these are small-circle elections involving vested interests. However, from another point of view, we have to judge it from the perspective of balanced participation. From the perspective of balanced participation, since Hong Kong is a capitalistic society driven by economic development, many candidates from constituencies with balanced participation may feel reluctant, or it may not be so easy for these candidates to be elected by way of direct election, and that is why we are putting forward this proposition. Since Mr Abraham SHEK is in the Chamber now, I

would like to explain to him the proposal of the Liberal Party on the phased abolition of the FCs, as well as the so-called theory of issuing death certificates. These are matters of our common concern, and Mr SHEK must understand that it is written in the Basic Law, that "the ultimate aim is .....by universal suffrage." Therefore, it was not the Liberal Party that has come up with the theory of issuing the death certificates; instead, this is exactly stipulated in the Basic Law, and I believe that we, including you, would not want to violate the Basic Law, would you?

But then, a controversy emerges over our proposal of phased abolition of the FCs: Which ones should be abolished? Who would be prepared to let go of his seat of his own accord? To date, only Dr Fernando CHEUNG, who has just walked out of the Chamber, has indicated that he would be willing to let go of the seat of the social welfare constituency, whereas other Members are all saying that they are unwilling to give up their seats. Of course, some Members believe that if we have to establish the order by which FCs are to be abolished, those that are least representative should be abolished first, for example, constituencies of the insurance, agriculture and fisheries, financial sectors and Heung Yee Kuk, and so on, for each of them has only 100 voters or so.

However, we think differently. For the sake of achieving balanced participation, and from the perspective of the operation of Hong Kong in general and that of the Legislative Council in particular, shall we not first abolish those seats of FCs the candidates of which would find it easier, when compared with others, to take part in direct elections? For example, I have noticed that it is particularly easy for members of the legal profession to take part in politics, and this is true all over the world. Currently, we have as many as eight directly elected Members who have a legal background, including Mr Martin LEE, Mr Albert HO, Mr Andrew CHENG, Mr James TO, Mr Alan LEONG, Ms Audrey EU, Mr Ronny TONG and Mr LI Kwok-ying, and this is also true in many different places all over the world. As such, should the legal constituency go first? On the other hand, there are Members who come from the labour sector, including Miss CHAN Yuen-han, Mr TAM Yiu-chung, Mr LEUNG Yiu-chung, Mr LEE Cheuk-yan and Mr LAU Chin-shek. Naturally, Members from the labour sector stand the biggest chance of getting elected through direct elections. This being the case, should the labour FC be abolished ahead of others?

Regarding Mr Abraham SHEK, I definitely support him. He represents the real estate constituency, and he is the only person who can represent Cheung Kong Holdings, Sun Hung Kai Properties, Henderson Land and New World Development. Therefore, the seat for the real estate FC must not be abolished prematurely. Another example is the representative for the finance FC, Dr David LI. He represents more than 150 different banks, including American banks, British banks, Chinese banks, Hong Kong banks and a local bank under his ownership. Of course, the number of voters is small, but I think he has great representation. The finance sector and the real estate sector are the pillars of Hong Kong too. So if the abolition of such seats could be implemented in a gradual and orderly manner, then we have this conceptual proposal, though it is by no means concrete at the moment. Of course, we can further discuss this in greater detail.

Now if the abolition could be implemented in a gradual and orderly manner, then eventually some Members may say that the whole process of "gradual and orderly manner" would not complete until 2047. From the point of view of the Liberal Party, if the process would only complete by 2047, which means it takes 50 years for the abolition to materialize in a gradual and orderly manner, then it does seem a bit late to us. If the Chief Executive can be elected by universal suffrage in 2012, then we would propose that the election of the Legislative Council by universal suffrage can be implemented in 2016 to 2020 or 2024, and these are options that Members may consider.

President, since there is still some time left, I would like to add that Members returned through FCs do have an important role to play in this Council. I have noticed that many Members from professional sectors, such as Members from the commercial sector, would examine laws to see if they are feasible, practical and reasonable, and whether they could strike a right balance in the pursuit of the overall interest of Hong Kong in the process of enacting a proper piece of legislation. Therefore, I believe Members returned through FCs have their fair share of contribution, and it is not true that they only focus on the specific interests of the sectors they represent. If a piece of legislation is not enacted properly, the Government will not be able to enforce the law after enactment. At present, I do have doubts about the enforceability of the law on the smoking ban. For example, if a person smoking under a piece of rock on the beach was arrested, I wonder if the law would be enforceable at all. If we set aside the issue of election and the issue of fairness and impartiality and judge the subject purely from the perspective of enacting legislation, I would agree that



legislation should be enacted properly by Members who have representation. This is essential to any legislature. Thank you, President.

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

**MR ABRAHAM SHEK** (in Cantonese): President, I am a representative from a FC. However, I do not regard myself as a Member elected through a small-circle election, though some people do label me as such. Secondly, it is not my intention to develop any discrepancies with the Liberal Party. We are just holding different views on how to introduce universal suffrage in a gradual and orderly manner as provided for by the Basic Law.

I would like to discuss the matter from the perspective of our political reality. Our political reality is, if universal suffrage could be introduced as soon as possible..... Mr LEUNG Yiu-chung has talked about how we should strive for it, and we are judging the matter from the perspective of the power conferred on us by the Basic Law. First, we do have a number of political realities in existence now. If we want to ensure the passage of any constitutional reform, we will need to have 40 supporting votes in this Council. In order to get these 40 votes, one cannot ignore the votes of the FCs. Therefore, though several Members have said from various perspectives that they would strive for it, the goal cannot be attained by people just paying lip-service to it, nor can it be attained by employing inappropriate methods. If FCs were to be abolished, why must some go earlier than others? Is this fair? Furthermore, the Basic Law has not mentioned universal suffrage by "one person, one vote", nor has it said that balanced participation should no longer exist, or that representatives of different classes in society should no longer exist. The provisions are very explicit. If you have read the Basic Law well, you would know that balanced participation can take place and representatives of different classes in society can be selected in the process of universal suffrage.

Just now Mr James TIEN said we would be issuing the death certificates. If we sign it in 2016, then we shall be issuing our own death certificate with the effect of abolishing our own seat. I wish that once we have signed that, we will be able to see a way out — that Hong Kong will become a capitalist society in the real sense of the words, and that Hong Kong will thrive and prosper. We in the

FCs are hoping to safeguard one point, that is, the attributes that the Basic Law has given us: "one country, two systems", "a high degree of autonomy", balanced participation and a capitalist society. If we can see the coming of this day, then those of us representing these 30 FCs will no longer be necessary. Therefore, the actual situation at the time is very important. We are not sure if it is definitely right for us to implement universal suffrage in 2012. Although I have listened to the speeches of many Members, none of them has been able to tell me why it is right to implement universal suffrage in 2012, or why it cannot be 2016. Why must it be so? Since the Basic Law stipulates that it must be implemented in accordance with the principle of gradual and orderly progress, then "gradual and orderly progress" actually means depending on the actual situation of the time.

In the debate, many Members have criticized FCs, but Mr LAU Chin-shek put it most aptly. He said Mr LEUNG Yiu-chung had mentioned the need to fight for it, so did Mr Ronny TONG earlier on, but then it was freedom and democracy that every one of us should strive for. If we are well-versed in history, we would know that democracy and freedom do not happen all of a sudden out of nothing. I strive for something like everyone does, but what I have been striving for is economic stability. Before I started to put great emphasis on economic prosperity, how did we resolve our economic problems in the last seven or eight years, when the unemployment rate of Hong Kong was more than 20%? Under "one country, two systems", how do we press ahead with constitutional reform while maintaining stability? These are just our opinions.

I have never said how the FCs should be like, but many people made the criticism that people are unwilling to give up the power they have and to give up the seats they are holding. This is not true. In my opinion, Members returned by FCs work in exactly the same way as Members returned by GCs do. We all work for the interests of Hong Kong, and we fight for Hong Kong people for what we believe to be right.

For example, Ms Margaret NG lashed out at Mr Jeffrey LAM and argued that Article 68 of the Basic Law had provided for universal suffrage. However, Mr LAM did not say that was not true — he was just saying that universal suffrage should be implemented in a gradual and orderly manner, but not necessarily to be implemented in 2008 or 2012. In fact, he supported the proposition. Likewise, the Liberal Party have indicated that they planned to do

it step by step. On the surface, their plan appears to be feasible, but is it feasible in reality? Who are willing to be sacrificed first? Who would find it easier to make the sacrifice?

I should thank Mr James TIEN when he said the real estate FC should be the last to go. However, that would not be necessary for me. If we have to go, let all of us go at the same time. If that is for the good of Hong Kong, let us do it together. It is not about who is to be scarified, and nobody is saying that the workers should be scarified for that matter. No, there is nothing like that. Nevertheless, in my opinion, the FCs have a very meaningful role to play here, that is, they are able to stabilize the economy, so that Hong Kong can continue making headway in economic development. Hong Kong is an economic city after all, and the question remains how we can keep it up for Hong Kong.

Mr LEUNG Yiu-Chung questioned just now how it would be possible for the FCs to let go of their interests and to put their survival at risk. Our survival is at the same time the survival of Hong Kong. As Mr Vincent FANG said just now, we represent the interests of not just the constituencies to which we belong; we actually represent the interests of the people of Hong Kong.

Thank you, President.

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

**MRS SELINA CHOW** (in Cantonese): President, last week, a press report covered the speech delivered by the Chairman of our Liberal Party, Mr James TIEN, in a meeting of the Commission of Strategic Development (the Commission). However, the report only covered a part of the speech but not the other parts. Presented in such a style, the report could be only quoting the speech or it could be a kind of problem of the press. I do not know how they asked the questions, less still about how some of the Honourable colleagues had answered their questions. However, I would like to reiterate very explicitly the Liberal Party's viewpoint on universal suffrage: We absolutely support what is stipulated in the Basic Law and our ultimate goal is to implement universal suffrage, and better still, dual elections by universal suffrage. In this regard,

we hope to first introduce universal suffrage in the election of the Chief Executive.

Last week, we already made it very clear. The Liberal Party thinks that we cannot say what the most suitable timing is at the present stage. No, we cannot. What we meant was: If something can best be done well at a certain time, then that time would be the most appropriate time for doing it. We made ourselves very clear last week, and I do not intend to repeat our words now.

Next, Mr James TIEN disclosed our position on behalf of the Liberal Party in a meeting of the Commission, which is, we hope that universal suffrage can be introduced first in the election of the Chief Executive, and then the phasing-out of the functional constituencies may commence in the subsequent Legislative Council Election. Unfortunately, Mr Abraham SHEK has left the Chamber now as I was slightly puzzled by his logic in his earlier speech. On the one hand, he asked why the FCs could not be abolished all in one go, meaning that he accepted universal suffrage. But next he said he would not "commit suicide", and that would mean that he would never want to have universal suffrage. I really cannot get his point. However, if our situation can eventually meet the requirement of "gradual and orderly progress", then the phasing-out of FCs will take place sooner or later. Like it or not, it is bound to happen. However, the position of the Liberal Party is: We hope that universal suffrage can be introduced first in the election of the Chief Executive, and that the phasing-out of functional constituencies can take place next.

When we proceed to phase out FCs, regardless of the methods we adopt, some people are bound to say something. This is because when we start the phasing-out process, certain constituencies will be abolished first, while others will be abolished later. However, this is just a transitional period. For example, if the transitional period should last over three terms of the Legislative Councils, then even if a certain constituency is not abolished in this term, it will ultimately be abolished after three terms. If so, will the issue of "the timing of which constituencies to go first" trigger off major controversies? Of course, our view is the same as proclaimed by Mr James TIEN just now. However, with regard to how the phasing-out should be implemented, other Honourable colleagues may hold different views. Some may find the duration of three terms not long enough, and they may prefer five instead. Or some people may

hold alternative views, thinking that, for example, some constituencies with less voters should go first, and some other constituencies with more voters should go later. I believe all such opinions would be raised. When we conduct studies on the phasing-out of FCs for the attainment of an ultimate goal, I believe there will be heated discussions on these topics. What we are now putting forward is just the viewpoint of the Liberal Party, and we do not intend to impose it on others. By then, if such a discussion is really put before us, I believe that very different and diversified points of view will be raised and we shall be able to hear many different viewpoints.

Besides, another point I would like to discuss is, I hear some Honourable colleagues often say that they would strive for something, and they definitely have the determination to do something. I believe the determination has already been spelt out in the Basic Law — that the development will definitely proceed in that direction. In the course of implementation, have we attached too much emphasis on the stance adopted by us in conveying or declaring our messages, instead of really contemplating what we should do in order to get closer to our goal? This is really an issue for us, Members of different political camps, to reflect upon. Therefore, I very much agree with what Mr LAU Chin-shek's point just now: It is not a case of "the louder all the Members shout "We want to implement it earlier and we consider 2012 appropriate", the sooner we can attain the goal. Can we ignore the provisions written in the Basic Law? Can we completely ignore the existence of the relevant mechanism, such as the requirement that the proposal must be passed by two thirds of all Legislative Council Members, and be submitted to the Central Government by the Chief Executive for approval? All these conditions stand for hurdles to be overcome. We cannot imagine that, just by shouting slogans aloud, we can make all this happen. Therefore, I really want every one of us to think about this: Regarding our present act of shouting slogans loudly, will it make us farther and farther away from our goal? Or will such an act make us move closer and closer to the goal?

Therefore, I really want each and every Member to contemplate this issue very carefully. If we hope Hong Kong can really attain this goal of universal suffrage expeditiously, we must understand that, if we continue to hold discussions in the present manner, we would not be able to attain the goal of universal suffrage very quickly. I can even say that, in doing so, we are actually creating obstacles for ourselves. Therefore, if we cannot adopt an enlightened view, and if we go on using the past method, that is, we take no

concrete actions to clear the obstacles other than shouting slogans loudly, I believe our future will really be very bleak. And it will be very doubtful whether we can attain the goal at all. 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 Member wishes to speak, I now call upon Mr LEE Cheuk-yan to speak on the amendment. The time limit is five minutes.

**MR LEE CHEUK-YAN** (in Cantonese): The amendment states explicitly that the year 2008 should already be appropriate for introducing universal suffrage. But my motion actually refers to the year 2012 or before. If I have to respond to Mr Abraham SHEK's question, what I meant earlier in the debate was — no one has told me that 2012 is appropriate, and in fact I am not saying that 2012 is appropriate. Actually, I have been saying that time has been appropriate since a long time ago. Actually 1997 was appropriate. If we trace our discussion back to the former Legislative Council before 1997, actually the era of '80s was appropriate. Actually it has been appropriate for a long time. The only question I could not possibly resolve is the one raised by Mrs Selina CHOW earlier on, that is, how we can make those in the FCs give up their own privileges. It is useless for us to chant anything. I believe it would be equally useless even if we go down on our knees.

Mr LAU Chin-shek has spoken very eloquently. But he is all the same powerless in solving the problem of "rogue tenants". If a tenant refuses to move out of a flat, the landlord can do nothing even if he wishes to resume the flat — unless there is the relevant legislation to intervene. Ultimately, we have to rely on the legislation in order to solve the problem of "rogue tenants". With regard to the present problem of "rogue tenants", even Mr LAU Chin-shek cannot provide any clue to solve it. President, I also cannot figure out any solution to the problem of "rogue tenants".

With regard to Mr Albert CHAN's amendment, I think, to a certain extent, "the year 2008" is in fact even more conservative than "2012 or before" because my intention even covers the years 2007 and 1997. Anyway, I think what Mr Albert CHAN wishes to bring up is the subject of introducing universal suffrage in the Legislative Council Election in 2008. Earlier on, many Members have said that the Basic Law has explicitly stipulated that universal suffrage will ultimately be introduced. We all know that and basically it was just a matter of the timetable. At present, no one argues about what will ultimately happen. Of course, I shall listen very carefully to the Secretary's speech because the ultimate model of universal suffrage he is going to adopt is still problematic. However, I shall raise my points after I have listened to the Secretary's speech.

Regarding the issue of introducing universal suffrage in 2008, actually a consensus used to exist in society. It was written very clearly in the platform of the DAB that it supported the introduction of universal suffrage in 2007 and 2008. The Liberal Party had also once advocated the implementation of universal suffrage in 2007 and 2008. It only changed its stance after the stepping down of Mr Allen LEE and subsequent to that, it declared that universal suffrage would not be implemented in 2007 and 2008. However, both the Liberal Party and the DAB, not to mention the Democratic Party, were originally saying that universal suffrage should be implemented in 2007 and 2008. Actually the timetable problem should have already been solved.

Earlier on, I heard Mr TAM Yiu-chung as accusing us of killing the chances of implementing universal suffrage by gradual and orderly progress. However, the package proposed by the Government in December 2005 absolutely did not make any gradual and orderly progress. Implementing universal suffrage in 2007 and 2008 was actually in line with the consensus of all the political parties. All of them said that universal suffrage could be introduced by then, but the Government's package — or to be fair, not the Government's decision, but the decision of the NPC promulgated on 26 April — killed gradual and orderly progress, killed the implementation of universal suffrage in 2007 and 2008.

As we take a retrospective look of history, we will find that everything was so explicit. The Government often says that there must be a consensus. The consensus did exist originally. But once the NPC had made the decision, the situation changed from "having a consensus" to "no one dares to

acknowledge the existence of the consensus". Even the DAB now dares not discuss the timetable problem. The Liberal Party has mentioned briefly a timetable which is illustrated by a chart and a table. The chart shows that universal suffrage is proposed for implementation in electing the Chief Executive in 2012, and starting from 2016, FC seats will be reduced step by step over three terms of the Legislative Council. Working at such a rate, we would not be able to implement universal suffrage even at the 100th anniversary of the May Fourth Movement. We would have to wait until 2024 before we can have universal suffrage! But will everyone accept such a timetable? Will Hong Kong people accept such a timetable? Yet for the DAB, it cannot even put forward a timetable like this. I believe they will also put forward their "roadmap" and "timetable". But they will put forward their "roadmap" and "timetable" only after President HU Jintao has indicated his preference. That would be how their "roadmap" and "timetable" are produced. All we can do now is to wait for their "roadmap" and "timetable".

Therefore, many political parties have become as timid as tortoises. With Mr TAM Yiu-chung as the only exception, DAB Members have not said anything today. They have become as timid as tortoises and we have no way of finding out what their present position is, nor can we find out under what circumstances or conditions they will put forward their "roadmap" and "timetable". We have not been able to listen to any of these from them. Although the Liberal Party has put forward their "chart" and "timetable", the protracted wait involved is really unbearable. With regard to The Alliance, Mr Abraham SHEK is fairer. However, he has not put forward any timetable. He proposes to abolish FC seats all in one go — the Liberal Party proposes to phase out FC seats over three terms of the Legislative Council. As queried by Mrs Selina CHOW earlier on, I have heard Mr Abraham SHEK as saying to the effect that FC seats should be abolished all in one go. Therefore, the present situation is all too clear: How much longer will Hong Kong have to wait before we can have universal suffrage? We would really have to wait until we can solve the problem of "rogue tenants".

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, Mr LEE Cheuk-yan's original motion and Mr Albert CHAN's amendment today have indeed induced a very colorful debate. The adjectives, examples and comparisons used by Members have surpassed those adjectives



that we heard more often in the past year or two. The ultimate aim of electing all Members of the Legislative Council by universal suffrage is expressly professed in the Basic Law, and this is what we must and will achieve. The focus of our studies and discussion and the major issue to be addressed is functional constituencies (FCs). This issue has been discussed many times in the Commission on Strategic Development (the Commission) and also in the panel of the Legislative Council.

So far, I think it is very clear that a consensus has been reached on three points: First, the objective of electing all Members of the Legislative Council by universal suffrage must be achieved in accordance with the Basic Law; second, we must face the political reality that in order to amend the method for forming the Legislative Council, Members who are directly elected and Members returned by FCs must reach some sort of a consensus; and third, in order to achieve universal suffrage, the current mode of FC elections can no longer exist.

There are mainly three kinds of proposals under study and discussion now. First, to return all Members of the Legislative Council by geographical constituencies (GCs) through direct elections; second, some directly-elected GC seats constitute some of the seats in the Legislative Council, while FC seats will continue to exist but they will not be returned by the existing election method; third, the proposal of a bicameral system.

The models for forming the Legislative Council by universal suffrage were discussed in the Legislative Council Panel on Constitutional Affairs last week. This issue was also discussed in the Commission. It has now been decided that the discussion of a bicameral system will be shelved for the time being due to three considerations. First, the implementation of a bicameral system will at least require the amendment of Annex II to the Basic Law relating to the method for the formation of the Legislative Council and its voting procedures; second, we believe that a parliamentary system consisting of two houses will affect the governance and administrative efficiency of the Hong Kong Special Administrative Region (SAR), because all the bills and the budget would have to be endorsed by both houses; and the third consideration is that if we have to spend so much effort on amending the relevant provisions of the Basic Law and if the proposal was meant to be only a transitional arrangement, it would not be worth the effort entailed.

For this reason, our future discussion should focus on how we can replace the existing mode of FC elections, and a number of different opinions have been expressed. Members of the Commission have discussed various models of election, but there is a view that all FCs should be abolished as soon as possible. In this connection, the perseverance of Mr LEE Wing-tat and Mr LEE Cheuk-yan for dual elections by universal suffrage has been expressed most explicitly. They have also expressed clearly that the right to nomination and to vote must be consistent with the principle of universal and equal suffrage. These opinions have all been put on the record.

On the other hand, there are other views suggesting that if we wish to replace the existing mode of FC elections, consideration should be given to other proposals, in order to uphold the principle of balanced participation on the one hand and ensure the right to universal and equal suffrage on the other. This is why different proposals have been put forward. For example, can nominations be made by the FCs for the public to return Members to the Legislative Council? This is a model of "one person, multiple votes". Various members of the Commission have proposed this model, and Mr Bernard CHAN also mentioned this today. The SAR Government has not made any proposal suggesting that one person shall have 31 votes. We have only reflected the views we received in the Commission for further discussion and studies by Members.

With regard to the model of universal suffrage to be implemented ultimately for the Legislative Council, the SAR Government has not yet made a final decision, but that is a proposal put forward to us and under our consideration now. I remember that a few months ago, even Mr Martin LEE commented that if nominations were made by the FCs for the public to return Members to the Legislative Council, he would consider it some sort of progress from a certain angle, provided that it is only a transitional arrangement. I think continuous efforts must still be made to explore the formula to arrive at the goal of electing all Members of the Legislative Council by universal suffrage as set out in Article 68 of the Basic Law.

Today, various Members of the Liberal Party, including Mr James TIEN, again proposed that the ultimate aim of forming the Legislative Council by universal suffrage can be achieved in three stages. I believe they have made the utmost effort to put forward a proposal which they consider practicable.

Members then asked: Who will be the first to go? Will the four major chambers of commerce be willing to be the first to go? Or will those professional sectors with Members representing them be willing to be the first to go? These problems are difficult to tackle. Let me try to make an assumption. For example, even if Members in the opposition can successfully obtain support from 10 FC Members for electing the Legislative Council by universal suffrage in 2012, this motion still cannot be endorsed, for it does not have the support of two thirds of all Members of the Legislative Council. Why? It is because Mr James TIEN and Mrs Selina CHOW who represent the Liberal Party are among the 30 Members returned by GCs through direct elections and they do not support this proposal. Their position is very clear. They consider that universal suffrage should first be implemented for the election of the Chief Executive before effort should be made to promote the election of the Legislative Council by universal suffrage. Why did I make this simple assumption? Because I hope that Members in the opposition and all Members must face this: There must be 40 votes before amendments can be made to the method for forming the Legislative Council and the ultimate objective of universal suffrage be achieved.

Given the many difficulties involved in replacing the method for returning FC seats, some people have proposed recently that, as a transitional arrangement, consideration can be given to increasing the number of GC seats, in order to dilute the representation of FCs in the composition of the Legislative Council. In this connection, some people have asked whether we should revisit the proposal relating to District Councils (DCs) for 2007 and 2008, under which DC members will join the Election Committee or the future nominating committee to return the Chief Executive, and more seats will be elected from among DC members.

With regard to this proposal, there is some discussion of it in this debate today. A number of Members from the Civic Party mentioned in particular that they had published a booklet last year setting out their arguments against the proposals for 2007 and 2008. However, the booklet cannot change the fact that the vote cast by the opposition on 21 December last year was contrary to the public sentiments and opinions in Hong Kong, because 60% of the people had at that time indicated support for the package of proposals for 2007 and 2008 through various opinion polls. It cannot change another reality and that is, the voting down of the proposals for the election of the Legislative Council in 2008

is tantamount to strangling the channel for people in the second or third echelons of various political parties and groups to move up the politics ladder.

As I said some months ago, during a recent visit to a DC, a DC member from the opposition asked me, "Secretary, is it possible to reintroduce the proposals on the method for forming the Legislative Council in 2008?" He was very sincere at the time and so, I honestly replied, "Constitutional development hinges on opportunity. There was an opportunity last year — in December 2005, but the opportunity has lapsed."

Despite all our discussion, the question boils down to a reality and a most important basis: To achieve the ultimate aim of electing the Legislative Council by universal suffrage, it is indeed necessary to first forge a consensus on the model of and roadmap for universal suffrage, after which a timetable will naturally be worked out.

This issue has been discussed many times in this Council and as we can see, the model and roadmap proposed by the Democratic Party, for instance, are very clear. They consider that universal suffrage should be implemented for the election of the Legislative Council as soon as possible and that all the existing FC seats can be replaced in one sweep. So, in their view, the model of universal suffrage, the roadmap and the timetable to be proposed should be able to realize universal suffrage in 2012. However, Mr James TIEN and the Liberal Party have also made proposals on the model of universal suffrage and the roadmap, suggesting that the ultimate objective of universal suffrage be achieved in three stages. To them, they also have a clear timetable in their mind. This is why I have been suggesting that our focus should be on striving for a consensus on the model of universal suffrage and the roadmap for achieving it for the election of the Legislative Council, after which the timetable will naturally come into shape.

Speaking of striving for a consensus, many Members mentioned the word "strive" today, and Mr LEUNG Yiu-chung especially reminded me that the Government must strive for it too. I wish to give a response. In fact, it is not an exclusive right of Members in the pan-democratic camp to "strive" for universal suffrage. If it is necessary to strive for it, let us work in concert to strive for it. Various political parties and groupings can strive for it; colleagues in the Government can also strive for it. At different stages, we strive for different measures of progress for Hong Kong. Before 1997, colleagues in government departments were striving for a smooth transition; after 1997, we

strive for this objective of achieving universal suffrage as soon as possible in accordance with the Basic Law.

Today, what we are discussing is this: How can we come up with a proposal which is basically supportable to Members and which can have the consent of two thirds of Members and the support of various industries and strata, with a view to achieving the objective of universal suffrage? If we just talk about the ideal and express support for it without paying attention to how it can be practically put into practice, that would only amount to blind bravery. If we wish to introduce amendments to the constitutional system, such an approach simply cannot serve the purpose.

I also wish to briefly respond to the questions raised by a couple of Members today. Mr TAM Yiu-chung particularly asked whether this motion and amendment today are against the Decision made by the Standing Committee of the National People's Congress (NPCSC) in April 2004. On the part of the SAR Government, we will certainly work in accordance with the law, and if we will put forward a package of proposals on the electoral systems for 2007 and 2008, we would be doing so entirely according to the NPCSC's Interpretation and Decision in April 2004. I also believe that in general, the voting result of the Legislative Council will be in line with the Interpretation and Decision made by the NPCSC in 2004.

Nevertheless, insofar as debate is concerned, in the past year or two, Madam President, we have debated several times whether or not universal suffrage should be implemented in 2007 and 2008. In November 2004, for instance, Mr Ronny TONG particularly mentioned that Members hoped to directly reflect to the Central Authorities the public aspiration for universal suffrage in 2007 and 2008. In November 2005, Mr LEUNG Kwok-hung proposed that a referendum be held on the implementation of universal suffrage in 2007 and 2008. So, over the past year or two, universal suffrage has been a topic of debate on many occasions. Insofar as today's debate is concerned, Madam President, I am fully confident that today, this Council will vote in line with and in accordance with the Interpretation and Decision made by the NPCSC in April 2004.

So, coming back to the topic under discussion today, it is the direction and vision of the SAR Government to strive for a consensus to be reached early in the community of Hong Kong and also both inside and outside the Legislative

Council on the model of universal suffrage. But to this end, the concerted effort of all Members in this Chamber is required. Effort must also be made to narrow our differences, with a view to achieving the ultimate objective of universal suffrage.

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

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Albert CHAN to Mr LEE Cheuk-yan's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU and Mr KWONG Chi-kin voted against the amendment.

Ms LI Fung-ying abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr CHEUNG Hok-ming voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, seven were in favour of the amendment, 21 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 17 were in favour of the amendment and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, you may now reply and you have five minutes 50 seconds.

**MR LEE CHEUK-YAN** (in Cantonese): I find the Secretary's debating performance today most disappointing. Like repeating a set of stale clichés, the Secretary just kept saying how the constitutional reform package had been voted down in the 2004-2005 Session, and that striving for a cause was not the exclusive right of the pro-democracy camp. It is true that striving for a cause is not the exclusive right of the pro-democracy camp, and it would be best if the Secretary can join us in our quest. However, I do not see that the Secretary is striving for this cause, and for that matter, I do not see many Honourable colleagues are striving for universal suffrage either, particularly Members from FCs. What is worse, they are actually striving for delaying the implementation of universal suffrage! Of course, I believe the seven Members from the pro-democracy camp definitely do not need to consult their voters again, because we have stated clearly in our platforms our demand for the immediate introduction of universal suffrage. Therefore, Mr CHIM Pui-chung, if you want to be the eighth person, then you need not consult your voters. Instead, all you have to do is to come forward and state that you think that universal suffrage should be implemented. Only by stating this would you be saying the right message, and only by acting in this way would you be really striving for the cause.

The Secretary said we had only blind bravery. This is an area we will definitely reflect upon. However, to me, the Government is unreasonable, not having any strategy and not having any commitment. Why did I describe the Government as unreasonable? There is one thing that the Government has remained reluctant to clarify all along, and that is, to state that in the mechanism of universal suffrage, ultimately there would not be any nominations from the FCs. In this regard, the Secretary kept saying that no definite conclusion had been drawn yet. The Secretary must have heard my suggestion made in the Commission on Strategic Development (the Commission) that we could, by elimination, rule out some unreasonable elements, and by eliminating such elements, people would cease to hold any more false hope. Still, the Secretary has all along been unwilling to state this clearly. This being the case, is the Government not being unreasonable? Why should we say so? The reason is very clear, that the mechanism of nominations by the FCs is fundamentally in breach of the editorial published on *Xin Hua Daily* on 2nd February, 1944 (how pathetic) under the leadership of Mr ZHOU Enlai, not to mention the International Covenant on Civil and Political Rights, and so on. Now, what is this editorial all about? "Whether or not the right to vote could be exercised



thoroughly, sufficiently and effectively is inextricably linked to whether or not the right to stand for election is subject to unreasonable limitation and exploitation. Broadly speaking, the right to vote includes the right to stand for election. If the right to stand for election is subject to any limitation, then the exercising of the right to vote is also subject to limitation. Therefore, a genuine system of universal suffrage must include not only a popular and equal right to vote, but also a popular and equal right to stand for election. If a prerequisite is imposed on the eligibility of the right to stand for election, or if certain candidates are nominated by the authorities, then even if the right to vote has not been subject to any limitation, it is tantamount to treating voters as merely vote-casting instruments." Long live the Chinese Communist Party of 1944! That was in 1944. However, to date, the Government has remained reluctant to make it clear that it will abolish the FCs in the framework of universal suffrage, and that is why I find it unreasonable.

With regard to the lack of strategy, the best the Government could say is "Hey, if you are clever enough, just snap up 40 seats, and you will do whatever you like! You do not have to be responsible for anything, and you do not have any responsibility at all. If you are clever enough, just snap up the 40 seats required." Wow, I have got an idea now. In addition to the 10 seats from the FCs which you described, if the voters are willing to grant all the 30 seats to the pro-democracy camp, then "everything will be fine". Maybe this is the goal that we should work for. With regard to blind bravery, now I have got a "work-around". All in all, in the next election, the pro-democracy camp will have to win all the 30 seats. I wish the Liberal Party could do the same. This is because they said they aimed at introducing universal suffrage by 2012, so if they could secure the seats, all of us would feel happy for them, and we would feel even happier. This being the case, since everybody is stating in the platforms that universal suffrage should be introduced by 2012, we should have universal suffrage by 2012 then. If we could win 30 seats in the election of 2008, then an additional 10 seats will get things done. What an excellent "work-around"! If that should be the case, then we no longer need to put up with those "rogue tenants" who are unscrupulously occupying the seats here.

President, lastly, I would like to .....there is one more point. I would like to talk about the "lack of commitment"; I nearly missed the part on the "lack of commitment". What does that mean? So far, the Government has not been doing anything, and no proposal has been put forward. We are left "wearing

out" at the Commission. The Government claims that it has no predetermined position, and all it is saying is how you should convince the other parties, and how this party should convince the other parties, and so on. This is how people get "worn out". Now, what kind of a government is it? It is a government without commitment.

However, President, let me get back to a rather interesting topic raised by Mr James TIEN just now, which is: Who should go first, or which FCs should be issued the death certificates first. He said: Let us stop using the argument that those FCs with only a handful of voters should go first, such as the banking constituency or the finance constituency. FCs with a small number of voters do not necessarily have to go first. It took me only a short while to understand his reasoning. President, we have a Comprehensive Social Security Assistance (CSSA) Scheme in Hong Kong, which is designed to take care of the poor people with the greatest need of assistance, thereby enabling them to survive. Now, what if we treat the FCs as political CSSA recipients? They too would be subject to income and assets tests. People with more assets will stand a better chance of getting a seat through the FCs. Likewise, people with higher incomes will also stand a better chance. If some of them will have to go, let the poor ones go first. For example, the constituency of teachers, whom Mr CHEUNG Man-kwong represents, is the poorest group in terms of general income, so they should be the first to go in this "political CSSA" scheme. Now, let us turn our discussion to the richest ones. For example, Dr David LI, who is present right now, is the most powerful one, and next comes Mr Abraham SHEK. With the vetting mechanism of this "political CSSA" scheme, I cannot determine if Mr Abraham SHEK or if Dr David LI should top the list, because both of them are evenly matched in this respect, whereas the insurance constituency should rank third. Yet, the commercial constituency is also very strong, so is the General Chamber of Commerce. Therefore, if the "political CSSA" scheme was to be adopted, the rich would be the last to go. Is this what we want?

However, Mr Abraham SHEK's point of view has my strongest support (though he might say that I am doing him injustice). He said it would be the fairest if all the FC seats are abolished all in one go. It does not matter even if all the FC seats have to be abolished all at the same time. The most important point is Hong Kong can enjoy economic prosperity after universal suffrage has

been implemented. Anyway, this is by no means equivalent to issuing death certificates. Ultimately, I hope everyone can.....

**PRESIDENT** (in Cantonese): Mr Abraham SHEK, do you have a point of order?

**MR ABRAHAM SHEK** (in Cantonese): Yes, President. I said the process should be completed all in one go, but I do not accept that the FCs.....

**PRESIDENT** (in Cantonese): Mr Abraham SHEK, you may only ask Mr LEE Cheuk-yan at this stage to clarify what he has said. If you wish to clarify your own speech, I can give you the chance to do so later on, fine? Mr LEE Cheuk-yan, please continue.

**MR LEE CHEUK-YAN** (in Cantonese): Mr Abraham SHEK did mention abolishing them all. However, most important of all, everything should not come to an end by then. Instead, I hope Members can undergo a complete transformation. They should still come forward to run in the elections. If they succeed in winning a seat in a direction election, then they are not issuing a death certificate for themselves. The death certificate is issued to the FCs (*the buzzer sounded*).....

**PRESIDENT** (in Cantonese): Your replying time is up. Please sit down.

Mr Abraham SHEK, do you wish to clarify the part of your speech that has been misunderstood?

**MR ABRAHAM SHEK** (in Cantonese): President, he has already explained it. I said the Basic Law has not stipulated that the FCs must be scrapped. It only specifies that "one person, one vote" or universal suffrage must be implemented. President, I also said that if FCs had to be abolished, then let them be abolished all in one go.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Cheuk-yan rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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

(Miss TAM Heung-man had some problem with her vote)

**PRESIDENT** (in Cantonese): Miss TAM Heung-man, no more problems now?

**MISS TAM HEUNG-MAN** (in Cantonese): No problem now.

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the motion.

Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Kwok-hing, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung and Mr KWONG Chi-kin voted against the motion.

Ms LI Fung-ying and Prof Patrick LAU abstained.

**Geographical Constituencies:**

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG and Mr Albert CHENG voted for the motion.

Mr James TIEN, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr CHEUNG Hok-ming voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, seven were in favour of the motion, 20 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 17 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Second motion: Relief measures and compensation policies for the live poultry trades.

## **RELIEF MEASURES AND COMPENSATION POLICIES FOR THE LIVE POULTRY TRADES**

**MR TOMMY CHEUNG** (in Cantonese): Madam President, there are mainly two parts in my motion. First I would like to briefly explain the first half of the motion which is on the recent attempt made by the Government to force through a plan of central slaughtering of live poultry. This will certainly inflict permanent damage on the live poultry trades. Therefore, the Government must begin consultations with the trades and offer them reasonable compensation.

However, I must state from the outset that this does not mean that I agree to the central slaughtering of live poultry, unless the plan meets the following two prerequisites. First, the slaughtering plant should not just produce chilled chickens but should also supply fresh warm meat chickens or "warm" chickens. Second, the warm meat chickens produced can be sent to food establishments throughout Hong Kong in a fast and hygienic manner. If a slaughtering plant for live poultry is subject to limitations of the transport network and fails to meet such a target, the authorities must consider building more slaughtering plants, for if not, the plan would only relegate into a "white elephant" and resources will thus be wasted. In the end, such a poultry slaughtering plant will not be able to compete with the live poultry slaughtering plant in Shenzhen which is close to us and enjoys far lower costs.

Unfortunately, so far I have not seen the authorities respond positively to the views and concerns expressed by the trades. On the contrary, the authorities are making a fanfare about a site having been identified in Sheung Shui for the building of a live poultry slaughtering plant. I am very much worried that the authorities will resort to the same trick again and adopt a couldn't-care-less attitude to the live poultry trade after the slaughtering plant is built. Then all sorts of tactics are used to wipe out the trade and make it die a natural death.

When the authorities are bent on doing what they want to do, they must think carefully the following:

- (i) Ever since the outbreak of avian flu some years ago, the trade has been very co-operative in taking the best precautions. The result is zero infection in the Hong Kong markets over the past four years. Such a contribution should be recognized.

- (ii) In general the live poultry trade is hereditary and it passes on from one generation to the next. People in the trade think of selling poultry their lifelong occupation, so what right do we have to force them to give it up?
- (iii) Many of these people in the live poultry wholesale and retail business rely on the income from a stall to raise a four-member family or even a family of more than 10 people stretching three generations. A licence is the lifeline to these people, how can they surrender a licence so easily?
- (iv) Most of them are middle-aged, low-skilled people with low educational attainment — Madam President, sorry, I have mixed up the order of my draft speech — how can they give up their only skill so easily and join another trade?
- (v) The chain of economic activities that are linked to the live poultry trades, from poultry farms, businessmen and hawkers in wholesale and retail, workers and those involved in the related transportation business, number some tens of thousands. If they are forced out of employment, this will certainly cause a tremendous impact on society. Are we able to bear it?

Do the authorities not stress social harmony and benefits for the people? Workers who get injured at work will get compensation. Those who are dismissed will get severance pay. Those who have worked for a certain period of time and who resign of their own accord will get long service payment. For the fishing trade, the authorities have expended more than \$100 million to set up a loan fund to help those in the trade tide over the fishing moratorium every year and enable them to achieve sustainable development. But now when the authorities set their mind on destroying a trade, how can they not offer reasonable relief measures and compensation?

So the purpose of my moving this motion today is to demand that the authorities to show some sincerity by discussing with the trades on the formulation of an exit scheme with reasonable compensation. This scheme should be put in place swiftly and must not be delayed. This will prevent the authorities from doing anything to dry up the trade and cause its extinction. As a matter of fact, the voluntary surrender scheme for returning licences and

tenancies for the live poultry trade expired in August this year. Now it is the best time to conduct consultation and formulate a compensation scheme for exit from the trade.

Such a scheme must be better than the voluntary licence surrender scheme for when the authorities were devising the latter scheme, there was no plan about the slaughtering plant at Sheung Shui and at that time the trades still had some hopes about their future. Now the authorities are determined to launch this plan of central slaughtering and they are set on replacing the traditional live poultry trades with chilled chickens, it is only natural that this would bring about traumatic changes to the live poultry trades and inflict permanent damage. For this reason, the authorities must devise another compensation scheme for exit from the trades. The amount of compensation payable should be worked out on the basis that people are deprived of their lifelong career. So the amount should be greater and comprehensive, that is, the scheme should cover licence-holders, businessmen, hawkers and employees — irrespective of whether they are permanent or casual workers — in the poultry farms, wholesale and retail businesses. Even those who are engaged in transportation should be well cared for.

The latest figures from the authorities show that the proportion of the trades in joining the voluntary surrender scheme for returning the licences/tenancies is far from satisfactory. There are a higher proportion of poultry farmers joining the scheme with 74% (or 142 farmers). But less than half of the retailers, that is, only 42% or 340 retailers have joined the scheme. For the wholesalers, only 14% or 15 wholesalers have taken part.

The reason for such a low take-up rate is simple and that is, the compensation package offered is not attractive, and unreasonable. Under the voluntary surrender scheme for returning licences/tenancies designed for the retailers, a poultry stall with a maximum area of 45 sq m can only get a maximum compensation of \$503,000. How much will be left after severance payment is made out to the employees? Such a meagre sum of money can never cover the living expenses of a family with more than 10 members in the long run and it cannot make up for the lifelong career given up by those in the live poultry business.

As for the transporters, the percentage of their surrendering the licences is zero. This is something which is bound to happen. For they will not get even



a cent after they have surrendered their licences, unless they convert their vehicles from those used to transport live chickens to those meant for chilled chickens. If they do this, they can get \$50,000 — but I am not sure whether this is *ex gratia* payment or a loan. In any case, this \$50,000 will certainly not meet the expensive cost of in conversion. So how will people want to apply?

For workers, only 271 workers so far have applied for this one-off grant of \$18,000. When such a compensation is only enough to meet living expenses for just a few months, are the authorities not too mean and insensitive? On top of these, the authorities have not pledged that priority will be given to hiring former live poultry retail workers in the new slaughtering plant. This is really very disappointing.

I hope the authorities will begin discussions with the trades soon on formulating new compensation packages and offer assistance in training and job-seeking. Training programmes should be custom-made for the workers affected so that they can rejoin the labour market soon.

As for the second half of the motion, it is worked out by making reference to the motion passed in the joint meeting of the Panel on Food Safety and Environmental Hygiene and the Panel on Health Services held in June. Then in the adjournment debate of this Council we had an in-depth debate on it. We demanded that the Government should set up an emergency relief fund and grant a rent waiver to tenants and such like assistance in the event of a ban on the importation of live poultry and birds from the Mainland necessitated by an outbreak of avian flu on the Mainland.

Unfortunately, on the day of the adjournment debate, in the 15-minute response given by the Secretary Dr CHOW, only praises were sung of the achievements of the authorities with respect to avian flu and nothing was said in response to the plight of the trades. Therefore, I have to propose the motion again today in the hope that the authorities will put into practice the demands agreed by this Council at the soonest. Secretary, I do not mind your continuing to sing praises of your great achievements, for indeed you have done a great job and you deserve that. But I hope you would say something in response to the demands made by the trades.

In March and June this year, there were sporadic outbreaks of avian flu on the Mainland and these cases were totally unrelated to the registered farms on the Mainland which supply live poultry to Hong Kong. Yet, the authorities imposed a 21-day ban on live poultry import from these farms despite their very high sanitary standards.

That the authorities are using the strictest and most conservative methods to protect the safety of the 7 million citizens of Hong Kong is something understandable and cannot be censured. But the question is, the authorities should not drag the relevant trades into the quagmire and ask the trades to settle the bill for minimizing risks in Hong Kong.

The ban on import of live chickens into Hong Kong lasted almost two months and when the trades have yet to recover from the trauma, they are forced to close down again. In the meantime, stall owners have to pay for the salary of their workers as well as the rent, hence suffering heavy losses. For the owners of trucks that are supposed to transport the chickens, now they have to pay for the parking space and the hire purchase instalments for their trucks while getting no income at all. A large number of casual workers in the trades have been forced to stop working and they are leading a very difficult life.

Those in the fishing industry can have low-interest loans to tide them over the fishing moratorium, but why do the authorities just sit back and do nothing when there is a ban on the import of live chickens? Is this another example of the authorities' attempt to dry up the trades and wipe them out? When avian flu breaks out in other places, the import of live chickens into Hong Kong stops and the relevant trades are made to suffer. It is only sensible that the authorities should offer them assistance.

Lastly, I would like to explain why it is stated in the motion that emergency financial assistance should be provided to casual workers who are not employed on a long-term basis but not to those workers employed on a permanent basis. The reason is mainly those who are employed on a permanent basis are already protected by labour legislation and their salary should still be paid by their employers when they stop working. If the employers can get assistance from the emergency relief fund, the problem of salary payment should be solved. On the other hand, during the suspension of the import of live chickens, casual workers do not get any wages and they are placed in great

distress. Hence the Government should offer them *ex gratia* payment as a kind of compassionate assistance. I hope Members will support my motion.

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

**Mr Tommy CHEUNG moved the following motion: (Translation)**

"That, as the Government is determined to implement central slaughtering of live poultry, which will permanently damage the live poultry trades, this Council urges the Government to expeditiously discuss with the trades to formulate a scheme that enables exit from the trades with reasonable compensation, having regard to the circumstances of live poultry farmers, wholesalers, retailers, transporters and workers; furthermore, prior to the implementation of central slaughtering of live poultry, if there is a need to suspend the import of live poultry and birds from the Mainland in the event of an outbreak of avian influenza there, in order to prevent the trades from being severely hit, this Council urges the Government to introduce the following relief measures:

- (a) setting up an emergency relief fund to provide assistance or low interest loans to the trades, so as to tide them over the difficult times;
- (b) granting a rent waiver to tenants of the Government's wholesale and retail markets; and
- (c) providing emergency financial assistance to workers who are not employed on a long-term basis."

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

**MR WONG KWOK-HING** (in Cantonese): Madam President, ever since the outbreak of avian flu in Hong Kong in 1997, the problem has been hassling us and our neighbours. In recent years, the problem has intensified and it is spreading to Europe, posing a global threat to the health of mankind. Winter is

around the corner, and it is time for birds to migrate, the experts think that now it is a high-risk moment for an outbreak of avian flu. We agree very much that for the sake of protecting the health of the public, the authorities should step up precautionary measures. However, when the authorities devise these measures, consideration should be given to the impact on the live poultry trades.

The local live poultry trades have been haunted by the spectre of avian flu. But government policies have never taken them into account and they are just left to fend for themselves. What they can do is to struggle for survival. The Government may claim boldly that all along quite a number of relief measures have been devised for the live poultry trades, such as the voluntary licence surrender scheme. The Administration may think that it has done its best and what it has done is enough, but the fact is it is gradually drying up the trades.

When the Government devises various policies to prevent the outbreak of avian flu, it has been targeting and oppressing the local live poultry trades and various measures are taken in the hope that the trades would be outlawed. This has driven the trades to the brink of extinction. As a matter of fact, the trades are not just concerned about their own business to the neglect of public health. On the contrary, the trades have always been trying to strike a balance between protecting public health and their operations, while staying co-operative with the Government. The trades hope that their operations can be maintained while avian flu can be prevented. An example of this is when the Government said at the beginning that there had to be human-chicken segregation, so the trades took the initiative to redesign their stalls to meet this requirement of the Government. It is entirely beyond the trades' wildest imagination that soon afterwards the Government said that central slaughtering had to be implemented. Does this not mean to drive the trades faster to extinction?

Once central slaughtering comes into force, it will produce catastrophic impact on the farmers, wholesalers, retailers, transporters and workers in the live poultry trades. When business undertakings wind up and workers lose their jobs, as many as more than 3 000 families of these workers will be affected. As the Government is bent on forcing through its way despite opposition from the trades and as businessmen and workers in the trades are directly hit by government policies, the Government is therefore duty-bound to devise compensation and employment support arrangements for those affected before

implementing the plan. Apart from compensation or financial assistance, the Government should also consider giving priority to hiring the affected workers should there be suitable openings in the new central slaughtering plant. Past experience regarding voluntary licence surrender schemes shows that many of the affected workers failed to get any assistance because the Government put up the excuse that the workers' status could not be verified. In view of this, the Administration should undertake a registration of all casual workers who have vaccination records before it goes ahead with the plan of central slaughtering. This will enable workers to get the assistance that they rightly deserve.

Madam President, people in the trades concerned actually do not want to abandon the trades and they hope to be self-reliant. Hence only 85 farmers, 13 wholesalers and 292 retailers in the live poultry trades have applied to return their licences or tenancies since the voluntary surrender scheme was launched in 2004.

At this time when there are high risks of an outbreak of avian flu and once this happens on the Mainland, it is very likely that the import of live poultry will again be suspended. The Secretary said that after the introduction of the voluntary licence surrender scheme, there would be no more provision of temporary financial assistance. Secretary, these are really unkind remarks to make. Every time when the import of live poultry is suspended, the trades are the ones who bear the brunt of the impact. The Government should have relief measures in place first to help the trades tide over the rough times that may take place. If the import of live poultry is to be suspended again, the Government should set up an emergency relief fund to provide assistance or low-interest loans to the trades. Also, it would be adding to their burdens if the trades have to pay expensive rentals at a time when business is bad, therefore, the relief measures of the authorities should also include a rent waiver for those tenants in government-run wholesale and retail markets. There should also be assistance for workers. Relief measures in the past did not extend to workers not employed on a long-term basis. As Mr CHEUNG has said earlier, this is not reasonable. The Secretary has all along neglected the special characteristics of the trades and that these workers are in fact hired as casual workers only. It is unreasonable to deny these workers assistance. I hope the Administration can give serious thoughts to the trades' predicament, for after all, such a predicament

is only brought about by government policies. Finally, I hope the Government can discuss the issue with the trades in an open and positive manner and to consult the trades fully and devise sound arrangements for those affected before any measures are introduced.

At this point, I have to bring up a point again, that all this boils down to a need for the SAR Government to formulate a proactive and correct policy on agriculture and fisheries. Now when we are so much disturbed by imported food, we are all the more nostalgic about the Ka Mei chickens bred by the Kadoorie Farm and the eggs laid by these chickens. This existing policy of the Government has the effect of making it impossible to raise chickens, slaughter chickens and consume eggs laid by local chickens, how can such things happen? I call upon the SAR Government to give serious thoughts to devising a sound policy on agriculture and fisheries. Thank you, Madam President.

**DR KWOK KA-KI** (in Cantonese): Madam President, I support Mr Tommy CHEUNG's motion. I also support the implementation of central slaughtering.

As a matter of fact, Hong Kong has been threatened by avian flu since 1997. Although there seems to be a global decline in the threat and risk posed by avian flu and even our Dr Margaret CHAN, the Director-General-Designate of the World Health Organization, has also said that the risk may have diminished, I nonetheless fail to see how the risk faced by us has diminished, given the population density and frequent transportation movements of the world as well as the conditions of the poultry and livestock industries. It is therefore necessary to implement central slaughtering.

However, this does not mean that we are going to abandon the industry or bring an end to it. In fact, operators of poultry slaughtering or farming and all those engaged in the related trades, including the employees and operators of poultry distribution and retail, are all victims. After so many years, they are already totally involved in these trades, so it is very difficult for them to switch to other trades within a short time. We can well understand this point. But as shown by statistics, it seems that many people engaged in this industry, whether farmers, retailers or wholesalers of poultry, have not been induced to surrender

their licences to the Government under the newly introduced voluntary scheme. They simply cannot see what lies ahead of them.

Basically, the related industries and trades can provide many job opportunities to middle-aged people, especially those with low skills and qualifications. However, in case the Government's implementation of central slaughtering really deprives all these people of their means of living or adversely affects their livelihood, I believe the people of Hong Kong will certainly say that they do not like to see something like this. I for one also do not wish to see any enlargement of the unemployment ranks. But when it comes to the provision of flexible measures or the conduct of more exchanges with those affected to allay their anxieties, I fail to see any great commitment or willingness on the part of the Government. Such a situation is actually unnecessary.

I think the Government should make stronger efforts to enhance its discussions and negotiations with the affected industries and trades. After negotiations, the Government may introduce a number of more attractive terms to the licence surrender scheme and provide protection in case any operators in the industry choose to close down their business.

The Government must also establish an emergency relief fund. This is very important because we honestly do not know when another avian flu attack may come. But we do know that in case we come under the threat of avian flu again, we may have to act quickly and introduce some decisive measures, such as stopping the import and sale of chicken. Such measures will have enormous impact on the operators and workers engaged in every production process of the industry. For this reason, the Government must study the arrangements for other industries, including the agriculture and fisheries industries, and establish a relief fund. If people can still earn a living, they will not apply for payments from the relief fund. But if their livelihood is really affected, the fund can serve as a lifeline to help them tide over their transient difficulties.

I think the granting of a rent waiver should also be considered. The reason is that their livelihood will be greatly affected, especially when avian flu poses a very serious threat. When they first applied for renting the wholesale or retail markets under the Government, or when they participated in bidding, all their calculations were based on the principle of making a reasonable return in a

healthy market. They could never have imagined that the threat of avian flu would make them pay such a heavy price.

Frankly speaking, we understand that if avian flu gets out of control, society at large will also sustain heavy impacts. Different industries and trades will suffer financial losses, and even the stock and property investment markets may be dealt a blow. The people of Hong Kong have experienced all this before, so we certainly realize what the plight is all about. However, we should still do so in order to control avian flu. But there is something we cannot accept. We must not allow any particular industry to suffer the consequences of our action. And, frankly speaking, it is not reasonable to make them suffer all the adverse consequences.

I am especially concerned about casual workers or workers not employed on a long-term basis, because they often cannot earn a stable living. In many cases, their employment is on a piece-rate basis, and they may just be paid a very meagre sum of money for each chicken slaughtered. Very often, they are not given any contracts of permanent employment, and since they are not clear about the scheme set down by the Government, they are unable to receive any long service payment to which they are entitled. Therefore, the Government must give them a helping hand and provide them with emergency relief grants when they are in need.

Combating avian flu and even the implementation of central slaughtering in the future are things we should do. But the Government should at the same time act decisively and sincerely negotiate with the industry, with a view to giving them the opportunities of switching to other trades, surrendering their licences and continuing to earn a living. Or, better still, new modes and methods of operation should even be worked out for them, so that they can remain in the industry, thus reducing the number of unemployed workers. If the Government insists on taking the same old path, if it still refuses to introduce any changes and continues to employ a stalling tactic, I believe severe blows will be dealt to the industry, to Hong Kong's efforts of becoming a safer city and to the hundreds and thousands of affected families. This is also the last thing the public would wish to see.

I hope that in case the motion is passed, the Government can take immediate actions to improve the existing policy and implement the proposals



espoused in the motion, so that there can be more reasonable compensation for the industry. I so submit. Thank you, Madam President.

**MR ALAN LEONG** (in Cantonese): Madam President, when faced with the endless and almost ever-changing problems of food safety, both the Government and the general public should race against time to properly deal with the existing problems as soon as possible, so that they can concentrate on coping with new crises. If the authorities and the various social sectors continue to be hindered by the problem of avian flu, and worse still, if sharper differences thus emerge, it will be very difficult for us to spare any energy to tackle other problems connected with the safety of imported food.

And, it must also be pointed out that all the terror of contaminated eggs and fish cannot possibly obliterate one fact — the avian flu crisis simply has not abated. Instead, it has continued to threaten the health of people in different countries all over the world. Madam President, avian flu has recently broken out among chickens in South Korea, and Hong Kong has already suspended the import of poultry meat from South Korea. In Indonesia, another woman recently died of avian flu. This is the 57th fatal avian flu infection in the country. In Japan, Britain and the United States, research teams have further identified two key links in the DNA of the avian flu virus, and they have again warned of human-to-human infection as a result of virus mutation.

The Government has announced that a suitable location in North District has been identified for the construction of a central slaughtering plant, adding that besides consulting the District Council concerned and conducting an environmental impact assessment, it will also invite those in the industry to submit letters of intent on market entry and collect other views. The Government expects that the slaughtering plant can commence operation sometime between 2009 and 2010. Madam President, this timeframe is certainly much more concrete when compared with what was said during the discussions on electing the Legislative Council by universal suffrage just now. But still, we must wait three to four years more before we can take this significant step to change the operation mode of the poultry industry for the protection of public health.

During the interim in the next three to four years, we must optimistically hope that no major epidemic outbreak like the ones in 1997 and 1998 will occur

in Hong Kong, and that the Government can thus abandon its crisis-led approach in the past and take active attempts to formulate an integrated public health strategy that can cater for the needs of all sectors. In the past 10 years, there was no major epidemic outbreak in Hong Kong. This proves that the Government has already amassed sufficient experience in coping with viruses and can continue to prevent the occurrence or even spread of any epidemic by adhering to the existing approach. In the coming few years, the Government should focus on schemes that can assist the poultry industry and the related trades in their restructuring.

Madam President, regarding the schemes on voluntary licence surrender and the early surrender of market stall tenancies implemented for live poultry farmers, wholesalers and retailers, the Government said in July that some 80 live poultry farmers, 13 wholesalers and 290 or so retailers had joined the schemes. The Government also said that since it had set aside \$380 million for the schemes and \$270 million for the provision of temporary relief in the past few years, it would not set aside any more money for the provision of temporary allowances or assistance.

Madam President, we must not forget that in 2003, Hong Kong had to spend \$2.8 billion on combating SARS and another \$1 billion on economic rehabilitation. But now, it is still possible for the Government to act more quickly and invest more resources in providing effective relief to the industry and encouraging it to embark on restructuring. That way, we can avoid another public health crisis similar in scale to the SARS outbreak last time. We can also avoid hundreds of deaths and the "wastage" of almost \$4 billion. This is therefore definitely a direction that the Government and society should seriously consider. After all, viruses are indiscriminate, so once major avian flu outbreak happened, no trade or community group could remain unaffected.

Madam President, while reviewing the present exit scheme, the Government should actively consider the possibility of providing the industry with the lifeline of restructuring. Active steps should be taken to encourage exit from the industry. The Agriculture, Fisheries and Conservation Department is currently helping chicken farmers to convert their farms into organic edible fungi farms. The monthly output of *Agrocybe Aegerila* is now as high as 1 300 kg. The endless public health crises caused by foodstuffs imported from the Mainland can indirectly reflect that the market of safe and quality foodstuff is very big in Hong Kong, and that there are huge market potentials. The Government can continue to assist local chicken farmers in switching to the

production of quality foodstuffs. At the same time, it should also explore various schemes of assisting the related trades, some examples being the establishment of processing and courier industries for slaughtered chickens, which can absorb hundreds and thousands of people previously engaged in the poultry industry.

Madam President, if the Government still fails to paint a clear picture for the restructuring of the industry under the long-term aim of introducing central slaughtering, it will be even more difficult for it to make up any excuse for evading the responsibility of providing short-term assistance to operators and workers in the next few years. The Government should promptly negotiate with trade associations and unions. The Government is duty-bound to establish a scheme that can provide relief and encourage exit from the industry in the next few years.

Madam President, with these remarks and on behalf of the Civic Party, I support Mr Tommy CHEUNG's motion.

**MISS CHAN YUEN-HAN** (in Cantonese): Whenever a discussion is held on this topic, all sorts of feelings will well up inside me. Mr CHEUNG, at the very beginning, I actually did not want to say anything today because the topic has been discussed many times. Since the time when avian flu broke out before the reunification, Members have been raising this topic for discussion every year. I think the Government also finds it very tiring to attend meetings in this Council, and I notice that the Secretary is also very tired. Many of our daily necessities are imported from the Mainland, and very often, because of our close ties with the Mainland, any incidents there will also affect us. For example, viruses will affect our food and daily life. Therefore, we in the labour sector will support the assistance measures and compensation policies for the live poultry trades as suggested by Mr Tommy CHEUNG, because he can pinpoint the crux of the problem. Ever since the massive slaughtering of chickens during the avian flu outbreak before the reunification, we have been discussing the issue of compensation. A considerable length of time has passed since then, but we are still discussing ways of coping with outbreaks of epidemic today. This shows that the approaches and policies of the Government are still marked by many problems.

As mentioned just now by my colleague, Mr WONG Kwok-hing, regarding workers in farms, pig farms, chicken farms and all sorts of farms,

many issues have been discussed in the Legislative Council. But Members can notice that the Government has remained reluctant to accept the relevant proposals. For example, the authorities argue that matters relating to those working on a chicken farm should be the responsibility of the employers concerned, because there is the Employment Ordinance to protect workers. But even so, the Government should still pay compensation to employers, right? But no money has ever been granted to employers for paying compensation to workers. What I mean is that the Government must also take account of the realistic situation. I can remember that before Mr WONG Kwok-hing became a Legislative Council Member, I had to raise this issue for debate. Now that he is also a Legislative Council Member, he has taken over the task. But the more he discusses the issue, the angrier he has become.

I have cited this example just to point out that despite all the difficulties faced by us now, the Government has not yet adjusted its policy. More often than not, it will simply cope with the situation step by step. Besides, some incidents and situations are quite beyond the Secretary's control and directly related to co-ordination among many different areas. All this explains why there are so many difficulties. For example, we have recently been talking about fish supply. Sometimes, we say jokingly that we simply do not know what we should eat because there are problems even with eggs.

We have a set of viewpoints about quarantine — I am now coming to the second problem. We know fully well that proper efforts must be made to tackle the problem at source. But we also understand that the mainland society is vastly different from ours in terms of thinking and living habits as well as living standards. They may think that it is alright to add all those ingredients to foodstuffs, and that all will be fine as long as the fish exported to Hong Kong or other places look good. Some places in the Mainland are very poor. But some may of course argue that this should not be an excuse because there are various regulations in the Mainland and food processing licences will be issued only when all the requirements are met. But we must realize that the fish exported to Hong Kong will have to go through many places in the process of shipment. The Mainland has now announced the moratorium on the export of fresh water fish to Hong Kong. I do not know whether the action is justified, but I agree entirely that the fish concerned will have to go through many places in the process of shipment to Hong Kong. Things can be added to the fish any time during the process. I can remember that during the outbreak of avian flu, some

chicken farmers told me that they should not be blamed because someone might have added something to the chickens in the course of shipment.

In view of the many problems with the process of shipment, as early as several years ago, we already suggested whether it was possible to establish another mechanism outside the normal clearance system — not at the existing inspection locations, but at boundary and import points. But we can see that the Government ..... I do not know whether there are any problems with the two sides. I am not blaming the Government either. I will not put all the blame on the Government. The Government must co-operate with many different sides, and there are differences between the two places after all, so it is very difficult for the governments of the two places alone to cope with the many private-sector economic activities.

There is yet another problem. Mr WONG Yung-kan is not in the Chamber now. Every time when such problems are discussed, he will invariably put forward the proposal of the agriculture and fisheries industries, because the industries have been questioning why we do not foster their development locally. I have also done something rather stupid. In the past few years, I have held many discussions with fishermen on developing quality fish farming, and I have also talked with farmers engaged in organic farming. Together with people sharing the same goal, I have tried out something at the Kadoorie Farm and Botanic Garden, and, I have even discussed various topics on this subject with the Conservancy Association. But then, when I explored the subject further, I discovered one big problem. Many formers in the New Territories who think that there is room for developing organic farming have switched to the growing of organic vegetable, but in no time, they started to ask, "How can we ship our vegetable to the wholesale markets?" The Government has told me that people can approach the Park'n Shop for that. But even so, many difficult problems have still emerged in the process. At the very beginning, I said that many farmers had themselves established some organic vegetable distributing centres in such places as Sai Kung and Tai Po. But I also explained that not many people would go to these places, so it would be very difficult for any urban dwellers to buy such vegetable. I therefore asked, "Is it possible to establish some markets in the urban areas?" My question is not based on mere imagination. I instead think that this actually concerns the employment of Hong Kong people — many people, including university graduates and many of our friends, have decided to return to the countryside to engage in the farming of pigs, fish and vegetable. However, as they proceed

enthusiastically, they discover that they cannot find any outlets for their produce. The Government must take one extra step at this very point of time.

Recently, we have been talking about some places, such as New York City, where land is as expensive as that in Hong Kong. Although land in New York City is very expensive, there are nonetheless many farmers' markets. One single lot there may be used for several purposes. Situated somewhere between New York City and Portland is a lot where farmers themselves can sell their produce every Saturday and Sunday. During certain periods, farmers can sell their produce there every day. And then, during the busy periods of New York City, the lot will be cleared. In other words, although the land in Manhattan is very expensive, the authorities there can still take account of the actual situation and permit farmers to operate a Sunday Market or Morning Market to sell their produce. Why is it impossible for our farmers of organic vegetable or other agricultural produce to do the same?

I have visited many farmers in the New Territories and told them that Hong Kong people would very much like to eat vegetable of assured quality. There are many good farmers in Hong Kong, and they are engaged in the farming of fish, agricultural produce and even pigs. Why do we not consider them? But the task will be very difficult if we rely only on the efforts of the common people. Therefore, I must say that we have been fighting hard for quite some time. Today, when problems with eggs emerge again, I must raise the matter once again, pointing out that there is room for developing the local agricultural industry. Many Hong Kong people would like to eat healthy food of assured quality. As a matter of fact, such economic activities have long since been going on among the people. Their success or otherwise will depend solely on whether government policies will provide any support in this respect.

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

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

**MR FRED LI** (in Cantonese): President, very honestly, I have not prepared any scripted speech for today's motion because the topic has been discussed many times over the past few years. I believe the Secretary should also be very tired

of it. I understand very well that the recent incidents connected with eggs and fish must have given him a very hard time. Therefore, the Secretary cannot possibly spend too much time on studying this motion. Actually, the idea of central slaughtering has been discussed many times in the Legislative Council. The Legislative Council Panel on Food Safety and Environmental Hygiene (the Panel) has also discussed this topic many times.

With a view to finding out more about central slaughtering, members of the Panel paid several overseas visits to places such as Singapore and Malaysia, where they inspected the operation of wind-chilled and water-chilled slaughtering. They also inspected the entire production cycle from chicken farming to slaughtering, wholesale and retail. In Singapore, all the chickens sold are chilled, and this is also the case with pork, beef and mutton. No fresh meat is sold in the market. Markets and supermarkets can only sell chilled and packaged meat. These places have their unique circumstances.

The number of chilled chickens imported into Hong Kong every day has increased from several thousand at the very beginning to some ten thousand now which far exceeds the number of imported live chickens. Chilled chickens have therefore become the main source of chicken meat for Hong Kong people. If central slaughtering is implemented, the Secretary will face one problem. The licence surrender scheme for chicken farmers, wholesalers, retailers and market stall operators already expired in August 2006. I understand that a comparatively large number of chicken farmers have surrendered their licences. As for others in the industry, I hope the Secretary can tell us the number of those who have surrendered their licences. Those who have not surrendered their licences will continue with their business. But in case the Government really implements central slaughtering, will it implement any arrangement for the mandatory surrender of licences? It is clear that in case central slaughtering is really implemented in the future, there will be vastly different economic considerations. If central slaughtering is really implemented in Hong Kong, how can our chilled chickens compete with those from the Mainland? Initially, there was a plan to sell freshly slaughtered chickens with the implementation of central slaughtering. It was explained that these chickens would still be warm within two hours and could thus be sold in places near the location of slaughtering. However, following our discussions with experts and some site visits, we have come to realize that this is simply impossible. Once slaughtered, a chicken must be kept at a certain temperature, or there will be rapid bacteria

growth. Warm carcasses must be chilled either by water or wind to the temperature range from 4 degrees Celsius to 8 degrees Celsius and then sent to markets for sale. Naturally, the sooner they can be sold and eaten, the less will their meat quality be affected. The meat quality of slaughtered chickens will worsen as a result of prolonged refrigeration or chilling.

Therefore, it will not be possible to sell any freshly slaughtered chickens with the implementation of central slaughtering. It will be impossible to sell any warm carcasses of chickens in markets right after slaughtering. The Government claims that this is feasible. But after inspection, we know that this is not possible, technically impossible. Therefore, if all chickens sold in Hong Kong are chilled chickens (bearing in mind that the chilled chickens from the Mainland are 20% lower in price than the centrally slaughtered chickens in Hong Kong), then even if we turn to the production of brand-name chickens, talking about local chicken farms, satisfaction guarantee and fine quality, there may still be no market for the centrally slaughtered chickens in Hong Kong due to the huge price difference. After listening to the advice of experts, the Secretary claims that chilled chickens will be marketable. As a result, a land premium waiver is offered as an incentive to operators. But I hope that the Secretary can study the inspection report of the Panel, in which a series of viewpoints and problems are mentioned. We do not want the whole thing to become "neither fish nor fowl". If central slaughtering is really implemented, we must strive to achieve the most satisfactory outcome.

If central slaughtering is implemented in Hong Kong, the existing wholesalers and retailers of live chickens will be deprived of any sources of goods. If they are to switch to the sale of chilled chickens, they must change their mode of operation, and their vehicle fleet and shops must also be converted. They may apply for loans, but it is now well past the deadline for loan applications. If central slaughtering is really implemented two years later, what will happen to those wholesalers, retailers, operators and people who are still selling live chickens? Has the Government drawn up any arrangement for them? The motion raises this question, and we also want to highlight this point. It is hoped that the Secretary can consider very clearly the impacts of central slaughtering on those engaged in the industry and how they can be helped to cope with the transition. Must they really restructure their businesses?

Regarding monetary assistance, Mr Tommy CHEUNG's motion basically aims to fight for the interests of the industry. On behalf of the Democratic Party, I support the motion. I so submit.



**MR ALBERT CHAN** (in Cantonese): President, we discussed constitutional reform this morning, and now, we are debating the issue of poultry. When it comes to the discussion on poultry, it seems that "all chickens and dogs have fled<sup>1</sup>", and the Chamber is just like "a tranquil river with a few geese stretching their wings<sup>2</sup>". Maybe, many Members are simply not interested in the topic of poultry.

President, in regard to the handling of poultry, I wish to tell the Secretary from the outset that I oppose the implementation of central slaughtering. The reason is that central slaughtering will deal a fatal blow to many trades, especially operators of market stalls. The biggest beneficiaries will be Wellcome and Park'n Shop, meaning that all the benefits will go to the large consortia. The outcome will be a kind of market domination constituted by central slaughtering. The beneficiaries will be the large consortia and the common people will be further oppressed, for their business environment will only worsen.

The focus of all discussions on central slaughtering is the issue of food safety. Actually, over the past few years, the trades concerned and some experts have been offering their proposals to the Government. Some of these proposals have been relayed by me to the Government. Under one of the proposals, independently ventilated partitions which can meet all safety and hygiene standards are to be set up in every market. With this proposal, it is perfectly possible to completely segregate humans and poultry. Therefore, from the technical point of view, it is actually not necessary to implement central slaughtering. However, for seeming technical reasons, or because of bureaucratic inflexibility and maybe the intention of funnelling benefits to certain consortia, the Government has completely ignored the interests of individual market stall operators. Therefore, I find the Government's attitude and approach both disappointing and regrettable. I must call upon the Government to make amends before it is too late and refrain from completely depriving the common people of their means of living on technical grounds, because it must never underestimate the impacts of any policy changes.

On the problem of food safety, we of course know that Hong Kong people will all be terrified at the mere mention of food. There are contaminated

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<sup>1</sup> The original Cantonese colloquialism is "雞飛狗走", literally meaning "Chickens fly and dogs run away". It denotes a state of panic under which everybody tries to flee.

<sup>2</sup> The Cantonese colloquial expression "水靜鵝飛" portrays the picture of a river with no one around except a few geese. It is often used to describe a solitary place.

vegetable, fish and even bean curd sticks. One really does not know what one can still eat nowadays, for it seems that everything is toxic. The air is polluted and food toxic. It can be said that Hong Kong people are all living in panic these days. There is nowhere in this "haven" for us to sit down comfortably. And, one can never find any sense of security in one's daily life. In the streets, we fear that we may be knocked to death by a reversing vehicle. Yesterday, the Hang Sang Index dropped some 500 points. In brief, panic has started to emerge gradually.

When it comes to policies, President, I wish to make the Secretary realize the impacts of his policy changes. We are of course very grateful to the Secretary because when we discussed the issue of pig farms with him earlier on, he decisively supported the idea of closing down all pig farms in order to achieve a three-win situation. But central slaughtering is a separate matter. In regard to the trades concerned, every market will naturally be affected. And, people currently engaged in the poultry and livestock trades will certainly sustain heavy impacts. Actually, some of these impacts may never have been considered. In some cases, under the relevant deeds of mutual covenant, certain market stalls are solely designated for the sale of poultry, and even the sale of frozen meat is prohibited. Actually, when the Government introduced some licensing changes earlier on, that is, when it once again stopped the issuing of live chicken stall licences, the owners concerned already sustained very heavy impacts, because as a result of this policy change, all these stalls must be left vacant and no business could be operated temporarily. After the implementation of the new policy on stopping licence renewal for the stall operators concerned, this kind of properties has become entirely useless because, with the exception of live poultry, nothing else can be sold in these private market stalls. In case anyone tries to sell other goods, the management companies concerned will certainly stop them on the ground that they have contravened the relevant deeds of mutual covenant. As a result of the Government's policy, these properties, which will otherwise be worth several hundred thousand dollars each, have all become entirely valueless. However, the Government has not adopted any measures to assist the owners concerned, nor has it made any compensation. Many common people are thus plunged into severe financial hardship because while owners have not yet paid up their mortgages, they nonetheless cannot sell their properties. The Government has never provided them with any help.

Mr Tommy CHEUNG's motion requests the Government to set up other funds. I do not think that this request can completely take account of my

viewpoints. First, I oppose central slaughtering. I of course know that Mr CHEUNG may not necessarily support central slaughtering either. But apart from the establishment of an emergency relief fund for the trades, we must also consider the other impacts. And, such impacts must also be tackled.

President, finally, I wish to point out that insofar as the dietary habits of Hong Kong people or Chinese people are concerned, the provision of fresh meat is very great important. Hong Kong is a Gourmets' Capital, so I am especially worried that excessive food control may severely affect people's dietary habits and ruin Hong Kong's reputation as a Gourmets' Capital overnight. I hope that the Secretary can continue to explore all related issues instead of solely concentrating on public health. The resultant chain effects and negative social impacts may well outweigh the health gains 10 times or even a hundred times.

I support Mr Tommy's CHEUNG's motion. Thank you, President.

**MR WONG YUNG-KAN** (in Cantonese): President, there have been endless spates of contaminated vegetable, eggs and fish. Once they know that a certain foodstuff is imported from the Mainland, people will not dare to buy it. Whenever I go to any market, the stall operators there will complain to me that it has become increasingly difficult to do any business. Actually, the plight experienced by fish and egg stall operators in markets is largely the result of loopholes in the SAR Government's food safety surveillance. And, strangely, those industries which have put in place very sound safety surveillance measures are plunged into desperation and closure by the Government's policies. The requests made in the motion today can presumably reflect the helplessness of the poultry industry.

During the first outbreak of avian flu, everybody was caught by complete surprise, not knowing what to do. The outbreak eventually came to an end when all chickens in Hong Kong were slaughtered. In the wake of the outbreak, the Government and the poultry industry hastened to re-define the hygiene and bio-safety standards for the whole industry. I believe that by now, the hygiene and safety standards of the local poultry industry should already be the highest in the whole world. And, the industry is prepared to continue operation subject to all the stringent requirements. But as can be expected, the Government does not think that way. The Government has always wanted to see the complete

disappearance of live poultry in all markets. It has been trying every possible means to "sap" the strength of the poultry industry, making its business environment more and more difficult.

Although the industry's business environment has been incessantly suppressed by various measures such as the restrictions on the numbers of chickens on farms and imported live chickens, and although some people in the industry have been driven into a state of despair, it cannot be said that all in the poultry industry want to give up their businesses. This can be borne out by the number of people who have participated in the voluntary licence surrender scheme for the poultry industry. Only 70% of all live poultry farmers have participated in the scheme. And, only 17% of all wholesalers and 42% of all retailers have surrendered or applied for surrendering their licences and market stall leases. As for transporters, there has been no application at all. What is more, most live poultry farmers participating in the scheme are those who keep a very small stock of live poultry. All this can show that most people in the industry in fact want to continue their businesses as a means of earning a living.

Members can easily imagine what members of the industry think. Most in the industry think that the compensation for licence surrender is too small. Large poultry farms, in particular, find that the amount of compensation simply cannot enable them to meet severance payments and make up for their investments in upgrading bio-safety in recent years. Besides, some operators also criticize the Government's capricious approach to the implementation of central slaughtering. At the very beginning, public money was used to convert markets and retail poultry stalls, commonly called "glass houses", were set up. Then, it was claimed that the Western Wholesale Food Market was no good and must be converted for implementing regional slaughtering on a pilot basis. However, soon afterwards, this proposal was ruled out on the ground that "glass houses" were no long-term solution. So, they put forward a proposal on constructing a large-scale slaughtering plant in North District. But they were all the time very indecisive over the choice of location, and it was not until October that the Government finally decided to stick to the location near Man Kam To despite the opposition of the North District Council.

The Government's attitude towards the construction of a central slaughtering plant has suddenly turned firm, so those in the industry who wanted to wait and see have been led to change their position, and they now hope that

they can surrender their licences and switch to other means of earning a living. But the Government's voluntary licence surrender scheme already ended in August. The industry generally hopes that the authorities can restore the scheme, so that people can reconsider whether they should exit from the industry.

President, the original motion proposes that prior to the implementation of central slaughtering, if the Government decides to suspend the import of live chickens from the Mainland, appropriate assistance should be provided. The DAB supports this proposal. Actually, as early as January 2004, when the Government suspended the import of live chickens from the Mainland for three months due to the outbreak of avian flu in Guangdong, assistance in the forms of rent waiver and *ex gratia* allowance was already provided to the industry. But then, in March and June in 2006, when the SAR Government again suspended the import of mainland live poultry for 21 days due to the suspected cases of avian flu infection recorded in Guangzhou and Shenzhen, no assistance was provided. The Government ceased to provide any assistance to the industry.

Perhaps, the Government simply thought that since the 21-day suspension was not very long, the industry should be able to cope somehow. But the Government does not realize that the business environment of the industry has already worsened a great deal. After suspending their businesses so many times, operators have almost used up their savings, and they no longer have anything more to depend on. It will be very difficult for them to survive any prolonged suspension of business. A greater problem is that most employees in the industry are paid on a daily or piece-rate basis. They will not get any pay if they do not have a job. Actually, a 21-day suspension is not a short period at all. I believe that the industry will certainly fail to cope if the import of live poultry is once again suspended twice in three months, as was the case early this year. Therefore, the Government must not assess the difficulties faced by the industry on the basis of suspension duration. It should promptly open discussions with the industry, with a view to formulating assistance arrangements in the event of any live chicken import suspension.

President, finally, I wish to say a few words on poultry farming. The Government has decided to go ahead with central slaughtering despite the opposition of local residents and problems connected with cost efficiency, and so on. The Secretary claims that poultry farming will still be possible in Hong Kong. But the discerning public can see that the Secretary's words are mere

lip-service. Whether there will still be any market for live chicken and whether chilled chickens produced by Hong Kong can compete with those from the Mainland are all our worries. We therefore hope that the Government can provide the industry with alternative courses of development. We have repeatedly proposed that we should be helped to develop a quality poultry industry in the Mainland. We hope that we can be allowed to rear poultry in the Mainland, so that those who have applied for a licence can continue with their business.

President, I so submit.

**MR VINCENT FANG** (in Cantonese): President, on 5 July this year, the Legislative Council held an adjournment debate to discuss the impacts sustained by operators and employees in the poultry trades as a result of the suspension of live chicken import introduced by the Government amidst suspected cases of avian flu infection. Honourable colleagues who spoke at that time all supported the establishment of an emergency relief fund related to food safety, so as to implement the three relief measures advocated by Mr Tommy CHEUNG in his motion today.

So far, there has not been any progress in implementing the proposals concerned. But the spates of food safety incidents have affected not only one single food industry! More and more shop operators and employers have now begun to feel the impact, showing the mounting urgency of providing assistance to affected small and medium enterprises.

These days, after reading all those news stories, Members may be at a loss as to what kinds of food are still safe to eat. This moment, there are contaminated eggs, and the next moment, there are tests that discover the presence of malachite green in fresh water fish. In other parts of the world, in South Korea, there is an outbreak of avian flu. I therefore think that Mr CHEUNG's motion today has come just at the right time. I even hope that this opportunity can be taken to extend the coverage of the proposed assistance measures to other affected food industries.

After reading all the recent news stories about food safety, members of the public may criticize importers and retailers for selling problematic foodstuffs. However, the worries of the public aside, there is another group of people who

are even more worried — operators of food trades and their employees. The reason is that as a result of the press coverage of food safety incidents, the public have lost all their confidence in the safety of eating fresh water fish, chicken eggs and live chickens. The sales of all these foodstuffs are thus greatly affected. Besides, owing to the safety problems with supplies, food industries in the Mainland have decided that it is better to suspend the export of live fish to Hong Kong. Fish importers and fishmongers will thus face the situation of having no fish to sell.

The weather in Hong Kong has turned cool over the past two days. But chicken farmers and sellers are all hoping that the migratory birds coming to the south for winter can all remain sound in health. They all hope that these birds will not carry the H5N1 virus, will not fly to the chicken farms and wholesale markets in Guangdong and Hong Kong. The reason is that between March and June this year, owing to the contraction of avian flu by humans in Guangdong, the Health, Welfare and Food Bureau already twice suspended the import of live chickens from the Mainland for a combined duration of six weeks!

Traders are not responsible for all these incidents, and they do not want any occurrence of incidents either, because once there are any problems, their trades will be the worst-hit. The live poultry trades mentioned by Mr Tommy CHEUNG are one example. Hong Kong used to import more than 100 000 live poultry from the Mainland every day. But since the Government fears that avian flu may break out in Hong Kong, the volume of import has been scaled down incessantly. Earlier this year, the import volume was even reduced from 30 000 poultry a day to just 20 000. The Government is simply trying to "sap" the industry in order to pave the way for central slaughtering.

The decision to suspend the import of live chickens was made by the Government. But, in the end, test results indicated that the mainland chicken farms supplying chickens to Hong Kong and the wholesale markets and retail stalls in Hong Kong could all meet the required standards. Even though there were no infection cases, even though there were no problems with poultry, the industry could no longer carry on their business. But the Government simply said nothing in response. In this way, the industry was denied any business for six weeks altogether! Is this something that a "people-oriented" government should do?

Yesterday, I met with the fresh water fish industry to discuss the malachite green incidents. They told me that since the malachite green incidents at the end of last year, their business had never climbed back to the previous level. According to them, the recurrence of such incidents now will certainly drive them out of business. But they are all engaged in lawful businesses. They get their fish supplies from registered fish farms, and the levels of malachite green indicated by the test results this time around are far, far lower than the levels recorded last year. However, the Government has not offered any reasonable explanation to the public, telling them that the levels recorded this time around are not beyond safety limits; not only this, it has also failed to prevent and clamp down on fish and chicken smuggling. In this way, all those in the industry who are engaged in lawful businesses have been made to bear all kinds of risks.

I have told the Secretary and other government officials many times that during any suspension of live chicken and fresh water fish import, the Government may grant a rent waiver to tenants renting the stalls and parking spaces in government poultry wholesale markets and retail chicken stalls in the markets run by the Food and Environmental Hygiene Department and the Housing Authority. As for private market stalls, a proportionate allowance based on the monetary amount of the Government's rent waiver should be granted, so as to relieve stall operators' temporary difficulties.

Having said all this, I must point out that since the Government cannot possibly implement any stringent monitoring of all the problems at source, food safety problems are realistically inevitable. I therefore very much support Tommy CHEUNG's proposal on establishing an emergency relief fund. I can remember that the first time when I raised this proposal with the Secretary, he asked, "Where is the money supposed to come from?" I have also discussed this question with the industry, and it actually agrees that all the trades concerned should make some sorts of contributions. For example, a surcharge may be added to the business registration fees.

Therefore, I hope that Members can support Mr Tommy CHEUNG's motion. I also hope that the Secretary can enhance his co-operation with the industry and join hands with it to perfect the monitoring of food safety and reduce the impacts on the industry. With these remarks, I support the motion. Thank you, President.



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

**MR LEUNG YIU-CHUNG** (in Cantonese): President, originally I did not plan to speak, but after listening to the speeches given by Mr WONG Yung-kan and Mr Vincent FANG, I think I have something to add though I agree with their points.

President, the motion today is about issues related to live poultry. We should understand that the issue has cropped up mainly because of special measures undertaken by the Government occasioned by the outbreak of avian flu. President, as I said last time, avian flu is something which occurs naturally and it is not man-made. Since this occurs naturally, I would like to ask the Secretary this question: Keeping poultry is something that can be found in our tradition and culture — no, the sale of poultry has become part of our history and culture and it is not a sin to choose to be part of the trade, right? To put it bluntly, people in the trade may ask, "Why pick us?" The trade which they have chosen to join has always existed in history and it is a lawful trade. They are just keeping up the tradition of doing business in the trade. But the impression the trade now gives people is that those who are in the live poultry business are like criminals subjected to frequent crack downs and suppression. It looks as if they should not be allowed to exist and they must be wiped out. In my opinion, this is totally unreasonable.

If society really recognizes that there is such a need for it, those in the live poultry trades are prepared to talk with the Government for solutions to the problem. An example is the topic of debate today, if the live poultry trades are to be wiped out and they should not be allowed to exist, the Government must be prepared to offer relief and compensation. However, there is no attempt to offer these to them. The Government only cracks down on them because it has decided that this should be done. I think such a way of doing things is not showing enough care for one thing — what is it? President, it is social responsibility. Social responsibility is something we all share. What is the meaning of this? This means no trades should be singled out to bear such a responsibility.

Earlier on Mr Vincent FANG mentioned where the money would come from. I think this is an odd question to ask, for if something is to be borne by society, then the money should be paid by the Government. The Government's

money comes from everyone and that can be from tax revenue or other sources. Since this is our commitment, a social responsibility, then the cost should be met by money paid by the Government. Why should there be any question about it? I really do not get the point why when the Government is to do something, it will ask us where the money comes from. If questions like this are asked, it will only show that it does not agree that it is a social issue and social responsibilities are involved. This is tragic. Whose responsibility would it be if it is not that of society? Will that be the responsibility of the trades concerned?

Members have heard earlier that avian flu is not something created by us, but it is brought by the migrant birds. It is not man-made but a phenomenon which happens in the natural environment. Given this, why do we not bear the responsibility together? I think every member of the public would be willing to shoulder such a responsibility, for it is a social problem. I do not understand why the Government will resist the proposals made today. Based on the arguments put forward by me, it would be hard for the Government to evade this question and that is, these people from the trades concerned have been working in these trades for generations and they know from generation to generation that what they do is lawful. They have done nothing wrong and they have been running their business and engaging in these operations. But because of the emergence of avian flu, and for fear that the epidemic will spread and hence pose a threat to society as a whole as well as to the safety of the people, so much emphasis is put on finding a solution. How should a solution be found? Actually, culling the chickens may be something we have to do reluctantly. But what comes next? President, after the chickens are culled, the operators in the trades will suffer huge losses. It might be better for them if they too were killed. This avian flu is not something caused by these operators, but it emerges under some unknown situations.

For the above reason, we should think from the perspective of these operators in the trades and we cannot say arbitrarily that chickens must to be culled for public interest. And the trades are left to take care of the problems themselves. This kind of mentality is totally irresponsible. This is not a mentality that the Government should harbour. While the Government should care about public health, it should also care about the losses or difficulties which people in the trades are facing. This is the correct and more comprehensive attitude to take.

Otherwise, what the Government can do may be something very simple and easy, for it does not have to care about so many things and once such things happen, then chickens must be culled. Why? For in the end the Government does not have to bear any consequences. The losses incurred after the culling of chickens are none of its business, what it does is only making the decision. No problem will arise. It is very easy. For the officials, making such a decision is the simplest thing on earth. For example, now that contaminated fish has been found, only a brief statement is made saying that there are problems with the fish. Though an apology is offered to the public in the end, what is the use of it? It is useless. The Government has not suffered any loss and a mere apology will never make up for the losses suffered by the trades.

Therefore, we hope that the officials can be more careful when formulating any policy and they should bear the responsibilities, one of which is to offer compensation and support to those affected, and the other is to make more detailed arrangements. Such moves are not found at all on this occasion and this is why I think it is really unfair, unreasonable and irresponsible.

I therefore support the original motion today. President, I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If no other Member wishes to speak, I will now call upon the Secretary for Health, Welfare and Food to speak.

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, first of all, I would like to thank Mr Tommy CHEUNG for proposing this motion on relief measures and compensation policies for the live poultry trades today. On 5 July during the adjournment debate in this Council on the measures taken by the Government to prevent avian flu, I expounded the Government's position on the temporary relief measures for the live poultry trades proposed by some Members. With respect to Members' concern in this respect, I would like to respond in detail to the views expressed by Members on this motion.

I think Members would learn from media reports that there are still occasional occurrences of avian flu cases on the Mainland and in the Asia-Pacific Region. Even in the summer which has just passed, the epidemic has not stopped. On the Mainland, for almost a year past, there were still cases of avian flu infection among poultry, wild fowls and humans. These included the two cases of human infection in Guangdong Province in March and June. There is a recent outbreak of avian flu among birds in South Korea. In Indonesia, a person died yesterday from avian flu infection.

In addition, according to past records, the peak of avian flu in South China would come during the spring and winter. However, in June there was a case of human infection of avian flu in Shenzhen and that was in early summer. This implies that in the coming winter, the threat of avian flu may be much greater, the situation would be more alarming and preventive work would be much more difficult.

Backyard poultry keeping is still common throughout the Asia-Pacific Region and with inadequate bio-safety measures, the extent and efficacy of disinfection vary greatly, making the control and prevention of avian flu an even more daunting task. This is one of the high risk factors leading to the outbreak of avian flu. Therefore, in February this year, Hong Kong enacted legislation to outlaw backyard poultry keeping. However, we must continue to be on guard and enhance co-operation with relevant agencies on the Mainland and in other places for the control and prevention of the epidemic. We should increase the exchange of information and consolidate the region's overall defensive capabilities against the epidemic.

As the main channel of human infection of avian flu is contact with poultry, in the event that there has been confirmed cases of human infection in Guangdong Province, and even if there is no outbreak of avian flu among poultry, we have to suspend the import of live poultry, day-old chicks and pet birds from Guangdong Province. This would enable the experts at the Centre for Health Protection, the Hospital Authority and the Agriculture, Fisheries and Conservation Department to have ample time to go to the Mainland and discuss with the experts there on the clinical details and epidemiological information of the cases.

In the past, once there have been cases of human infection of avian flu in Guangdong Province, even if there is no outbreak of the epidemic in the poultry

farms in Guangdong Province which supply poultry to Hong Kong, the Hong Kong Government would still take precautionary measures, make reference to the International Animal Health Code of the World Organization for Animal Health and impose a suspension of the import of live poultry according to the incubation period, that is, 21 days of the avian flu virus in poultry.

Should there be a suspension of the import of live chickens, the business of the trades concerned would be affected in various degrees. Therefore, people in the trades have conveyed to us their grave concern about the suspension of the import of live chickens on their business. In this connection, we consulted the relevant scientific and medical bodies, including the Scientific Committee on Emerging and Zoonotic Diseases under the Centre for Health Protection of the Department of Health. After considering many factors, including avian flu epidemiology, incubation period and modes of transmission among humans and poultry, the practical experience gained from the survey on human cases in Guangdong, and the health code of the World Organization for Animal Health, the experts agreed that if in future there were cases of human infection of avian flu in Guangdong but in the absence of any epidemiological proof of their links with poultry, the duration of the suspension of the import of live poultry from the Mainland could be revised to 14 days after the confirmation of such cases. The Government had taken the advice given by the experts and in July it revised the duration of the suspension of live poultry import from the Mainland from 21 days to 14 days after the confirmation of such cases.

However, I must reiterate that if there is any outbreak of avian flu in the mainland farms which supply live poultry to Hong Kong, the Government will act according to the established policy and suspend the import of live poultry and poultry meat from the Mainland.

On each occasion of the live poultry import ban, the inspection and quarantine departments on the Mainland will conduct investigations to confirm that there is no avian flu or other diseases among the live chickens kept on the chicken farms in Guangdong Province and Shenzhen Municipality, irrespective of whether such farms supply live poultry to Hong Kong. We will send veterinary surgeons and experts to inspect the mainland chicken farms supplying chickens to Hong Kong and it is only after confirmation is obtained from the mainland authorities that there are no more suspected cases of human infection of avian flu can the import of live poultry from the Mainland resume.

We are committed to implementing the above latest arrangements regarding the suspension of the import of live poultry from the Mainland in the hope that through constant assessments of the latest situation of avian flu that suitable matching public health policies can be devised to achieve our policy objective. Such policy objective is that on the premise of effectively protecting public health, the operations of the live poultry trades can be maintained by all means and that the adverse impacts caused on the trades can be minimized.

As for the relief measures for the trades proposed by some Members, I wish to point out that since the outbreak of avian flu in Hong Kong for the first time in 1997, the Government has on a number of occasions offered assistance to those in the live poultry trades for the impact produced on their business. In 1998, when relief measures were devised for the trades for the first time, they included the offer of a rent waiver, compensation and *ex gratia* payment to the affected live poultry farmers, wholesalers, retailers and transporters, with a total amount of \$99 million. Since 1998, the Government has provided a total of \$360 million in similar temporary relief measures. In early 2004, the Government used \$40 million in the relief measures provided to the live poultry trades.

Apart from financial assistance given to the affected trades when there is an epidemic, the Government has also put in a huge amount of resources to prevent poultry from contracting avian flu. The purpose is to help the live poultry trades operate under controlled and limited risks. Work in this aspect include stepping up sample inspection at the border control points, inspection of mainland farms, surveillance of local retail points, regulation of local poultry farms, enforcing the ban on backyard poultry keeping and surveillance and testing of wild birds.

We have learned from past experience. In order to prevent the trades from being affected from time to time due to disruptions in the supply of live poultry after the occurrence of avian flu infection cases on the Mainland, and also in order that the risk of an avian flu outbreak in Hong Kong can be minimized, we launched voluntary schemes in July 2004 and August 2005 respectively to assist the exit of live poultry farmers, retailers, wholesalers and transporters from the trade. They are encouraged to surrender their licences or tenancies and wind up their business for good. In return they are given an *ex gratia* payment or other financial assistance. Eligible workers from trades

directly affected by the schemes may apply for a one-off grant after their employers have ceased operation.

Applications made to this voluntary scheme for returning licences expired in August 2006. As at this year, 142 live poultry farms (of which 102 are live chicken farms), 15 wholesalers and 340 retailers have surrendered or applied for the surrender of their licences or tenancies. The maximum chicken population on the local farms will be reduced to about 1.7 million when the chicken farms concerned close down. It is believed that the scheme has played an active role in further reducing the risks of human contact with poultry and human infection of avian flu. The scheme would incur expenses in the region of \$300 million. If the money is added to the expenses incurred in the past temporary relief measures, the Government has used close to \$670 million since 1997 to assist the trades to cope with the risk of an avian flu attack.

The abovementioned voluntary surrender scheme for returning licences/tenancies has been effective in lowering the risk of an outbreak of avian flu in local farms and in assisting the exit of many people concerned from the live poultry trades. Some Members suggested that should the occurrence of avian flu on the Mainland result in a serious impact on the business of the trades, the Government should set up a fund to offer assistance to those in the trades so affected by the epidemic. I have reiterated many times that one of the most important reasons for launching the voluntary surrender scheme for returning licences is to help those members of the trades who do not feel like to operate under an increasingly stringent regulatory environment owing to public health needs dissociate themselves from the trades for good or switch to other trades. Of course, as this is a voluntary scheme, people in the trades may choose to continue with their operations under such risks. When I met representatives of the trades, I made it clear on many occasions that owners who choose to continue with their poultry business after the launch of the voluntary surrender scheme have to bear the risks concerned on their own. There will be no temporary financial assistance in the form of rent waivers or *ex gratia* payments from the Government to cushion the trades against the short-term impact of avian flu.

Some other Members suggested that a fund should be set up by the Government to offer loans to the affected trades. We have studied the suggestion and formed the view that it is viable for the following reasons:

- (1) The proposal has less financial implications on the public coffers; and
- (2) The trades have shown a responsible attitude in similar loan schemes in the past and applications were only made when there were genuine needs and there was no default payment in most cases.

We will therefore conduct a study and decide whether or not reference should be made to loans made out to the trades in the past in order to help the trades which have been chronically affected tide over the difficult times. However, we must consider carefully the feasibility of the loan scheme and its details, such as the duration of operators in the trades being affected by the suspension of the import of live poultry making them eligible for the loan. I have asked my colleagues to take active steps to study into the feasibility of the loan scheme so that a report can be made to this Council soon.

In addition, some Members also suggested providing emergency financial assistance to workers who are not employed on a long-term basis. However, as I pointed out in the adjournment debate on 5 July this year, it would be very difficult to put this proposal into practice and I do not envisage we can give further thoughts to it.

Long-term precautionary measures for avian flu include the setting up of a poultry slaughtering and processing plant to centralize the slaughtering of live poultry, and when the facility comes into operation, to ban the sale of live chickens in retail outlets and the wholesale of live poultry. These will hopefully achieve total human-chicken segregation and hence eliminate the means of the transmission of avian flu from poultry to humans.

On the preparations for the poultry slaughtering and processing plant, we have identified a suitable site in Man Kam To Road in Sheung Shui which is far away from major residential areas for the purpose of building this plant. Planning work has already begun, including the compilation of an environment impact assessment report for the project and soon invitation will be made to the industry for submission of letters of intent in the project. We will introduce the relevant law next year and formulate the licensing requirements for the processing plant. These requirements will help impose regulation on management of the plant, including the slaughtering process and the environmental hygiene standards for the plant. We expect the poultry slaughtering and processing plant to come into operation in 2009 or 2010 at the soonest.



As the setting up of this slaughtering and processing plant would result in inevitable changes to the mode of running a live poultry business, operators in the trade should therefore consider either restructuring or winding up their business. We would conduct a review with the live poultry trades in due course to look into the issue of the provision of compensation or *ex gratia* payment as they wind up their business.

Madam President, we will continue to keep a close watch on the developments relating to avian flu both here and abroad and we will disseminate the relevant information to the public. We will maintain close ties with the Mainland and through the well-established notification system for communicable diseases on the Mainland and in Macao, we can exchange information promptly on contingencies in public health and effect co-ordination for concerted action. We will strive to protect public health while also minimize the impact on the trades concerned.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr Tommy CHEUNG, you may now speak in reply. You have four minutes 41 seconds.

**MR TOMMY CHEUNG** (in Cantonese): I am very grateful to the nine Honourable colleagues who have spoken, and I hope that the Secretary can hear their views. Their opinions can actually be summarized into several main points. One of these points is about employees, about the need for the Secretary to look after them. Besides, concerning the problem of ascertaining that one is a *bona fide* causal worker, I must point out that technical solutions can always be worked out, as already mentioned by Mr WONG Kwok-hing. And, I do not think that the Secretary should dwell on this problem any further, saying that the whole thing is technically impossible. I must also express my appreciation of two colleagues, namely, Mr Vincent FANG and Mr WONG Yung-kan. Since this topic is related to their respective sectors, it is only natural that both of them should speak with such powerful emotions. It was especially the case with Mr WONG Yung-kan, whose seniority in the industry and even this Council is higher than me. After listening to colleagues' speeches, I must say that the kind of cross-sector support received by this motion can rarely be found in this Council. Members returned by geographical constituencies or functional

constituencies and Members representing trade unions or the business sector all feel very deeply about the plight of the industry. I believe that those engaged in the live poultry trades should also feel greatly encouraged, because to say the very least, they should now know that the entire legislature is well aware of their difficulties. Unfortunately, however, they want the Secretary to understand their problems, but he is unable to do so.

At lunch today, some Honourable colleagues said jokingly to me, "It looks you and the Secretary will once again speak like 'a chicken talking to a duck'<sup>3</sup> today." Naturally, given our respective ages, both the Secretary and I will not find playing either a chicken or a duck a pleasant job. I am very glad that the Secretary's 10-odd-minute reply today (roughly 15 minutes, I should say) is much more to-the-point than his 15-minute reply during the adjournment debate last time. In his 10-minute reply, the Secretary gave an account of the Government's work on combating avian flu in the past few years, and I naturally recognize all these efforts. Honestly speaking, in this legislature, I have always been saying that the Government and the industry have both done an excellent job in combating avian flu. And, as the representatives of the industry, I must say that Mr WONG Yung-kan, Mr Vincent FANG and I have all the time been serving as a bridge between the Government and the industry.

I am very glad to hear from the Secretary that the offering of loans is possible, and that in due course central slaughtering will be implemented. And, what I mean by "in due course" in the context of my motion is that the Government should start discussions with the industry immediately instead of trying to "sap" its strength. Well, Mr Vincent FANG and I frequently use the word "sap" because we are influenced by the industry. Many years ago, I did try to convince the industry that the Government did not have any such intention. But after making repeated attempts, I no longer dare to persuade them, because there are indeed signs indicating such an intention. The fear seems to be real after all. Therefore, I think the Secretary should discuss with the industry as soon as possible. But when it comes to employees, I am still very disappointed. Both union representatives and I myself have been keeping in touch with the industry. We know that they will get just \$2 for slaughtering one chicken. And now, they do not even have any chicken to slaughter. Actually, a worker

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<sup>3</sup> "A chicken talking to a duck" is a Cantonese colloquialism. A chicken and a duck are supposed to speak different languages (that is, if they speak any at all). Therefore, when a chicken tries to speak to a duck, there will be a breakdown of communication.

will only earn \$300 to \$400 a day after slaughtering 200 chickens. This is really hard-earned money.

During the past two elections, I was touched deeply by something I saw. During the first election, I saw some children doing homework with their mothers in a wet market. These children often had to deliver meals to their mothers during the break, and they would do their homework with their mothers afterwards. As for the second election, what touched me deeply was that I saw a small girl — I call her a small girl, but she should be 10 something or even 20 — who helped her parents to sell chickens at a chicken stall during the hot summer. I cannot remember clearly what she was doing at that time — maybe removing the feathers of chickens or something else. But anyway, she was not simply collecting money outside the stall. What I mean is that we must personally feel the plight of the industry. In many cases, the several generations of a family must work together to carry on their business because they do not have the means to employ any helpers. They must therefore do the job themselves. Casual workers, in particular, can only earn \$2 for slaughtering one chicken. Secretary, I suppose if you and I were made to slaughter chickens, and if the pay for slaughtering one is just \$2, both us will succeed in slimming ourselves very quickly. It is because, first, we may not have any more appetite after slaughtering chickens; and, second, I believe, working in such an environment for several days will certainly make us lose weight very quickly.

Secretary, I must thank you for raising the point on "in due course" and for agreeing to consider the possibility of offering exit compensation and loans. However, when it comes to employees, I am very sorry to say, and I can say on behalf of all Honourable colleagues, that we do not agree with you, that is, we do not agree that the whole thing is to be cast aside simply because of difficulties in computation. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Tommy CHEUNG 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 no one has raised his or her hand to oppose the motion because all Members already raised their hands to support it just now. 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.

#### **NEXT MEETING**

**PRESIDENT** (IN Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 6 December 2006.

*Adjourned accordingly at nineteen minutes to Seven o'clock.*

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Commerce, Industry and Technology to Mr SIN Chung-kai's supplementary question to Question 1**

Regarding Radio Television Hong Kong (RTHK)'s simulcasting arrangements, among the existing seven radio channels run by RTHK, three are FM channels and four AM channels. The seven channels provide different types of programmes targeting different audience groups. To make effective use of resources and ensure that some important information is effectively and extensively delivered to all audience groups, RTHK needs to simulcast some radio programmes, such as the main news bulletins and current affairs programmes. Other programmes simulcast include phone-in specials on the Chief Executive's policy address and the Financial Secretary's Budget speech.

**Appendix II****WRITTEN ANSWER****Written answer by the Secretary for Commerce, Industry and Technology to Mr TAM Yiu-chung's supplementary question to Question 1**

Regarding Radio Television Hong Kong (RTHK)'s arrangements for inviting Civic Party legislators to attend the programme "Letter to Hong Kong", RTHK invites guests to attend its weekly programme, "Letter to Hong Kong" of Radio 3 (English channel) to air their views in the form of English letters. The guests invited are mainly Legislative Council Members (including those from different political parties and those without political party background, some of whom being representatives with professional background in different sectors), Members of the Executive Council and government officials. Generally speaking, when inviting guests, RTHK will take into account the topical issues in the community, social atmosphere, relevance of guests' background (such as their professional background) to the issues in question, and different news perspectives, and so on. Apart from these, RTHK will consider whether the guests are willing to write and deliver their letters in English. The political party background of the guests is only one of the considerations.

**Appendix III****WRITTEN ANSWER****Written answer by the Secretary for Financial Services and the Treasury to Dr Fernando CHEUNG's supplementary question to Question 4**

As regards how value for money is being taken into account in the procurement of environmentally-friendly products, government procurement is based on the principles of open and fair competition, transparency, value for money and public accountability. To achieve value for money, government departments are required to take into account not only the competitiveness in price but also compliance with user requirements, reliability of performance, qualitative superiority, whole-life costs and after-sale support, where applicable.

In this connection, for contracts where quality of service is of importance and specific attributes are called for, government departments are encouraged to adopt a marking scheme to assess both the technical and price proposals. The assessment criteria and distribution of marks in a marking scheme may vary, having regard to the functional and performance requirement of the product required. Depending on the types of goods and services procured, government departments may set mandatory and desirable requirements under a marking scheme. If a product on offer fails to meet the mandatory requirements, the offer shall not be considered further regardless of the tender price. Proposals which pass the mandatory requirements will be further assessed according to predetermined assessment criteria, and more marks will be given to offers with more desirable features. Only those bidders who have passed the technical assessment will be considered further, and their price proposals will then be opened and assessed. Normally the bidder with the highest overall price-quality score will win the contract.

## Appendix IV

## WRITTEN ANSWER

**Written answer by the Secretary for Financial Services and the Treasury to Miss CHAN Yuen-han's supplementary question to Question 4**

As regards information on green specifications of the commonly used environmentally-friendly products drawn from the bulk contracts arranged by the Government Logistics Department, attached is a list of commonly used environmentally-friendly products to be purchased under the bulk contracts and their green specification by the Government Logistics Department for Members' reference.

Annex

Bulk Contracts for Green Products  
awarded in 2004 to 2006 (up to November)  
by the Government Logistics Department

## (I) Products with Recycled Content

<i>Item No.</i>	<i>Description</i>	<i>Green Specification</i>
1	Paper photocopying white recycled A4	(i) The paper shall contain at least 80% recovered fibre or at least 40% post-consumer fibre by weight.
2	Paper photocopying white recycled A3	(ii) Paper packaging (paper wrapper and carton box) must be made from 100% recovered fibre by weight. (iii) Bleaching agent being used in pulp/paper production, if necessary, preferably does not contain chlorine. (iv) Surfactant used in pulp/paper production, if necessary, preferably is biodegradable. (v) Chemical Oxygen Demand in water discharge during pulp and paper production preferably is less than 20 kg/tonne of paper produced.
#3	Recycled paper for printing	With recycled content of recycled pulp or post-consumer fibre.



**WRITTEN ANSWER — Continued**

<i>Item No.</i>	<i>Description</i>	<i>Green Specification</i>
4	File jacket c/w lever arch mechanism	Made from hard and stiff cardboard containing at least 50% recovered fibre.
5	File box with lockspring for foolscap size paper	
6	File jacket c/w two-ring spring mechanism	
7	Paper toilet in roll	(i) Must contain by weight 100% recovered fibre and that recovered fibre must contain not less than 60% post-consumer fibre.  (ii) Bleaching agent used in pulp/paper production, if necessary, must not contain chlorine. (iii) Surfactant used in pulp/paper production, if necessary, must be biodegradable. (iv) The packaging (such as core/paper wrapping/carton box) must be made from 100% recovered fibre.
8	Jumbo roll toilet paper	
9	Paper towel (manifold)	
10	Hand roll paper towel	
11	Pencil recycled black lead HB	(i) Non-toxic colour paint must be used. (ii) Pencil barrel must be made of recycled paper. (iii) No heavy metals in dye graphite.
12	Pencil recycled black lead HB w/eraser	
13	Pencil recycled dark blue	
14	Pencil recycled red	
15	Hydrocarbon lubricants and compound	With recycled content.

**(II) Environmentally-Friendly Products**

<i>Item No.</i>	<i>Description</i>	<i>Green Specification</i>
16	Powder detergent in 25 kg bag	(i) Contains no Ethylene Diamine Tetraacetate. (ii) Contains no reactive chlorine compounds. (iii) Do not contain Alkylphenoletoxylates. (iv) Biodegradable at least 90% of the product.
17	Cleansing powder, lavatory	Contains no Ethylene Diamine Tetraacetate.

WRITTEN ANSWER — *Continued*

<i>Item No.</i>	<i>Description</i>	<i>Green Specification</i>
18	Soap toilet liquid five litres/drum	(i) pH of 5% solution ranges from six to 10. (ii) All surface active agents must be readily biodegradable. (iii) Bio-accumulative preservatives are not allowed.
19	Pen ball-pointed refillable black	Refillable.
20	Refill for ball point pen black	
21	Pen ball-pointed refillable red	
22	Refill for ball point pen red	
23	Clutch pencil 0.5 mm (mechanical pencil)	Refillable.
24	Lead refill for clutch pencil black HB 0.5 mm	
25	Correction fluid white (brush type) 20 ml	(i) Must not contain ozone depleting substance (Class I and II). (ii) Toxic elements comply with EN71 Part 3 or equivalent.
26	Thinner for correction fluid 20 ml	
27	Typewriting correction fluid pen	
28	Fuel oils	(i) Ultra low sulphur diesel contains less than 0.005% sulphur content. (ii) Ultra low sulphur diesel has cetane number of minimum of 51. (iii) Unleaded motor spirit.
#29	Liquefied Petroleum Gas light bus	Use LPG fuel.
#30	Hybrid electric vehicles	With electric motor for reducing vehicle fuel consumption.
#31	Particulate removal device	Reduce particulates, carbon monoxide and hydrocarbons from the emission of diesel vehicles.
#32	Environmental-friendly process ink	Contain vegetable oil or soybean oil and a low content of volatile organic compound in the ingredients.

**WRITTEN ANSWER — Continued**

<i>Item No.</i>	<i>Description</i>	<i>Green Specification</i>
#33	Plain paper photocopiers (with energy label)	(i) Low ozone omission design. (ii) Toner recycling mechanism. (iii) With energy label from the Electrical and Mechanical Services Department.
Total for (I) and (II) = 33 items		

# Common user environmentally-friendly items which are not covered in the Consultancy Report on Environmentally Responsible Product Specifications for Government Procurement Items completed in 2000.