

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 20 December 2006

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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 MARGARET NG

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

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE RAFAEL HUI SI-YAN, G.B.S., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

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

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

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

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

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Designation of Libraries (No. 2) Order 2006	271/2006
Education Ordinance (Amendment of Schedule 3) Notice 2006	272/2006
Mutual Legal Assistance in Criminal Matters (Israel) Order (Commencement) Notice	273/2006

Other Papers

- No. 40 — Secretary for Home Affairs Incorporated
Audited Statement of Accounts and Auditor's Report for
the year ended 31 March 2006
- No. 41 — Report of the Board of Trustees for Sir Edward Youde
Memorial Fund for the period from 1 April 2005 to
31 March 2006
- No. 42 — Consumer Council
Annual Report 2005-2006
- No. 43 — Office of the Privacy Commissioner for Personal Data,
Hong Kong
Annual Report 2005-2006
- No. 44 — The Accounts of the Lotteries Fund 2005-2006
- No. 45 — Report of the Chinese Temples Committee
Signed and Audited Statement of Accounts together with
the Auditor's Report of the General Chinese Charities
Fund for the year ended 31 March 2006

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- No. 46 — Grantham Scholarships Fund
Signed and Audited Statement of Accounts together with the Auditor's Report and Report by the Grantham Scholarships Fund Committee on the administration of the Fund for the year ended 31 August 2006
- No. 47 — Report of the Chinese Temples Committee
Signed and Audited Statement of Accounts together with the Auditor's Report of the Chinese Temples Fund for the year ended 31 March 2006
- No. 48 — The Sir Murray MacLehose Trust Fund
Signed and Audited Statement of Accounts together with the Auditor's Report and Trustee's Report for the period from 1 April 2005 to 31 March 2006
- No. 49 — Report of the Brewin Trust Fund Committee
Audited Statement of Accounts together with the Auditor's Report and Report by the Brewin Trust Fund Committee on the administration of the Fund for the year ended 30 June 2006
- No. 50 — Hong Kong Housing Authority
Annual Report 2005-2006
- No. 51 — Hong Kong Housing Authority
Financial Statements for the year ended 31 March 2006
- No. 52 — Annual Report of The Prince Philip Dental Hospital by its Board of Governors, and Audited Statement of Accounts and Auditor's Report for the Hospital, for the period from 1 April 2005 to 31 March 2006
- No. 53 — Electoral Affairs Commission
Report on the Recommended Constituency Boundaries for the 2007 District Council Election
- No. 54 — The Government Minute in response to the Eighteenth Annual Report of the Ombudsman issued in June 2006

ADDRESSES

PRESIDENT (in Cantonese): Addresses. The Chief Secretary for Administration will address the Council on the Government Minute in response to the Eighteenth Annual Report of the Ombudsman issued in June 2006.

The Government Minute in response to the Eighteenth Annual Report of the Ombudsman issued in June 2006

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the Eighteenth Annual Report of the Ombudsman (the Annual Report) was tabled in this Council on 5 July 2006. In accordance with our established practice, the Administration will prepare a Government Minute in response to the recommendations of The Ombudsman for those cases set out in the Annual Report, so that The Ombudsman and the public may monitor the progress made by the Administration and the public bodies in implementing these recommendations. I now present the Government Minute.

The Government Minute covers all investigated cases arising from which The Ombudsman had made recommendations and four direct investigations referred to in the Annual Report. For all but one case, bureaux and departments involved have fully accepted and started to implement the recommendations from The Ombudsman. For the remaining case, the Lands Department has explained to The Ombudsman why it has difficulty in accepting in full her recommendation that District Lands Officers should act on behalf of the Government whenever problems emerge on unleased Government land and the site falls outside the purviews of other government departments. Nevertheless, the Lands Department has accepted The Ombudsman's recommendation for it to adopt a more proactive and flexible approach towards the handling of problems found on unleased Government land. District Lands Officers have been reminded of the hub-management concept and the need for maintaining a flexible and positive approach in handling enquiries.

Overall, there has been an impressive record of compliance with The Ombudsman's recommendations. This serves to confirm the credibility of the

Office of The Ombudsman as well as the readiness of the Administration to accept constructive criticisms and suggestions, as well as to embrace changes.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Albert HO will address the Council on six items of subsidiary legislation relating to the relocation of juveniles to the Tuen Mun children and juvenile home, which were laid on the table of the Council on 1 November 2006.

Protection of Children and Juveniles (Places of Refuge) (Amendment) Order 2006, Places of Detention (Juvenile Offenders) Appointment (Consolidation) (Amendment) Order 2006, Probation of Offenders (Approved Institution) (Consolidation) (Amendment) Order 2006, Reformatory School (Establishment) (Consolidation) (Amendment) Order 2006, Immigration (Places of Detention) (Amendment) Order 2006 and Remand Home (Amendment) Rules 2006

MR ALBERT HO (in Cantonese): Madam President, in my capacity as Chairman of the Subcommittee on Six Items of Subsidiary Legislation Relating to the Relocation of Juveniles to the Tuen Mun Children and Juvenile Home, I would like to speak on L.N. 237 to L.N. 242 of 2006 which were tabled before this Council on 1 November 2006. The scrutiny period of the L.N.s concerned has been extended to 20 December 2006 by a resolution of this Council.

The object of these six items of subsidiary legislation relating to the relocation of juveniles to the Tuen Mun Children and Juvenile Home is to replace references to the six correctional/residential homes operated by the Social Welfare Department (SWD) as listed in the Orders as places of refuge, places of detention, reformatory schools and/or approved institutions with the new Tuen Mun Children and Juvenile Home. References to the two closed homes are also removed from the relevant Orders. The commencement date for the provisions for the listing of the new Tuen Mun Children and Juvenile Home is 30 November 2006 to tie in with its anticipated completion. The new Home will co-locate the six existing correctional/residential homes.

At the meeting of the House Committee on 10 November 2006, it was agreed that a Subcommittee should be formed to study the above six items of subsidiary legislation. The Subcommittee held two meetings with the Administration and a report was submitted to the House Committee following the completion of the scrutiny work. While the Subcommittee does not oppose these six items of subsidiary legislation, as the six existing correctional/residential homes will be co-located in the new Home, some members of the Subcommittee are concerned about the management and operation of the new Home since there will be some process re-engineering in the mode of operation of the new Home.

The relocation project concerning the six existing correctional/residential homes will take place in three phases. The first phase is tentatively scheduled to begin in January to February 2007. The entire relocation project is expected to complete by August 2007. The six existing homes will then be closed in phases. The Administration advises that, to allow buffer for any unforeseen incidents resulting in delay in the removal exercise, the commencement date for the provisions for the removal of references to the six existing homes from the subsidiary legislation is 31 December 2006.

While recognizing that the co-location project will bring substantial improvements to the physical setting and hardware of the existing correctional/residential homes and flexible use of staffing resources, some members of the Subcommittee are concerned about how the SWD will segregate properly juveniles and young offenders admitted under different ordinances and how security is to be maintained.

The Administration stresses that the provision of space and design of the new Home will enable the SWD to segregate different groups of juveniles admitted under different ordinances and provide them with appropriate services at different facilities in the new Home. The residents in the new Home will broadly be segregated into different groups according to gender, offenders and non-offenders, local residents and illegal immigrants. They can be further grouped into clusters according to their social background and needs for rehabilitative service and education and vocational training. With respect to residential facilities, the Administration points out that the design of the residential buildings gives the SWD the flexibility to house children and juvenile groups in different clusters while maintaining proper segregation and security. In addition, the SWD will also ensure through appropriate scheduling that

different juvenile groups will not interact unnecessarily when they use dining facilities, recreational and educational/vocational facilities. The Administration has also assured members that under no circumstances will children and juveniles be left unattended.

During the course of discussions, the Subcommittee notes the concern expressed by some front-line social work staff serving in the existing correctional/residential homes in respect of the removal plan, detailed operational arrangements and facilities in the new Home. The Administration advises that it is fully aware of the concern raised by the front-line staff as they have been consulted regularly through various channels. A total of 14 staff consultation forums have so far been held to explain and answer questions on the relocation project. The issues of concern raised by staff have been addressed or are under consideration. To further allay the staff's concern, the Administration has already arranged on-site technical training and will continue to organize orientation visits for social work staff of the six existing homes to familiarize them with the facilities in the new Home. In addition, the authorities point out that the removal plan is a tentative timeframe, not a deadline.

The Administration reiterates that it will exercise great care in finalizing the operational arrangements to ensure smooth operation of the new Home.

Madam President, I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese) : Questions. First question.

Duty Arrangements for Bus Drivers

1. **MR ALBERT CHENG** (in Cantonese): *It has been reported that, in order to save costs and meet the demand for bus service during peak hours, the Kowloon Motor Bus Company (1933) Limited (KMB) has, in the recent two years, changed the daily driving hours of most of its bus drivers from one session to two. Under the new duty arrangement, bus drivers are given a break of three to four hours after driving for about seven hours in the morning, and then they resume driving for another three to four hours. Some bus drivers have*

indicated that it is difficult for them to go home for a rest during the break, and the long duty period of 13 to 14 hours has not only caused chronic fatigue, but has also affected their family life. In this connection, will the Government inform this Council:

- (a) of the number of traffic accidents involving KMB buses and, among such accidents, the number of those caused by mistakes on the part of the bus drivers, in each of the past three years; and*
- (b) given that many bus drivers have admitted in a questionnaire survey conducted by academics that they do not have enough sleep and have dozed off while driving, whether the authorities will review afresh such issues as the total daily working hours of bus drivers of franchised bus companies, their duty arrangements and whether they are provided with adequate and reasonable rest time, and so on?*

SECRETARY FOR THE ENVIRONMENT TRANSPORT AND WORKS
(in Cantonese):

- (a) The numbers of traffic accidents involving the KMB were 1 087 and 1 099 in 2004 and 2005 respectively. For the period from January to November in 2006, the number was 1 035. Among these accidents, over 60% were caused by passengers, other road users and situational factors, while the behaviour of bus drivers, such as negligence in driving, accounted for the remaining cases. In 2004, none of the accidents was caused by dozing or drowsy bus drivers, whereas the number of such cases was one in 2005 and two for the period from January to November 2006. Details of the causes of bus accidents involving the KMB are set out in Annex I to this reply.
- (b) The scheduling arrangements of franchised bus companies have evolved through continuous adjustments and improvements over the years to meet the operational needs of the companies and staff needs. To ensure that drivers of franchised bus companies are given adequate rest time, the Transport Department (TD) issued the Guidelines on Working Schedule for Bus Drivers (the Guidelines) to these companies for implementation. The Guidelines specify the maximum daily working hours, the maximum driving duty duration

as well as the breaks to be provided to drivers during their duty shift and between two successive working days. It is the bus companies' responsibility to follow the Guidelines in making appropriate arrangements for their drivers' duties, breaks and mealtime in order to deliver appropriate, efficient and safe bus services. Details of the Guidelines are set out in Annex II to this reply.

As regards our monitoring, the bus companies are required to submit quarterly reports to the TD on their implementation of the Guidelines in the preceding quarter. From the information received, all the franchised bus companies have fully implemented the Guidelines. From time to time, the TD also reviews the causes of bus accidents and finds that there is no correlation between the occurrence of accidents and the working hours of bus drivers. As mentioned just now, there were very few accidents involving dozing or drowsy bus drivers in the past.

Actually, the bus companies discussed with their drivers unions on the Guidelines in 2004. The unions remarked that the scheduling arrangements and working hours were appropriate and further revision to the Guidelines (such as a reduction in the maximum daily working hours or an increase in the minimum duration of break between two successive working days) might affect the income of bus drivers and reduce the flexibility for individual drivers to swap their duty shifts when necessary.

The TD has not received any complaint from bus drivers against the scheduling arrangements since 2004. According to the bus companies, neither have the drivers unions made further comments on the Guidelines.

The TD will continue to monitor the implementation of the Guidelines by the bus companies. It must also be pointed out that professional driving skills and proper driving attitude of bus drivers are of great importance in ensuring the safety of passengers, other road users as well as the bus drivers themselves. Therefore, all the franchised bus companies have provided various training courses to ensure that their drivers are equipped with professional skills and proper driving attitude for the sake of road safety.

Annex I

Causes of Traffic Accidents Involving KMB Buses Between 2004 and 2006

<i>Cause of accident</i>	<i>2004</i>	<i>2005</i>	<i>2006*</i> <i>(from January to November)</i>
Factors related to bus drivers	376 (34.6%)	416 (37.9%)	410 (39.6%)
Factors not related to bus drivers ¹	711 (65.4%)	683 (62.1%)	625 (60.4%)
Total number of traffic accidents	1 087 (100%)	1 099 (100%)	1 035 (100%)

* Provisional figures for 2006

¹ "Factors not related to bus drivers" refer to bus accidents which are not caused by the behaviour of bus drivers, for example, negligence of pedestrians, negligence of other drivers, passengers' failure to hold the handrails, as well as situational factors such as articles on the road or slippery roads.

Source: Analysis of the results of the Hong Kong Police Force's investigations

Annex II

Guidelines on Working Schedule for Bus Drivers
Issued by the Transport Department
(Revised on 1 May 2004)

- Guideline A** Drivers should have a break of at least 30 minutes after six hours of duty and within that six-hour duty, the drivers should have total service breaks of at least 20 minutes;
- Guideline B** Maximum duty (including all breaks) should not exceed 14 hours in a day;
- Guideline C** Driving duty (that is, maximum duty minus all breaks of 30 minutes or more) should not exceed 11 hours in a day; and
- Guideline D** Break between successive working days should not be less than nine hours.

MR ALBERT CHENG (in Cantonese): *President, I have read the Government's main reply and heard the Secretary read that aloud. I wonder whether the emphasis of the transport policy of the Government is on safety or the income of bus drivers.*

President, there is one more point I would like to follow up. In the main reply, the Government pointed out that the number of accidents caused by factors related to bus drivers was 376 in 2004 and 416 in 2005 respectively, and as at November 2006, the number was 410, reflecting an upward trend. May I ask the Secretary whether she has evidence to prove that there is absolutely no correlation between those accidents and the extra long working hours of bus drivers? Has the Government conducted investigation in this respect? What evidence does it have?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Certainly, we, as the Policy Bureau of the Government on transport policy, must first do all we should to ensure road safety. We will also pay close attention to the traffic accident rate of Hong Kong in comparison with other developed and advanced cities to find out whether our rate is on the same level or is relatively higher or lower. Though this is not a subject of the discussion today, the figures of Hong Kong in this respect are always on the low side, that is, our rate is lower than a number of big cities, such as London, Vancouver and Seoul, in comparison.

As far as the management of buses is concerned, we will certainly lay the stress on safety and customer services. Regarding how to prove which party causes an accident, I have already explained it in detail earlier that some traffic accidents are related to the behaviour of bus drivers. We will conduct analyses to find out the causes of such problem behaviour of bus drivers. Should this be attributed to fatigue or problems with their driving attitude? We will conduct detailed analysis on each case and come to certain conclusions.

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

MR ALBERT CHENG (in Cantonese): *The Secretary has not answered my supplementary question. The Secretary said that analyses have been conducted, but does the outcome of the analyses indicate that those accidents are related to the long working hours which cause fatigue to bus drivers? The Secretary has not given a reply in this respect.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): The latest review was conducted in 2004 by the TD together with bus companies. The outcome indicated no relation between the two, which meant that there was no correlation between the number of accidents and the working hours of bus drivers.

PRESIDENT (in Cantonese): Twelve Members in total are waiting to ask supplementary questions.

MR KWONG CHI-KIN (in Cantonese): *President, I am concerned whether bus drivers on special shift will have sufficient rest time. I know that they usually have breaks of three to four hours, and that bus companies do allow bus drivers to drive buses back to depots and get some rest at the depots. My supplementary question is on the point that if those bus drivers live near the depots, they may get some rest at home; if not, they will have to rest at the depots. May I ask the Secretary whether the Government has any control over bus companies in providing sufficient rest space at depots for bus drivers?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): As far as I understand it, bus drivers may return to bus terminals to get some rest, but no specified area is designated for this purpose. However, bus companies do provide rest space for bus drivers.

MR KWONG CHI-KIN (in Cantonese): *President, the Secretary's reply is not quite clear. She said that no specified area is designated, if so, how can she be sure that sufficient space is provided by bus companies?*

PRESIDENT (in Cantonese): You are asking the Secretary whether there is sufficient rest space, am I right?

MR KWONG CHI-KIN (in Cantonese): *She said that there is no specified area, which means that she cannot see whether sufficient space has been provided.*

PRESIDENT (in Cantonese): You want the Secretary to answer whether there is enough space. Secretary, is there enough rest space for bus drivers?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): That whether space provided is sufficient cannot be quantified. However, we do request bus companies to provide such space and their employees will reflect their views. If they consider the space provided insufficient, I believe they will reflect this to the management.

MR LEUNG YIU-CHUNG (in Cantonese): *President, in the main reply, the Secretary mentioned that bus companies had provided training courses to instil proper driving attitude in their drivers, but those training courses can only address the problem of driving attitude but not their fatigue and drowsiness.*

Moreover, in Annex II, the Secretary pointed out that the working hours of bus drivers should not exceed 11 hours a day (excluding all breaks). However, we all know that we, in general, work eight hours a day, and an eight-hour workday was a particular appeal made on the Labour Day. Therefore, may I ask the Secretary whether there is any scientific evidence proving the suitability of working 11 hours a day?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): The working hours and rest hours of bus drivers are set after discussion between bus companies and members of unions over an extended period. Regarding tiredness at work, the driver himself certainly has some responsibility on his part. Even if they are off early, if they do not get enough sleep at night, they will still be tired the next day at work and pose threats to road safety. Therefore, in addition to working hours, the living habits and even the

driving attitude of drivers are also very important. If they are tired, they should reflect this to their supervisors and refrain from driving when their mental condition is poor.

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

MR LEUNG YIU-CHUNG (in Cantonese): *President, the Secretary has not answered my question. My supplementary question is clear and straightforward. I ask the Secretary what scientific evidence she has to prove that 11 hours but not less is suitable. The answer given by the Secretary about bringing the issue to their supervisors is not an answer to my question.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I believe the working hours and the breaks in between are set according to their long experience, which is also similar with that set by overseas bus companies and public transport organizations. Reference is drawn from that.

MR ANDREW CHENG (in Cantonese): *President, the Secretary said earlier that bus drivers have the responsibility to report to the authorities their physical condition. At present, the wages of bus drivers are low and the relevant guidelines are stringent. Let us see, their breaks between two successive working days should not be less than nine hours, but their working hours for each day may be as long as 14 hours, so they may have less than six hours to sleep at home. However, they have to put up with this. Even though they want the Guidelines amended, they dare not risk their "rice bowl" to voice their grievances. The Government has implemented the five-day work week. May I ask the Secretary, in the interest of road safety, the dignity and health of workers, and disregarding whether those accidents are caused by dozing drivers or insufficient rest on their part, should the bus companies not amend the stringent guidelines that affect the dignity of work and road safety to shorten the driving time and working hours of drivers by all means, so that bus drivers can drive safely?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I just want to point out that apart from working hours, the driving habits and living habits of bus drivers also have a bearing on road safety. That is why I said earlier that the driving attitude of drivers is very important.

As to whether a six-hour break between two duty shifts is sufficient, this is also an issue of great concern to the Panel on Transport. In this connection, we conducted an investigation on bus companies and requested them to consult the views of their employees. According to the reply of bus companies, a majority of bus drivers considered that rest time provided under the existing arrangement was sufficient, for most of them live in the same district of the depot where they report for and go off duty. If any bus driver considers it necessary to make special arrangements for personal reasons, for instance, they have to spend a lot of time to travel to and from a depot, thus rendering them unable to get sufficient rest, bus companies will by all means provide alternative arrangements. This is the conclusion of the investigation done at that time.

MS MIRIAM LAU (in Cantonese): *Madam President, though it is stated in the main reply that the number of accidents caused by dozing or drowsy bus drivers is very small, there seems to be an upward trend. In recent years, professional drivers have been concerned about one issue, that is, they notice that more and more drivers are suffering from sleep apnea. This is not related to the duty arrangements and the professional drivers concerned may not necessarily know that they are suffering from this disease, but more often than not, the disease makes them drowsy while they are performing their driving duties. Does the Secretary consider this a cause for concern? If she considers the concern justified, will discussion be held with bus companies on the implementation of preventive measures to ensure that bus drivers will stay alert to their physical condition and receive suitable treatment?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): First of all, I would like to mention the relevant accident figures. The figures for the past three years were: one case in 2004, three cases in 2005 and two cases in 2006. The figure of each year was in fact nearly the same, and we do not see any upward trend. Despite that, we are certainly still very much concerned about the possible impact of sleep apnea on drivers. However, a university has just completed a medical report on this subject, pointing out that

there is much difficulty in establishing a relation between the drowsiness of professional drivers and accident rate, which means there is no way to prove it. However, the TD still needs to review the situation. The TD finds that there is no correlation between the occurrence of accidents involving buses and the working hours of bus drivers. Like other drivers, bus drivers must be in good physical condition, which is crucial. And we know that bus companies do request bus drivers to undergo physical examination, which is one way bus companies use to ensure the physical health of bus drivers.

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

MS LI FUNG-YING (in Cantonese): *We can see from the Annex of the main reply on the Guidelines on Working Schedule for Bus Drivers issued by the TD that the maximum working hours of bus drivers can be 14 hours a day. If a bus driver lives far away and has to spend more than two hours to travel to and from his workplace, it will add up to 16 to 17 hours a day. To a bus driver, will such an arrangement really ensure protection of his occupational health? May I ask whether it is necessary to review the Guidelines?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): The issue of maximum working hours has been discussed for a long time, and bus companies and their employees have also held a number of discussions on this. The TD knows that the average working hours of bus drivers each day seldom reach the maximum level, and each shift is around 9.4 hours to 10.4 hours on average. When will bus drivers' working hours reach the maximum level then? Bus drivers have to work overtime during peak seasons. We still have to conduct a review to find out at times when demand for service is particularly high, how the operation of bus companies can meet the demand of the public while maintaining the total number of bus drivers required within a reasonable range. In this respect, the TD has in fact been reviewing it constantly with bus companies, and we have to find out the relation between a practicable way and the issue of health.

PRESIDENT (in Cantonese): Second question.

Air Pollution Problem

2. **DR LUI MING-WAH** (in Cantonese): *It has been reported that some individuals in the political and financial sectors and academics recently indicated that their family members had moved to live in other places as the problem of air pollution was serious in Hong Kong. In addition, some securities companies have lowered the investment ratings of the shares of three local real estate companies because of Hong Kong's air pollution problem, and have recommended instead the shares of the properties sector in other places. In this connection, will the Government inform this Council:*

- (a) *whether it knows the latest average air pollution indices (APIs) and the average life expectancy in various famous overseas cities, namely, New York, San Francisco, Washington D.C., Chicago, London and Singapore; and*
- (b) *whether the APIs currently adopted in Hong Kong can be compared to the APIs adopted in the above cities; if so, of the results of the comparison; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Before replying to the specific questions raised by Dr LUI Ming-wah, I would like to explain how air quality standards are set and how air pollution is measured internationally. There is currently no uniform set of international air quality standards. Although the World Health Organization (WHO) has recommended guidelines on air quality, it clearly points out that individual countries and regions should strike a balance among factors such as health impact, technical feasibility, social and political situation, as well as economic considerations when formulating their statutory air quality standards. Therefore, individual countries and regions should set their respective air quality standards in the light of the local situation. For example:

- (1) the 24-hour limit values of sulphur dioxide are 20µg per cu m under the WHO standard, 365µg per cu m under the United States standard, 350µg per cu m under Hong Kong standard and 125µg per cu m under European Union standard. Although the European Union has set a very strict standard, it also allows a higher exceedance rate (three exceedances per year) while only one

exceedance is allowed per year for both the United States and Hong Kong;

- (2) the one-hour limit values of nitrogen dioxide are 200µg per cu m under the WHO and European Union standards, 150µg per cu m under Norway standard and 300µg per cu m under Hong Kong standard. The exceedances allowed by the European Union and Norway are 18 and eight per year respectively, which are far higher than the three exceedances per year allowed in Hong Kong; and
- (3) the 24-hour limit values of respirable suspended particulates (RSP) (PM10) are 50µg per cu m under the WHO and European Union standards, 150µg per cu m under United States standard and 180µg per cu m under Hong Kong standard. While the exceedance allowed by the European Union is 35 per year, the United States and Hong Kong allow only one exceedance per year respectively.

There are no uniform methods for the computation and publication of APIs internationally. How APIs are published and computed varies substantially across cities.

President, in the light of the constraints mentioned above, we would respond to Dr LUI Ming-wah's question with reference to information published by different places as follows:

- (a) We cannot find the average APIs from New York, San Francisco, Washington D.C., Chicago, London and Singapore. As for the average life expectancy, according to the United Nations' statistics released on 1 August 2006, the average life expectancies at birth for males and females in Hong Kong are 79 and 85 years respectively, while those in the United States are 75 and 80 years respectively; those in the United Kingdom are 76 and 81 years respectively, and those in Singapore are 77 and 81 years respectively. Information on the average life expectancy on city basis for New York, San Francisco, Washington D.C., Chicago, and so on, is not available.
- (b) As there are many different types of pollutants in the air and the impact of the changes in their concentrations on air pollution is very complicated, it is not easy for the general public to understand the

air pollution level and its changes from the vast amount of data as well as their impact on them. The APIs aim at converting data on different concentrations of major air pollutants into a simple value to make it easier for local population to have a general idea of the air pollution level and its changes. However, since there is at present no uniform method for computing APIs, it is by no means easy to make comparison amongst cities. For example, the API adopted by Hong Kong is divided into five bands with values ranging from zero to 500. European cities such as London and Paris both have their indices presented in values between one and 10, but the methods of grading and computation in the two places differ. Although the United States cities also adopt an index with values ranging from zero to 500, their computation method is different from that of Hong Kong. Apart from that, Hong Kong's index, based on real-time computation, is released hourly while many cities, such as Singapore, compute and release their APIs once a day. Some other cities like Tokyo publish only the concentration levels of specific pollutants without establishing APIs.

In addition, the computation of APIs is based on air quality standards. However, advanced regions in the world have different ways and requirements for setting their air quality objectives (AQOs). For example, the European Union allows 24 exceedances per year in respect of the limit value for the hourly average of sulphur dioxide, whereas Hong Kong AQO only allows three exceedances. As for RSP, the European Union allows 35 exceedances of the daily average limit values per year, while Hong Kong only allows one exceedance. Therefore, we cannot directly compare the AQO of Hong Kong with the air quality standards of other places. The best way to make such comparison among the cities is to compare the actual concentration of pollutants, which allows us to differentiate the levels directly. The public will be misled if the standards adopted are substantially different.

DR LUI MING-WAH (in Cantonese): *Madam President, my purpose in raising the question today is actually very simple. Many people say that the pollution in Hong Kong is very serious. May I ask the Government what the status of Hong Kong is in comparing our pollution situation with those of other cities? Besides, with regard to our pollution status, can both males and females in Hong*

Kong enjoy 10 years more in their life expectancies after the pollution is reduced? The Government has not given any definite reply in this regard.

What does the Government say? The Government provides the reasons. It says that different countries and regions have set different air quality standards. Besides, there are no uniform methods for the computation and publication of APIs, and how APIs are published and computed varies substantially across cities. The various advanced regions have adopted different methods for setting their APIs and requirements.

The Government has provided so many reasons, but not a single concrete answer. As such, what shall we believe? Shall we believe in some individuals in the political and financial sectors.....

PRESIDENT (in Cantonese): Dr LUI Ming-wah, you are not supposed to analyse her reply now. All you have to do is to raise your supplementary question because many Members are still waiting for their turns to raise supplementary questions.

DR LUI MING-WAH (in Cantonese): *Fine. I would like to ask the Government whether it agrees that the moves made by some individuals in the political and financial sectors and academics recently were correct as they "indicated that their family members had moved to live in other places as the problem of air pollution was serious in Hong Kong".*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, I believe Dr LUI Ming-wah is a person who has a good understanding of science. I have said clearly in my main reply just now that if we have to make comparisons among cities, we should compare the actual concentration of pollutants, instead of comparing the objectives or standards.

I do not intend to answer the question in a roundabout manner. If we want to compare our city with other cities in a simplistic manner, Hong Kong's level of RSP is generally higher than those of developed cities such as London, New York and other European and American cities, and it is even higher than

that of Tokyo. However, insofar as Asia is concerned, among Asian cities, Hong Kong is not substantially high, but is similar to cities such as Seoul.

In terms of nitrogen dioxide, Hong Kong's level of concentration is similar to that in those cities with more vehicles such as Tokyo, and is lower than that in such cities like New York, Seoul and Barcelona.

Speaking on Hong Kong's ozone level, since ozone involves photosynthesis, and is a kind of secondary pollution, it is rather complicated and has a greater regional impact. Our level in this regard is higher than those of such cities as London and New York, but is more or less the same as that of cities with photosynthesis in California, such as Los Angeles.

Regarding the level of sulphur dioxide, although many cities have lower levels than Hong Kong since sulphur dioxide can be kept down to a very low level by scientific methods, Hong Kong's level in this regard is higher than those of other cities. This explains why we have made such great efforts in reducing the emission of sulphur dioxide because technologically this is possible now.

As regards carbon monoxide, Hong Kong's level, similar to those of other places, is not really high. All the cities are similar in this regard.

MR MARTIN LEE (in Cantonese): *President, recently a very famous but ignorant person in Hong Kong made some remarks in an international conference. Since Hong Kong's average life expectancy at birth for males ranks first in the world, and that for females ranks second, so the air pollution in Hong Kong should not be too bad. May I ask the Secretary whether she agrees with the logic put forward by this person? The question is very simple: Does she agree or does she not agree?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Sorry, President. I think we are not in a court of law and I am not under cross-examination. I think I can choose not to answer in the simple-question style as prescribed by Mr Martin LEE. I have tried to study whether there is any relationship between average life expectancy and air pollution because, as far as I am concerned, I do not know whether there is really any interactive relationship between the two or even whether there is any causal

relationship between them. But for the time being, we cannot see any such relationship.

Actually what does average life expectancy stand for? I have not conducted any detailed investigation into this. I only know that we are all very concerned about APIs, and I think we must make some improvement in this aspect. This is indisputable. However, sometimes, as Dr LUI Ming-wah has asked a moment ago: Had we occasionally over-exaggerated the seriousness of the problem in an unfair manner? Although to a certain extent, the UNEP of the United Nations has expressed the view in this report that Hong Kong has been the best or one of the best in managing its air quality among Asian cities, very often, we can only hear some very negative news, or we have even been regarded as having done nothing by the international community. Therefore, sometimes, this could be attributable to the fact that some other indices have been used as the measuring criteria for Hong Kong. I personally do not know those alternative indices because I have not done any research in those areas.

MR MARTIN LEE (in Cantonese): *The Secretary is unwilling to answer this supplementary question. Can I ask her from another perspective? It is so simple, but she is still unwilling to answer it.*

PRESIDENT (in Cantonese): In fact, I have no authority to interfere with how the Secretary answers the question. You can only state the part of your original supplementary question that has not been answered.

MR MARTIN LEE (in Cantonese): *My supplementary question is very simple.*

PRESIDENT (in Cantonese): If you ask the question again in another manner, other Members may think that I am not fair because the supplementary question you raise again may be not quite the same as your original supplementary question, that is, they are different. If so, I cannot allow you ask the question now.

MR MARTIN LEE (in Cantonese): *I have already asked the Secretary a very simple question. The best question should be as simple as this one, that is, I was only asking her whether she agreed with what that person had said, but she still chose not to answer it. In that case, President, what should we do?*

MR LEE CHEUK-YAN (in Cantonese): *Mr Martin LEE, the long average life expectancy could be attributable to the habit of Hong Kong people frequently taking long-boiled soup, instead of their ability in coping with air pollution. (Laughter) President, very often, when parents teach their children, they may criticize the younger ones of not having any high ambitions. I worry a lot that, from the Secretary's reply, the Government may not have any high ambitions in implementing the Action Blue Sky Campaign. I am particularly worried when I look at the main reply which shows that Hong Kong does have very high standards. For example, in terms of RSP, the standards of both the WHO and European Union are 50µg per cu m, whereas that of Hong Kong is 180µg per cu m. Of course, the Secretary may justify her claim by saying that European Union allows 35 exceedances. But please imagine, European Union allows 35 exceedances in a year, but Hong Kong would have 365 exceedances in a year, that is, it exceeds the standards every day and even every second. If the standards are set at a level too high and be comparable to those adopted by the WHO, then we shall exceed the standards every day. I would like to ask the Secretary: Can she have some higher ambitions? Will all the relevant standards of Hong Kong be set closer to those of the WHO, instead of acting casually without any high ambitions, thinking that we have been doing very well, thus just adopting a couldn't-care-less attitude? In my opinion, every one of us must have some high ambitions. Therefore, I hope the Secretary can bring us some good news, that is, will the existing standards be reviewed or adjusted downwards so as to bring them closer to the WHO standards?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *This is an issue which has nothing to do with high ambitions. As I have said many times before, our primary task is to reduce air pollution, instead of mechanically lowering the standards and then consider the job done. I believe the people would agree with this. Even if the standards are lowered, what purposes does it serve if they are really exceeded 365 days in a year, as suggested by the Honourable Member?*

We often have arguments over this issue, but you may have overlooked one fact, that is, we are always working to reduce the emission of pollutants. This is the most difficult task to accomplish. As regards the standards, we do not follow them blindly, in the sense of feeling complacent for being able to comply with the old standards. In fact, we are constantly reviewing them. In the process of reviewing the standards, naturally we have to make reference to the latest guideline issued by the WHO. The United States has started reviewing issues in this regard since 1999, and many legal proceedings have commenced during the interim. From end of 2005 to early 2007, new objectives were formulated in the United States.

On the Hong Kong front, we have announced that starting from next year, we shall conduct a comprehensive review of air pollution standards. In the process of conducting the review, we would definitely adopt the WHO standards as significant guidelines. However, as a responsible government, when we formulate any standards, the most significant point is that we must be able to formulate a proposal in which the standards can be achieved, instead of randomly formulating some standards and then tell the people that we cannot meet such standards on each and every day. The situation is like this: Since you want to have such standards, now we are providing them to you; but the standards adopted are not feasible at all.

Such standards are different from emission standards. With regard to emission standards, such as for vehicles, we look for the most stringent standard. For example, Euro IV stands for the most stringent standard now, and we have adopted the most stringent standard. Someone may ask me whether it is possible to set the standard at zero, that is, requiring all imported vehicles to achieve the target of having zero emission. But so far, no such vehicles have ever existed in the world. If such a requirement is imposed, is this how an irresponsible government must have behaved? It is because such a government has set such standard at a time when all the relevant tools have not emerged yet.

Therefore, I can tell Mr LEE that we are an absolutely responsible government. We would first conduct research by adopting some practicable and scientific methods to see how we can formulate proposals that can be implemented in Hong Kong with standards that are effectively achievable, while constantly reducing the emission that may pollute the air.

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

MS AUDREY EU (in Cantonese): *President, in fact, the Secretary's main reply can be summarized in one sentence, that is, as she said, "Therefore, we cannot directly compare the AQO of Hong Kong with the air quality standards of other places." She also said that this was because each place is different from others. However, in fact the WHO has already formulated the new objectives, and the Secretary has also said that new objectives have already been formulated in the United States. As a matter of fact, over the years, non-government organizations have all along requested that the objectives be raised. However, the Secretary said that tenders will only be invited as late as January next year, that is, a consultancy will be chosen to conduct studies which would take 18 months. After this, the Government would study how to implement the proposal. It appears to us that the earliest possible date for making improvement to the objectives would be end of 2009. I would like to ask the Secretary whether she would find it too late. Is it because she thinks that we would definitely be unable to achieve them that she has deliberately delayed the process?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, I have already made it very clear just now. First, I would like to clarify that what the WHO has issued are only guidelines, not objectives. It has spelt this out in very explicit terms in its papers, and I have also mentioned this earlier on. I do not wish to repeat the point, which in effect says that individual countries and regions should exercise caution in deciding which standards they should adopt. We are not adopting any delaying tactics. In fact, we conducted a relatively simple review several years ago and we are also keeping a close watch on the development in both the United States and the WHO. In fact, our colleagues have also participated in the WHO's work in studying the air pollution guidelines. So, we have a clear view of the picture.

Why do we have to take such a long time to formulate the new objectives? It is exactly because this is a highly significant issue, and we want to find out how we can strike a right balance between promoting the overall development of society and protecting the health of the people. Furthermore, we also have to

study, in the light of the future technological development, which are the feasible methods that can be adopted before we can formulate the new set of air pollution indices. We do plan to formulate some interim objectives, that is, before achieving the objectives, can we attain a consensus in society for adopting the interim objectives, so as to facilitate our gradual implementation of the relevant measures for eventual adoption of the WHO guidelines as the ultimate objectives. However, even the WHO has pointed out in its own papers that its objectives are not the ultimate objectives. It points out that it would be even better if other countries can achieve an even lower level because it does not think that such low objectives can bring about the perfect conditions.

Therefore, Members must understand that the issue of air pollution indices is indeed very complicated. And we are not coming to a halt doing nothing in emission reduction. We will not feel complacent, thinking smugly that once the objectives are achieved, then we do not have to do anything further. We must understand that the objectives are not ultimate. The best objective is zero, so this is a never-ending task. And at present, the Government has committed energy and resources to the task, and we have a comprehensive plan to continuously reduce the emission of pollutants.

PRESIDENT (in Cantonese): Third question.

Improvement on Air Ventilation

3. **MR TAM YIU-CHUNG** (in Cantonese): *As there is great public concern about whether the disposition of newly constructed buildings will create the wall effect, which is not conducive to air ventilation in the districts, will the Government inform this Council, in order to improve air ventilation:*

- (a) *whether it plans to set building height limits for waterfront sites on the Application List; if so, of the relevant details; if not, the reasons for that;*
- (b) *whether it plans to apply the new Qualitative Guidelines on Air Ventilation, which are contained in the Urban Design Guidelines issued by the Planning Department, to assess all the proposed*

property development projects above railway stations, and request the developers concerned to amend their building designs according to such Guidelines; if so, of the relevant details; if not, the reasons for that; and

- (c) *whether it plans to enact legislation to enforce the Qualitative Guidelines on Air Ventilation; if so, of the relevant details; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, the Government shares and supports the community's aspiration to quality living environment. Apart from building structure and safety, regard is also given to the design and disposition of buildings, including the impact on air ventilation.

We have conducted a Feasibility Study for the Establishment of Air Ventilation Assessment System and also prepared the Qualitative Guidelines on Air Ventilation and a framework for carrying out air ventilation assessment. The Qualitative Guidelines on Air Ventilation have also been incorporated into the Hong Kong Planning Standards and Guidelines under the chapter on "Urban Design Guidelines".

In July this year, the Housing, Planning and Lands Bureau and the Environment, Transport and Works Bureau issued a joint technical circular on air ventilation assessment to provide clear guidelines on matters concerning air ventilation assessment for major government projects for implementation by relevant departments. We hope this can serve as a role model for the industry.

My reply to the three parts of the question is as follows:

- (a) Land developments in Hong Kong should comply with the development parameters of Outline Zoning Plans (OZP), and height restriction is one of the essential development parameters. Height restrictions prescribed by an OZP are applicable to all sites concerned within the zone, including those on the Application List.

For waterfront sites on the existing Application List, height restrictions have already been stipulated.

Regarding sites which are currently not subject to height restrictions, appropriate height restrictions will be prescribed progressively after assessment. Such restrictions will be implemented through land leases. This arrangement applies to Government land sale sites and lease modification applications for which Government's approval is required.

- (b) At present, the Qualitative Guidelines on Air Ventilation are applicable only to major government projects. For private projects, including the property developments above railway stations, we encourage project proponents to refer to and adopt the Guidelines in their planning and designs.
- (c) At present, we have no plan to enact legislation to enforce the Qualitative Guidelines on Air Ventilation. The main reason is that the contents of the Guidelines involve some non-quantifiable planning and design issues. In applying the Guidelines, due consideration should be given to the uniqueness of each individual site, as well as the relevant peripheral factors. It is not desirable to implement them compulsorily through legislation.

MR TAM YIU-CHUNG (in Cantonese): *President, the Secretary mentioned in part (b) of the main reply that the Qualitative Guidelines on Air Ventilation are currently applicable only to major government projects, and stated that for private projects, including the property developments above railway stations, the Guidelines are for reference only and are not binding at all. However, has the Secretary noticed that the average wind speed recorded in Hong Kong's urban area over the past decade has been decreasing at a rate of 0.57 m per second according to a recent release by the Hong Kong Observatory? Mr LAM Chiu-ying, Director of the Hong Kong Observatory, also pointed out that the quality of our environment will certainly deteriorate and become less suitable for living should we not exercise tighter control over the density and height of buildings. In this connection, may I ask the Secretary whether he will expeditiously adopt mandatory measures in response to the data and professional judgement provided by the Observatory with a view to minimizing the effects of the newly constructed buildings on wind speed?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): As pointed out in my main reply, relevant guidelines had been issued in July this year in the first place. It was hoped that, by taking this first step, the relevant work would be undertaken in major government projects. As for the problems arising therefrom, we hope that the scope of application of the guidelines can be expanded with the accumulation of experience in this respect. I therefore stated in part (c) of the main reply that it was not desirable to enact legislation at the moment mainly because we are in the process of building up experience. We will not say arbitrarily that legislation will never be enacted. It is hoped that the scope of application will expand after relevant experience has been accumulated, and we will then see how it works.

Actually, insofar as our intention in this respect is concerned, the Urban Design Guidelines mentioned by me earlier have devoted great lengths to air ventilation, our overall target and the scope of application, as well as the major limitations of the Qualitative Guidelines on Air Ventilation. Efforts will be stepped up in various dimensions and aspects. For instance, in relation to the disposition of sites, where the breezeways and ventilation outlets should locate does not necessarily relate to the individual site, but has more to do with the different planning scenarios, how the site is being planned and its disposition. Therefore, more attention will be paid to this respect in revising the existing OZP. We also hope that with the improvements made, coupled with the experience accumulated, the guidelines can then be applied to individual site, which will be followed by a decision on how the problem can be tackled.

MR JAMES TIEN (in Cantonese): *President, the Secretary mentioned in part (a) of the main reply that land developments in Hong Kong should comply with the development parameters of the OZP, and height restriction is one of them. However, as far as I understand it, the height restriction of buildings in the OZP that governs developments is very often determined after assessment has been made of the nearby traffic flow and the impact on the view in the vicinity. May I ask the Secretary what the order of priority of the development parameters in relation to the air ventilation problem is?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Just as I said earlier, we might not be so systematic in the past, and the major

considerations in determining the height restriction were wind speed and wind direction. However, with the relevant assessment and the issuance of the joint technical circular in July this year, much weight has been placed on it. Furthermore, the OZP will be revised from time to time. Should there be a need to revise the OZP, for instance, when the screen effect is particularly significant at the waterfront, targeted revisions will be made in the light of the problems and concerns that arise therefrom.

MR WONG KWOK-HING (in Cantonese): *The Secretary mentioned in the main reply that the height restrictions prescribed by an OZP were applicable to all sites. In relation to the height restrictions, we noted that many property developments above railway stations seemed to have taken advantage of the fact that the measurement from the ground level of the railway station to its platform (including the depot) is not included in the calculation of the height restriction, so the heights of these developments are therefore comparatively higher. This is evident in the West Kowloon and Tsuen Wan area, and this is also true of the three property developments above railway stations to be undertaken in Tsuen Wan. Therefore, I wish to ask the Secretary via the President: Will he require that the measurement from the ground level to the platform and the depot be included in, rather than excluded from, the calculation of the height restriction of property developments above railway stations?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): As far as I understand it, many height restrictions are actually absolute height restrictions, say, 180 m PD — is the metre above the sea level and is therefore an absolute height restriction.

With regard to the property developments above railway stations in Tsuen Wan and Yuen Long mentioned earlier by Mr WONG Kwok-hing, since those few sites were not included when the height restriction prescribed by the OZP was determined, it thus gives him a wrong impression. However, in relation to this problem, we certainly know that the residents concerned have lodged complaints with Legislative Council Members and a number of meetings have been held. As far as I know, the railway corporation is examining the existing design to see if there is room for changes in the light of the residents' aspirations. We are waiting for a reply from the railway corporation on this matter.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not answered whether or not the measurement from grade to the roof of the depot and the platform can be included in the calculation of the height restriction. He merely replied that the railway authorities had negotiated with the residents concerned.*

PRESIDENT (in Cantonese): The Secretary has already given the answer. However, Secretary, perhaps you may repeat your answer so that he can hear.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Such measurement is definitely included if height restriction is prescribed by the OZP. Yet, since there is no such restriction, we therefore do not have any yardstick to contain the total height at a certain level. Neither do we have any restriction on where to measure from. I believe the issue will be examined. Just as I said earlier, should there be a revision in the relevant OZP in the future, this issue will be one of our considerations. In case such a need arises, we will suggest the inclusion of a yardstick for height restriction in the new OZP.

DR KWOK KA-KI (in Cantonese): *President, after listening to the Secretary's reply, I basically do not think that it is possible. First, it is because the Government refuses to legislate; second, it is because the Government has no intention of requiring buildings, with the exception of government buildings, to comply with the relevant guidelines, which include railway structures that are currently our greatest concern.*

The Secretary just said that experience should first be accumulated. I wish to ask the Secretary what kind of experience he has to accumulate. Will he consider the experience accumulated adequate until all the buildings or the majority of waterfront sites of Hong Kong developers are completed? And yet, it will be too late for anything.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I believe this is actually a misunderstanding. I just pointed out in part (a) of the main reply that height restrictions have already been stipulated for all waterfront

sites on the existing Application List. In other words, buildings are subject to the height restrictions prescribed by the relevant OZP. Any land, be it railway land, commercial land or land for other uses, is therefore subject to the height restrictions as stipulated, if any. Just as I said in the main reply, we plan to prescribe height restrictions for sites which are currently not subject to it.

DR KWOK KA-KI (in Cantonese): *President, I just asked the Secretary what kind of experience he has to accumulate before introducing any legislation. He has not answered this point.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): In respect of experience, we must take a look at the guidelines. I just said that there were different dimensions, including the district and the site. At the district level, I highlighted the disposition and breezeways of the site in question earlier, and we will now turn to the data collected. Just as I said right now, the data provided by the Hong Kong Observatory for our information also indicate that the wind speed has decreased. If this is the case, the layout of the breezeways will have to be examined to see if wind speed can be increased, or whether variation in building height will bring about positive or negative impact on wind speed. This is the district level work. With respect to the site, the disposition of and the distance between podium structures, for instance, is comparatively minor. What is its impact on wind speed? We can only tell after accumulating relevant experience. President, this is the experience which I referred to.

DR RAYMOND HO: *As I understand, previously, in the planning of new towns, there was a requirement stipulating the creation of a breezeway to allow sea breezes to come in for effective air circulation. May I ask the Secretary whether this is still a current requirement for the planning of relatively larger area for public and private housing schemes?*

SECRETARY FOR HOUSING, PLANNING AND LANDS: As I understand it, the Honourable Member was referring to the development of new towns. Of course, we are no longer developing new towns of that scale. New towns of that scale are all nearing completion, and so we are talking about other sites or

other forms of development which might be much smaller in scale and new town development. All that I am saying is that in the existing town plans, if there are provisions for height restriction or other forms of restriction in order to facilitate wind breeze, then obviously these apply. But I am talking about development areas which are not currently covered by this sort of restriction in the town plan, and what I have said is that we will be looking into the possibility of introducing suitable restrictions in order to achieve this effect.

MISS CHOY SO-YUK (in Cantonese): *President, in relation to the wall effect that we are talking about, height is certainly an issue. However, it is not just height, but many buildings facing the sea — are in one whole piece..... in order to have the largest area with sea view. This is also one of the major reasons for walled buildings. I wish to ask the Secretary: We are certainly aware of the height restrictions and plot ratios, but will the Government actually restrict the use of screen-like design by the private or public sectors?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I believe this is a matter of disposition which I mentioned earlier. If we sell the lands in one whole lot, there will be a higher possibility of having that effect. However, if appropriate restrictions are imposed on the sales of land, prohibiting the construction of buildings in certain parts of it, the wall effect may therefore be minimized. This is our primary task now. In fact, this has often been done, at the waterfront sites in particular. As we all know, the site at Oil Street has been properly revised with a view to minimizing the wall effect, and the same applies to other sites.

MISS CHOY SO-YUK (in Cantonese): *President, the Secretary has only replied about the sales of land, but is there any government restriction on design?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): In respect of design, it is definitely affected by the site disposition and there are provisions to govern the areas where the construction of buildings is prohibited. Therefore, we are also concerned about this aspect.

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

MR LEE WING-TAT (in Cantonese): *President, I believe both the Secretary and Secretary Dr Sarah LIAO, who is sitting next to him, know that the wall effect will render the commonly called roadside air quality worse than the average level because the emissions of suspended particulates at grade in Mong Kok, Wan Chai or Causeway Bay are generally worse than that at the waterfront. Something will be done. Nonetheless, I hope that for tasks that the Government fails to complete now..... the project at a waterfront site in Tsuen Wan District which will soon be undertaken by the Urban Renewal Authority (URA) and the developer concerned, will the Secretary discuss with the URA so as to avoid developing that site in Tsuen Wan District into large-scale walled buildings? Will the Government follow up the matter in this direction?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I am not quite sure what restrictions the site concerned is subject to. Of course, the restriction must be observed if there is any. However, if not..... I have no idea if the site mentioned by Mr LEE has been sold, and if it has, I believe very little can be done. Perhaps I will look into the case after the meeting as I am not versed in that case. I will give a reply in writing. (Appendix I)

PRESIDENT (in Cantonese): Fourth question.

Village Road Safety

4. **MR DANIEL LAM** (in Cantonese): *President, it has been reported that on 13 November this year, a boy, while cycling on a narrow village road in Fu Tei Pai Tsuen of North District, came across a heavy garbage truck of a cleansing contractor of the Food and Environmental Hygiene Department. When the boy stopped beside the truck to give way to it, he lost balance on the sloping ground and fell with his bicycle. He was then run over by the truck and died at the scene. Regarding village road safety, will the Government inform this Council:*

- (a) *of the respective numbers of villages in the New Territories already provided with standard rural vehicular access by the Government and those not yet provided with such access, as well as the reasons for the Government's non-provision of such access to the villages concerned;*
- (b) *of the number of applications to the Government for the provision of standard rural vehicular access in each of the past five years, the decisions made by the authorities on such applications and the justifications for the decisions, the estimated and actual expenditure on the provision of rural vehicular access in each year of the same period, as well as the latest progress of the approved projects; and*
- (c) *given the increase in traffic flow in the New Territories in recent years with heavy vehicles travelling in and out of rural areas more frequently, whether the Government has studied measures to improve narrow village roads and enhance road safety in rural areas, with a view to avoiding traffic accidents; if so, of the details of the study; if not, the reasons for that, and whether it will carry out such study in the future?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, my reply is as follows:

- (a) According to the Village Representative Election Ordinance (Cap. 576), there are 707 villages in the New Territories. Government records show that about 90 villages are provided with standard rural vehicular access. These vehicular access roads were constructed by relevant government departments broadly in accordance with the Transport Planning and Design Manual of the Transport Department (TD). Most of the remaining villages are provided with vehicular access which can basically meet the daily traffic needs in rural areas. Enhancement of these vehicular access roads up to the standard in accordance with the Transport Planning and Design Manual normally requires widening of roads. The implementation of these works usually involves private land, demolition of existing structures or handling of objections.

Therefore, improvement of rural roads to the above standard is restricted by objective site constraints.

- (b) In each of the past five years, the Home Affairs Department (HAD) received about 50 proposals to improve rural roads. These proposals mainly involved resurfacing of dilapidated village roads, improvement to drainage systems, provision of car parks/passing bays, and so on. After it has received proposals to improve vehicular access, the HAD will meet the needs of the villagers as far as possible having regard to site conditions and will partially widen existing vehicular access where possible. Generally speaking, district offices will first assess the technical feasibility of the works concerned, including topographic and existing site constraints before submitting the proposals to district working groups for consideration and setting priorities, having regard to such factors as local needs, the number of people to be benefited, urgency, the scope of the projects and the costs to be incurred. The proposals will eventually be submitted to the Steering Committee of the Rural Public Works (RPW) Programme for consideration and inclusion in the RPW Programme for implementation.

In the past five years, the HAD carried out nearly 180 projects of improvement works relating to vehicular access in rural areas in the New Territories under the RPW Programme and the actual expenditure was \$191 million. Regarding the progress of the approved projects, there are 22 projects concerning improvement to vehicular access under the RPW Programme in 2006-2007 and the estimated total cost of the projects is about \$18 million. Five of these projects either have been completed or are in progress while the remainder are in the planning stage.

- (c) In the area of planning, the Planning Department will plan for suitable rural supporting facilities, including village access roads, when formulating area layout plans in order to tie in with the development of individual rural areas. Regarding the existing roads, various district offices have maintained communication with their respective District Councils and the local community on the needs and views of local residents and the use, maintenance and safety of individual roads. If necessary, the HAD and the TD will,

in consultation with the local community, give consideration to implementing appropriate measures in individual road sections, including partial widening and resurfacing, installation of additional railings or other improvements and introduction of traffic management measures to improve road conditions and safety.

MR DANIEL LAM (in Cantonese): *President, the Secretary has given a clear response in his main reply. I am grateful to him for making continuous improvements through the RPW and the Heung Yee Kuk and District Councils all feel very gratified. However, can the Secretary tell us whether more publicity campaigns will be launched through the Heung Yee Kuk and District Councils to raise public awareness, so as to avoid the occurrence of similar incidents?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): At the district level, various district offices will assist the Traffic and Transport Committee or the relevant working group under various District Councils in organizing regular activities such as float parades and talks on cycling safety from time to time. We hope that through the promotional activities launched in various districts, the importance of road safety can be highlighted. The targets of these activities include members of the public of different ages and various occupations such as students, professional drivers and elderly people.

In addition, these committees have also invited colleagues from the Hong Kong Police Force to explain to members of the public the rules of road safety and points to note when using the road, as well as distributing leaflets to them. All these are the promotional efforts on safety that can be stepped up at the district level, so that pedestrians and even cyclists and drivers will pay particular attention to road safety when going into and out of the rural areas.

MR LAU WONG-FAT (in Cantonese): *Madam President, if the Government considers it necessary to provide rural vehicular access at a certain location, is the Government more inclined to resuming land or requesting the affected landowners to sign an agreement in order to enable the construction of an access?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the supplementary raised by the Member involves several dimensions and it mainly has to do with how a standard rural vehicular access is constructed and how many such roads there are.

Concerning standard vehicular access, as indicated in my main reply, a standard rural vehicular access is 3.5 m wide, with a pavement that is 1.6 m wide. If the site under planning permits the Government to build a standard vehicular access, we will definitely do so. However, often times we would receive requests from people in local communities, particularly people in the rural areas, to just improve some existing vehicular accesses, that is, existing roads among village houses or in an area in use, so that villagers can make better use of them. It is possible that these roads are dilapidated or pose dangers, or they are particularly narrow at some places or resurfacing is necessary, for example, they may be unpaved or only covered with gravel. The Government will check if these roads can be resurfaced so that villagers can use them with peace of mind.

However, often, these roads may not meet the standard of 3.5 m plus 1.6 m. To meet such a standard, some arrangements on land may be required. Often, we hope that car parks or passing bays can be provided and in widening part of the road, issues relating to private land may be involved. First, we have to resolve these issues relating to private land, for example, to discuss with the landowner concerned. Sometimes, very complex legal processes may even be involved, for example, that relating to how the land can be resumed, or the agreement of the landowners concerned has to be sought, so that an access can be constructed on private land for public use.

As regards the works, it is also necessary to bear in mind that the works may involve other people's land. The land involved may be the backyard of some people, or people may raise objections if the road passes near their houses. It is necessary to handle such objections. Therefore, when improving rural vehicular accesses, we have various considerations and we will try to meet the needs of the public as far as possible, in the light of individual site conditions and the circumstances in each case.

As regards the RPW, the aim is to respond to the demands of the public flexibly, quickly and as soon as possible. Therefore, if land resumption or the issue of landownership is involved, an entire project or request may have to be delayed for five, six, seven or eight years or even longer. As a result, the

original aim of the RPW will be defeated. Therefore, in this regard, on the one hand, we hope that the demands of the public can be met as far as possible; on the other, we will do so as quickly as possible.

MR LAU WONG-FAT (in Cantonese): *Madam President, I would like to know if the Government is more inclined to resuming the land or requesting the landowners concerned to sign agreements. Which approach does the Secretary prefer?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I have already said that the aim of the RPW is to respond to the demands of the public flexibly and quickly, therefore, we are inclined to responding to the demands of the public as quickly as possible. In order to meet these demands, when the long-term policy on land resumption is involved, we will discuss with other departments to see how it should be dealt with.

MR LI KWOK-YING (in Cantonese): *I wish to follow up the supplementary asked by Mr LAU Wong-fat. Often, rural roads are comparatively narrow. The Secretary said just now that if private land was involved, it would be necessary to discuss with the people concerned, however, I believe that it is the responsibility of the Government to ensure the safety of the public and villagers. In other words, given objective conditions, if it is absolutely necessary to carry out improvement works for the safety of villagers, I believe the Government has the responsibility to carry it out no matter what. May I know if, in order to make things really safe, the Government will first resume land and then carry out the works?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, there are two aspects insofar as the issue of road safety is concerned. Firstly, of course, objectively speaking, a road must be safe, however, even if a road is safe, it does not mean that the traffic will be safe. It is necessary for road users to have an awareness of safety. Therefore, in this regard, we will definitely launch more promotion, publicity and education directed at the public. At the same time, a road also has to comply with basic safety requirements.

I have said just now that if there is really the need and if it is due to safety considerations that it is absolutely necessary to resume land, we will not rule out such a possibility. However, it may take a longer time to do so. While waiting, it will be necessary for various districts to make joint efforts in promotion, publicity and education in order to raise the awareness of road users of road safety. However, if it is really necessary to resume land, we will first explore this together with the colleagues of other departments.

DR KWOK KA-KI (in Cantonese): *President, the Secretary said in his reply just now that many roads do not meet the requirement or standard of 3.5 m wide plus a pavement that is 1.6 m wide. In fact, how many roads in the 707 villages have met this standard? In addition, the Secretary said just now that the planning of these villages was rather chaotic. May I know how the Secretary will rein in such a situation in planning?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *President, I have said in the main reply that at present, 90 villages have standard vehicular accesses, that is, the requirement of "3.5 m plus 1.6 m" has been met. In the rest of the villages, the majority of them already have vehicular accesses, however, these roads may not comply with the "3.5 m plus 1.6 m" requirement in their entirety. The question is: How are we going to make these roads comply with such a requirement? Often, there are some objective conditions. Moreover, since some of these roads were initially opened up by local people before the Government made repairs and improved them, they were often restricted by objective site constraints.*

PRESIDENT (in Cantonese): *Fifth question.*

Nuisance Caused by Wild Pigs

5. **MR WONG YUNG-KAN** (in Cantonese): *Many farmers have recently related to me that wild pigs are often spotted in the northeastern and northern parts of the New Territories. These farmers complained that their crops were damaged by wild pigs, and they also worried about being attacked by wild pigs. In this connection, will the Government inform this Council:*

- (a) *of the total number of reports received by the government departments concerned about wild pigs being spotted or crops being allegedly damaged by wild pigs, the property losses caused and the number of persons injured by wild pigs, as well as the number of wild pigs captured, in each of the past three years;*
- (b) *whether it has taken measures to stop wild pigs from causing nuisance to the public; and*
- (c) *whether it has conducted regular surveys on the number of wild pigs in Hong Kong and adopted measures to control their number?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Wild pigs are not protected wild animals in Hong Kong. Being an omnivorous species, their staple diet of roots, corms and fruits of plants is supplemented with earthworms, insects and small invertebrates. They usually venture out at night and sometimes look for food in farmland or sports fields, causing damages to crops or lawn. As such, they are generally regarded as environmental and agricultural pest. Being large in size, an adult wild pig can weigh up to 250 kg and may pose threat to human safety and property. There is no natural predator of wild pigs to control their population in the natural ecological environment of Hong Kong.

In the past three years (up to November 2006), 42, 116 and 135 complaints against wild pigs spotted in Hong Kong were received in 2004, 2005 and 2006 (up to November) respectively. The complainants were mainly worried about the threat of the wild pigs to their safety and damage to property. Over the same period, there was one case of injury, fortunately a minor one, reported where the person concerned attempted to drive the wild pigs away. We do not have statistics on losses of property caused by wild pigs.

To protect public safety, the police set up in the late 1970s wild pig hunting teams consisting of civilian volunteers. Members of the hunting teams are issued with special permits by the Agriculture, Fisheries and Conservation Department (AFCD) under the Wild Animals Protection Ordinance (Cap. 170) and arms licences by the Police Force respectively. Upon receiving confirmed reports of wild pigs threatening human safety and property from the police, the Home Affairs Department or the AFCD, the teams will set out hunting to reduce

the threat posed. In the past three years, the teams put down six, six and 52 wild pigs in 2004, 2005 and 2006 (up to November) respectively.

The AFCD does not conduct regular surveys on the number of wild pigs in Hong Kong. However, a territory-wide ecological survey using infra-red automatic cameras launched in 2002 shows that wild pigs are widely spread, mainly in the New Territories. They are commonly found in various habitats such as woodland, grassland and farm areas. With the increasing trend in complaints against wild pigs received in recent years, the wild pig hunting teams have embarked on hunting trips more frequently to control the number of wild pigs and to protect public safety.

MR WONG YUNG-KAN (in Cantonese): *President, the Government has clearly stated in the reply that the authorities do not have statistics on damages to crops and other losses caused by wild pigs.*

The Government has also pointed out in the third paragraph of the main reply that the number of wild pigs at present is increasing and they are spotted more frequently, but we note that there are now only two hunting teams consisting of only 18 members each. The problem now is that the hunting teams are even required to make an advance application to the police three days before their hunting operation. The procedures are different from the past.

Yesterday we saw on the television members of the hunting teams airing their grievances and saying that they did not want to hunt anymore. If the matter is left unattended, the number of wild pigs will increase further. What measures does the Government have to increase the number of hunting team members, or will it consider allowing retired police officers to assist in the hunting?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, we are, in fact, aware of Mr WONG's concern, in particular when numerous wild pigs are spotted using infra-red automatic cameras.

We can see from the statistics that in the four hunting trips conducted in 2004 and 2005 only six wild pigs were captured each year. The number is very small. However, by 2005, alarmed by the seriousness of the problem, we

conducted 88 hunting trips with 52 wild pigs captured. We will thus continue to adopt this method and require the hunting teams to embark on more hunting trips. Moreover, in order to tie in with the increased number of hunting trips, we will carry out a series of arrangement such as allowing the Police Force to issue more arms licences and conduct more certified examinations. This has been shown in this year's statistics.

MR CHAN KAM-LAM (in Cantonese): *President, the Secretary has stated in the reply that hunting teams will embark on hunting trips more frequently. As the keeping down of the number of wild pigs is attributable considerably to the hunting teams, I wish to know whether the Government will consider providing funding to the hunting teams and setting up a few more teams so that they can increase the number of hunting trips?*

The Government stated that the hunting teams had embarked on 80-odd hunting trips this year with 52 wild pigs captured. Will it not be a good thing to set up more hunting teams? Moreover, will the Government consider installing alarm devices in places frequented by wild pigs?

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, you have put two supplementary questions, to which of them you wish replied?

MR CHAN KAM-LAM (in Cantonese): *President, mainly the first supplementary question, but the one on providing more resources is also related.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): With regard to Mr CHAN's supplementary question, actually, my reply is similar to the one I gave to Mr WONG's question.

The hunting teams are made up of volunteers. Insofar as Hong Kong is concerned, if the licence is issued to a wider group recipients, there will be many people willing to participate in the hunting, for this is a leisure activity and there are not many opportunities to hunt in Hong Kong as many animals are protected. However, as there is no natural predator of wild pigs, we have to play the role of

wolf to eliminate them. We will have to, however, be very careful in the process. Actually, the Police Force have allocated resources for, among other things, issuing licences, conducting examinations and managing the team members. The Government is charged with these responsibilities.

Moreover, many people can apply to join the hunting teams and they are willing to do so as long as they have received training in the use of firearms and learnt the hunting skills. However, since the stepping up of patrolling and hunting last year, the number of wild pigs captured has increased substantially. We thus do not want to over-hunt them. We can keep a careful watch on the situation and increase the number of hunting teams when necessary.

MR JAMES TO (in Cantonese): *President, I have also received complaints from drug addiction treatment organizations about nuisance caused by wild pigs.*

May I ask the Government — in fact, I also wish to follow up Mr CHAN Kam-lam's supplementary question — whether or not alarm devices should be installed in places frequented by wild pigs, or even more publicity work should be carried out to affected organizations (or to be exact, regions) so that they can notify the hunting teams immediately to take action?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Wild pigs are actually very clever. If drug addiction treatment centres or centres of the Society for the Aid and Rehabilitation of Drug Abusers (SARDA) are located on outlying islands, there are measures preventing wild pigs from entering. For example, fences connected to electricity current can be erected so that wild pigs will soon realize they cannot enter these no-go areas. This is one of the methods. Insofar as installing alarm devices is concerned, using methods such as infra-red beams may trigger many false alarms. We need to conduct thorough studies on the way of tackling this before taking action; otherwise, a lot of manpower and resources will be wasted.

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

MR JAMES TO (in Cantonese): *President, first, I am not talking about SARDA, that is, not those centres on the outlying islands, but I will contact them later. The Secretary has not answered the first part of my supplementary question, that is, about stepping up publicity among organizations so that they can immediately notify the hunting teams to take action.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *Actually, the current arrangement is informing the police once wild pigs are spotted. This is the most effective alarming system which enables the police to call the hunting teams immediately.*

MR FRED LI (in Cantonese): *President, I wish to follow up the question of resources because some members of the hunting teams have recently related to me that conducting a so-called pig extermination action is physically very demanding, and they have to pay the bullets themselves. When the bullets expire after a period of time, they have to buy new ones because these bullets have an expiry date.*

In terms of resources, other than providing training and management by the police, has the Government considered allocating more resources to the hunting teams so as not to let them feel that their only reward is eating the catch?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): *According to our experience all along, people join the hunting teams on a voluntary basis because they are interested in hunting. As I have already stated just now, there are not many places in Hong Kong which allow hunting. If we conduct an open recruitment, many people will be willing to contribute their money as well as efforts to do so because hunting is their interest and is also a noble leisure activity.*

MR WONG YUNG-KAN (in Cantonese): *President, I still wish to ask a further question on the losses incurred by farmers because the Government does not have any survey on this now. Even if farmers calling the AFCD or other relevant departments to complain about the wild pigs or request for putting them down, the AFCD would only say that this was not their business and it would tell the*

farmers to contact the police, claiming that the latter have two wild pig hunting teams which could offer help. However, at the end of the day, the matter would end up with nothing definite.

When exactly will the hunting teams take action to hunt wild pigs? We do not have any information about this at all except that upon receiving a complaint follow-up action will be taken. Recently in Hok Tau I have also received a few such complaints. What scheme does the Government have to assess the time of embarking on a hunting trip? Moreover, it was mentioned in the third paragraph of the main reply that tracks of wild pigs are widely spread. I echo Honourable colleagues' concern, that is, why the number of hunting teams cannot be increased.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): We also noticed that the number of wild pigs has surged and thus we stepped up hunting actions in 2006. As to the damaged agricultural produce of the sector, in the whole process we can only try our utmost to control these different types of wild animal causing damage to agricultural produce, but we cannot exterminate all animals or pests in Hong Kong. I hope Mr WONG would understand this.

Of course, as to how far we can go, there is room for discussion. If we can have a true picture on the number of wild pigs after trying last year's method this year — this can be more accurately done by using infra-red surveillance — we believe it is not that difficult to increase the number of hunting teams. We can consider doing so, but we will have to look at the statistics first.

MR LAU WONG-FAT (in Cantonese): *Madam President, may I ask the Government whether it has conducted work on monitoring the activities and breeding of wild pigs currently?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): At the moment, we do not have a project on controlling the breeding of wild pigs. We are still looking into whether the number of wild pigs can be contained at a reasonable level by the hunting teams, without

interfering with the breeding ecology of the wild pigs. Anyhow, we will keep the situation under close watch.

MR CHAN KAM-LAM (in Cantonese): *President, I think the Secretary has taken the matter too lightly in her reply. Although hunting is a noble recreational activity, to the farmers affected by wild pigs, it is not to be taken lightly. Protecting public safety and property are indeed responsibilities of the Government, we thus hope that the Government can allocate more resources to increase the number of hunting teams to carry out this work. May I ask the Government whether it will consider from a practical point of view training people living in villages frequented by wild pigs to protect themselves?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): I think Mr CHAN has made a very good suggestion. I will discuss with the AFCD and examine whether this is feasible from a practical point of view.

PRESIDENT (in Cantonese): Last oral question.

Regulation of Chemical Residues in Fruits and Vegetables

6. **MR FRED LI** (in Cantonese): *President, as currently there is legislation (that is, the Public Health (Animals and Birds) (Chemical Residues) Regulation) prohibiting the feeding of prohibited chemicals to food animals by farmers and prescribing the maximum residue limits (MRLs) of agricultural and veterinary chemicals in the tissues of the food animals, will the Government inform this Council:*

- (a) *as the authorities have enacted regulatory provisions on the chemical residues in food animals, of the reasons why similar provisions have not been enacted for fruits and vegetables;*
- (b) *whether it will enact relevant regulatory provisions for fruits and vegetables in accordance with the standards prescribed by the*

Codex Alimentarius Commission of the United Nations in respect of the MRLs of pesticides in various kinds of fruits and vegetables (hereinafter as "the relevant international standards"); if so, of the legislative timetable; if not, the reasons for that; and

- (c) *in the absence of any legislation empowering the authorities to take enforcement actions, of the measures in place to stop traders from selling local or imported fruits and vegetables with pesticide residues of such levels exceeding the relevant international standards?*

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

- (a) and (b)

The regulation of food safety in Hong Kong adopts the risk analysis principal by risk assessment, risk management and risk communication, as recommended by the World Health Organization. Priority of work will be set according to the risk in food safety.

As the food safety risk of vegetables and fruits is relatively lower than that of meat and milk, the Administration does not have provisions regulating the levels of pesticide residues in vegetables and fruits at present. However, as vegetables and fruits are food, vegetables and fruits for sale in Hong Kong, whether locally produced or imported, are regulated by the Public Health and Municipal Services Ordinance (Cap. 132) and must be fit for human consumption. In case the Centre for Food Safety (CFS) under the Food and Environmental Hygiene Department (FEHD) finds that the pesticide residue in vegetables and fruits are higher than the standard set by the Codex Alimentarius Commission, the CFS will conduct risk assessment and will consider prosecution.

For a more effective control of the use of chemicals in vegetables and fruits, the CFS will consider to regulate by legislation. The CFS will consult the Expert Committee on Food Safety in determining the priority of work, including setting maximum

permitted levels of pesticides in vegetables and fruits, so that the concerned study can be started. Subject to the views of the Expert Committee, we will study the concerned legislative work and timetable.

- (c) According to existing legislation, chemicals used on vegetables and fruits are already covered by the Public Health and Municipal Services Ordinance, including prohibition of the sale of vegetables and fruits containing excessive amount of pesticide residues. The CFS also enforce at import, wholesale and retail levels to ensure safety of vegetable and fruits. For example, out of approximately 62 000 food samples taken by CFS every year, approximately one third (that is, about 20 000 samples) are tests of pesticide residues of vegetables. The testing are focused at import level, with about 17 000 samples being collected at the Man Kam To Control Point while the rest are collected at wholesale and retail levels.

In addition, we will conduct joint operation with the police and the Customs from time to time to check and take samples from all vehicles transporting vegetables at Man Kam To.

For locally produced vegetables, the Agriculture, Fisheries and Conservation Department (AFCD) has been giving guidance on the proper use of pesticides to local farmers and promoting safe and environmentally-friendly pest management techniques. The AFCD has also introduced the Accredited Farm Scheme and a voluntary registration scheme for local vegetable farms. At present, most of the large local vegetable farms have joined the Accredited Farm Scheme. Under the Scheme, farms are required to adopt good horticultural practice and integrated pest management measures. Their produce is tested by the Vegetable Market Organization for pesticide residues before distribution to retail outlets. Furthermore, through the voluntary registration scheme, the AFCD has established a database comprising information of local vegetable farms and will conduct routine inspections, disseminate information on the proper use of pesticides and collect pre-harvest vegetable samples to test for pesticide residues.

The Government is exploring the feasibility of requiring vegetable importers to be registered at the CFS, and will consider this arrangement depending on the implementation and results of the same regulatory mode on eggs which are of a higher food safety risk. Besides, we are considering to amend legislation to empower the Administration to order all wholesalers and retailers to suspend selling food with problems, including vegetables.

MR FRED LI (in Cantonese): *President, I have come across some similar terms four times in the main reply. They are: to study the feasibility of legislation, to consider enacting legislation, to consider amending legislation and to study the relevant legislative amendments. The current problem is that, according to a clear press report recently, the level of pesticide in more than half of the mainland strawberries is found exceedance. The situation is very serious. At present, the Government has not enacted any legislation on the standard of these pesticides and only made reference to the standard of the Codex Alimentarius Commission. When sampling test is conducted, the Government will adopt this standard. However, if the level of pesticide is found to be on the high side, the authorities can neither initiate prosecution nor do anything. So, the present problem is how to plug the loophole because there is no legislation regulating the import of these vegetables and fruits, resulting in receiving such alarming reports every day.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, almost at every meeting of the Panel on Food Safety and Environmental Hygiene, I have indicated that subject to the risk assessment, the Government will determine which categories of foods should be regulated by legislation first. And legislation regulating meat and milk has been enacted. At present, we are now considering regulation of eggs followed by aquatic products. Apart from that, we will deal with problems with vegetables and fruits.

As I just said, all kinds of foods are subject to sampling tests. In respect of vegetables and fruits, we can see that the risk is still relatively low for the time being. So, we have to act in accordance with the procedures and decide which kinds of food should be subject to immediate regulation and which kinds of food should be regulated by legislation according to priority. As we all know, even

if legislation should be enacted, it is not possible to do so immediately. If all Legislative Council Members support it, we will certainly submit information concerning the regulatory needs of eggs and aquatic products to the Legislative Council for discussion as soon as possible. Regarding food recall, we will also amend the relevant legislation as soon as possible. However, I have to emphasize that according to the Public Health and Municipal Services Ordinance (Cap. 132), we can monitor and ensure the safety of food for human consumption before they are sold in the market. So, we can see that we have imposed a certain degree of regulation at the import, wholesale or retail levels, enabling Hong Kong people to enjoy safe food.

MR FRED LI (in Cantonese): *President, although the Secretary's reply is detailed, my question has not been answered. At present, there is no provisions stipulating what the Government can do and what follow-up action can be taken if the pesticide level in imported fruits and vegetables are found in exceedance when sampling tests are conducted. The Secretary has not answered my question regarding this aspect.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, just now I mentioned Cap. 132 of the Laws of Hong Kong. If we have found that some foods are not suitable for human consumption, meaning that someone knows that the pesticide residues in vegetables and fruits are higher than the standard or guidelines of the Codex Alimentarius Commission, we can take action or even prosecute the food vendors. The relevant procedures have been laid down. We also know that procedures have been formulated for sampling tests in order to ensure that samples can be taken for tests from food sold by the vendors. This is different from the tests we perform in the market on a daily basis. If problems are detected, we will take immediate action. So, a certain degree of protection can be ensured. In the long term, should we enact legislation on each and every matter? We are now considering this. In the main reply, I have made it clear that we will decide the priority of legislation on foods according to the risk assessment.

MISS CHAN YUEN-HAN (in Cantonese): *Undeniably, the Secretary is very busy in recent days due to a spate of incidents. I felt that the Secretary was under tremendous pressure when answering Mr Fred LI's question. However,*

in view of the food panic among the public, I have jotted down some important points when the Secretary answered parts (a), (b) and (c) of Mr Fred LI's question.

When will the Government legislate for surveillance of vegetables and fruits? Our current situation is that the Bombay duck incident is followed by the strawberry incident and then another one. The Secretary said that the risk of vegetables and fruits was relatively lower. I beg to differ. In fact, the public earnestly hope that the Government can deal with the legislative matters in this aspect expeditiously. The Secretary said that experts would be consulted on the permitted level of pesticides for legislation purpose. May I ask whether there is any timetable? How long will it take for such preliminaries? I very much hope that the Secretary can answer this question.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as I said in the main reply, priority of work will be set according to the risk assessment. So, regarding this area, there is no timetable, particularly for vegetables and fruits. Miss CHAN queried the degree of risk. I can provide some information to Members. In 2005, a total of 20 000-odd samples were tested with the result that only 10 samples were found to be marginally higher than the standard in terms of pesticide level. So, the problem is not serious at all and is much different from the problem of contaminated vegetables in the 1980s. So, no matter at import, wholesale or retail level, our surveillance is effective. As to whether our legislation is perfect, I admit that there is room for improvement. But I think the need for improvement and room for improvement in respect of other kinds of food is more important. So, we have to deal with eggs and aquatic products first.

DR YEUNG SUM (in Cantonese): *Madam President, a lot of pesticides, such as DDT and Lindane, are classified as carcinogen. Some time ago, the Government, in accordance with the food safety regulatory principle and on the ground that carcinogen is not allowed to be used in foods, expeditiously enacted legislation on malachite green. However, the Government has turned a blind eye to pesticides which are also a kind of carcinogen. Has the Government applied double standards in this aspect?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I believe Dr YEUNG SUM is also aware of the existence of a large variety of drugs in the world. At present, we are continuously collecting information on agricultural produces in various places of the world in order to ascertain which kinds of pesticides are more commonly used in which places. If all carcinogens are put under control, there may be tens of thousands of approaches. I think this is not practical at all. So, we have to consider which types of chemicals will have a more important bearing on Hong Kong, in particular, those contained in imported foods. Concerning local foods, we can assist farmers in selecting the horticultural practice in order to control the produce quality and the chemicals used.

Regarding places outside Hong Kong, 96% of vegetables are imported from places outside Hong Kong. Regardless of the place of origin, be it the Mainland or foreign countries, it depends on their horticultural practice and the categories of chemicals which will affect our food safety more. So, we usually put chemicals under regulation only when problems are found. Otherwise, a lot of resources will be expended to exercise other kinds of surveillance. Moreover, when sampling tests are conducted, no problem can be found because a certain type of chemical has not been used. So, we have to target at foods supplied to Hong Kong and impose regulation on chemicals which are most risky and apt to affect us.

MR WONG KWOK-HING (in Cantonese): *Recently, the Inspection and Quarantine Bureau of Shenzhen has decided to implement next year a comprehensive registration system for fruits supplied to Hong Kong and Macao. Through you, President, may I ask the Secretary what measures and approaches will be adopted by the Government to tie in with the initiative? Or in terms of legislation, will the Government consider taking follow-up action so as to tie in with such a good measure by the Inspection and Quarantine Bureau of Shenzhen?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, we very much welcome the initiative taken by the Shenzhen authorities. We have also liaised with them and discussed how we can tie in with them, in particular, the standards and procedures adopted for testing some chemicals on co-inspection. We hope that in the Mainland, not only foods

supplied to Hong Kong but also foods for domestic sale are of a high standard so that we can control the safety of foods supplied to Hong Kong more easily.

MR WONG YUNG-KAN (in Cantonese): *Food safety is a matter of great concern to the community. I believe everyone is worried about the possibility of having consumed harmful food. Regarding surveillance on food safety, the mainland authorities are swift in enacting legislation. But measures at Man Kam To may not be able to catch up. May I ask the Secretary, as expanding the scope of sampling tests on imports is most crucial, whether the Government has considered how to expand the scope of sampling tests and enhance the effective infrastructure in order to tie in with the legislation in the Mainland?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, regarding vegetables supplied to Hong Kong, a registration system has been implemented in the Mainland. According to my understanding, under this registration system, there are a total of 97 vegetable farms or purchasing stations which will be under our constant surveillance. All vegetables supplied by these farms will carry certificates, apart from their own documents. So, the Inspection and Quarantine Bureau will conduct inspection when these vegetables are exported at Shenzhen. Upon arrival, we will also conduct inspection. Meanwhile, samples will be taken from each transport vehicle to screen for pesticides. So, our work in this aspect is most adequate.

Mr WONG just now asked what could be done to eliminate such situation. Occasionally, we will see that some vehicles have passed the control point at Man Kam To without being inspected. Should such situation occur, we will send the information to the Mainland immediately for follow-up action. Meanwhile, we have also initiated prosecution. We have found that 55 vehicles did not belong to the registered farms and destroyed almost 13 000 kg of vegetables. This can ensure that unregistered vegetables or vegetables without export certificates will not find their way into Hong Kong.

MR WONG YUNG-KAN (in Cantonese): *President, vehicles transporting chickens are required to be sterilized before entry to the Mainland is allowed.*

However, at the Hong Kong side, as 50 transport vehicles have passed the control point without being inspected, I therefore asked whether the Government would expand the control point at Man Kam To or implement more effective measures to address the situation. According to the approach of the Mainland, inbound vehicles must stop for inspection. But at present, the approach adopted by Hong Kong is not the same whereby vehicles are only checked on a random basis. May I ask the Government whether it has planned to implement similar measures?

PRESIDENT (in Cantonese): Mr WONG Yung-kan, in future, if you think part of the original supplementary question has not been answered, you may ask a follow-up in respect of that part only and need not comment on the Secretary's reply. Otherwise, time is wasted and I cannot invite another Member to ask a question. Secretary, do you have anything to add?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): We will certainly consider this point. If the problem is found to be deteriorating or monitoring is not good enough, we will decide whether the relevant procedures or facilities at Man Kam To or other control points should be enhanced. At present, as I just said, the food safety risk of vegetables is still low and we have implemented sufficient inspection procedures and sampling tests. So, we do not think there is such a need at the moment. However, we will keep an eye on the situation. Also, as I just said, we will continue to strengthen management at source jointly with the Mainland. If we can do a good job at source, the workload at the control points or markets can be reduced.

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

WRITTEN ANSWERS TO QUESTIONS

Air Quality Objectives

7. **MR JAMES TIEN** (in Chinese): *President, some community organizations and environmental scholars have recently pointed out that Hong*

Kong's Air Quality Objectives (AQOs) are seriously outdated and set at levels far below the standards prescribed in the new Air Quality Guidelines (AQGs) announced by the World Health Organization (WHO) in October this year, thereby exposing the public to health hazards. In this connection, will the Government inform this Council:

- (a) as the current AQOs of Hong Kong were established in 1987 and have not been updated for almost 20 years since then, whether the authorities know the number of times that the WHO, the United States, the European Union, Norway, Japan and New Zealand have amended their respective guidelines/standards on air quality during this period, and why Hong Kong has all along not amended its AQOs accordingly;*
- (b) of the findings of the analyses of air pollution in Hong Kong in the past three years based on Hong Kong's AQOs and the WHO's new AQGs respectively; and*
- (c) whether it has assessed the respective impact on Hong Kong if its AQOs have not been immediately amended to comply with the standards prescribed in the WHO's new AQGs and if the AQOs have been so amended; if it has, of the assessment results?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President,

- (a) The AQGs promulgated by the WHO in October 2006 is the first global guidelines issued by the WHO. In 1987, the WHO published its "Air Quality Guidelines for Europe". These AQGs were reviewed with the pollutant limit values amended in 2000.

In 1997, in the course of revising the air quality standards that had been in force since the mid-1980s, the United States Environmental Protection Agency (USEPA) established the eight-hour average ozone limit values and the standards for particulates of 2.5 microns or less (PM_{2.5}). Due to legal disputes, the new limits and standards were only formally enforced in 2001 and 2005 respectively after resolution of disputes. The USEPA decided to

abolish the annual average PM10 limit values and revise the PM2.5 standards in 2006. The new standards were formally introduced in September 2006.

The European Union did not set air quality standards for Member States until 1999 when it standardized the air quality standards for sulphur dioxide, nitrogen dioxide, respirable suspended particulates and lead. These standards have not been amended so far. Japan has not revised its AQOs since 1978, while New Zealand did not establish its own AQOs until 2004 and no amendment has been made so far. As for Norway, we do not have any information on its amendment to AQOs.

We have been closely monitoring the international developments on reviews of air quality standards and AQOs. Recent scientific research findings suggest that particulate matters smaller than 2.5 microns have more direct health impacts than those of larger sizes. Moreover, the concentration levels of air pollutants that can affect human health may be lower than those indicated in previous studies. In view of such findings, in recent years, a number of countries including the United States, the Member States of the European Union and the WHO have been examining the need for introducing a new set of air quality standards for particulate matters smaller than 2.5 microns (that is, PM2.5) and revising the current AQGs and standards. As for Hong Kong, we have to find out the justifications in the international community for reviewing and revising the AQOs before considering how to revise ours. Upon learning that the reviews of air quality standards conducted by the United States and the WHO were nearing completion in July 2006, the Environmental Protection Department (EPD) took the initiative to announce its plan to launch a detailed study, which includes the following:

- (i) review and characterize the current state of air quality in Hong Kong, including the prevailing exposure levels, developing trend, major pollution sources and origins, the impacts of external and non-anthropogenic sources on Hong Kong's air quality, as well as policies, programmes and legislation in place for controlling air pollution;

- (ii) examine and make reference to the different rationale of the WHO and the USEPA in devising their respective AQGs or standards, including concrete research results on long-term and short-term health impacts;
 - (iii) use methods including air modelling to assess air quality under different scenarios and with mitigation measures adopted; to recommend specific measures required and options available to achieve interim targets and the specified standards if the new WHO AQGs are to be adopted; to examine in depth the need for co-operation with neighbouring cities and provinces;
 - (iv) assess the implications of implementing the measures identified under different options, including economic costs, the time required for introducing the measures, the need to work with the Mainland as well as impacts on other policy areas such as energy, transportation, industrial development, urban planning and conservation;
 - (v) taking into account (iii) and (iv), devise practicable options to revise Hong Kong's AQOs, including whether it is necessary to have different targets for roadside air quality, and to identify strategies and measures required in the form of action plan to achieve the revised AQOs, with implications identified for each option, so as to facilitate public participation and comments; and
 - (vi) review the need and means to align the release of air quality monitoring data with international practice to facilitate fair comparison with other economically advanced cities.
- (b) There are currently 14 monitoring stations in Hong Kong for ongoing measurement of five key air pollutants, with the highest relative reading published as the daily air pollution index. Hong Kong's AQOs and the WHO's AQGs as well as the AQOs of other advanced countries are at Annex A. The compliance status in respect of various air pollutants in Hong Kong in the past three years based on Hong Kong's current AQOs and the new WHO AQGs respectively is at Annex B.

- (c) In the past, no economically developed countries, including the United States, the European Union, Canada, Australia and Japan, have fully adopted the old WHO AQGs as their local AQOs. So far, we have not heard of any countries announcing plans to fully adopt the new WHO AQGs. In fact, the United Kingdom Government considers it impracticable to fully achieve the air quality standards recommended by the WHO across the United Kingdom by 2020. The United Kingdom estimates that it can only meet the standards for some air pollutants by 2050. The standards currently adopted in Hong Kong are based on studies mainly conducted in the United States and the local situation of Hong Kong. Generally speaking, although Hong Kong's air quality standards were formulated as early as 1987, they are fairly close to the levels of standards currently adopted in the United States, except that there is not yet any objective for PM_{2.5}. It was not until late September this year that the United States announced the new air quality standards for particulate matters. These new standards are far less stringent than those in the new AQGs recommended by the WHO and the dates for meeting the targets are as late as 2015 or 2020.

The WHO points out that the air quality standards set by different countries would vary. A balance has to be struck among factors such as health risks posed by air quality to the local population, technological feasibility, economic considerations and other political and social factors, and so on. The WHO clearly advises the administrations of various places to consider their own local circumstances carefully before adopting the WHO guidelines as statutory standards.

When launching the detailed study in early 2007, the Government will make careful reference to the new WHO AQGs and the latest research findings of the European Union and the United States, in order to draw up different options and analyse their cost-effectiveness, social impact, the required technical know-how, the time required for introducing the measures, the need to co-operate with the Mainland and co-ordination with other policy areas such as energy, transportation, industrial development, urban planning and conservation. We will also conduct public consultation with a view to formulating a comprehensive, proactive and feasible air quality management strategy with interim and long-term targets.

Comparison of Hong Kong AQOs, WHO AQGs, United States Primary Air Quality Standards,
European Union Limit Values for Protection of Health and Air Quality Standards of other advanced countries in $\mu\text{g}/\text{cu m}$

<i>Pollutant</i>	<i>Averaging Time</i>	<i>Hong Kong AQO</i>	<i>WHO AQGs 2000</i>	<i>WHO AQGs 2005 Global Update⁽²⁾</i>	<i>Existing USEPA NAAQS</i>	<i>New USEPA NAAQS for Particulates⁽³⁾</i>	<i>Existing European Union Limit Values</i>	<i>Proposed New European Union Limit Values for Particulates⁽⁴⁾</i>	<i>Japan's Air Quality Standards⁽⁵⁾</i>	<i>Korea's Air Quality Standards</i>	<i>New Zealand's Air Quality Standard</i>	<i>Norway's Environmental Goal for Air Quality</i>
Sulphur Dioxide	10-minute	-	500	500	-	-	-	-	-	-	-	-
	1-hour	800 (3 exceedances per year allowed)	-	-	-	-	350 (24 exceedances per year allowed; To be achieved by 1 January 2005)	-	262 (0.1 ppm)	390 (<0.15 ppm)	350 (9 exceedances per year allowed) 570 (no exceedance allowed)	-
	24-hour	350 (1 exceedance per year allowed)	125	20 (IT-1: 125, IT-2: 50)	365 (1 exceedance per year allowed)	-	125 (3 exceedances per year allowed; To be achieved by 1 January 2005)	-	105 (0.04 ppm)	130 (<0.05 ppm)	-	90 (no exceedance allowed)
	Annual	80	50	-	80	-	-	-	-	52 (<0.02 ppm)	-	-
Total Suspended Particulate	24-hour	260 (1 exceedance per year allowed)	-	-	-	-	-	-	-	-	-	-
	Annual	80	-	-	-	-	-	-	-	-	-	-

<i>Pollutant</i>	<i>Averaging Time</i>	<i>Hong Kong AQO</i>	<i>WHO AQGs 2000</i>	<i>WHO AQGs 2005 Global Update⁽²⁾</i>	<i>Existing USEPA NAAQS</i>	<i>New USEPA NAAQS for Particulates⁽³⁾</i>	<i>Existing European Union Limit Values</i>	<i>Proposed New European Union Limit Values for Particulates⁽⁴⁾</i>	<i>Japan's Air Quality Standards⁽⁵⁾</i>	<i>Korea's Air Quality Standards</i>	<i>New Zealand's Air Quality Standard</i>	<i>Norway's Environmental Goal for Air Quality</i>
Respirable Suspended Particulate (PM10)	1-hour	-	-	-	-	-	-	-	200	-	-	-
	24-hour	180 (1 exceedance per year allowed)	No guideline values are recommended but the dose response relationships provided.	50 (IT-1: 150, IT-2: 100, IT-3: 75)	150 (1 exceedance per year allowed)	150 (1 exceedance per year allowed)	50 (Stage I: 35 exceedances per year allowed; To be achieved by 1 January 2005) (Stage II: 7 exceedances per year allowed; To be achieved by 1 January 2010)	50 (35 exceedances per year allowed but Member States may allow up to 55 exceedances)	100	< 150	50 (1 exceedance per year allowed)	50 (Stage I: 25 exceedances per year allowed; To be achieved by 2005) (Stage II: 7 exceedances per year allowed; To be achieved by 2010)
	Annual	55	-	20 (IT-1: 70, IT-2: 50, IT-3: 30)	50	Revoked	40 (To be achieved by 1 January 2005) 20 (To be achieved by 1 January 2010)	40 (Until 31 December 2009) 30 (To be achieved by 1 January 2010)	-	< 70	-	-

<i>Pollutant</i>	<i>Averaging Time</i>	<i>Hong Kong AQO</i>	<i>WHO AQGs 2000</i>	<i>WHO AQGs 2005 Global Update⁽²⁾</i>	<i>Existing USEPA NAAQS</i>	<i>New USEPA NAAQS for Particulates⁽³⁾</i>	<i>Existing European Union Limit Values</i>	<i>Proposed New European Union Limit Values for Particulates⁽⁴⁾</i>	<i>Japan's Air Quality Standards⁽⁵⁾</i>	<i>Korea's Air Quality Standards</i>	<i>New Zealand's Air Quality Standard</i>	<i>Norway's Environmental Goal for Air Quality</i>
Fine Suspended Particulate (PM _{2.5})	24-hour	-	No guideline values are recommended but the dose response relationships provided.	25 (IT-1: 75, IT-2: 50, IT-3: 37.5)	65 (3-year average of the 98th percentile of 24-hour concentration; To be achieved by 1 April 2010 or 1 April 2015 for those areas with extension approved)	35 (3-year average of the 98th percentile of 24-hour concentration; To be achieved by 1 April 2015 or 1 April 2020 for those areas with extension approved)	-	-	-	-	-	-
	Annual	-	-	10 (IT-1: 35, IT-2: 25, IT-3: 15)	15 (3-year average of the weighted annual mean To be achieved by 1 April 2010 or 1 April 2015 for those areas with extension approved)	15 (3-year average of the weighted annual mean; To be achieved by 1 April 2010 or 1 April 2015 for those areas with extension approved)	-	20 (To be achieved by 1 January 2015)	-	-	-	-

<i>Pollutant</i>	<i>Averaging Time</i>	<i>Hong Kong AQO</i>	<i>WHO AQGs 2000</i>	<i>WHO AQGs 2005 Global Update⁽²⁾</i>	<i>Existing USEPA NAAQS</i>	<i>New USEPA NAAQS for Particulates⁽³⁾</i>	<i>Existing European Union Limit Values</i>	<i>Proposed New European Union Limit Values for Particulates⁽⁴⁾</i>	<i>Japan's Air Quality Standards⁽⁵⁾</i>	<i>Korea's Air Quality Standards</i>	<i>New Zealand's Air Quality Standard</i>	<i>Norway's Environmental Goal for Air Quality</i>
Nitrogen Dioxide	1-hour	300 (3 exceedances per year allowed)	200	200	-	-	200 (18 exceedances per year allowed; To be achieved by 1 January 2010)	-	-	282 (< 0.15 ppm)	200 (9 exceedances per year allowed)	150 (8 exceedances per year allowed)
	24-hour	150 (1 exceedance per year allowed)	-	-	-	-	-	-	75 - 113 (0.04-0.06 ppm)	150 (< 0.08 ppm)	-	-
	Annual	80	40	40	100	-	40 (To be achieved by 1 January 2010)	-	-	94 (< 0.05 ppm)	-	-
Ozone	1-hour	240 (3 exceedances per year allowed)	-	-	238 (USEPA revoked this standard on 15 June 2005 in all except 14 areas)	-	-	-	120 (0.06 ppm)	200 (< 0.1 ppm)	150 (no exceedance allowed)	-
	8-hour	-	120	100 (High levels: 240, IT-1: 160)	160 (3-year average of the fourth highest daily maximum 8-hour concentration)	-	120 (Target value; 25 exceedances per year averaged over 3 years allowed;	-	-	120 (< 0.06 ppm)	-	-

<i>Pollutant</i>	<i>Averaging Time</i>	<i>Hong Kong AQO</i>	<i>WHO AQGs 2000</i>	<i>WHO AQGs 2005 Global Update⁽²⁾</i>	<i>Existing USEPA NAAQS</i>	<i>New USEPA NAAQS for Particulates⁽³⁾</i>	<i>Existing European Union Limit Values</i>	<i>Proposed New European Union Limit Values for Particulates⁽⁴⁾</i>	<i>Japan's Air Quality Standards⁽⁵⁾</i>	<i>Korea's Air Quality Standards</i>	<i>New Zealand's Air Quality Standard</i>	<i>Norway's Environmental Goal for Air Quality</i>
					To be achieved (i) within 5-10 years after designation took effect on 15 June 2004; or (ii) 2007-2021 for the 14 non-attainment areas of 1-hour standard)		To be achieved by 1 January 2010)					
Carbon Monoxide	15-minute	-	100 000	-	-	-	-	-	-	-	-	-
	30-minute	-	60 000	-	-	-	-	-	-	-	-	-
	1-hour	30 000 (3 exceedances per year allowed)	30 000	-	40 000 (1 exceedance per year allowed)	-	-	-	23 000 (20 ppm)	29 000 (<25 ppm)	-	-
	8-hour	10 000 (1 exceedance per year allowed)	10 000	-	10 000 (1 exceedance per year allowed)	-	10 000 (To be achieved by 1 January 2005)	-	-	10 000 (<9 ppm)	10 000 (1 exceedance per year allowed)	-
	24-hour	-	-	-	-	-	-	-	11 500 (10 ppm)	-	-	-

<i>Pollutant</i>	<i>Averaging Time</i>	<i>Hong Kong AQO</i>	<i>WHO AQGs 2000</i>	<i>WHO AQGs 2005 Global Update⁽²⁾</i>	<i>Existing USEPA NAAQS</i>	<i>New USEPA NAAQS for Particulates⁽³⁾</i>	<i>Existing European Union Limit Values</i>	<i>Proposed New European Union Limit Values for Particulates⁽⁴⁾</i>	<i>Japan's Air Quality Standards⁽⁵⁾</i>	<i>Korea's Air Quality Standards</i>	<i>New Zealand's Air Quality Standard</i>	<i>Norway's Environmental Goal for Air Quality</i>
Lead	3-month	1.5	-	-	1.5	-	-	-	-	-	-	-
	Annual	-	0.5	-	-	-	0.5 (To be achieved by 1 January 2005)	-	-	<0.5	-	-

Notes:

- (1) Singapore has not developed its own standards. The existing standards are based on the USEPA's model.
- (2) Source: The updated Guidelines announced by the WHO on 5 October 2006. IT stands for interim target.
- (3) Only the particulate standards revised by the "National Ambient Air Quality Standards for Particulate Matter — Final Rule" promulgated by the USEPA on 21 September 2006 are included. No change for standards of other air pollutants has been made.
- (4) Only the particulate standards as revised in the Co-decision Report (First Reading) on European Parliament Legislative Resolution on the Proposal for a Directive of the European Parliament and of the Council on Ambient Air Quality and Cleaner Air for Europe which was adopted by the European Parliament on 26 September 2006 are included. No change for standards of other air pollutants has been proposed.
- (5) Japan's Air Quality Standards, no exceedance allowed.

Compliance of Air Monitoring Results in Hong Kong from 2003 to 2005
(based on the current Hong Kong AQOs and WHO's latest guidelines)

<i>¹Pollutant</i>	<i>Averaging Time</i>	<i>2003</i>		<i>2004</i>		<i>2005</i>	
		<i>Based on Hong Kong's AQOs</i>	<i>Based on WHO's latest AQGs</i>	<i>Based on Hong Kong's AQOs</i>	<i>Based on WHO's latest AQGs</i>	<i>Based on Hong Kong's AQOs</i>	<i>Based on WHO's latest AQGs</i>
Sulphur Dioxide	10 minutes	Not Applicable	Compliance at 13 out of 14 monitoring stations	Not Applicable	Compliance at 8 out of 14 monitoring stations	Not Applicable	Compliance at 9 out of 14 monitoring stations
	1 hour	Compliance at all monitoring stations	Not Applicable	Compliance at all monitoring stations	Not Applicable	Compliance at all monitoring stations	Not Applicable
	24 hours	Compliance at all monitoring stations	Non-compliance at all monitoring stations	Compliance at all monitoring stations	Non-compliance at all monitoring stations	Compliance at all monitoring stations	Non-compliance at all monitoring stations
	1 year	Compliance at all monitoring stations	Not Applicable	Compliance at all monitoring stations	Not Applicable	Compliance at all monitoring stations	Not Applicable
Nitrogen Dioxide	1 hour	Compliance at 9 out of 14 monitoring stations	Compliance at 1 out of 14 monitoring stations	Compliance at 12 out of 14 monitoring stations	Compliance at one out of 14 monitoring stations	Compliance at 12 out of 14 monitoring stations	Compliance at 1 out of 14 monitoring stations
	24 hours	Compliance at 5 out of 14 monitoring stations	Not Applicable	Compliance at 7 out of 14 monitoring stations	Not Applicable	Compliance at 11 out of 14 monitoring stations	Not Applicable
	1 year	² Compliance at 10 out of 13 monitoring stations	² Compliance at 1 out of 13 monitoring stations	³ Compliance at 10 out of 13 monitoring stations	³ Compliance at 1 out of 13 monitoring stations	Compliance at 11 out of 14 monitoring stations	Compliance at 1 out of 14 monitoring stations

¹ Pollutant	Averaging Time	2003		2004		2005	
		Based on Hong Kong's AQOs	Based on WHO's latest AQGs	Based on Hong Kong's AQOs	Based on WHO's latest AQGs	Based on Hong Kong's AQOs	Based on WHO's latest AQGs
Ozone	1 hour	Compliance at 9 out of 11 monitoring stations	Not Applicable	Compliance at 6 out of 11 monitoring stations	Not Applicable	Compliance at 6 out of 11 monitoring stations	Not Applicable
	8 hours	Not Applicable	Non-compliance at all monitoring stations	Not Applicable	Non-compliance at all monitoring stations	Not Applicable	Non-compliance at all monitoring stations
Carbon Monoxide	1 hour	Compliance at all monitoring stations	Compliance at all monitoring stations	Compliance at all monitoring stations	Compliance at all monitoring stations	Compliance at all monitoring stations	Compliance at all monitoring stations
	8 hours	Compliance at all monitoring stations	Compliance at all monitoring stations	Compliance at all monitoring stations	Compliance at all monitoring stations	Compliance at all monitoring stations	Compliance at all monitoring stations
Respirable Suspended Particulates (PM10)	24 hours	Compliance at 6 out of 14 monitoring stations	Non-compliance at all monitoring stations	Compliance at 7 out of 14 monitoring stations	Non-compliance at all monitoring stations	Compliance at 13 out of 14 monitoring stations	Non-compliance at all monitoring stations
	1 year	² Compliance at 8 out of 13 monitoring stations	Non-compliance at all monitoring stations	³ Compliance at 2 out of 13 monitoring stations	Non-compliance at all monitoring stations	Compliance at 5 out of 14 monitoring stations	Non-compliance at all monitoring stations
PM2.5	24 hours	Not Applicable	Non-compliance at all monitoring stations	Not Applicable	Non-compliance at all monitoring stations	Not Applicable	Non-compliance at all monitoring stations
	1 year	Not Applicable	Non-compliance at all monitoring stations	Not Applicable	Non-compliance at all monitoring stations	Not Applicable	Non-compliance at all monitoring stations

¹ Pollutant	Averaging Time	2003		2004		2005	
		Based on Hong Kong's AQOs	Based on WHO's latest AQGs	Based on Hong Kong's AQOs	Based on WHO's latest AQGs	Based on Hong Kong's AQOs	Based on WHO's latest AQGs
Lead	3 months	Compliance at all monitoring stations	Not Applicable	Compliance at all monitoring stations	Not Applicable	Compliance at all monitoring stations	Not Applicable
	1 year	Not Applicable	Compliance at all monitoring stations	Not Applicable	Compliance at all monitoring stations	Not Applicable	Compliance at all monitoring stations

Notes:

- 1 All 14 monitoring stations (11 general and three roadside monitoring stations) measure concentrations of sulphur dioxide, nitrogen dioxide and respirable suspended particulates. Ozone concentrations are low at roadside so ozone is only monitored at the 11 general monitoring stations. Carbon monoxide concentrations in Hong Kong are very low; hence only seven monitoring stations are equipped with CO monitor. Lead concentrations in Hong Kong are very low; hence only seven monitoring stations are equipped with lead monitor. In 2003 and 2004, four monitoring stations were installed with PM_{2.5} monitor while there were five stations in 2005.
- 2 In 2003, Tsuen Wan monitoring station did not have sufficient data for calculating the annual averages. Hence there were only 13 stations which had sufficient data for the assessment of compliance with the annual AQO in that year.
- 3 In 2004, Tai Po monitoring station did not have sufficient data for calculating the annual averages. Hence there were only 13 stations which had sufficient data for the assessment of compliance with the annual AQO in that year.

Food Safety of Imported Food

8. **MR MA LIK** (in Chinese): *President, recently a magazine house collected some samples of seafood and vegetable from supermarkets which were imported from foreign countries, and sent them to a laboratory for chemical tests. The heavy metal concentrations of some of the samples were found to have exceeded the statutory maximum permitted levels. In this regard, will the Government inform this Council:*

- (a) *of the number of samples taken from foods imported from places other than the Mainland for microbiological or chemical tests, and
 - (i) *its percentage in the total number of samples taken in that year, and*
 - (ii) *among these samples, the number of those found to contain harmful substances,**in each of the past two years;**
- (b) *of a breakdown of those samples mentioned in part (a) by their places of origin and types; and*
- (c) *whether it has assessed if adequate measures are in place to ensure that foods imported from places other than the Mainland are safe for human consumption, and of its improvement plans?*

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

- (a) and (b)

The Food and Environmental Hygiene Department (FEHD) adopts a risk-based approach in sampling different food for testing under the routine Food Surveillance Programme. However, the concerned testing results are not categorized into "from Mainland" or "not from Mainland" according to the source of the food.

Data regarding microbiological and chemical tests conducted under the Food Surveillance Programme in the past two years are as follows:

	2004	2005
Total amount of samples	about 62 000	about 62 000
Overall satisfactory rate	99.7%	99.7%
Microbiological testing		
Amount of samples	about 22 600	about 21 000
Amount of unsatisfactory samples	24	26
Unsatisfactory rate	0.1%	0.1%
Chemical testing (including heavy metals)		
Amount of samples	about 37 700	about 40 000
Amount of unsatisfactory samples	140	180
Unsatisfactory rate	0.4%	0.4%

- (c) All food sold in the territory, whether locally produced, produced in the Mainland or imported from other places, are regulated by the Public Health and Municipal Services Ordinance (Cap. 132), that is, they must be fit for human consumption. For high risk food products such as meat, milk and poultry, irrespective of their country of origin, they must be accompanied with an official certificate or health certificate. Importers of these food products must obtain approval from the FEHD in advance. When necessary, the FEHD will hold and test the products concerned until they are satisfied with the inspection or testing results. In general, these measures can ensure the safety of food imported from the Mainland and places other than the Mainland.

To enhance the food safety of imported food, we are planning to amend legislation to require imported eggs to be accompanied with health certificate and importers to be registered. The same rules will be applied to eggs imported from the Mainland and other countries or regions. Besides, we are considering to amend legislation to enable the authority to have power to order all wholesalers and retailers to suspend the sale of food with problems. Likewise, the order will apply to food produced locally, produced in the Mainland or imported from other places.

Disciplinary Proceedings for Civil Servants

9. **MS AUDREY EU** (in Chinese): *President, the disciplinary proceedings surrounding the Harbour Fest case conducted by the Civil Service Bureau earlier on was completed in October 2005. The government officer concerned has appealed to the Chief Executive against the decision of the Secretary for the Civil Service on the outcome of the proceedings. In reply to my question at the Legislative Council meeting on 24 May this year, the Secretary for the Civil Service said that the appeal was still being dealt with, and the authorities had not confirmed when the appeal would be disposed of. In this connection, will the Government inform this Council:*

- (a) *whether the appeal has been disposed of; if not, whether the authorities have studied if there will be unnecessary delay in the processing of the appeal should the appeal fail to be disposed of before the expiry of the incumbent Chief Executive's term of office; if they have, of the outcome of the study; and*
- (b) *whether it will set a time limit for processing appeal cases of this nature according to public expectation and the principle of natural justice?*

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

- (a) The officer concerned has appealed to the Chief Executive under section 20 of the Public Service (Administration) Order (PS(A)O) against the decisions of the Secretary for the Civil Service with regard to the disciplinary proceedings against him. The appeal is being dealt with in accordance with established procedures. The handling of the appeal has nothing to do with matters falling outside the scope of the case or the appeal (including the Chief Executive's term of office).
- (b) The Administration has laid down internal administrative guidelines on the timeframe for dealing with appeals to the Chief Executive. In general, the guidelines state that for non-statutory appeals to the Chief Executive (these include appeals lodged against rulings made in disciplinary cases under PS(A)O), the Administration should give

a reply within two weeks in simple cases, or four weeks in more complicated cases. Where the case is extremely complicated, the Administration should furnish an interim reply within the above timeframe and give a substantive reply as soon as possible. It is noted that the circumstances and complexity of each individual case vary. Nevertheless, the Administration has endeavoured to complete processing the appeals and provide replies within the specified timeframe laid down in the administrative guidelines as far as practicable.

Vapour Recovery System

10. **DR RAYMOND HO** (in Chinese): *President, under the Air Pollution Control (Petrol Filling Stations) (Vapour Recovery) (Amendment) Regulation 2004, which came into operation on 31 March last year, oil companies are required to install, within the following 36 months, a vapour recovery system (recovery system) in each petrol dispenser of their petrol filling stations to recover the petrol vapour displaced from the fuel tanks of vehicles when they were being refuelled and return it to the petrol storage tank in the station, so as to reduce the release of volatile organic compounds into the environment. According to a media report in October this year, only 13% of the 280 petrol filling stations in Hong Kong had been installed with the recovery systems. In this connection, will the Government inform this Council:*

- (a) how the progress in installing the recovery systems by oil companies compares with that originally anticipated by the Government;*
- (b) whether it knows the reasons for the slow progress of installing the recovery systems; and*
- (c) whether it will take measures to expedite the installation of the recovery systems by oil companies; if so, of the details of such measures?*

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

- (a) Under the Air Pollution Control (Petrol Filling Stations) (Vapour Recovery) Regulation, all new petrol filling stations are required to install recovery systems in their petrol dispensers. Petrol filling stations in existence before the new regulation came into force on 31 March 2005 (old stations) are required to complete the installation by 31 March 2008. Based on the information provided by oil companies, at present about 20% of the old stations have been installed with recovery systems. According to the oil companies' works plans, it is expected that by April 2007, more than half of the old stations will have completed installing the recovery systems. The oil companies indicated that they were confident about completing the installation for all their old stations within the statutory deadline.
- (b) Oil companies need to order equipment for installing recovery systems at petrol filling stations. Good project planning is also required to avoid too many stations undergoing installation simultaneously and causing inconvenience to drivers. Therefore, a sufficient transitional period is required.
- (c) The Environmental Protection Department has requested the oil companies to accelerate the installation as far as possible. Since 1 December 2006, petrol filling stations with recovery systems have displayed poster-sized certificates showing compliance with the requirements on testing and examination of recovery systems. This will help customers to recognize them and attract more patronage. The measure helps encourage the oil companies to expedite the completion of all installation projects at the old stations.

Regulation of Clubhouse Sauna Rooms

11. **MR JASPER TSANG** (in Chinese): *President, given that a fatal accident has occurred in the sauna room in the clubhouse of a private housing estate, will the Government inform this Council:*

- (a) *of the government departments to which clubhouses of private housing estates (clubhouses) should submit their applications for*

providing sauna rooms and the conditions with which they should comply under the existing legislation;

- (b) of the Government's current regulatory measures to ensure the safety of users of sauna rooms of clubhouses; and*
- (c) whether it plans to step up regulating sauna rooms of clubhouses, such as conducting regular inspections, so as to avoid recurrence of serious accidents?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, under the Commercial Bathhouses Regulation (Cap. 132I) (the Regulation), "bathhouse" means any premises maintained for the use, on payment of a fee, of persons requiring a bath. The Regulation stipulates that no person shall open or maintain a commercial bathhouse save under and in accordance with a Commercial Bathhouse Licence granted by the Director of Food and Environmental Hygiene. The main purpose of the Regulation is to safeguard the public hygiene of commercial bathhouses.

"Sauna" is regarded as a kind of bath. Any bathhouse accepting payment solely for the provision of sauna services must submit an application for a Commercial Bathhouse Licence to the Food and Environmental Hygiene Department.

Certain premises, such as fitness centres, beauty centres and hydrotherapy centres, may also have sauna rooms or bathing facilities. However, since the provision of commercial bathhouse services is usually not the principal business of such centres, and no fees are separately charged for using such services, such centres may not necessarily apply for a Commercial Bathhouse Licence under the Regulation.

In accordance with section 2 of the Clubs (Safety of Premises) Ordinance, (Cap. 376) (the Ordinance), "club" means any corporation or association of persons formed for the purpose of affording its members facilities for social intercourse or recreation and which (a) provides services for its members (whether or not for the purpose of gain); and (b) has a club-house of which only its members and their accompanied guests have a right of use. "Club-house"

means any premises or part thereof exclusively set aside for use permanently or temporarily by a club and its members.

Any club-house operating within the definition of the Ordinance, except those listed in the Clubs (Safety of Premises) (Exclusion) Order, must hold a valid Certificate of Compliance issued under the Ordinance. The aim of the Ordinance is to ensure that the building and fire safety as well as sanitation of clubs have met the standards as stipulated in the Ordinance. The Office of the Licensing Authority (OLA) under the Home Affairs Department is responsible for the enforcement of the Ordinance.

Upon receipt of an application for a Certificate of Compliance, the OLA will issue a letter of upgrading requirements in respect of building safety, fire safety and sanitation in accordance with the standards as stipulated in the Ordinance. A Certificate of Compliance would be issued only in respect of fire and structural safety of the club, and would not carry any implications of approval for the way in which the business or activities run by the club is regulated. There is already a footnote in the Certificates of Compliance to remind the Certificate holders that the issue of the Certificate does not in any way exempt or indemnify the Certificate holders from the consequences of non-compliance with the provisions of any other enactments or from the consequences of any breach of any other regulations or laws of Hong Kong.

If sauna facilities are to be provided in the proposed club-house, the OLA will ensure that means of escape will be adequately provided for according to the proposed number of people to be accommodated in the sauna room.

Notification Mechanism Between Hong Kong and Mainland Law-enforcement Authorities

12. MR BERNARD CHAN: *President, under the notification mechanism set up by the law-enforcement authorities of the Mainland and Hong Kong, the Immigration Department would pass to the relevant mainland authorities information about mainland visitors convicted of criminal offences in Hong Kong, so that the latter could closely scrutinize the future applications made by these persons for exit endorsement for Hong Kong. In this connection, will the Government inform this Council of:*

- (a) *the number of such cases passed under the notification mechanism to the relevant mainland authorities last year; and*
- (b) *the number of visitors from the Mainland with previous convictions in Hong Kong who were convicted again, broken down by the type of offences, each year since the introduction of the Individual Visit Scheme in July 2003?*

SECRETARY FOR SECURITY: President,

- (a) The Immigration Department regularly provides the exit and entry department of the mainland public security authorities with the particulars of those persons who were convicted of criminal offences in Hong Kong, in order to enable these authorities to step up scrutiny of these persons' subsequent applications to visit Hong Kong. In 2005, the particulars of 14 917 persons were provided to the mainland authorities under the notification mechanism.
- (b) The number of mainland visitors with previous convictions in Hong Kong in or after 1990, who were convicted again within the period of July 2003 to 2005, whether they had left Hong Kong between the convictions, broken down by the types of offence of their last conviction, is as follows.

<i>Type of offence of last conviction</i>	<i>2003 (since July)</i>	<i>2004</i>	<i>2005</i>
Theft	43	78	50
Giving false information to, or misleading, immigration officer	0	19	37
Serious immigration offences	24	39	24
Breach of conditions of stay	9	18	18
Other offences	14	40	29
Total	90	194	158

Statutory Powers of Liquor Licensing Board

13. **MR JAMES TO** (in Chinese): *President, it has been reported that the recent death of an under-aged girl in a disco due to drug abuse has aroused*

controversies over the role of the Liquor Licensing Board (the Board) and the liquor licensing mechanism. At present, the police will provide information on premises selling liquor, where irregularities have been found, for the Board's reference in considering applications for renewal of liquor licences. In this connection, will the Government inform this Council whether it will enhance the statutory powers of the Board so that the Board can implement a penalty point system for liquor licensees; if such a system is implemented, whether it will require that:

- (a) penalty points be given to liquor licensees in respect of premises selling liquors where irregularities were found or serious nuisances were caused to the residential premises in their vicinity;*
- (b) the validity period of a liquor licence be linked to the number of penalty points given to the licensee, so that the Board may issue licences of different validity periods in accordance with the numbers of penalty points given to the licensees, so that licensees will enhance the management of their premises;*
- (c) the police's comments on the subject premises be incorporated into the penalty point system to ensure that such comments will be fully taken into account when applications for liquor licences are considered; and*
- (d) comments from the relevant District Councils be incorporated into the penalty point system to ensure that such comments will be fully taken into account, so that the Board can adopt more objective criteria in considering applications for liquor licences, thereby reducing controversies in the community in this regard?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese):
President, under section 17 of the Dutiable Commodities (Liquor) Regulations (Cap. 109B), the Board shall not grant a liquor licence unless it is satisfied:

- (1) that the applicant is a fit and proper person to hold the licence;
- (2) that the premises to which the application relates are suitable for selling or supplying intoxicating liquor, having regard to:

- (i) the location and structure of the premises; and
 - (ii) the fire safety and hygiene conditions in the premises;
- (3) that in all the circumstances the grant of the licence is not contrary to the public interest.

Section 23 of the Dutiable Commodities (Liquor) Regulations also empowers the Board to revoke, suspend or refuse to renew a liquor licence, if in its opinion:

- (1) there is proof to its satisfaction of an offence against the Dutiable Commodities Ordinance (Cap. 109);
- (2) the person holding the licence has failed to comply with any condition of the licence;
- (3) the person holding the licence has ceased to be a fit and proper person to hold the licence;
- (4) the premises specified in the licence have ceased to be suitable for selling or supplying intoxicating liquor, for reasons connected with:
 - (i) the location and structure of the premises;
 - (ii) the fire safety and hygienic conditions in the premises; or
- (5) public interest so requires.

The Dutiable Commodities (Liquor) Regulations does not impose on the Board the mechanism for determining whether to grant a liquor licence. Since the Board is vested with the statutory power to independently decide on the granting of liquor licence, it is not appropriate for the Government to take the place of the Board in deciding whether to introduce a penalty point system or comment on the detailed functioning of such a system as mentioned in the question. We have referred Member's views to the Board for consideration.

Dogs Kept on Construction Sites

14. **MISS CHOY SO-YUK** (in Chinese): *President, according to the Code of Practice for the Keeping of Dogs on Construction Sites in Hong Kong issued by the Agriculture, Fisheries and Conservation Department (AFCD), upon completion of a project on a construction site, the contractor concerned must re-home and move the dogs on the site (construction site dogs) to a new location. If there is no alternative, the officer-in-charge of the site should surrender them to the AFCD. It has been reported that although a number of large-scale contractors signed the above Code last year, there are still about 4 000 construction site dogs which become stray dogs every year, indicating that some contractors have not complied with the Code. In this connection, will the Government inform this Council:*

- (a) *of the respective estimated current numbers of construction site dogs in Hong Kong and those which were abandoned;*
- (b) *of the total number of construction site dogs surrendered to the AFCD in the past year;*
- (c) *of the number of non-compliance cases (including failure to have the dogs licensed, or cause the dogs to be vaccinated against Rabies and micro-chipped) found in the past year by the AFCD during its inspection of construction sites to ensure contractors' compliance with the above Code; and for cases in which the dog owners were penalized as a result, of the number of construction sites and the penalties involved; and*
- (d) *whether it will consider enacting legislation to enhance regulating the keeping of dogs on construction sites, in order to prevent construction site dogs from being abandoned; if it will, of the details; if not, the reasons for that?*

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

- (a) The AFCD does not have the estimated number of dogs at construction sites in Hong Kong. However, past statistics of dogs

caught in construction sites show that they were mostly stray dogs. In 2005, the AFCD caught 468 stray dogs during inspections to construction sites.

- (b) In 2005, the AFCD received about 3 000 dogs. We do not keep separate figures of dogs surrendered by construction sites.
- (c) In 2005, the AFCD made 254 inspections to construction sites. Separately, during the same period, there were about 480 cases of prosecution against owners failing to license their dogs and about 130 cases of prosecution against owners letting their dogs go astray. However, as the keepers of dogs found in construction sites are hard to establish, there were no prosecutions against construction sites by the AFCD in 2005.
- (d) The AFCD has reached a consensus with the relevant department that from October 2006 onwards, there will be special specification in the contracts of all new public works requiring the contractors to obtain licences for the dogs in the concerned construction site and have the dogs neutered. If there are stray dogs in the sites, the contractors must notify the AFCD and provide means for the AFCD staff to enter into the site and remove the stray dogs. The contractors must also follow the Code of Practice for the Keeping of Dogs on Construction Sites in Hong Kong issued by the AFCD, which include a prohibition on dog abandonment. The Government considers that this arrangement will alleviate the problem of construction site dogs. The Government will consider to promote the relevant clauses to other private development companies and public development organizations.

Setting up of Medical Centre in Shopping Mall Managed by The Link

15. **MR LI KWOK-YING** (in Chinese): *President, it has been reported that The Link Management Limited (The Link Management) is planning to set up a medical centre in one of its shopping malls, which will group general, dental and specialist clinics as well as medical laboratories together to provide one-stop medical services. The Link Management also requires some of the clinics in*

that shopping mall to move to the car park or secluded corners. In this connection, will the Government inform this Council:

- (a) whether it knows the details of the above plan, and whether The Link Management will extend this plan to all its shopping malls; if so, of the timetable for implementing this plan in individual shopping mall;*
- (b) whether it knows the criteria for selecting the site for the above medical centre, and how the needs of people seeking medical treatment have been taken into consideration; and*
- (c) given that the number of people seeking treatment from Chinese medicine practitioners is increasing, whether it knows if The Link Management will consider including Chinese medicine clinics in the above medical centre; if so, of the details?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):

President, upon its public listing on 25 November 2005, the Link Real Estate Investment Trust (The Link) has become a private entity, whose business strategies and day-to-day operations are entirely independent of the Housing Authority (HA). So long as The Link's operations comply with prevailing legislation, conditions of government leases, and terms of covenants and agreements made between The Link and the HA, the Government and the HA cannot intervene in The Link's day-to-day management, business strategies and mode of operation.

There is no need for the Government or the HA to be apprised of the business development plan of The Link, or the day-to-day business management and contractual agreements between The Link and its tenants. We do not have detailed information about The Link's plan to set up medical centres in its shopping malls, including implementation timetable, site selection criteria or whether Chinese medicine clinics would be included in those medical centres.

Operation of Cross-boundary Tuen Mun Ferry Terminal

16. **MR ALBERT CHAN** (in Chinese): *President, since the commissioning of the cross-boundary Tuen Mun Ferry Terminal (TMFT) early last month, the ferry*

services to and from Macao have not been launched as planned, and only four ferry trips are provided each day to and from Zhuhai's Jiuzhou Port. Many commercial tenants in the vicinity of the TMFT have complained that, while the pedestrian flow in the area has not greatly increased following the commissioning of the TMFT, the landlords have substantially increased the rents of their shops on grounds that the TMFT has been commissioned with the ferry services in operation, making it difficult for them to operate. In this connection, will the Government inform this Council:

- (a) of the reasons why the ferry services between Tuen Mun and Macao have not yet been launched, and when the Government expects such services to be launched;*
- (b) whether it has measures to assist the operator of the TMFT in launching the ferry services to and from Macao as early as possible; if so, of the details of such measures; if not, the reasons for that; and*
- (c) whether it has measures to alleviate the hardship faced by the commercial tenants concerned; if so, of the details of such measures; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President, the TMFT is a commercial investment in which the investor rents the terminal to operate cross-boundary ferry services. As the existing two cross-boundary ferry terminals have spare capacity to handle passenger demand for cross-boundary ferry services, we consider that it is not an essential infrastructure project. According to the tenancy agreement between the Government and the tenant (Hong Kong North West Express Limited), the tenant may operate cross-boundary ferry services between Hong Kong and Macao or the Mainland. The terminal was commissioned on 3 November 2006. As the tenant has yet to secure the permission of the Government of the Macao Special Administrative Region to operate ferry services to Macao, it is only able to provide ferry services between Tuen Mun and Zhuhai (Jiuzhou Port) at the moment.

The Government has all along been facilitating the work of the tenant to enable the early commissioning of the terminal. However, as with other cross-boundary ferry service operators, the tenant has to secure the permission of

the relevant authorities of the destination ports on its own to operate ferry services. Given that the project is a commercial investment, it would not be appropriate for the Government to participate in any matters for which the operator is responsible. The tenant has also indicated that it is making its best endeavour to operate the Tuen Mun — Macao route.

We consider that the Government should not interfere with the tenancy matters of the shops near the terminal, as these are commercial arrangements between the tenant and the landlord.

Medical Services for Pregnant Women

17. **DR KWOK KA-KI** (in Chinese): *President, it is learnt that the numbers of local pregnant women and women from the Mainland giving birth in Hong Kong are both increasing in recent months. This puts pressure on the obstetrics and gynaecology (O&G) services of the public and private hospitals in Hong Kong. Some members of the public have relayed to me that many local pregnant women are hence unable to receive comprehensive antenatal care. For example, the number of antenatal check-ups arranged for each pregnant woman keeps decreasing. Some of them are even not provided with certain basic antenatal check-up services such as ultrasound examination, and so on. In this connection, will the Government inform this Council whether it knows:*

- (a) *in each of the past five years, the average number of bed days of women giving birth in the public hospitals in Hong Kong, the average number of antenatal check-ups arranged for each pregnant woman and the time interval between each check-up, as well as the services usually offered in such check-ups;*
- (b) *in each of the past five years, the resources (including the number of different types of health care personnel) and funding that the Hospital Authority (HA) provided to each of the O&G departments in public hospitals, with a detailed breakdown of the funding by expenditure items, including the salaries of health care personnel and other staff, as well as the expenses on drugs and medical facilities; and*

- (c) *the maximum number of delivery cases that each of the public and private hospitals in Hong Kong can handle each year at present, as well as the estimated maximum number of delivery cases that each of these hospitals can handle in each of the next three years?*

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

- (a) In the past five years, the average length of stay of local women who gave birth in public hospitals was four days. In the majority of cases, antenatal check-ups are provided by the Maternal and Child Health Centres of the Department of Health. Cases assessed to pose higher risks to the expectant mothers or their babies are referred to the HA for follow-up. In the past five years, for the majority of the cases referred to the HA for follow-up, the expectant mothers were asked to attend between four to seven antenatal check-ups, depending on their clinical conditions. The services usually offered in these check-ups include checking of medical history; physical examination; laboratory testing on blood group, haemoglobin level, mean corpuscular volume (MCV), human immunodeficiency virus (HIV), Rubella antibodies, Hepatitis B antigen and venereal diseases; and, where necessary, ultrasound examination.
- (b) The respective numbers of doctors and nurses in O&G departments for each of the past five years are given in the table below:

	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
Doctors	194	196	192	182	187
Nurses	1 062	1 086	983	966	978

Note : The reduction in the number of nurses in all clinical departments (including O&G) in 2003-2004 and 2004-2005 was mainly due to staff departures under the voluntary early retirement schemes of the Government and the HA.

Breakdowns of the cost of O&G services in various hospital clusters of the HA for each of the past five years are set out in the tables below:

2001-2002

<i>Hospital Clusters</i>	<i>Staff Cost (\$M)</i>	<i>Costs of Drugs and Other Items (\$M)</i>	<i>Total (\$M)</i>
Hong Kong East	109.5	79.4	188.9
Hong Kong West	146.7	160.6	307.3
Kowloon Central	141.3	113.7	255.0
Kowloon East	110.1	103.3	213.4
Kowloon West	278.9	194.1	473.0
New Territories East	156.1	133.0	289.1
New Territories West	149.6	106.7	256.3
Total:	1,092.2	890.8	1,983.0

2002-2003

<i>Hospital Clusters</i>	<i>Staff Cost (\$M)</i>	<i>Costs of Drugs and Other Items (\$M)</i>	<i>Total (\$M)</i>
Hong Kong East	111.2	73.5	184.7
Hong Kong West	122.7	99.3	222.0
Kowloon Central	144.4	106.3	250.7
Kowloon East	118.1	96.0	214.1
Kowloon West	285.9	185.6	471.5
New Territories East	182.7	119.4	302.1
New Territories West	142.8	97.8	240.6
Total:	1,107.8	777.9	1,885.7

2003-2004

<i>Hospital Clusters</i>	<i>Staff Cost (\$M)</i>	<i>Costs of Drugs and Other Items (\$M)</i>	<i>Total (\$M)</i>
Hong Kong East	92.4	71.0	163.4
Hong Kong West	116.4	111.2	227.6
Kowloon Central	141.7	100.4	242.1
Kowloon East	110.8	95.3	206.1
Kowloon West	258.2	181.7	439.9
New Territories East	174.7	114.5	289.2
New Territories West	122.4	90.9	213.3
Total:	1,016.6	765.0	1,781.6

2004-2005

<i>Hospital Clusters</i>	<i>Staff Cost (\$M)</i>	<i>Costs of Drugs and Other Items (\$M)</i>	<i>Total (\$M)</i>
Hong Kong East	90.0	63.7	153.7
Hong Kong West	107.4	94.7	202.1
Kowloon Central	126.1	93.9	220.0
Kowloon East	104.9	93.5	198.4
Kowloon West	243.6	165.0	408.6
New Territories East	163.6	115.2	278.8
New Territories West	110.1	86.6	196.7
Total:	945.7	712.6	1,658.3

2005-2006

<i>Hospital Clusters</i>	<i>Staff Cost (\$M)</i>	<i>Costs of Drugs and Other Items (\$M)</i>	<i>Total (\$M)</i>
Hong Kong East	90.2	61.7	151.9
Hong Kong West	101.0	98.4	199.4
Kowloon Central	119.0	86.9	205.9
Kowloon East	102.3	89.9	192.2
Kowloon West	232.4	166.6	399.0
New Territories East	152.7	109.6	262.3
New Territories West	107.2	81.7	188.9
Total:	904.8	694.8	1,599.6

Notes

- The above costing figures account for both in-patient and out-patient O&G services.
- The reduction in the Costs of Drugs and Other Items in 2002-2003 can be partly attributed to the residual effects of the merger of the Obstetrics Units of Queen Mary Hospital and Tsan Yuk Hospital.
- The reduction in Staff Cost in 2003-2004 can be partly explained by the departure of nurses under the voluntary early retirement schemes of the Government and the HA.
- The reduction in Staff Cost between 2003-2004 and 2005-2006 can be partly explained by two downward adjustments in the personal emoluments of the HA staff by 3% each time in January 2004 and January 2005 respectively.

- (c) The HA estimates that the O&G departments in public hospitals can handle around 39 000 delivery cases per year with their existing

resources. The HA is considering a number of measures to relieve the pressure faced by these departments and is not able to make a projection on their future capacity at this time. As regards private hospitals, we understand that their existing capacity is around 18 000 delivery cases per year.

Incidents of Objects Being Thrown from a Height in PRH Estates

18. **MR LAU KONG-WAH** (in Chinese): *President, regarding incidents of objects being thrown from a height in public rental housing (PRH) estates, will the Government inform this Council:*

- (a) *of the number of relevant reports received by the authorities concerned and the number of persons convicted of throwing objects from a height in the past two years, with a breakdown by housing estates;*
- (b) *of the PRH estates installed with Falling Object Monitoring Systems (FOMSs) at present, and whether some FOMSs are not activated for long periods; if so, of the reasons for that;*
- (c) *whether it has reviewed the effectiveness of the FOMSs; and*
- (d) *whether it will consider installing FOMSs in all PRH estates in Hong Kong; if so, of the timetable for installation?*

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

- (a) According to the statistics of the "Marking Scheme for Estate Management Enforcement in Public Housing Estates" (the Marking Scheme), there were 67 points-allotted cases of throwing of objects from heights between 1 January 2004 and 7 December 2006 (details at the Annex). During the past two years and the first six months

of this year, there were 208 convicted cases of conviction under section 4B of the Summary Offences Ordinance (Cap. 228) (Objects dropped from buildings) in Hong Kong, but the Administration does not have a breakdown of the number of convicted cases involving objects being thrown from heights in public housing estates.

- (b) Since 1998, the Housing Department (HD) has procured 108 sets of Falling Objects Monitoring CCTV Systems operated on videotapes. These systems have been used in 107 housing estates (particularly at black spots of falling objects from heights) on a rotational basis. To enhance flexibility and clarity in monitoring and videotaping the throwing of objects from heights in housing estates, and to assist in adducing evidence, the HD has acquired four sets of mobile Digital Falling Object CCTV Monitoring Systems for rotational use in different housing estates since 2004. These systems will monitor changes on the television screen. If an object is detected falling from a height, the system will immediately send a message to the estate management officers for enforcement under the Marking Scheme or prosecution by the police.
- (c) The overall situation concerning throwing of objects from heights in public housing estates has improved since the installation of Falling Objects Monitoring CCTV Systems by the HD. It is evident that the systems and HD's publicity work have achieved a deterring effect. The HD will continue to review the effectiveness of the monitoring systems from time to time.
- (d) As mentioned above, the mobile Digital Falling Object CCTV Monitoring Systems are available for use in different public estates on a rotational basis. This, coupled with the HD's publicity work, has proved to be an effective deterrent. The HD has no plan at present to install permanent Falling Objects Monitoring CCTV Systems in all public housing estates. Nevertheless, the HD is planning to procure another six sets of mobile Digital CCTV Systems to step up the monitoring of throwing objects from heights and will review the need for additional facilities from time to time.

Annex

Cases of Penalty Points Being Allotted for
Throwing Objects From Height in Public Housing Estates
(1 January 2004 to 7 December 2006)

<i>Estate</i>	<i>Number of Cases</i>
Chak On Estate	1
Cheung Hong Estate	2
Choi Wan (1) Estate	2
Chuk Yuen South Estate	1
Fu Tai Estate	1
Grandeur Terrace	5
Hoi Fu Court	3
Kwai Fong Estate	1
Kwai Shing West Estate	1
Kwong Fuk Estate	2
Lei Muk Shue (2) Estate	1
Lei Yue Mun Estate	1
Lek Yuen Estate	2
Lok Wah North Estate	1
Lok Wah South Estate	6
Lower Wong Tai Sin (2) Estate	1
Ma Tau Wai Estate	1
Mei Lam Estate	1
Nam Shan Estate	1
Oi Tung Estate	1
Sha Kok Estate	1
Shan King Estate	1
Shek Kep Mei Estate	1
Shek Wai Kok Estate	1
Shun On Estate	1
Siu Sai Wan Estate	1
Tai Wo Hau Estate	1
Tai Yuen Estate	1
Tin Chak Estate	2
Tin Heng Estate	6
Tin Shui (1) Estate	2

<i>Estate</i>	<i>Number of Cases</i>
Tin Yat Estate	6
Tin Yiu (2) Estate	1
Tin Yuet Estate	1
Wah Fu (2) Estate	1
Wah Sum Estate	1
Wu King Estate	1
Yau Oi Estate	2
Yue Wan Estate	1
Total:	67

Cross-media Ownership Restrictions

19. **MS EMILY LAU** (in Chinese): *President, under Parts 1 and 2 of Schedule 1 of the Broadcasting Ordinance (Cap. 562) (the Ordinance), "a disqualified person" includes the proprietor of a local newspaper, a person who exercises control over the proprietor, or an associate of the proprietor or the person. Unless the Chief Executive in Council is satisfied that the public interest so requires and approves otherwise, a disqualified person (DP) shall not become the holder of a domestic pay television programme service licence, and he shall not exercise control of a licensee ("cross-media ownership restrictions"). In this connection, will the executive authorities inform this Council:*

- (a) *given that the Chairman of PCCW Limited (PCCW) acquired 50% interest in the Hong Kong Economic Journal through an off-shore company owned by an off-shore discretionary trust in August this year, and that a subsidiary of PCCW is holding the licence mentioned above, whether the relevant authorities have assessed if the Chairman of PCCW has breached the cross-media ownership restrictions;*
- (b) *if the assessment result in part (a) is in the affirmative, whether the relevant authorities have so far received an application from the Chairman of PCCW for exemption from the cross-media ownership restrictions; if so, of the criteria the Chief Executive in Council will adopt for determining whether it "is satisfied that the public interest so requires" when it processes the application; and*

- (c) *if the assessment result in part (a) is in the negative, whether the relevant authorities have reviewed if there are loopholes in the relevant provisions which allow the person concerned to bypass the cross-media ownership restrictions by means of a trust; if the review outcome is in the affirmative, whether the authorities plan to amend the relevant provisions; if the review outcome is in the negative, of the justifications for that?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in the absence of Secretary for Commerce, Industry and Technology) (in Chinese): President, cross-media ownership restrictions are stipulated in Part 2 of Schedule 1 to the Ordinance. Domestic free or domestic pay television programme service licensees are subject to the regulation of the provisions relating to DPs under Part 2 of Schedule 1 to the Ordinance. The purpose of these provisions is to avoid conflict of interest, media concentration and editorial uniformity in the broadcasting industry and other relevant sectors.

According to these provisions, a DP shall not become the holder of a domestic free or domestic pay television programme service licence, or exercise control of such licensees. The following persons (including individuals and companies), their controllers and associates are DPs:

- (i) another television programme service licensee (except that a non-domestic television programme service licensee is not a DP in relation to a domestic pay television programme service licence);
- (ii) a sound broadcasting licensee;
- (iii) an advertising agency; or
- (iv) the proprietor of a newspaper printed or produced in Hong Kong.

The Ordinance provides for the legal definition of whether or not a person is "exercising control" of a company. Under the Ordinance, a person exercises control of a company if:

- (i) he is a director or principal officer of the company;

- (ii) he is the beneficial owner of more than 15% of the voting shares in the company;
- (iii) he is a voting controller of more than 15% of the voting shares in the company; or
- (iv) he otherwise has the power, by virtue of any powers conferred by the memorandum or articles of association or other instrument regulating that company or any other company, to ensure that the affairs of the first-mentioned company are conducted in accordance with the wishes of that person.

"Voting control" means, *inter alia*, the ability to control, directly or indirectly, the exercise of the right to vote through a nominee or a trust, and so on.

The Chief Executive in Council may approve a DP to exercise control of a domestic free or domestic pay television programme service licensee in the public interest. Under section 3(3) of Schedule 1 to the Ordinance, the Chief Executive in Council shall take account of, but not limited to, the following matters when public interest is to be considered:

- (i) the effect on competition in the relevant service market;
- (ii) the extent to which viewers will be offered more diversified television programme choices;
- (iii) the impact on the development of the broadcasting industry; and
- (iv) the overall benefits to the economy.

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

- (a) According to our understanding, a new company acquired the publishing rights of the *Hong Kong Economic Journal* in August this year. It is a joint venture formed by a company owned by an off-shore discretionary trust and the original proprietor of the *Hong Kong Economic Journal*, each holding 50% interest. The Chairman of PCCW is the settlor of the off-shore discretionary trust concerned. The Broadcasting Authority (BA), an independent

regulator of the broadcasting industry, is now examining whether or not this gives rise to the question of cross-media ownership in accordance with the Ordinance. As the BA's study is still underway, it is inappropriate for the Administration to comment on the case at this stage.

- (b) When considering any application for exemption of cross-media ownership restrictions, the Chief Executive in Council shall take account of the criteria set out under section 3(3) of Schedule 1 to the Ordinance as above to decide if he is satisfied that the public interest requires for approving the application.
- (c) The BA's study on the case concerned is still underway. It is inappropriate for the Administration to comment or consider whether or not there is a need to review the Ordinance at this stage.

Funds Transferred to General Revenue Account

20. **MR SIN CHUNG-KAI** (in Chinese): *President, regarding "Subhead 080 — Transfers from Funds" under "Head 9 — Loans, Reimbursements, Contributions and Other Receipts" of the General Revenue Account (GRA), will the Government inform this Council:*

- (a) *of a breakdown, by the names of the funds concerned, on the annual estimate for the subhead since 1997-1998;*
- (b) *of the criteria adopted for determining the annual estimate for the subhead; and*
- (c) *of the criteria adopted for determining the amounts to be transferred from various funds to the subhead; whether deviation from such criteria has ever occurred since 1997-1998; if so, of the details.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): *President,*

- (a) The annual estimates for "Subhead 080 — Transfers from Funds" under "Head 9 — Loans, Reimbursements, Contributions and Other

Receipts" of the GRA for the years from 1997-1998 to 2006-2007 are shown in the table below:

<i>Financial Year</i>	<i>Transfers from Funds to GRA Revenue Head 9 Subhead 080</i>	<i>Estimates (\$M)</i>
1997-1998	–	–
1998-1999	Capital Works Reserve Fund	35,000
1999-2000	–	–
2000-2001	Capital Works Reserve Fund	10,000
2001-2002	–	–
2002-2003	Loan Fund	3,000
2003-2004	Land Fund	120,000
	Loan Fund	13,700
		<u>133,700</u>
2004-2005	Land Fund	40,000
	Loan Fund	6,500
	Capital Investment Fund	6,000
		<u>52,500</u>
2005-2006	Loan Fund	5,500
2006-2007	Loan Fund	4,700
	Capital Investment Fund	2,200
		<u>6,900</u>

- (b) The Government provides funding to finance government services and investments through the GRA and eight purpose-specific funds (for example, the Capital Works Reserve Fund and the Loan Fund). The GRA is the Government's main account and serves as the central funding device with funding transferred as necessary to and from the eight funds. Such transfers are solely for cash flow management of the government accounts and are not counted as part of the government revenue or expenditure.

In preparing the annual Budget, the Government will project the cash flow of each of these funds on the basis of its estimated

expenditure and revenue, and estimate the amount to be transferred from these funds to Revenue Head 9 Subhead 080 of the GRA.

- (c) The actual amount to be transferred from the funds each year is determined by the actual expenditure, revenue and the timing of the cash flow. This has been a long established practice. No deviation has ever occurred since 1997-1998.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

EMPLOYMENT (AMENDMENT) BILL 2006

DISTRICT COUNCILS (AMENDMENT) BILL 2006

CLERK (in Cantonese): Employment (Amendment) Bill 2006
District Councils (Amendment) Bill 2006.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

EMPLOYMENT (AMENDMENT) BILL 2006

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I move the Second Reading of the Employment (Amendment) Bill 2006 (the Bill).

The Bill seeks mainly to amend the Employment Ordinance (EO) to provide for "workable modes of calculation", so as to avoid the interpretation

that, in calculating statutory entitlements under the EO, wages do not include commission of a contractual nature. Such statutory entitlements include holiday pay, annual leave pay, maternity leave pay, sickness allowance, wages in lieu of notice for termination and end of year payment. Moreover, the Bill also proposes to modify the existing mode of calculation of the above statutory entitlements by making reference to the average wages earned by an employee during the past 12 months (instead of the last one month) as the basis for calculation.

The proposed amendments have arisen from a ruling of the Court of Final Appeal on 28 February 2006 over a labour dispute case. The ruling holds that in view of the relevant provisions of the EO not providing a "workable mode of calculation" for commission accrued and calculated on a monthly basis, the commissions in the case should thus be excluded from the calculation of holiday pay and annual leave pay.

With respect to the issue of calculating the statutory entitlements of an employee under the EO, the Government considers that "wages" inclusive of commission of a contractual nature should be used as the basis for calculation. This is to ensure that an employee's take-home pay would not be affected if he/she enjoys a statutory entitlement such as taking a statutory holiday or a period of annual leave.

However, according to the ruling of the Court of Final Appeal, the relevant approach has resulted in different treatment for employees with commission accrued and calculated on a daily basis *vis-a-vis* employees with commission accrued and calculated on a monthly basis. Such treatment is unfair to the latter group of employees. The ruling has also shown that the provisions concerned have not fully reflected the Government's policy. To protect the statutory entitlements of employees, we consider it necessary to expeditiously amend the EO to fully reflect the Government's policy, that is, all components of "wages", including commission of a contractual nature, however designated or calculated, should be included in the calculation of statutory entitlements.

Moreover, in view of the construction of the provisions regarding maternity leave pay, sickness allowance, wages in lieu of notice and end of year payment is similar to that of provisions regarding holiday pay and annual leave pay, the ruling is also applicable to these statutory entitlements. Thus, we consider it necessary to amend the EO to ensure that "workable modes of

calculation" are available for all scenarios involving commission of a contractual nature.

From the consultation in the past few months, we understand the concerns of business and professional organizations over the difficulty in staff cost budgeting under the existing mode of calculation of statutory entitlements, as it only makes reference to the average daily wages earned by an employee during the most recent wage period, which is usually one month. The average daily wages calculated under this mode may be subject to seasonal fluctuations and difficult to predict with any degree of certainty. To provide a more stable and predictable basis for calculation, the Bill proposes to adopt a longer reference period. In other words, in calculating the statutory entitlements of an employee, the average wages calculated on the basis of a 12-month moving average (or such lesser period when the employee is under the employment of the employer concerned) are adopted. This approach can avoid over-reliance on recent achievements at the expense of performance over time. In most cases, 12 months would be sufficient to encompass a full business cycle comprising both the peak and slack seasons, during which extreme values of commission earned can be evened out.

In summary, the main object of the Bill is to provide "workable modes of calculation" for payment in lieu of notice, damages for wrongful termination of contract, end of year payment, maternity leave pay, damages for wrongful termination of an employee's contract during her pregnancy, sickness allowance, damages for wrongful termination of an employee's contract on a sickness day taken by him/her, holiday pay and annual leave pay under the EO. Under the proposed modes of calculation, the average wages earned by an employee during the past 12 months (instead of the last month) are used as the basis for calculation.

The proposed amendments have obtained the majority support of members of the Labour Advisory Board and the Panel on Manpower of the Legislative Council. Meanwhile, we have also extensively consulted the business sector, labour sector and relevant professional organizations. Some members of the business community have proposed introducing a wage ceiling for calculating statutory entitlements to contain staff costs. The proposal involves complex and rather controversial issues including, among others, how components of wages are to be capped and the level of ceiling to be imposed. These issues would have far-reaching implications on the employees' rights and benefits. As such,

the proposal should be thoroughly examined and deliberated at a time outside the context of the current amendment exercise.

Madam President, the Bill has taken the interests of both employers and employees into consideration. To protect the statutory entitlements of employees, the amendment exercise should brook no delay. I thus urge Members to pass the Bill early.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Employment (Amendment) Bill 2006 be read the Second time.

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

DISTRICT COUNCILS (AMENDMENT) BILL 2006

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I move that the District Councils (Amendment) Bill 2006 (the Bill) be read the Second time.

The purpose of the Bill is to provide a legal basis to implement the financial assistance scheme for District Council (DC) election candidates by amending the District Councils Ordinance.

To encourage more public-spirited candidates to participate in public elections, and to cultivate an environment to facilitate the participation of political parties, political bodies and independent candidates in public elections, financial assistance for election candidates was first introduced in the 2004 Legislative Council Election. The scheme is welcomed by candidates and political parties. For the 2004 Legislative Council Election, the Registration and Electoral Office (REO) received 47 applications for financial assistance from candidates. The total amount of financial assistance provided was around \$14 million.

There have been calls by political groups and parties to extend the financial assistance scheme to DC elections. We consulted the Panel on Constitutional Affairs of the Legislative Council (the Panel) in April this year on our proposal to introduce a financial assistance scheme for DC election candidates. The proposal was generally supported by the Panel. We subsequently consulted the public on the proposal during the public consultation on the Review on the Role, Functions and Composition of DCs (DC Review) held between April and July 2006. There was broad support for the proposal.

After considering the views received from the Panel and the public, we have worked out the details of the financial assistance scheme and have drafted the Bill accordingly.

I would now like to highlight the major provisions in the Bill.

The Bill proposes that, in a contested DC constituency, the winning candidate or a candidate who receives 5% of valid votes or more will receive financial assistance at a rate of \$10 per vote, capped at 50% of the declared election expenses of the candidate. In respect of a candidate who is elected uncontested, the amount of financial assistance payable is the amount obtained by multiplying 50% of the number of registered electors for the constituency concerned by \$10, capped by 50% of the declared election expenses of the candidate.

The above formula is basically the same as the one adopted in the existing financial assistance scheme for candidates of the Legislative Council election. The only difference is that the existing financial assistance scheme for candidates of the Legislative Council election also stipulates that the amount of financial assistance payable to a candidate is capped by the difference between the declared election expenses and the declared election donations of a candidate.

During discussion with the Panel and the public consultation on the DC Review, there were views that if, in calculating the amount of financial assistance payable to a candidate, the election expenses incurred by the candidate had to be net of any donation received by him, the candidate would be discouraged from obtaining donations and sponsorship from political parties or other individuals. There were therefore proposals that the election donations received by a candidate should not be taken into account in calculating the amount of financial assistance receivable by the candidate.

On the Government front, after careful consideration, we decide to take on board the suggestion of excluding election donations from the formula for calculating the amount of financial assistance payable to a DC election candidate. The Bill will also make similar amendments in respect of the financial assistance scheme for candidates of the Legislative Council election. If the total amount of financial assistance and election donations received by a candidate is larger than his election expenses, any such "surplus" financial assistance may be used by the candidate for his future political or community work, or it may be expended generally as a token recognition of his efforts in elections. Over the long term, this arrangement should be conducive to the development of political groups and parties in Hong Kong, and will also encourage independent candidates to participate in public elections.

The existing financial assistance scheme for candidates of the Legislative Council election requires each applicant to submit an auditor's report on the accounts of his election expenses and donations. The auditing fees, which are not counted as part of election expenses, are shouldered by candidates of the Legislative Council election themselves.

Due to the considerable difference in the electorate size between a DC election constituency and a Legislative Council election constituency, the amount of financial assistance received by a DC election candidate will be much smaller than that received by a candidate of the Legislative Council election. Applying the statistics in the 2003 DC Election, the average amount of financial assistance payable to a candidate would be around \$10,000. If mandatory auditing requirement is imposed on the DC election candidates who apply for financial assistance, the auditing fee may be up to a few thousand dollars and will take up a significant proportion of the financial assistance payable to each candidate. This will undermine the objective of the scheme.

In view of this, Madam President, we propose not to require DC election candidates who apply for financial assistance to submit to the REO auditor's reports on their accounts of election expenses. To safeguard public expenditure, the REO will endeavour to check whether the election returns submitted by the applicants comply with the relevant requirements. Where necessary, the REO will require the applicants to provide further information. For cases which more in-depth checking is required, the REO will refer such cases to an outside audit firm for further checking. The auditing expenses will be borne by the REO. The Chief Electoral Officer will effect payment of

financial assistance to the applicants concerned only after he is satisfied that the returns submitted by the applicants have set out accurately all the election expenses incurred by the applicants.

With these remarks, Madam President, I hope Members will support the Bill and pass it as soon as possible, so as to enable the Electoral Affairs Commission to make the relevant regulation to provide for the detailed operational procedures of the scheme and to enable the implementation of the scheme in time for the DC election in the end of 2007.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the District Councils (Amendment) Bill 2006 be read the Second time.

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

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2006 and the Poisons List (Amendment) (No. 5) Regulation 2006.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

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

Currently, we regulate the sale and supply of pharmaceutical products through a registration and inspection system set up in accordance with the Pharmacy and Poisons Ordinance (the Ordinance). The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the

Pharmacy and Poisons Regulations. Pharmaceutical products put on different Parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

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

Arising from the applications for registration of two pharmaceutical products, the Pharmacy and Poisons Board (the Board) proposes to add two substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations. Pharmaceutical products containing any of these substances must then be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

We propose that these Amendment Regulations take immediate effect upon gazettal on 22 December 2006, to allow early control and sale of the relevant medicines.

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

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

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

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 27 November 2006, be approved -

- (a) the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2006; and
- (b) the Poisons List (Amendment) (No. 5) Regulation 2006."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two resolutions proposed under the Interpretation and General Clauses Ordinance to extend the period for amending subsidiary legislation.

First motion: Extend the period for amending the Fugitive Offenders (Germany) Order and the Fugitive Offenders (Republic of Korea) Order.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR JAMES TO (in Cantonese): President, at the meeting of the House Committee on 24 November 2006, Members agreed to form a Subcommittee to study the Fugitive Offenders (Germany) Order and the Fugitive Offenders (Republic of Korea) Order. In order that the Subcommittee can have ample time for scrutiny, in my capacity as Chairman of the Subcommittee, I move that the period for scrutiny of the Fugitive Offenders (Germany) Order and the Fugitive Offenders (Republic of Korea) Order be extended to 10 January 2007.

President, I implore Members to support the motion.

Mr James TO moved the following motion:

"RESOLVED that in relation to the -

- (a) Fugitive Offenders (Germany) Order, published in the Gazette as Legal Notice No. 251 of 2006; and
- (b) Fugitive Offenders (Republic of Korea) Order, published in the Gazette as Legal Notice No. 252 of 2006,

and laid on the table of the Legislative Council on 22 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 10 January 2007."

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

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr James TO 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 motion is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Second motion: Extend the period for amending the Air Pollution Control (Volatile Organic Compounds) Regulation.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MS AUDREY EU (in Cantonese): Madam President, I move that the motion as set out under my name on the Agenda be passed.

At the meeting of the House Committee on 1 December 2006, Members agreed to set up a Subcommittee to study the Air Pollution Control (Volatile Organic Compounds) Regulation laid before the Legislative Council on 29 November 2006. In order that the Subcommittee be ample time in scrutiny and to report to the House Committee the findings of deliberations, in my capacity as Chairman of the Subcommittee, I move that the period for scrutinizing this subsidiary legislation be extended to 17 January 2007.

Madam President, I implore Members to support the motion.

Ms Audrey EU moved the following motion:

"RESOLVED that in relation to the Air Pollution Control (Volatile Organic Compounds) Regulation, published in the Gazette as Legal Notice No. 258 of 2006, and laid on the table of the Legislative Council on 29 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 17 January 2007."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Audrey EU 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): Motions with no legislative effect.

Increasing the Government's share in the investment income of the Exchange Fund.

INCREASING THE GOVERNMENT'S SHARE IN THE INVESTMENT INCOME OF THE EXCHANGE FUND

MR HOWARD YOUNG (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed to urge the Government to revise the existing agreement between the Government and the Hong Kong Monetary Authority (HKMA) on the methodology of sharing the investment income of the Exchange Fund (EF), so as to increase government revenue in this regard.

Madam President, Hong Kong as an open economy must maintain adequate levels of foreign exchange reserves to back up the Hong Kong Dollar and withstand external attacks. I believe this is a concept no one has ever denied. The subject under discussion today is not the direct withdrawal of principal from the EF, which will affect the purpose of the EF to maintain the stability of the Hong Kong Dollar, but the revision of the existing sharing arrangement between the Government and the HKMA on the investment income of the EF, so as to give the Government more resources to implement policies that will benefit the general public and provide them with relief.

What exactly is the amount of foreign exchange reserves that can be considered as adequate for maintaining the stability of the Hong Kong Dollar and withstanding external financial attacks? The Financial Secretary and the Chief Executive of the HKMA have given answers to this question on numerous occasions. I believe colleagues of the Legislative Council are very familiar with their answers and can even learn them by heart.

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

The answers are "the greater the better", "to maintain a level of reserves well above the theoretical minimum", "as Hong Kong is a small and open economy, it is necessary to maintain sufficient resources to resist attacks", and so on. These are all empty talks and vague generalizations. I hope the Financial Secretary will have some new or pragmatic ideas in his reply this time around. But it is likely that he will repeat the few statements I have just quoted.

I agree that no one will loath the accumulation of greater wealth. However, the practice of a government should be different from that of private

enterprises in general. While the latter re-invest their profits to make even more money, the former should take into account the needs of the people and the community. The EF is the wealth of the people. The income generated from the investment of the EF should be put to proper utilization for the greatest benefit of the people and the community. If quantity is the only thing that matters, it is exactly like an obese person with no self-control, who never has enough no matter how much he eats. In the end, it is his health that suffers.

The following are some actual figures from which an analysis can be made of the exact level of accumulated assets of the EF and whether there is a need for its endless expansion. According to the latest release of the Government, as at the end of October, the total assets of the EF amounted to \$1,162.7 billion, which means every Hong Kong people has a share at \$166,000, and the amount is equivalent to five years of government expenditure. Hong Kong ranks seventh in the world in terms of official foreign exchange reserves, and ranks second in the world after Singapore in terms of reserves on a per capita basis. Therefore, our reserves are in abundance from whatever angle we look at it.

In fact, the assets of the EF are made up of three parts, in which over \$300 billion serves as the monetary base to provide backing for the Hong Kong Dollar. This part is absolutely not allowed to be drawn down. After deducting the Government's share, the investment income gained each year will be allocated to the accumulated surplus which has so far snowballed to almost \$500 billion. And the remaining \$300-odd billion is the fiscal reserves of the Government. Over the past seven years, the assets of the EF have been maintained at the level of over \$1,000 billion. Even when Hong Kong experienced the impacts of the September 11 incident and the fiscal deficits in 2001 and 2002, the EF remained at a high level of over \$950 billion. The SARS incident in 2003 also made no impacts on the EF. The total assets of the EF even surged again to the level of \$1,000 billion.

Among these three parts of the EF, special attention should be paid to the snowballing accumulated surplus of almost \$500 billion. After deducting the Government's share, as well as the interests and other expenses, an average of \$31.6 billion from the investment income of the EF has been allocated to the accumulated surplus each year, resulting in a rise of the accumulated surplus from \$242.3 billion in 1998 to the recent \$492.98 billion, that is, the almost \$500 billion I have just mentioned. In the financial crisis in 1998, the Government was obliged to draw only \$110 billion to fend off overseas speculators in the

market. At present, the accumulated surplus alone is five times the amount pumped into the market then, let alone another almost \$1,200 billion in the principal of the EF, which is comprised of the fiscal reserves and the back-up for the monetary base. We maintain the stand that the principal is not to be mobilized.

Mr Raymond SO, Associate Dean of the Faculty of Business Administration of The Chinese University of Hong Kong is of the view that the present huge size of the total assets of the EF is adequate for maintaining the stability of the Hong Kong Dollar. And Mr LAM Pun-lee, Associate Professor of the Faculty of Business of The Hong Kong Polytechnic University opines that the measures introduced by the HKMA to safeguard the Hong Kong Dollar have achieved a stabilizing effect. Therefore, it is unnecessary for the HKMA to amass a great fortune. Instead, the Government should have a greater share of the investment income to create more room for tax cuts.

The Liberal Party also agrees that it is enough for the EF to reach a high level at almost \$1,200 billion. As long as the EF can be maintained at such a level, the exchange rate of the Hong Kong Dollar will be fully protected.

Therefore, we are of the view that it is undesirable to mobilize the principal of almost \$1,200 billion of the EF. However, the interest in terms of tens of billions gained each year from the investment of the EF should not be allocated to the accumulated surplus in the future, resulting in its endless expansion.

Deputy President, over the past eight years, the investment income of the EF amounted to \$60 billion a year on average. And the Government received its share of around \$20 billion annually. If the share ratio of the Government is raised, more financial resources will be available for the implementation of measures that will benefit the public and the business environment. Consideration can also be given to the introduction of tax cuts. This is beneficial to the community of Hong Kong as a whole, no matter whether it is the public, the taxpayers, the business sector or the small and medium enterprises.

The Financial Secretary strongly promoted the Goods and Services Tax (GST) earlier on but it was eventually shelved in view of the strong opposition of the public. The actual yield from the tax is estimated to be just \$20 billion a

year. Once the Government decides to revise the share ratio of the investment income of the EF so that more income will be allocated to the Treasury, or even the whole sum as suggested by the Liberal Party, the impact of a narrow tax base on the revenue of the Treasury will no longer be a concern to the Government.

As the saying goes, "What is taken from the people is to be used in the interest of the people." This exactly describes the current situation of the "flooded" EF. As this is the money of the people of Hong Kong, it is absolutely unreasonable to lay the abundant investment income idle. And the people of Hong Kong are allowed only to take a look at it rather than making use of it.

In fact, even the whole amount of the investment income is allocated to the Treasury, there is no point in worrying about undermining the defence capability of the EF. For instance, the possible US Dollar depreciation and appreciation, as well as inflation will provide an opportunity for the total value of the assets to rise. Even if the whole amount of the investment income is allocated to the Treasury, the fiscal reserves of the Government will only see a rise instead of a drop as Hong Kong is enjoying a continual economic revival.

For instance, the Financial Secretary issued an "earnings notification" in the Legislative Council Panel on Financial Affairs at the end of last month, announcing that the target of the projected surplus of \$5.6 billion set out in the Budget this year would be achieved ahead of schedule. However, a number of academics hold that this projection is rather conservative. Along with the satisfactory results of land sales — another satisfactory land sale was recorded yesterday — the great increase in stamp duty due to the stock boom and other factors, it is possible that the surplus of the Government will not be less than \$20 billion this year.

Financial Secretary Henry TANG estimated in the Budget this year that the fiscal reserves at the end of the year would stand at \$306.4 billion. However, he said in the Legislative Council last month that the fiscal reserves would exceed \$310 billion, showing a strong rebound of the fiscal reserves. The Secretary even projected a \$100 billion increase after a period of five years, which would bring the level up to \$400 billion. And the moneys will finally be placed with the EF. Therefore, even if the whole amount of the investment income of the EF is allocated to the Government.....

FINANCIAL SECRETARY (in Cantonese): Deputy President, a point of order.

DEPUTY PRESIDENT (in Cantonese): Secretary, is it a point of order? Please raise your point.

FINANCIAL SECRETARY (in Cantonese): Deputy President, Mr Howard YOUNG said that I had issued a notification in the meeting of the Panel on Financial Affairs last month. But the fact is that I did not attend the meeting of the Panel on Financial Affairs last month. I would like to seek a clarification from him.

DEPUTY PRESIDENT (in Cantonese): Are you seeking a clarification from Mr Howard YOUNG? Mr Howard YOUNG, would you like to offer a clarification?

MR HOWARD YOUNG (in Cantonese): The "earnings notification" that I mentioned should be put in quotation marks as it is not exactly an extract. The public officer who attended the meeting on that day may not be the Secretary himself. Members were informed of the figure in the meeting, who in turn told me. This is the so-called notification, an optimistic notification.

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

MR HOWARD YOUNG (in Cantonese): Deputy President, then I will continue to speak. The Financial Secretary estimated in the Budget this year that the fiscal reserves at the end of the year would stand at \$306.4 billion. However, he said in the Legislative Council last month that the fiscal reserves would exceed \$310 billion, showing a strong rebound of the fiscal reserves. As far as I understand it, the Secretary even projected a \$100 billion increase in five years, which would bring the level of the fiscal reserves up to \$400 billion. And the moneys will finally be placed with the EF. Therefore, even if the whole amount of the investment income of the EF is allocated to the Government, the

EF may see a growth of \$100 billion in the next five years. At least, in our view, this figure will not see a drop. The EF will see a growth of \$100 billion in the next five years.

Therefore, the Liberal Party opines that given the present huge size of the EF, the Government has no reason not to examine with the HKMA a revision of the sharing arrangement of the investment income to increase the revenue of the Treasury so that the people will enjoy a share of the wealth and the public services will see improvements for the benefit of the people and the relief of their hardship.

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

Mr Howard YOUNG moved the following motion: (Translation)

"That this Council urges the Government to revise the existing agreement between the Government and the Hong Kong Monetary Authority on the methodology of sharing the investment income of the Exchange Fund, so as to increase government revenue in this regard."

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

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Kam-lam 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 CHAN Kam-lam to speak and move his amendment.

MR CHAN KAM-LAM (in Cantonese): Deputy President, I move that Mr Howard YOUNG's motion be amended. In recent years, the sharing arrangement of the investment income of the EF has been a frequent topic of discussion in this Council. Two main focuses are noted: first, to increase the income of the fiscal reserves of the Government; second, to secure more stable government revenue each year. The motion proposed by Mr Howard YOUNG today aims to increase the allocation of the earnings of the EF to the government

revenue. We support the motion in principle. However, I have chosen to move an amendment in the hope that the general public will understand the importance of prudent management of public finances.

The Government expressly admitted as early as in 2001 that the obvious problem of fluctuations in the annual investment income for the fiscal reserves had definitely affected the accuracy of the Budget. And it also publicly announced that studies had been conducted to examine arrangements to reduce such fluctuations. However, as various options had respective limitations, the Government decided to take no action but keep the trend of the investment income in the following years under observation.

When we look back on the past five years, given the volatility of the investment markets, the investment return of the EF has remained unstable. It can even be concluded that the volatile nature of the investment income for the fiscal reserves is impossible to see any change. The investment of the EF suffered a loss of \$2.9 billion in 2001, resulting in a meagre share of \$1.6 billion for the fiscal reserves. Although the investment income of the EF amounted to \$80 billion in 2003, the continual shrinking fiscal reserves generated a share of only \$25.7 billion. However, the amount was still greater than the original government estimate of \$12.1 billion.

On the other hand, although market participants including academics have offered different proposals in this regard, the Government and the HKMA have remained "inactive" over the past five years. In May this year, "CE YAM" just put forward two age-old options, including the charge of a fixed fee and the calculation on the basis of the average returns over several years. It is thus clear that although the SAR Government has brought up the problem to a high profile, it has all along hesitated to make a decision.

As the trend of the investment markets is affected by a host of unpredictable factors, so long as the existing sharing arrangement sees no improvement, the problem of an unstable investment income accrued to the fiscal reserves will never go away, and the deviation of the estimates of such revenue will always be greater than that of the estimates of other recurrent revenue. The DAB is of the view that the Government must seek to revise the existing sharing arrangement to determine the actual amount of the investment income of the fiscal reserves in the new financial year by an average of the share over the past

two to three years, as well as factors such as the trend of the overall economic performance.

The DAB must stress that we do not oppose an increase in the investment income of the Government as this may enable the Government to suitably increase its spending on policies concerning people's livelihood as well as tax cuts, resulting in an improvement of our competitive edge. However, we attach greater importance to securing a more predictable and stable investment income of the Government to avoid a sudden deficit or a considerable surplus in every Budget eventually due to the wild fluctuations of the income in order to facilitate the effective planning and utilization of the financial resources at the Government's disposal. It is equally important that in determining the level of additional investment income of the EF to be allocated to the Government, the stipulations of Article 107 of the Basic Law must be strictly followed. The Government should follow the principle of keeping expenditure within the limits of revenues in drawing up its budget, and strive to achieve a fiscal balance, avoid deficits and keep the growth rate of its expenditure in a specified period below that of the Gross Domestic Product (GDP).

Therefore, if the share of the investment income of the fiscal reserves each year is considerably increased, such as allocating the whole amount of the investment income of the EF to the Treasury, it is possible that the situation will be like that in the past, with the investment income of the Government remaining at around \$30 billion or suddenly surging to around \$50 billion, \$80 billion or even \$90 billion. As a result, the SAR Government has to face a serious problem: It can cut taxes or increase recurrent expenditure considerably in the year with a huge income, but what can it do in the year with a reduced income? Perhaps it may become necessary for the Government to increase taxes or reduce expenditure considerably. In this case, the financial condition of the Government will experience wild fluctuations. And controversies will arise in the community. Of course, when we talk about tax increases, who will be willing to pay more taxes? And who will be willing to have the expenditure reduced? Moreover, this sort of practice definitely runs counter to the principle of prudent management of public finances. Meanwhile, a fine balance must also be struck between the prudent use of reserves and the keeping of the growth rate of expenditure in a specified period below that of the GDP.

Deputy President, the DAB opines that should more investment income of the EF be allocated to the fiscal reserves without any restraints on future expenditure, such an additional allocation lacks assurances. To sum up, the Government must maintain a balance between increasing expenditure on policies concerning people's livelihood as far as possible and the prudent use of reserves to secure sustainable and stable revenue.

However, we have to point out that the EF has recorded very satisfactory growth over the past few years even in times of economic downturns. The level of the EF has seen a considerable increase from \$636 billion in 1997 to over \$1,160 billion as at the end of October this year, with a growth rate of 83%. In the meantime, the net income of the investment of the EF over the years, that is, the accumulated surplus, has also seen an increase from \$190-odd billion to the present \$490-odd billion. Such an abundant accumulation of wealth has provided an adequate and even additional backing for maintaining the stability of the monetary and financial systems of Hong Kong. To fully utilize the existing abundant reserves of the Government, consideration can be given to an increase in investment in the markets to bring in more income by our abundant reserves for the public. Therefore, we propose the setting of more diversified and flexible investment benchmarks for part of the EF to seek better and steady returns by a more aggressive investment strategy. The DAB proposes that consideration can be given to increasing the amount of assets in the investment portfolio of the EF, as well as investing part of the capital in items with a higher return and an acceptable level of risk.

Moreover, we also urge the Government to examine the reinstatement of the Exchange Fund Investment Limited for the management of the EF. In this way, not only the functions of the HKMA can be better defined, the degree of transparency can also be enhanced to allow easier external assessment of the effectiveness and performance of the investment of the EF.

The DAB submitted our proposals in writing to the Financial Secretary in May last year. We hope the Financial Secretary will give our proposals serious consideration and take them on board.

With these remarks, Deputy President, I move the amendment.

MR CHAN Kam-lam moved the following amendment: (Translation)

"To delete "increase government revenue in this regard" after "so as to" and substitute with "allocate more investment income of the Exchange Fund to the Government, and ensure that there is stable government revenue from the investment income; in determining the level of additional investment income of the Exchange Fund to be allocated to the Government, the principle of keeping expenditure within the limits of revenues in drawing up the budget, striving to achieve a fiscal balance, avoiding deficits and keeping the budget commensurate with the growth rate of the Gross Domestic Product must be strictly followed". "

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

MS LI FUNG-YING (in Cantonese): Deputy President, the subject of debate in the Legislative Council today is the increase of the Government's share in the investment income of the EF, in which the basic principles of the Government in the management of public finances are involved. Therefore, I think the focus of today's debate is not only on the rate of increase of the Government's share in the investment income of the EF, but also on the criteria of the sharing arrangement. As long as a consensus on the criteria of the sharing arrangement is reached in the community, the problem concerning the Government's share can readily be resolved.

When the Financial Secretary introduced the consultative document on the GST to the community, I suggested that the Government should first explain to the public how the fiscal surplus and reserves would be handled before promoting a new tax. At the beginning of this month, the Financial Secretary announced the shelving of the promotion of the GST on grounds of a lack of widespread public support. I think one of the reasons why the new tax has encountered public opposition is the failure of the Government to explain clearly to the public its basic principles in the management of public finances. The community has practically had not much information at hand for the discussion on the introduction of the GST.

Although the Government thinks the consultation work has achieved a certain outcome, that is, if the public generally agrees that the tax base of Hong Kong is narrow, it is necessary for the Government to have it broadened — I do not know how the Government has come to such a conclusion — even if this is really the case, the outcome remains very fragile because the Government has only presented a one-sided picture during the entire course of consultation on the GST. For instance, emphasis has been constantly placed on the unfairness of a small minority of people shouldering the majority of tax revenue. But no mention has been made of the unfairness of the pooling of the fruits of economic growth in the hands of a minority. When a minority of people has earned the majority share of wealth in the community, it is only natural for this minority to shoulder the majority of tax revenue.

At present, the Government lacks no money. Public opinion has even described the current condition of the Treasury as "flooded". The Government has targeted its axe at the general public even when the Treasury is "flooded". Opposition from the public is, therefore, expected. In order to gain social acceptance for the introduction of a new tax, focus must first be directed to the very basic fiscal policies, on which discussions in the community are promoted. Only when a consensus is gradually shaped can a successful outcome be expected. Half the result is gained with twice the effort when the Government just throws a proposal out of nowhere and keeps bargaining with the public.

Our urge on the Government to increase its share of the investment income of the EF when the Treasury is "flooded" is, of course, a different matter from the Government setting its eyes on the purses of the people when it hoards abundant wealth. We have noticed that the investment income of the EF in the first three quarters amounted to \$67.8 billion. But the share for the fiscal reserves was only \$19 billion while the remaining \$48.8 billion was allocated back to the EF. It was an unbalanced reallocation. The surplus in this financial year will definitely far exceed the Financial Secretary's estimate of \$5.6 billion, and the increase of the Government's share in the investment income of the EF will drive the water level of the already flooded Treasury further up, but the moneys of the Treasury belong to the people in any perspective, the Government has neither the need nor the right to unreasonably withhold the wealth of the people of Hong Kong. However, what is reasonable? What is

unreasonable? This involves the basic fiscal policies. And the Government has to maintain dialogue with the community.

Deputy President, to return the wealth to the people; to store the wealth in the community, these are very simple concepts. However, they are not so simple in reality. Article 107 of the Basic Law stipulates that the Hong Kong Special Administrative Region should follow the principle of keeping expenditure within the limits of revenues in drawing up its budget, and strive to achieve a fiscal balance, avoid deficits and keep the budget commensurate with the growth rate of the GDP. How to turn on the "tap" of the Treasury to make it commensurate with the growth rate of the GDP is another basic fiscal issue the Government has to deal with. And these basic issues concerning the fiscal policies are closely linked with one another. Given the Treasury is flooded, we urge the Government to return the wealth to the people, as well as to explain its policies on the management of finances for public comment in order to have a consensus reached.

I so submit.

MR WONG TING-KWONG (in Cantonese): Deputy President, the Legislative Council has discussed a number of times the utilization of the accumulated surplus of the EF, and has urged the Administration to review the means to effectively utilize the accumulated surplus of the EF and the need to revise the existing sharing arrangement of the income of the EF. The stance of the Administration, on the one hand, has remained conservative; on the other hand, it has expressed a willingness to keep an open mind. As mentioned by Mr Henry TANG, the Financial Secretary, in his earlier answer to a relevant question, the Government of Hong Kong had considered adopting the proposal of setting a fixed return to enable more stable returns of interest and income of the EF. However, if the return did not meet the target, subsidization by the EF might be necessary. Therefore, further studies were necessary. Moreover, Financial Secretary Henry TANG also said that the EF had to be provided with sufficient resources for maintaining the stability of the exchange rate of the Hong Kong Dollar and the financial market. Even though the economy had rebounded recently, there were still a lot of potential risks and variables in the global economy. As Hong Kong was a small and externally-oriented economy, we must not lower our guard but get ourselves well prepared. Mr Joseph YAM, the Chief Executive of the Hong Kong Monetary Authority (HKMA) also stressed that should the EF be transferred to the general revenue of the

Government, a consensus had to be reached by various parties. However, although the Administration has repeatedly undertaken to further examine the issue and kept it under review from time to time, there has been all talk but no result so far.

A recent announcement by the HKMA has indicated that the investment income of the EF in the first three quarter this year amounted to \$67.8 billion with a return rate of around 6.5%. The Government's share amounted to \$19 billion, which has exceeded the target of its annual share of \$18.2 billion set out in the Budget. The fiscal surplus of Hong Kong in October was as high as \$8.5 billion and the deficit has been considerably reduced by almost \$10 billion when compared with that of last year. The forecast for the economic growth of the whole year has been adjusted upward to 6.5%. This shows that the economic performance of Hong Kong has been satisfactory, the financial condition of the Government has been greatly improved, the share market has been on a roll, the land sale has achieved favourable results, and the tax revenue has apparently increased.

I agree that to keep vigilant in times of peace and to "make hay while the sun shines" are correct attitudes while being necessary. However, when the government revenue has been on the increase, the economic outlook has been positive, and the foreign exchange reserves of Hong Kong ranks seventh in the world, keeping the purpose of the surplus of the EF at solely maintaining the stability of the Hong Kong Dollar, failing to make other improvements and positive attempts is over-conservative and too money-minded. This waiting-for-success attitude is not a means of effective use of the surplus. In fact, the best policy is the possibility of attack when in advance and the possibility of defence when in retreat. Therefore, the DAB agrees to the revision of the existing agreement on the methodology for sharing the investment income of the EF to increase the Government's share of the investment income of the EF. However, in determining the level of additional investment income to be allocated to the Government, it is necessary to follow the principle of keeping expenditure within the limits of revenues in drawing up the budget, strive to achieve a fiscal balance, avoid deficits and keep it below the growth rate of the gross domestic product in order to maintain the financial robustness of the Government.

The DAB proposes the adjustment of the investment strategy to enhance the flexibility of the investment of the EF and the reserves, to introduce a proper

increase in the amount of assets in the investment portfolio of the EF, as well as to invest part of the capital in items with a higher return and an acceptable level of risk. I believe it will be largely problem free as long as the relevant officials do a good job of risk management.

Moreover, as the investment return of the EF is influenced by the global economic climate and a host of uncertain factors, the estimated return of the fiscal reserves linked to it has always experienced deviations. Therefore, the DAB proposes the setting of an actual amount of the Government's share of the return to ensure a stable and predictable income for the Treasury.

I hope the Government will not again adopt the delaying tactics and tell us it will keep this issue under review from time to time without giving us any exact dates. Instead, the Government should quicken its pace to proactively examine the relevant proposals and conduct full consultation in order to maintain a balance between the expenditure and revenue of the Government and to improve the investment management of the EF.

With these remarks, I support the original motion and the amendment. Thank you, Deputy President.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, I have just received a Christmas card from the Financial Secretary. Many thanks for his card. As the debate today is held before Christmas, I wish to give him a book in return. He should re-read DICKENS' *A Christmas Carol*. I hope he will not turn into Scrooge TANG. He should do some self-reflection to see if he is too "mean with money" and harsh and turns himself into a "mean" wealthy man. Christmas is a time for generosity and kindness. I hope he will change his way of thinking, that is, his "mean" way of thinking after listening to today's debate.

Of course, he definitely will not think himself mean. He will surely call himself prudent and not mean. Is he prudent or mean? The answer rests with the people. The people should make a decision: Is the Financial Secretary "mean" or "over-prudent"? In this regard, this Council has reached a strong consensus. I think Members from different political parties present today unanimously agree that A decision is actually made today. In fact, the motion moved by Mr Howard YOUNG today..... And frequent discussions were held in the past. All the Members and political parties have all along

unanimously agreed that the Government should not "hold on to" the public moneys. It is obvious that the Treasury is flooded. However, the Government has "held on to" the public moneys and refused to properly utilize them on the people.

When we take a look at the figures, we will find them really awesome. The assets of the EF amounted to \$1,162.7 billion in October 2006. When compared with the \$600-odd billion in 1997, there is a substantial almost 100% increase. Regarding the \$1,162.7 billion, we certainly do not mean to use the whole lot on the people. Everyone must listen carefully that this is not what we mean. We only ask: Is it possible to use part of this sum to improve the people's livelihood or to stimulate the economy?

In fact, the sum of \$1,162.7 billion can be divided into three parts: First, the monetary base; second, the accumulated surplus and third, the fiscal reserves. Certainly, we understand that the part for the monetary base is not to be mobilized because it aims to deal with money demands. Or according to the golden rule of the HKMA, that part is definitely not to be mobilized. In fact, the accumulated surplus provides the greatest room for manoeuvre. At present, there is an accumulated surplus of \$493 billion, which is 1.7 times the monetary base. As there is already such a large amount of accumulated surplus — the accumulated surplus has increased from \$190 billion in 1997 to the present \$493 billion — how many more years does the accumulation need to go on? What is the accumulated level at which the Government considers it safe? The surplus in the past was not at such a high level. As far as I can remember, when the surplus amounted to \$1,000 billion, the Government said it was not safe enough. When the surplus now reached \$1,162.7 billion, the Government still said it was not safe enough. When will it be completely safe? I really do not know. In fact, there will never be a time that will be completely safe. If the theory of leverage is applied, when the Hong Kong Dollar encounters sudden attacks, exactly how much public money has to be mobilized at the time? Actually no one will have the answer. This is the same as no one will know when the ice age will come to bring the whole world down. If we talk about safety, it is actually very safe now. In fact, it is much safer than before. Therefore, is it high time now to conduct a review?

The Financial Secretary will definitely say later that the higher the level of the reserves the better. This concept is actually a double-bladed sword. When the EF is maintained at a high level, there certainly will be no trouble.

However, in case the assets of the EF are reduced because of some unpredictable factors, even when the EF is kept at a healthy level, criticisms of the rating agencies will still lead to a lowering of our sovereign rating. In fact, it is even worse to have the reserves pushed up because once the rating agencies spot anything in future, our rating will be lowered all the same.

Moreover, if our reserves keep accumulating at a high level, the marginal efficiency for the stability of the exchange rate will diminish. I believe even in the Economics textbooks for Secondary Four, there is the teaching that resources should not be used in the diminishing return leading to a gradual reduction of the marginal efficiency. And the capital eventually has its opportunity cost. Would Members give it a thought: How much opportunity cost has been lost by the Government? If the public money is not accumulated, the capital will practically be used for other more effective initiatives. Therefore, the present "meanness" of the Financial Secretary is actually "cruelty" to the people because the Government has lost such opportunity cost and ignored the well-being of the people.

Mr Tony LATTER, the former Deputy Chief Executive of the HKMA — he is now a professor — pointed out that as he had worked in the HKMA, he maintained that it was not necessary for Hong Kong to maintain an extremely high level of accumulated surplus. Even when \$50 billion to \$80 billion was withdrawn from it, the effect to maintain the stability of the Hong Kong Dollar would not be minimized. The crucial factor lies in whether any expenditure items with a social effectiveness higher than the investment return of the EF could be identified. Therefore, Deputy President, the Confederation of Trade Unions proposes the transfer of the investment income of the EF in the years 2006 and 2007, after deducting the share for the fiscal reserves, to the newly-established Social Development and Investment Fund. The estimated sum amounts to \$60 billion. This proposal will temporarily freeze the accumulated surplus of the EF at the level at end 2005, that is, \$443.2 billion, which is 1.5 times the monetary base and considered an extremely healthy level. In this way, something can really be done for the community.

Moreover, we again propose — we have kept putting forward this proposal over the years — the Government to discuss with the HKMA to set a standard rate of return of 5% for the fiscal reserves. As a result, fluctuations can be minimized and a return rate of 5% can be guaranteed. In this way, a more stable forecast can be made in the preparation of the Budget. If the return

in a certain year falls short of the fixed rate, a little bit more can be allocated. However, if the return in a certain year exceeds the fixed rate, the amount will be reallocated to the EF. Such practice can actually achieve a stabilizing effect. And once the \$60 billion is accounted out of it, it can immediately finance a lot of projects to improve the well-being of the people.

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

MR SIN CHUNG-KAI (in Cantonese): Deputy President, the Democratic Party began to suggest in the budget proposals to the Financial Secretary a few years ago that consideration should be given to revising the sharing arrangement of the investment income of the EF in order to ensure an increase in the Government's share, and not only the present so-called share of the fiscal reserves in the entire EF.

Both the original motion and the amendment today request an increase in income. And the DAB even requests stability besides an increase. The Democratic Party agrees to both the factors of "increase" and "stability". In fact, the two factors can be merged into one, that is, to have stability as well as an increase.

I would like to remind the Financial Secretary that during the visit of a group of experts from the International Monetary Fund to Hong Kong in October, they listened to the views of people from various sectors on the economy of Hong Kong. And this issue was also mentioned in their report. They suggested that the Government should examine the ways to maintain the stability of the investment income through the EF arrangement. I believe this caused international concern as well. In fact, the International Monetary Fund requested a few years ago the Government to examine the broadening of the tax base. Subsequently, the Government carried out studies on the introduction of the GST. I believe the Government should also work on this issue.

In fact, I like Mr LEE Cheuk-yan's point about opportunity cost in the last part of his speech. When our EF reserves have amassed over \$1,000 billion and the accumulated surplus over \$500 billion, and the accumulated surplus has kept snowballing, it is tantamount to locking our social resources. When our

social resources are locked, the investment return may be just..... We all know that the Government may set a benchmark for investment so as to calculate the return. If our investment is not put into such bond or share markets, it is possible that greater returns will be generated from other options. To put it simply, the people of Hong Kong are allowed to invest on their own, and the Government can achieve this purpose through tax cuts or investment in other projects. Of course, the problem confronting the Government now is not insufficient funds for investment but insufficient investment projects. We now have hundreds of billions in reserves. In fact, a number of infrastructure developments should be "commenced" as soon as possible, including the West Kowloon project, East Kowloon project, Zhuhai-Hong Kong bridge, regional express rail, and so on.

Deputy President, you mentioned many times in the past how the completion of infrastructural developments in Hong Kong would help the logistics industry. Such investment returns may even be greater than those invested in the United States bonds or Euro dollar bonds. I hope the Government will make a comparison among these issues. Of course, the primary purpose of setting up the EF is to provide backing for the Hong Kong Dollar. However, if you ask the HKMA: What level of the EF is adequate? There is always one answer only, and that is, "the higher the better". This is the answer always given by the HKMA. However, as the Chief Executive of the HKMA, his office requires him to safeguard the exchange rate at \$7.8. This is his obvious duty. However, as the Financial Secretary, his obvious duty is not only the protection of the linked rate at \$7.8, but also the overall development of Hong Kong, that is, the distribution and mobilization of resources to facilitate the overall sustained development of Hong Kong and to examine the future momentum of growth of Hong Kong economy.

Therefore, I think the Financial Secretary should stand on higher ground and look farther than Mr Joseph YAM. What Mr Joseph YAM sees is only the exchange rate at \$7.8 and the protection of the Hong Kong Dollar. But the Financial Secretary should watch the wider picture, which is the overall development of Hong Kong.

However, having said that much, I have to settle scores with the Financial Secretary because he has often spread slanders on us. Perhaps it is his assistants or press secretaries who have always twisted our proposals. We have never requested the Government to mobilize the EF. However, the

Government has always said that the Legislative Council, social figures or even the Democratic Party have asked for the mobilization of the EF. Take the press release issued on 13 September as an example. It was obviously in response to the proposal of the Democratic Party to revise the sharing arrangement of the EF. It pointed out that should the accumulated surplus of the EF was used lightly, it might undermine the capacity of the EF to defend the exchange rate of the Hong Kong Dollar. We have to stress that what we are talking about is the mobilization of the investment return of the EF, particularly the sharing ratio.

Regarding the motion today — no matter whether it is the motion today or the one I proposed last year in the Legislative Council, colleagues or those present now surely know the exact amount of the EF. We certainly will not mobilize the so-called monetary base, particularly the certificates of indebtedness. Neither will we care about the amount of the accumulated surplus left idle now. Most importantly, the future sharing arrangement of the investment return must be adjusted. Both the amendment and the original motion have urged to increase the allocation of the investment return to the Government or the Treasury. This change will not have any impacts on the EF, including the accumulated surplus. Of course, if the Government argues that the growth rate will be affected, the original amount will surely be left untouched. In this regard, I hope the Government will give a clear explanation to members of the public in future debates.

When the Democratic Party put forward this proposal several years ago, we suggested that no matter what the amount of the investment of the EF was, a steady share would be allocated to the Treasury. The amount we proposed was around \$30 billion a year. In fact, it was based on a certain ratio. When we look back on the past few years, the original estimate of the Government was \$12 billion. But the estimated share this year should exceed \$12 billion. It is possible that it will amount to almost \$20 billion. However, the investment income of the EF this year is projected to be almost \$56 billion. So take this year as an example. Even if the Government's share is increased to \$30 billion, there will still be a rolling growth of \$26 billion in the accumulated surplus. This is substantial sustained growth, albeit at a decelerated rate.

The Democratic Party supports the original motion and the amendment. We hope the Financial Secretary will give a response to some of the proposals of the Legislative Council and the International Monetary Fund. I so submit.

MISS TAM HEUNG-MAN (in Cantonese): Deputy President, a number of social figures and Members of the Legislative Council requested in the past the Government to transfer a fixed amount of the investment income of the EF each year to the government revenue. But the Government has always rejected this request.

Of course, we understand that the purpose of establishing the EF is to maintain the stability of the Hong Kong Dollar and the Linked Exchange Rate system. The greater is the amount of funds in the EF, the greater the protection for the Hong Kong Dollar. However, these enormous reserves belong to the people of Hong Kong. Is it possible to return a greater amount of the investment income to the people?

The latest figures show that the total amount of the EF of Hong Kong has exceeded \$1,100 billion. Even with the deduction of the fiscal reserves, the sum amounts to \$800 billion, which can provide a certain degree of backing for Hong Kong. The latest figures provided by the Hong Kong Monetary Authority (HKMA) indicate that the money supply of the Hong Kong Dollar, that is, the so-called M1, has been around \$390 billion, which means the foreign exchange reserves of Hong Kong are sufficient to provide backing for all the liquid cash in Hong Kong Dollar.

Of course, if we look at the money supply which is generally called M2, that is, all the liquid cash and bank deposits of Hong Kong, the amount of our reserves is far from adequate. The figures provided by the HKMA indicate that the total amount of the money supply M2 in Hong Kong Dollar has only been \$2,640-odd billion. In case the Hong Kong Dollar is subject to attack and the whole amount has to be exchanged into foreign currency, the foreign exchange reserves of Hong Kong are definitely insufficient. However, the chances of this happening are extremely slim.

The views I expressed so far are simply based on my limited knowledge of finance. I think the Government should tell us: What is the level of the foreign exchange reserves that is adequate to provide backing for the Hong Kong Dollar? We do not want to see the community always engage in "meaningless arguments" on this issue, with one side saying we have abundant reserves and the other side saying our existing reserves are inadequate to maintain the stability of

the Hong Kong Dollar. If we cannot even calculate the amount of reserves Hong Kong needs, there will only be endless arguments. Why bring this upon ourselves?

The Government can actually conduct studies to determine the reasonable ratio between the foreign exchange reserves and the total deposits in Hong Kong Dollar in Hong Kong banks. After specific data are acquired, a decision can then be made on whether more funds should be withdrawn from the investment income of the EF. It is not the duty of the Government to accumulate wealth endlessly. Instead, it should set a reasonable level of reserves in accordance with the actual needs and adjust it from time to time.

On the other hand, from the past performance, I think it is not difficult for the Government to satisfy public aspirations. The public have only requested an annual allocation of \$30 billion from the investment income of the EF. Over the past few years, even in times of economic slump, a return of \$30 billion could basically be made. Why has the Government refused to even consider or examine this request?

At present, the balance of the EF of Hong Kong has exceeded \$1,000 billion, which means as long as an annual rate of return of 3% is achieved, the investment income will reach \$30 billion. Is the Government going to tell us that the annual rate of return of the EF cannot even achieve 3%? As the rate of return of investment funds in general is at least 5%, the Government can absolutely afford to spare \$30 billion a year.

However, in considering an increase in the Government's share, it must be noted that as a large amount of the investment income of the EF is book profit, investment products have to be sold to cash in for adequate funds to be transferred to the Treasury. Therefore, in considering the transfer of funds, we must take into account its impact on the cash flow of the EF.

The Government has recently abandoned the GST. And it seems that other new proposals on maintaining the stability of government revenue will not be put forward in the foreseeable future. For this reason, more active consideration should be given to the allocation of a fixed amount of the investment income of the EF to the Treasury. Although Financial Secretary

Henry TANG has long said that there are only a few months left in his term of office, the introduction of a major financial policy is important, so as a responsible Financial Secretary, he should properly present his views on how to utilize the investment income of the EF for the long-term benefits of Hong Kong as reference for the Financial Secretary of the next term.

Deputy President, to increase the fiscal revenue and to maintain the stability of the exchange rate of the Hong Kong Dollar are important issues public finance managers need to pay attention to and to strike a balance between the two. However, in the absence of any specific data and a reasonable level of reserves determined by an objective mechanism, it is practically impossible to achieve such a balance. I hope the official in reply later will tell us: Is the current level of our reserves considered adequate? If not, what is the adequate level?

I so submit. Thank you, Deputy President.

MR WONG KWOK-HING (in Cantonese): Deputy President, to prepare for rainy days is a virtue in itself. But overdoing it will turn into playing Scrooge, particularly in respect of the management of finances of the Government. At present, the Treasury is "overflowing". If a new tax is still introduced to force people to pay, it will cause strong disgust and grievances among the people.

The figures released by the Government show that as at the end of October this year, the government revenue of the first seven months of this financial year was \$7.5 billion more than that of last year, and coupled with the spending of \$2 billion less than that of last year, the total amounted to \$10 billion. Moreover, the total amount of tax revenue will not be accounted until the beginning of next year. Therefore, the financial condition of the Government is extremely optimistic. Some academics have even projected that the fiscal surplus this year will be as high as \$30 billion to \$40 billion. I think Financial Secretary Henry TANG is really good at financial management.

Of course, as the investment environment is favourable, the fiscal reserves of \$280-odd billion placed with the EF have gained a considerable annual return over the past few years. According to the current sharing arrangement, the

Government's share is around \$20 billion a year, and the remaining sum is again placed with the EF for continued investment.

In fact, the primary purpose of the EF is to provide full backing for the monetary base of Hong Kong at all times by the highly liquid short-term US dollar-denominated securities, as well as to maintain monetary and financial stability. The total assets of the EF as at today have amounted to \$1,162.7 billion. This high level of total assets has provided robustness that is exceptionally strong in the world.

The fiscal reserves of \$291.8 billion have actually long exceeded the amount needed for backing the operation of the Hong Kong Government. The Government will receive \$20-odd billion in revenue annually. It has actually not valued the extra scores of billions of dollars and has just had the sum placed with the EF to snowball for investment. This attitude of not caring a fig shows that the SAR Government is "not in want of money" at all. The Government has put its money aside while crying out for its lack of money. It has promoted the introduction of the GST, which will impose tax on everyone, on grounds of a not broad enough tax base. It comes as no surprise that the proposal has met with strong objection from the public. However, the Government has acted promptly and withdrawn the proposal immediately.

Deputy President, the public do not expect the Government to play Scrooge. Instead, they wish the Government to make effective use of the financial resources to provide them with a pleasant learning, working and living environment. The public wish the Government "to store wealth with the people". However, Hong Kong is now facing all sorts of problems, such as air pollution, disparity between the rich and the poor, inter-generational poverty, limit of absence from Hong Kong for the old age allowance, and so on. Some say that it is not a problem as long as money can have it solved. However, I think the problem is even bigger if the Government has the money but refuses to use it on solving problems.

Deputy President, I published yesterday the report of a questionnaire survey on the community of Tung Chung. The report released yesterday and the land sold at a higher-than-expected-price earlier on has shown a sharp contrast between happiness and unhappiness and anxiety. The price per sq ft of floor area of the land sold yesterday amounted to \$42,196, which is the highest in

the world. Of course, many stakeholders, particularly the wealthy estate developers, are very happy. However, let us take a look at the residents living in the new town of Tung Chung. When they face such problems as poverty and loneliness, how much care have they received from the Government? Regarding the survey report released by me yesterday, I think the Financial Secretary can also have a look. In this survey, every household of Yat Tung Estate in Tung Chung was given a questionnaire, and finally there were nearly 300 responses. The survey aimed to gain an understanding of the extent of depression. The studies of some academic institutions have revealed that around 8.3% of the people of Hong Kong on average have suffered from depression. But over 23.8% of the residents of Yat Tung Estate in Tung Chung have suffered from depression. Why is such a result gauged in this survey? The 10 symptoms of depression listed by the Department of Health include loss of appetite, insomnia, loss of interest in ordinary activities, low energy, loss of self-esteem, difficulty in concentration, depressed mood and anxiety, proneness to irritability and suicidal thought. If anyone continues to suffer from five of the above symptoms for two weeks, he is a victim of depression. This survey reveals that 23.8% of the residents of Yat Tung Estate in Tung Chung have this problem. This shows that residents living in poor districts and remote new towns are very unhappy. It is hoped that the Government will allocate financial resources to give them support. It is a pity that all the projects set out in paragraph 49 of the policy address lack a timetable. And there is no mention of the hospital badly needed by the residents. Therefore, I hope Financial Secretary Henry TANG (*the buzzer sounded*)will help those impoverished residents.

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

DR KWOK KA-KI (in Cantonese): Deputy President, Mr WONG Kwok-hing has just mentioned depression. I wish to tell him that according to the criteria quoted by him, all the staff working for the Hospital Authority and all the patients are suffering from depression.

I have listened to what Mr Howard YOUNG said earlier and I wish to give him my support. In fact, this is a timely motion. The Government withdrew its proposal of the introduction of the GST not long ago, which is a correct

decision. When we met with the Financial Secretary sometime ago to discuss the Budget next year, I told him that staff working at every rank in the entire public medical system of the Hospital Authority, including medical staff, doctors, nurses and front-line workers has already been kept constantly on the run. The most tragic fact is that the targets of their services, that is, members of the public, are in various predicaments because the continued reduction of medical resources has led to fewer medicines they have access to.

I talked earlier to some psychiatric patients and recovered patients, as well as a number of psychiatrists. As the Government has claimed to be in financial difficulties over the past few years, various major spendings, particularly medical expenses, have experienced a sharp cut. The increase in manpower resources fails to meet the increase in the elderly population of Hong Kong and the needs of the patients.

This scenario is, of course, the result of problems in policy. However, the most tragic fact is that the front-line medical staff basically has neither the information nor the influence on the financial decisions of the Government. They face a lot of patients in the clinics and hospitals every day, hoping to have more effective medicines. For instance, the psychiatrists want to prescribe some new medicines with fewer side effects. But they are unable to do so. They want to assist patients by the provision of more aftercare arrangements. But no such services can be provided. They want to spend more time on diagnosis. But it is impossible. The most tragic fact is that some cancer patients are in urgent need of some new medicines with fewer side effects and greater efficacy to help them fight cancer. But it is also impossible.

The Government possesses foreign exchange reserves of over \$1,100 billion. Of course, I understand its good intention of protecting both the financial system of Hong Kong and the Hong Kong Dollar. This is common knowledge. As Hong Kong has weathered the financial crisis in 1997, we certainly understand the importance of this purpose. However, is it necessary to be miserly to such an extent? The income of the Exchange Fund (EF) this year is projected to be over \$70 billion, from which about 30%, that is, \$20 billion will be allocated to the Treasury, and the remainder will be kept snowballing in the EF. However, exactly how much should be accumulated?

In fact, money is wealth. Everyone should manage his own wealth. The Financial Secretary, who manages our finances, plays the role of a manager.

Wealth must be put to proper utilization to maximize its effectiveness. The Financial Secretary should know better. He has also encouraged people to invest properly to gain returns in order to improve their living standard. At present, the problem waiting for the whole Government to address and solve is the provision of services urgently needed by most of the people of Hong Kong, particularly medical services. If the income of the EF is not used for the provision of these services but left to snowball to \$1,000 billion, \$2,000 billion or \$3,000 billion, what are the use and meaning of the money to the general public?

Perhaps the Government will give me this reply: The preparatory work for health care financing has been underway. You just wait patiently. How long have we been waiting regarding the financing of health care? We all know that it has been since the Rainbow Document released in 1993. Last year, Dr York CHOW told us to wait until this year. When the end of this year comes, are we going to wait until next year again? I believe the Government will bring up the issue then. It all depends on the determination of the Government. I am quite worried that in the end, the Government will propose further discussion, discussion and then discussion. How long are the people going to wait for the provision of more medical resources to address their pressing needs?

The services of the Hospital Authority were greatly affected earlier by pregnant women from the Mainland. It was suggested to have medical resources increased, more funds allocated for the employment of midwives and staff, more beds provided, and so on. All of us are very unhappy at hearing all that. In fact, the pie is only that big. Deputy President, if the resources from this pie are cut to take care of the pregnant women from the Mainland, other departments such as the medicine department, geriatric department and psychiatric department will suffer. They are members of the public all the same. They are patients all the same.

The only solution lies in the Government's understanding of the needs of the people and the allocation of more funds for these urgent and important social services, including medical services, from the reserves and the income of the EF, that is, from the amount of income originally assigned to the reserves. Only with the effective utilization of all the resources can the life of the people be improved.

Members mentioned earlier that the land sale yesterday had struck home only one message: The disparity between the rich and the poor in Hong Kong has widened. The rich is getting richer, and the poor is left with no improvements at all. As a government that is keen on meeting the needs of the people and thinking what people think, it should understand this problem and conduct a proper review to see whether it should introduce suitable changes to the policy regarding the investment income of the EF.

Therefore, I support either the original motion or the amendment as long as it aims to properly increase the Government's share in the investment income of the EF to improve many of the services with pressing needs in Hong Kong and to benefit the patients and front-line medical staff. However, most importantly, after we have given our support, the Government, including the Financial Secretary, should introduce some concrete changes to the policy for the benefit of the people.

I so submit. Thank you, Deputy President.

MISS CHAN YUEN-HAN (in Cantonese): Deputy President, Hong Kong is an affluent city. We hope our wealth will be kept with the people. However, we can only see that the "wealth" of Hong Kong is now kept in the EF of the Government.

As pointed out by a number of colleagues earlier, as at the end of December, the assets of the EF amounted to \$1,000-odd billion and the accumulated surplus \$490-odd billion. However, over the past few years, the Government's share was just \$10 billion to \$20-odd billion each year. As at the third quarter this year, the investment income of the EF was \$60 billion. But the Government's share was just \$10 billion. Why was the Government only allocated this amount? There were another several scores of billions in the income, is it possible for the Government to have a bigger share? We cannot see why not as an EF of over \$1,000 billion is adequate to resist any hostile attacks on the financial market of Hong Kong. The fiscal reserves of the Government can be considered more than adequate. Why has the Government accumulated all the earnings instead of using them? I think a lot of people will ask this same question.

We have to use the money we earn. We are now facing a lot of social problems. The Government has money to spare. But we have a feeling that the Government wants to keep instead of spending the money. We do not oppose the Government depositing the money instead of using it. However, the Government subsequently proposed a tax increase, that is, the GST that has been under discussion earlier for several months. Members of the Legislative Council have recently requested to have the salaries tax rate reverted to 2002-2003 level. But the Financial Secretary dismissed it as merely a simple slogan. I believe the people of Hong Kong have felt very indignant about this. As there is over \$1,000 billion, in which over \$60 billion is the investment income only, and the Government has subsequently done a lot of work but eventually told us not to think too much, I think everyone has not been convinced under these circumstances.

Regarding the GST, the Government engaged in an argument with us then. We in the Hong Kong Federation of Trade Unions (FTU) have all along held a strong view in opposing the introduction of this tax. It is a tax payable across the board, regardless of the rich or the poor, the high-income or low-income group, which means everyone has to pay the GST. Therefore, is it a good taxation item? We do not think so because it is a "regressive" tax instead of a "progressive" tax. The principle of the progressive tax is that those who earn more will pay more and those who earn less will pay less, which is the right direction. Our opposition at the time was based on this principle.

Moreover, the Government said a lot then. However, after the investment, it was found that the income finally was around — according to the estimates of the Government, it was around \$20 billion to \$30 billion. And we just took this figure. We held that as we had the EF as well as a large amount of income, if the Government's share were increased, there would be no need for the Government to mobilize so many resources to introduce the GST. I thought the Government should not threaten us. Therefore, in my view, today's debate is progressive and useful, in enabling the people of Hong Kong to understand that should we have a bigger share of the return in this regard, such as \$10 billion to \$20 billion, the availability of funds should no longer give us a headache, and the Government did not have to threaten the people of Hong Kong at the time.

Of course, the Government, particularly at the final stage, said the significance of the introduction of the GST lay in broadening the tax base, that is,

to make hay when the sun shines. We were caught in a predicament during the attack of SARS. Therefore, it was necessary for us to take this step now. However, frankly speaking, we do not oppose the discussion on broadening the tax base. If rational discussions on whether the tax base of Hong Kong is broad or narrow are held, I think it is a topic that is worth our examination.

Moreover, we have often seen that our Government has enjoyed a satisfactory regular income, with funds brought in from land sale, rates and other items. In fact, it seems that many Hong Kong people do not pay tax on the surface. But they pay tax in actual fact, including various direct or indirect taxes. How can they be regarded as paying no taxes at all? Therefore, given the high level of returns of the EF, I think it is a bit silly to discuss the GST. It has turned out that the purpose can be achieved through the allocation of a bigger share of the income. You say that the people of Hong Kong not pay taxes? It is not the case in reality.

I wish to discuss in passing with the Government the proposal of reverting the salaries tax rate to 2002-2003 level. The Government argued with us then because it intended to increase the number of taxpayers, that is, to have more employees pay tax. We then asked: What were these people? Were those with monthly salaries of over \$8,000 going to pay tax? There were a lot of consortia and tycoons in Hong Kong. The disparity between the rich and the poor would then be widened. In terms of the overall situation, why has the Government always targeted at the general public? Why has it not thought of some fairer measures to please the community as a whole? Is the reverting of the salaries tax rate to 2002-2003 level able to give those among us with monthly salaries of only \$8,000 to \$9,000 a chance to improve their lot? Do not target at this area anymore. In our view, the reason why over 3 million people have all along not been required to pay tax is even if they work, their pay is not high. Some of them have become the working poor because their wages are even lower than the Comprehensive Social Security Assistance (CSSA) rates. Therefore, I very much hope that consideration can be given to this issue.

Moreover, I also wish to talk about a subcommittee meeting of the Legislative Council held yesterday to review matters regarding CSSA. A number of people put forward various views. Different groups were present at the meeting, including children living in poverty, elderly finding it difficult even to see a doctor, single-parent families and new migrants. In fact, we have

argued about the CSSA figures, indices and standard rates for the poor in Hong Kong for nearly 10 years. The argument has gone on and on.

I can remember very well that in the last meeting of the Finance Committee of the Legislative Council, when we discussed the CSSA standard rates paid out by the Government, a number of Members spoke to express their dissatisfaction with the failure of the existing CSSA standard rates to catch up with the current situation. Therefore, I very much hope that the Government will give these issues some thought, give such beneficial and constructive issues some thought. In addition, I can see that the recent financial condition of the Government is not bad. The proceeds from yesterday's land sale amounted to \$1.8 billion. I hope the Government will spare a thought for the poor (*the buzzer sounded*).....

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

MISS CHAN YUEN-HAN (in Cantonese):think about them more.

Thank you, Deputy President.

MR VINCENT FANG (in Cantonese): Deputy President, I speak in support of Mr Howard YOUNG's motion because it does not propose an increase in the Treasury's share of the investment income of the EF. And neither the EF nor the fiscal reserves of Hong Kong will be mobilized.

Whenever proposals of this nature are made, the Financial Secretary has always refused on the grounds that an adequate level of the EF must be maintained to provide stability for the Hong Kong Dollar, that investment involves risks, and the income is unstable. However, a number of colleagues have asked: What level of the foreign exchange reserves of Hong Kong is considered adequate? Many academics and investment professionals opine that the present foreign exchange reserves of Hong Kong, coupled with the measures of the Hong Kong Monetary Authority (HKMA) to protect the Hong Kong Dollar, have actually been very much adequate.

When international hedge funds attacked the Hong Kong Dollar in 1997, the foreign exchange reserves of Hong Kong stood at US\$93.2 billion only,

whereas the reserves has surged to US\$132.7 billion as at November this year. Moreover, we now have a number of measures in place to protect the Hong Kong Dollar. There are more channels for the monitoring of the activities of international hedge funds and increased communication with the central banks of other countries.

We understand that as a housekeeper, the Government naturally wishes the greater the fiscal reserves the better. However, the point is that when the Government just keeps the reserves and ignores other needs, it is similar to refusing to pay for repairs while the house leaks. Therefore, it is not a very competent housekeeper after all.

We are not asking the Government to invest all the capital rashly and spend every penny of the return. First of all, when we look back on the past, even in the darkest period of the Asian financial crisis, the EF still recorded a satisfactory return. Information revealed that the investment return in 1998 was HK\$93.8 billion. Hong Kong experienced the catastrophic SARS incident in 2003. However, as the international investment environment was favourable, the investment income of the EF amounted to HK\$89.7 billion. The international investment environment this year is even better. So the Chief Executive of the HKMA has projected a possible substantial return for this year.

(THE PRESIDENT resumed the Chair)

We understand that in the portfolio of the EF, part of the amount, that is, the monetary base, does not go to the fiscal reserves of the Government, and the investment income should not be transferred to the Treasury. However, the accumulated surplus is the surplus gained in past investments. Normally, the principal will not be mobilized. Therefore, the transfer of part of the investment income to the Treasury in the future is a very reasonable proposal. As at the end of October, the foreign exchange reserves amounted to HK\$1,162.7 billion, in which the fiscal reserves and the accumulated surplus accounted for 67.5%. It can be calculated on the basis of this figure that the investment income allocated to the Treasury each year may have a 100% increase. Take the investment income of HK\$38.2 billion of the EF in 2005 as a base of calculation. An amount of \$25.7 billion can be allocated to the Treasury, which is \$15.7 billion more than the original share of \$10 billion.

Such a practice neither involves any changes in the taxation system nor affects the competitive edge and business environment of Hong Kong, as well as the needs of living of the people. But it can fetch a stable and handsome income for the Government and address the constant concern of the Government over the huge size of future public expenditure. I really do not understand why the Government refuses to give it serious consideration.

The recent misunderstanding between the governments of the two places has driven the fresh water fish merchants and hawkers out of work for three weeks. The trade just hoped that the Government would be sympathetic towards the predicament of the trade and waive the rentals during the period of suspended operation. And the food industry was also willing to contribute its efforts to request the Government to establish a relevant emergency assistance fund. However, the Government raised the question of "Where can it find the money?" on every occasion.

The Government is ready to deal a blow to our advantage in a simple and low tax regime, which is the key to the success of Hong Kong, to initiate the broadening of the tax base in order to increase its income to meet the future expenditure on education and medical services. However, the Financial Secretary has mentioned that the reverting of the salaries tax rate to the 2002-2003 level will cost \$5.2 billion and the nurturing of 10 000 students to receive education until university graduation in Hong Kong will cost \$10 billion. If the Government's share last year is increased, these two major problems will be solved. And the Government will no longer need to worry about finding the money.

I hope the Financial Secretary will call a meeting with the Exchange Fund Advisory Committee as soon as possible to discuss the proposals put forward by Members today. I believe if the Financial Secretary agrees to revise the agreement on the sharing arrangement of the investment income, all the colleagues in this Council will accelerate the relevant vetting process.

With these remarks, I support the original motion. Thank you, President.

MR JAMES TIEN (in Cantonese): President, today's motion proposes the revision of the agreement between the Government and the Hong Kong Monetary Authority (HKMA) on the methodology for sharing the investment

income of the EF in the hope that the income of the Treasury from this will see an increase.

President, many people think that all the money of the Government of Hong Kong and the HKMA is actually the money of the people. All the money of the HKMA actually belongs to the Government of Hong Kong. And the money of the Government of Hong Kong belongs to the people. Therefore, the Liberal Party puts forward this proposal because, in our view, it seems that the Government is suspected of dividing the community by always asking the question of "Where can it find the money?" lately. Among the 7 million people of Hong Kong, some of them are called the Government, and some of them are called the people. In fact, all the money belongs to the people. The Financial Secretary is not in attendance now. He certainly absolutely agrees that this is not his money. And the Chief Executive also agrees that this is not his money. From this perspective, all the money actually belongs to the people of Hong Kong, and the money of the HKMA is also the money of the Government. Therefore, from the Government's point of view, why is it necessary for the Government to discuss with the HKMA each year about the amount of the year's allocation or next year's allocation?

In the several years after the reunification, the average rate of allocation has been 32% each year. From the angle of "where the Government can find the money", I think it should not divide the community or the representatives of different sectors in the Legislative Council. That means if the question of "where the Government can find the money" is asked, some of the Members certainly will suggest the payment of more profits tax by the business sector that earns more. Conversely, some of the Members from the business sector will think the Government should keep expenditure within the limits of revenues. So it might as well spend less. However, if we do not want to be divided by the Government, we have to see whether there is enough money now for government spending. We have to spend \$250 billion each year. And now, that is, this year, we have \$70 billion from profits tax, \$50 billion from salaries tax, as well as the so-called unstable income from the real estate sector, which has recently been very healthy and stable, or even in exceedance of the target. These incomes, coupled with the amount of the investment return of the EF, enable the "principal" to be left intact, that is, the "principal" amounting to over \$1,160 billion as at October. Can it be dealt with this way?

Regarding the rate of return, the performance of the HKMA is not particularly good, nor is it bad. The average rate of return has stood at 6.5% over the years. And it has yielded at least \$70 billion per annum. Given our government spending is \$250 billion, if the income of \$70 billion is included in the Budget, coupled with profits tax, salaries tax and the over 3 000 fees and charges that are levied on the basis of "user pays" and cost recovery, we hold that the budget of the Government should be balanced. It can even afford a more aggressive increase in the expenses on poverty elimination, medical services and education.

The Liberal Party has given our absolute support to the Government in managing the finances in a prudent manner and handling our money properly. We have also given our absolute support to Financial Secretary Henry TANG in considering not only the management of this fund, but also the future of Hong Kong and the future Financial Secretary. We have absolutely agreed to all this. However, is it possible that the management of finances in an over-prudent manner will make people associate it with "Scrooge", that means the Government always asks people for money regardless of its own wealth?

We have cited a lot of figures to illustrate the general distribution of the sum of \$1,100-odd billion: \$300 billion serves to maintain the stability of the monetary base, to which we agree; \$300 billion serves as the fiscal reserves, to which we also agree, but regarding the \$500 billion of accumulated surplus, is there any need for its continued expansion nowadays? When we look back on the days of the financial crisis, over \$100 billion was mobilized to defend the share market in which the Hong Kong Dollar had come under attack. Subsequently, the "three measures proposed by YAM" have been put in place, that is, the establishment of a comprehensive mechanism to protect the exchange rate. I think the current situation has become very stable and healthy. Under these circumstances, if there is no longer any need for the continued expansion of the sum of \$1,160 billion, the Liberal Party suggests the transfer of the full amount of the Government's share. Of course, other political parties may have their different views. But we think the Government should not continue the past practice of transferring one third of the amount. It is because the transfer of one third of the sum of \$70 billion only equals to \$10-odd billion, resulting in an additional increase of \$40 billion to \$50 billion in the accumulated surplus. This figure exceeds the proposed revenue of \$30 billion possibly generated by the GST as mentioned by a number of Members earlier, as well as the several hundreds of million dollars for elimination of poverty.

We would like to turn to talk about the HKMA. Naturally, it is responsible for capital preservation. However, during the process, is it necessary for the HKMA to invest in such a prudent manner? Take Singapore as an example. Its average rate of return over the past 20 years or so was 9.5%. But the investment of the Singaporean Government has not given us an impression of imprudence, resulting in chaos and heavy losses. The Singaporean Government has exercised great prudence. If the average rate of return amounts to 9.5%, our 6.5% has relatively fallen short by three percentage points. If we can be more aggressive and achieve a rate of return as high as that of Singapore by increasing three percentage points, the sum of \$1,100 billion, for example, will generate an increase of over \$30 billion a year. We have debated a lot of issues here and requested the Government to spend according to the principle of keeping expenditure within the limits of revenues. But the Government has said it has no money to spend. I think the Government should pay more attention in this regard.

To sum up, we think it is feasible in present-day Hong Kong for the Government to consider revising the sharing arrangement of the investment income to transfer an additional amount or the full amount as we have suggested to the Government. Moreover, if such funding is distributed in the Budget and eventually the Government spends \$250 billion, while providing the income from profits tax, land sale proceeds and salaries tax all exceed the targets, it is not impossible to solve the problem and there will be an extra surplus of scores of billions of dollars. The extra surplus will then be placed with the EF for investment purpose. This is the answer to the question of whether the sum of \$1,100 billion will ever have a chance to expand. I think it is not necessarily without a chance. Therefore, the Government does not always need to prepare a deficit budget or a barely balanced budget, as well as to ask us "where it can find the money".

Thank you, President.

DR FERNANDO CHEUNG (in Cantonese): President, the recent report of the United Nations has revealed that the *per capita* wealth level of Hong Kong is actually the highest in the world. And the net worth *per capita* is as high as almost HK\$1.58 million, which is 210 times that of Nigeria, the poorest country in the world. This is an economic achievement won by the hard work of the people of Hong Kong, which has certainly filled us with pride. However, the

Gini Coefficient of 0.525 in Hong Kong is also among the highest in the world. Hong Kong has the most serious problem of disparity between the rich and the poor among all the developed countries and regions. There is no official poverty line in Hong Kong. But unofficial estimates have indicated that the poor population of Hong Kong is as high as 1.2 million. In the third quarter of 2006, the number of low-income households with a monthly income below \$4,000 was 187 100, representing 8.1% of the total number of households. The number has seen a more than 100% increase when compared with the 4.5% in the same quarter 10 years ago.

On the one hand, we have a very high *per capita* wealth level, and on the other, we also have a surprisingly big population of the poor. This exactly shows the imbalance in our public finances, which has led to the pooling of wealth in a handful of the rich despite the continued accumulation of wealth in general. As a result, neither the middle class nor the grassroots is able to have access to a fairer allocation of resources through the system of public finances. And the public spending on education, medical services and social welfare has all along been kept at an extremely low level.

We saw in the past that the public spending of some so-called welfare countries in Europe and America often accounted for over 60% of their Gross National Product (GNP). This figure generally remained around 40% despite the great effort of the governments of these countries to control growth in public spending. Take the ratio of public spending to GNP of the member countries of the Organization for Economic Co-operation and Development as an example. It was over 30% in all of these countries. In 2004, it was 40.8% in Britain, 58.3% in Sweden and 49.8 in France. Even in the United States where the public spending was compressed to an extremely low level, the ratio remained at 31.9%.

In recent years, the ratio of public spending to GNP of these countries has gradually seen a decrease. However, it is not due to the popular belief of the bankruptcy of welfarism. Instead, the welfare reforms implemented over the years have enabled these countries to make fairer allocation of social resources, foster a social environment conducive to a level playing field and provide various channels for the development of the socially disadvantaged. As a result, the demands for welfare from the people have, on the contrary, seen a drop. Therefore, the reduced level of public spending of these countries exactly shows

that social investment in public services and infrastructural projects will lead the community towards harmony and stability, as well as bring about positive results.

In Hong Kong, the government spending has only accounted for 10 percentage points or so of the GDP over the years. In recent years, the Government has kept stressing the need to tightening up the public purse strings. The ratio of public spending to GDP saw an accelerated drop from the peak of 22.2% in 2004 to around 18% this year. The Government has been complacent about this outcome, thinking the economic miracle of Hong Kong over the past 30 years has been created by the so-called "big market, small government" guidance principle. And to sustain this myth of Hong Kong, strict control over public spending is essential. However, on the other hand, under these circumstances, we can see that the middle class has always complained about not being able to enjoy any public services while the grassroots has led a very difficult life. The failure of the Government to properly utilize the public wealth to solve the problems faced by people from different walks of life is exactly the core of social discord.

Today, most Honourable colleagues have given their support to Mr Howard YOUNG's motion. I will support the motion too. However, in my view, the problem does not lie in the willingness of the Government to revise the sharing arrangement of the investment income of the EF but its unwillingness to commit more resources to public services.

As at the end of October, the total assets of the EF amounted to HK\$1,162.7 billion, in which around HK\$292.1 billion provided backing for the monetary base of the Hong Kong Dollar, and the remaining foreign exchange reserves of as high as HK\$800-odd billion can be said to be left idle except for investment purpose. If the performance of the global economy keeps going forward, the accumulated surplus will continue to amass. In the meantime, the fiscal reserves of the Government are overflowing, amounting to HK\$288.7 billion, that is, US\$37 billion. As the Government is worried about the recurrence of the "crying wolf" scenario, it has long given the notification that the target of the estimated surplus of \$5.6 billion set out in the Budget this year is expected to be achieved. As stamp duty, land sale and investment income of the EF have brought a favourable amount of revenue for the Government, non-government estimates have projected that the fiscal surplus of the Government in the financial year of 2006-2007 will eventually reach \$20-odd

billion. And the Government itself has also projected earlier on an additional surplus of \$100 billion over the next five years.

The currency exchange rate of many foreign countries has been left free floating. It is not necessary for these countries to accumulate a large foreign exchange fund like that of Hong Kong. And it is not unusual for them to have a deficit. Even in countries with fiscal reserves, the liabilities of their Government are not kept at a very high level. The statistics of the International Monetary Fund have shown that the assets of the official reserves of Britain are US\$53.8 billion, the United States US\$66.5 billion, Sweden US\$25.8 billion, France US\$92.1 billion and Hong Kong US\$131.2 billion.

Therefore, even if the full amount of the annual investment income of almost \$70 billion of the EF is transferred to the Treasury, it is likely that it does not mean much to the Treasury that is in need of a "flood discharge". The most fundamental change required is on the concept in public policy of the Government, that is, the "big market, small government" principle or the so-called "positive non-interventionism". These are actually not any golden rules. It is the wish of the public to see the Government play a more active role in improving the people's livelihood and put more resources to enable more people, rich or poor, to enjoy the fruits of economic development.

President, I so submit.

MR RONNY TONG (in Cantonese): President, the Government has been talking about broadening the tax base in recent years or this year. People without any ideas will get the impression that our Government is really as poor as a church mouse. However, in reality, our Government is in possession of over hundreds of millions dollars of reserves. I believe the term "as rich as a nation" can best describe it. In fact, the purpose of broadening the tax base is to maintain a stable income for the Government. However, the best way to ensure a more steady income for the Government is to work on the EF.

Let us take a look at some figures. Since the SAR Government linked the return of the fiscal reserves with the EF in 1998, apart from the year 2001 with the September 11 incident, the EF has had very handsome returns on average

each year. From the year 1998 to 2005, the total investment income amounted to \$481.7 billion, with an average of over \$60 billion a year. The Treasury's share was \$156.9 billion, with an average of \$19.6 billion a year.

A rough calculation shows that around 30% of the investment income of the EF has been allocated to the Treasury while the remaining 70% has been placed with the EF for continued accumulation in the form of the accumulated surplus. As at the end of October this year, the total assets of the EF were as high as \$1,162.7 billion, which ranks seventh in the world.

Around \$300 billion of the assets of the EF serves as the monetary base, the remainder is made up of the fiscal reserves and the accumulated surplus earned over the years. In fact, the monetary base itself has already provided a form of protection. Apart from it, do we need the protection of an extra \$800 billion?

Despite the absence of an objective benchmark on the level of foreign exchange reserves among nations, many economists in Hong Kong have opined that to defend the linked exchange rate of Hong Kong the reserve of over \$1,000 billion is actually fairly adequate.

Regarding the fiscal reserves, the Government has estimated that the balance in the year 2006-2007 will be \$306.4 billion, which is equal to 15 months of government expenditure. We have estimated that the reserves will surge to almost \$400 billion in the year 2010-2011, which is equal to 17 months of government expenditure. Mr Antony LEUNG, the former Financial Secretary, stated in the Budget that it was only necessary for the Government to hold 12 months of government expenditure in reserve. Does this benchmark still stand? If so, should the extra amount of reserves be spent on the people to address the long-term problems of Hong Kong, particularly the wealth disparity?

The economy of Hong Kong has seen an upturn in recent years, leading to an increase in government revenue, as well as a favourable investment income of the EF that sometimes even exceeds the Government's expectations. Take this year as an example. The Government's share in the first three quarters of this year already amounted to \$19 billion, which is even more than the estimated \$18.2 billion for the whole of last year.

However, the Government has all along refused to increase its spending on the improvement of people's livelihood and welfare on the grounds that this is non-recurrent revenue. On the one hand, the Treasury is "flooded", and on the other, there are over 70 000 people earning less than \$5,000 a month in Hong Kong. Not only do they fail to share the fruit of economic recovery, they are also trapped in an abyss of misery every day.

Article 107 of the Basic Law certainly stipulates that the Government should strive to achieve a fiscal balance and avoid deficits. But it does not mean to require the Government to act as a miser or a mean wealthy man. President, Christmas is round the corner. Mr Scrooge, the miser in Christmas, has naturally sprung to my mind. However, the miser in Christmas is mean with his own money. It is a pity that the Government is not mean with its own money but the money of the people of Hong Kong.

President, to avoid the Government keeping on using the excuse of the investment income of the EF is non-recurrent revenue as a shield, the Civic Party suggested earlier on in the proposals for the 2007-2008 Budget the allocation of a fixed share of \$30 billion from the Hong Kong Monetary Authority (HKMA) to the Government as a steady annual income. The injection of this \$30 billion into the recurrent revenue can not only maintain the stability of government revenue, but also facilitate the drawing up of the Budget and the planning of infrastructural projects, as well as the adherence to the principle of financial management of keeping expenditure within the limits of revenues. We cannot see any reasonable grounds in support of the Government's objection to this proposal. In fact, this kind of so-called "underwriting" can be seen in many other areas. For instance, in the recent amendment to the Betting Duty Ordinance, the Jockey Club has undertaken to pay the Government a "guaranteed" betting duty of \$8 billion each year. We cannot see why the HKMA cannot give the same undertaking to allocate a "guaranteed" \$30 billion to the Government each year to ensure a stable annual income for the Government. In fact, given this additional allocation of \$30 billion to recurrent revenue each year, the Government can do a lot more work. For instance, the implementation of small-class teaching costs additional resources of only \$2.4 billion each year; and reverting the CSSA rates for the elderly and children as well as the disability allowance to the levels prior to their reduction in 2003 costs a petty sum of several billion dollars.

The Civic Party submitted earlier on a Christmas wish list to the Government. We hope the Government will carry out a series of initiative to improve the people's livelihood. And the costs for all the items in the list have actually added up to only \$8.6 billion. Therefore, if a fixed share of \$30 billion can be allocated, the Government can actually do a lot more on the improvement of people's livelihood.

I wish to particularly remind the Government that the fiscal reserves of Hong Kong are the fruit of the concerted efforts of the people of Hong Kong over the years. They are money earned by the people with their blood and sweat. In times of economic slump with a high level of deficits, the people weathered the hard times with the Government. When the economy has now seen an upturn and the Treasury is "flooded", consideration should be given to returning wealth to the people and improving the people's livelihood. Please accept our present proposals. Thank you, President.

MS EMILY LAU (in Cantonese): President, I speak in support of Mr Howard YOUNG's motion. President, on 1 June last year, a motion debate of a similar nature was held in this Council where Members spoke on similar issues. This is actually an exceptional case, President, because we have often — even on the motion I am going to move later on — held very different views. However, regarding this motion, different political parties and groupings share the same view.

I would also like to thank the Secretariat for compiling again such a quality document for us. The record of the Secretariat shows that since the year 2000, colleagues have kept making the same request in the meetings of the Panel on Financial Affairs and the Legislative Council meetings. As I very much support such an opinion, I do not mind taking all the trouble to repeat it. A Member said at the time, "The current level of EF is well above the level required to provide full backing for the current Monetary Base. The need of the fiscal reserves for meeting the monetary purpose has already been met. It is high time for the Administration to review how the accumulated surplus of EF should be used. Given that EF is public moneys, consideration should be given to using it for the interests of the people in Hong Kong, such as by transferring part of the accumulated surplus of EF to finance public programme;".

Of course, some Members, such as Dr Fernando CHEUNG and Mr Ronny TONG have just requested to use these moneys to combat poverty; some Members have proposed the provision of tax concessions for the needy classes; some Members have even suggested that the implementation of measures to reduce public spending should be avoided. Members have unanimously requested that consideration be given to transferring a fixed rate of return or a fixed amount from the accumulated surplus of the EF to government revenue. A Member said, "As the investment income of EF is subject to volatility and uncertainties in the global financial markets, there may be fluctuation in the share of investment income for the fiscal reserves, thus creating difficulty for the Government to project the annual investment return for the fiscal reserves."

Therefore, a Member proposed, "The Government should consider alternative arrangements, such as adopting a five-year average rate of investment return; setting a fixed amount of return; or setting a reasonable rate of return which would be subject to periodic view, and so on, for the fiscal reserves in sharing the annual investment return to EF so as to provide the Government with a more stable revenue source."

Having said that much, President, although different political parties and groupings as well as independent Members have given this suggestion their support, the authorities just gave us a sentence in return — it was not "No comment" but "Sorry but we cannot go along". I have referred to my speech delivered last year, in which Mr Albert HO corrected me and it was "Sorry but we cannot go along". Even now they are not going along with us by attending the meeting. Instead, they have gone for dinner, which has made me very disappointed. This motion is proposed by the Liberal Party. But we have also given it our support.

President, you may recall in a debate several weeks ago, Mrs Selina CHOW, deputy chairman of the Liberal Party, rose to say that their view was so very close to that of the Government that it could be described by one English word — please allow me to use a mix of English and Chinese because this was what she said — soulmate, that is, a mate of the soul. I believe the use of our moneys involves the basic foundation of public governance. Regarding this, it is likely that the so-called soulmates "went on separate ways" several years ago. When they have not seen eye to eye on such a basic issue, I really do not understand how the Liberal Party can treat it as its mate. In any case, they will still nominate "Bowtie".

President, we have found it a great pity. We understand that in the constitutional system of Hong Kong, the legislature is not in a position to propose how to use the public moneys. It is the responsibility of the executive authorities. However, the executive authorities are not elected by the people whereas the legislature — is elected partly by small-circle elections and partly by big-circle elections. The majority of the people are of the view that — Colleagues have mentioned a number of times earlier that in the total assets of \$1,162.7 billion of the EF, there is almost \$300 billion of fiscal reserves and almost \$500 billion of accumulated surplus. Everyone is asking whether it is high time to transfer some of the moneys from the EF.

As Dr Fernando CHEUNG said, the monthly income of nearly 200 000 households is as low as \$4,000 each or below. There is such a wide gap between the rich and the poor. Some colleagues, such as those from the Democratic Party, have proposed the allocation of some money for tax cuts. I believe tax cuts will definitely become one of the topics of our discussion. Dr Fernando CHEUNG has also mentioned that the middle class have become indignant because they have received nothing. However, the Government has allowed Joseph YAM to store up the sum of over \$1,000 billion and leave it idle. Whenever he attended the meetings, he would always say the greater the reserves the better. However, it should not be a decision of his, President, nor should it be a decision of the Financial Secretary. Instead, it should be a decision of the representatives of the people.

I very much support Mr Howard YOUNG's motion. I also hope that the authorities will not be as stubborn as a mule. We have talked about this issue from the year 2000 to 2006. Actually, "is there any sense in it"? This Government has completely ignored the public opinion as well as the views of the majority of the representatives of public opinion. I think such conduct warrants due condemnation.

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

MR ALBERT CHAN (in Cantonese): President, the money in the EF is not gained by government officials for the people of Hong Kong. The level of the EF has reached \$1,162.7 billion through accumulation over the years. It is the wealth accumulated by the people of Hong Kong over the years.

How should the accumulated wealth be handled? This involves the common interests of the people of Hong Kong. However, our Government has acted like a miser. The miser has preferred talking outside to listening to our speeches here. This shows that this Government has not much intention to listen to the words of the Members. Perhaps they would rather enjoy red wine with the tycoons; play golf; have a drink or make more frequent trips to London or Japan to enjoy concerts.

Therefore, it is exactly due to this gap between the high-ranking officials of Hong Kong and the people as well as the elected Members of the democratic camp — representatives of public opinion like us — that there have been widespread grievances and discontents in Hong Kong. President, although they are not here, I have to make such a statement.

Madam President, as there are not many people in the Chamber now, would you please ring the bell to bring them back. This is the first time in the past 10 years or so that I have requested to ring the bell.

PRESIDENT (in Cantonese): It is all right.

MR ALBERT CHAN (in Cantonese): I have requested to ring the bell to bring government officials rather than Members back to the Chamber.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell because a quorum is not present at the moment.

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

PRESIDENT (in Cantonese): A quorum is now present. Mr Albert CHAN, please continue with your speech.

MR ALBERT CHAN (in Cantonese): My apologies to Honourable colleagues. The purpose of my request to the President for ringing the bell is actually to

bring government officials rather than Members back. However, our incompetent high-ranking government officials have known nothing about basic manner, politeness and respect. Therefore, the popularity of this Government has kept falling with a reason. If these officials remain as high-ranking officials and Secretaries of Department in the Government, it will only lead to a gradual fall of authority in governance.

President, I wish to put on record my strong displeasure with the absence of the Financial Secretary. I also wish to have him severely reprimanded. President, it is extremely boring to speak to an empty chair because it is like speaking to a wall with only echoes coming back. The lack of sincerity of the Government in listening to Members' views is a great insult to this Council. To show respect for Mr Howard YOUNG's motion and this Council, I will continue with my speech. But I deeply regret the indifference, incompetence and disrespect of the Government.

President, the League of Social Democrats (LSD) put forward a proposal earlier to the Government on the Budget, which was the request for the allocation of \$20 billion from the EF to establish a fund for social construction. The purpose of this fund includes the combat of poverty, the provision of medical assistances and allowances, the provision of assistances to low-income families such as helping children and teenage CSSA recipients take part in outdoor activities and giving computer support or financial support to the low-income group, the provision of medical allowances for senior citizens and the low-income group, the provision of medical and transport allowances for women having lived in Hong Kong for less than seven years, as well as the improvement of the life of the low-income group. A series of proposals have been made in the hope that the establishment of the Grassroots' Livelihood Improvement Fund will help improve the lot of the low-income group or the general public.

Dr CHOW Wing-sang said years ago that Hong Kong was an affluent society with poverty. His book has been published almost 20 years. The present-day Hong Kong is even more affluent when compared with the case 20 years ago. But the problem of poverty has also deteriorated. At present, there are luxurious apartments priced at over \$40,000 per sq ft here. But there are also 1 million people living in abject poverty in Hong Kong. This is the misfortune of the people of Hong Kong. But this misfortune has been caused by our Government. As it has kept a tight grip on the sum of over \$1,000 billion, the people have been made to suffer.

President, I wish to talk about what can be done with \$20 billion. A public housing flat for a three-member family takes \$270,000 for its construction and over 72 000 flats can be built. The sum of \$20 billion can provide job opportunities for 4.16 million (Appendix 1) construction workers for a year. If it takes \$1 million for the renovation of an old building, the sum of \$20 billion can be used for the renovation of 20 000 old buildings, thus creating 119 000 jobs with monthly salaries of \$7,000 for two years. The sum of \$20 billion can also provide an additional \$308 for 540 000 CSSA recipients for 10 years. Therefore, Members can see that the Government obviously has the resources to give direct and simple assistances to different groups of people in Hong Kong including public housing residents, the elderly, people with medical needs, the unemployed, and so on. However, what has the Government done? The Government even expressed earlier the need to introduce the GST on grounds of the narrow tax base of Hong Kong. It finally realized it was in the wrong and reined in to call off the promotion.

President, in the prevailing economic condition, we support Mr Howard YOUNG's motion in principle. However, the LSD opposes the proposal of tax cuts because it will lead to a reduction of revenue for the Treasury and a cut in spending in many areas, to which we disagree. The Government must first take care of the needy and improve their lot before consideration is given to tax cuts. With no improvement in the basic living conditions and 1 million people living in abject poverty facing medical, education and housing problems, the rash decision of tax cuts will only widen the wealth gap, as well as making the chance for the low-income group to improve their life even slimmer.

Therefore, President, the LSD supports the transfer of funds from the EF in principle. But we do not support Mr Howard YOUNG's motion, particularly its intention of tax cuts. Therefore, the two members of the LSD will abstain from voting on his motion. Thank you, President.

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

MR LEUNG KWOK-HUNG (in Cantonese): As the saying goes, "To score a fluke." The debate today on Mr Howard YOUNG's motion has actually scored a fluke because he has given Legislative Council Members an opportunity to

speaking in detail how it is unnecessary for the Government to substantially cut spending in various areas in order to achieve a balance of revenue and expenditure for Hong Kong, particularly the CSSA system which has attracted widespread criticism. In fact, Hong Kong is a.....

MR JAMES TO (in Cantonese): Madam President, there have been no government officials in the Chamber so far.

PRESIDENT (in Cantonese): Yes, Mr James TO. Please sit down first. According to the Rules of Procedure, the Secretaries of Department concerned or the Secretaries themselves are not required to be in the Chamber during a motion debate of Members. But.....

MR LEUNG KWOK-HUNG (in Cantonese): President, you might as well.....

PRESIDENT (in Cantonese): You can see that three government officials are listening to.....

MR LEUNG KWOK-HUNG (in Cantonese): President, President.....

PRESIDENT (in Cantonese): Please do not speak when I am speaking to another Member. If you wish to speak, please do so later.

There are officials listening to the views of the Members. But I cannot request the attendance of a particular official in the meeting. If you find the Rules of Procedure lacking in detail, perhaps consideration may be given to the introduction of relevant amendments.

MR JAMES TO (in Cantonese): Madam President, I think a quorum is also not present now. I hope I will try to contact the Chief Executive to see what can be done. There is no reason that.....

PRESIDENT (in Cantonese): The absence of a quorum is an issue. But the other issue does not fall within the jurisdiction of my presidency. Please sit down.

MR JAMES TO (in Cantonese): OK.

PRESIDENT (in Cantonese): Before the bell is rung, I would like to know what Mr LEUNG Kwok-hung wishes to say.

MR LEUNG KWOK-HUNG (in Cantonese): Madam President, after hearing your words, I think it is very sad that this is beyond your power. The relationship between the Government and the Legislative Council is.....

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, this is not the occasion for you to comment on the relationship between the Government and the Legislative Council, nor to discuss the relationship between the executive authorities and the legislature. Even if you wish to continue to speak, I have to ask you to sit down first because Mr James TO has requested to ring the bell to bring Members back to the Chamber. Please sit down.

Regarding whether it is sad or not, the Rules of Procedure have been set down by Members. And I am only the one who is responsible for the enforcement of the Rules of Procedure. Therefore, I hope Mr LEUNG Kwok-hung will get a thorough understanding of this first. In the case of feeling sad, I believe you should first feel sad. Please ring the bell.

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

PRESIDENT (in Cantonese): A quorum is now present. Mr LEUNG Kwok-hung, please continue with your speech.

MR LEUNG KWOK-HUNG (in Cantonese): I know that Financial Secretary Henry TANG is nearby, drinking coffee outside. I believe he is watching the

television. I hope he will come back at watching the television. However, I believe he is not going to come back. I think he is very stubborn and arrogant. There is the so-called "Crown Prince Party" in the Mainland. He is also the descendant of the rich of Hong Kong. They were chosen to rule Hong Kong through a small-circle election. But they have ruled Hong Kong in such a manner. He is even worse than those in the "Crown Prince Party" in the Mainland because he is a member of the "Eunuch Party". What is the "Eunuch Party"? We all know what the Guards in Embroidered Coats and the Eastern Depot are. When the Emperor goes out on an inspection tour, they always go along with him. As the Emperor is not here today, it is only natural that the eunuch will also not show up. The eunuch puts on a bureaucratic air before the common masses, but always says "yes" to the Emperor. I only wish to offer four remarks to Financial Secretary Henry TANG, all of which contain the word "but": "Look but see not; listen but hear not; grow old but die not; die but ossify not." He will be back here later to debate with us, but he does not have the patience to listen to our speeches.

Everyone has said that the Government is "flooded" and the EF is "flooded", in fact, the banks are also "flooded". Data show that the deposit *per capita* of Hong Kong is US\$23,000. I would like to ask students or workers now present: Do you have a deposit of US\$23,000 in the bank? Of course not, mate. In fact, during the first round of distribution, that is, the distribution through the sale of labour force, the majority of the people of Hong Kong have already been exploited. The government revenue we are talking about today, no matter how it is accumulated, either comes from the taxes paid by bosses with their profits gained by the everyday "toil" of the low-paid workers without the protection of a minimum wage, or the taxes paid by bosses with their profits gained from the "great housing expenses, high mortgage repayments" of the people. Finally, we have to date had a sum of money to allow us to be the "loan shark" in the international markets. I wish to say that when our fiscal reserves or the EF have "gained profits" in the international markets, what we have gained is actually what the Third World has lost. However, due to the time constraint, I will not discuss this issue today. I actually elaborated on it once. After this wealth is ill gotten, it is also used in a dishonest manner.

Joseph YAM, the Chief Executive of the Hong Kong Monetary Authority, has received very high salaries to perform some unnecessary duties. He definitely can maintain a profit as long as he adopts the policy of investing in a

basket of investment instruments in the international markets. In this way, he certainly will not fail. To the people of Hong Kong, he is now..... Donald TSANG has appointed him, or the SAR Government has appointed him. But what good has he done for the people of Hong Kong? Like all technocrats in the world, he has served the executive bureaucrats, the political bureaucrats as well as the autocratic and despotic rule. What have we said? Article 107 of the Basic Law stipulates that the Government should keep expenditure within the limits of revenues and have a "huge sum" left. Our money is used for satisfying the selfish desires of the Government and people like Joseph YAM. Our money is used for stirring up troubles in the international markets. He has no intention of bringing the money back to us.

Both Mr LEE Cheuk-yan and we in the LSD today have proposed a very simple option, that is, when a sum of money..... The whole lot of money will be used for the implementation of all the necessary work for the community and then "expenditure is kept within the limits of revenues" because we have had too much money. For instance, if the project for the improvement of the community of Hong Kong costs \$150 billion, the sum of \$150 billion will be immediately allocated for this purpose. Why have we disagreed to the motion moved by the Liberal Party? It is because they have not mentioned tax cuts. Mate, even if the tax burden of the middle class is reduced, their gains will immediately vanish into thin air when those bankers raise the mortgage rate by 1%. If the tax payable by LI Ka-shing is reduced, he will keep engaging in speculation and profiteering businesses. If tax cut is the only means, it will certainly not be able to subsidize the funds used for the relief of the present suffering of the people in areas including medical services, education, pension and elderly in poverty.

Therefore, we absolutely cannot agree to an option that, after asking the Government for money, resources for the needy are taken to serve the affluent. If the politics in Hong Kong are characterized by good government and prevalence of justice, and the Chief Executive is monitored by the people, he should take the initiative today to tell the people of Hong Kong in his grand plans of ruling Hong Kong, exactly how much money is needed to solve these problems. And then he should take the initiative to bring that money from the EF. However, it is a great pity that we do not have universal suffrage. Fellow students, without universal suffrage, the people of Hong Kong will not have rational discussions. Without universal suffrage.....

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, no one of us here is your "fellow student". Therefore, please address the "Honourable Members" in future, OK?

MR LEUNG KWOK-HUNG (in Cantonese): OK, Honourable Members. I have earlier meant students on the public gallery.

PRESIDENT (in Cantonese): You cannot address the people on the public gallery. Therefore, I would like to remind you.....

MR LEUNG KWOK-HUNG (in Cantonese): Everybody on the public gallery.....

PRESIDENT (in Cantonese): You cannot address the people on the public gallery. You should address the President. I have already allowed you to address the "Honourable Members".....

MR LEUNG KWOK-HUNG (in Cantonese): President, President.....

PRESIDENT (in Cantonese): Well, you may now sit down as your speaking time is up. (*Laughter*)

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, Mr Howard YOUNG, you may now speak on Mr CHAN Kam-lam's amendment. Your have up to five minutes.

MR HOWARD YOUNG (in Cantonese): Madam President, the aim of the motion moved by the Liberal Party on this occasion is to give Members more opportunities for discussion and so the wording of the motion urges the Government to revise the existing agreement between the Government and the HKMA on the methodology for sharing the investment income of the Exchange Fund so as to increase government revenue.

Various political parties or groupings may have different views as to how such revision is to be made, whether an annualized average will be allocated to the public coffers after slight adjustments, or the income in its entirety will be allocated to the public coffers. In our opinion, we urge that the existing arrangement be slightly revised so as to increase government revenue instead of reducing it. When government revenue increases, should taxes be cut, or should there be more services or infrastructure? I have not stated any answer to this question in my motion. All in all, the Government must keep expenditure within the limits of revenues and the thrust of the motion is to revise the existing income sharing agreement. When it is revised and things are improved, it would be another matter as to how the income is to be used.

The amendment from Mr CHAN Kam-lam is basically similar to that of last year. The first thing is to ensure that there is stable government revenue from the investment income of the Exchange Fund. This is something which we in the Liberal Party agree. We also think that the Government may work with HKMA to devise a new methodology of entering the income into the books and to use an averaging approach so as to prevent any unnecessary fluctuations in investment and to minimize incorrect forecasts made in the budget.

The second main point about the amendment is: "in determining the level of additional investment income of the Exchange Fund to be allocated to the Government, the principle of keeping expenditure within the limits of revenues in drawing up the budget, striving to achieve a fiscal balance, avoiding deficits and keeping the budget commensurate with the growth rate of the gross domestic product must be strictly followed". This amendment is in line with what is set out in the Basic Law, that the SAR Government must keep expenditure within the limits of revenues. This is also something we have been advocating. Besides, we also agree that more investment income should be allocated to the Government and that the Government should not be allowed to be spendthrift about public money and incur deficits again. The principle of "big market,

small government" should be upheld. This is why we think that the amendment moved by Mr CHAN Kam-lam is acceptable.

Now government finances are already back on the right track and surplus begins to appear. There will be close to \$120 billion in the savings accounts of Hong Kong people, that is, in the Exchange Fund. So on the premise of keeping expenditure within the limits of revenues and striving to achieve a fiscal balance, the investment income earned every year should be allocated to the Government. This will ease the financial pressure on the Government and enable each member of the public to share the fruit of economic recovery. It will be a good approach to take.

Madam President, I so submit and I also support the amendment from Mr CHAN Kam-lam.

FINANCIAL SECRETARY: Madam President, I would like to thank the Honourable Howard YOUNG and the Honourable CHAN Kam-lam for moving this motion and the amendment respectively. I am also grateful to other Members for the views they have expressed today.

The enthusiasm Members have directed to the subject is palpable. It does credit to your sentiments. The seasonal spirit of generosity fills this Chamber, and it is a spirit to which I am not immune myself. But, the people of Hong Kong.....

MR MARTIN LEE: Secretary, please clarify to this Council why he exempted himself when speeches were being made by Members.

PRESIDENT (in Cantonese): Financial Secretary, a Member is seeking clarification from you. You can choose to either make a clarification or continue to speak.

FINANCIAL SECRETARY: Thank you Madam President, I would continue to speak.

But, the people of Hong Kong do not pay me to be carried away by the spirit of the season into short-term generosity at the expense of their financial security. I have no doubt that, on the morning after, Members will appreciate why I must approach their suggestions with sobriety.

A major part of my duty to the people of Hong Kong is to ensure that in this season, and in every season, they can go about their lives and business with as little fear and as much freedom as possible. One of the major areas in which I have responsibility to discharge that duty is in maintaining their trust and confidence in the stability and integrity of the city's monetary and financial systems. One of the keys to achieving that is to provide assurance that we can cope with whatever shocks and strains the local, regional or global economy may confront us with.

That duty in crucial areas has been rightly entrenched in laws passed by the Legislative Council. The Exchange Fund Ordinance specifies that the primary purpose of the Fund is to regulate the exchange value of the Hong Kong Dollar, while allowing that it may also be used to maintain the stability and integrity of the monetary and financial systems, and sustain Hong Kong's status as an international financial centre. The primary purpose is enshrined in Article 113 of the Basic Law. There is somewhat greater flexibility with the accumulated surplus of the Exchange Fund and the fiscal reserves placed with the Exchange Fund, but even here, the duty of care remains. I would fail in that duty were I to take actions with those monies that cast any shadow of doubt over our ability to maintain the integrity of the monetary and financial systems, or that diminish our capacity to cushion the shocks of economic downturn. Measures which may seem easy and tolerable in prosperous times may become blocks of concrete on our legs when we have to swim through financial crises.

I really would like those who have been generous with accusations that I am playing Scrooge with Hong Kong's finances to remember that the financial and monetary shocks are not hypothetical, or events that happen only in less fortunate economies than our own. There have been events — some of very recent memory — that have hurt us badly. They have required prompt action by my predecessors, calling on the resources of the Exchange Fund, to get us out of difficulty and enable us to move on. The extensiveness with which the Exchange Fund has been mobilized for this important, statutory purpose varies from event to event, with the most recent one recording a proportion that is much too high for comfort, although in that particular event, the Exchange Fund ended

up making a handsome profit rather than incurring significant expenses, as was the case of the bank rescues in the '80s. We also should not forget the high likelihood of the public finances being in considerable deficit, coinciding with the occurrence of a financial crisis that requires the use of the Exchange Fund, with the substantial withdrawal of fiscal reserves from the Exchange Fund exacerbating the situation. Also, the globalization of financial markets has been a great boon to Hong Kong, but also exposes us to a global array of risks.

Globalization of financial markets has increased the flow of international capital by leaps and bounds. Information technology has further increased the mobility of international capital, in terms of both speed and volatility. According to some estimates, there are now about 8 800 hedge funds with about US\$1.2 trillion under management. The funds continue to be big, non-transparent and leveraged through borrowing or the use of derivatives. There is a potential risk that more institutions with more resources, all seeking rates of return higher than their benchmarks, will act in the same direction at the same time in their search for yield, making markets more volatile.

Hong Kong is an international financial centre sitting at the door-step of the fastest growing and developing economy in the world, and being ourselves the freest economy in the world with no exchange control policies mandated by the Basic Law, and being large and liquid enough to attract international capital but small enough to be tossed around or subject to unscrupulous manipulation, our financial markets are more prone to sharp volatility than those of other centres. This is notwithstanding the robustness of our monetary and financial systems, and the strengths of the institutions, which are benchmarked, and measure well, against the best international standards. For many players in global finance, wherever they are domiciled, it is simply that it is much easier to pump water out of Hong Kong to put out fires in their own backyards. Consequently, it is much more difficult for a medium-sized, free and open international financial centre to maintain monetary and financial stability. Whether we like it or not, this is the reality of international finance and we have no option but to rise up to the challenge. And we have done it well, but clearly not without the occasional use of the Exchange Fund and also unorthodox measures.

"Financial globalization which has induced such dramatic increases in private capital flows has also exhibited significantly improved capacity to transmit ill-advised investments", said Alan GREENSPAN. He went on to

note: "Our productivity to create losses has improved measurably in recent years." Finance ministers and central bankers cannot, without undue intervention in the free market, prevent individuals from making investments that are often spectacular both in their value and the extent to which they are ill advised. But, when the consequences of those decisions hit the markets, the banks or the financial systems, it is the finance ministers and central bankers who have to be ready to shovel up the debris and put things back on a stable footing again. We have to have the tools ready on hand to do this job.

And the task is likely to become more difficult as the much politicized global imbalance continues to loom large over international finance, threatening a disorderly adjustment of global dimension, as geopolitical tension possibly intensifies and as our own country — now the fourth largest economy in the world, the third largest trading entity and the largest foreign reserve holder in the world — continues on a path of reform and liberalization. The application of information technology to international finance has considerably more room to make it even more potent in the years to come.

What happened in Thailand yesterday serves as a very good reminder for all of us the potency of international finance and the difficulty in the task of maintaining monetary and financial stability. Measures in Thailand to limit capital inflow produced a surprisingly sharp downward adjustment in the prices of financial assets there — the stock market fell by about 15% in one day, bond yields went up by 20 to 30 basis points, savagely slashing bond prices, and the exchange rate of the Thai Baht depreciated. This sent shock waves through the financial markets in Asia.

It is too early to tell how this episode of financial shock will play out. Hopefully the reversal of the measures announced last night, insofar as non-resident investments in the Thai stock market are concerned, will have a stabilizing effect and contain possible contagion. Indeed, this seems to have been the case in the last 20 hours or so, given the muted reaction in emerging markets in the West overnight and the rebound this morning in Asian markets — the Thai market rebounded 10%. But it is also possible that global investors may, quickly or in more measured time, take a fresh look at the risk profile of their international investments in the light of the changed probability of policy shifts in emerging markets. If so, there may be significant adjustments to the earlier liquidity driven compression of yield spreads and boosting of prices of financial assets in the emerging markets, with possible implications for monetary

and financial stability. These are issues that keep me and my colleagues in the front line alert and support my wish to keep our powder dry.

Each day I keep in mind the observation that "No one, perhaps for one or two very brave economists, predicted Japan's descent into an economic morass. Nobody predicted the South East Asian crisis and no one predicted Russia's default in 1998."

Each day that I have to help Hong Kong find its path through the jungle of global finance, I keep listening carefully for the brave economists, and I make sure I continue to carry a large stick to deal with anything that may jump out.

Madam President, we will continue to make every effort to make our monetary and financial systems more robust. We will act whenever we identify a case for doing so. We will act in advance wherever we can. The introduction of the three refinements to our Linked Exchange Rate system in May last year is a case in point. They were made ahead of the reform to the Renminbi exchange rate system announced in July last year, to anchor exchange rate expectations on the strong side of the Hong Kong Dollar link. But Hong Kong still needs the assurance of strong reserves available to support monetary and financial stability. Such stability is essential to the livelihood of the people of Hong Kong and to the maintenance of the status of Hong Kong as an international financial centre.

The question that can be easily asked is, "How much do we need?" A question that was asked several times in this Chamber today. But the provision of an authoritative answer is as difficult as it is market sensitive, possibly in a destabilizing and self-defeating way, given the dynamics of financial market discipline. This is certainly not an excuse for not trying. We did, and quite extensively, though quietly, look into the matter, and the answer is inconclusive. The traditional models of reserve adequacy measured in terms of the number of months of retained imports or against the amount of external debt are simple but highly misleading, particularly for an international financial centre, because foreign reserves are not for paying for imports in case of a calamity imposed by nature, or for servicing external debt when external finance suddenly dries up.

There are many other models but none relevant to our circumstances. We even attempted to look for a sophisticated balance between the opportunity cost of holding liquid foreign reserves and its insurance value on the basis of past

volatility of key monetary variables, using an option pricing methodology, but the result was not confidently convincing to the extent of convincing also the controller of the Exchange Fund.

Thus, this deceptively simple question on the adequacy of foreign reserves shall, for the time being, remain unanswered, which means that the contribution of the Exchange Fund to the general revenue shall continue to be limited to the investment income from the fiscal reserves deposited at the Exchange Fund in accordance with the sharing arrangement. The simple truth is: It is very hard to identify a level of reserves and say with confidence, "This is enough". Even if you can do it, chances are that some unforeseen events will occur that will throw your calculations out of kilter. Neither is experience always a reliable guide.

Consider the events of 1998. The more than \$100 billion deployed then to fend off the notorious double play in our stock and currency markets far exceeded, in absolute terms and as a proportion of the Exchange Fund, the amounts used to maintain stability on earlier occasions. If we had been relying solely on experience of those previous crises in 1998, we might have found ourselves dangerously short of resources.

This is not to say that we cannot afford to be a little more aggressive in the investment of a small part of the Exchange Fund. This is in fact a matter under constant review by the Investment Sub-Committee of the Exchange Fund Advisory Committee. There is a fine balance to be struck among risk, liquidity and return, having regard to the overall objective of the Exchange Fund: From time to time, modifications are made to the investment strategy, although not necessarily to the overall risk appetite of the Exchange Fund. Such adjustments are made in the hope of improving the overall rate of investment return of the Exchange Fund and therefore the investment income for the fiscal reserves.

The present sharing arrangement introduced in 1998 has served the general revenue very well. Although there has been higher year on year volatility in investment income for the fiscal reserves, on average the rate of return has been higher than that under the previous arrangement when the fiscal reserves were placed with the Exchange Fund as if they were bank deposits.

Obviously, the rate of return on assets of a bank is, on average, higher than the interest rate paid for deposits, except that it is more volatile. But short-term volatility is fine as long as we take a long-term view. However, it

will obviously be useful for the proper management of the public finances if such volatility could be dampened, and this source of government revenue made more stable and predictable, without conceding on the average rate of investment return over a period of time.

I have listened with interest to Members' views on options for the sharing arrangement. These range from some forms of fixed fee, either in the form of a percentage or an absolute amount each year; through various forms of bonus sharing with the Government taking the whole amount or a higher value, to sharing based on a fixed or moving average of returns over the previous few years.

All of these have advantages and disadvantages. Fixed fees offer stability but mean that higher returns in good years may be foregone. More flexible arrangements are likely to mean greater volatility, although some of the volatility under the current arrangement is caused by the need to mark to market, and the fact that the Exchange Fund has to record unrealized gains and losses.

Prices of equities fluctuate. Even for bonds, changes in interest rates — or in expectations about interest rates — cause yields, and hence prices, to rise and fall. When this happens, the resulting mark-to-market gains or losses depend on the duration of the portfolio and a host of other factors. Along with these are international accounting standards that the Exchange Fund, with its commitment to full transparency, must follow.

I am not opposed to exploring how we might improve the balance between the desire for higher returns to fund government spending and stability of income, subject to the overriding need to ensure monetary and financial stability. It is, I suppose, a bit like trying to have your cake and eat it too, but I am ready to consider suggestions for improvements that may have merit in them.

For stable and sufficient revenues to provide sustainable finance to meet public needs, broadly-based taxation is the direction we must look. The Exchange Fund is not a revenue-raising implement, it is our bulwark for stabilizing the exchange rate of the Hong Kong dollar and a firm foundation stone for the continued healthy development of Hong Kong's economy. I am not as sanguine as a number of Members who have spoken today that taking money out of the Fund, thereby weakening our ability to resist external attacks, would be wise at this time.

Reviewing the arrangement for sharing revenue between the Exchange Fund and the fiscal reserves is one thing. The use of the Exchange Fund to subsidize general revenue is an entirely different matter. Crediting to general revenue an income more than the share attributable to the fiscal reserves would amount to a transfer for the Fund under section 8 of the Exchange Fund Ordinance.

Any such transfer would have to be explicit, transparent and in accordance with the provisions of the Ordinance. These require that the Financial Secretary be "satisfied that such transfer is not likely to affect adversely his ability to fulfil the purpose for which the Exchange Fund is required to be or may be used".

From what I have said about the risks to which we are open, and from my understanding of the importance of monetary and financial stability to the well being of the citizens of Hong Kong, I must take great care and must not be satisfied easily before making any such decision.

I understand that it is the Members' hope that the Government will have more income and more stable sources of income to support various items of public expenditure they desire. I can assure Members that the Government will adhere to the fiscal principles of the Government as laid down in Article 107 of the Basic Law, that is, keeping expenditure within the limits of revenues in drawing up the Budget; striving to achieve a fiscal balance; avoiding deficits, and keeping the Budget commensurate with the growth rate of the Gross Domestic Product.

Putting the Exchange Fund and public expenditure together in one bag will violate the principle of keeping expenditure within the limits of revenues. Indeed, it appears to turn it on its head by looking for revenue to meet expenditure. This will not meet the public expectation for the Government to manage public finance prudently and leave as much economic choice and freedom to the community as possible.

The call for restraint in government spending has been heard loudly in this Chamber. In response, through hard work across the public sector, the Government has managed for two consecutive years in 2004-2005 and 2005-2006 to reverse the previous trend for continual increase in public expenditure. In preparing the 2006-2007 Budget, we have planned for a modest

growth in expenditure in the coming five years while, at the same time, aiming to maintain an overall surplus. We will continue to stress prudence and value for money in daily public expenditure while being ready to make long-term investments that will benefit our economy and our society.

Madam President, I am grateful to Members for their suggestions. As I have said, I will continue to keep the income-sharing arrangement with the Exchange Fund under review and to consider measures that are commensurate with my duty to protect the monetary and financial stability on which our present prosperity and future prospects so heavily depend.

Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr CHAN Kam-lam to Mr Howard YOUNG's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr Howard YOUNG, you may now reply and you have one minute 34 seconds.

MR HOWARD YOUNG: Madam President, according to the statements made by the 14 Members who spoke on the amendment, I think most of us here agree to the gist of the motion. I detect the sentiment is that we all in principle go

along with the gist of the motion, that the Government should review the arrangements regarding the Government's share of the investment income from the Exchange Fund. I do notice that the Financial Secretary, in the last part of his response, said that he would keep the matter under review.

All of us here have made it quite clear that we are actually not talking about touching the actual fund itself (standing at \$1.2 trillion at the moment) in anyway, instead, we are talking about future arrangements for the investment income and whether we can increase the Government's share, thereby allowing the Government to have more resources to help the needy, to increase infrastructures, and perhaps to even reduce the burden of the middle class in taxation. At the beginning, I pleaded to the Financial Secretary not to repeat the old dogma of saying that what we need is as much as possible, as high as possible, although he did give us some more information.

He responded in English this time, perhaps to breathe some new breath into the debate. I hope that we do not have to wait for another year in which there is no move and we will have to have a similar debate, and then he will respond in Putonghua. Thank you.

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

(Members raised their hands)

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

(No hands raised)

Mr LEUNG Kwok-hung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung 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:

Dr Raymond HO, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion as amended.

Dr Philip WONG abstained.

Geographical Constituencies:

Mr James TIEN, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr LI Kwok-ying, Mr Alan LEONG and Mr Ronny TONG voted for the motion as amended.

Mr Albert CHAN and Mr LEUNG Kwok-hung abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 21 were in favour of the motion as amended and one abstained; while among the Members returned by geographical

constituencies through direct elections, 21 were present, 18 were in favour of the motion as amended and two abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion as amended was carried.

PRESIDENT (in Cantonese): Second motion: Urging the Central Government not to interfere in the HKSAR's internal affairs.

URGING THE CENTRAL GOVERNMENT NOT TO INTERFERE IN THE HKSAR'S INTERNAL AFFAIRS

MS EMILY LAU (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

The National People's Congress endorsed on 4 April 1990 The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, which took effect from 1 July 1991. After 150-odd years of British colonial rule, Hong Kong became a Special Administrative Region of China in 1997. The Chinese and British Governments also signed in 1998 the Sino-British Joint Declaration on the future of Hong Kong, and Hong Kong had since started a transitional period which lasted for as long as 13 years.

President, upon the transfer of sovereignty in 1997, some Hong Kong people had mixed feelings at the time. While they were happy that they would cease to be colonial subjects, they were afraid of losing freedoms under the Chinese communist rule. They were even more worried that the Central Government would interfere in the affairs of the Hong Kong Special Administrative Region (SAR). Some Hong Kong people hoped that the Basic Law could protect Hong Kong's "high degree of autonomy" and "Hong Kong people ruling Hong Kong" under "one country, two systems". They hoped that the way they enjoyed freedoms in Hong Kong could remain unchanged, that the rule of law would not be eroded and that the constitutional system would become more democratic. They all the more hoped that the SAR Government would fend off interference from Beijing.

President, I have proposed this motion in the Legislative Council today to urge the Central Authorities not to interfere in the HKSAR's internal affairs (內

政) because as we in The Frontier and many Hong Kong people can see, mainland officials have often poked their nose into the affairs of Hong Kong. Some businessmen even went to the Liaison Office of the Central People's Government in the SAR (the Liaison Office) in the Western District, or even to Beijing, inviting interference from the Central Authorities. Faced with the remarks made by officials in Beijing, some SAR officials feel that they are under tremendous pressure, and even the Chief Executive may have to yield. President, a taxi driver said to me recently that her mother had asked him why Donald TSANG's remarks now sound more and more like those of mainland officials.

Apart from interference from the Mainland and invitation by Hong Kong people for Beijing's interference, another development which has caused unease is that Hong Kong people have become accustomed to or even tolerant of such interference. I have proposed this motion today hoping to arouse concern in all sectors of the community, so that concerted efforts can be made to defend Hong Kong's "high degree of autonomy". The motion may be negated, but I think that the gravity of the problem warrants discussion in the Legislative Council.

President, Chapter II of the Basic Law is about the relationship between the Central Authorities and the SAR. Under this Chapter, Article 13 relates to foreign affairs while Article 14 relates to defence, which are all within the remits of the Central Authorities. This Chapter also clearly provides that the SAR is vested with executive power, legislative power, independent judicial power and the power of final adjudication.

President, one of the objectives of the Central Authorities in making the Basic Law is to stabilize public sentiments in Hong Kong and demonstrate self-restraint on the part of the Central Authorities, because I think even now, many Hong Kong people are still very afraid of the communist rule, and the Central Authorities did this also to ensure stability and prosperity in Hong Kong, so that Hong Kong could continue to be a goose capable of laying golden eggs. This arrangement is good to Hong Kong and good to the country. Hong Kong people all the more hope that the Central Authorities will honour their undertaking of not interfering in the affairs of the SAR. However, it is the nature of the Communist Party of China to interfere. It is indeed immensely difficult for it to exercise self-restraint.

Before the setting up of the SAR, the Central Authorities had, through a 400-member small circle, handpicked TUNG Chee-hwa as the first Chief

Executive of the SAR. Perhaps it was because the Central Authorities trusted Mr TUNG and the international community had been watching closely as to whether or not Beijing would interfere in the affairs of Hong Kong that Beijing did not stick its oar in everything initially after the setting up of the SAR. However, Mr TUNG had failed to perform competently. He had been indecisive and apprehensive in everything and he, of course, tended to second-guess the wishes of Beijing, causing crises to emerge in his governance. This is a misfortune for Mr TUNG personally, but also catastrophe for the SAR. Mr TUNG's very undesirable style of work finally led to the "Black Rally" on 1 July 2003 when 700 000 to 800 000 people took to the streets, dealing a serious blow to the SAR Government's prestige in governance. The massive rally then also sparked off the people's strong aspiration for universal suffrage. Faced with the strong power of social mobilization, the Central Authorities were shocked and furious and decided to impose restrictions on the media in Hong Kong and apply the brake on the democratization of the constitutional system.

On 2 December 2003 during Mr TUNG's duty visit in Beijing, State President HU Jintao, who had just assumed office for nine months, told him that the Central Authorities were highly concerned about the constitutional reform in Hong Kong. Four months later, the Standing Committee of the National People's Congress (NPCSC) interpreted the Basic Law on the elections of the Chief Executive and the Legislative Council without conducting consultation in Hong Kong. The NPCSC even made a decision on 26 April 2004 to reject universal suffrage for dual elections in Hong Kong in 2007 and 2008. The Central Authorities had blatantly interfered in the affairs of Hong Kong but the SAR Government and elites in many sectors of the community had remained silent out of fear. When the NPCSC interpreted the Basic Law and rejected universal suffrage for dual elections in 2007 and 2008, Commercial Radio also could not be spared from interference. As a result, the comperes of the two most popular radio phone-in programmes, Albert CHENG and WONG Yuk-man, were forced to go off the air. Many members of the news industry also followed what the political and business elites had done and turned a blind eye to the interference from the Central Authorities. Some people even said that Hong Kong people should resign to fate. Officials in Beijing and the Liaison Office had gone even further by sticking their oar in the affairs of the SAR in a way as if they had become an overlord of the SAR.

In December 2004 State President HU Jintao took TUNG Chee-hwa and his team of principal officials to task, telling Mr TUNG to sum up the experience and identify inadequacies and strive to make continuous improvement to the ability and standards of governance. Three months later TUNG Chee-hwa stepped down miserably. A month after the stepping down of Mr TUNG, the Institute of Hong Kong and Macao Affairs of the State Council, without notifying the SAR Government, held a seminar on the Basic Law in Beijing and the speakers at the seminar fully revealed the fears of the Central Authorities and their distrust of Hong Kong people. Citing the words of DENG Xiaoping, ZHU Yucheng, Director of the Institute, said in response to comments about Beijing's interference in the affairs of Hong Kong that we must not think that everything would be fine without a hitch if everything relating to Hong Kong was managed by Hong Kong people without the least involvement from the Central Authorities, asserting that this would be impractical. GAO Siren, Director of the Liaison Office, even stressed at the seminar that "one country" is the precondition and foundation of "two systems". He said that the Central Authorities had unquestionable and unchallengeable powers, and that they would resolutely oppose any attempt to turn Hong Kong into a base for opposing the Mainland under the disguise of democracy. SHENG Huaren, Vice Chairman of the NPCSC, pointed out at the seminar that "Hong Kong people ruling Hong Kong" should mean the administration of Hong Kong by Hong Kong people, with patriots forming the main body of administrators, and that while the Central Authorities do not interfere in affairs within the responsibility of the SAR, it does not mean that the Central Authorities will wash their hands of major issues relating to national sovereignty and security. At the seminar, XU Chongde, a former Basic Law drafter, also said that the Chief Executive, whether he would be returned by direct or indirect election, could give orders only after he was appointed by the Central People's Government. He also criticized that seven years after Hong Kong's reunification with China, the SAR Government could neither put in place an executive-led system as stipulated in the Basic Law nor achieve effective governance as a strong government but on the contrary, the SAR Government was developing in the direction of checks and balance with the legislature and a separation of powers among the executive, the legislature and the Judiciary. Another former Basic Law drafter, XIAO Weiyun, stated that constitutional development in Hong Kong must be led by the Central Authorities and that the power to make the final decision shall rest with the Central Authorities.

President, in view of such an avalanche of threatening remarks and statements, the SAR Government was entirely powerless to fend them off, and many Hong Kong people even found the faces of those officials in Beijing unnerving. On 16 June 2005, Donald TSANG, as handpicked by the Central Authorities and plutocrats, was elected the Chief Executive uncontested. This was actually the prelude to stronger interference from Beijing in the affairs of the SAR, because Donald TSANG does not have good interpersonal relations and lacks support in the Legislative Council, the commercial sector and the Civil Service. When he needs the support of the Legislative Council for his policy, he must turn to the Liaison Office because only the Central Authorities can give orders to the royalist parties. This has made some businessmen think that the SAR no longer has "a high degree of autonomy" to speak of now, and they have described the current situation or development as one like putting the Central under the control of the Western District.

Owing to TUNG Chee-hwa's policy blunders which caused boiling public anger, some 700 000 to 800 000 people had taken to the streets and this had sounded the alarm for Beijing. In the last couple of years during Mr TUNG's office, many members of the business and political sectors lodged complaints with Beijing and this made State leaders think that the SAR Government was causing troubles to the Central Authorities. Shortly after HU Jintao had come to power, he decided to replace TUNG Chee-hwa and increase Beijing's interference in Hong Kong. The stepping down of TUNG and rise of TSANG was carefully arranged by the Central Authorities. Even the pro-Beijing political parties knew nothing of this decision and some of them had bitter feelings about this. The Central Authorities decided to handpick Donald TSANG as the Chief Executive not only because of his high popularity rating among the people, but also because they knew that he would obey the instructions of the Central Authorities. Nevertheless, Mr TSANG was unable to obtain support in the Chief Executive Election Committee and so, he must rely on the Liaison Office to canvass votes for him. The small-circle election held last year was precisely co-ordinated by the Liaison Office.

Since Mr TSANG took office, he has to continuously rely on the Liaison Office because he is still incapable of controlling the pro-Beijing Members, thus giving Beijing more opportunities to interfere in the affairs of the SAR. The Liaison Office has poked its nose even into the appointment of members to committees. Examples of interference in the affairs of the SAR abound indeed, and such interference is absolutely not confined to the small-circle Chief Executive election, which is going on now, or the farce of the sale of shares of

PCCW recently. Given continuous interference by officials from the Central Authorities and inability of the Chief Executive in fending off their interference, it will become increasingly difficult for the SAR to maintain a "high degree of autonomy" and "Hong Kong people ruling Hong Kong. This dilemma is mostly attributed to the fact that the Chief Executive is returned by a small-circle election. Most of the so-called electors in this interest group will make use of their votes to strive for the interest of their sectors or political parties or for their personal interest. This is an instance of gross collusion between business and the Government. Members of the public do not expect that a Chief Executive returned under such a system will defend our freedoms and interests, because Beijing and the consortiums are the sources of his powers, and those people who are wealthy and powerful simply do not dare to offend Beijing and they are all the more unwilling to see a Chief Executive who is outspoken, capable of independent thinking and represents the interests of the general public at large.

President, as an old saying goes, the type of the people makes the type of government. We understand that the Central Authorities want to manipulate the way how the SAR Government will be formed and how obedient it should be, but Hong Kong people hope to have a government returned by universal suffrage, because only a government returned by universal suffrage can defend the freedoms, justice and the rule of law of Hong Kong. Ten years have passed since the transfer of sovereignty, and under "one country, two systems", Hong Kong people can still enjoy the rule of law and freedoms which are beyond the reach of some people in the Mainland. This has not come by easily, being the fruit of the unremitting efforts made by Hong Kong people. Given that the situation will become more and more difficult, we must double our efforts to defend the freedoms of Hong Kong. We also urge the Central Authorities not to interfere in the internal affairs (內政) of the SAR and give Hong Kong people a chance.

With these remarks, I beg to move.

Ms Emily LAU moved the following motion: (Translation)

"That this Council urges the Central Government not to interfere in the HKSAR's internal affairs, including the Chief Executive election, and urges the Administration to make every effort to defend the HKSAR's high degree of autonomy and Hong Kong people ruling Hong Kong under "one country, two systems"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Emily LAU be passed.

PRESIDENT (in Cantonese): Mr Howard YOUNG 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 Howard YOUNG to speak and move his amendment to the motion.

MR HOWARD YOUNG (in Cantonese): Madam President, the motion topic under debate today is the relationship between the Central Authorities and the SAR under "one country, two systems". Actually, once we read the various provisions in Chapter II of the Basic Law entitled "Relationship between the Central Authorities and the Hong Kong Special Administrative Region", such as Article 16 (which reads, "The Hong Kong Special Administrative Region shall be vested with executive power. It shall, on its own, conduct the administrative affairs of the Region in accordance with the relevant provisions of this Law"), Article 17 (which reads, "The Hong Kong Special Administrative Region shall be vested with legislative power") and Article 19 (which provides, "The Hong Kong Special Administrative Region shall be vested with independent judicial power, including that of final adjudication"), we will realize how "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" are given sufficient protection under the Basic Law.

In regard to the wording of the original motion — That this Council urges the Central Government not to interfere in the HKSAR's internal affairs, including the Chief Executive election — the Liberal Party cannot render its support. To begin with, it is obviously inappropriate to mention "internal affairs (內政)" when describing the relationship between the Central Authorities and the SAR, because the term "internal affairs (內政)" is generally restricted to the context of a sovereign state. Hong Kong is just a SAR of China, and under the Basic Law, there shall only be internal affairs (內政事務) in Hong Kong, instead of any "internal affairs (內政)". Besides, as it is worded, the original motion is undoubtedly an innuendo and downright badmouthing, carrying a

strong suggestion that the Central Authorities have been interfering in the internal affairs (內政事務) of the SAR Government. This is most inappropriate.

What is more, such a claim is simply not true. For instance, the United Kingdom Government has been submitting a Six-monthly Report on Hong Kong to Parliament every six months. For almost 10 years since the reunification, totally 19 reports have been submitted. Most of these reports conclude that "one country, two systems" has been functioning very well in Hong Kong on the whole, and that all those rights and freedoms guaranteed under the Joint Declaration and the Basic Law are being upheld.

In April this year, the State Department of the United States also published the U.S.-Hong Kong Policy Act Report, affirming that Hong Kong has been able to enjoy "a high degree of autonomy" and judicial independence, and that there have been no major problems with the various liberties. All this can show that the international community does not think that the Central Government has been interfering in the internal affairs (內政事務) of Hong Kong.

Madam President, even locally, most Hong Kong people do not believe in the so-called "intervention theory". According to the latest findings of the Hong Kong University Public Opinions Programme released last week, as many as 70% of the public have confidence in "one country, two systems". And, the confidence rate in respect of Hong Kong's future is even as high as 72%. Surveys on these two topics have been conducted at intervals of two months, and the approval rates have remained as high as 70% over the past one year, showing that the public have very great confidence in both the Central Authorities' commitment to "one country, two systems" and the future of the SAR. If the Central Authorities had really been interfering in the affairs of the SAR as claimed in the original motion, the opinion polls concerned would not have come up with such findings.

What is more, over all these years, State leaders have been declaring openly that they will totally honour their commitment to the policy objectives of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". They have also been stating that the realization of all these objectives is the policy of the State. All this can prove that the Central

Authorities attach very great importance to honouring all these pledges. Two weeks ago, for example, when NPC Chairman WU Bangguo attended the International Telecommunication Exhibition in Hong Kong, he also reiterated the Central Authorities' commitment to this fundamental objective and policy.

Madam President, in regard to the Chief Executive election, I wish to point out that the Central Authorities must play a certain role. Articles 15 and 45 of the Basic Law provide that "The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government.". Article 43 also provides that "The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government and the Hong Kong Special Administrative Region in accordance with the provisions of this Law.". Besides, in Annex I on the Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region, it is also stated very clearly that if there is a need to amend the method for selecting the Chief Executive, such amendments must be made with the endorsement of a two-thirds majority of all Members of the Legislative Council, and they shall be reported to the Standing Committee of the National People's Congress for approval.

In the case of the recent election of Election Committee members, there were also rumours about the Central Authorities' interference. But all these rumours have proven to be mere fabrication, totally unfounded. People instead generally think that the election 10 days ago was a smooth, fair, open and honest election. The candidates recommended by the pan-democratic camp won a big victory, thus disproving the "interference theory". Honestly speaking, I must say that if the opposition was not being hyper-sensitive, it must be trying to confuse people by playing with various gimmicks.

Another thing is that in the wake of the SARS outbreak, the Central Authorities have adopted various measures such as CEPA and the Individual Visit Scheme to assist the SAR in its economic recovery. Should we also criticize the Central Government for interfering in the economic and tourism affairs of the SAR?

If concern is really equal to interference, then how should we describe those Legislative Council Members who frequently meet with political figures

from Britain, the United States and Europe or those opposition-camp Members who often request foreign countries to express concern over the affairs of Hong Kong? Should we say that these Members want to invite foreign interference in our internal affairs (內政事務)? If the logic really goes, why have Ms Emily LAU and Mr Martin LEE not moved any motion on forbidding foreign political figures to come to Hong Kong and express views that interfere in the internal affairs (內政事務) of Hong Kong?

In August last year, for example, Richard D'AMATO, Chairman of the U.S.-China Economic and Security Review Commission responsible for studying USA-China relationship, visited Hong Kong. During his meeting with a number of opposition-camp Members such as Ms Emily LAU, he was told that Hong Kong's "high degree of autonomy" under "one country, two systems" was declining, and that China was not prepared to let Hong Kong develop its democratic politics. The United States Congress therefore expressed concern as to whether China had honoured its commitment. May I ask whether this was an act of inviting foreign interference in Hong Kong's internal affairs (內政事務)?

Madam President, we are of the view that the Central Authorities have always been committed to fulfilling its undertaking of allowing the SAR to enjoy "a high degree of autonomy". For this reason, on behalf of the Liberal Party, I have moved an amendment to the motion, urging the Central Government to continue to maintain the policy of not interfering in the HKSAR's internal affairs (內政事務) in accordance with the Basic Law. At the same time, we also request the SAR Government to continue to defend the SAR's "high degree of autonomy" and "Hong Kong people ruling Hong Kong" under "one country, two systems". This is the intrinsic duty of the SAR Government.

For instance, recently, when the issue of mainland pregnant women coming to Hong Kong for delivery and the Mainland's suspension of marine and fresh water fish export to Hong Kong aroused the grave concern of society, and people generally felt that the SAR Government's initial response had not been quite so active. The SAR Government should have reacted more actively by enhancing its negotiations with the relevant mainland authorities. It should have exercised our rights and explored our room of manoeuvre under "one country, two systems" in a more active manner. For example, it could actually

adopt various administrative measures to lower the number of mainland pregnant women coming to Hong Kong for delivery, so as to reduce their encroachment of our public money and valuable public-sector health care resources. In regard to food safety standards, we should adhere firmly to our long-standing standards and inspection methods while seeking to enhance our communication with the Mainland. To sum up, we must strive to ensure the full implementation of "one country, two systems" in Hong Kong.

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

Mr Howard YOUNG moved the following amendment: (Translation)

"To delete "not to interfere" after "Central Government" and substitute with "to continue to maintain the policy of not interfering"; and to delete ", including the Chief Executive election, and urges the Administration to" after "HKSAR's internal affairs" and substitute with "in accordance with the Basic Law, and requests the HKSAR Government to continue to"."

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

DR YEUNG SUM (in Cantonese): Madam President, paragraphs 2, 3 and 4 of the Sino-British Joint Declaration provides a framework for the political and executive powers of the Hong Kong Special Administrative Region (SAR). Generally speaking, the SAR enjoys executive, legislative and independent judicial powers, including that of final adjudication. The Chief Executive will be appointed by the Central People's Government on the basis of the results of elections or consultations.

These principles were reaffirmed in the Basic Law promulgated in 1990 and elaborated in a more specific manner in Chapters II and IV. Article 22 of the Basic Law even spells out, and I quote: "No department of the Central People's Government and no province, autonomous region, or municipality

directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law." (End of quote)

Unfortunately, what is said on paper is one thing, whereas what is manifested by the Central Government is, in some cases, another. The commitment to "one country, two systems" and a "high degree of autonomy" has become vulnerable with the Central Government's continued interferences.

The original motion urges the Central Government not to interfere in the Chief Executive election. I feel strongly about this. I have recently participated in the promotion of a contested Chief Executive election and the support for Mr Alan LEONG in running in the election. However, there has already been interference by the Central Government by both direct and indirect means even before the first step to cross the threshold is taken.

To be entitled to vote in the Chief Executive election, one must first become a member of the Election Committee (EC) and, in order to be qualified, stand as a candidate of the EC election and gain support from the voters of the relevant subsector. However, some people in support of the democratic camp or the idea of a contested Chief Executive election have already been persuaded to withdraw even before they stand as a candidate of the EC election. Hence, they have eventually chosen to withdraw due to political pressure.

In the EC election held last Sunday — it was mentioned by Mr Howard YOUNG earlier — a number of voters were willing to come forward to support candidates indicating clearly that they wanted a contested election, candidates supporting universal suffrage in 2012 or candidates indicating clearly that they would nominate Mr Alan LEONG to run in the Chief Executive election. As a member of the campaign office of Mr Alan LEONG, I am very pleased with the election results and yet I am trembling with fear. On the surface of it, Mr LEONG has smoothly secured some 134 EC nominations and thus the entrance ticket to the Chief Executive election. I believe there will absolutely be no problem if the competition is fair. However, behind the election, Mr LEONG is confronted with not only competition from the incumbent Chief Executive for nominations, but also a tug-of-war with the Central People's Government Liaison Office. Some members of the public wishing to stand as a candidate in

the EC election were advised to withdraw. Naturally, some candidates who are already EC members have, under pressure from the huge state machinery, decided to withdraw their nominations or dared not support Mr LEONG in the end.

Despite the fact that the Central Government will not pay regard to the criticism that it interferes with the Chief Executive election, I wish to remind the Central Government in particular that, though the majority of the people are excluded from the small-circle election, it should not deter some people from standing as candidates in the EC election or prevent some people from nominating or voting for Mr Alan LEONG, if it is the desire of the Central Government that the SAR Government should conduct the election successfully. The Chief Executive election should originally be conducted under the principle of a "high degree of autonomy". Unfortunately, the Central Government has chosen to make a high degree of interference on every occasion. This trend was initiated by the former State President, Mr JIANG Zemin, who chose to shake hands only with Mr TUNG Chee-hwa, who had yet to become the Chief Executive, among crowds of people. Given that the upcoming Chief Executive election may probably be contested, the Central Government has chosen to act in the same manner by standing in the way with all sorts of excuses. The interference by the Chinese side is merely aimed at enabling its preferred candidate to be elected. However, the election should be conducted on an open, fair and honest basis. Interference in the election will only make Hong Kong people further lose their faith in the Central Government. How will the Taiwanese people have faith in "one country, two systems" when they witness the Central Government manipulating the election in such an ugly manner? How will they be willing to accept unification?

The Chief Executive election aside, examples of the Central Government interfering in Hong Kong's internal affairs (內部事務) can be found everywhere. Some affairs originally fell within Hong Kong's jurisdiction have been interfered with by the Central Government. After several attempts of interpretation of the Basic Law, it is now stipulated that children born to Hong Kong people on the Mainland do not have the right of abode, the mode of electing the Chief Executive and forming the Legislative Council in 2007 and 2008 has been defined, and the remaining term of office of the Chief Executive has also been stipulated. All these have actually made the scope for the territory to handle its own affairs increasing small. Despite the barbaric nature of such acts of

interpretation of the Basic Law, the Central Government considers it essential to act in this way. Such acts, also interpreted as policies capable of stabilizing the Hong Kong community, are forcibly imposed on Hong Kong people without regard to legal consequences and political impacts, thereby damaging Hong Kong's "high degree of autonomy".

Should the Central Government continue to interfere in Hong Kong's internal affairs (內部事務), our autonomy will gradually diminish. Furthermore, Hong Kong's characteristics and its unique circumstances assured by the provisions of the Basic Law will be lost too. I am afraid that Hong Kong will also gradually lose its unique international status, thereby making it no different from other mainland cities. While "Hong Kong people ruling Hong Kong" means nothing more than Hong Kong people running Hong Kong in accordance with the wishes of Beijing, the commitment to a "high degree of autonomy" and "Hong Kong people ruling Hong Kong" will also become meaningless.

With these remarks, I support the motion.

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

MR LEUNG KWOK-HUNG (in Cantonese): I can remember that two days ago, at the meeting of the Panel on Constitutional Affairs, Mr TAM Yiu-chung asked Secretary Stephen LAM what would happen if the Central Authorities did not want to appoint or refused to appoint a Chief Executive elected by Hong Kong people. He asked the Secretary to note this question.

At that time, I already gave an answer to Mr TAM Yiu-chung, but he was not in the conference room. I pointed out that this was actually the crux of the problem, that is, why the Central Government has to interfere in Hong Kong's internal affairs (內政). Under the Basic Law, the Central Government, that is, the Communist Government (they look very similar), is responsible for the defence and foreign affairs of Hong Kong only, and it shall not lay its hands on any other affairs. But then, something very undesirable has been added. It is now asserted that the Central Government is also vested with the substantive power of appointing the Chief Executive, Executive Council Members, the Secretaries of Departments and Bureau Directors. What does that mean? This

means that in case the results are not as desired by the punter, dividends must still be paid to him, or a new game must be held again.

This is where the problem lies, the precise reason for the Central Government's incessant attempts to influence the outcome. The reason is that there is the possibility of a constitutional crisis. In case a person not favoured by the Central Government is elected Chief Executive, suppose Mr Jasper TSANG is not favoured by the Central Government and he is elected Chief Executive, there will be big trouble. If the Central Authorities do not want to appoint him, a huge constitutional crisis will arise, for this will involve the General Principles of the Basic Law and the Joint Declaration. This is the crux of the problem. Of course, this will only last a very short What we observe is a technical problem because the Central Government certainly will not want to appoint any person elected by Hong Kong people (even though he is elected in a coterie election). If it is not satisfied with the elected person, it will not want to appoint him.

Politically, why is this the case? The reason is that the Central Government (that is, the Communist Government) does not want anyone to challenge its one-party dictatorship (whether in words or in deeds) in any places (including the United States or others). This is the crux of the problem. For this reason, it is totally impossible for the Central Government to refrain from interfering in Hong Kong's internal affairs (內政). It must interfere incessantly, interfere incessantly in various forms.

We can observe that our Honourable colleague, "Tai Pan", and WONG Yuk-man were forced to "quit" as radio programme hosts because We are just talking about the election of Legislative Council Members here, and no substantive appointment by the Central Government is required. But it is already considered unacceptable to have too many Legislative Council Members not favoured by the Central Government, particularly when such Members are strong enough to check the SAR Government. For this, the dirty tactics of triad societies were employed to force the two men to quit. This is a fact.

Therefore, in regard to this topic, it will be totally meaningless for us to go on asking the Central Government not to interfere with the internal affairs (內政) of Hong Kong. Why? It is because the Central Government cannot let Hong Kong people enjoy any "autonomy". Basically, things should already be

considered alright as long as we do not violate the requirements regarding defence and foreign affairs. In other words, things should be considered alright if we do not enter into any alliance with other countries or keep an army which is hostile to the Central Authorities or the Communist Party of China. But it has blatantly backed out of all this, because it wants to ensure that it can achieve something that may not necessarily be possible under the Basic Law. This is the crux of the whole problem. Therefore, no matter what kinds of rhetoric and sophistry have been put, this still remains the truth.

The Chinese Communist Government will not allow Hong Kong to have a government elected by Hong Kong people. This explains why we are told to formulate a roadmap before a timetable, and why the implementation of universal suffrage has been delayed for such a long time. The reason is that the implementation of universal suffrage may lead to a crisis. Once universal suffrage is implemented, it will be impossible for the Central Government to exert total control on an election because everybody can take part in it. Since there are just 800 people now, frequent telephone calls are always possible, right? Mr Allen LEE even received a phone call from Mr CHENG in the small hours. Something like this has also happened to everyone else. Therefore, what is so dreadful about universal suffrage? All is because even the most powerful political regime cannot completely control the final outcome.

For this reason, if we discuss this topic again today Some may argue that there is nothing wrong with the Central Authorities' concern about Hong Kong. There is of course nothing wrong with their concern. Even if they set up a Hong Kong branch of the Communist Party of China or even a Hong Kong Communist Party, there will be no problem. But there must always be open competition, and no attempt must be made to interfere with affairs in Hong Kong through a corrupt system. Therefore, when people request the Chinese Communist Government not to interfere with affairs in Hong Kong, what do they imply? They imply that there must be an institutional safeguard against interference, and this must be universal suffrage.

To sum up, if everybody now argues that it is only natural for the Central Government to interfere, or that the Central Government has never interfered with affairs in Hong Kong First, the saying that there has been no interference is a lie, simply a lie. And, if people say that it is only natural for the Central Government to be concerned about Hong Kong or to interfere with affairs in Hong Kong, I must tell them that it is alright for them to exert political

influence, because we can always put up our own defence and arguments, and both sides can always try to out-compete each other in terms of organization and mobilization.

But the problem now is that we are confined to a birdcage and subjected to the interference of an "invisible hand". Instead of begging it not to interfere with our affairs, we should strive to create a better environment, so that elections based on full universal suffrage and equitable votes can be conducted. When there is such an environment, I fail to see how the Communist Party of China can still interfere, how it can still interfere through its party platform or the "royalist" parties. Mr TAM Yiu-chung will not have to ask what we should do in case Jasper TSANG and TAM Yiu-chung are still elected despite their disfavour with the Central Government. Even when such people are elected, the Central Government will have no alternative but to let them assume office. Therefore, all discussions on the motion topic today must be based on the premise that universal suffrage must be implemented in Hong Kong as soon as possible, so as to prevent a totalitarian regime from endlessly interfering with Hong Kong affairs by manipulating a system under its control and by employing triad violence.

Thank you, Madam President.

MR ALBERT HO (in Cantonese): Madam President, the motion proposed by Ms Emily LAU today for Members' discussion is so politically sensitive, and it seems that many Members simply do not want to touch or even hear the mentioning of this very topic. However, since the topic of the Central Authorities' interference is highly sensitive and controversial, I think Members should still participate in the discussion even if they do not agree to the motion. Any refusal to listen to others' views or participate in discussions is nothing but evasion. How can they take flight before such an important topic?

Madam President, I wish to discuss this topic from an alternative perspective. I think that politically, at the level of "one country, two systems", Hong Kong now faces a very special dual crisis. The presence of this dual crisis is especially obvious when it comes to the appointment of Hong Kong's leadership. Why do I use the term "dual crisis"? On the one hand, I can observe Beijing's intervention and interference. By laying an invisible hand on Hong Kong, it has in fact been playing the role of a kingmaker. But on the

other hand, very few people have pointed out the fact that the politics of appointing Hong Kong's highest leadership has been dragged into the intricacies of Beijing politics. The appointment of the Hong Kong Chief Executive has been dragged into the politics in Zhongnanhai, thus resulting in clashes and conflicts between the two systems.

Madam President, I shall come back to the features of this dual crisis in a moment. In the meantime, I wish to discuss whether the so-called interference of the Central Authorities really exists. For several years, I have been staging frequent protests outside the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office). Every time when I go to the magnificent building of the Liaison Office I do not know exactly how many storeys there are, but as far as my eyes can reach, there should be some 40 storeys. Perhaps, Jasper TSANG may know better. I frequently ask myself, "There should be at least 1 000 to 2 000 employees in the building, but what exactly are they doing? Is there really a very great need for liaison between the Central Authorities and the SAR?" I understand that the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region (the Commissioner's Office) has to perform many duties, because many external affairs of Hong Kong must be handled by the Central Authorities. For instance, matters relating to the issuing of visas and various agreements with other countries must be handled by the Central Authorities. All this is specified clearly in the Basic Law. But what are the duties of the Liaison Office? It has never liaised with me, of course. I am not even permitted to deliver a letter to them at the building entrance. Whom do they liaise with? What are the subjects of liaison? What will take place after liaison? All these are the questions I have always wanted to ask.

Everybody of course knows that the Liaison Office is responsible for leading the mainland commercial organizations and State enterprises having a presence in Hong Kong. We already know this, but who else does it lead or liaise with? After engaging in politics for so many years, we know very clearly that it also leads many local organizations. Its work of leading these organizations includes organizing, co-ordination and the provision of funding. It may even give concrete directives for actions in some cases. What does it do specifically? As far as I know, and as many people also know, it is also involved in elections. All of these organizations are actively involved in

elections, and the Liaison Office frequently liaises with them. This is the Central Authorities' invisible hand in the local politics.

There are also the matters handled by this legislature. This is already an open secret, one which everybody knows.

MR MARTIN LEE (in Cantonese): President, it seems that a quorum is not present.

PRESIDENT (in Cantonese): Mr Martin LEE has raised a point of order. Mr Albert HO, please stop for a while. Will the 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 now present. Mr Albert HO, please continue.

MR ALBERT HO (in Cantonese): Madam President, just now, I was up to the point that at the level of local affairs, the Liaison Office leads and co-ordinates many different organizations in their participation in elections. Besides, from the information I have obtained, I know that the situation described by Ms Emily LAU really exists — the Central is now influenced by Western District, and the former has succumbed to the latter. This really makes us feel very strongly that there is interference.

The third point is that, according to all the information available to us, the Liaison Office has also been trying to influence the media organizations. Some people working in the press have told me that whenever a newspaper wants to publish a political advertisement, someone will ring in, advising it that it is inappropriate to carry the advertisement. All these can show us that the interference of the invisible hand has truly posed a threat to Hong Kong's "high degree of autonomy". At the very beginning of my speech, I made a very special reference to the political system and the selection of the Chief Executive.

These matters are of course very important. And, the Central Authorities have been trying to interfere and exert its influence throughout. Actually, the entire system is designed to facilitate interference. The design aims to achieve a high safety coefficient, so that election outcomes can be predetermined by the Central Authorities.

Madam President, the Chief Executive Election is fast approaching, and Members all know that many Election Committee members have already been returned. Many people will have to "bare their souls" (in the words of Mr James TIEN) to Central Government officials or the Liaison Office. We therefore think that the Central Authorities' interference seems to be an inherent feature of the whole system. And, it also seems that "one country" must prevail over "two systems". Such is the situation we face today.

What is more, since so many people have tried to act as the devoted agents of Beijing in Hong Kong, the leaders in Beijing may thus have to bear political responsibility for the affairs in Hong Kong. In case there are any blunders, will any high-ranking officials in Zhongnanhai be "beheaded" for their erroneous policies on Hong Kong? I think this is possible. But, to sum up, many people are now flocking to Beijing to look for support or "godfathers". This is the very odd situation we are faced with nowadays.

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

DR KWOK KA-KI (in Cantonese): President, today is very special, as not many Members have spoken. There may be two reasons for this. One is that basically there is no interference and our concern is unwarranted. Another reason, which I think is more likely to be true, is that as I told colleagues in the Ante-Chamber earlier, when there is interference every day and when interference has become a custom, people actually have no feeling about it.

People may think that since we are already subject to interference, let us continue to be so, as this is already expected. Although many people feel that they are subject to interference, they can do nothing about it. But in fact, we have to look at the result. That is, is such interference good or bad to the Central Authorities and the SAR Government? Let us not make a judgement on

whether or not interference itself is a good thing and focus only on the consequence of interference.

I think what we can see most clearly is interference in each election of the Chief Executive. In the last election, TUNG Chee-hwa was elected uncontested and this is, in fact, an instance of interference. At that time, I think many members of the public and also many in the political sector knew that it was neither right nor proper. Obviously, TUNG Chee-hwa should not take up the office for a second term at that time, considering his ability and performance. But in the view of the Central Authorities, they might consider it better to take no action and maintain the *status quo* and so, they insisted on backing him up at all cost. What was the result? We all saw it. He left hastily because he got sore legs. This incident is actually a very wrong decision made in the history of the SAR. The second instance of interference took place when the Central Authorities wanted him to go, that is, they wanted TUNG Chee-hwa to go and Donald TSANG to take the helm. This is also an instance of interference.

As things have developed to the present state, President, I think Hong Kong people are actually very saddened, because we no longer have any feeling. We have become numb. Even colleagues of the Legislative Council have become numb — Ms Emily LAU needs not worry because perhaps Members are just numb, thinking that such interference is a matter of course and so, they do not see any need for discussion. This actually does not do any good either to the SAR or the Central Government, because every time when the Central Government interfered, it would have to bear all the responsibilities. If it made the right pick, there would not be any problem; if it made the wrong pick or if it insisted to make another pick, just as it did this time by picking Donald TSANG, and if he turns out to be the right pick, we will give it our applause, but if it again made the wrong pick who is a proven disappointment, the Central Authorities would have to bear the blame again and be criticized for interfering in the affairs of the SAR.

Certainly, interference can be tactful or tactless. In some cases, it is noticeable and in some other cases, it is not. As the Chairman of the Medical Association has once said, when they contested the election of Election Committee (EC) members, many people on the Chinese side would invite them to meals. This is actually no secret and everybody knows about it, just that people do not talk about it and our Chairman did bring it up. They did not just

approach the Chairman. They had even approached the Chairman of the Hospital Authority, asking him to help co-ordinate the election. I think that this is actually unnecessary. In fact, if we look at this from a broader perspective, we will see that this election is actually nothing but a game because the winners are already fixed before the election. Disregarding who will be elected as EC members, basically the conclusion must be this: If Donald TSANG is designated to take up this post, he will certainly win in the election.

If the Central Authorities can allow some room for them, so that members of the public or the 220 000 electors who can vote in the small-circle election will feel better, perhaps Alan LEONG will not be able to obtain the 100-odd nominations that he is probably going to obtain. But now, perhaps it is because there are too many instances of interference that the electors who can vote in the small-circle election have developed some bitter feelings. Although they clearly understand that they cannot change the reality, and even though Donald TSANG is designated to be the winner, they still come forth and prefer to vote for those people who may not have adequate experience or seniority in their respective trade or profession, for they understand that only when this group of people who aspire for democracy and who are willing to nominate Alan LEONG or other democrats are elected can there be an election with true competition in Hong Kong, and only in this way will the situation be less shameful, and perhaps governance may hence be improved.

Sometimes I do not quite understand what exactly the Central Authorities are thinking. Certainly, Stephen LAM will give a reply in this Chamber today. He cannot represent the Central Authorities, but I believe the Central Authorities are watching the live broadcast of this meeting. In fact, it is most important that if a constitutional reform with greater clarity and certainty can be implemented in Hong Kong, whether in a gradual and orderly manner or inside a birdcage or in a way under control, it would do good and no harm to the SAR Government and to the Central Government.

Therefore, if we review the changes that have taken place over the past decade — earlier on some colleagues cited various examples, and there may be so many examples that we do not talk about them anymore now. But I think it is time for the Central Authorities to think about this. They should understand that sometimes, what they have done, though in good faith, may produce the opposite result. In fact, if officials of the SAR Government or even the Chief

Executive have failed to perform satisfactorily, it would only cause greater public discontent if support or assistance is given to them against the people's wish. This is unnecessary indeed. Disregarding who is going to take up this office, his hands are set to be tied by the Basic Law. Could it be that we would elect someone whom we know that the Central Authorities will obviously refuse to appoint? Would such a person stand any chance of being elected? We all have a clear picture of what is going on, and we should know this only too well.

Therefore, at this point in time when it is going to be the 10th anniversary of our reunification with China, I believe in two things: Perhaps the Central Government must really cease its interference, whereas the SAR Government should faithfully play the part expected of it; it should understand clearly its role and help ensure effective governance and a sound constitutional system in Hong Kong, rather than willingly inviting unnecessary interference in all circumstances and like some businessmen, thinking to obtain advantages from the Central Authorities in all cases.

I so submit. Thank you, President.

MR MARTIN LEE (in Cantonese): Madam President, although some may genuinely believe that the Central Authorities have never interfered with the internal affairs (內政) of Hong Kong, they can still support the original motion because it only says "this Council urges the Central Government not to interfere in the HKSAR's internal affairs, including the Chief Executive election". It does not say that there is already any interference. Therefore, what is the problem with supporting the original motion? As for the rest of the motion, which "urges the Administration to make every effort to defend the HKSAR's high degree of autonomy and Hong Kong people ruling Hong Kong under 'one country, two systems'", it must be said that the same point is also mentioned in the Joint Declaration. For this reason, there should be absolutely no problem with supporting the original motion. In contrast, if anyone wants to support the amendment, he must consider the whole thing very carefully. To begin with, we must ask ourselves, "Does our own electoral experience indicate any interference by the Liaison Office in the elections at the various levels of our political system?" We must ask ourselves very honestly. I will be totally surprised if people say that the answer is "no".

I can remember that several years ago, I already raised this point in this Council. At that time, many people said that I did not have any proof. They also questioned me whether I had any evidence to show that the Liaison Office had interfered with the elections in Hong Kong. But now, no one asks me for any evidence, because there is already plenty of proof. All election candidates, whether they belong to the democratic camp, the anti-democracy camp, the "royalist" parties or even pro-Communist parties, will know this only too well. In the case of a pro-Communist candidate, he must even report to Western District at the soonest possible moment, so as to gain their support. If not, they will simply try to stop him. Members of course know that pro-democracy candidates will not report to the Xinhua News Agency (or the Liaison Office now). But very obviously, they are still trying to work out some kind of co-ordination in this respect.

Therefore, even if they want to move an amendment, they should not have moved an amendment like this. I have a better idea in mind. They can move an amendment like this: That this Council invites the Central Government to continue to provide the Special Administrative Region Government and Hong Kong people with valuable advice, including the issuing of timely and clear-cut directives to members of the Chief Executive Election Committee on whether they should nominate Alan LEONG as a candidate in the Chief Executive Election next year, to continue to co-ordinate the various tiers of elections in the Special Administrative Region, including the deployment of financial, manpower and material resources to support "royalist" candidates, so that they can remain the majority in the Legislative Council and District Councils and continue to curb the pro-democracy members in the representative assemblies at various levels, and urges the Hong Kong Special Administrative Region Government to continue to actively assist the Central Government in implementing 'Beijing people ruling Hong Kong' and 'a high degree of autonomy' under the so-called 'one country, two systems'. Actually, this is all the same because if people negative the original motion, they are in fact saying that all this is alright. Or, they can simply say, "Please interfere as much as you like. We are prepared to accept anything." If they want to express their acceptance clearly, they had better adopt my approach.

Actually, although the amendment is not worded like the one I have proposed, the message is just the same. Members must read the amendment carefully. It urges the Central Government "to continue to maintain the policy of not interfering in the HKSAR's internal affairs (內部事務)". How can he

say something like that? Does he mean that there has never been any interference? The amendment also "requests the HKSAR Government to make every effort to defend" If there has been no interference, why is it necessary to "defend" anything? This amendment is therefore most incomprehensible. The proponent of this amendment simply does not know what he himself is talking about. He does not know whether or not he should admit that the Central Authorities have interfered with the affairs in Hong Kong. He cannot make any decision, which is why he has proposed such an odd amendment. The amendment I have proposed just now can indicate clearly that since interference is desirable and can provide us with well-intentioned instructions and valuable advice, it will be accepted. For this reason, it will be better to adopt my approach.

I hope Members can understand that there is actually no justification for amending the original motion. We can either support it or oppose it. The one who has put forward such a motion simply does not want to face the realities. He is not only deceiving himself but also Of course, if one wants to show one's loyalty to the Liaison Office, one should vigorously support the amendment. But then, they do not speak on the motion because not many Members will speak today. If the democratic camp is one's

MS EMILY LAU (in Cantonese): President, a quorum is not present now.

PRESIDENT (in Cantonese): I see. Will the 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 now present. Mr Martin LEE, please continue.

MR MARTIN LEE (in Cantonese): Thank you, Madam President. Actually, we may take a look at the legal sector candidates in the recent election of Election Committee members, because this election can offer us some insight. The

democratic camp made very great efforts and managed to form two teams of candidates, one consisting of 16 candidates and the other four. They won an overwhelming victory this time around. However, if people look at our opponents in the legal sector, they will notice that all our opponents were from big organizations and well-qualified. Some of them are counsels and others are even senior counsels. Several of them were former Chairmen of The Hong Kong Law Society. If all the candidates are "weighed" one by one, the two candidates from the democratic camp will surely be "out-weighed". But has it ever occurred to Members as to why so many good people were willing to run in the election? It is obvious that by participating so enthusiastically in the election, the democratic camp actually hoped to secure 100 nominations for Alan LEONG in the Chief Executive Election next year. Its aim is not so much to win the Chief Executive Election. Rather, it simply wants to highlight the conviction that an election with competition is better than one with no competition. Their enthusiastic participation is therefore perfectly understandable.

Why did so many people run in the election? Frankly speaking, Donald TSANG will certainly win, for it is obvious that "some arrangements" have been made. Some may of course ask for evidence. It is impossible to find any evidence. How can we find any? Will they write me a note, telling me that "some arrangements" have been made? No, they will not. But if Members really cannot sense anything, have they ever tried to ask them?

I therefore think that it is clear to all that there is always this "Northern Overlord" to do all the back-stage co-ordination in District Council elections and the Legislative Council election. This explains why there is always one candidate from the leftist camp to compete for one single seat. As for the democratic camp, even though everybody has made compromises and concessions, even though everybody agrees on the candidacy of one single person, another candidate may emerge at any time. And, such a candidate may even be a former member of the democratic camp. It is obvious that such a candidate is supported by some people, and he is asked to run in the election just to take away several hundred votes from us. In this way, we may lose one seat.

Members should therefore know very well that the Liaison Office has in fact been playing a role which it should not perform in Hong Kong. Because it has in fact been interfering in the affairs of the SAR. It should never do anything like this. Therefore, I think we must voice our views, opposing the amendment but supporting the original motion.

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

DR FERNANDO CHEUNG (in Cantonese): President, a number of colleagues concur that, since the motion proposed by Ms Emily LAU today is indeed too sensitive, a lot of Members are reluctant to speak. This explains why our discussion seems to near its end though it is still early.

According to the motion, the Central Government should not interfere in the HKSAR's internal affairs (內政), particularly the Chief Executive election, and the Administration, that is, the SAR Government, is urged to make every effort to defend "one country, two systems", a "high degree of autonomy" and "Hong Kong people ruling Hong Kong". Actually, all these principles are already provided for clearly in the Basic Law, and their spirit is extremely clear too. Theoretically, the concept is "consistent with the law" and the motion is unequivocal in the sense that no one will object to it. Anyhow, the outcome will be known later.

Given that the Basic Law has made clear provisions, and the State or Central Government has made a commitment to a "high degree of autonomy" and "Hong Kong people ruling Hong Kong" under "one country, two systems", why do we have to conduct a debate here? Why do Hong Kong people have to be suspicious all the time? Is it because we have a bit of neurasthenia in thinking that the Central Government will not necessarily do what it has promised us or are we being self-sentimental under the influence of our imaginary fears?

Judging from a few social incidents that happened lately, it is no wonder that Ms Emily LAU has proposed this motion for debate today. Judging from a sequence of events, such as the problems with food imported from the Mainland lately, the sentencing of CHING Cheong, the election of the Election Committee and related reports, the recent transfer of PCCW shares and the Government's abrupt decision to suspend the consultation on a Goods and Services Tax, some of the gestures of the Central Government apparently suggest the operation of its invisible or even visible hand. However, the SAR Government appears to be weak in will and power in protecting our proven system.

Why do the community and this Council display such a high degree of suspicion and distrust towards those in power? I believe it all boils down to the extremely poor transparency displayed by the existing system. Are we abiding

by the rules of the game and respecting law? Those in power, whether they are from the Central Government or a regional government, must regulate social behaviour, or else society cannot operate. Express regulation, including legislation and regulations, represents the operation of the rules of the game in an open and fair manner and on an equal basis, and this is what the rule of law means. Conversely, the rule of man, meaning absence of regulation, black-box operation or different affinities, represents a game of power. In the absence of regulations, man is controlled and decided by those in power as they like and according to their calculation. Those with no power have often regarded this as a sort of threat and interference.

Let us cite the transfer of PCCW shares as an example. According to the observations and analyses of the common masses, the Central Government has made vigorous intervention behind the scene to prevent the outward transfer of the control of PCCW assets in order to deter the foreign-funded enterprise interested from acquiring PCCW. On the other hand, the incident has evolved into a battle for PCCW shares between LI Ka-shing and his son, Richard LI. The fact that both of them are already in control of a number of local media and telecommunications organizations has aroused misgivings in society about manipulation of the telecommunications market and cross-media control. Although the SAR has in place the Telecommunications Ordinance and the Broadcasting Ordinance, which strictly outlaw anti-competitive acts and cross-media control, agencies responsible for regulating telecommunications, broadcasting and trading of securities have adopted an indifferent attitude towards the misgivings and concerns arising as the incident develops. My colleague, Dr LAM Pun-lee, Associate Professor of the School of Accounting and Finance of the City University of Hong Kong, once said, to this effect, "This battle for PCCW and its control has underlined that the strengths that Hong Kong has always been proud of, such as free market, fair trade, the aspiration for the rule of law, a highly transparent market, and so on, are indeed extremely vulnerable.....this incident shows that some people can evade regulation by the establishment of a fund".

The control and regulation of industries of strategic value to our country is understandable. Many places and countries throughout the world will act in this way. The transfer of PCCW shares involves the control of local telecommunications assets. There is originally nothing wrong for the Central Government to raise concern about the incident or intervene in it. The problem is, as pointed out by Prof LAM Pun-lee, there is no legislation in Hong Kong

(that is, the HKSAR) prohibiting the possession of such telecommunications assets by foreigners. In the absence of law, those in power have chosen to exercise its influence outside the scope of law to influence the operation of the market without any transparency. This has given people an impression of lawlessness and that the rule of man is above the rule of law. This is precisely an interference. We are thus worried what the Central Government is thinking about outside the scene.

Furthermore, another core issue is that, without a democratic electoral system, a small-circle or a handpicked governance team can never get rid of the Central Government's interference. Therefore, President, I speak today in support of Ms Emily LAU's original motion. As Mr Howard YOUNG's amendment is based on the Basic Law, I basically support it.

Thank you, President.

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

MR ALBERT CHAN (in Cantonese): President, I speak in support of Ms Emily LAU's original motion. On the Central Government's interference in Hong Kong, it should logically exist from the surface of the relations between a central government and a regional government. This is particularly so when the relations are governed by the principle of "one country, two systems". Nevertheless, the circumstances of interference still warrant our attention.

I have originally intended to amend Ms Emily LAU's motion by pointing out that the Central Government has been interfering in Hong Kong's internal affairs (內政) in an even more violent manner since 1 January 2003. However, I feel that whether the Central Government has done it in a violent manner is not the point here. As for whether the violent involvement and interference has been conducted in a comprehensive manner after 2003 is simply insignificant too. Since the reunification in 1997, the Central Government has basically gained full control of Hong Kong, except the results of the votes cast by the public. At present, the Central Government can be described as exercising all-weather and all-directional control over Hong Kong. The control exercised by its intertwining network can also be found everywhere, not only in the political and

economic domains, but also in the cultural and social domains (including triad societies). Earlier, I heard a talk-show host say that the information he had recently acquired pointed to the fact that the intimidation against him sometime ago was actually connected with the contact of some mainland officials with a triad society in Hong Kong. During the contact between the triad society and mainland officials, some mainland officials expressed discontent with a talk-show host. The high level of the triad society got the message and took advantage of his own influence in Hong Kong to intimidate the talk-show host. As such, the degree of interference can be described as visible or invisible, formal or informal. When subjects of great significance are going to be discussed or voted upon in this Chamber, a number of Members will very often receive telephone calls from the Western District. They will then assemble to make response and state their position accordingly. Such interference can actually be found very often.

This explains why such interference has actually existed for years and this is an open secret too. I find such means of interference by playing small tricks in secret absolutely abnormal. In contrast to such a great nation with a population of 1.3 billion, the SAR has a population of a mere 7 million. If something has to be done, I would rather have it done publicly. Therefore, I would like to publicly invite the Communist Party of China to fully interfere and participate in Hong Kong affairs, preferably making the Communist Party a formal political party in Hong Kong and join us in elections. By then, half of Members of this Council would probably join the Communist Party immediately. They would then swear loyalty and allegiance to the Communist Party of China, "keep to the book", and state their position clearly. Actually, I find it perfectly normal, healthy and good to do so. This is because the problems and conflicts, if made public, can enable all of us to differentiate between a man and a ghost. Many people look like men but they are actually ghosts. This is like the earlier criticism made by "Long Hair" that some officials are running Hong Kong as if they are eunuchs. While they look perfectly normal, they are actually eunuchs, who have to act at the dictates of the emperor. As such, they simply do not have their own nature. The supreme ruler at the top is commanding these eunuchs at the bottom. Hence, their nature as an eunuch cannot change. Should this system remain unchanged, Hong Kong will forever be ruled by eunuchs. It is really saddening that some people cannot act like a man even if they wish to do so.

More saddening is that the Central Government actually finds it unbearable that it cannot formally and fully interfere in Hong Kong's affairs because it has provided abundant money, people and resources, and there are so many organizations in Hong Kong. Anyhow, even if many people stand in elections, they have very often failed to compare with the pro-democracy camp in terms of the number of candidates fielded. They have really given people an impression that they are not worthy of the efforts. However, some people are abusing their newly gained power which they do not deserve. They have even turned into villains holding sway because they are supported by the Central Government at the back. Like Financial Secretary Henry TANG, who acts like a villain holding sway, he is indifferent to and has absolutely no respect for this Council. Even the senior officials of the Communist Party of China will not act in that manner. This is like, as stated by MAO Zedong, "the smaller a temple, the more the evil spirits; the shallower a pond, the more the bastards". I believe this phenomenon is a common sight for the Communist Party of China. Nevertheless, this is saddening.

Therefore, as long as the system is not open to people with abilities to publicly stand in elections and as long as there is sole reliance on the "bastards" mentioned by MAO Zedong, the government and the people concerned will never get anywhere. For the purpose of truly nurturing political talents and for the Communist Party of China to truly nurture people firmly believing in Communism to govern Hong Kong, an open system must be put in place to enable power and authority of governance to be built up in accordance with the Communist Party's regime. Sometimes, we see that the breadth of mind displayed by some provincial and municipal officials of the young generation is even greater than that displayed by officials belonging to the eunuchs' party in Hong Kong. Furthermore, the former are even more accommodative.

President, should Hong Kong remain unchanged, I can absolutely not see how Hong Kong can rid itself of its plights under the present circumstances. Therefore, here I would like to urge the Central Government not to play small tricks if it is to make interference. Instead, it should fully participate and publicly interfere by directly participating in elections of various levels so that Hong Kong can make a comparison. Thank you, President.

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

MR RONNY TONG (in Cantonese): President, the thrust of Ms Emily LAU's motion today is to express the hope that the Central Government will not interfere in Hong Kong's internal affairs (內政). However, we think that the expectation should be put in a wider perspective because, since the reunification, many colleagues have been holding slightly different views on the Central Government's way of handling things. For us, however, the biggest challenge comes from the SAR Government itself, and even those so-called powerful in Hong Kong. These people will often take advantage of their status to publicly invite the Central Government to interfere with Hong Kong's internal affairs (內部事務). Actually, Hong Kong people, particularly the SAR Government, should bear the greater of the responsibility to protect the principle of "one country, two systems". If they take the lead in destroying the "one country, two systems" and fathoming the mentality of the "Northern Overlord", they would actually be the one who causes the greatest damage to "one country, two systems".

It is distressing to look at only two recent examples. One of them concerns the Government's recent introduction of the so-called Goods and Services Tax (GST). In the light of his public declaration that he has different affinities with political parties, there is nothing wrong for Donald TSANG to count on the majority of pro-establishment Members who support the Government. Of course, many of us take issue with this. However, from his standpoint, he naturally considers it right to do so. However, on the issue of promoting GST, we can often see the so-called ruling coalition raising objection to GST. They have not merely made their voices heard in the Executive Council. We have even seen them make numerous "surreptitious appeals" to the Central Government during their trips to Beijing. Let me quote one of the captions carried by *The Sun* on 15 September this year. It reads "The Liberal Party cites the shortcomings of the GST commented by CHEN Zuoer, saying that a simple tax regime is vital for Hong Kong". Why would a political party of such a high status in our institution act in this manner? Is our tax regime not an internal affair (內部事務) of the territory? If the answer is affirmative, why should the Central Government be invited to interfere in Hong Kong's internal affairs (內政) in such a blatant manner? What has made such view cause a great clamour was that the SAR Government made an announcement after the Executive Council meeting on 5 December that consultation on GST would be shelved. What will Hong Kong people think? Will they think that these people have petitioned Beijing and subsequently the SAR Government has decided to withdraw the consultation, and what impression will it give the people? Will this help preserve "one country, two systems"?

I have no idea what the Liberal Party has told CHEN Zuor in Beijing. The newspaper has not given a detailed account. However, we hope that the caption should otherwise read "After the Liberal Party made the shortcomings of GST known to the Chief Executive, he considers it inadvisable for the tax to be introduced in Hong Kong after extensive public debate and review". Only in doing so can Hong Kong be benefited.

President, I wish to cite another example concerning the problem of mainland pregnant women coming to Hong Kong for child delivery, which has become the talk of the town. It is certainly beyond doubt that mainland pregnant women coming to Hong Kong for child delivery will put a certain measure of burden on Hong Kong's medical system, and even welfare system. However, do we thus have to seek an interpretation by the Standing Committee of the National People's Congress (NPCSC)?

The former Secretary for Security, Mrs Regina IP, commented on 7 December that amending the Basic Law or seeking an interpretation by the NPCSC would be the only way out. There are also many other people who think that Hong Kong should invite the NPCSC to interpret the Basic Law and request the NPCSC to intervene in the economic and social problems caused by mainland pregnant women coming to Hong Kong for child delivery. What has the SAR Government said about this? Has the SAR Government attempted to initiate some rational discussions in Hong Kong? Is this issue related to Hong Kong's internal long-term population policy? In the absence of studies, some people have chosen to fathom and even comply with Beijing's wishes by thinking that Hong Kong's problems can thus be resolved or the outcome of some important issues be kept under control. This is precisely the major factor challenging "one country, two systems".

President, I find that there are indeed too many people in Hong Kong attempting to fathom what the Central Government thinks. It stands to reason that the Central Government should be concerned about Hong Kong affairs. However, concern and interference in Hong Kong's internal affairs (內部事務) are separated by a very thin line. If the matter is not handled with care, a wrong impression can easily be created, and the impression itself has already posed a serious challenge and done great damage to "one country, two systems". For "one country, two systems" to succeed, every one of us must wholeheartedly and sincerely believe that it can work in Hong Kong. If the gap between Hong Kong and the Central Government cannot be further bridged because some

people are unclear about this line or take advantage of the obscurity of this line to strive for power and benefits, thus resulting in suspicions in Hong Kong, such an act, like an extremely worrying time bomb, is damaging "one country, two systems".

President, we do not wish to see the HKSAR Government or anyone take advantage of certain Hong Kong's internal problems to make "surreptitious appeals" to Beijing or appealing for Beijing's intervention.

Thank you, President.

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

MR TAM YIU-CHUNG (in Cantonese): To start with, President, I wish to say a few words on an expression used in the original motion. The original motion has made a very serious mistake in using the expression "the HKSAR's internal affairs". "Internal affairs (內政)" and "diplomacy" exist only in relation to a sovereign state. Hong Kong is not an independent sovereign state. It is a Special Administrative Region inseparable from the People's Republic of China. Anyone holding aloof the big banner of "HKSAR's internal affairs (內政)" would therefore be suspected of either lacking fundamental knowledge of politics or subconsciously advocating the independence of the territory.

Chapter II of the Basic Law prescribes in detail the relationship between the Central Authorities and the HKSAR in that the SAR Government is authorized by the Central Government. Under Article 16 of the Basic Law, the Hong Kong Special Administrative Region shall be vested with executive power. It shall, on its own, conduct the administrative affairs of the Region in accordance with the relevant provisions of the Basic Law. Article 22 again requires that no department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the HKSAR administers on its own in accordance with the Basic Law.

Since Hong Kong's reunification, the Central Government has a proven track record in its resolute implementation of "one country, two systems", which is obvious to all. Our State leaders have, on various key occasions, reiterated

that it is the steadfast goal of the Central Government to maintain the long-term stable and prosperous development of Hong Kong. The Central Government will insist on the guiding principles of "one country, two systems", "Hong Kong people ruling Hong Kong" and a "high degree of autonomy". During a trip to Hong Kong early this month, the Chairman of the NPCSC, WU Bangguo, again emphasized in his public speech, and I quote to this effect, that "the Central Government will resolutely implement 'one country, two systems', 'Hong Kong people ruling Hong Kong' and a 'high degree of autonomy', strictly follow the Basic Law in handling matters in the HKSAR and, as usual, support the HKSAR Government to govern in accordance with law". (End of quote) While these words are still ringing in the ears, someone has accused the Central Government, in a totally illogical and unsubstantiated manner, of damaging "one country, two systems" in a way no different from malicious smearing.

There is already a consensus in Hong Kong society that as China's SAR, Hong Kong cannot, and should not, by-pass the Central Government in unilaterally pursuing its constitutional development. Mr Albert CHEN, professor of the Faculty of Law of the University of Hong Kong and a member of the Basic Law Committee, once pointed out that the Central Government had the right to participate and a say in the issue of Hong Kong's constitutional development. On the other hand, the Basic Law prescribes that the Chief Executive shall be elected or returned for appointment by the Central People's Government and shall be accountable to the Central People's Government. It is therefore responsible for the Central People's Government to be concerned about Hong Kong's constitutional development and the election of the Chief Executive. The exercise of its powers in accordance with the provisions of the Basic Law by the Central Government should not be smeared and labelled as an interference of the SAR's "high degree of autonomy".

It has been recently noted that Mr Alan LEONG, who belongs to the pro-democracy camp as Ms Emily LAU does, is prepared to stand in the Chief Executive election. In this connection, he has written thrice to the Director of the Hong Kong and Macao Affairs Office of the Central People's Government, Mr LIAO Hui, requesting for a meeting with the Central Government to discuss his political platform for further exchanges between the two parties. According to the logic of Ms Emily LAU, was Mr Alan LEONG taking the initiative to invite the Central Authorities to interfere in the Chief Executive election? This is definitely a joke!

Recently, we have often read from newspapers that members of the Democratic Party, led by Mr Albert HO, have been exaggerating or boasting that they have been contacted by middlemen, so to speak, from the Central Authorities to demonstrate that they are being taken seriously. We have also seen some Members of this Council travel abroad to urge foreign countries to interfere in Hong Kong's affairs. This has also become one of their characteristics. I believe the eyes of Hong Kong people are discerning. Furthermore, various opinion surveys reveal that Hong Kong's trust in the Central Authorities has continued to rise. Therefore, I think that the noises made by the minority have found no audience.

As today's motion will deliver an incorrect message to society because it distorts the meaning of a "high degree of autonomy", denies the Central Government's constitutional authority and, in the absence of factual evidence, smears the Central Government, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) opposes the original motion.

As for Mr Howard YOUNG's amendment, despite its good intention, I wish to quote the saying that "there is no stand of a mirror bright, where can the dust alight?" As Hong Kong has all along been enjoying a "high degree of autonomy", why should the Central Government be urged not to interfere? Therefore, although the DAB does not oppose the amendment, it will not support the amendment either.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Member wishes to speak, I now call upon Ms Emily LAU to speak on Mr Howard YOUNG's amendment. The speaking limit is five minutes.

MS EMILY LAU (in Cantonese): President, in explaining his amendment Mr Howard YOUNG said that I had strongly implied interference from the Central

Authorities. In fact, this is not true. I already said it very bluntly. How could it be just a strong implication? The interference from the Central Authorities is already very serious. So, I was not strongly implying their interference. Rather, I stated it explicitly, and I made this point very clearly. I also noticed that some colleagues had said earlier that interference from the Central Authorities has never ceased and that their interference, which happens every day, has made people become numb. So, what he had said is simply not true.

In response to what Mr YOUNG has said, and as Mr TAM Yiu-chung also said earlier, I am just referring to the internal affairs (內政) of Hong Kong. In fact, I am not advocating the independence of Hong Kong, as suggested by Mr TAM. I accept that Hong Kong is part of China as a special administrative region, and I have stated this clearly right at the beginning. So, despite what he has said, I think that I am referring to the internal affairs (內部事務) of Hong Kong and what is more, the Central Authorities have all along given their undertaking to Hong Kong people that they will not interfere in these affairs. For this reason, I do not agree with the remarks made by Mr Howard YOUNG. Now, it seems that even the Liberal Party may not support such an amendment.

Besides, he mentioned foreigners. So did Mr TAM Yiu-chung in his speech earlier. Indeed, I do meet with foreigners from time to time, and we are actually asked by the SAR Government to meet with them. On this point, the SAR Government does merit commendation, because it is better than the past colonial government. During the era of colonial government, when some people said that they would like to meet with us, the Government might not necessarily allow them to meet with us, and it might question the usefulness of such meetings. This was the case especially when I was a reporter, as the Government would tell them that they must not meet with me because I was an extremist and that I was not representative. I was enraged on hearing this and I, therefore, ran in the election of the Legislative Council in order to become representative. The then Hong Kong-British Government sometimes might not arrange for these meetings, but the SAR Government still does. Therefore — That was what they said, and I wonder if Secretary Stephen LAM will be scared to death knowing that making such arrangements for us to meet with foreigners would fetch troubles. The Liberal Party is even more impressive as it suddenly cited the report of foreigners, saying that the report, which they said carries some weight, mentioned that even the United States Government and the British

Government had ruled out the existence of interference. President, they just cite whatever information that suits their needs.

I have met with people from overseas governments or overseas countries, including Mr D'AMATO whom we met in a meeting last year, as mentioned by Mr Howard YOUNG. We also sat on the upper floor and took a group picture for all to see. The question is: What does interference mean? What does it mean by meeting with each other? Honestly speaking, what powers do foreigners have that make it possible for them to interfere? When we put forward opinions to them, sometimes they might not even be listening. I told them that the problem was very serious but he could instead tell Mr Howard YOUNG or state in his report that there is no problem at all.

However, "interference" is a bad thing. So, with regard to Mr Howard YOUNG's earlier remarks that they have given us CEPA, the Individual Visit Scheme and many other advantages, these are only to show the care of the Central Government and they are given purely on their own initiative. While these concessions are given to us, I think that you, President, being a local Deputy to the National People's Congress, may have heard that there are different opinions in the Mainland. I have also heard some university professors say on television that Hong Kong has so often asked for advantages that it should have got enough now. In fact, many places in the Mainland are in need of assistance. We are not in need of assistance and yet, we have been exempted from tax payment amounting to billions of dollars. But still, there is no problem with this. It shows the care of the Central Authorities.

Interference is a bad thing. Why do I say that this is interference? Something is considered interference when it is truly capable of influencing the Government. If I say something to a person, how could that amount to interference? When I finished saying something to him, what powers does he have to do something? But these "Northern Overlords" have the powers to ring up the SAR Government and say, "Do not do it. Why should the sales tax be introduced? So many people have come to Beijing to stir up troubles. Put a stop to it. Do not let this person contest the election. Then who should stand in the election? Go and do the co-ordinating work immediately."

As Mr Albert HO said earlier, so many cell organs are working here and there to co-ordinate the District Council elections. Everything needs to be co-ordinated, and these are instances of interference, which can really produce

an effect, unlike the one or two remarks made by us which are just empty talk. How could that amount to interference? So, I hope that Honourable colleagues will understand this. Moreover, the SAR Government has made arrangements for us to meet with foreigners because it thinks that Hong Kong is part of the international community. The Government has at its own expense invited foreigners to come to Hong Kong. Does it mean that the Government is inviting them to interfere in our affairs? They are invited to come, so that we can explain to them the affairs of Hong Kong, and it is hoped that the process can have some degree of credibility, so that they can listen to different opinions. No one would have anticipated that some people would hurl these criticisms.

However, President, I very much hope that the Liberal Party will understand that concerning the phrase "to continue to maintain the policy of not interfering" in their amendment, I do not know what they are trying to say. No interference simply means no interference. How can it be maintained continuously? But when it is written in this way, it becomes neither fish nor fowl, pleasing nobody. I hope that Members will support my motion if they think that there is interference; if they think that there is no interference, then let me "die" in a spectacular, earth-shattering way.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the speeches given by Ms Emily LAU are always spectacular, but I do not think there would be any need to talk about matters of life and death today and it would be better if we can approach the issue calmly.

The motion moved by Ms Emily LAU is premised on two assumptions. First, the Central Government does not act according to the Basic Law and will interfere in the internal affairs (內部事務) of Hong Kong. Second, the principles of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" should be defended and the assumption behind is that the principle of "one country, two systems" is placed at the risk of being undermined.

These two arguments do not tally with the facts. Therefore, I wish to make it clear from the outset that we oppose the motion moved by Ms Emily LAU.

As a matter of fact, on the arrangements both before and after the reunification, for over 20 years in the past, the Central Government and the Hong Kong Government have been making painstaking efforts and doing a lot to put the principles of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" into practice.

The Central Government has in the Basic Law expounded and set out the long-term objective and policy of the State on Hong Kong and the political, economic and social system of Hong Kong after the reunification. Clear provisions are made for these two matters.

Let us first talk about the times before 1997. Although some Hong Kong people witnessed the drafting processes of the Sino-British Joint Declaration and the Basic Law, they still had doubts as to whether or not "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" could be maintained in Hong Kong after 1997. Hence there was a wave of emigration to other countries. However and as a matter of fact, this wave of emigration to other countries stopped before 1997 and Hong Kong emigrants to Australia, Canada and other countries are returning to Hong Kong. This is because the people of Hong Kong can see that the situation in Hong Kong would become better after the reunification and this accounts for the change in their mindset and mentality.

Actually, during the 13 years before the reunification, we made arrangements in many respects. Let me now give a few examples.

First, with respect to the judicial system, we reached a consensus in 1995 in the Sino-British Joint Liaison Group that if the judicial system of Hong Kong was to perpetuate and if common law was to continue to be in force, a Court of Final Appeal (CFA) should be set up in Hong Kong. So after this consensus had been reached in 1995, we then started with the legislative work and sufficient preparation was made before the CFA was set up on 1 July 1997. Ever since the reunification, as Members can see very clearly, all cases formed in Hong Kong are tried in the Courts of Hong Kong. Senior Judges from foreign countries such as New Zealand, Australia and Britain still come here to take part in the work of the CFA. This shows that judicial work in Hong Kong meets international standards and foreign Judges have confidence in Hong Kong.

On the other hand, to maintain our ties with the international community, we made many arrangements before 1997 so that Hong Kong can continue to take part in the World Trade Organization (WTO), the World Health Organization (WHO), the Asia-Pacific Economic Cooperation conferences and such like conferences and work.

Third, to ensure that Hong Kong can maintain its status as a cosmopolitan city, we started our work before 1997 to enable as many as some 200 multilateral agreements applicable to Hong Kong can continue to be implemented in Hong Kong after 1997. Apart from multilateral agreements, we started work in bilateral agreements in many aspects before 1997. Work in about 100 bilateral agreements, such as those on civil aviation, surrender of fugitive offenders, reciprocal judicial assistance, and so on, began before 1997. It is all because of the hard work done at that time that today aeroplanes from Hong Kong airlines can fly to different places in the world and airlines from all over the world can come to Hong Kong to offer their service.

The fourth example which I wish to mention is that before 1997, we tried our best to put in place the arrangement that on 1 July 1997, passports of the Hong Kong Special Administrative Region (HKSAR) can be issued in no time. To complement the issue of the HKSAR passport, through the co-operation of the Central Government and the Hong Kong Immigration Department, we have made it possible for visa-free arrangement to be made between Hong Kong and 135 countries and places to date. This will facilitate Hong Kong people in travelling to other places on business or for sightseeing.

I have cited so many examples because I hope Members can understand that the aim of our efforts made both before and after the reunification is to enable the system in Hong Kong to continue without disruption. Apart from the several aspects mentioned by me just now, there are other matters closely related to Hong Kong people such as the establishment of the Hong Kong Monetary Authority before 1997 to ensure that the Hong Kong Dollar would continue to enjoy an international status. Various kinds of such work laid a solid foundation before 1997.

Now I wish to talk about what happened after 1997. After 1997, there have been new developments in "one country, two systems".

The first example that I wish to mention is that as we all know, in 2003, we entered into the Mainland/Hong Kong Closer Economic Partnership Agreement (CEPA) with the Central Authorities. How could this agreement be made possible? This is because Hong Kong had gained access to the WTO before 1997 as an independent member and Hong Kong continues to take part in WTO after 1997 under the name of Hong Kong, China. After the accession of China to the WTO, as we are both WTO members, we can enter into free trade agreements in line with WTO requirements.

Thereafter, products from Hong Kong can enter mainland markets on zero tariff. Under CEPA, service providers and professionals from Hong Kong can access the mainland market. All these serve to elevate Hong Kong's position as an international trading, financial and shipping hub.

Since the signing of CEPA in 2003, the number of multinational companies having set up regional headquarters and offices in Hong Kong has increased from about 5 400 to 6 350. The rate of increase over the past three years was 17%. I think that before the reunification, no one would have thought that there could be so much room for new development under the Basic Law, "one country, two systems" and "Hong Kong people ruling Hong Kong". And no one would have dreamt that Hong Kong could enter into a free trade agreement with the Mainland.

The next example I would like to give is that after the signing of CEPA, we have also made it possible for compatriots from the Mainland to travel to Hong Kong on an individual basis. To date, more than 16 million mainland residents have travelled to Hong Kong under the Individual Visit Scheme. As Christmas approaches, we can see that there is buoyant business in Hong Kong and the arrangement has served to spur economic growth in Hong Kong in the wake of SARS and to improve the employment situation.

The third example that I wish to give is that a few months ago, our attention was drawn to the election of the Secretary-General of the WHO and Mrs Margaret CHAN stood in the election as a Chinese citizen and a professional from Hong Kong. Before the reunification, I do not think anyone would have imagined that under the "one country, two systems" arrangement, professionals from Hong Kong could represent our country in such elections in an international organization and assume a position of considerable importance.

So I would like to make two brief points in conclusion. First, the arrangements of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" have actually been given much new room for development after the reunification. Second, we had done a lot of work before the reunification and as a result, a good foundation was laid. We would of course hope that there can be continued success for "one country, two systems" and we will cherish it and exert our best to protect it and never do any damage to it.

The motion moved by Ms Emily LAU today also mentions elections which are a focus of concern for Members and political parties alike.

All along, the policy of the Central Government is to support the HKSAR Government in governing the territory in accordance with law. With respect to electoral matters, we will definitely act according to the laws in Hong Kong and ensure that each election is held in a fair, open and honest manner. In the subsector elections of the Election Committee which have just been held and the election of the Chief Executive to be held next March, we have and we will, as in the past, act according to law.

Member can see that over the past two or three months, Members of the opposition said a lot about the Election Committee and the election of the Chief Executive. However, many of the issues of their concern are in fact exaggeration. The fact is that the subsector elections of the Election Committee held on 10 December proved to be fair, open and, where people from different subsectors expressed their support for various candidates. It is obvious to everyone that the outcome proved to be acceptable to all.

Two weeks ago, this Council had a debate on implementing universal suffrage for Legislative Council elections and how the Legislative Council could be returned by universal suffrage. At that time, I said that both the elections of the Legislative Council and the District Councils would see more than 1 million citizens of Hong Kong casting their votes, so no one could manipulate such elections. Likewise, the Election Committee has an electoral base of 200 000 voters and 56 000 of them turned out in the elections and they were not subject to manipulation by anyone when they chose their candidates.

In the SAR Government, we have been maintaining a very open attitude. The design of the Chief Executive Election Ordinance is to enable more than one

candidate to run in the election. Members may wish to recall that in the constitutional reform package proposed last year for elections in 2007 and 2008, we proposed to include some 500 District Council members in the Election Committee. Members know very well that of these some 500 District Council members, some 200 of them have association with the opposition. These some 200 people alone will have already met the nomination threshold of one eighth of the total number. So the "admission ticket" which the opposition has coveted so much during the past few months could actually have been obtained at this time last year.

However, events often take the most unexpected turn. Things that could have secured with no efforts made last year were voted down and rejected while a lot of efforts would have to be made this year if a decision is made to stand in the election. However, there should be no cause for concern as elections in Hong Kong are fair, open and honest. Anyone who is capable, determined and with a clear stance may stand in the elections for the third Chief Executive.

Madam President, before I conclude, I would like to respond to two arguments made. The first is about the constitutional development of Hong Kong and the second is about the Pacific Century CyberWorks Limited (PCCW) which is raised by quite a number of Members today.

I would like to recapitulate certain facts about the constitutional development of Hong Kong. We must remember that the HKSAR was founded on the basis of Article 31 of the Constitution of China and that is the basis of founding the HKSAR. Under Article 62 of the Constitution of China, the Standing Committee of the National People's Congress (NPCSC) may decide on various systems in the HKSAR, including the political system stipulated in the Basic Law. And pursuant to Article 67 of the Constitution of China and Article 158 of the Basic Law, the NPCSC has the right to interpret the Basic Law.

Therefore, under "one country, two systems", if we wish to amend the political system of Hong Kong, including the method for returning the Chief Executive and the formation of the Legislative Council, the NPCSC has the final say on this and the Central Authorities have the constitutional right and responsibility on the issue and to examine it.

If we are to achieve the goal of universal suffrage for dual elections in Hong Kong, there is a fundamental point that we must understand and I think

Members should remember and that is, we must reach a consensus in Hong Kong, both in this Council and in Hong Kong society, and we must also reach a consensus with Beijing. This is the only way how things can hope to work.

Then with respect to the sale of company assets by PCCW, the regulation of telecommunications matters in Hong Kong is open and highly transparent and there is no restriction in the laws of Hong Kong on foreign companies holding assets or shares of local telecommunications companies. As an independent member of the WTO, Hong Kong, China will fully honour the undertaking it has made to the WTO with respect to the liberalization of the telecommunications market. On the proposed sale of company assets by PCCW, the HKSAR Government has always been acting according to the provisions in the Telecommunications Ordinance.

Although the HKSAR Government will not comment on the developments in the proposed sale of company assets by the PCCW and the commercial decisions made in this matter, we can say that, as a general rule, with respect to changes in the beneficial ownership of listed companies, the Securities and Futures Commission (SFC) is obliged to handle regulation matters that may arise under the relevant laws and regulations, as well as codes of practice and guidelines, including those on company merger, acquisition and share repurchase. In general, shareholders of a listed company may buy and sell their shares in the market freely and the transactions concerned are purely commercial decisions. The SFC is keeping a close watch on the developments to ensure compliance with the relevant laws and regulations, codes of practice and guidelines.

Madam President, all in all, I think that the motion debate today reflects the mentality of Ms Emily LAU and certain Members of the opposition camp, in that they always hope to allege that "one country, two systems" has never been successfully put into practice. As a matter of fact, for so many years we have heard many people "crying wolf" like this before.

Let me just give a few examples. Before 1997, some Members of this Council said that they would have left Hong Kong after 1997 and could never be able to come back. At that time, they put forward this view in a most emphatic and vivid manner. But facts have proved that after the reunification, the people of Hong Kong enjoy absolute freedom of entry into and departure from the territory and undoubtedly also the freedom of speech. Therefore, regardless of Members of this Council or citizens of Hong Kong and irrespective of any of

their views expressed in Hong Kong or any other foreign country, they can freely enter and depart from the territory on the strength of their status as a permanent resident of Hong Kong.

The second example I wish to give is that over the past nine years, Members of the opposition predicted on many occasions the demise of the rule of law in Hong Kong. The first occasion on which such a prediction was clearly made was in 1999 when we were dealing with the issue of the right of abode in which a request was made to seek an interpretation of Article 24 of the Basic Law by the State Council. At that time, Members of the opposition said that the rule of law in Hong Kong was subjected to impact. Facts proved that the view was unfounded. Right to this day, proceedings for all the cases that took place in Hong Kong are completed in the Courts of Hong Kong and judgements passed by the CFA of Hong Kong are always upheld pursuant to the provisions in the Basic Law and the laws of Hong Kong.

At various points in time we can see that some Members of this Council or certain groups or individuals have applied for judicial review in the Courts of Hong Kong. Examples are those concerning The Link REIT, the ruling passed by the President of the Legislative Council in accordance with the Rules of Procedure, and that concerning the implementation of school-based management, and so on.

It follows that the judicial system in Hong Kong is vibrant and growing and it meets international standards. We have heard about such "crying wolf" arguments many times and they are all unfounded. So I wish to say that if Ms Emily LAU wants to see the electoral system in Hong Kong and universal suffrage arrangements realized, she must do away with such acts of "crying wolf". Instead of resisting co-operation all the time, it would be better to turn around and talk more and discuss with the other side.

At the earlier part of my speech today, I made special mention of the fact that we had to establish the CFA before 1997 and to issue HKSAR passports. After 1997, we had to strive for the implementation of CEPA and the Individual Visit Scheme. In all these, I am trying to show that both our aim and concern in all we do is to resolve problems in Hong Kong. We must face the situation squarely and display the sincerity to enable Hong Kong and Beijing work hand in hand for the good of the people of Hong Kong.

It is my sincere hope and wish that Members of the opposition can take concerted actions to do something concrete for Hong Kong.

With these remarks, Madam President, I implore Members to oppose Ms Emily LAU's motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Howard YOUNG to Ms Emily LAU'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 SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for 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:

Dr David LI, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM and Mr Andrew LEUNG voted for the amendment.

Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Dr KWOK Ka-ki voted against the amendment.

Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Mr Abraham SHEK, Mr WONG Kwok-hing, Mr Daniel LAM, Dr Fernando CHEUNG, Mr WONG Ting-kwong and Mr CHIM Pui-chung abstained.

Geographical Constituencies:

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

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

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Ms Audrey EU, Mr LI Kwok-ying, Mr Alan LEONG, Mr CHEUNG Hok-ming and Mr Ronny TONG abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, nine were in favour of the amendment, three against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, two were in favour of the amendment, 12 against it and 11 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Ms Emily LAU, you may speak in reply. You have two minutes 19 seconds.

MS EMILY LAU (in Cantonese): President, I thank the Members who have spoken and taken part in the discussion. Some colleagues said that this motion is too sensitive, and this is why people who normally speak eloquently have remained silent out of fear. From this we can also see that the Central Authorities are exerting their influence on them. I think, with regard to some very sensitive issues, we will continue to bring them up so long as there is the freedom of speech. I wonder if I will be the only person who would vote in support of this topic when it is again proposed for debate someday.

I am elected by the people. If what I have got in me does not have a market, I will be eliminated by this institution. Over the years, I have been saying that I am not opposing the Central Authorities. The Secretary stressed earlier the need for co-operation and sincerity. But what sincerity is there to speak of if a Home Visit Permit has not been issued for over 10 years, President? Does it not make us feel the very strong hostility of the Central Authorities towards us?

Mr TAM Yiu-chung said that I had discredited the Central Authorities. How can I be capable of doing this? A few years ago, I was completely overwhelmed by the attempts made by the leftists and other people to discredit me; faeces was thrown at my office; my home had been broken in and fire had been set to it too. All these cases have not yet been cracked. Only the person who threw faeces at my office was caught and fined \$1,000. These steps or measures are what the SAR Government has referred to as fair and honest.

The pressure on me is much greater than that on many other people. But certainly, mine is not as great as that on Mr Albert HO who sits next to me. But if anyone can say with their eyes open that there is no interference, I really think that this is grossly shameful. Honourable colleagues have said that interference has become an everyday occurrence. People have become completely numb, and telephone calls keep coming in every day. Our motion is meant to awaken Members, calling on them not to accept things that should not have been done. What are the things that should not have been done? We are talking about the internal affairs (內部事務) of Hong Kong. Should any conflict arise, it should be handled by ourselves, rather than telephoning "grandpa" and asking him what we should do, whether to cast an opposition or abstention vote, and whether to support a person in an election or to bar him from running in the election. I think this is really shameful. I despise these practices. I think that these practices are grossly shameless, depraved and despicable.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Emily LAU 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 HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes, after which the division will begin.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr KWOK Ka-ki and Dr Fernando CHEUNG voted for the motion.

Dr David LI, Dr LUI Ming-wah, Mr Bernard CHAN, 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 abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr Ronny TONG 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, Mr LI Kwok-ying 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, 23 were present, four were in favour of the motion, 18 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 15 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negated.

NEXT MEETING

PRESIDENT (in Cantonese): Before I adjourn the meeting, I wish Members and public officers a Merry Christmas and a fruitful New Year.

(Members tapped the bench to show appreciation)

I now adjourn the Council until 11.00 am on Wednesday, 10 January 2007.

Adjourned accordingly at twenty-five minutes past Six o'clock.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENT**

The Honourable Albert CHAN requested the following post-meeting amendment

Line 2 to 3, first paragraph, page 119 of the Confirmed version

To amend "The sum of \$20 billion can provide job opportunity for 4.16 million construction workers....." to "The sum of \$20 billion can provide job opportunity for 41 600 construction workers.....". (Translation)

(Please refer to line 3 to 4, first paragraph, page 3298 of this Translated version)

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Housing, Planning and Lands to Mr LEE Wing-tat's supplementary question to Question 3**

We believe that the subject site mentioned in the Member's follow-up question refers to the site of the Urban Renewal Authority (URA) located to the south of Yeung Uk Road (Tsuen Wan Town Lot 394) near the Tsuen Wan Town Centre. The site is zoned "Residential (Group A)" in the draft Tsuen Wan Outline Zoning Plan (OZP) No. S/TW/23. No building height restriction has been stipulated for the subject site under the OZP. According to the approved building plans, two buildings primarily for residential purpose at a height of about 211 mPD would be constructed. The construction work has started and the expected completion date is early 2009.